

CORPORATE ADVISORY ON COVID-19: ECONOMIC STIMULUS PACKAGE, INDIA

I. INTRODUCTION

The Government of India has recently announced Economic Stimulus Package keeping in mind the Covid-19 situation. It has been labeled 'Aatma-Nirbhar Bharat' (**Self-Reliant India**) Movement. Under this initiative, the Government has announced a special economic and comprehensive package equivalent to **10% of India's GDP that is INR Twenty Lakh Crores (EUR 250 billion approximately)**. Necessary reforms against the challenges and threats posed by the growing pandemic of COVID-19 to the Indian Economy have also been introduced. We present a summary of important and relevant announcements made by Indian Government last week regarding Economic Stimulus Package.

II. MICRO SMALL AND MEDIUM ENTERPRISES (MSMEs)

A. Definition

Definition of MSMEs has been revised **based on Investment and Turnover criteria**. Additionally, distinction between the manufacturing and service sector has also been eliminated. Following shall now be the criteria for recognition of any entity as a MSME.

Criteria – Investment and annual turnover

<u>Classification</u>	<u>Micro</u>	<u>Small</u>	<u>Medium</u>
<u>Manufacturing & Services</u>	<u>Investment < INR 1 Crore (EUR 125.000) and Turnover < INR 5 Crore (EUR 625.000)</u>	<u>Investment < INR 10 Crore (EUR 1.250.000) and Turnover < INR 50 Crore (EUR 6.250.000)</u>	<u>Investment < INR 20 Crore (2.500.000) and Turnover < INR 100 Crore (EUR 12.500.000)</u>

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B. Collateral-free loans

Collateral-free loans of INR Three Lakh Crores (EUR 37.5 billion approx.) for businesses including MSMEs have been announced. Under this scheme, both the old as well as the new enterprises can claim the benefits. Borrowers with up to INR 25 crores (EUR 3.1 million) outstanding and INR 100 crore (EUR 12.5 million) turnover are eligible. Emergency Credit Line will be provided to Businesses/MSMEs from Banks and NBFCs up to 20% of entire outstanding credit as on February 29, 2020. These loans will have a 4-year tenure and moratorium for 12 months on principal repayment. There will be a 100% credit guarantee cover to Banks and NBFCs and on principal and interest and the scheme can be availed till October 31, 2020

C. Subordinate debt for stressed MSMEs

To provide stressed MSMEs with equity support, the Government will also facilitate provision of INR 20,000 crore (EUR 2.5 billion) as subordinate debt. For the Subordinate debt for stressed MSMEs, promoters of the MSME will be given debt by banks, which will then be infused by the promoter as equity in the Unit.

III. EASE OF DOING BUSINESS

A. Decriminalisation of defaults under the Indian Companies Act

1. Some procedural and technical defaults and offences under the Indian Companies Act, committed by the Company (such as shortcoming in Corporate Social Responsibility Reporting, Inadequacies in Board Report, Delay in holding Annual General Meeting of its members, etc.) have now been decriminalized
2. Majority of the compoundable offences sections will be shifted to Internal Adjudication Mechanism
3. Lower penalties have been proposed for all defaults for Small Companies, One Person Companies, Producer Companies and registered Start-ups.
4. Government has now allowed companies to directly list their securities in foreign jurisdictions. Listing on non-convertible debentures in foreign jurisdiction would mean that the company is listed in such foreign jurisdiction.
5. In order to de-clog burden on Courts and Tribunals, seven (7) compoundable offences have been dropped and another five (5) to now be dealt with under alternative framework.

B. Indian Insolvency and Bankruptcy Code

1. **Minimum threshold to initiate insolvency proceedings raised to INR 1 crore (EUR 125.000) from INR 1 lakh (EUR 1.250)**, which will largely insulate MSMEs
2. Special insolvency resolution framework for MSMEs will be notified soon.
3. Government has directed suspension of fresh initiation of insolvency proceedings up to one year depending upon the pandemic situation.
4. Now, Central Government is empowered to **exclude COVID 19 related debt from the definition of 'Default'** under the Insolvency and Bankruptcy Code for the purpose of triggering insolvency proceedings

Apart from above, the Indian Government is working on a mission mode on the next phase of Ease of Doing Business Reforms relating to easy registration of purchase & transfer of property, fast disposal of commercial disputes and simpler tax regime for making India one of the easiest places to do business.

IV. TAXES AND PROVIDENT FUND RELATED ANNOUNCEMENTS

A. Income Tax Act

1. **Tax Deducted at Source/Tax Collected at Source (TDS/TCS):** The rates of TDS/TCS in respect of specified payments/receipts shall be reduced by 25%. This concession in the rate shall be available for the tax deducted or collected between May 14, 2020 till March 31, 2021. This relief shall not be available to a salaried and non-resident taxpayer. The tentative rates of TDS and TCS are specified in the Annexure to this Advisory.
2. **Refunds:** All pending refunds to charitable trust and non-corporate businesses and professions shall be released soon.
3. **Due date of Income-tax Return for the Financial Year 2019-20:** It has been extended *from July 31, 2020 and October 31, 2020 to November 30, 2020.*
4. **Due date for tax audit under section 44AB:** It shall be extended *from September 30, 2020 to October 31, 2020*
5. **Vivad se Vishwas Scheme:** The last date for opting without paying additional 10% of the disputed tax shall be extended *till December 31, 2020*
6. **Income Tax Assessments:** Due date of September 30, 2020 for completion of Income Tax Assessment shall be extended to *December 31, 2020.* Where

assessments are getting barred on March 31, 2021, the date shall be *extended to September 30, 2021*.

7. **Advantages of Reducing TDS/TCS: By reducing the rate of TDS/TCS, the Govt. has helped taxpayers to have more liquidity in their hands.** In this difficult time, this announcement will benefit self-employed, professionals and senior citizens earning interest income or rental income. It does not provide any relief to the salaried persons. However, it should be noted that the relaxation in the rate of TDS/TCS will not have any impact on the ultimate tax liability of a taxpayer. Thus, any deficit in tax liability, due to reduced rate of TDS/TCS, should be payable through advance-tax instalments. Any short-fall in the deposit of advance tax will attract interest under section 234B and 234C. The first instalment of advance-tax is due on 15th June 2020. A taxpayer should re-calculate his advance-tax liability to be deposited next month to avoid any payment of interest.

B. Announcements for Employee Provident Fund

1. To increase take-home salary for employees and to give relief to employers in payment of provident fund, the government has reduced the provident fund contribution rates for next three months. **Employee's Provident Fund contribution will now be 10% each for employees and employers** as compared to the statutory obligation of 12%.
2. There will be an extension by another three months for a scheme under which the government pays the EPF contribution of employees and employers. Under this scheme, the central government pays 24% of the monthly wages into EPF accounts below INR 15,000 (EUR 188) per month, who are employed in establishments having up to one hundred employees, with 90% or more of such employees earning monthly wages less than INR 15,000 (EUR 188). This scheme will be available till August 2020.

V. CONCLUDING REMARKS

The above measures announced by the Indian Government are quite broad and may not be applicable to every company. If you need any further information or have any specific questions, we request you to please get in touch with our team.

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

New Delhi, 13th May, 2020

PRESS RELEASE

Reduction in rate of Tax Deduction at Source (TDS) & Tax Collection at Source (TCS)

In order to provide more funds at the disposal of the taxpayers for dealing with the economic situation arising out of COVID-19 pandemic, the rates of Tax Deduction at Source (TDS) for the following non-salaried specified payments made to residents has been reduced by 25% for the period from 14th May, 2020 to 31st March, 2021:-

S. No	Section of the Income-tax Act	Nature of Payment	Existing Rate of TDS	Reduced rate from 14/05/2020 to 31/03/2021
1	193	Interest on Securities	10%	7.5%
2	194	Dividend	10%	7.5%
3	194A	Interest other than interest on securities	10%	7.5%
4	194C	Payment of Contractors and sub-contractors	1% (individual/HUF) 2% (others)	0.75% (individual/HUF) 1.5% (others)
5	194D	Insurance Commission	5%	3.75%
6	194DA	Payment in respect of life insurance policy	5%	3.75%
7	194EE	Payments in respect of deposits under National Savings Scheme	10%	7.5%
8	194F	Payments on account of re-purchase of Units by Mutual Funds or UTI	20%	15%
9	194G	Commission, prize etc., on sale of lottery tickets	5%	3.75%
10	194H	Commission or	5%	3.75%

		brokerage		
11	194-I(a)	Rent for plant and machinery	2%	1.5%
12	194-I(b)	Rent for immovable property	10%	7.5%
13	194-IA	Payment for acquisition of immovable property	1%	0.75%
14	194-IB	Payment of rent by individual or HUF	5%	3.75%
15	194-IC	Payment for Joint Development Agreements	10%	7.5%
16	194J	Fee for Professional or Technical Services (FTS), Royalty, etc.	2% (FTS, certain royalties, call centre) 10% (others)	1.5% (FTS, certain royalties, call centre) 7.5% (others)
17	194K	Payment of dividend by Mutual Funds	10%	7.5%
18	194LA	Payment of Compensation on acquisition of immovable property	10%	7.5%
19	194LBA(1)	Payment of income by Business trust	10%	7.5%
20	194LBB(i)	Payment of income by Investment fund	10%	7.5%
21	194LBC(1)	Income by securitisation trust	25% (Individual/HUF) 30% (Others)	18.75% (Individual/HUF) 22.5% (Others)
22	194M	Payment to commission, brokerage etc. by Individual and HUF	5%	3.75%
23	194-O	TDS on e-commerce participants	1% (w.e.f. 1.10.2020)	0.75%

2. Further, the rate of Tax Collection at Source (TCS) for the following specified receipts

has also been reduced by 25% for the period from 14th May, 2020 to 31st March, 2021:-

S. No	Section of the Income-tax Act	Nature of Receipts	Existing Rate of TCS	Reduced rate from 14/05/2020 to 31/03/2021
1	206C(1)	Sale of		
		(a) Tendu Leaves	5%	3.75%
		(b) Timber obtained under a forest lease	2.5%	1.875%
		(c) timber obtained by any other mode	2.5%	1.875%
		(d) Any other forest produce not being timber/tendu leaves	2.5%	1.875%
		(e) scrap	1%	0.75%
		(f) Minerals, being coal or lignite or iron ore	1%	0.75%
2	206C(1C)	Grant of license, lease, etc. of (a) Parking lot	2%	1.5%
		(b) Toll Plaza	2%	1.5%
		(c) Mining and quarrying	2%	1.5%
3	206C(1F)	Sale of motor vehicle above 10 lakhs	1%	0.75%
4	206C(1H)	Sale of any other goods	0.1% (w.e.f 01.10.2020)	0.75%

3. Therefore, TDS on the amount paid or credited during the period from 14th May, 2020 to 31st March, 2021 shall be deducted at the reduced rates specified in the table in para 1 above. Similarly, the tax on the amount received or debited during

the period from 14th May, 2020 to 31st March, 2021 shall be collected at the reduced rates specified in the table in para 2 above.

4. It is further stated that there shall be no reduction in rates of TDS or TCS, where the tax is required to be deducted or collected at higher rate due to non-furnishing of PAN/Aadhaar. For example, if the tax is required to be deducted at 20% under section 206AA of the Income-tax Act due to non-furnishing of PAN/Aadhaar, it shall be deducted at the rate of 20% and not at the rate of 15%.

5. Legislative amendments in this regard shall be proposed in due course.

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