



dhruva



For Individuals and HUF

- Introduction of new regime

(Exclusive of surcharge and cess)

Income (INR)	Existing Rates / Old Regime			New Regime (Optional)
	Age less than 60 years	Age 60 years or more	Age 80 years or more	
Up to 2.5 lacs	Nil	Nil	Nil	Nil
2.5 lacs - 3 lacs	5%	Nil	Nil	5%
3 lacs - 5 lacs	5%	5%	Nil	5%
5 lacs - 7.5 lacs	20%	20%	20%	10%
7.5 lacs - 10 lacs	20%	20%	20%	15%
10 lacs - 12.5 lacs	30%	30%	30%	20%
12.5 lacs - 15 lacs	30%	30%	30%	25%
Above 15 lacs	30%	30%	30%	30%

Tax rates - New regime

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- Conditions to be satisfied for availing benefit of new regime
 - No deductions or exemptions allowed (except employers contribution to pension scheme and incentive for employment generation)
 - No set off of c/fd losses and depreciation attributable to deductions or incentives
 - No set off of loss for House Property
 - Depreciation allowed as per prescribed rates
- Unabsorbed depreciation to be added to written down value
- Can claim benefit available to unit in International Financial Services Centre
- Switch on/ Switch off available for all taxpayers (except those having business income- such taxpayer permitted only one time withdrawal)
- No AMT applicable

Tightening of Residence rules

- A citizen of India not taxable in any country on account of residence / domicile etc will be deemed to be a resident of India
- Residency threshold for NRI/ PIOs *inter-alia* on an India visit reduced from 182 days to 120 days
- Criteria of determining NOR in India modified as under:
 - Individual – who is NR in 7 out of 10 preceding years
 - HUF – Manager has been a NR in 7 out of 10 preceding years

- DDT (@ 20.56%) payable by company on dividends abolished
- Dividends taxable in the hands of recipient at the normal applicable rates.
 - Current regime of 10% tax on dividends for upto 10 lakhs abolished
 - Significant impact for individual recipients
- No deduction of expenses except interest to the extent of 20% of dividend income
- Foreign companies can avail treaty rates (5% to 15%) depending on eligibility
- Cascading effect eliminated on receipt of dividend by one domestic company from domestic company
 - However, no such relief of cascading tax on dividend received from foreign companies (generally taxed at 15%)

Tax on Dividend income

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- Withholding tax @10% on dividend distributed to residents
- Mutual fund dividend now taxable in the hands of unit holders as per slab rates (earlier subject to flat rates depending on category of mutual fund)
 - Beneficial 5% tax regime for non-residents on dividends distributed by Infrastructure debt funds done away with – now taxable at 20%
- Buyback Tax retained

Deferment in SEP test

- Significant Economic Presence (SEP) test for establishing business connection in India deferred
 - Amended provisions slated 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

FPI Indirect transfer exemption

- Category II FPIs excluded from existing exemption on Indirect transfers
 - Investments held directly or indirectly by a non-resident in a Category I FPI remain exempt from indirect transfer provisions

Safe harbour rules for fund management further relaxed

- Minimum corpus to be 100 crores now within twelve months from establishment or incorporation
- Resident participation cap of 5% not to include fund manager contributions up to 25 crores, for a period of three 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 on 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

- 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

- Listing requirement omitted - for business trusts to be eligible to pass through tax regime
- Dividend income received by investors from business trusts (REIT and InvITs) now taxable on pass through basis
 - Business Trusts to deduct 10% withholding tax for residents and non-residents
- 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 before 31 March 2024 in specified infrastructure facilities and to be notified businesses – locked in for three years

- 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
- Cost of acquisition of mutual fund units segregated in accordance with SEBI regulations to be determined basis respective net asset value
 - Period of holding to include period of holding of original units

Tax holiday

- Maximum time limit for claiming deduction further extended to 10 years from 7 years
- Turnover limit for claiming deduction increased to INR 100 crores from INR 25 crores

Deferment of taxes on ESOPs for employees of start-ups

- Existing two -level taxation led to cash flow issues for employees – now removed
- Eligible start-ups to deduct or pay taxes on perquisite income of its employees on occurrence of earlier of the following within 14 days:
 - After expiry of 48 months from the end of relevant AY (of exercise of option)
 - Date of sale of shares
 - From the date on which the 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



Make in India rate

- Beneficial corporate tax rate of 17.16% extended to domestic companies engaged in generation of electricity
- Such entities are entitled to claim deduction for inter-corporate dividends

Deduction for specified business

- Deduction for capex for specified business (eg cold storage, laying of pipelines etc.) made optional

Real estate

- Safe harbour limit 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

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
- Provisions currently applicable only where tax officer is proposing variation to returned 'income or loss' – proposal to make provisions applicable to 'any variation' to the tax return

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 & 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	Tax Payable / Scheme available
On or before March 31, 2020	Tax amount (no interest / penalty)
After March 31, 2020 and before June 30, 2020	Tax + additional amount (not specified)
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

Charitable Trust and Institutions

- New procedure for registration introduced – section 12AB substituting section 12AA
- Registration to be valid for 5 years instead of current perpetual registration
- Provisional registration to be valid for 3 years – applicable to first-time registrations

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
- All audit reports/ certificates (Tax audits, MAT, Transfer Pricing, tax holiday deduction etc.) to be obtained and filed within 1 month prior to the date of filing of Income-tax return

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

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Key Indirect Tax Proposals

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- Provisions introduced for administration of rules of origin under free trade agreements
- Obligations on importer - Importer to submit certificate of origin and possess sufficient information in relation to origin criteria, regional value content and product specific criteria
- Provisions for time bound verification from exporting country in case of doubt
- Failure to provide information may lead to suspension of preferential tariff treatment on such goods and release of goods may be subjected to furnishing of security equal to differential duty benefit claimed
- In certain cases the preferential tax treatment may be denied without further verification
- A request for verification can be sent to the issuing authority of exporting country within 5 years from the date of claim of preferential duty basis which the preferential tariff treatment can be restored or denied
- In case non-compliance is detected, the officer may reject preferential tariff treatment on imports of identical goods from the same producer

- To promote 'Make in India' Customs duty rates rejigged
- Health cess at the rate of 5% to be levied on import of specified medical equipment/ devices falling under heading 9018 to 9022. To be levied as duty of Customs
- Social Welfare Surcharge exempted on certain goods
 - including all commercial vehicles (including electrical vehicles), if imported in CBU
- Social Welfare Surcharge exemption withdrawn in case of certain goods covered under Chapter 84 and Chapter 85
- Amendments introduced to Customs Tariff Act, to enable application of safeguard measures including tariff rate quota, in order to curb increased quantity of imports of goods which causes or threatens to cause serious injury to domestic industry

- 100% penalty to be imposed on persons retaining benefit of certain transactions and at whose instance such transactions are conducted- supplies without or with false invoices, invoices in violation of provisions of GST laws, supplies without provision of goods or services, etc.
- Eligibility criteria under composition scheme to apply equally for goods as well as services
- Retrospective amendment (effective 1 July 2017) in statutory provisions on timelines for taking transition credit
- Enabling provisions inserted for cancellation of voluntary registrations by GST authorities
- Delay in application for revocation of cancellation of registrations can be condoned for a cumulative period of 60 days
- Removal of difficulty orders can now be issued up to 30 June 2022

Questions

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Disclaimer:

The information and analysis contained herein is intended to provide general guidance. The advice of an expert should be obtained based on individual circumstances

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