

Key Amendments in Direct Tax Provisions as per Finance Act, 2020 (effective from 01.04.2020 unless otherwise provided)

The Finance Bill, 2020 presented on 01.02.2020 was passed by the Lok Sabha with various amendments on 23.03.2020. These amendments have been assented by the Hon'ble President on 27.03.2020. Accordingly, we have now summarized the key provisions as per the Finance Act, 2020 applicable to A.Y. 2021-22.

INCOME TAX RATES

• Individual, HUF

New personal income tax regime which is optional is provided wherein taxpayers need to forgo exemptions and deductions.

Income Range	Tax rates
Between Rs. 2.5 lacs to Rs. 5 lacs	5%
Between Rs. 5 lacs to Rs. 7.5 lacs	10%
Between Rs. 7.5 lacs to Rs. 10 lacs	15%
Between Rs. 10 lacs to Rs. 12.5 lacs	20%
Between Rs. 12.5 lacs to Rs. 15 lacs	25%
Above Rs. 15 lacs	30%

• Corporate

New Optional Regime (made Applicable from AY 2020-21)

- New **section 115BAA** was inserted vide Taxation Laws Amendment Act, 2019 wherein domestic companies can opt to pay tax @22% subject to certain conditions with additional surcharge @10% and education cess @4%. Effective tax rate will be 25.17%. The provisions of MAT shall not be applicable and MAT credit to be foregone.
- Conditions stipulated are as under: -
 - ✓ No Deduction u/s. 10AA (SEZ units)
 - ✓ No Additional Depreciation @ 20% u/s. 32(1)(ia)
 - ✓ No Deduction u/s. 32AD, 33AB, 33ABA, 35AD, 35CCC, 35CCD
 - ✓ No deduction for Scientific research covered u/s. 35 except the amount covered under clause(i) of sub section (1)
 - ✓ No Deduction under chapter VIA except u/s. 80JJAA & 80M
 - ✓ No set off or carry forward of Loss / Unabsorbed depreciation attributable to aforesaid deductions
 - ✓ No set off or carry forward of unabsorbed depreciation and losses under section 72A of the Act (relating to loss/depreciation on amalgamation) attributable to aforesaid deductions
 - ✓ Depreciation to be allowed in such manner as may be prescribed
 - ✓ The option shall become invalid for the year in which the violation of any of the condition takes place and also for the subsequent years. The other provisions of the Act will accordingly apply as if the option was never exercised. Brought forward losses / depreciation and MAT credit foregone will not be available again.
- Another **section 115BAB** was also inserted vide Taxation Laws Amendment Act, 2019 wherein new domestic companies incorporated on or after 01-Oct-2019 engaged in manufacturing business can opt to pay

tax @ 15% subject to certain conditions with additional surcharge @ 10% and education cess @ 4%. Effective tax rate is 17.16%. The provisions of MAT shall not be applicable.

- o Conditions stipulated are as under: -
 - ✓ Company has been set up and registered on or after 1-Oct-2019 and commenced manufacturing or production of an article or thing on or before 31-Mar-2023
 - ✓ Company is not engaged in any business other than the business of manufacture or production of any article or thing and research in relation to or distribution of, such article or thing manufactured or produced by it.
 - ✓ Not incorporated by splitting or reconstruction of existing business
 - ✓ Cannot use machinery previously used for any purpose in India but for 20% of total value of machinery
 - ✓ Does not use building previously used as hotel/ convention center for which deduction under section 80ID of the Act has been claimed and allowed
 - ✓ The option shall become invalid for the year in which the violation of any of the condition takes place and for the subsequent years. The other provisions of the Act will accordingly apply as if the option was never exercised.
 - ✓ However, such company may exercise option to be governed under section 115BAA if it satisfies the conditions under the said section.

- o Benefit of section 115BAB is now extended to corporates having business of generation of electricity w.e.f. A.Y. 2020-21.

- **Co-op. Society**

Option is given to co-operative societies for availing reduced tax rate of 22% plus surcharge and cess without exemptions/deductions. Exemption is also given from Alternate Minimum Tax.

- **Tax on Dividends**

- o Dividend Distribution Tax in the hands of companies is abolished and dividend in the hands of recipient shareholders is to be taxed with maximum surcharge @15% irrespective of slab rate in which the shareholder falls. It is also provided that once such dividend has been subjected to DDT, no separate tax to be imposed on shareholder.
- o Section 80M is restored. In order to prevent cascading effect of imposition of tax on dividend on same profits, it is provided that where a domestic co. declares dividend, out of dividend received from another domestic co. or a foreign company or a business trust, it shall be eligible to claim deduction of amount of dividend received.

SALARIES

- **Rationalization of tax treatment of employer's contribution to recognized provident funds, superannuation funds and NPS**

Any contribution made by the employer to the account of an employee in a recognized provident fund; in NPS u/s. 80CCD(1) and in approved superannuation fund shall be treated as perquisite, if the aggregate contribution exceeds ₹7.5 lacs in a previous year. It is also provided that

any annual accretion by way of interest, dividend or any other amount of similar nature during the previous year to the balance at the credit of the fund or scheme would be treated as perquisite to the extent it relates to the employer's contribution which is included in total income.

BUSINESS INCOME

- **Tax Audit Threshold**

Turnover threshold for tax audit increased from Rs. 1 crore to Rs. 5 crore subject to certain conditions. However, liability for TDS / TCS u/s 194A, 194C, 194H, 194I, 194J and 206C will continue to arise if the turnover is exceeding Rs. 1 crore for business and Rs. 50 Lacs for profession.

- **Tolerance limit in section 43CA**

In case of transfer of immovable property being land or building, Safe Harbor Limit between Sale Consideration and Stamp Duty Value is increased to 10% from earlier 5%.

DEDUCTIONS FROM TOTAL INCOME

- For claiming additional deduction of interest paid on affordable housing loans, loan sanction date is extended to 31-Mar-2021
- For claiming profit linked deduction for affordable housing projects, period of approval by competent authority is extended by one year i.e. 31-Mar-2021
- Cash donation u/s. 80GGA (for scientific research or rural development) is restricted to Rs. 2000/- from earlier Rs. 10,000/-
- For claiming deduction u/s. 80G/80GGA, a statement is to be furnished by the donee in respect of donations received and a certificate is to be issued to the donor. In the event of failure of such compliance, fee and penalty shall be levied.

START-UPS

- For Start-ups, ESOP taxation is deferred to 5 years or when the employee leaves job or on sale of shares; whichever is earlier as against present tax incidence as perquisite at the time of exercising of ESOP
- For start-ups, turnover limit prescribed for deduction u/s. 80IAC increased from Rs. 25 crores to Rs. 100 crores and extended the period from 7 years to 10 years

TDS PROVISIONS

- **W.e.f. 01.10.2020**, TDS u/s. 194-O @ 1% of the gross amount of sales / services is to be deducted by e-commerce operator (digital platform provider) at the time of payment/credit; whichever is earlier to e-commerce participant (seller /service provider). It is further provided that any payment made by purchaser of goods or recipient of services directly to an e-commerce participant shall be deemed to be the amount credited or paid by e-commerce operator to e-commerce participant and TDS on gross amount shall be deducted on same.

No TDS shall be deducted from any sum credited/paid to an e-commerce participant, being Individual or HUF, where gross amount of sales/services during previous year does not exceed Rs.5 lacs and such e-commerce participant has furnished his PAN or Aadhaar Number to the e-commerce

operator. In case no PAN is furnished, TDS shall be deducted at the rate of 5%.

- TDS on income by way of dividend to a non-resident shareholder to be deducted @20% and that in case of a resident shareholder @10% with maximum surcharge of 15% on such income.
- TDS rate u/s 194J in case of fees for technical services (other than professional services) including sale, distribution or exhibition of cinematographic films is reduced to 2% from existing 10%. TDS rate in other cases u/s. 194J would remain same at 10%.
- TDS @ 10% applicable on payment of dividend / income from units to resident shareholder or unit holder with a threshold limit of Rs. 5,000 and TDS @ 20% applicable on payment of dividend income / income from units to non-resident, foreign companies & FII. It is further provided that no TDS is applicable on income in the nature of capital gain on redemption /repurchase of units.
- Section 194N is amended (**w.e.f. 01.07.2020**) to provide that 2% TDS is applicable on the entire amount of Rs 1 crore (instead of amount in excess of Rs. 1 crore). Further in case the recipient has not filed IT return for last 3 AYs, then the TDS would be applicable at a higher rate as follows:
 - Cash payment between Rs 20L and Rs 1 crore – TDS @ 2%
 - Cash payment in excess of Rs 1 crore – TDS @ 5%
- Co-op. soc. is liable to deduct TDS on interest credited or paid > Rs. 50,000 (in case of senior citizens) and Rs. 40,000 (in any other case); if its total sales/gross receipts/turnover > Rs. 50 crores during preceding year

TCS PROVISIONS

- **W.e.f. 01.10.2020**, Authorised Dealer shall be liable to collect TCS @ 5%, if it receives an amount or aggregate of amounts of Rs. 7 lakh or more in a FY for remittance under LRS of RBI. In non-PAN/ Aadhaar cases, the rate shall be 10%. However, such rate would be 0.5% if remittance relates to purpose of education.
- **W.e.f. 01.10.2020**, a seller of an overseas tour program package shall be liable to collect TCS @ 5%, who receives any amount from a person who purchases such package. In non-PAN/ Aadhaar cases, the rate shall be 10%
- **W.e.f. 01.10.2020**, a seller of goods is liable to collect TCS @ 0.1% on consideration received from a buyer in a previous year in excess of Rs. 50 lacs. In non-PAN/ Aadhaar cases, the rate shall be 1%. Only those sellers whose total sales/gross receipts/turnover from the business carried on by it exceeds Rs. 10 crores during the immediately preceding FY, shall be liable to collect such TCS. However, import and export of goods shall be excluded from levy of TCS.
- No such TCS is to be collected, if the seller is liable to collect TCS under other provision of section 206C or the buyer is liable to deduct TDS under any provision of the Act and has deducted such amount.

EQUILISATION LEVY

- E-commerce transactions by non-resident operators have been brought under the ambit of Equalisation levy. Earlier, Equalisation levy @ 6% was applicable on the amounts paid to non-resident for mainly online advertisements. Now, these provisions have been extended to further provide for an Equalisation levy of 2% on e-commerce supply/services by non-resident e-commerce operators w.e.f. 01.04.2020.

MODIFICATION IN TEST OF RESIDENCY

- Test of residency of an individual is modified to reduce the benefit of stay in India from 182 days or more to 120 days or more in respect of Indian citizens or person of Indian origin having total income (other than income from foreign source) > Rs. 15 lacs during the relevant year. Also, if such individual is not liable to tax in any other country by reason of his domicile or residential status, etc. then he is deemed to be a resident.

DUE DATE

- Due date of filing tax return for companies, assesseees subjected to audit and partners of the firm whose accounts are required to be audited is extended to 31-Oct of relevant year. Due date of filing of tax audit report would be 30-Sep i.e. 1 month prior to due date of filing of income tax return which is now 31-Oct.
- Due date for filing of reports which are required to be filed along with the income tax return like report u/s 10A (for SEZ units), 44AB (Tax audit), 80JJAA (deduction for employment), 115JB (MAT), etc. to be 30-Sep. i.e. 1 month prior to the due date of filing of income tax return.

PENAL PROVISIONS

- Where any false entry or omitted entry is found in the books of accounts, then penalty of a sum equal to the aggregate amount of such false or omitted entry may be imposed. Equal amount of penalty may also be levied on the person, who causes the assessee to make a false or omitted entry.

STAY BEFORE ITAT

- Stay may be granted by the ITAT for 180 days, if the assessee has deposited 20% of the sum payable or furnished security of equal amount.