



India Budget 2021

*Tax
proposals*



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Corporate Tax

- Tax audit exemption limit has been revised from INR 50 million to INR 100 million for persons who are undertaking 95% of their transactions digitally
- Rate of TDS/ TCS shall be double of the specified rate or 5% whichever is higher in case of non-filing of income tax return for last two years and where TDS /TCS is INR 50,000 or more for last two years
 - Salary income, payment to NR, lottery etc. excluded
- Late deposit of employees' contribution to labor welfare funds by the employer shall not be allowed as deduction to the employer
- TDS of 0.1% levied on purchase of goods above INR 5 million in an year
 - where turnover of buyer exceeds INR 100 million
- Limited Liability Partnership (LLP) shall not be eligible for presumptive tax for professionals
- The term "liable to tax" to be defined to provide clarity and assurance
- Penalty proceedings initiated for fake invoice/sham transactions of more than INR 20 million can lead to provisional attachment of assets
- Tax holiday for affordable housing has been extended up to 31 March 2022
- To achieve the government's mission of 'Housing for all', new tax exemption has been introduced for affordable rental housing project for migrant workers



Corporate Tax

- Rationalization of provisions relation to taxation of the assets or amount received by partners from the partnership firm in excess of their capital contribution
- Relaxation in conditions (viz. prohibition on loans or borrowings, restriction on commercial activities, direct investment in entity owning infrastructure) for exemption to Sovereign Wealth Fund & Pension Fund
- Relaxation in conditions for carry forward of losses of divested Public Sector Undertaking (PSU) in amalgamation
- Transfer of assets by PSU to resulting company to be deemed as tax neutral demerger
- Substitution of Authority for Advance Rulings (AAR) with Board for Advance Rulings
- Relief for dividend income:
 - Advance tax liability in respect of dividend income to be computed after declaration or payment of dividend whichever is earlier
 - Withholding Tax exemption granted to dividends paid to Real Estate Investment Trust (REIT) and Investment Trust (InviT)
 - Tax treaty benefits to be available to Foreign Portfolio Investors (FPI)
 - Minimum Alternate Tax (MAT) exemption to foreign companies in respect of dividend income if applicable tax rate is less than MAT rate



Corporate Tax

- A National Faceless Income-tax Appellate Tribunal Centre to be established to eliminate human interface during Income Tax Appellate Tribunal (ITAT) proceedings
 - Wherever personal hearings shall be required, it will be conducted through video conferencing



Human Capital

- Exemption for LTC Cash Scheme: Legislative amendments introduced to give effect to the recently introduced LTC Cash Scheme
- To further incentivize affordable housing, the time limit for loan sanctioned from a financial institution, has been extended to 31 March 2022
- Relaxation for certain category of resident senior citizens of the age of 75 or more, from filing return of Income tax
- New section has been introduced to address mismatch in taxation of income from notified overseas retirement fund. It is applicable on individuals who are resident in India and have opened specified retirement fund accounts outside India, while being non-resident in India and resident in that country
- Interest for delay in payment of advance tax not to be levied on dividend income (not applicable on deemed dividend) for instalments prior to receipt/ declaration of dividend income
- Reduction in time limit for filing belated/ revised return by three months. Accordingly, belated return or revised return can now be filed up to three months before the end of the relevant assessment year or before the completion of the assessment, whichever is earlier



Human Capital

- Higher rates of TDS under certain provisions on non filers of tax returns for two consecutive tax years. It is not applicable for TDS on salary income
- Interest accruing on employee's contribution to specified provident funds, on contributions in excess of INR 2,50,000 per annum, will be taxable
- Focus on concluding the process of the implementation of four new labor codes. Specific mention in the budget speech for social security benefits to be extended to GIG and platform workers, reduction in compliance burden on employers, with single registration and online returns
- Taxation of proceeds received on maturity of high premium unit linked insurance policies (ULIPs) issued on or after 01 February 2021, where the aggregate premium exceeds INR 2,50,000 per annum



Human Capital

Assessment*:

- Reduction in time limit for re-opening of assessment reduced from six years to three years
 - Further, re-opening of assessment up to 10 years only if there is a serious tax evasion and concealment on income is INR 5 million or more in an year with the permission of Principal Commissioner of Income Tax (PCIT)
- Faceless dispute resolution committee will be constituted for small taxpayers having taxable income up to INR 5 million and disputed income up to INR 1 million
 - Settlement Commission shall be discontinued from 1 February 2021
- Time limit for completion of assessment proceedings reduced by three months. Accordingly, the assessment is proposed to be completed within nine months from the end of the assessment year

** The provisions mentioned in this part should be applicable on corporate taxpayers as well.*



Transfer Pricing

Rationalization of provisions of Minimum Alternate Tax (MAT):

- Amendment to address certain ambiguities:
 - It has been proposed that MAT shall not be applicable on the past year's income which is included in the current year's books of account on account of an Advance Pricing Agreement (APA) or a secondary adjustment
 - The Assessing Officer shall, based on an application made to him in this behalf by the tax payer, re-compute the book profit of the past year(s) and tax payable, if any, during the previous year, in the prescribed manner
 - Re-computation of past years book profits will be done through rectification proceedings
 - This amendment shall be applicable from AY 2021-22 onwards



Transfer Pricing

- Reduction of time limit for completing assessment
 - The time limit for completion of assessment proceedings has been proposed to be reduced by three months. For FY 2020-21 onwards, time limit to complete transfer pricing assessments will be 33 months from the end of the financial year
- Faceless proceedings before the Income Tax Appellate Tribunal (ITAT)
 - Faceless scheme has been launched for ITAT proceedings in line with the faceless appeal scheme
 - Likely to apply to appeals involving transfer pricing grounds as well
 - The faceless scheme for ITAT proceedings shall be effective from 1 April 2021



International Tax

- Rationalization of equalization levy provisions
 - Taxation as royalty/ fee for technical services under the income-tax law would have priority over equalization levy
 - In order to be regarded as “online sale of goods” and “online provision of services” for e-commerce supply or service, certain activities are now defined
 - Sale of goods and provision of services will be covered regardless of whether the e-commerce operator owns the goods or provides the service
 - Applicability of Income-tax exemption for consideration covered by equalization levy aligned with 1 April 2020 along with date of applicability of equalization levy
 - The amendments will take effect retrospectively from financial year starting from 1 April 2020
- No change in applicability of “significant economic presence” criteria for business connection
 - Accordingly, as provided for by the Finance Act, 2020, the provision would be applicable from 1 April 2021



International Tax

- ◆ Changes to the advance ruling process
 - ◆ The existing Authority for Advance Ruling (AAR) will cease to operate with effect from date to be notified by the central government
 - ◆ Constitution of one or more Boards for Advance Ruling will be notified
 - ◆ Central government will introduce a new scheme to impart great efficiency, transparency and accountability and also to introduce dynamic jurisdiction
 - ◆ Advance rulings issued by the Board will be appealable before the high court
 - ◆ The cases pending before the Authority for Advance Ruling on the notified date will be transferred to the Board
 - ◆ Corresponding amendments will be made to the relevant provisions with effect from 1 April 2021
- ◆ Definition for “liable to tax” introduced
 - ◆ The Income-tax Act, 1961 did not provide any specific definition of the term “liable to tax”
 - ◆ The amendment will define this as a liability of tax on that person under the law of any country and will include a case where subsequent to imposition of such tax liability, an exemption has been provided



Transaction Tax

- For a business or profession, goodwill shall not be eligible for depreciation while calculating taxable income, going forward
- With an intention to cover slump exchange transactions , the scope of slump sale transactions have been amended to specifically include all types transfers



Goods and Services Tax

- Zero-rated benefit for supplies to SEZ shall be available only for authorized operations
- Option of paying tax and claiming refund in case of zero-rated supplies will be available only in case of notified supplies and class of taxpayers
- Mutuality concept has been done away with through specific provisions to levy tax on such transaction –this has been done to overrule the recent Supreme Court ruling
- Law has been amended to give effect to interest liability on net tax payment retrospectively from 1 July 2017
- GST audit has been replaced by self-certified reconciliation statement
- On recommendations of GST Council, Commissioner may waive the requirement of filing GST annual return for notified class of taxpayers
- Law has been amended to allow input tax credit only in cases where the supplier filed the return and details are communicated to the recipient
- Mandatory pre-deposit (25% of penalty) required for filing appeal against detention or seizure order



Customs

- Sunset clause provided for all conditional exemptions currently in force. The same shall end on 31 March 2023 (unless withdrawn earlier)
- New conditional exemptions shall be valid for two years from the end of financial year during which it was enacted
- Bill of entry to be filed before end of the preceding day of arrival of goods
- Any goods entered for exportation under wrongful claim of refund or remission of duty can be confiscated
- Penalty to be levied in cases where ITC is claimed basis fraudulent invoice and the same is utilized for payment of tax on export
- Two year time limit (further extendable by one more year) has been laid down for completion of enquiry and investigation culminating into issuance of notice
- Common customs electronic portal is notified for facilitating registration, service of orders, filing bill of entry
- Countervailing and anti-dumping duty can be levied retrospectively from the date of initiation of investigation in anti-circumvention cases
- More anti-avoidance measures have been introduced
- Duty has been reduced –gold and silver, goods of iron and steel, copper scrap and others
- Duty has been increased –leather, textile goods, compressors, auto-components, tunnel boring machine, parts of mobile phones and others



Indirect Tax

Others

- ◆ Agriculture Infrastructure and Development Cess (AIDC)
 - ◆ For the purpose of financing the agriculture infrastructure and other development expenditure
 - ◆ On import of notified goods
 - ◆ Also on manufacture of petrol and high speed diesel
- ◆ Central sales tax (CST)
 - ◆ Form "C" can be issued where the registered person either resell or uses the goods in the manufacture or processing for sale of goods currently covered under CST (like petrol and diesel)



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