



UNION BUDGET 2020-21

Supporting Partners



Enterprise
Singapore



- GDP growth during **FY 2019-20** estimated at **5%**
- GDP growth for **FY 2020-21** expected in range of **6%-6.5%**
- Fiscal deficit for FY 2019-20 at **3.8%** (against BE of 3.3%), FY 2020-21 at **3.5%** (against FRBM target of 3%)

Four pillars of wealth creation



Eliminating policies that undermine markets through government intervention



Integrating “Assemble in India” into “Make in India”



Efficiently scaling up the banking sector proportionate to the size of Indian economy



Using privatisation to foster efficiency

Improving market liquidity

- **PSU Banks** to raise further capital via the primary market route
- Limit for **FPI investment in corporate bonds to be increased** from 9% to 15%
- Specified categories of **government securities** would be opened for **NR investors**
- **Benefit of debt recovery under SARFAESI Act** now proposed to be made available to **NBFCs** with:
 - **Asset size** of INR 1 billion (reduced from INR 5 billion)
 - **Loan size** of INR 5 million (reduced from INR 10 million)
- NBFCs to be allowed to extend **invoice financing to MSMEs** to enhance MSMEs' economic and financial stability

Covering deficit

- Government to **divest part** of its holding in **LIC** by way of IPO
- Government to **sell the balance stake in IDBI Bank** through stock exchange

Taxpayer's Charter & softening of penal consequences

- **Taxpayer's Charter (enumerating taxpayers' rights)** → enshrined in the Statute
- Legislations to be amended to address the issue of **criminal liability for civil offences**

Direct tax reforms

- While **DTC Task Force Report** not released, several recommendations incorporated in Budget proposals
 - **Lowering corporate tax rates, DDT abolition, tightening of individual tax residency norms**

IFSC

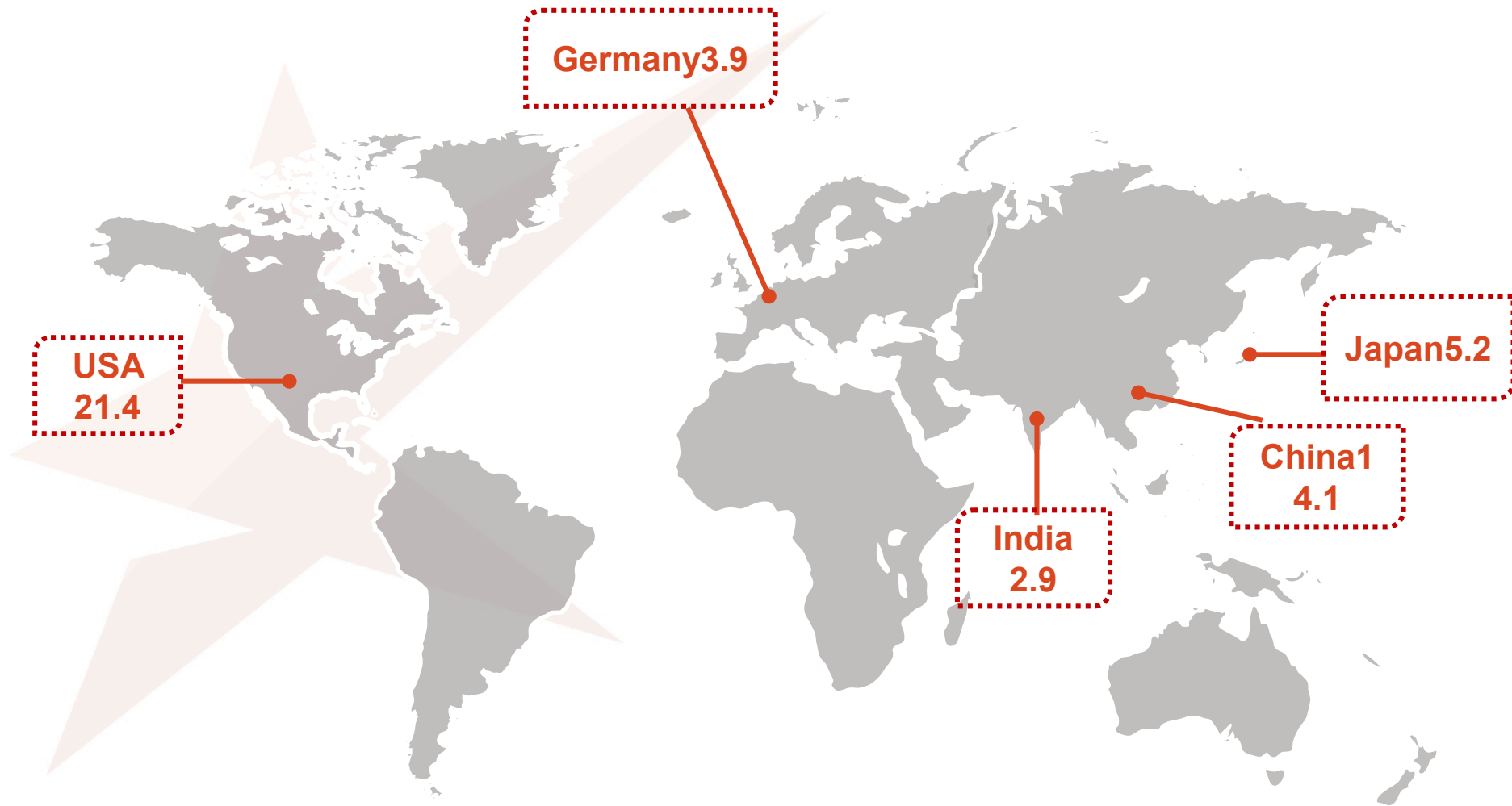
- International Bullion exchange to be set up in GIFT IFSC

Other announcements

- Proposal to permit ECB and FDI in **education sector**
- Proposal to set up an Investment Clearance Cell that will provide “end to end” facilitation and support
 - Including pre-investment advisory, information related to land banks and facilitate clearances at Centre and State level
- National Logistics Policy proposed to be launched to create a single window e-logistics market and employment generation
- National Mission on quantum technologies and applications with an outlay of INR 80 billion proposed

Top 5 Economies of World

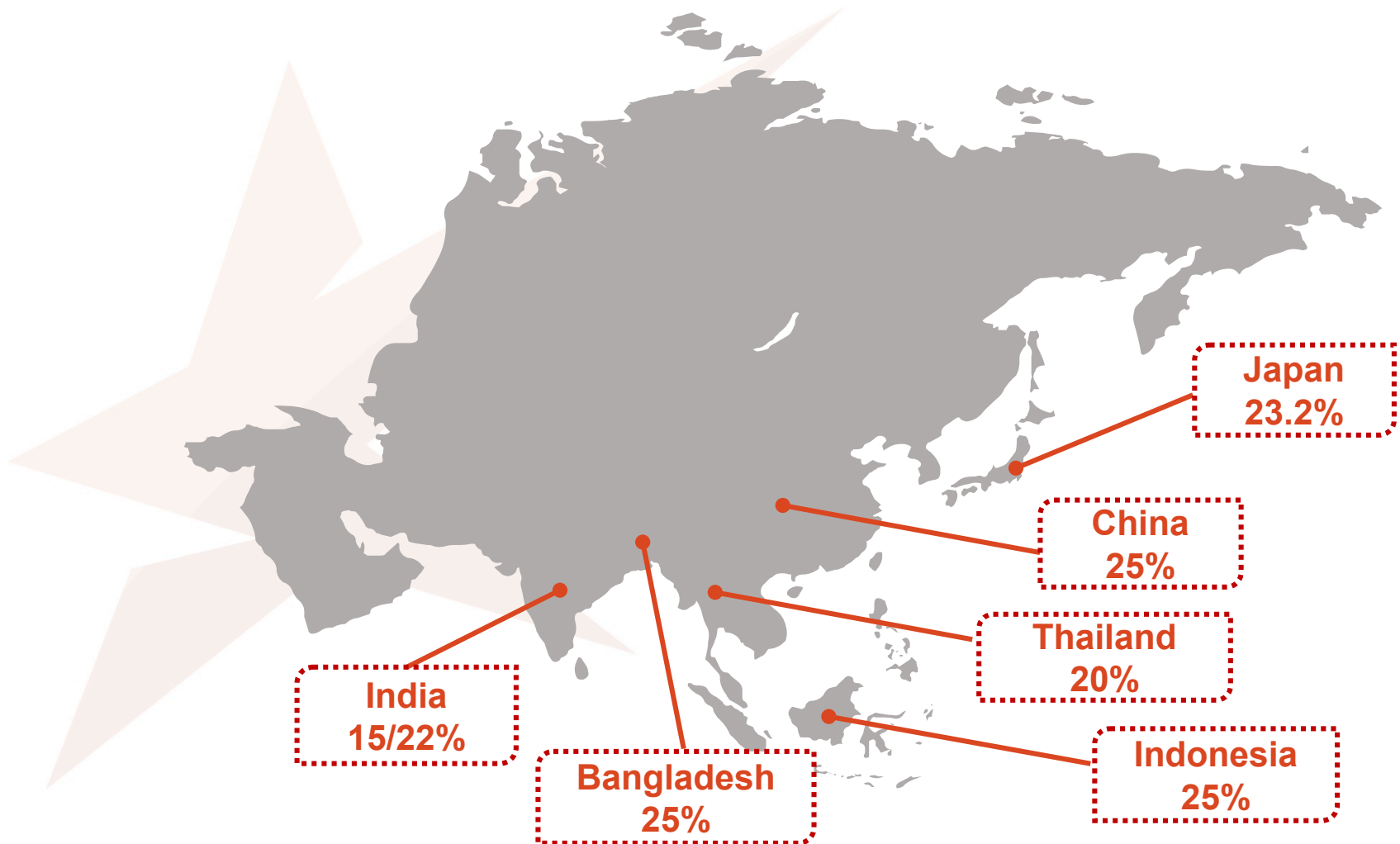
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All figures in US\$ Trillion

Key Asian Economy Tax Rates

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Tax on Dividends

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- DDT (@ 20.56%) on domestic company dividends abolished
- Tax rate (including surcharge and cess) for non-residents on dividend income:

FPI (Corporate / Firms & LLPs)	FPI (AJP / BOI / Trust / Individual)	Foreign Company	Foreign Individual / NRI (non foreign currency investments)	NRI (foreign currency Investments)
21.84%	28.5%	21.84%	28.5%	

- Non-residents can avail treaty rates (5% to 15% - without any surcharge/cess) depending on eligibility on the dividend received from companies; India SG treaty provides for tax rate as under:
 - 10% tax where a corporate holds atleast 25% shares in an Indian Co
 - 15% in all other cases

WHT rate higher than applicable tax rate under the draft law – likely to be resolved before enactment

- Dividends taxable in the hands of recipient at the normal applicable rates
 - Significant impact for resident individual
- No deduction of expenses except interest to the extent of 20% of dividend income
- Cascading effect eliminated on receipt of dividend by one domestic company from another domestic company
 - Companies which have opted for lower tax regime under section 115BAA / 115BAB also entitled to claim deduction
 - However, no such relief of cascading tax on dividend received from foreign companies (generally taxed at 15%)

Tightening of Residence rules

- A citizen of India not taxable in any country on account of residence / domicile etc will be deemed as resident of India
- Clarification issued by CBDT stating that –
 - new provision not intended to tax those Indian citizens who are bona fide workers
 - such deemed resident would only be liable to tax on income derived from Indian business or profession
- Residency threshold for NRI/ PIOs inter-alia on an India visit reduced from 182 days to 120 days
- Impact of an individual being regarded as a tax resident of India: few examples –
 - Global income taxable
 - Long-term capital gains on sale of shares of an unlisted Indian company – taxable @ 20% instead of 10%
- Criteria of determining NOR in India modified as under:
 - Individual – who is NR in 7 out of 10 preceding years
 - NOR is taxable in India only on income sourced or received in India

Electricity companies

- Beneficial corporate tax rate of 17.16% extended to domestic companies engaged in generation of electricity

Real estate

- Safe harbour limit (variation vis-à-vis prescribed stamp duty value) for sale of immovable property increased from 5% to 10%
- Tax incentives for affordable housing projects
 - Time limit for obtaining approval for such projects extended upto March 31, 2021. Similar extension provided for first time buyers availing home loans for such projects

Deferment in SEP test

- Significant Economic Presence (SEP) test for establishing business connection in India deferred
 - Amended provisions to be effective from FY 2021-22

Business connection- income attribution clarified

- Scope of income attributable to Indian operations expanded to include:
 - Income from advertisements targeted to Indian resident customers
 - Sale of data collected from Indian residents
 - Sale of goods and services using data collected from Indian residents

Protection under tax treaties with narrower scope of taxation vis-à-vis the 'business connection' under domestic law?

FPI Indirect transfer exemption

- Category II FPIs as per new SEBI regulations (which were Category III FPIs in the erstwhile regulations) excluded from existing exemption on Indirect transfers
 - Consequential amendment due to collapsing of Category III (which were not eligible before for the exemption) into Category II under securities law
- Investments held directly or indirectly by a non-resident in a Category II FPIs registered under SEBI (FPI) Regulations 2014 prior to its repeal remain exempt from indirect transfer provisions

Safe harbour rules for fund management further relaxed

- Minimum corpus to be INR 100 crores (~ SGD 20 million) now within twelve months from establishment or incorporation
- Resident participation cap of 5% not to include fund manager contributions up to INR 25 crores (~ SGD 5 million), for a period of 3 years

Certainty measures for determining profits of PE

- Coverage of safe harbour rules and APA agreements expanded to include profit attribution to PE/ business connection

Clarification in section 90/90A

- Section 90/90A amended to give effect to the language of Preamble modified by MLI

Thin capitalization

- Thin cap rules relaxed - not applicable to interest paid to a PE of a foreign company engaged in banking business

Relaxation in income-tax return filing requirements (w.e.f. AY 2020-21)

- No income-tax return required to be filed by non-residents/ foreign company only deriving income by way of Royalty/ FTS from India and applicable taxes have been discharged by way of TDS

- Tax holiday available to an 'eligible start-up' in respect of profits from 'eligible business'
- Eligible start-up means a company or an LLP engaged in eligible business which fulfils the following conditions –
 - It is incorporated on or after 1 April 2016 but before 1 April 2021
 - Total turnover of its business does not exceed INR 25 crores (~ SGD 5 million) in the previous year relevant to the assessment year for which tax holiday is claimed
 - Proposal in Budget 2020 to enhance the turnover limit from INR 25 crores to INR 100 crores (~ SGD 20 million)
 - It holds a certificate of eligible business from the Inter-Ministerial Board of Certification
- Tax holiday available = 100% of profits for any 3 consecutive assessment years out of 7 years beginning from the year in which the eligible start-up is incorporated
 - Proposal in Budget 2020 to extend time period of 7 years to 10 years

Budget proposals to increase the scope of claiming tax holiday by start-ups

- Currently, tax liability in case of ESOPs is as under –
 - Tax on perquisite as income from salary at the time of exercise of option
 - Tax on income from capital gain at the time of sale – amount taxed as perquisite available as cost of acquisition of shares at the time of computing capital gains
- Current tax provisions lead to cash flow issues for employees – tax liability triggers at the time of exercise of options even if there is no transfer of security
- **Budget 2020 proposes to amend the above provisions for employees of eligible start-ups***
- Eligible start-ups to deduct or pay taxes on perquisite income of its employees in respect of ESOP on occurrence of earlier of the following within 14 days:
 - After expiry of 5 years from the end of financial year in shares are allotted
 - Date of sale of shares
 - From the date on which employee ceases to be an employee of such start-up
- Where employer fails to deduct tax – onus on the employee to comply and pay taxes as above



REIT and InvITs

- Listing requirement omitted - for business trusts (REIT and InvITs) to be eligible to pass through tax regime
- Dividend income received by investors from business trusts now taxable on pass through basis
 - Business Trusts to deduct 10% withholding tax for residents and non-residents

ADIA and SWF

- Dividend, interest and capital gains income earned by subsidiary of Abu Dhabi Investment Authority and SWFs (satisfying specified criteria's) not liable to tax
 - Investments to be made by 31 March 2024 in specified infrastructure facilities and to be notified businesses – locked in for three years

Concessional rate on interest income - extended

- Benefit of 5% rate on interest on ECBs and FPI investment in bonds extended to 2023;
 - Coverage extended to FPI investment in municipal debt securities
- Rate further reduced to 4% for long term bonds and rupee denominated bonds exclusively listed on IFSC

Tax Compliance & Dispute Resolution

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Faceless proceedings

- Existing scheme of faceless assessment proceedings proposed to be extended to penalty / CIT(A) proceedings

Reference to Dispute Resolution Panel (DRP):

- Option to avail DRP appellate route extended to all non-residents

Stay of demand by Tribunal (ITAT)

- ITAT may grant stay of demand upto 180 days only if tax payer deposit 20% of tax (inclusive of interest / penalty etc) or it provides security of equal amount
- Extension of stay not possible beyond 365 days

Tax compliance measures

- Tax audit limit raised from INR 1 crore to INR 5 crore where the receipts and expenditure in cash \leq 5% of the total receipts and expenditure

Tax Compliance & Dispute Resolution

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Vivad Se Vikash – New Dispute Resolution Scheme

- Announced in Budget speech – not part of Finance Bill
- Scheme applicable in case of all appeals pending at any level

Payment under Scheme	For Disputed Tax Payable	For disputed Penalty / Interest / Fees (other than wrt to disputed tax)
On or before March 31, 2020	Tax amount (no interest / penalty)	25% of penalty / interest / fee
After March 31, 2020 and on or before June 30, 2020	Tax + 10% (excess 10% shall be limited to the amount of related penalty and interest)	30 % of penalty / interest / fee
After June 30, 2020	Scheme not available	

Others

- Tax Payer's Charter (enumerating tax payers' rights) to be enshrined in the Statute – to be notified
- Penalty applicable on recording of fake entries or omission to record an entry to evade tax to the extent of sum of such false / omitted entries

Tax Collection at Source

- Obligation on AD-Banks to collect TCS @ 5% / 10% (non-PAN/Aadhar holder) for **LRS** remittance exceeding INR 7 lakhs in a financial year
- Obligations on seller of an overseas tour program package to collect TCS @ 5% / 10% (for non-Pan/Aadhar cases)
- Sale of goods in excess of INR 50 lakhs by a seller (whose turnover/gross receipts exceeded INR 10 cr in previous FY) shall attract TCS @ 0.1% / 1% (non-PAN/Aadhar holder)
- TCS not applicable in case of remitter/buyer has deducted TDS under any provisions of the Act

Tax Deduction at Source

- TDS rate under section 194J for provision of technical services (other than professional services) have been reduced to 2% from the existing rate of 10%.
 - TDS rate on other professional services covered under section 194J shall continue to be 10%.
- Amendment in the the definition of “work” under section 194C to provide that contract manufacturing where the raw material is provided by the assessee or its associate (related party as per section 40A(2)(b)) shall fall within the purview of the ‘work’ under section 194C

- Introduction of TDS on **domestic e-commerce transactions**
- e-commerce operators required to deduct tax @ 1% at the time of payment/ credit
 - Higher rate of 5% applicable, where no PAN furnished by the e-commerce participant
- e-commerce participant defined to mean residents selling goods or providing services through digital or e-commerce facility
 - Exemption for individuals or HUF recording gross amount of sales/ services less than equal to INR 5 lakhs and furnishes PAN or Aadhar
- No TDS obligations under other section if transaction covered by these provisions
 - TDS on payments to continue to apply on payments made to e-commerce operators for hosting advertisements or providing unrelated services



Questions



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