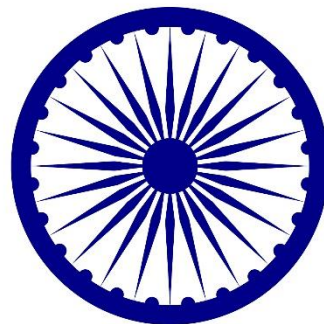


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INDIA Budget 2019

Analysis of Tax Changes – Impact on Business



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1 FOREWORD

On 5th July 2019, the first budget of the newly elected Indian Government was presented by the first full-time woman Honourable Finance Minister of India, Mrs. Nirmala Sitaraman. While the budget highlighted various reforms and achievements of the same Government during the last 5 years, it was seen as a major step towards making India a USD 5 trillion economy by the year 2025.

To this goal, there were key announcements towards increasing of investments in India, procedural simplification towards investments by FPIs, permitting investments by FFI/ FPIs in debt securities issued by infrastructure debt funds, increasing liquidity in the market by way of re-capitalization of banks as well as partial guarantee to public sector banks for acquiring assets of financial sound NBFCs.

The Government lowered the fiscal deficit target for FY 2019-20 to 3.3 per cent of the GDP as against 3.4 per cent set in the Interim Budget announced in February 2019.

In order to drive the economy forward, there were several announcements made towards improving the Start-Up eco-system, high investments in infrastructural projects and building of “One nation one grid” as well as strategic disinvestments. The Government also announced an additional outlay over the next three years to incentivize purchase and adoption of electric vehicles.

The Finance Minister also announced that the government would launch a scheme to invite global companies through a transparent competitive bidding to set up mega-manufacturing plants in sunrise and advanced technology areas such as semi-conductor fabrication, solar photo voltaic cells, etc. and provide them investment linked income tax exemptions and indirect tax benefits.

Major changes in the tax and regulatory laws include the following:

- On the regulatory side, the Government announced its intent to further reform the FDI space by increasing FDI limits in select sectors such as aviation, insurance, media etc. and easing out of local sourcing norms in single brand retail. The Finance Minister also announced simplifications of labour laws by combining the existing labour laws in 4 legal codes.
- On the direct tax side, while the personal tax rates and slabs were not changed, additional surcharge has been proposed on individuals having taxable income above INR 20 million and INR 50 million. The reduced corporate tax rate benefit of 25 per cent is further extended to companies with annual turnover of upto INR 4 billion from the existing limit of INR 2.5 billion covering a total of 99.3 per cent of the existing companies. Imposition of 2 per cent withholding tax on annual cash withdrawals above INR 10 million per annum underlines the Government’s agenda of boosting the digital economy.
- On the indirect tax side, with an aim to mobilize additional resources and reduce existing litigation under the erstwhile indirect tax laws, a new dispute resolution scheme has been introduced allowing companies to opt for partial payments on pending litigations and immunity from interest, penalty and prosecution. Customs duty rates have been increased on certain goods to provide impetus to the “Make in India” campaign. Further, changes in the GST laws have also been proposed in line with the agenda agreed during the last GST Council meeting.

On the following pages, we have summarised the changes proposed under the Finance Budget 2019.

2 BUDGET HIGHLIGHTS

2.1 POLICY AND REGULATORY FRAMEWORK

- Proposed to further liberalise the FDI policy by easing the local sourcing norms in Single Brand Retail Sector.
- Legislative reforms proposed for the standardization of labour laws. All labour laws will be consolidated into a set of four labour codes mainly Industrial Relations Code Bill, Wage Code Bill, the Small Factories (Regulation of Employment and Conditions of Services) Bill, and Employees Provident Fund and Miscellaneous Provisions (Amendment) Bill.
- Proposal to introduce policy framework to encourage investment of global companies to set up mega-manufacturing plants in sunrise and advanced technology. Such investments will also be provided with linked income tax exemptions and reduced customs duties on import.
- RBI is proposed to regulate the NBFCs replacing the existing regulatory authority NHB.
- Fast track loan approval and Interest Subvention Scheme to be introduced for MSME registered companies.
- Business establishments with an annual turnover greater than INR 500 million are proposed to provide their customers low-cost digital modes of payment.
- Phase-II of Faster Adoption and Manufacturing of Electric Vehicles (FAME) Scheme introduced to incentivize faster adoption of electric vehicles.
- New tenancy laws proposed to be introduced to promote rental housing.

2.2 INCOME TAX

2.2.1 CHANGES IN TAX RATE

For Individuals

- No changes are proposed in the existing slabs and tax rates applicable to an individual.
- Rates of Surcharge enhanced for individuals having taxable income between INR 20 million and INR 50 million from 15 per cent to 25 per cent and in excess of INR 50 million to 37 per cent. The effective tax rate will effectively go up by 3 per cent and 7 per cent respectively for such individuals as compared to existing rates.
- Cess remains unchanged.

For Corporates

- Tax rate for domestic companies whose total turnover or gross receipts in the financial year 2017-18 does not exceed INR 4 billion would be 25 per cent. The beneficial tax rate shall be applicable from Financial Year 2019-20.
- Tax rates for all other corporates and foreign companies (including permanent establishments of non-resident entities in India) remain unchanged.

- Rates of Surcharge & Cess remain unchanged for domestic and foreign companies.
- Rates for Minimum Alternate Tax ('MAT') and Dividend Distribution Tax ('DDT') remain unchanged.

2.2.2 TAX PROPOSALS

Personal Taxation

- Individuals entering into specified high value transactions (such as foreign travel, deposits into a current account, consumption of electricity etc. beyond the prescribed threshold) are mandatorily required to obtain a Permanent Account Number (PAN) and file a return of income.
- Every person who has been allotted a PAN, and who has linked his Aadhaar number with the PAN, may furnish or intimate or quote his Aadhaar number in lieu of a PAN.
- Additional deduction of INR 0.15 million is proposed in respect on interest on loan taken for residential house property from any financial institution, subject to satisfaction of specified conditions. Similarly an additional deduction of INR 0.15 million is proposed in respect on interest on loan taken for purchase of electric vehicle from any financial institution, subject to satisfaction of specified conditions.

Domestic Taxation

- The existing tax on buy-back of shares is proposed to be extended to all companies including companies listed on a recognised stock exchange. Earlier this tax applied only to buy-back of unlisted shares. As a corollary, it is proposed to exempt the transaction of buy-back of shares in the hands of the shareholders of the listed company, subject to the company making payment of additional buy-back tax.
- Slew of measures have been proposed to include digital payments within various provisions of the Income Tax Act, which earlier allowed payment or receipt through account payee cheque, draft or electronic clearing system of a bank account (such as disallowance of expenditure, no addition to cost of fixed asset if payment is made in cash etc.). Additionally, persons carrying on business, with total sales, exceeding the prescribed threshold, are mandated to provide facilities for accepting payment through prescribed electronic modes, failing which penalties will be levied.
- Provisions for carry forward of losses have been rationalised for start-ups; further, sun-set clause for capital gains exemption from transfer of residential property for investment in eligible start-ups has been extended from 31 March 2019 to 31 March 2021 to provide a further impetus to start ups.
- Definition of "affordable housing" in the context of deductions from profits and gains of business of building housing projects has been modified to include further conditions.
- Anti-abuse provision for deeming of fair market value of unquoted shares for computing capital gains from transfer of shares under Section 50CA and Section 56(2)(x) of the Income Tax Act, 1961 ('Act') are proposed to be rationalized. It is proposed that the Central Board of Direct Taxes ('CBDT') would be empowered to prescribe additional transactions undertaken by certain class of persons to which the rigors of this section are not applicable.
- Provisions for tax disallowance on account of non-deduction of tax at source ('TDS') rationalized for payments to non-residents without TDS. As per the proposed provisions, if the non-resident pays taxes and files returns, disallowance on account of non-deduction of TDS is not attracted.

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- It is proposed that in a demerger scenario, the condition pertaining to recording of property and liabilities at book value by resulting company shall not be applicable where such differences are in compliance to the Indian Accounting Standards ('Ind - AS').
- It is proposed that interest income on bad and doubtful debts of certain Non-Banking Financial Institutions ('NBFCs') shall be allowed to offer income to tax on receipt basis. Corresponding changes are also proposed to Section 43B of the Act to provide that any sum payable as interest on any loan or advances from such NBFCs shall be allowed as deduction if it is actually paid on or before the due date of furnishing the return of income of the relevant previous year.
- Pass through of losses are proposed to be provided at the Category I and II Alternate Investment Fund ('AIF') level and will be allowed to be carried forward and set off and not passed onto the unit holder.

International Tax

- It is proposed to clarify that income taxable under Section 56(2)(x), i.e. sum of money or property received without adequate consideration by a resident to a non-resident on or after 5 July 2019 will be deemed to accrue or arise in India. Benefits, if any, under the applicable Double Taxation Avoidance Agreement ('DTAA') will continue to apply to such transaction.
- To promote International Financial Services Centre ('IFSC'), additional benefits are proposed to be provided such as tax neutrality for transfer of certain securities, exemption of interest payable to non-resident by units in IFSC, exemption from Dividend Distribution Tax and enhanced deduction for profits of IFSC during additional years.
- Exemption is proposed to be provided for interest to non-residents by the specified company in respect of monies borrowed outside India by way of issue of rupee denominated bond, during the period beginning from 17 September 2018 to 31 March 2019.

Transfer Pricing

- It is proposed to clarify unequivocally that in cases where Advance Pricing Agreement ('APA') is entered into, Assessing Officer ('AO') shall only pass an order modifying the total income according to the modified return of income filed in pursuance with APA, and cannot initiate a fresh assessment.
- It is proposed to rationalize Section 92CE - Secondary Adjustment, introduced through the Finance Act 2017, by clarifying certain aspects. Further, to make functioning of this section more workable, an option to pay one-time tax at the effective rate of 20.16 per cent on outstanding advance in lieu of actual repatriation of money from Associated Enterprise ('AE') is introduced.
- It is clarified that in case of Country-by-Country ('CbC') reporting in Section 286, in situations where the Indian company is an 'alternate' reporting entity, the accounting year shall be construed as followed by the ultimate parent entity.
- It is proposed to rationalize the existing law by clarifying that irrespective of whether there is international transaction undertaken by the constituent entity, the said entity shall maintain and comply provisions pertaining to master file requirement under section 92D. It is also clarified that the Assessing Officer ('AO') and the Commissioner of Income Tax (Appeals) shall not have power to call for master file information during the assessment or appellate proceedings.

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Withholding Tax

- It is proposed that Individuals and Hindu Undivided Families ('HUF') have to mandatorily deduct TDS at the rate of 5 per cent on payments towards contractual work or professional fees if such sum, or aggregate of such sums, exceeds INR 5 million in a year. To avoid additional registrations, individuals not required to obtain a Tax Deduction Account Number ('TAN') for compliance and allowed to deposit TDS using their PAN to comply with the new provisions.
- It is proposed that TDS under Section 194-IA (TDS on purchase of immoveable property) will apply on all incidental charges in the nature of club membership, car parking, electricity and water facility fees, maintenance, advance fee etc.
- As a further measure to discourage cash transactions, it is proposed that TDS will be applicable at the rate of 2 per cent on cash withdrawals in excess of INR 10 million in aggregate made during the year from an account maintained by the recipient. Certain recipients, involved in handling of substantial amounts of cash are proposed to be exempt through a notification in the Official Gazette.
- TDS provisions of LIC pay outs are proposed to be rationalized to provide for TDS at 5 per cent on net income, instead of 1 per cent on gross income.
- Section 201 which deems a tax payer to be an "assessee in default" in case of failure to deduct TDS is proposed to be relaxed in respect of non-residents payees. It is proposed that the payer will not be deemed to be an "assessee in default" if the non-resident payee has duly paid tax due on such payments, has furnished a return of income duly disclosing such payments and furnished an accountant's certificate to this effect. Consequentially, interest for non-deduction of TDS will be levied till the date of filing of return by the non-resident payee. Corresponding amendments are proposed to provide for no disallowance in such cases.

Procedures

- It is proposed that the procedure for obtaining a lower or no withholding tax order in respect of non-resident payees under Section 195(2) is to be done electronically.
- It is proposed to remove the current threshold of INR 0.05 million on aggregate value of transactions during a financial year, for furnishing of information, widening the scope of SFT filing and reporting of transactions.
- Penalty provisions are proposed to be rationalized to provide for manner of computing the quantum of penalty in case of under-reporting of income in respect of a return furnished for the first time under section 148 (reassessment).
- Prosecution provisions are proposed to be rationalized to increase the threshold limit of tax payable for non- initiation of prosecution from INR 3 thousand to INR 10 thousand. It is also proposed to be clarified that the tax payable should be considered after giving due credit to TCS and self-assessment tax as well (in addition to advance tax and TDS).

Allied Tax Laws

- The applicability of Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 is proposed to be extended to non-residents and residents but not ordinarily residents, but who were residents in the year in which the income was earned or investments were made outside India.

- In respect of the Income Declaration Scheme, 2016, introduced vide Finance Act, 2016, it is proposed to provide that where the amount of tax, surcharge and penalty has not been paid within the due date, the Central Government may notify the class of persons can make payments of such amounts along with the penal interest at the rate of 1 per cent.
- Several provisions of Prohibition of Benami Property Transactions Act, are proposed to be amended and rationalized in respect of inquiry / investigation, attachment of property, compliance with the summons, sanctioning authority relating to prosecutions.

2.3

INDIRECT TAX

Goods and Services Tax ('GST')

- Linkage of Aadhaar Number to the existing registrations under the GST law as well as to new GST registrations.
- Threshold exemption limit for registration under GST for suppliers engaged exclusively in the supply of goods has been proposed to be increased from INR 2 million to INR 4 million.
- Composition Scheme under GST has been proposed to be extended to the suppliers of services and mixed suppliers supplying goods and services whose aggregate turnover in the preceding financial year did not exceed INR 5 million.
- New return system for compliances under GST has been proposed to be introduced.
- Payment of interest on late payment of taxes under GST is proposed to be charged on the net liability payable through cash ledger by the registered person.
- Introduction of facility for transfer of interhead balances under electronic cash ledger under GST is proposed.
- Creation of National Appellate Authority for Advance Ruling under GST has been proposed.
- The National Anti-Profiteering Authority under GST is proposed to be empowered to impose a penalty of 10 per cent of the profiteered amount on any person found guilty under the anti-profiteering measures.

Customs and allied laws

- A resolution cum amnesty scheme 'Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 has been proposed to resolve and settle huge overload of pending litigations under the Central Excise and Service Tax laws.
- Mandatory Aadhar verification under the Customs Law has been proposed to be made mandatory for specified persons.
- Customs duty on several items rationalized/ exempted including parts of electric vehicles, defence equipments, etc.
- It is proposed to increase the Customs Duty on several products like tiles, vinyl floorings, CCTV cameras, auto parts and other goods in order to provide level playing field to domestic manufacturers and to encourage the Make in India initiative.
- Special additional excise duty and additional customs duty known as 'road and infrastructure cess' increased by INR 1 each on petrol and diesel

- Penalty provisions have been proposed to be incorporated in the Customs law for persons who have obtained scrips by way of fraud and such scrips are utilised under the Customs law. Further, prosecution and arrest provisions are proposed to be incorporated where duty relatable to the instrument utilised exceeds INR 5 million.

3 BUDGET IMPACT

The Union Budget 2019 has several policy announcements for increase in overall investments in India. Further reforms in the FDI space by increasing limits in sectors such as aviation, insurance and media is bound to invite fresh foreign investments. The increase in overall spending on infrastructure, defence, housing, and education would result in stimulating the much needed growth. Simplification of labour laws by combining the existing labour laws in 4 labour codes is expected to have a positive impact on the ease of doing business in India.

Whilst the expectations from the First Budget of Modi 2.0 were paramount, no significant changes have been introduced in the realm of Direct and Indirect Taxes. To ensure a level playing field between income levels, an additional surcharge of 10 per cent is proposed for individuals having taxable income from INR 20 million to INR 50 million and 22 per cent for individuals having taxable income of INR 50 million and above. On the other hand, more companies have been brought into the 25 per cent tax bracket, by revising the annual turnover criteria from INR 2.5 billion announced last year to INR 4 billion. It is expected that this rate will be accessible to around 99.30 per cent Indian companies. Another major announcement is the extension of Buy-back tax to listed companies. Earlier, the Buy-Back tax applied only to shares of unlisted companies. To avoid the practice of avoidance of tax on buy-back of shares by listed companies, instead of distributing Dividends (on which Dividend Distribution Tax applies), the Buy Back tax is proposed to be extended to listed companies as well.

The new Finance Minister has backed the implementation of a technology driven project to conduct assessments of returns through an anonymised back office, without any personal interface between taxpayers and tax officers. This one measure was intended to change the age-old mechanism of conducting income tax assessments and has been widely hailed by India Inc. With this, the government has successfully managed to shift the entire process of tax compliance starting from tax declaration, assessments, and applications for lower withholding and appeals to the paperless E-platform.

In a major relief to Start ups, the angel tax controversy for start-ups is proposed to be eased out. It is announced that eligible Start-ups and investors who file requisite declarations and provide information in their returns will not be subjected to any kind of scrutiny in respect of valuations of share premiums. With this, funds raised by start-ups will not require any kind of scrutiny from the Income Tax Department. Some conditions for carry forward and set off of losses in case of start-ups are also proposed to be relaxed.

Amongst the amendments pertaining to transfer pricing, most of them are clarificatory in nature which would certainly help in avoiding/ reducing litigation due to ambiguities in interpretation of law. Further, to make the provisions of secondary adjustment workable, which was introduced taking into consideration the OECD Transfer Pricing Guidelines, a mechanism is proposed to be introduced to limit the perpetual addition.

From an Indirect tax perspective, launch of a Dispute Resolution Scheme in order to reduce the existing litigations under the erstwhile Excise and Service Tax laws would provide an opportunity to tax payers to make partial tax payments and get immunity from interest, penalty and prosecution. Due to the immense scale of tax relief offered in the said scheme, a reconsideration of the legal validity of the scheme before judicial forums cannot be ruled out.

Customs duty rates on specified electronic goods and parts is aimed to boost the Make in India scheme. However, increase in Basic Customs Duty rates on automotive parts, CBUs, chassis fitted with engine etc. is going to negatively impact an already ailing auto sector.

On an overall basis, staying away from radical measures, the budget focuses on rationalizing tax laws and improving their implementation. The Budget clearly aims that the Modi 2.0 Government has opted for fiscal stability over aggressive growth.

4 POLICY AND REGULATORY FRAMEWORK

4.1 POPOSED AMENDMENTS IN FDI

- It is proposed to further grant relaxation to specified sectors with an aim to liberalize foreign investment in India.
- Currently, the FDI policy permits 100 per cent FDI in Single Brand Retail sector under the automatic route, with a condition that where foreign investment goes beyond 51 per cent the sourcing of 30 per cent of the value of goods purchased, will be done from India, preferably from MSMEs, village and cottage industries, artisans and craftsmen, in all sectors, up to 5 years, after which, 30 per cent sourcing norms shall be met on an annual basis. It is now proposed to go one step further and to relax the local sourcing norms for FDI in the Single Brand Retail sector.
- It is proposed to open up FDI in Insurance intermediaries by allowing 100 per cent FDI.
- Further relaxation in aviation, media (animation, AVGC) and insurance sectors will be considered.

4.2 RATIONALIZE KNOW YOUR CUSTOMER (KYC) NORMS

- To ensure a harmonized and hassle free investment experience for Foreign Portfolio Investors it is proposed to rationalize and streamline the existing Know Your Customer (KYC) norms for FPIs to make it more investor friendly without compromising the integrity of cross-border capital flows

4.3 PROMOTION OF AIRCRAFT FINANCING AND LEASING ACTIVITIES

- To develop self-reliant aviation industry, creating aspirational jobs the government will bring out a policy framework for making India a global hub of aircraft financing and leasing activities.

4.4 INTRODUCTION OF LABOUR CODES

- With an aim of simplification and rationalization of the laws, it is proposed to consolidate multiple labour laws into a set of four labour codes. The Government aims at streamlining and standardizing the process of various registrations and filing of returns under the existing labour laws. Further, with standardised labour laws it is expected to decrease labour disputes.
- The proposed four laws are Industrial Relations Code Bill, Wage Code Bill, the Small Factories (Regulation of Employment and Conditions of Services) Bill, and Employees Provident Fund and Miscellaneous Provisions (Amendment) Bill.

4.5 MEGA INVESTMENT IN SUNRISE AND ADVANCED TECHNOLOGY AREAS

- To boost economic growth and to promote further the Make in India policy, the Government will introduce policy framework to encourage investment of global companies in mega-manufacturing plants for Semi-conductor Fabrication ('FAB'), Solar Photo Voltaic cells,

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Lithium storage batteries, Solar electric charging infrastructure, Computer Servers, Laptops, etc.

- This investment will be secured by a transparent competitive bidding scheme and provision of investment linked tax incentives and reduced customs duties on imports.

4.6 FAST TRACK LOAN FOR REGISTERED MICRO, SMALL & MEDIUM ENTERPRISES (MSME)

- Loan appraisal process has been automated under its MSME scheme allowing a registered MSME to obtain loan up to 10 million in 59 minutes by submitting documents online. Further under the Interest Subvention Scheme for MSMEs, it is proposed to provide 2 per cent interest subvention for all GST registered MSMEs, on fresh or incremental loans.

4.7 PAYMENT PLATFORM FOR BILL FILING FOR MSMEs

- The Government plans to open a payment portal for MSMEs to enable filing of bills and payment. This would help address the delays in receiving payments and facilitate speedy recovery of funds thereby reducing the cash flow problems faced by MSMEs.

4.8 PROPOSED SEPERATION OF PENSION FUND REGULATORY

- PFRDA is the regulatory authority for NPS and the NPS Trust. For the sake of maintenance of arm's length relationship of the NPS Trust with PFRDA and to safeguard the interest of subscribers, it is proposed to separate the NPS Trust from PFRDA.

4.9 PROPOSED INTRODUCTION OF NEW TENANCY LAWS

- Considering that the current rental laws are outdated and archaic, it is proposed that a model of new tenancy law will be introduced. The new law will aim at bringing in ease and promotion of rental housing. It also aims to establish a better understanding of relationship between lessor and lessee in fair and realistic manner.

4.10 INCREASE MINIMUM PUBLIC SHARHOLDING IN LISTED COMPANIES

- The Listing regulations require a listed entity to comply with the minimum public shareholding requirements under which the current threshold is 25 per cent. It is proposed increasing minimum public shareholding in the listed companies to 35 per cent.

4.11 PROMOTION OF ELECTRIC VEHICLES

- To encourage faster adoption of electric vehicles by right incentives and to provide necessary charging infra and incentivising easy and affordable mode of transportation for the common man, the Government has introduced Faster Adoption and Manufacturing of Electric Vehicles (FAME II) scheme on April 1, 2019.
- The government has announced allocation of INR 100 billion for FAME II scheme for a period of 3 years towards upfront incentives for electric vehicles. Only advanced battery and registered e-vehicles will be incentivized under the Scheme with greater emphasis on providing affordable & environment friendly public transportation options.

4.12 PROMOTING DIGITAL PAYMENT

- It is proposed that the business establishments with annual turnover more than INR 500 million shall offer low cost digital modes of payment to their customers and no charges or Merchant Discount Rate shall be imposed on customers as well as merchants.

- The low-cost digital modes of payment such as BHIM UPI, UPI-QR Code, Aadhaar Pay, certain Debit cards, NEFT, RTGS etc. shall also be used to promote less cash economy.
- It is proposed to make necessary amendments in the Payments and Settlement Systems Act, 2007 to ensure no bank or system provider shall impose any charge upon anyone, either directly or indirectly, for using the electronic modes of payment.

5 INCOME TAX

5.1 CHANGES IN TAX RATES

Personal Tax Rates

- No changes are proposed in the existing slabs and tax rates applicable to an individual.
- Rates of Surcharge enhanced for individuals having taxable income between INR 20 million and INR 50 million from 15 per cent to 25 per cent and in excess of INR 50 million to 37 per cent. Earlier, surcharge was applicable at 10 per cent on taxable income in excess of INR 5 million and upto INR 10 million; and at 15 per cent in excess of INR 10 million. Cess remains unchanged.
- Thus, the effective rates will vary depending on income levels and will be as follows

Taxable Income	Proposed Effective Rate	Existing Effective Rate
Upto INR 5,000,000	31.2 %	31.2 %
INR 5,000,001 to INR 10,000,000	34.32 %	34.32 %
INR 10,000,001 to INR 20,000,000	35.88 %	35.88 %
INR 20,000,001 to INR 50,000,000	39 %	35.88 %
INR 50,000,001 and above	42.744 %	35.88 %

- As can be seen from the above, effective tax rate will accordingly go up by 3 per cent and 7 per cent respectively for such individuals.

Corporate Tax Rates

- Tax rate for domestic companies whose total turnover or gross receipts in the previous year 2017-18 does not exceed INR 4 billion would be 25 per cent. The beneficial tax rate shall be applicable from Financial Year 2019-20 itself.
- Tax rates for all other corporates and foreign companies (including permanent establishments of non-resident entities in India) remain unchanged. Rates of Surcharge & Cess remain unchanged for domestic and foreign companies. Rates for Minimum Alternate Tax ('MAT') also remain unchanged. Effective tax rates for corporates and foreign companies are as under -

Particulars	Taxable Income <= INR 10 million	INR 10 Million < Taxable Income <= INR 100 million	Taxable Income > INR 100 million
Foreign companies	41.60 %	42.43 %	43.68 %
Domestic Companies having Total Turnover / gross receipts not exceeding	26 %	27.82 %	29.12 %

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INR 4,000 Million in Financial Year 2017-18			
Domestic Companies having Total Turnover / gross receipts exceeding INR 4,000 Million in Financial Year 2017-18	31.20 %	33.38 %	34.94 %
Minimum Alternate Tax	19.24 %	20.59 %	21.55 %

- Rates for Dividend Distribution Tax ('DDT') and Buy-Back Tax ('BBT') also remain unchanged. Effective rates for DDT are 20.555 % and BBT is 22.496 %

(Details of the above provided for in Annexure A to this Document)

5.2 KEY PROPOSALS RELATING TO PERSONAL TAXATION

(All amendments take effect from 1 April 2020, unless stated otherwise and will apply to assessment year 2020-2021 and subsequent years)

Mandatory furnishing of return of income by certain persons

- Currently, persons other than a company or firm (e.g. Individuals) are required to furnish the return of income only if total income exceeds the maximum amount not chargeable to tax, subject to certain exceptions.
- As a measure to widen the tax net and to ensure that persons who enter into certain high value transactions furnish their return of income, it is proposed to amend section 139 of the Act so as to provide that persons shall be mandatorily required to file the return of income, in case they enters into such specified high value transactions, including the following -
 - deposit of an amount or aggregate of the amounts exceeding INR 10 million in one or more current account maintained with a banking company or a co-operative bank; or
 - incurring expenditure of amount or aggregate of amounts exceeding INR 0.2 million for for foreign travel; or
 - incurring expenditure of an amount or aggregate of amounts exceeding INR 0.1 million towards consumption of electricity; or
 - Such other prescribed conditions, as may be prescribed.
- Further, presently certain persons claiming rollover benefits of exemption from capital gains tax on investment in specified assets (such as house, bonds etc.) are not required to file a return of income if the total income is not more than the maximum amount not chargeable to tax.
- It is proposed to provide for mandatory furnishing of return for such persons claiming rollover benefits on investment in a house or a bond or other assets if before claim of such rollover benefits, total income is more than the maximum amount not chargeable to tax.

Inter-changeability of Permanent Account Number (PAN) and Aadhaar

- To ensure ease and facilitate wide spread use of Aadhaar, it is proposed that every person who is required to furnish or intimate or quote his PAN under the Act, and who has not been allotted a PAN but possesses the Aadhaar number, may furnish or intimate or quote his Aadhaar number in lieu of PAN, and such person shall be allotted a PAN in the prescribed manner;

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- It is further proposed that every person who has been allotted a PAN, and who has linked his Aadhaar number with the PAN, may furnish or intimate or quote his Aadhaar number in lieu of a PAN.

Mandatory obtaining and quoting of PAN in prescribed transactions

- It has been observed that in many cases persons entering into high value transactions, such as purchase of foreign currency or huge withdrawal from the banks, do not possess a PAN. In order to keep an audit trail of such transactions, for widening the tax base, it is proposed that every person, who intends to enter into certain prescribed transactions and has not been allotted a PAN, shall also apply for allotment of a PAN.
- Further, to ensure compliance with these provisions, responsibility is proposed to be cast upon persons receiving document relating to prescribed high value transactions, to ensure that PAN or Aadhaar number is duly quoted and authenticated.
- The existing law provides that the PAN allotted to a person shall be deemed to be invalid, in case the person fails to intimate the Aadhaar number, on or before the notified date. It is proposed to make suitable amendments to provide that if a person fails to intimate the Aadhaar number, the PAN allotted to such person shall be made inoperative in a prescribed manner (and not invalid).
- In order to ensure proper compliance with the above provisions relating to quoting and authentication of PAN or Aadhaar, the penalty provisions are proposed to be amended suitably.
- These amendments will take effect from 1 September 2019.

Tax incentive for affordable housing

- In order to provide an impetus to the 'Housing for all' objective of the Government and to enable a home buyer to have low-cost funds at his disposal, it is proposed to insert a new section 80EEA allow a deduction in respect of interest upto INR 0.15 million on loan taken for residential house property from any financial institution, subject to satisfaction of specified following conditions-
 - loan has been sanctioned by a financial institution during the period from 1 April 2019 to 31 March 2020;
 - stamp duty value of house property does not exceed INR 4.5 million; and
 - assessee does not own any residential house property on the date of sanction of loan.

Tax incentive for electric vehicles

- With a view to improve environmental conditions and reduce vehicular pollution, it is proposed to insert a new section 80EEB in the Act to provide a deduction in respect of interest on loan taken for purchase of an electric vehicle from any financial institution up to INR 0.15 million, subject to specified conditions:
 - the loan has been sanctioned by a financial institution including a non-banking financial company during the period beginning on the 1 April 2019 to 31 March, 2023;
 - the assessee does not own any other electric vehicle on the date of sanction of loan.

Incentives to National Pension System ('NPS') subscribers

- Under existing provisions of section 10 of the Act, payment to the extent of 40 per cent of the total amount from the NPS Trust to an assessee on closure of his account or on his opting out of the pension scheme, is exempt from tax. This threshold limit, for exemption from tax, is proposed to be increased from 40 per cent to 60 per cent.
- Under existing provisions of section 80CCD of the Act, a deduction to the extent of 10 per cent of salary is allowed for contributions by the Central Government to an employee's account under a Notified Pension Scheme. It is proposed to increase this threshold limit from 10 per cent to 14 per cent for Central Government employees.
- It is also proposed to amend section 80C so as to provide that any amount paid or deposited by a Central Government employee as a contribution to the employee's account under the Pension Scheme shall be eligible for deduction.

Provision of credit of relief provided under section 89

- Section 89 of the Act contains provisions for providing tax relief where salary, etc. is paid in arrears or in advance. The existing provisions of payment of self assessment tax, intimations and assessment, and interest for delayed payment and filing of return contain provisions relating to computation of tax liability after allowing credit for prepaid taxes and certain admissible reliefs, credits etc. However, the relief under section 89 is not specifically mentioned in these sections, which is resulting into genuine hardship in the case of taxpayers who are eligible for this relief.
- In view of the above, it is proposed to amend sections 140A (self assessment tax), section 143 (assessment), section 234A (interest for delayed filing return), section 234B and section 234C (interest on delayed payment of advance tax), so as to provide that computation of tax liability shall be made after allowing relief under section 89.
- These amendments will take effect retrospectively from 1 April 2007 and will accordingly apply in relation to Assessment Year 2007-08 and subsequent assessment years.

5.3 KEY PROPOSALS RELATING TO DOMESTIC TAXATION

Buy-back Tax extended to listed companies

- Section 115QA of the Act provides for the levy of additional Income-tax at the rate of 20 per cent of the distributed income on account of buy-back of unlisted shares by the company. As additional income-tax has been levied at the level of company, the consequential income arising in the hands of shareholders has been exempted from tax under section 10 (34A) of the Act.
- This section was introduced as an anti-abuse provision to check the practice of unlisted companies resorting to buy-back of shares instead of payment of dividends. However, instances of similar tax arbitrage have now come to notice in case of listed shares as well, whereby the listed companies are also indulging in such practice of resorting to buy-back of shares, instead of payment of dividends.
- In order to curb such tax avoidance practice adopted by the listed companies, the existing anti abuse provision under Section 115QA of the Act, pertaining to buy-back of shares from shareholders by companies not listed on a recognised stock exchange, is proposed to be extended to all companies including companies listed on recognised stock exchange. Thus, any buy back of shares from a shareholder by a company listed on recognised stock exchange, on or after 5 July 2019, shall also be covered by the provision of section 115QA of the Act. As a corollary, it is also proposed to extend exemption under section 10 (34A) of

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the Act to shareholders of the listed company on account of buy-back of shares on which additional income -tax has been paid by the company. The basic tax rate is 20 per cent, this will further be increased by a surcharge of 12 per cent and cess of 4 per cent, thus the effective tax rate on buy back of shares is 22.496 per cent.

- These amendments will take effect from 5 July 2019.

Inclusion of other modes of electronic payments

- There are various provisions in the Act which prohibit cash transactions and allow/encourage payment or receipt only through account payee cheque, account payee draft or electronic clearing system through a bank account.
- For instance, section 40A of the Act provides for disallowance of any expenditure for which the assessee makes payment (or an aggregate of payments) exceeding INR 0.01 million through any mode other than an account payee cheque or an account payee bank draft or using the electronic clearing system through a bank account. Section 43 (1) of the Act provides for definition of the term “actual cost”. The second proviso to the said section specifies that where the assessee incurs any expenditure for the acquisition of an asset or part thereof, and in respect of such acquisition, he makes a payment or aggregate of payments exceeding INR 0.01 million in a day to a person in any mode other than an account payee cheque or an account payee bank draft or using the electronic clearing system through a bank account, then such expenditure shall not be included in the determination of the actual cost.
- In order to encourage other electronic modes of payment, it is proposed to amend all similar above sections so as to include “such other electronic modes of payment as prescribed”, in addition to the already existing permissible modes of payment/receipt in the form of an account payee cheque or an account payee bank draft or the electronic clearing system through a bank account. List of sections impacted include –
 - Section 13A – receipt of donation by political parties
 - Section 35AD – deduction for specified businesses
 - Section 40A – disallowance of expenses when payment in cash
 - Section 43 – actual cost of asset
 - Section 43CA – consideration for transfer of asset
 - Section 44AD – presumptive taxation for eligible business
 - Section 80JJAA – additional employee costs
- These amendments will apply in relation to assessment year 2020-2021 and subsequent assessment years.
- Similarly, Sections 269SS, 269T and 269ST of the Act prohibit a person from taking or accepting or repaying from/to a depositor any loan or deposit or any specified sum otherwise than by an account payee cheque or an account payee bank draft or by use of electronic clearing system through a bank account.
- In order to encourage other electronic modes of payment, it is proposed to amend the above sections so as to include such other electronic mode as may be prescribed for such transactions as well.
- These amendments will take effect from 1 September 2019.

Mandating acceptance of payments through prescribed electronic modes

- In order to promote the digital economy, it is proposed to insert a new section 269SU in the Act to provide that every person carrying on business, if his total sales, turnover or gross receipts in business exceeds INR 500 million during the immediately preceding previous

year, shall mandatorily provide facility for accepting payment through the prescribed electronic modes, in addition to other facilities for electronic modes of payment, if any, being provided by such person.

- Penalty of INR 5 thousand per day is proposed to be imposed for failure to provide facility for electronic modes of payment under the above section.
- Consequential amendments are also proposed in the Payment and Settlement Systems Act, 2007 to provide that no bank or system provider shall impose any charge upon anyone, either directly or indirectly, for using the modes of electronic payment prescribed under section 269SU of the Income-tax Act.
- These amendments will take effect from 1 November 2019.

Incentives and Deductions

Incentives for Start-ups

- Conditions for carry forward of loss - Section 79 of the Act provides conditions for carry forward and set off of losses in case of a company not being a company in which the public are substantially interested. Section 79 provides that in case of closely held companies (in general), at least 51 per cent of beneficial shareholding needs to be maintained in order to carry forward/ set-off of business losses.
- However, closely held eligible start-up companies are allowed to carry forward their business losses (incurred during the period of seven years beginning from the year in which the start-up is incorporated), if all the shareholders continue to hold all shares irrespective of their percentage of shareholding.
- In order to provide relief to such start-up companies, it is proposed that closely held eligible start-up companies may optionally satisfy either of the two conditions for carry forward of their business losses i.e. a) continuity of 51 per cent of beneficial shareholding; or b) continuity of the same shareholders.
- Capital gains from transfer of residential property - The existing provisions of section 54GB of the Act, *inter alia*, provide for roll over benefit in respect of capital gain arising from the transfer of a long-term capital asset, being a residential property owned by the eligible assessee. Currently the benefit of this section was only available for investment in equity shares of eligible start-ups until 31 March 2019.
- In order to incentivize investment in eligible start-ups, it is proposed to amend the said section so as to:
 - extend the sun set date of transfer of residential property for investment in eligible start-ups from 31 March 2019 to 31 March 2021;
 - relax the condition of minimum shareholding of 50 per cent of share capital or voting rights to 25 per cent.
 - relax the condition restricting transfer of new asset being computer or computer software from the current five years to three years.

Rationalization of conditions for deductions from profits of business of building housing projects

- The existing provisions of the section 80-IBA of the Act, *inter alia*, provide that where the gross total income of an assessee includes any profits and gains derived from the business of developing and building housing projects, there shall, subject to certain conditions, be allowed, a deduction of an amount equal to hundred per cent of the profits and gains derived from such business.

- With a view to align the definition of “affordable housing” under section 80-IBA with the definition, it is proposed to amend section 80-IBA so as to modify certain conditions regarding the housing project approved on or after 1 September 2019. The modified conditions are as under:
 - residential unit in the housing project to have carpet area not exceeding 60 square meter in metropolitan cities or 90 square meter in cities or towns other than specified metropolitan cities;
 - stamp duty value of such residential unit in the housing project shall not exceed INR 0.45 Million.
- These amendments will apply in relation to assessment year 2020-21 and subsequent assessment years.

Income from other sources

Exemption from deeming of fair market value of shares for certain transactions

- The existing provisions of the section 56(2)(x) of the Act, provide for chargeability of income in case of receipt of money or specified property for no or inadequate consideration. For determining the amount of income for receipt of certain shares, the fair market value of the shares is taken into account.

Similarly, section 50CA provides for deeming of fair market value of unquoted shares for computing the capital gains from the transfer of such shares. For both these provisions, the fair market value is determined based on the prescribed method.

- It is proposed that the Central Board of Direct Taxes (‘CBDT’) would be empowered to prescribe additional transactions undertaken by certain class of persons to which the provisions of section 56(2)(x) and section 50CA of the Act shall not be applicable.
- These amendments will apply in relation to assessment year 2020-21 and subsequent assessment years.

Rationalization of provisions of Section 56(2)(viib) of the Act

- Section 56(2)(viib) of the Act provides that where consideration received for issue of shares exceeds the fair market value of such shares, the excess is taxable in the hands of the recipient as Income from other sources.
- Presently, severities of this section are not applicable to consideration received by Venture Capital Funds - Category I Alternative Investment Fund (‘AIFs’). The Central Government is also empowered to notify that the provisions of this section shall not be applicable to notified class of investors. Notifications issued under this sub-clause by the Central Government provide for exemption for receipts from specified class of investors, subject to fulfilment of conditions.
- It is proposed to extend the non-applicability of these provisions to Category II AIFs as well. Exemption for Category - II AIFs is however applicable in respect of funds received by Venture Capital Undertakings.
- Further, with a view to ensure compliance to the conditions specified in the notification, it is proposed to provide that in case of failure to comply with the conditions, the consideration received for issue of shares which exceeds the face value of such shares shall be deemed to be the income of the company chargeable to income-tax for the previous year in which the failure to comply with any of the said conditions has taken place.
- These amendments will apply in relation to the assessment year 2020-21 and subsequent assessment years.

Capital gains

Concessional rate of Short-Term capital gains tax extended to equity-oriented fund of funds

- Presently, the concessional rate of 10 per cent is applicable to long term capital gains arising from transfer of equity shares or equity-oriented funds.
- In order to incentivize fund of funds set up for disinvestment of Central Public Sector Enterprises ('CPSEs'), Finance Act, 2018 has provided concessional rate of long-term capital gains tax under section 112A of the Act for the transfer of units of such fund of funds.
- In order to further incentivize these funds of funds, it is proposed to amend section 111A so as to extend the concessional rate of tax for short-term capital gains in respect of transfer of units of such fund of funds.
- This amendment will apply in relation to assessment year 2020-21 and subsequent assessment years.

5.4 KEY PROPOSALS RELATING TO INTERNATIONAL TAX

Deemed accrual of gifts made to non-residents

- Under the existing provisions of the Act, a gift of money or property received without or adequate consideration is taxed in the hands of recipient, except for certain exemptions provided in the Act.
- It was observed that gifts made by residents to persons outside India although subject to tax, were claimed as non-taxable on the basis that such income does not accrue or arise in India.
- It is now proposed to amend section 9 of the Act to clarify that income referred to in section 2(24)(xviii) read with section 56 (2)(x) of the Act, i.e. sum of money or property received by non-residents on or after 5 July 2019 from a resident without or for inadequate consideration will be deemed to accrue or arise in India.
- However, exemption from tax in specific cases will continue to apply in such cases as well. It has also been clarified that in a treaty situation, provisions of the relevant double taxation avoidance agreement ('DTAA') shall continue to apply for such gifts to the extent they are beneficial.
- This amendment will apply in relation to the assessment year 2020-21 and subsequent assessment years.

Incentives 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. To further promote such development and bring these IFSC at par with similar IFSC in other countries, following additional benefits are proposed:
- **Tax neutrality** - With a view to provide tax-neutral transfer of certain securities by Category III AIF in IFSC, it is proposed to amend the section 47 of the Act, so as to provide that any transfer of a capital asset, specified in the said clause by such AIF, of which all the unit holders are non-residents, are not regarded as transfer subject to fulfillment of specified conditions. Earlier this benefit was extended to Global Depository receipts or rupee denominated bonds of an Indian company or derivatives, made by a non-resident through a recognized stock exchange located in IFSC.

- **Interest borrowed by units in IFSC** - With a view to facilitate external borrowing by the units located in IFSC, it is proposed to amend section 10 of the Act so as to provide an exemption towards 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 1 day of September 2019.
- The above amendments will apply in relation to the assessment year 2020-21 and subsequent assessment years.
- **Exemption from Dividend Distribution Tax** - To facilitate distribution of dividend by companies operating in IFSC, it is proposed to provide that any dividend paid out of accumulated income derived from operations in IFSC, after 1 April 2017, shall not be liable for tax on distributed profits. This amendment will take effect from 1 September 2019. It is also proposed to provide that no additional income-tax shall be chargeable in respect of any amount of income distributed, on or after 1 September 2019, by a Mutual Fund of which all the unit holders are non-residents and which fulfills certain other specified conditions.
- **Deduction from profits** - With a view to further incentivize operation of units in IFSC, it is proposed to amend section 80LA of the Act so as to provide that the deduction shall be increased to 100 per cent for any ten consecutive years (from 100 per cent for first five years and 50 per cent for next five years). Option has been provided to claim the said deduction for any ten consecutive assessment years out of fifteen years beginning with the year in which the necessary permission was obtained. Consequential amendment is made in section 115A which provide for taxation of dividends.
- This amendment will apply in relation to the assessment year 2020-21 and subsequent assessment years.

Relaxation in conditions of special taxation regime for offshore funds

- Section 9A of the Act provides for a safe harbour in respect of offshore funds. It provides that in the case of an eligible investment fund, the fund management activity carried out through an eligible fund manager located in India and acting on behalf of such fund shall not constitute business connection in India of the said fund. To give an impetus to fund management activities in India, based on representations received, certain conditions for implementation of taxation regime of fund managers have been relaxed retrospectively from 1 April 2019.
- This amendment will apply to the assessment year 2019-20 and subsequent assessment years.

Exemption of interest income of a non-resident arising from rupee denominated borrowings

- The existing provisions of section 194LC of the Act provide that the interest income 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 eligible for TDS at a concessional rate of 5 per cent. Vide press release dated 17th September 2018, it was announced that interest payable in respect of rupee denominated bond issued outside India during the period from 17 September 2018 to 31 March 2019 shall be exempt from tax. Consequently, no tax is required to be deducted on the payment of interest in respect of such bonds.
- The exemption announced through the said press release is proposed to be incorporated in the law by amending section 10 of the Act. Exemption is proposed to be provided in respect of income payable by way of interest to non-residents by the specified company in respect of monies borrowed from a source outside India by way of issue of rupee denominated bond,

as referred to in section 194LC, during the period beginning from 17 September 2018 to 31 March 2019.

- This amendment will apply in relation to the assessment year 2019-20 and subsequent assessment years.

5.5

KEY PROPOSALS RELATING TO TRANSFER PRICING

Power of assessing officer in respect of modified return filed in pursuance of APA

- As per the present law, CBDT can enter into unilateral, bilateral or multilateral APAs under section 92CC. Currently, APAs are entered for the period of 5 years with option of roll back for 4 years.
- Once APA is entered into, assessee is required to file a modified return of income.
- As per section 92CD, if assessment in respect of any year to which APA applies is already completed before expiry of period allowed for furnishing modified return of income, it states that AO can proceed to assess or reassess or recompute the total income having regards to modified return of income.
- However, the wordings of section created ambiguity that the AO may proceed with fresh assessment in view of modified return of income so filed. Thus, to clarify the intent of legislature and to further strengthen the APA regime in India, it is now clarified that AO shall only pass an order modifying the total income according to the modified return of income filed in pursuance of APA and he cannot initiate a fresh assessment based on such modified return.
- This amendment is proposed from 1 September 2019.

Clarification with regards to provisions of secondary adjustment and giving option to assessee to make one-time payment of taxes

- As per existing law, if the primary adjustment to transfer price exceeds INR 10 million and the said adjustment pertains to Assessment Year ('AY') 2017-18 or onwards, a secondary adjustment is mandated.
- However, certain interpretational issues are now proposed to be clarified w.e.f. AY 2018-19 as follows–
 - The twin conditions, viz., amount of primary adjustment exceeding INR 10 million and adjustment pertaining to AY 2017-18 or onwards, are mutually exclusive and independent of each other.
 - As a part of the secondary adjustment, interest is to be computed on the excess money and now it is proposed to be computed only on the part thereof which is outstanding. This is because in the existing Act, due to the absence of the word 'part thereof' it is apprehended that despite part repatriation of money by the AE, secondary adjustment may still be made on the full amount of excess money.
 - This provision is proposed to be applicable for APAs signed on or after 1 April 2017 and thus clearly indicating that it would not apply to the APAs signed prior to the said date.
 - The repatriation of excess money can be made by any non-resident AE. Thus, the repatriation may be made by any AE, irrespective of the AE with whom the international transaction is entered into.

- Further, following provisions are proposed to be inserted w.e.f. 1 September 2019 –
 - The option is given to the assessee to pay additional tax at the rate of 18 per cent (as increased by surcharge of 12 per cent) on the excess money or part thereof not so repatriated within the prescribed time. This will be one-time tax in addition to the interest payment as prescribed under section 92CE. However, it is proposed that once the additional tax is paid, interest computation under section 92CE will cease.
 - It is expressly proposed that no credit will be allowed of such taxes paid as well as these taxes will not be allowed as business expenditure.

Clarification in respect of definition of 'accounting year' in section 286

- Due to the language of present law, concern was expressed in respect of meaning of 'accounting year' in respect of Alternate Reporting Entity ('ARE') which is resident in India. The provisions in this regard are now proposed to be rationalized to suitably amend the definition of accounting year to mean the previous year for a parent entity which is resident in India specifically omitting the reference to the words ARE which are resident in India.
- This amendment is clarificatory in nature, is proposed to be effective from AY 2017-18 and onwards.

Rationalizations of provisions relating to maintenance, keeping and furnishing of information and documents by certain persons

- As per the existing provisions, a constituent entity is required to maintain and file the Group Master File as prescribed only if it undertook international transaction during the relevant assessment year.
- The above requirement was covered under a proviso to the main provision (sub-section (1) of 92D) which was applicable for maintenance of documents and information in relation to international transactions. This section is proposed to be amended in such a way to delineate the provisions in relation to the Group Master File and the documentation in relation to international transactions.
- However, this proposed change in law would result in the requirement to file the Group Master File (subject to the prescribed Rules in respect of filing) even when the assessee has not entered into any international transaction with the AE.
- This amendment is proposed to be effective from AY 2020-21.

5.6 KEY PROPOSALS RELATING TO WITHHOLDING TAX

TDS provisions extended to payments by Individuals/ HUF

- Presently, there is no obligation on Individuals and HUFs to deduct tax at source on payments made to contractors or professionals when it is for personal use. Further, there is no obligation to deduct tax at source on individuals or HUFs, using such services for the purpose of business or profession, if such tax payers are not subjected to tax audits (gross receipts or turnover below the prescribed threshold).
- To plug this loophole, it is proposed to insert a new section 194M in the Act to provide for levy of TDS at the rate of 5 per cent on such sum, or where the aggregate of sums, paid or credited in a year on account of contractual work or professional fees by an individual or a Hindu undivided family, if such sum, or aggregate of such sums, exceeds INR 5 million in a year.

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- For ease and convenience, individuals / HUFs shall be able to deposit the tax so deducted (TDS) using their PAN and shall not be required to separately obtain a Tax Deduction Account Number (TAN) for compliance with the new provisions of section 194M.
- This applicable is applicable from 1st September 2019.

TDS provisions at the time of purchase of property

- Section 194-IA of the Act relates to payment on transfer of certain immovable property other than agricultural land and provides for levy of TDS at the rate of 1 per cent on the amount of consideration paid or credited for transfer of such property, if such consideration exceeds INR 5 million. The term 'consideration for immovable property' is presently not defined for the purposes of this section.
- It is proposed to insert an Explanation to said section and provide that the term "consideration for immovable property" shall include all charges in the nature of club membership fee, car parking fee, electricity and water facility fees, maintenance fee, advance fee or any other charges of similar nature, which are incidental to transfer of the immovable property.
- This applicable is applicable from 1 September 2019.

TDS on cash withdrawal to discourage cash transactions

- In order to further discourage cash transactions and move towards less cash economy, it is proposed to insert a new section 194N in the Act to provide for levy of TDS at the rate of 2 per cent on cash payments in excess of INR 10 million in aggregate made during the year, by a banking company or cooperative bank or post office, to any person from an account maintained by the recipient.
- Certain recipients, such as the Government, banking company, cooperative society engaged in carrying on the business of banking, post office, banking correspondents and white label ATM operators, involved in handling of substantial amounts of cash as a part of their business operation, from the application of this provision are proposed to be exempt through a notification in the official Gazette in consultation with the Reserve Bank of India.
- These amendments will take effect from 1 September 2019.

TDS on life insurance pay outs

- Under section 194DA of the Act, a person is obliged to deduct tax at source (TDS), if it pays any sum to a resident under a life insurance policy, which is not exempt under sub-section (10D) of section 10. The present requirement is to deduct tax at the rate of 1 per cent of such gross sum at the time of payment. However, the recipient is liable to pay tax on the net income of the life insurance payout (i.e. after deducting the amount of insurance premium paid by him from the total sum received).
- To avoid this lacuna, it is proposed to provide for TDS under section 194DA at an increased rate of 5 per cent instead of earlier specified 1 per cent but only on the net income of the life insurance payout.
- These amendments will take effect from 1 September 2019.

5.7 KEY PROPOSALS RELATING TO PROCEDURES

Relaxing the provisions of sections 201 and 40 of the Act in case of payments to non-residents

- Presently, as per proviso to section 201(1) of the Act, relief is available to an Assessee (deductor of tax at source i.e. TDS) if he fails to deduct tax on a payment made to a resident, if such resident has furnished his return of income under section 139, disclosed such payment for computing his income in his return of income, paid the tax due on the income declared by him in his return of income and furnished an accountant's certificate to this effect. Whereas such relief is not available to deductors for similar failure to deduct tax at source on payments to non-residents.
- To remove this anomaly, it is proposed to amend the proviso to sub-section (1) of section 201 to extend the benefit of this proviso to a deductor, even in respect of failure to deduct tax on payment to non-residents.
- Consequent to this amendment, it is also proposed to amend the proviso to sub-section (1A) of section 201 to provide for levy of interest till the date of filing of return by the non-resident payee (as is the case at present with resident payee).
- These amendments will take effect from 1 September 2019.
- Corresponding amendment is also proposed in section 40 (a) to provide for no disallowance in respect of such payments.

Online filing of application seeking determination of TDS on payment to non-residents

- Under sub-section (2) of section 195 of the Act, if a person who is responsible for paying any sum to a non-resident which is chargeable to tax under the Act (other than salary) considers that the whole of such sum would not be income chargeable in the case of the recipient, he can make an application to the Assessing Officer to determine the appropriate proportion of such sum chargeable. This provision is used by a person making payment to a non-resident to obtain certificate/order from the Assessing Officer for lower or nil withholding-tax. However, the process is currently manual.
- In order to use technology to streamline the process, it is proposed to amend the provisions of section 195, to allow for prescribing the form and manner of application to the Assessing Officer and also for the manner of determination of appropriate portion of sum chargeable to tax by the Assessing Officer.
- Similar amendments are also proposed in Section 195(7) as well.
- These amendments will take effect from 1 November 2019.

Electronic filing of statement of transactions on which tax has not been deducted

- 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 section 206A, 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.
- These amendments will take effect from 1 September 2019.

Widening the scope of Statement of Financial Transactions (SFT)

- Existing provisions of section 285BA of the Act provide for furnishing of SFT or reportable account by person specified therein.
- It is proposed to remove the current threshold of INR 0.05 million on aggregate value of transactions during a financial year, for furnishing of information, thus widening the scope of SFT filing and reporting of transactions.
- Penalty provisions are proposed to be suitably amended, so as to ensure proper compliance with SFT provisions.
- These amendments will take effect from 1 September 2019.

5.8 KEY PROPOSALS (OTHERS)

Penalty Provisions relating to under-reporting of income

- 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, i.e. in cases of reassessment.
- In order 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, it is proposed to suitably amend the provisions of section 270A.
- These amendments will apply retrospectively in relation to assessment year 2017-2018 and subsequent assessment years.

Rationalisation of Prosecution proceedings in case of failure to furnish returns

- The existing provisions of section 276CC of the Act, inter alia, provide that prosecution proceedings for failure to furnish returns of income against persons **other** than companies shall not proceed against, for failure to furnish the return of income in due time, if the tax payable by such person, not being a company, on the total income determined on regular assessment does not exceed INR 3 thousand. The existing provisions do not provide for taking into account tax collected at source and self-assessment tax for the purposes of determining the tax liability.
- Since the intent of said provision has always been to take into account pre-paid taxes, while determining the tax payable, it is proposed to amend the said section so as to make the legislative intention clear and to include the self-assessment tax, if any, paid before the expiry of the assessment year, and tax collected at source for the purpose of determining tax liability.
- Further, in order to rationalise the existing threshold limit of tax payable under said section, it is further proposed to amend the said section so as to increase the threshold of tax payable from the existing INR 3 thousand to INR 10 thousand.
- These amendments will apply in relation to assessment year 2020-21 and subsequent assessment years.

Rationalisation of provision relating recovery of tax in pursuance of agreements with foreign countries

- 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 and where such foreign country sends a certificate for the recovery of tax due 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, it is proposed to provide for tax recovery when the person is a resident in India, even where details of property of the persons are not available.
- 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.
- These amendments will take effect from 1 September 2019.

Rationalisation of provisions relating to claim of refund

- The existing provisions of section 239 of the Act provide inter alia that every claim of refund shall be made in the prescribed form and verified in the prescribed manner.
- In order to simplify the procedure for claim of refund, it is proposed to amend the said section so as to provide that every claim for refund under Chapter XIX of the Act shall be made by furnishing return in accordance with the provisions of section 139 of the Act.
- This amendment will take effect from 1 September 2019.

Rationalisation of provisions relating to sale of attached property

- The existing provisions provide that no sale of immovable property attached towards the recovery of tax, penalty etc. shall be made after the expiry of three years from the end of the financial year in which the order becomes final.
- It is proposed to extend the period of limitation from three to seven years.
- These amendments will take effect from 1 September 2019.

5.9 KEY PROPOSALS RELATING TO ALLIED TAX LAWS

Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015

- The existing provisions of section 2 of the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 ('BM Act') provide inter alia that the "assessee" means a person who is resident in India within the meaning of section 6 of the Income-tax Act.
- It is proposed to include within the meaning of the "assessee" a person being a "non-resident" or "not ordinarily resident" in India within the meaning of the Income-tax Act in the relevant financial year, and who was a **resident** in India:
 - in the previous year to which the income relates to or
 - in the previous year in which the asset located outside India was acquired.

- Clarificatory amendments are also proposed to include the expressions “re-assess” and “reassessment” within that Act.
- These amendments will take effect retrospectively from 1 July 2015.

Income Declaration Scheme, 2016

- The existing provisions of section 187 of the Finance Act, 2016 provide, inter alia, that the tax, surcharge and penalty in respect of the undisclosed income, shall be paid on or before a notified due date.
- It is proposed to provide that where the amount of tax, surcharge and penalty, has not been paid within the due date, the Central Government may notify the class of persons who may make the payment of such amount on or before a notified date, along with the interest on such amount, at the rate of one per cent of every month or part of a month.
- This amendment will take effect retrospectively from 1 June 2016.

Prohibition of Benami Property Transactions Act

- The existing provisions of Prohibition of Benami Property Transactions Act provide that the Initiating Officer, with the prior approval of the Approving Authority, shall conduct any inquiry or investigation. This power is exercised by the Initiating Officer where no case is pending before him. However, it is not expressly provided that the prior approval of Approving Authority shall not be required where the Initiating Officer has already initiated proceedings by issuing notice.
- In order to clarify that no prior approval of the Approving Authority would be required in cases where notice is already issued, it is proposed to suitably amend the provisions of the Act.
- This amendment will take effect retrospectively from 1 November 2016.
- Further, the provisions relating to attachment of property are also proposed to be rationalized.
- The existing provisions provide for attachment of property for a period of ninety days from the date of issue of notice. Further, an order may be passed within ninety days from the date of issuing notice.
- In order to rationalize the aforesaid provisions, it is proposed to provide that the period of ninety days in respect of provisional attachment of the property and passing of order shall be reckoned from the end of the month in which the notice is issued.
- This amendment will take effect from 1 September 2019.

Rationalization of provisions relating to Securities Transaction Tax ('STT')

- As per the existing provisions, the value of taxable securities transaction in respect of sale of an option in securities, where option is exercised, is the settlement price.
- In order to rationalize the levy of STT where the option is exercised, it is proposed to amend the said section so as to provide that value of taxable securities transaction in respect of sale of an option in securities, where option is exercised, shall be the difference between the strike price and the settlement price.
- This amendment will take effect from 1 September 2019.

6 INDIRECT TAXES

6.1 GOODS AND SERVICES TAX

Threshold exemption for registration under GST

- Section 22 of the Central Goods and Services Tax (“CGST”) Act, 2017 has been proposed to be amended to empower the Government to enhance the existing threshold to obtain registration under the GST law. The enhancement can be made from the existing threshold of INR 2 million to a maximum of INR 4 million at the request of a State and on recommendations of the GST Council.
- Such higher threshold has already been notified and in effect from 1 April 2019 vide an exemption notification issued by the Government of India and now proposed to be incorporated as part of the CGST Act, 2017.
- The calculation of threshold of INR 4 million will not include supply of exempt services which are by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount

Linkage of Aadhaar Number to GST Registration

- Linkage of Aadhaar Number to registration already granted under the GST law has been proposed to be made mandatory for every registered person except class of person as may be notified by the government on recommendation of council.
- It has been proposed that where an Aadhaar number has not been assigned or verification of the Aadhaar number allotted fails due to technical reasons or reasons beyond the holder’s control, an opportunity is proposed to be given to furnish alternate and viable means of authentication.
- In case of failure to undergo authentication or furnish proof of possession of Aadhaar number / alternate and viable means of identification, it has been proposed that registration under the GST law allotted to such person would be deemed to be invalid.
- It has been proposed that linkage of the Aadhaar number will be mandatory for fresh registration to be obtained under the GST law.

Composition Scheme

- Sub-section (2) of Section 10 to the CGST Act, 2017 is amended to restrict the benefit composition scheme to be extended to the casual taxable person and the non-resident taxable person.
- Further, a new sub-section (2A) is proposed to be inserted under Section 10 of the CGST Act, 2017 dealing with the Composition Scheme and the benefit is proposed to be extended to suppliers of services and to suppliers engaged in supply of goods as well as services whose aggregate turnover in the preceding financial year did not exceed INR 5 million. The tax rate for composition scheme will be prescribed by the Government which in no case will exceed 3 per cent. The Government has already issued a notification wherein a similar scheme has already been operating since 1 April 2019 and now proposed to be incorporated as part of CGST Act, 2017.
- The proposed scheme has to be opted by all GST registrations covered under the same PAN.
- For determining the eligibility to opt for this scheme, it has been proposed that the turnover shall include the turnover during the period starting 1 April of a year till the date of the

person becoming liable for obtaining registration. The turnover will however, exclude supply of exempt services which are by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount.

- For determining the turnover on which tax will be payable, the following shall stand excluded:
 - the turnover during the period starting 01 April of a year till the date of the person becoming liable for obtaining registration
 - supply of exempt services which are by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount.

New GST compliance and return system

- It has been proposed that the Composition taxpayers would be required to furnish an annual return along with quarterly payment of taxes. Currently, the composition tax payers are required to pay the taxes on a monthly basis where as the returns were required to be filed on quarterly basis.
- Further, new return system under GST has been introduced. New set of forms are prescribed for implementation of such new return system. The new form will have three parts:
 - Form GST RET 01 (Final return to be filled along with payment of liability)
 - Annexure 1 (Output Details)
 - Annexure 2 (Input Details)
- Such return system would allow the taxpayers to upload and also to check the invoices uploaded by their suppliers on a real time basis thereby enabling the taxpayers to take corrective actions and avoid reconciliations at the end of year.
- As in the current return system, the payment due date under the new return system would remain the same i.e. 20th of the month subsequent to the month or quarter for which return is to be filed.
- Implementation of New Return System:
 - Prototype of the offline tool is already available on the GST portal. The new return system would be working on trial basis in the months of July 2019 to September 2019 without effecting the actual liability. Form GSTR 1 and GSTR 3B to continue for the said period.
 - Effective October 2019, Form GSTR 1 will be replaced by Form GST Annexure - 1 and it will be mandatory to file the said new form. Large taxpayers (with turnover over INR 50 million in previous financial year) to file monthly and small taxpayers (with turnover under INR 50 million) to file quarterly returns. Input credits in GST Annexure - 2 can be viewed in parallel but no modification will be permitted.
 - Large taxpayers to continue to file Form GSTR 3B for the months of October 2019 and November 2019. The first new form GST RET 1 for the month of December 2019 to be filed by 20 January 2020
 - Small taxpayers to discontinue filing GSTR 3B effective October 2019 and file return in Form GST PMT - 08. The first new form GST RET 1 for the quarter October - December 2019 to be filed by 20 January 2020
 - Effective January 2020, Form GSTR 3B will be totally phased out and returns in Form GST RET 1 will have to be filed by all taxpayers.

Interest on late payment of taxes under GST

- Section 50 of the CGST Act, 2017 which deals with levy of interest upon late payment of GST is proposed to be amended. The interest liability is proposed to be calculated on the net tax payable (Total GST output liability minus Input Tax Credit). The interest will only be levied on the amount that has been deposited by utilising the balance available in the cash ledger of such registered person.
- However, this proposed amendment would not apply in cases where the return is furnished post initiation of proceedings under Section 73 and 74 of the CGST Act, 2017.
- Currently, as per a ruling of a State High Court, interest on late payment of taxes under GST has been held as leviable on the entire GST liability i.e. by excluding the balance available in the electronic credit ledger. With the amendment, no interest will be payable upon delay in deposit of taxes on the liability discharged using the electronic credit ledger.

Facility for Interhead transfers under Electronic Cash Ledger

- Section 49 of the CGST Act, 2017 which deals with payment of GST has been proposed to be amended to introduce a new facility for transfer of balance from one head to another in the electronic cash ledger of the taxpayer. Further, such transfer of balance would be considered as deemed refund from the electronic cash ledger.
- The balance available under the heads of taxes (integrated tax, central tax, state tax, union territory tax), cess, interest, penalty, fees or any other amount available under the Electronic cash ledger can be transferred to another head by using such facility.
- The form and manner of transfer and the conditions and restrictions will be prescribed by the Government pursuant to the proposed amendment.

Powers given to Commissioner to extend return filing timelines

- The proposals empower the Commissioner to extend the due date for furnishing the following returns under GST, on the recommendations of the Council for reasons to be recorded in writing:
 - Annual Return under GST i.e. GSTR 9 and 9A;
 - Reconciliation Statement i.e. GSTR 9C;
 - Monthly and Annual statements to be filled by persons collecting tax at source under the GST law (recommendation of the GST Council is not a pre-condition).

National Appellate Authority for Advance Ruling ('NAAAR')

- It has been proposed to constitute a NAAAR that would be hearing appeals against conflicting advance ruling pronounced on the same question by the Appellate Authority of Advance Ruling of two or more States or Union Territories.
- The said body would be chaired by a retired judge of the Supreme Court of India/ retired Chief Justice of the High Court or a judge of the High Court who has served office for at least 5 years. One or the other technical members will be from the Central and State Government.
- Applicant (being a distinct person under Section 25) aggrieved by order of AAAR of two or more states or any officer authorised by commissioner in this regard, is entitled to appeal before the NAAAR.
- Ruling pronounced by the NAAAR shall be binding, unless there is a change in law or facts on the applicant (including registrations held in other States as distinct persons) and on the concerned officers/ the jurisdictional officers.

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- The proposals require the NAAAR to pass an order in appeal within a period of 90 days from the date of filing an appeal, as far as the same is possible.

Penalty under Anti Profiteering Measures

- The National Anti-profiteering Authority has been proposed to be empowered to impose a penalty of 10 per cent of the profiteered amount on any person found guilty under the anti-profiteering measures.
- The proposed amendment also provides that no penalty shall be levied in a case where the 'profiteered amount' is deposited within 30 days of the date of passing of orders by the Authority.
- "Profiteered" is defined to mean the amount determined on account of not passing the benefit of reduction in rate on supply of goods and/or services or the benefit of input tax credit to recipient by way of commensurate reduction in the prices of the goods and services or both.

Exemptions under GST

- Exemption of Central, Integrated and Union Territory Goods and Services Tax in respect to supply of 'Uranium Ore Concentrate' which was effective from 15 November 2017 has been proposed to be made retrospectively applicable effective from 1 July 2017.

Other Proposals

- It is proposed to insert a new section 31A in the CGST Act, 2017 which would require a specified class of registered persons to provide prescribed modes of electronic payment to the recipients of such supply of goods and/or services subject to the prescribed conditions and restrictions.
- It has been proposed to empower the Central Government to disburse refund amount to taxpayers in respect of State Government component of GST.

All the above amendments relating to GST would be applicable from the date as the Central Government may, by Notification in Official Gazette, appoint. The said changes would be carried out by the State Governments in the respective SGST laws as well.

6.2 SERVICE TAX

Changes in existing exemptions under Service Tax

- License Fee or Application Fee collected as consideration by State Governments for services provided/ agreed to be provided by way of grant of liquor license are proposed to be kept outside the levy of Service Tax. This exemption has been proposed to be retrospective and applicable for the period from 1 April 2016 upto 30 June 2017 (both days inclusive).
- One time upfront payments (known as premiums, developments charges or any other name) payable in respect of services provided/ agreed to be provided by way of granting long term lease of thirty years or more of plots for development of infrastructure for financial business in any industrial or financial business area, has been proposed to not be subject to the levy of Service Tax. The said amount is payable upon such services provided by the State Government Industrial Development Corporations or Undertakings, etc. This exemption has now been proposed to be effective retrospectively from 1 October 2013 upto 30 June 2017.
- It has been proposed that no Service Tax shall be levied or collected in respect of services provided/ agreed to be provided by Indian Institute of Management to students as per the

guidelines of the Central Government by way of the following programmes (except executive development programme):

- Two year full time post graduate programme in management for the post graduate diploma in Management
- Fellow programme in Management
- Five year integrated programme in Management

The said exemption is proposed to be effective retrospectively from 1 July 2003 to 31 March 2016.

- Where any service tax has been collected on any of the above, the same shall be eligible for refund that should be filed within a period of 06 months from the date on which the Finance Bill (No.2), 2019 receives Presidential assent.
- The above amendments would be applicable from the date when the Finance Bill (No. 2), 2019 receives the Presidential assent.

6.3 EXCISE DUTY

With the introduction of GST, the Central Excise law stands redundant except for certain products. The changes in the effective rate of Excise Duty on various products have been provided in **Annexure B**.

6.4 CUSTOMS DUTY

Rate changes under Customs Duty

- Exemption from Customs Duty on parts of electric vehicles in order to promote the use of electric vehicles
- Exemptions on import of raw material for part or accessories used in the manufacture of artificial kidneys, disposable sterilized dialyzer and micro-barrier of artificial kidneys
- Several project imports required in the generation of nuclear fuel and energy have been exempted to boost the use of nuclear fuels.
- Other changes in the effective rate of Customs Duty on various products have been provided in **Annexure C**.

Introduction of mechanism for verification of identity of any person for protecting the interest of revenue or to prevent smuggling

- A new set of provisions under a new Chapter XIIB have been proposed to be introduced in order to verify the identity of any person for protecting the interest of revenue or to prevent smuggling of goods.
- The Principal Commissioner/ Commissioner of Customs has been proposed to be empowered to authorise a proper officer in order to verify the identity and require the person to do all or any of the following acts:
 - Undergo authentication, or furnish proof of possession of Aadhaar number;
 - Submit such other information as may be prescribed
- It has been proposed that where an Aadhaar number has not been assigned or verification of the Aadhaar number allotted fails due to technical reasons or reasons beyond the holder's control, an opportunity is to be given to furnish alternate and viable means. Further, the Government is proposed to be empowered to exclude persons as may be prescribed to not undergo such verification process.

- It has been proposed that where the Principal Commissioner/ Commissioner of Customs is of the conclusion arrived at in writing that the person has failed to comply with the verification process or submitted incorrect documents or information, he may by order suspend the following in relation a person, subject to prescribed conditions:
 - Clearance of imported goods or export goods;
 - Sanction of refund;
 - Sanction of drawback;
 - Exemption from duty;
 - License or registration under the Customs Act; or
 - Any benefit, monetary or otherwise, arising out of import or export
- The above suspension may also be ordered in case where the person fails authentication of verification of proof of identity. The order of suspension shall be in force until the verification/ authentication process is complete.
- As per the proposals, the power to notify the manner of authentication, time limits and other procedural aspects for implementation of the above procedure shall be regulated by the Central Board of Indirect tax and Customs ("CBIC").

Power to screen or scan any person at the Customs Station where goods liable to confiscation are believed to be secreted inside the body

- As per Section 103 of the Customs Act, the proper office was empowered to detain any person and produce him before the nearest magistrate upon having reasons to believe that any goods that are liable to confiscation are secreted inside the body. The amendment to the said Section, in addition to production of the detained persons before a magistrate, now proposes to also empower the proper office to screen or scan the detained person using such equipment as may be available at the Customs station.
- However as per the proposal, screening at the Customs station shall however, not affect the rights available to the detained person under any law in force including providing consent for screening or scanning of the body. Where screening or scanning shows goods secreted in the body, the report thereof, shall be forwarded to the nearest magistrate.

Power to arrest offenders under Customs beyond the jurisdiction of the Customs Act

- As per Section 104 of the Customs Act, the proper office was empowered to arrest a person for certain offenses punishable under the Act where such person is in India or within the Indian customs waters. With the amendment, it has been proposed that the presence of the person in India or within Indian customs waters is not necessary, thereby, empowering the officer to arrest offenders under the Customs Act in foreign territories.

Cases where the offense shall be cognizable and non-bailable and penalties

- Sub-section (4) of Section 104 of the Customs Act is proposed to be amended to include following additional cognisable offence:
 - Availing/ attempting to avail fraudulently drawback or any exemption from duty, where the amount of drawback or exemption from duty exceeds INR 5 million.
 - Fraudulently obtaining an instrument (scrip or authorisation or license or certificate, etc.) for the purposes of the Act or the Foreign Trade (Development and Regulation) Act, 1992, and such instrument is utilized under the Customs Act where duty relatable to utilisation exceeds INR 5 million.
- Further, sub-section (6) if also proposed to be amended to include additional non-bailable offence i.e. fraudulently obtaining an instrument for the purpose of Customs Act or the Foreign Trade (Development and Regulation) Act, 1992 and such instrument is utilised under the Customs Act in excess of INR 5 million.

- Section 114AB has been proposed to be inserted in the Customs Act to provide for penalty on the person who has been issued an instrument (scrip or authorisation or license or certificate) by fraud, collusion, etc. The penalty will be triggered if the said instrument is utilized by such person or any other person. The maximum penalty has been set at the face value of such instrument.
- Section 135 of the Customs Act has also been proposed to be amended to provide for imprisonment for a period which may extend to 7 years for the person who has been issued an instrument (scrip or authorisation or license or certificate, etc.). The provision will be triggered in the event of such person obtaining and utilising the instrument or where any other person utilises such instrument, which was obtained by fraud, collusion, wilful misstatement or suppression of facts and the duty relatable to utilisation exceeds INR 5 million.

Seizure of goods and power to attach bank accounts

- As per Section 110 of the Customs Act, the proper office is empowered to seize goods that he believes are liable to confiscation under the Act. The amendment proposes to provide that where it is not practicable to remove, transport, store or take physical possession of the seized goods, the proper office may give custody of the seized goods to the owner/ beneficial owner/ any person holding out to be the importer/ any other person from whose custody the goods are seized, on execution of an undertaking that such person shall not remove, part with, or otherwise deal with the seized goods except with the permission of the proper officer.
- Sub-section (5) has been proposed to be inserted to Section 110 of the Customs Act to empower the proper officer to provisionally attach any bank account for a period of upto 6 months for the purpose of protecting the interest of the revenue or preventing smuggling, with the prior approval of the Principal Commissioner/ Commissioner of Customs.
- The period of provisional attachment, as per the proposal, may further be extended by another period not exceeding 6 months by the Principal Commissioner/ Commissioner of Customs and with due information to the holder of the bank account, prior to expiry of original period.
- Section 110A has been correspondingly proposed to be amended to permit release of the provisionally attached bank account upon furnishment of a bond with such security as the authority may require.

Other procedural changes related import of goods in India

- As per Section 41 of the Customs Act, the person in charge of the conveyance carrying export goods or imported goods was required to file a departure manifest or an export manifest, as the case may be. The said section has been proposing to be amended to empower the Government to notify any person, other than the person in charge of the conveyance, to file the departure or export manifest, as the case may be.
- Where no penalty has been prescribed under the Customs Act, the penalty has now been proposed for an amount of INR 0.4 million as against the existing amount of INR 0.1 million. Further, where there is a contravention/ abetment to contravene any of the rules or regulations or failure to comply with the rules or regulations, the upper limit of penalty has been proposed to be increased from the existing INR 50 thousand to INR 0.2 million.
- Discretionary power was vested with the proper office to authorise amendment of any document which has been presented at the Customs House. Now an amendment is proposed to file such application in such form and manner and within such time subject to restrictions and conditions that will be prescribed by the CBIC.

Changes in Customs Tariff Act, 1975

- Sub-section (1) of Section 9C to the Customs Tariff Act, 1975 is proposed to be substituted to allow filing of appeal before the CESTAT for determination of review of effect of import of any article into India in such increased quantities and under such condition so as to cause or threatening to cause injury to the domestic industry requiring imposition of safeguard duty.
- Stearic Acid falling under the tariff entry '3823 11 00' has been proposed to be rationalised (from the existing tariff entry 3823 11 90) in line with the Worlds Customs Organisation. The said amended effect has been proposed to be given to various notifications issued by the Government of India with retrospective effect.
- Notification 86/2018 - Customs dated December 31, 2018 which provides for exemption from payment of Basic Customs Duty, Integrated Goods and Services Tax and Compensation Cess on temporary importation of private road vehicles (carnet de passage-an-douane), has been proposed to be amended to provide exemption retrospectively with effect from 1 July 2017 onwards.

6.5 COMMON CHANGES UNDER EXCISE AND SERVICE TAX

Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019

- A dispute resolution-cum-amnesty scheme called as 'Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019' has been proposed with a view to reduce huge pending litigations in relation to pre-GST regime. The **scheme covers past disputes of taxes** which have been subsumed under GST namely **Central Excise, Service Tax and various cesses**. However, this scheme **does not cover the Customs and VAT laws**. All persons are eligible to avail the scheme except a few exclusions such as those convicted under the previous law for which a declaration has to be made and those who have filed an application before the Settlement Commission. The relief available under the proposed scheme are as under -

Sr. No.	Particulars	Amount of Duty Involved	Tax Relief
1	Tax Dues relatable to Show Cause Notice ('SCN') or appeal arising out of such SCN which is pending as on 30 June 2019	< INR 5 million	70 per cent of Tax Dues
		> INR 5 million	50 per cent of Tax Dues
2	Tax Dues relatable to SCN for late fee or penalty only and the amount of duty has been paid or NIL	-	Entire amount of Penalty or Late Fee
3	Tax Dues relatable to 'amount in arrears or Tax Dues relatable to amount in arrears and the declarant has indicated an amount of duty as payable but not paid the said duty	< INR 5 million	60 per cent of Tax Dues
		> INR 5 million	40 per cent of Tax Dues
4	Tax Dues linked to an enquiry, investigation or audit against the declarant and the amount has been quantified on or before 30 June 2019	< INR 5 million	70 per cent of Tax Dues
		> INR 5 million	50 per cent of Tax Dues
5	Taxes Dues on account of voluntary disclosure by the declarant	-	No Relief

- Apart from the aforesaid tax relief, immunity would be granted to the tax payer from payment of interest, penalty and prosecution for the matter under the Declaration filed.
- Any amount paid as pre - deposit at any stage of appellate proceedings or as deposit during enquiry, investigation or audit will be deducted while computing the amount payable.

7 ANNEXURES

7.1 ANNEXURE A: RATES OF INCOME TAX

Personal Income Tax rates

(i) Resident individuals* (other than those mentioned in (i) and (ii) below)

Existing Income Tax rates	
Income Slab (INR)	Tax Rate (per cent)
0-250,000	Nil
250,001-500,000	5
500,001-1,000,000	20
Above 1,000,000	30

(ii) Resident individuals* of the age of 60 years or more but less than 80 years.

Existing Income Tax rates	
Income Slab (INR)	Tax Rate (per cent)
0-300,000	Nil
300,001-500,000	5
500,001-1,000,000	20
Above 1,000,000	30

(iii) Resident individuals* above the age of 80 years.

Existing Income Tax rates	
Income Slab (INR)	Tax Rate (per cent)
0-500,000	Nil
500,001-1,000,000	20
Above 1,000,000	30

- *A resident individual, whose taxable income does not exceed INR 0.5 million, can claim a tax rebate under section 87A. The amount of rebate shall be lower of 100 per cent of income-tax or INR 12,500.
- The rate of surcharge at 10 per cent is to be levied on income-tax in case total income exceeds INR 5 million and is up to INR 10 million;
- The rate of surcharge at 15 per cent is to be levied on income-tax in case the total income exceeds INR 10 million and is up to INR 20 million.
- The rate of surcharge at 25 per cent is to be levied on income-tax in case the total income exceeds INR 20 million and is up to INR 50 million.
- The rate of surcharge at 37 per cent is to be levied on income-tax in case the total income exceeds INR 20 million and is up to INR 50 million.
- The health & education cess at the rate of 4 per cent shall be computed on aggregate of Income-Tax and Surcharge.

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Corporate Tax Rates

Description	Tax rate (per cent)	Effective Tax Rate (including surcharge and Cess) (depending upon income levels)
Domestic Company:		
Income Tax	25 **	26 / 27.82 / 29.12
Minimum Alternate Tax	18.5	19.24 / 20.59 / 21.55
Foreign Company:		
Income Tax	40	41.6 / 42.43 / 43.68

** for domestic companies whose total turnover or gross receipts in the previous year 2017-18 does not exceed INR 4000 Million

7.2

ANNEXURE B: IMPORTANT CHANGES IN THE RATES OF EXCISE DUTY

Item/ Product		Existing	Proposed
Category	Description		
- Tobacco and manufactured tobacco substitutes - Others	- Other than filter cigarettes, of length from 65 millimeters to 70 millimeters	- NIL	- INR 5 per thousand
	Filter cigarettes, of length from 65 millimetres to 70 millimetres	NIL	INR 5 per thousand
	Other cigarettes, containing tobacco	NIL	INR 10 per thousand
	Cigarettes of tobacco substitutes	NIL	INR 5 per thousand
	Hukkah or gudaku tobacco	NIL	0.5 %
	Smoking mixtures for pipes and cigarettes	NIL	1 %
	Other than paper rolled biris, manufactured without the aid of machine	NIL	INR 0.05 per thousand
	Other Biris	NIL	INR 0.10 per thousand
	Items falling under CTH 2403.19.90 - Other Smoking Tobacco	NIL	0.5 %
	"Homogenised" or "reconstituted" tobacco	NIL	0.5 %
	Chewing tobacco	NIL	0.5 %
	Preparations containing chewing tobacco	NIL	0.5 %
	Jarda scented tobacco	NIL	0.5 %
	Snuff	NIL	0.5 %
	Preparations containing snuff	NIL	0.5 %
	Tobacco extracts and essence	NIL	0.5 %
Other (Manufactured Tobacco and substitutes)	NIL	0.5 %	
Mineral fuels and Mineral oils	Crude Petroleum oil produced in specified oil fields under production sharing contracts or in the exploration blocks offered under the New Exploration Licensing Policy (NELP) through International competitive bidding.	Re 1 per tonne	NIL
Crude	Petroleum Crude	Nil	Re. 1 tonne

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Increase in Special Additional Excise Duty (SAED)

Item/ Product		Existing	Proposed	Effective Rate
Category	Description			
Mineral fuels and Mineral oils	Motor Spirit (Petrol)	INR 7 per litre	INR 10 per litre	INR 8 per litre
	High Speed Diesel Oil	INR 1 per litre	INR 4 per litre	INR 2 per litre

Increase in Road and Infrastructure Cess (RIC)

Item/ Product		Existing	Proposed	Effective Rate
Category	Description			
Mineral fuels and Mineral oils	Motor Spirit (Petrol)	INR 8 per litre	INR 10 per litre	INR 9 per litre
	High Speed Diesel Oil			

7.3

ANNEXURE C: IMPORTANT CHANGES IN THE RATES OF CUSTOMS DUTY

Increase in Basic Customs Duty (BCD)

Item/ Product		Existing	Proposed
Category	Description		
Automobile and automobile parts	Friction material (e.g. sheets, rolls, strips, segments, discs, washers, pads), for brakes, for clutches	10 %	15 %
	Glass mirrors, whether or not framed, including rear-view mirrors	10 %	15 %
	Locks of a kind used in motor vehicles	10 %	15 %
	Oil or petrol filters for internal combustion engines	7.5 %	10 %
	Intake air-filters for internal combustion engines	7.5 %	10 %
	Air purifiers or cleaners and other filtering or purifying machinery and apparatus for gases	7.5 %	10 %
	Lighting or visual signaling equipment of a kind used in bicycles or motor vehicles	10 %	15 %
	Other visual or sound signalling equipment for bicycles or motor vehicles	7.5 %	15 %
	Horns for vehicles	10 %	15 %
	Parts of visual or sound signalling equipment for bicycles or motor vehicles	7.5 %	10 %
	Windscreen wipers, defrosters and demisters, Sealed beam lamp units and other lamps for automobiles	10 %	15 %
	Chassis fitted with engines, for the motor vehicles of headings 8701 to 8705	10 %	15 %
	Bodies (including cabs), for the motor vehicles	10 %	15 %
	Catalytic convertor	5 %	10 %
	Completely Built Unit (CBU) of vehicles falling under heading 8702, 8704	25 %	30 %
	Indoor and outdoor unit of split -system air conditioner	10 %	20 %

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Electronic and electrical equipments	Loudspeaker	10 %	15 %
	Digital Video Recorder (DVR) and Network Video Recorder (NVR)	15 %	20 %
	CCTV camera and IP camera	15 %	20 %
	Optical Fibres, optical fibre bundles and cables	10 %	15 %
	Charger/Power adapter for CCTV camera/IP camera/DVR/NVR	NIL	15%
	Specified electronic items like plugs, sockets, switches, connectors, relays	NIL	As per existing rates
Precious Metals	Silver (including silver plated with gold or platinum) unwrought or in semi manufactured forms, or in powdered form	10 %	12.5 %
	Base metals clad with silver, not further worked than semi-manufactured	10 %	12.5 %
	Gold (including gold plated with platinum) unwrought or in semi manufactured forms, or in powder form	10 %	12.5 %
	Base metals or silver, clad with gold, not further worked than semi manufactured	10 %	12.5 %
	Platinum, unwrought or in semi-manufactured form, or in powder form	10 %	12.5 %
	Base metals, silver or gold, clad with platinum, not further worked than semi manufactured	10 %	12.5 %
	Waste and scrap of precious metals or of metal clad with precious metals	10 %	12.5 %
	Silver dore bar, having silver content not exceeding 95%	8.5 %	11 %
	Gold dore bar, having gold content not exceeding 95%	9.35 %	11.85 %
	- Gold (excluding ornaments studded with stones or pearls) imported by an eligible passenger as baggage - Silver (excluding ornaments studded with stones or pearls) imported by an eligible passenger as baggage	10 %	12.5 %
	Construction Materials	Floor covering of plastics, wall or ceiling coverings of plastics	10 %
Ceramic roofing tiles and ceramic flags and pavings, hearth or wall tiles		10 %	15 %
Base metal fittings, mountings and similar articles suitable for furniture, doors, staircases, windows, blinds, hinge for auto mobiles		10 %	15 %
Marble Slabs		20 %	40 %
Food Processing	Cashew kernel broken	INR 60 per kg or 45 %	70 %
	Cashew kernel whole, Cashew nuts shelled, others	INR 75 per kg or 45 %	70 %
Plastic and Rubber	Poly Vinyl Chloride	7.5 %	10 %
	Articles of plastics	10 %	15 %

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	Butyl Rubber	5 %	10 %
	Chlorobutyl rubber or bromobutyl rubber	5 %	10 %
Metals	Stainless steel in ingots or other primary forms; semi-finished products of stainless	5 %	7.5 %
	Other alloy steel in ingots or other primary forms; semi-finished products of other alloy steel	5 %	7.5 %
	Wire of other alloy steel	5 %	7.5 %
Capital Goods	Stone crushing (cone type) plants for the construction of roads	NIL	7.5 %
	Capital goods used for manufacturing of specified electronic items, namely- - Cathode Ray tubes - CD/CD-R/DVD/DVD-R - Deflection components, CRT monitors/CTVs - Plasma Display Panel	NIL	As per existing rates

BCD Exemption withdrawn

Item/ Product		Existing	Proposed
Category	Description		
Edible Oil	Goods having free fatty acids (FFA) 20% or more	Nil	7.5 %
Mineral fuels and Mineral oils	Crude Petroleum	NIL	INR 1 per tonne
Chemicals	Stearic acid	Nil	As per existing tariff
	Oleic acid		
	Tall oil fatty acids		
	Other industrial monocarboxylic fatty acids		
Paper	Newsprints	NIL	10 %
	Uncoated paper used for the printing of newspapers	NIL	10 %
	Light-weight coated paper used for the printing of magazines	NIL	10 %
	All Printed Books	NIL	5 %
Textiles	Water Blocking Tape used in manufacture of telecommunication grade optical fibres or optical fibre cables	NIL	As per existing tariff

Decrease in BCD

Item/ Product		Existing	Proposed
Category	Description		
Mineral fuels and Mineral oils	Naphtha	5 %	4 %
Chemicals	Propylene Oxide	7.5 %	2.5 %
Textiles	Wool, not carded or combed	5 %	2.5 %
	Wool Tops		
Metals	Inputs for the manufacture of CRGO steel - - MgO coated cold rolled steel coils - Hot rolled coils	5 %	2.5 %

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	- Cold-rolled MgO coated and annealed steel - Hot rolled annealed and pickled coils - Cold rolled full hard		
	Amorphous alloy ribbon	10 %	5 %
	Cobalt mattes and other intermediate products of cobalt metallurgy	5 %	2.5 %

Increase in Additional Customs Duty known as Road and Infrastructure Cess (RIC)

Item/ Product		Existing	Proposed	Effective Rate
Category	Description			
Mineral fuels and Mineral oils	Motor Spirit (Petrol)	INR 8 per litre	INR 10 per litre	INR 9 per litre
	High Speed Diesel Oil			

Decrease in Export Duty

Item/ Product		Existing	Proposed
Category	Description		
Leather	El Tanned Leather	15 %	NIL
	All hides, skins and leather (tanned or untanned)	60 %	40 %

Full Exemption from BCD

Item/ Product		Existing	Proposed
Category	Description		
Telecommunication	Preform of silica	5 %	NIL
Automobiles and automobile parts	Parts of Electric Vehicles - - E - Drive Assembly - On Board Charger - E - Compressor - Charging Gun	As per existing rates	NIL
Defence	Specified Defence equipment and their parts imported by the Ministry of Defence or the Armed Forces	As per existing rates	NIL
Medical Equipments	Raw material, parts or accessories for use manufacture of artificial kidneys, disposable sterilized dialyzer and micro-barrier of artificial kidney	As per existing rates	NIL
Nuclear Fuels and Nuclear Energy projects	All forms of Uranium ores and Concentrates for generation of nuclear power	2.5%	NIL
	All goods for use in generation of Nuclear power	7.5%	NIL
	All goods required for setting up of the following power projects under project imports: - - Mahi Banswara Atomic Power project- 1 to 4, Mahi Banswara site Rajasthan - Kaiga Atomic Power project - 5 & 6, Kaiga site, Karnataka - Gorakhpur Atomic Power project- 3 & 4, GHAVP, Haryana - Chutka Atomic Power project- 1 & 2, Chutka site, Madhya Pradesh	As per existing rates	NIL

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Capital Goods	Capital goods used for manufacturing of following electronic items, namely- <ul style="list-style-type: none">- Populated PCBA- Camera module of cellular mobile phones- Charger/Adapter of cellular mobile phone- Lithium Ion Cell- Display Module- Set Top Box- Compact Camera Module	As per existing rates	NIL
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As attorneys, tax advisers, management and IT consultants and auditors, we are present with 111 own offices in 50 countries. Worldwide, our clients trust our 4.900 colleagues

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