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INDIA UNION BUDGET 2020-21: KEY HIGHLIGHTS

A curated summary of key takeaways

This year's Union Budget seeks to bring in a mixed variety of both favourable as well as unexpected yet substantive tax changes in the Indian tax laws. Considering this being the first budget of the new decade, the Government at one hand has displayed a greater thrust on building investor confidence in the Indian tax policies and on the other hand has aimed to bring greater transparency and efficiency in the tax administration system of the country.

"Stop wishing, start doing"
John Doe

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UNION BUDGET 2020_ KEY TAX HIGHLIGHTS

Alternative Tax regime for Individuals and HUFs

1. Tax Rate Cut – Incentive to Individuals and Hindu Undivided Families (HUFs)

·**The Union Budget has proposed to reduce the personal tax rates for individuals and HUFs through the introduction of section 115 BAC, applicable from FY 2020-21 onwards.**

·However, considering that the reduced tax rates are subject to certain specified conditions, the taxpayer has also been given an option to continue to be taxed under the existing regime. The proposed tax rates along with its comparison with the existing rates, are as below:

Total Income	Proposed Rates	Existing Rates
Up to EUR 3.150	Nil	Nil
From EUR 3.151 to EUR 6.250	5%	5%
From EUR 6.251 to EUR 9.400	10%	20%
From EUR 9.401 to EUR 12.500	15%	20%
From EUR 12.501 to EUR 15.650	20%	30%
From EUR 15.651 to EUR 18.800	25%	30%
Above EUR 18.800	30%	30%

•An illustrative list of conditions which the taxpayer shall be required to satisfy are as under:

a. The total income of the taxpayer shall be computed without claiming any deductions and exemptions, other than the limited exemptions and allowances specifically provided. Few of the major deductions/exemptions which will have to be foregone include – Leave Travel Allowance (LTA), House Rent Allowance (HRA), standard deduction, meal vouchers provided by employers, deductions under Chapter VI-A for e.g. payment of life-insurance premium, contribution to provident fund, superannuation fund, tax notified mutual funds, installment towards housing loan, health insurance premium, payment towards specified medical treatment etc.

b. Taxpayer shall not be allowed to set off any carried forward losses pertaining to above deductions or any loss arising from house property with any other head of income.

c. Taxpayer to claim depreciation as per the prescribed method

To avail the concessional tax rate, the taxpayer is required to exercise the options as under:

i. **Taxpayer does not have business income –** Along with the Income-tax return

ii. **Taxpayer has business income –** On or before the due date for filing the income-tax return. For taxpayer having business income, the option once exercised shall be applicable for subsequent assessment years.

2. Extension of time limit for availing affordable housing loan to claim deduction of interest paid thereon

Under the existing provisions, deduction is allowed up to EUR 1.900, subject to certain conditions with one of the conditions being that the loan to be sanctioned on or before 31 March 2020.

The Union Budget 2020 has proposed to extend such period of sanctioning of the loan to 31 March 2021.

Tax regime for Individuals and HUFs

3. Deferment of tax payment in respect of ESOPs exercised by the startup-employees

To ease the burden of payment of taxes by the employees of eligible start-ups, **the Union Budget 2020 has proposed deferment of payment of perquisite tax** which is currently payable at the time of exercising of such options by the employees. Under the proposed framework, tax on such perquisite shall be payable, within 14 days of:

- Expiry of 4 years from the end of relevant assessment year in which ESOP are exercised;
- At the time of employee leaves organization; or
- At the time of sale of shares allotted under ESOP, whichever is earlier.

4. Taxability of income earned by way of dividends on shares held in an Indian company or income earned on units held in a mutual fund

Such income to be now taxed as 'Income from other sources'. Discussed in detail in below section 'Corporate Tax'.

5. Introduction of overall upper limit on contribution made by employers towards Provident Fund, Superannuation Fund and National Pension Scheme

The Union Budget 2020 has proposed to provide a combined upper limit of EUR 9.400 in respect of employer's contribution in a year to NPS, superannuation fund and recognised provident fund and any excess contribution is proposed to be taxable. It is also proposed that any annual accretion by way of interest, dividend or any other amount of similar nature during the year shall be treated as perquisite to the extent it relates to the employer's contribution which is included in total income.

6. Modification of Tax Residency Provisions for Indian Citizens, Persons of Indian origin and managers of HUFs.

In order to curb the misuse of existing provisions wherein an Individual manages his period of stay in India to be below 182 days and still carry out substantial economic activities from India, **the Union Budget 2020 has proposed to:**

i. Reduce the minimum threshold of stay to 120 days instead of existing 182 days

ii. Relaxation of minimum criteria of being non-resident in 9 out of 10 preceding years to now 7 out of 10 preceding years for constitution of 'not ordinarily resident'

iii. Consider **an Indian citizen who is not liable to tax in any other country to be deemed as resident in India**

UNION BUDGET 2020_ KEY TAX HIGHLIGHTS

Corporate Tax

1. Shift in method of taxation of Dividends from source based to recipient based

The Union Budget 2020 has proposed to abolish the Dividend Distribution Tax (DDT) and shift to a classical system of taxation of dividends distributed to shareholders or unitholders at the applicable marginal tax rate.

The key aspects to note here are as under:

- DDT not to be applicable on dividends declared, distributed or paid by an Indian company after 31 March 2020
- Dividend income to be now taxable as 'Income from other sources'
- No deduction to be allowed from such dividend income, other than interest expense that too with an upper limit of 20% of such dividend income.
- 100% deduction in respect of inter-corporate dividends by way of re-introduction of section 80-M, subject to conditions
- Removal of section 115 BBDA which provides for additional tax of 10% on dividend income of more than EUR 12.500 earned by specified taxpayers
- Introduction of 10% withholding tax on all dividends paid by an Indian company to resident (subject to minimum threshold of approx. EUR 65) and non-resident shareholders
- No amendment introduced in section 115BBD with respect to foreign dividends.
- Similar corresponding provisions introduced for income distributed by mutual funds to unit holders

2. Modification in concessional tax regime introduced for domestic companies in September 2019

- The Union Budget 2020 has proposed to extend the benefit of concessional tax rate of 15% under section 115 BABE of the Act to taxpayers who are engaged in the business of generation of electricity
- Further, it is also proposed to allow the inter-corporate dividends received by taxpayers who are availing concessional tax rate under section 115 BAA or 115 BAB, as eligible deduction for the purpose of determining their total income

Withholding Tax Amendments

1. Reduced withholding tax rate on Fee for Technical Services

In order to reduce the protracted litigation on classification of payment under section 194J i.e. Fee for Technical Services or section 194 C i.e., Payment to contractors, **the Union Budget 2020 has proposed to reduce the rate of withholding tax on fee for technical services to 2% instead of 10%.**

The rate of withholding tax on fee for professional services or other payments covered under section 194J shall remain to be 10%.

2. Withholding tax on E-commerce transactions

- The Union Budget 2020 has proposed to introduce a new section 194-O to levy TDS of 1% on the gross amount of sale of goods or provision of services facilitated by an e-commerce operator through its digital or electronic platform
- The e-commerce operator is required to deduct 1% TDS at the time of payment or credit of such amount to the vendor or supplier, whichever is earlier
- Payments made by the customer directly to the vendor shall also be included in the gross amount for the purpose of levy of TDS at 1%
- Relaxation extended to individual and HUF participants whose gross turnover routed through the e-commerce operator is less than EUR 6.250 during the year
- Any credit or payment towards services which is subject to TDS under this section shall not be subject to TDS under any other section of the Income-tax Act

3. Levy of TCS on foreign remittance through Liberalized Remittance Scheme (LRS), sale of overseas tour package and sale of goods

The Union Budget 2020 has proposed to levy TCS on the following transactions:

- TCS at 5% (10% in case of PAN or Aadhar not furnished) on overseas remittance of INR 7,50,000 or more made by a taxpayer under LRS scheme during a financial year
- TCS at 5% (10% in case of PAN or Aadhar not furnished) on overseas tour package purchased by any buyer.
- TCS at 0.1% (1% if PAN or Aadhar are not furnished) on sale of goods made by a specified seller to a buyer during a financial year which exceeds an aggregate amount of EUR 62.500. Only seller with aggregate turnover exceeding EUR 12.500 during a financial year are covered under this amendment.
- Specific exclusion made for taxpayers who are required to withhold tax under applicable provisions of the Act provided such compliance has been duly discharged.

4. TDS on payment made to contractors for 'work' performed

The Union Budget 2020 has proposed to amend the definition of 'work' to provide that the scenario of 'contract manufacturing', wherein the raw material is provided by the taxpayer or any of its associate shall also fall within the purview of the term 'work' and hence the taxpayer shall be required to withhold tax at 1% or 2% as applicable on the gross amount payable to such contractor.

5. Extension of sunset date to 1 July 2023 for concessional withholding tax of 5% on interest paid to specified external borrowings

Under the extant regime, a concessional rate of TDS of 5% is applicable on interest paid to any non-residents on FC borrowings or RDBs, subject to certain conditions, one of which being that such borrowing is availed before 1 July 2020. **The Union Budget 2020 has proposed to extend such last date to 1 July 2023.**

Tax Computation & Statutory Filings

1. Increase in safe harbor limit on real-estate transactions from 5% to 10%

Under the current framework, where the consideration received or accrued by a taxpayer as a result of transfer of any land or building, whether such consideration constitutes business income or capital gains or such taxpayer receives any land or building for a consideration, and the stamp duty value of such land or building **exceeds by more than 5% of such consideration** so received or accrued or payable, as the case may be, such stamp duty value shall be deemed to be the value of consideration.

The Union Budget has proposed to increase this safe harbor limit of 5% to 10%, thereby providing further breather to the parties involved in such transaction.

2. Penalty for fake GST invoices

The Union Budget 2020 has proposed to levy a penalty on any taxpayer if during any proceedings it is found that in the books of accounts maintained by such taxpayer, there is any false entry or omitted entry resulting in evasion of tax liability.

Such false entry may include use of false invoices, invoices without any actual receipt of services invoices from persons who do not exist etc.

3. Relaxation of Tax Audit requirement in certain cases

In order to reduce compliance burden on small and medium enterprises, **the Union Budget 2020 has proposed to increase the threshold limit of Tax Audit for a person carrying on business from EUR 125.000 to EUR 625.000 in cases where the aggregate cash transaction (i.e., receipts or payments) of such business does not exceed 5% of such receipts or payments.**

4. Extension of due date of filing Income Tax Return

The Union Budget 2020 has proposed to extend the due date of filing of income-tax return by the following tax payers from existing 30 September to 31 October:

- any company
- any person who is subject to any audit under the Income-tax Act or any other law
- any partner (working or not working) of a firm which is subject to audit under the Income-tax Act or any other law
- Any taxpayer who is required to submit a Transfer Pricing report under the Act shall continue to file its income-tax return on or before 30 November.

5. Advancement of due date for furnishing audit report under the Income-tax Act

In order to enable pre-filling of income tax returns for taxpayers having income from business or profession, **the Union Budget 2020 has proposed to advance the due date for filing of audit report by at least 1 month prior to the due date of filing the income tax return.** An illustrative list of audit reports which shall be impacted by such advancement, shall include reports filed by or in case of:

- Charitable and Religious institutions;
- Non-residents having permanent establishment in India;
- Non-corporate taxpayers claiming deduction of preliminary expenses;
- Tax payers subject to Transfer Pricing regulations;
- Tax payers subject to Minimum Alternate Tax (MAT) provisions; etc.

Rationalizing Start-Up Taxation

1. Extension of Tax Holiday to start- ups

Eligible Start-ups with total turnover of business not exceeding EUR 12.500.000 (from existing EUR 3.125.000) in any of the previous years since its incorporation (after 1 April 2016 but before 1 April 2021) to enjoy **tax holiday** for a period of **3 consecutive assessment years out of 10 years** (from existing 7 years).

2. Deferment of tax payment in respect of ESOPs exercised by startup-employees

The Union Budget 2020 has proposed deferment of payment of perquisite tax which is currently payable at the time of exercising of such options by the employees. Under the proposed framework, tax on such perquisite shall be payable, within 14 days of:

- Expiry of 4 years from the end of relevant assessment year in which ESOP are exercised;
- At the time of employee leaves organization; or
- At the time of sale of shares allotted under ESOP, **whichever is earlier**

Improving Tax Administration

1. Provision of faceless appeal scheme

In order to impart greater efficiency, transparency and accountability to appellate proceedings, **the Union Budget 2020 has proposed to introduce an e-appeal scheme (including e-scheme for imposing penalty) for disposal of appeal** thereby eliminating the interface between CIT (Appeals) and the appellant.

2. Expansion of e-assessment scheme

The Union Budget 2020 has proposed to expand the scope of existing e-assessment proceedings to cover proceedings relating to best judgement assessments as well.

3. Stay by ITAT subject to deposit of 20% of disputed tax or equivalent security

The Union Budget 2020 has proposed that ITAT may grant stay for an aggregate period of 365 days subject to deposit of 20% of the amount of tax, interest, fee penalty or any other sum or furnish of security of an equivalent amount.

4. Form 26AS– Mandate extended beyond just 'tax deduction at source'

The Union Budget 2020 has proposed to widen the ambit of Form 26AS to include in information regarding sale or purchase of immovable property, share transactions etc.

5. Direct Tax Amnesty Scheme ('Vivad se Vishwas)

While no specific reference appears in the Finance Bill 2020, the Finance Minister in her speech has proposed to introduce a **direct tax amnesty scheme titled under 'Vivad Se Vishwas' scheme**, with a deadline of 30th June, 2020, to reduce the pile of pending litigations cases in direct taxes. The proposed scheme to provide for:

- Waiver of interest and penalty - only disputed taxes to be paid for payments till 31st March, 2020
- Additional amount to be paid if availed after 31st March, 2020
- Benefits to taxpayers in whose cases appeals are pending at any level.

INTERNATIONAL TAXATION

1. Exemption to Non-Residents from filing Income Tax Return

The Union Budget 2020 has proposed to provide relief to non-residents from filing their Income Tax Return in India, if their total income consists of only dividend, interest, royalty or fee for technical services income, provided that the TDS on such income has been deducted at the prescribed rates in Section 115A of the Act.

2. Expansion of safe harbor rules and Advance Pricing Agreement to cover attribution of profits to a permanent establishment

The Union Budget 2020 has proposed to cover the determination of attribution of profits to the PE within the ambit of Safe Harbour Rules and Advance Pricing Agreement.

3. Aligning purposes of entering into DTAA with requirements under MLI

The current provisions of section 90 of the Income-tax Act empowers the Indian Government to enter into agreements with foreign countries or specified territories for specified purposes.

In order to align such specified purposes with the purposes as laid out in the preamble of the Multilateral Instruments (MLIs) entered into by the Indian Government, the Union

Budget has proposed corresponding amendment in the provisions of section 90 of the Act.

4. Taxability of Non-Residents Significant Economic Presence (SEP) in India

The framework for taxability of Non- Residents having significant economic presence in India was introduced by Finance Act 2018.

However, since discussion on this issue is still going on in G20-OECD-BEPS project, the Union Budget 2020 has proposed to defer the applicability of SEP to AY 2022-23.

The current SEP provisions shall be omitted from AY 2021-22 onwards and the new provisions will take effect from 1 April 2022.

5. Taxability of income earned from advertisement, sale of data or sale of goods or services

The Union Budget 2020 has proposed that income earned by any non-resident from advertisement that targets Indian customers or income earned from sale of data collected from India or income earned from sale of goods and services using such data which is collected from India, shall be considered to be income deemed to arise in India and hence shall be taxable in India.

CUSTOMS

1. Promotion of Indian Health Care Manufacturing Industry

In order to promote the Indian health care manufacturing industry, the Union Budget 2020 has proposed to levy a health cess of 5% on import of various medical devices. Such cess will be computed on value of goods imported. Further, payment of such cess cannot be made through utilization of export promotion scrips.

2. Indian importers to ensure compliance with Rules of Origin

In cases where imports are being at concessional duty rates under Preferential Trade Agreements, importers to ensure compliance with the applicable Rules of Origin by issuing a declaration/ undertaking. Preferential trade benefits may be disallowed or temporarily suspended in case the importer fails to provide requisite information for verification. Further, it is to be noted that:

- Maintenance of proper records and data necessary to prove compliance with the Rules of Origin.
- In case of suspension, goods may be released subject to furnishing of security or payment of differential duty in prescribed manner.
- Certificate of Origin issued by notified authorities in exporting country will no longer be sufficient
- Goods imported in contravention of the provisions shall be liable to confiscation.

3. Introduction of Duty credit in lieu of duty remission on exports

- In lieu of the existing duty remission, the Union Budget 2020 has proposed to introduce duty credit in respect of exports or other specified financial benefits.
- This duty credit shall be maintained in customs automated system in the form of an electronic duty credit ledger.
- The credit can be used by the person to whom it is issued or the person to whom it is transferred, toward payment of customs duties, subject to prescribed conditions.

4. Safeguard measures in case of surge in imports

- To restrict injury to the Indian economy, the Central Government has been empowered to apply safeguard measures (safeguard duty or Tariff Rate Quota or any other measure).

5. Other Amendments

- Provisions of Anti-Dumping Rules have been further strengthened to ensure level playing field for domestic industry.
- Amendments are proposed to be made to rules relating to Countervailing Duty on subsidized articles to enable investigation in cases of circumvention of such duties.
- Power to prohibit uncontrolled import or export now extended to 'any other goods' (currently applicable on gold and silver) for prevention of injury to the Indian economy.

UNION BUDGET 2020_KEY TAX HIGHLIGHTS

GOODS AND SERVICES TAX

1. ***Fraudulent availment of Input Tax Credit (ITC)*** without invoice to be made cognizable and non-bailable offence.

2. ***Penalty provisions for fake GST invoices:***

In line with the amendment in direct tax provisions, penalty provisions extended to cover persons who retain the benefits and at whose instance the following offences are committed:

- Supplies made without issuing invoice or on issuing false invoice
- Issue of invoice without actual supply in violation of the provisions of the GST law
- Availing or utilizing ITC without actual receipt of goods or services
- Taking or distributing ITC in contravention of provisions of input service distributor (ISD)

3. ***Refund of compensation cess due to inverted duty structure on tobacco and manufactured tobacco substitutes*** was not allowed with effect from 30 September 2019. Now, this restriction has been imposed retrospectively from 1 July 2017.

4. ***Time limit for availment of ITC*** basis debit note will be considered from date of issuance of debit note and not the date of original invoice.

5. ***Central Board of Indirect Taxes and Customs (CBIC) is now empowered to issue Removal of Difficulties order*** for 5 years from commencement of GST (i.e.,1 July 2017) instead of 3 years provided currently.

6. ***Amendments will be made to align GST provisions*** with reorganization of (i) Jammu & Kashmir and Ladakh and (ii) Daman & Diu and Dadra & Nager Haveli.

7. ***Introduction of new simplified return system from 1 April 2020*** and implementation of e-invoicing in phased manner will be re-emphasized.

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