Highlights of Budget 2020

GM Corporate Solutions

Financial & Strategic Advisors

Major Tax Proposals in the Union Budget 2020

Personal Taxation

New regime, with conditions:

Total Income	Existing Regime	New Regime
Up to INR 250,000	Nil	Nil
INR 250,001 – INR 500,000	5%	5%
INR 500,000 – INR 750,000	20%	10%
INR 750,000 – INR 1 million		15%
INR 1 million – INR 1.25 million	30%	20%
INR 1.25 million – INR 1.5 million		25%
Above INR 1.5 million		30%

Conditions:

a) This is applicable for Individual / HUF and is optional.
b) No exemptions, allowances, perquisites and investment-linked deductions would be applicable in the new regime, except few.
c) No set-off of any brought forward loss would be allowed where such loss can be attributed to the exemptions and deductions disallowed under the new regime. Further, loss under the head house property shall not be allowed to be set-off against any other head of income.
d) For Individual / HUF carrying on businesses, if this option is exercised for one year, it has to be applied for subsequent years as well. In case such taxpayer decides to opt out of this regime at any time thereafter, they would not be allowed to choose this again unless they have no business income.

Non-resident Indians: From FY 2020-21 onwards, the Government has changed the criteria for non-residents, as follows:

a) Indian citizen / PIO to be non-resident if stay in India is less than 120 days, in place of 182 days earlier.
b) In case the stay period is 120 days or more, to qualify as resident but not ordinarily resident, the person should have been non-resident in seven out of last 10 years, compared to being non-resident in 9 out of last 10 years in earlier regime.
c) In case an Indian citizen is not liable to tax in any other country or territory, they shall be deemed to be an Indian resident.

Thus, Non-resident Indians would need to plan their stay period in India to continue to claim the benefits of being non-residents.

Corporate Taxation: The dividend distribution tax (DDT) has now been abolished. With this, the incidence of tax on dividend is now shifted to the investor. Deduction of only interest expense, up to 20% of the dividend income, shall be allowed to the investor. TDS would be required to be deducted at 10% by the company if dividend exceeds INR 5,000.

Further, deduction of inter-corporate dividend is allowed to the recipient domestic company, to the extent of the dividend distributed by it one month before the return filing date.

As per various DTAAs, foreign investors are typically taxed at maximum of 15% for incomes from Indian entities. The abolition of DDT is a welcome move at making India more attractive for foreign investors. Now foreign investors would be able to claim credit of taxes paid on dividends paid in India.

The Income tax Act requires withholding tax at 20% where the recipient does not furnish a PAN (Permanent Account Number). The Income tax rules provide exception for non-residents, where tax residency certificate is available. The exception currently covers interest, royalty, fees for technical services and payment on transfer of capital assets. It is expected that this exception would be extended to cover dividend income as well.

Business Trusts: Till now, listed Real Estate Investment Trusts (REITs) and Infrastructure Investment Trusts (InvITs) get the benefit of pass through status – the investor has to pay the tax and not the fund. The Budget has extended this benefit to unlisted REITs and InvITs as well.

As per extant provisions, dividend received by the business trusts from SPV, and by the investors from the business trusts was exempt. Due to the change in taxation of dividend, the investors would now be required to pay tax at the rates applicable to them. Further, REITs and InvITs will be required to withhold 10% tax while paying dividends. This needs to be relooked at by the Government since it impacts the returns for the investors.

Exemptions for Sovereign Wealth Funds: To encourage investments in infrastructure and other priority sectors, 100% exemption on interest, dividend and capital gains income is being provided to sovereign wealth funds for investments made by them up to 31st March 2024. The investments would have to be locked in for minimum 3 years. Some of the sectors that would see inflow are road and highway projects, water supply and water treatment systems, ports, telecom, power generation & distribution, etc.

TDS and TCS:

TDS by e-commerce operators: E-commerce operators would be required to deduct TDS @ 1% on amounts paid by them to sellers/service providers on their platforms. However, where the amount is payable to an individual or an HUF and the annual payment does not exceed INR 500,000, no TDS is required to be deducted.

'Work' as per Section 194C: Section 194C provides relaxation from deduction of TDS in case of contract manufacturing where material is purchased from third party. However, some assessees had been using this escape clause by supplying the material to the contract manufacturer through a related party. This loophole has now been plugged.

TDS on fees for technical services: There are many pending litigations on the issue of short-deduction of TDS where the assessee deducts TDS u/s 194C (works contract) whereas the tax officer claim that TDS u/s 194J (professional fees / fees for technical services) should have been deducted.

To reduce such litigations, the TDS rate u/s 194J in case of fees for technical services (other than professional services) is bring brought down to 2% from existing 10%. This amendment would take effect from 01st April 2020.

Tax Collected at Source (TCS): The Government has widened the net of TCS, as follows:

<table>
<tr><th>TCS to be collected by</th><th>Transaction</th><th>Rate</th></tr>
<tr><td>Seller of goods whose gross receipts / turnover > INR 100 million in preceding FY</td><td>A sale of goods exceeding INR 5 million in FY</td><td>0.1%
(1% in case of no PAN or no Aadhaar)</td></tr>
<tr><td>AD Banker</td><td>Remittance under Liberalized Remittance Scheme > INR 700,000 in FY</td><td rowspan="2">5%
(10% in case of no PAN or no Aadhaar)</td></tr>
<tr><td>Seller of overseas tour package</td><td>Sale of overseas tour package</td></tr>
</table>

International taxation: Provisions of significant economic presence have been deferred to FY 2021-22 since the discussions are still ongoing in the G20-OECD BEPS project.

Additionally, the source rule has been widened to cover the following incomes from a person who resides in India or who accesses uses IP address located in India:

- Income from advertisement targeting such person
- Income from sale of data collected from such person
- Income from sale of goods or services using data collected from such person

The exemption from non-filing of returns by non-residents has been extended to income from royalty and fees for technical services where appropriate TDS has been deducted thereon.

Advanced Pricing Agreements and safe harbour rules have now been extended to non-residents having permanent establishments in India.

Start-ups and SMEs

Exemption: As per extant provisions, 100% of profits of an eligible start-up are exempt from tax for any 3 consecutive years out of the first 7 years, provided that the turnover of the start-up is up to INR 250 million. In a massive fillip to start-ups, the turnover limit is proposed to be increased to INR 1 billion. Further, the start-up can avail the exemption for three consecutive years out of 10 years from its incorporation.

ESOPs: In another proposal, the taxation of ESOPs issued by eligible start-up has been deferred. These shall now be taxed at the earlier of:

a) Cessation of employment,
b) Date of sale of specified security or sweat equity share,
c) End of five years from the year in which ESOP issued

Tax audit: As per extant provisions, businesses are required to get tax audit done where gross receipts exceed INR 10 million. To reduce compliance burden and cost for SMEs, this threshold has now been increased to INR 50 million with the condition that all cash payments and receipts do not exceed 5% of the total payments and receipts, respectively, during the year.

Charitable Trusts and Institutions

- From 01-Apr-2020 onwards, charitable trusts / institutions would be registered under the Income tax Act for five years, on a rolling basis. At least six months before the end of the five years, they would need to apply for renewal which shall then be granted for five years.
- Existing registered charitable institutions would need to file an intimation with the Government regarding their registration, starting 01st June, 2020.
- New charitable trust / institution would be given provisional approval for three years on the basis of application, without detailed inquiry. Within six months of start of its activities or six months before the expiry of provisional registration, application to apply for regular registration.
- Charitable trusts / institutions would need to file a statement of donations received by them. This would serve as cross-check to the deductions claimed by donors.

E-appeals: A new e-assessment scheme was already introduced last year which has resulted in greater transparency, efficiency and accountability. Buoyed by its success, the Government has proposed to launch a faceless appeals scheme, eliminating the interface between the Commissioner (Appeals) and the appellant. The intent of the Government is to ensure uniformity and consistency in approach. The scheme would be rolled out by 31st March 2022.

From Dispute to Trust: There are about 500,000 pending cases in various appellate forums. The Government has proposed a scheme wherein the taxpayer would only need to pay the amount of the disputed tax to settle the pending case. Interest and penalty thereon would be waived in full provided the amount is paid by 31 March 2020. This scheme is available till 30 June 2020. For those availing the scheme after 31 March, some additional amount would be required to be paid.

Indirect Taxes

In GST, the offence of availing input tax credit without or with false invoices has been made a non-bailable offence. In another proposal, the due date to determine eligibility for claiming input tax credit basis the debit note has been de-linked with the date of invoice

Social Welfare Surcharge @ 10% was exempted on various items. The exemption is now being withdrawn on such items, including electronic products.

The National Calamity Contingent Duty on cigarettes and other tobacco products has been increased substantially, up to 5 times in certain cases. These would now cost more. In another blow to tobacco companies, no refund of compensation cess on account of inverted duty structure is permitted on any tobacco products.

Customs Duty:

Certain erstwhile exemptions have been withdrawn, citing them as outdated or having outlived their utility. These are mainly for agro- and animal-based products, items of metal, certain machinery, and few electronic items.

To provide a level-playing field to domestic producers/manufacturers, customs duty has been increased on household goods & appliances, electrical appliances, footwear, furniture goods, stationery items, toys and certain heavy machinery.

For promoting Make in India, import duty has been increased on certain items of electric vehicles, mobile phones and mobile accessories. This is as per the phased manufacturing programme for electric vehicles and cellular mobile phones. Import duty has been reduced on certain raw materials & inputs imported by domestic manufacturers. Some of the products are fuels, precious metals, sports goods, newsprint and chemicals.

Health cess @ 5% is being imposed on import of medical devices but not on the inputs/ parts used in manufacture thereof.

For importers, a new detailed procedure has been set out regarding imports under preferential/free trade agreements. An obligation has been cast on importers to obtain sufficient information regarding satisfaction of country of origin criteria and to assess that such information is accurate. Thus, reliance on certificate of origin would no longer be enough to obtain preferential trade benefits.

For exporters, a new scheme called NIRVIK is being launched. This provides for higher insurance coverage, reduced premium for small exporters and simplified claim settlement procedure. A scheme for reversion of duties and taxes on exported goods would be launched this year. Under the scheme, duties and taxes levied by at the central, state and local levels on exported products, which are not exempt or refunded under existing mechanisms, would be digitally refunded to the exporters.

Infrastructure

- National Infrastructure Pipeline has already been launched on 31 December 2019 for a total outlay of INR 103 trillion. It consists of 6,500+ projects across sectors.
- National gas grid to be expanded from 16,200 km to 27,000 km. Further reforms to facilitate transparent price discovery and ease of transactions to be rolled out.
- 100 airports to be developed by 2024 under the regional connectivity scheme. Air fleet expected to double during the period.
- At least one major port to be corporatized and listed on stock exchanges.
- PPP mode to be used for four station redevelopment projects and operation of 150 passenger trains.
- Viability gap funding to be provided by the Centre for setting up warehouses at each block/taluk level in every district. The warehouses would be set up under PPP mode.
- Five new smart cities in collaboration with states under the PPP mode are proposed to be developed.
- In line with SEBI's amendment to dispense with the requirement of listing of InvIT and REIT units, the same is being incorporated under the Income tax law as well. Thus, private unlisted REITs and InvITs would be treated at par with their listed counterparts.

Power and Renewable Energy

- PM-KUSUM scheme to be extended to provide 2 million farmers support to set up stand-alone solar pumps. 1.5 million farmers would be supported to solarize their grid-connected pump sets. A scheme would be operationalized to enable farmers to set up solar power generation capacity on their barren land and sell it to grid.
- Pre-paid smart meters to be implemented by electricity distribution companies in the next three years.
- Reduced tax rate to 15% for new domestic companies engaged in generation of electricity.
- Old thermal power plants having high carbon emission levels to be closed. Land vacated consequently to be put to alternative use.

Besides the above announcements in the Union Budget, alternative investment funds are being set up to clear dues of power and renewable energy generation companies.

Announcements for what's to come: A scheme to encourage manufacture of mobile phones, electronic equipment and semi-conductor packaging would be announced. This scheme would also be adapted for medical devices.

External Commercial Borrowings and FDI in the education sector on agenda of the Government.

A National Logistics Policy would be released. It would create a single-window e-logistics market and focus on employment generation, skills and making MSMEs competitive.

A policy to enable private sector to build Data Centre parks throughout India would be rolled out.

GMC's views

The Union Budget 2020 is built on three broad themes of aspirational India, economic development for all and caring society. These are supported by good governance and sound financial sector. Considering the slowdown in economic growth due to domestic factors and global headwinds, the Union Budget 2020 is a laudatory effort by the Government in taking measured steps to chart the next phase of growth for the Indian economy.

While there are few misses in terms of policy announcements, the budget is pragmatic to removing the inefficiencies as well as providing stimulus for certain key sectors like infrastructure and education. Increased participation of private sector has been incorporated to fulfil the investment gap. The policy and tax announcements for start-ups and MSMEs are encouraging for the ecosystem.

It remains to be seen how NRIs react to the change in residence rule. The new optional tax regime would necessitate that taxpayers do the math to check what would be more beneficial for them. The effects of the new regime on the consumption demand vis-à-vis savings and investments would become clear in the next two quarters.

In her Budget speech, the Hon'ble Finance Minister stated that nominal GDP growth for FY 2020-21 is estimated at 10%. India's economy is expected to grow at 7.5% in nominal terms over the current financial year. Whether the Government would achieve the target of 10% nominal growth depends on how well the intents spelled out in the Budget are executed.

Glossary

Abbreviation	Description
AD	Authorized Dealer
BEPS	Base Erosion and Profit Shifting
ESOP	Employee Stock Option Plan
FY	Financial Year
FDI	Foreign Direct Investment
GST	Goods and Services Tax
GDP	Gross Domestic Product
HUF	Hindu Undivided Family
INR	Indian National Rupees
InvIT	Infrastructure Investment Trust
IPR	Intellectual Property Rights
IP	Internet Protocol
OECD	Organization for Economic Cooperation and Development

Abbreviation	Description
PAN	Permanent Account Number
PM-KUSUM	Pradhan Mantri Kisan Urja Suraksha evam Utthan Mahabhiyan
PPP	Public Private Partnership
REIT	Real Estate Investment Trust
R&D	Research & Development
RBI	Reserve Bank of India
SEBI	Securities and Exchange Board of India
SME	Small and Medium Enterprises
TCS	Tax Collected at Source
TDS	Tax Deducted at Source
u/s	under section

Disclaimer:

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GM Corporate Solutions

Financial & Strategic Advisors

Office: B-125 LGF, Chittaranjan Park, New Delhi-110019