

# **FINAL UNION BUDGET 2019**

## **MAJOR AMENDMENTS**

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JULY 5, 2019

# **DIRECT TAXES**

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# TAX RATES -INDIVIDUAL, HUF, BOI OR AOI INCREASE IN SURCHARGE

## Existing Provision

- ❖ 10% surcharge where taxable income is between Rs 50 Lac to Rs 1 crore.
- ❖ 15% surcharge where taxable income exceeds Rs 1 crore

## Amended provision

- ❖ 10% surcharge where taxable income is between Rs. 50 Lac to Rs. 1 crore
- ❖ 15% surcharge where taxable income is between Rs. 1 crore to Rs. 2 crore.
- ❖ 25% surcharge where taxable income is between Rs 2 crore to Rs 5 crore
- ❖ 37% surcharge where taxable income exceeds Rs 5 crore.
- ❖ *Change effective from AY 2020-21.*

# TAX RATES- DOMESTIC COMPANIES INCREASE IN THRESHOLD LIMIT OF TURNOVER

## Existing Provision

- ❖ 25% tax rate in case total turnover or gross receipts in the previous year 2017-18 does not exceed **Rs 250 crore**.

## Amended provision

- ❖ 25% tax rate in case total turnover or gross receipts in the previous year 2017-18 does not exceed **Rs 400 crore**.
- ❖ **Change effective from AY 2020-21.**

# SECTION 9 (I)(VIII) GIFT FROM RESIDENT TO NON RESIDENT (INSERTION OF NEW CLAUSE)

## Existing Provision

- ❖ Not Applicable

## Amended provision

- ❖ Gift made by resident person to non-residents on or after July 5, 2019 in the form of sum of money or property situated in India will be subject to tax.
- ❖ However, the existing provision for exempting gifts as provided in proviso to section 56(2)(x) will continue to apply .
- ❖ In a treaty situation, the relevant article of the applicable DTAA shall continue to apply for such gift as well.
- ❖ Change effective from AY 2020-21.

# SECTION 9A

## RELAXATION IN CONDITIONS OF SPECIAL TAXATION REGIME FOR OFFSHORE FUND

### Existing Provision

- ❖ Section 9A(3)(j): Corpus of the Fund shall not be less than Rs. 100 crore at the end of *the previous year in which Fund has been established or incorporated*
- ❖ Section 9A(3)(m):  
Remuneration paid by the Fund to an eligible Fund manager in respect of Fund management activity is not less than *the arm's length price of the said activity*.

### Amended provision

- ❖ Section 9A(3)(j): **Corpus of the Fund shall not be less than Rs. 100 crore at the end of a period of 6 months from the end of the month of its establishment or incorporation or at the end of such previous year, whichever is later;**
- ❖ Section 9A(3)(m):  
**Remuneration paid by the Fund to an eligible Fund manager in respect of Fund management is not less than *the amount calculated in such manner as may be prescribed.***
- ❖ **Change effective retrospectively from AY 2019-20.**

# SECTION 12AA

## REGISTRATION OF TRUST OR INSTITUTION (INSERTION OF NEW CLAUSE)

### Existing Provision

- ❖ Not applicable

### Amended provision

- ❖ Insertion of sub clause in Section 12AA(1) :

**On receipt of application for registration u/s 12A Commissioner shall verify**

*“(ii) Compliance with requirements of any other law as are material for achieving its purpose “*

- ❖ Insertion of sub clause in Section 12AA(4) :

**Commissioner may by order in writing cancel the registration if**

*“(ii) violated requirements of any other law which was material for the purpose of achieving its objects, and the order, direction or decree, by whatever name called, holding that such violation has occurred, has either not been disputed or has attained finality”*

- ❖ Change effective from AY 2020-21.

# SECTION 56(2)(VIIB)

## INCOME FROM OTHER SOURCES

### Existing Provision

- ❖ N.A. - Earlier this proviso does not exist.
- ❖ Investment from AIF (Alternative Investment Funds) *Category I* funds not required to satisfy valuation norms (i.e. they can invest at a higher price than the FMV)

### Amended provision

- ❖ In case of failure to comply with the “conditions specified” the consideration received for issue of shares which exceeds the face value of such shares shall be taxable in the year in which the failure to comply with any of the notified conditions takes place
- ❖ Investment from AIF (Alternative Investment Funds) *Category II* funds also not required to satisfy valuation norms.
- ❖ Change effective from AY 2020-21.



# SECTION 56(2)(X) & SECTION 50CA

## DETERMINATION OF FAIR MARKET VALUE

### Existing Provision

- ❖ Section 56(2)(x): Provides for chargeability of income in case of receipt of money or specified property for no or inadequate consideration . In case of receipt of certain shares, the fair market value of the shares is considered for determining the amount of income
- ❖ Section 50CA: Provides for deeming of fair market value of unquoted shares for computing the capital gains arising from the transfer of such shares

### Amended provision

- ❖ **Determination of fair market value based on the existing rules may result in genuine hardship in cases where consideration for transfer of shares is approved by certain authorities and the person transferring the share has no control over such determination.**
- ❖ **In order to provide relief in respect of such transactions from the applicability of sections 56(2)(x) and 50CA, *the Board will have the power to prescribe transactions undertaken by certain class of persons to which the provisions of these sections shall not be applicable.***

# SECTION 80EEA

## INTEREST ON LOAN TAKEN FOR RESIDENTIAL HOUSE PROPERTY (INSERTION OF NEW SECTION)

### Existing Provision

- ❖ Similar deduction is available in Section 80EE with different conditions.

### Amended provision

- ❖ Deduction of interest upto Rs 150,000 shall be allowed on loan taken for residential house property from any financial institution subject to following conditions

1. Loan has been sanctioned by a financial institution during 1st April 2019 to 31st March 2020
2. The stamp duty value of house property is up to Rs 45 lakhs
3. Assessee does not own any other residential house property on the date of sanction of loan.

**Change effective from AY 2020-21.**

# SECTION 80-IBA

## PROFITS AND GAINS FROM HOUSING PROJECTS (INSERTION OF NEW PROVISION)

### Existing Provision

- ❖ Not Applicable

### Amended provision

- ❖ In the new proviso following conditions have been imposed for allowing deduction regarding profits and gains from housing projects approved on or after 1st September 2019
  1. Residential unit in the housing project has carpet area up to 60 sq. mt. in metropolitan cities or 90 sq. mt. in cities or towns other than metropolitan cities of Bengaluru, Chennai, Delhi NCR (limited to Delhi, Noida, Greater Noida, Ghaziabad, Gurgaon, Faridabad), Hyderabad, Kolkata and Mumbai (whole of Mumbai Metropolitan Region) and
  2. The stamp duty value of such residential unit in the housing project is up to Rs 45 lakhs
- ❖ Change effective from AY 2020-21.

# SECTION 10 (12A)

## WITHDRAWAL FROM NATIONAL PENSION SYSTEM TRUST

### Existing Provision

- ❖ 40% of the amount payable to taxpayer at the time of closure or on opting out of the scheme, is exempt from tax.

### Amended provision

- ❖ **Exemption limit increased from 40% to 60%**
- ❖ **Change effective from AY 2020-21.**

# SECTION 79 ( SPECIAL PROVISION)

## CARRY FORWARD AND SET OFF OF LOSSES FOR STARTUPS

### Existing Provision

- ❖ Sec 79 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.
- ❖ Sec 79(a): For all companies except eligible start-ups, loss is allowed to be carried forward and set-off only if change in existing shareholding does not exceed 50%
- ❖ Sec 79(b): For eligible start-ups, loss can be carried forward and set-off if 100% shareholding remains same and such loss can be carried forward for seven Assessment years .

### Amended provision

- ❖ Loss incurred in any year prior to previous year in the case of closely held eligible start-ups, shall be allowed to be carried forward and set-off against income of any previous year on satisfaction of either of the conditions stipulated in Sec 79 clause (a) and (b) i.e. in the case of eligible start-ups carry forward and set off of losses shall be allowed if change in shareholding does not exceed 50%.

# SECTION 80CCD(2) CONTRIBUTION TO NPS

## Existing Provision

- ❖ Contribution by the Central Government or any other employer *equal to 10%* of salary of the employee to be allowed as deduction in the computation of his total income.

## Amended provision

- ❖ **Contribution equal to 14% of the salary will be allowed as deduction in the case of Central Government employees.**
- ❖ **Change effective from AY 2020-21.**

**SECTION 80C  
DEDUCTION IN RESPECT OF LIC, PF ETC.  
INSERTION OF NEW CLAUSE FOR CG EMPLOYEES**

Existing Provision

- ❖ N.A. - Earlier this clause did not exist.

Amended provision

- ❖ New clause inserted under section 80C allows deduction to the Central Government employees of contribution to a “specified account” of Pension scheme for a fixed period of 03 years.
- ❖ “Specified Account” has been defined as an additional account referred to in sub section 3 of section 20 of the Pension Fund Regulatory and Development Authority Act, 2013
- ❖ Change effective from AY 2020-21.

# PENALTY PROVISIONS- AMENDMENTS

## Existing Provision

Section 270A- This section provides various situations for the purpose of levy of penalty in case of under reporting and misreporting of income. However, these provisions do not contain the mechanism for determining under-reporting of income and quantum of penalty 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.

Section 276CC- In case of failure to furnish returns of income, prosecution proceedings shall be commenced against person, not being a company, if the tax payable on the total income determined on regular assessment *does not exceed Rs 3 000.*

## Amended provision

- ❖ **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.**
- ❖ **This change is effective retrospectively from AY 2017-18**
- ❖ **Self assessment tax paid before the expiry of the assessment year and tax collected at source shall be considered for arriving at “tax payable”. Also threshold limit of tax payable increased from Rs 3 000 to Rs 10 000.**
- ❖ **This change effective from AY 2020-21.**



# SECTION 139

## FILING OF ITR BY PERSON ENTERING INTO HIGH VALUE TRANSACTION

### Existing Provision

- ❖ Mandatory filing of income tax return by person other than companies and firm *if total income exceeds maximum amount not chargeable to tax.*

### Amended provision

- ❖ **Mandatory filing of ITR by person entering into *following high value transaction even if total income does not exceed threshold amount:***
  - i) Amount deposited during the year in one or more current bank account exceeds Rs. 1 crore; or**
  - ii) Expenditure on foreign travel during the year exceeds Rs. 2 lac; or**
  - iii) Expenditure on electricity consumption during the year exceeds Rs. 1 lac ; or**
  - iv) such other conditions as may be prescribed.**
- ❖ **Change effective from AY 2020-21.**

# SECTION 194-IA

## TDS -TRANSFER OF IMMOVABLE PROPERTY

### Existing Provision

- ❖ Tax is deducted at the rate of 1% on consideration for transfer of immovable property.

### Amended provision

- ❖ **Consideration in respect of immovable property shall include all charges of the nature of club membership fee, car parking fee, electricity or water facility fee, maintenance fee, advance fee or any other charges of similar nature, which are incidental to transfer of the immovable property.**
- ❖ **Change effective from September 1, 2019.**

# SECTION 194DA

## TDS – PAYMENT OF LIFE INSURANCE POLICY

### Existing Provision

- ❖ Tax is deducted at the rate of 1% on payment above Rs 1,00,000.

### Amended provision

- ❖ **Tax shall be deducted at the rate of 5%.**
- ❖ **Change effective from September 1, 2019.**

**SECTION 194M**  
**TDS- PAYMENT OF CERTAIN SUMS BY INDIVIDUALS OR HUF**  
**INSERTION OF NEW SECTION**

Existing Provision

- ❖ Not Applicable- New section

Amended provision

- ❖ Payment to a resident for contractual work or professional services availed by an Individual or HUF not covered under tax audit
- ❖ Tax shall be deducted at the rate of 5% by Individual or HUF (other than those required to deduct under 194C or 194J ) on aggregate payment in excess of Rs 50 lac in a financial year.
- ❖ No requirement to obtain TAN
- ❖ Change effective from September 1, 2019.

**SEC 194N**  
**TDS - PAYMENT OF CERTAIN SUMS BY INDIVIDUALS OR HUF**  
**NEW SECTION**

Existing Provision

- ❖ Not Applicable- New section

Amended provision

- ❖ **TDS at the rate of 2% in case of aggregate withdrawal of cash in excess of Rs 1 crore in a financial year from an account maintained with bank, post office or a co operative society engaged in business of banking**

**Change effective from September 1, 2019..**

# SECTION 194LC

## TDS -INCOME BY WAY OF INTEREST FROM DOMESTIC COMPANY

### Existing Provision

- ❖ Tax to be deducted at the rate of 5% on rupee denominated bond

### Amended provision

- ❖ New section 10(4C) introduced, to exempt interest income of a non resident (not being a company) or a foreign company from rupee denominated bond issued by Indian company or business trust during the period September 17, 2018 to March 31, 2019.
- ❖ Hence, no tax shall be deducted under section 194LC on payment of interest on rupee denominated bond issued during this period.
- ❖ Change effective from AY 2019-20.

# SECTION 47(VIIAB) TRANSACTION NOT REGARDED AS TRANSFER

## Existing Provision

### ❖ Transaction not regarded as Transfer

Transfer of capital asset being bond, GDR, RDB, derivative by a non resident through recognized stock exchange located in IFSC and consideration is in foreign currency

## Amended provision

- ❖ **Relief extended to Category III AIF located in *International Financial Services Centre (IFSC)* provided all unitholders are non resident and fund is deriving its income solely in convertible foreign exchange**
- ❖ **Change effective from September 1, 2019.**

# OTHER PROVISIONS RELATING TO CORPORATES

- i. SEBI to mull increase in minimum public shareholding for listed entities from 25% to 35%.
- ii. Buyback tax to be applied on buyback by listed companies post 5 July 2019
  - Corresponding exemption provided to shareholder
- iii. Investment-linked income tax deduction likely to be introduced for mega manufacturing plants set up in sunrise and advanced technology areas producing:
  - Semi-conductor fabrication (FAB), solar photo voltaic cells, lithium storage batteries, solar electric charging infrastructure, computer servers, laptops.
- iv. Demerger provisions relaxed to exempt Ind-AS resulting company from recording assets and liabilities of demerged undertaking at book value in the hands of demerged company.



# **GOODS AND SERVICES TAX**

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# AMENDMENTS IN CGST ACT

- i. A proviso and an explanation inserted in section 22 of the CGST Act to provide for higher threshold exemption limit from Rs. 20 lakhs to Rs. 40 lakhs in case of supplier engaged exclusively in supply of goods.

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- ii. New section 31A is inserted so that specified suppliers have to mandatorily give the option of specified modes of electronic payment to their customers.
- iii. New sub-sections inserted in section 49 and new section 53A inserted in the CGST Act to provide a facility to a registered person to transfer an amount from one (major or minor) head to another (major or minor) head in the electronic cash ledger.
- iv. Section 39 of the CGST Act amended to allow “composition taxpayers” to furnish annual return along with quarterly payment of taxes. Other specified taxpayers may be given the option for quarterly or monthly furnishing of returns and payment of taxes under the proposed new return system.
- v. Penalty of 10% imposed on profiteered amount not deposited within 30 days from the date of order passed by Anti-profiteering Authority.

# THANK YOU

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