

FINANCE (NO.2) BILL 2019

HIGHLIGHTS



Contents

- **Direct Tax Proposals**
 - Tax rates
 - Personal Taxation
 - Corporate taxation
 - International taxation
 - Miscellaneous

- **Indirect Tax Proposals**



Gopal Mittal & Associates
Chartered Accountants

UNION BUDGET 2019 HIGHLIGHTS



DIRECT TAX PROPOSALS

Tax Rates for FY 2019-20

Individuals/HUF

- Tax Rates for **Individuals/HUF** remain unchanged and are as under:

| Tax Rate | Ind/ HUF | Sr./ Very Sr. citizen |
|----------|-------------|-----------------------|
| NIL | Upto 2.5L | Upto 3.0L/5.0L |
| 5% | >2.5L-5.0L | >3.0L-5L/-- |
| 20% | >5.0L-10.0L | >5.0L-10L |
| 30% | >10.0L | >10.0L |

Firms

- Tax Rate for **firms** remains **unchanged @ 30%**

Domestic Companies

| Tax Rate | FY 2018-19 | FY 2019-20 |
|----------|------------------------------------|------------------------------------|
| 25% | Turnover < 250 Cr (in FY 17-18) | Turnover < 400 Cr (in FY 18-19) |
| 30% | Turnover > 250 Cr (in FY 17-18) | Turnover > 400 Cr (in FY 18-19) |

Other than Domestic Companies

- Tax rate remains **unchanged @ 40%**

- The Health and Education Cess remains **unchanged @ 4%**

Surcharge Rates for FY 2019-20

Individuals and domestic companies:

| Income (in INR) | Individual (proposed) | Company |
|-----------------|-----------------------|---------|
| Upto 50Lakhs | NIL | NIL |
| 50Lakhs to 1Cr | 10% | NIL |
| 1Cr to 2Cr | 15% | 7%* |
| 2Cr to 5Cr | 25% | 7%* |
| 5Cr to 10Cr | 37% | 7%* |
| Above 10Cr | 37% | 12%** |

*2% in case of "other than domestic companies"

**5% in case of "other than domestic companies"

Firms

- Surcharge @ 12% of income tax if net income exceeds 1 Cr

Maximum Marginal Rates

Companies

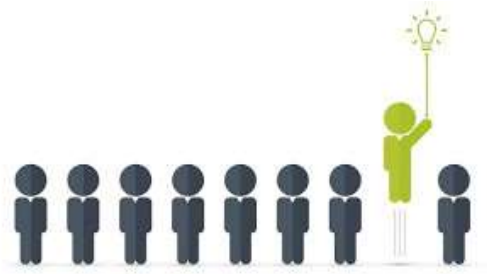
| Particulars | Income > 10 Cr |
|------------------------------|----------------|
| <u>Domestic Company:</u> | |
| Turnover<400Cr (in FY 18-19) | 29.12% |
| Turnover>400Cr (in FY 18-19) | 34.9% |
| Foreign Company | 43.68% |

Firms

- Maximum rate @ 34.94% if income exceeds INR 1Cr.

Individuals

- Maximum rate @ 42.744% if income exceeds INR 10Cr.



Individual Taxation

TDS on payments to contractors and professional fees

- TDS obligation extended to Individual and HUF not subject to tax audit, to deduct tax at 5% on payments to contractors and professionals exceeding INR 50 Lakh p.a. – No TAN to be obtained.

Interchangeability of Permanent Account Number (PAN) and Aadhaar

- A person who is required to disclose PAN but does not possess PAN and possesses an Aadhaar Number, may disclose the Aadhaar number in lieu of PAN. PAN shall be allotted to such person in prescribed manner.
- A person who has linked his Aadhar with PAN, may disclose his Aadhar number in lieu of PAN.
- Every person receiving the document relating to a transaction requiring quotation of PAN or Aadhar shall ensure the number is quoted and authenticated therein.

New Category of taxpayers required to file return

- The following persons are mandatorily required to file tax returns if in the Financial Year:

- Expenditure incurred is more than INR 2 Lakh for foreign travel
- Electricity expenditure exceeding INR 1 Lakh
- Deposits in current account exceeding INR 1 Crore
- Satisfying other prescribed conditions – to be prescribed.

Deduction for interest on loan for affordable housing

- An additional deduction from income upto INR 1.5 Lakhs will be available for purchase of first residential property if:
 - The loan has been sanctioned between April 1, 2019 and March 31, 2020
 - Stamp duty value of the property does not exceed INR 45 Lakh
 - Taxpayer does not own any residential property on loan sanction date

Deduction for interest on loan on purchase of electric vehicle (EV)

- Further deduction for interest on loan for the purchase of an Electric Vehicle sanctioned by specified financial institution during the period 1 April 2019 to 31 March 2023 up to an amount of INR 1.5 Lakhs.

Exemption on withdrawal from NPS

- Currently, 40% of the total amount payable at the time of closure of NPS account or on opting out of NPS scheme is exempt from tax. This is exemption is proposed to be enhanced to 60%.

Pre-filled tax return forms

- Tax return forms shall be pre-filled with details of salary, bank interest, capital gains from securities and dividends etc.



Corporate Taxation

Buy-Back Tax

- The listed companies buying back shares from their shareholders post July 5, 2019 shall attract tax. Corresponding exemption to be provided to the shareholder.

TDS on cash withdrawals

- TDS rate @ 2% to be applicable on aggregate cash withdrawals exceeding INR 1 Crore from bank accounts in a financial year.

Income tax deductions to be introduced

- Investment-linked income-tax deduction likely to be introduced for mega-manufacturing plants set up in sunrise and advanced technology areas producing:
 - Semi-constructor fabrication (FAB), solar photo voltaic cells, lithium storage, solar electric charging infrastructure, computer servers, laptops.

Companies seeking insolvency

- To facilitate resolution of stress assets under Insolvency and Bankruptcy Code, 2016, the following amendments are proposed
 - Where the company's application for corporate insolvency resolution process has been admitted by the Adjudicating Authority, the aggregate amount of unabsorbed depreciation and brought forward loss to be reduced from book profit for determination of Minimum Alternate Tax (MAT)
 - Carry forward and set-off of losses to be allowed irrespective of change in shareholding beyond the permissible limit in case of closely held companies whose resolution plan has been approved by the Adjudicating Authority after giving a reasonable opportunity of being heard to the jurisdictional Principal Commissioner or Commissioner. The provision is applicable from AY 2018-19.

***TDS on cash withdrawal
@ 2% where it exceeding
1Cr during the year***



Start-ups

Tax assessments for start-ups

- Proposal to eliminate scrutiny for startups and its investors, if the requisite declarations and information filed.
- Facility to e-verify the identity of the investor and their source of funds for making investments in start-ups to be introduced.
- Special administrative measures proposed to complete pending tax assessments of startups and redressal of their grievances.

*Tax Assessment for
start-ups to be eased /
expedited*

Carry forward and set of losses by start-ups

- Eligible start-ups shall be allowed to carry forward and set off losses incurred within 7 years of incorporation against the income of the previous year as long as either one of the following conditions is satisfied:
 - Same shareholders continue to beneficially hold at least 51% of voting power; or
 - All the shareholders holding shares in the year the loss was incurred also hold shares in the year of set-off.

Investment linked capital gains exemption

- Capital gain exemption on sale of residential property linked to investment of the sale proceeds in equity share capital of eligible start-ups extended from 31 March 2019 to 31 March 2021.
- Additional relaxations include reduction of minimum shareholding or voting rights from 50% to 25% and lock in on transfer of certain new assets (computer or computer software) reduced from 5 years to 3 years.



International Taxation and Transfer Pricing

- Proposal to widen the ambit of “income deemed to accrue or arise in India” has been widened to include “any gift of money or property situated in India by a resident to a Non-resident”, subject to income tax law and tax treaty exemptions
- The procedure for seeking determination of tax to be deducted at source on payment to non-residents to be made fully online, enabling effective tax administration and reducing time.

Transfer Pricing

- Excess amount remitted on account of primary adjustment or treating the same as perpetual interest bearing loan not necessary, can pay one time tax @ 18% and attain finality on the same.
- Primary adjustment to be remitted from any associated enterprise.
- Detailed master file compliance requirement may apply to companies even without any international transaction and power of Assessing Officer to seek master file withdrawn.

- The accounting year for the purpose of Country By Country Reporting (CBCR) in case of alternate reporting entity, shall be the accounting year of such parent entity (applicable retrospectively from FY 2016-17).

APA

- Order of the tax officer pursuant to modified return filed to give effect to the APA to be restricted only to issues covered in the APA and not assess or reassess other issues.

Offshore Funds

- Conditions required to be fulfilled to qualify under special taxation regime applicable to offshore funds have been relaxed.



Miscellaneous

Applicability of TDS @ 1%

- Applicability of TDS @ 1% on acquisition of immovable property extended to all charges incidental to transfer of immovable property including club membership fee, car parking fee, electricity, water facility, maintenance fee, etc.

International Financial Services Centre

The tax benefits extended to IFSC's have been briefed as under:

- Tax exemption increased to 100% (from 50%) for 10 consecutive years out of block of 15 years.
- Tax holiday extended to special incomes on non-residents having units in IFSC currently taxed on gross basis (i.e. dividend, interest, royalty etc.)
- DDT exemption provided to dividends declared out of accumulated profits derived by Unit in IFSC (earlier limited to dividends from current income) on and from 1 April 2017.
- Exemption on Capital gains and interest incomes from certain units in IFSC / traded on IFSC held by non-residents subject to conditions specified therein, have been proposed.

Statement of Financial Transactions (STF)

- It is proposed to widen the scope of transactions reportable in Statement of Financial Transactions by including the deletion of current threshold of INR 0.5 Lakhs.



Assessment Procedures

- Next phase of e-assessment and related key modalities have been proposed, with a view to improve effectiveness of the tax administration and reduce burden on the taxpayer.
 - Emphasis on faceless scrutiny assessments (i.e. without human interface) – scheme to be launched in phased manner.
 - Central cell to be central point of contact for taxpayer.
 - E-notices to be issued without disclosure of name, designation and location of assessing officers.

Steps taken with an aim to improve transparency in assessment procedures



Provisions discouraging cash payments

- In order to encourage other electronic modes of payment, it is proposed that certain sections of the Act will be amended so as to include such other electronic mode as may be prescribed, in addition to the already existing permissible modes of payment/ receipt.

Exemption extended to Category II AIFs

- Currently, where a closely held company receives consideration for issue of shares to a resident that exceeds the face value of such shares, the consideration received in excess of the FMV of such shares is taxable in the hands of the issuing company. A specific exemption from the applicability of these provisions exists in respect of shares issued by a venture capital undertaking to a VCF or VCC. This exemption is proposed to be extended to funds received by VC undertakings from Category II AIFs as well.

Non-Banking Finance Companies

- It is proposed to tax interest income received by NBFCs on prescribed category of bad or doubtful debts in the year in which interest is credited to profit and loss account or is actually received, whichever is earlier. Currently, such provisions were only available to

specified institutions which did not include NBFCs.

- Interest deduction on loan from NBFC to be available to the debtor only where such interest is paid on or before the due date of furnishing the return.

Relief in case of non- deduction of TDS on payments

- A taxpayer who fails to deduct taxes while making payments to a non-resident shall not be treated as a “taxpayer in default”, in case recipient of income has duly filed its return of income disclosing such sum and has furnished an accountant’s certificate to this effect. Further, no disallowance of expenditure to be made for such non-deduction.

Exemption from applicability of provisions of FMV

- There exists provisions where Fair Market Value (FMV) shall be treated as sales considerations on transactions involving transfer of unquoted shares. Further, on receipt of any property or sum of money for a consideration less than its FMV, the differential in the FMV and actual consideration is treated as income. It is proposed to restrict the applicability of these provisions to certain specified transactions only.

Penalties and Prosecution

- Section 270A, provides for penalty for under-reporting and misreporting of income. It has been proposed to include persons who have under-reported income and furnished for their return for the first time under Section 148 of the Act, under the ambit of this section.



INDIRECT TAX PROPOSALS

Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019

- Amnesty scheme for central taxes/ duties/ levies proposed for resolution and settlement of legacy disputes. Scheme shall be applicable from a date to be notified.

Composition scheme:

- There will be an alternative composition scheme for suppliers of services or mixed suppliers having an annual turnover up to INR 5m in the preceding FY.

Facilitation of digital payment:

- Specified suppliers will be given the option of using identified modes of electronic payment from the recipients, in a manner to be prescribed by the Government.

Transfer of amount in an electronic cash ledger:

- The facility to transfer any amount of tax, interest, penalty and fee from one head to another in the electronic cash ledger will be subject to the manner and restriction as may be prescribed by the Government.

Interest applicability on net tax liability:

- Interest will be charged only on the net cash tax liability, i.e., on the amount of tax paid by debiting the electronic cash ledger. The benefit will not be available in cases wherein returns are filed subsequent to initiation of any proceedings under sections 73 or 74 of the CGST Act (i.e., tax demand for the normal and extended periods, respectively).

Disbursal of refund:

- The Central Government may disburse a refund amount to the taxpayers in respect of the refund of State taxes.

Penalty on profiteered amount:

- Power will be granted to the National Anti-Profiteering Authority to impose penalty equivalent to 10% of the profiteered amount.

Formation of the National Appellate Authority of Advance Ruling:

- This authority will be formed to hear appeals against conflicting advance rulings pronounced on the same question by the appellate authorities of two or more States or Union Territories, in case of distinct persons (as defined under section 25 of the CGST Act).

Rate amendment:

- This retrospective amendment will exempt “Uranium ore concentrate” from levy of GST for the period from 1 July 2017 to 14 November 2017.

Disclaimer:

The information in this publication has been extracted from the sources believed by our firm Gopal Mittal & Associates (GMA) to be reliable but it does not represent that this information is accurate or complete. Any opinion contained in this publication represents the views/ analysis of GMA. Readers of this publication are advised to seek their own professional advice before taking any course of action or decision, for which they are entirely responsible, based on the contents of this publication. GMA neither accepts nor assumes any responsibility or liability to any reader of this publication in respect of the information contained within it or for any decisions readers may take or decide not to or fail to take. The information mentioned in the publication does not constitute professional advice.

Contact:

CA Ashok Kumar Aggarwal
Managing Partner
+ 91-9810059498

CA Praveen Agarwal
Partner
+ 91-9810339005

CA Ridhi Karan Aggarwal
Partner
+ 91-9810684254

CA Keshav Karan Aggarwal
Partner
+ 91-9873659498

CA Chandrika Aggarwal
Partner
+011-49250600

GOPAL MITTAL & ASSOCIATES

CHARTERED ACCOUNTANTS

B-122, C-123, 12th Floor, Himalaya House, 23 K G Marg, New Delhi- 110001 | 011-49250600, 49250601
akaggarwalca@gmail.com | www.ca-gma.com