

Budget Circular 2019–20
Finance (No. 2) Bill, 2019

JAIN SARAOGI & CO.
CHARTERED ACCOUNTANTS

DIRECT TAX

The Hon'ble Finance Minister has presented The Finance (No. 2) Bill 2019 on 05.07.2019. The broad proposals under direct taxation applicable for income earned during the financial year 2019-20, assessable in the assessment year 2020-21 are as below:

▪ **Rates of Income tax**

There is no change in the rate of personal income-tax.

Corporate Tax rate shall be 25% in case of domestic company if the total turnover or gross receipts of the company in the previous year 2017-18 does not exceed four hundred crore rupees.

▪ **Surcharge on Income Tax (FY 2019-20)**

Surcharge on Income Tax for FY 2019-20 are as follows:

- in case of an individual, Hindu undivided family, association of person, body of individual or artificial juridical person;
 - at the rate of 10% of such tax, where the income exceeds fifty lakh rupees but does not exceed one crore rupees;
 - at the rate of 15% of such tax, where the income exceeds one crore rupees but does not exceeds two crore rupees;
 - at the rate of 25% of such tax, where the income exceeds two crore rupees but does not exceeds five crore rupees; and
 - at the rate of 37% of such tax, where the income exceeds five crore rupees.
- in case of a firm or cooperative society, at the rate of 12% of such tax, where the income exceeds one crore rupees.
- in the case of a company other than a domestic company, shall be increased by a surcharge,—
 - at the rate of 2% of such tax, where the income exceeds one crore rupees but does not exceed ten crore rupees;
 - at the rate of 5% of such tax, where the income exceeds ten crore rupees.

▪ **TDS on payment by Individual/HUF to contractors and professionals**

With the objective to cover payments in respect of contractual work or for professional work by an individual/HUF, a new section 194M has been inserted in the Act for levy of TDS at the rate of five percent (5%) on the sum, or aggregate of sums, paid or credited in year on account of contractual work or professional fees by an individual/HUF if such sum, or aggregate of sums exceeds fifty lakh rupees in a year.

This amendment will take effect from 1st September, 2019.

▪ **TDS at the time of purchase of immovable property**

Explanation to Section 194-IA of the Act will be amended to provide that the term “consideration for immovable property” shall include all charges of the nature of club membership fee, car parking fee, electricity and water facility fees, maintenance fee, advance fee or any other charges of similar nature, which are incidental to transfer of the immovable property.

This amendment will take effect from 1st September, 2019.

▪ **Deemed accrual of gift made to a person outside India**

Income of the nature referred to in sub-clause (xviii) of clause (24) of section 2, arising from any sum of money paid, or any property situated in India transferred, on or after 5th July, 2019 by a person resident in India to a person outside India shall be deemed to accrue or arise in India. However, the existing provision for exempting gifts as provided in proviso to clause (x) of sub-section (2) of section 56 will continue to apply for such gifts deemed to accrue or arise in India. In a treaty situation, the relevant article of applicable DTAA shall continue to apply for such gifts as well.

This amendment will take effect from 1st April, 2020 and will, accordingly, apply in relation to the assessment year 2020-21 and subsequent assessment years.

▪ **Mandatory furnishing of return of income by certain individuals**

Section 139 of the Act will be amended so as to provide that a person shall be mandatorily required to file his return of income, if during the previous year, he-

- has deposited an amount or aggregate of the amounts exceeding one crore rupees in one or more current account maintained with a banking company or a co-operative bank; or
- has incurred expenditure of an amount or aggregate of the amounts exceeding two lakh rupees for himself or any other person for travel to a foreign country; or
- has incurred expenditure of an amount or aggregate of the amounts exceeding one lakh rupees towards consumption of electricity; or
- fulfils such other prescribed conditions, as may be prescribed.

Further a person claiming rollover benefit of exemption from capital gains tax on investment in specified assets like house, bonds, etc, under sections 54, 54B, 54D, 54EC, 54F, 54G, 54GA and 54GB of the Act, shall necessarily be required to furnish a return of income, if before claim of the rollover benefits, his total income is more than the maximum amount not chargeable to tax.

This amendment will take effect from 1st April, 2020 and will, accordingly, apply in relation to the assessment year 2020-21 and subsequent assessment years.

▪ **Inter-changeability of PAN and Aadhaar**

The provisions of section 139A are proposed to be amended so as to provide that,-

- every person who is required to furnish or intimate or quote his PAN under the Act, and who, has not been allotted a PAN but possesses the Aadhaar number, may furnish or intimate or quote his Aadhaar number in lieu of PAN, and such person shall be allotted a PAN in the prescribed manner;
- every person who has been allotted a PAN, and who has linked his Aadhaar number under section 139AA, may furnish or intimate or quote his Aadhaar number in lieu of a PAN.

In order to ensure proper compliance of the provisions relating to quoting and authentication of PAN or Aadhaar, the penalty provision contained in section 272B is proposed to be amended suitably.

This amendment will take effect from 1st September, 2019.

▪ **Consequence of not linking PAN with Aadhaar**

If a person fails to intimate the Aadhaar number, the PAN allotted to such person shall be made inoperative in the prescribed manner.

This amendment will take effect from 1st September, 2019.

▪ **Electronic modes of payment**

Other electronic modes of payment other than account payee cheque, account payee draft or electronic clearing system through a bank account shall be included in the existing permissible modes of payment for the sections 13A, 35AD, 40A, 43CA, 44AD and 80JJAA.

This amendment will take effect from 1st April, 2020 and will, accordingly, apply in relation to the assessment year 2020-21 and subsequent assessment years.

Other electronic modes of payment, other than account payee cheque, account payee draft or electronic clearing system through a bank account, shall be included in the existing permissible modes of payment for the sections 269SS, 269ST and 269T.

This amendment will take effect from 1st September, 2019.

▪ **Scope of Statement of Financial Transactions (SFT)**

In order to enable pre-filling of return of income, it is proposed to obtain information by widening the scope of furnishing of statement of financial transactions by mandating furnishing of statement by certain prescribed persons other than those who are currently furnishing the same. It is also proposed to remove the current threshold of rupees fifty thousand on aggregate value of transactions during a financial year, for furnishing of information, with a view to ensure pre-filling of information relating to small amount of transactions as well. In order to ensure proper compliance, it is also proposed to amend the provisions of sub-section (4) of Section 285BA of the Act so as provide that if the defect in the statement is not rectified within the time specified therein, the provisions of the Act shall apply as if such person had furnished inaccurate information in the statement.

Consequently, it is also proposed to amend the penalty provisions contained in section 271FAA so as to ensure correct furnishing of information in the SFT and widen the scope of penalty to cover all the reporting entities under section 285BA.

These amendments will take effect from 1st day of September, 2019.

▪ **TDS on Cash Withdrawal**

In order to further discourage cash transactions and move towards less cash economy, it is proposed to insert a new section 194N in the Act to provide for levy of TDS at the rate of two per cent on cash payments in excess of one crore rupees in aggregate made during the year, by a banking company or cooperative bank or post office, to any person from an account maintained by the recipient.

This amendment will take effect from 1st September, 2019.

▪ **Mandating acceptance of payments through prescribed electronic modes**

With a view to move towards a less cash economy and to promote digital economy, a new section 269SU will be inserted in the Act to provide that every person, carrying on business, shall, provide facility for accepting payment through the prescribed electronic modes, in addition to the facility for other electronic modes of payment, if any, being provided by such person, if his total sales, turnover or gross receipts in business exceeds fifty crore rupees during the immediately preceding previous year.

In order to ensure compliance of the aforesaid provisions, it is further proposed to insert a new section 27IDB to provide that the failure to provide facility for electronic modes of payment prescribed under section 269SU shall attract penalty of a sum of five thousand rupees, for every day during which such failure continues. However, the penalty shall not be imposed if the person proves that there were good and sufficient reasons for such failure. Any such penalty shall be imposed by the Joint Commissioner.

This amendment will take effect from 1st November, 2019.

▪ **Incentives to Non-Banking Financial Companies (NBFCs)**

It is proposed to amend section 43D of the Act so as to include deposit-taking NBFCs and systemically important non deposit-taking NBFCs within the scope of this section. Consequentially, as per matching principle in taxation, it is proposed to amend section 43B of the Act to provide that any sum payable by the assessee as interest on any loan or advances from a deposit-taking NBFCs and systemically important non deposit-taking NBFCs shall be allowed as deduction if it is actually paid on or before the due date of furnishing the return of income of the relevant previous year.

These amendments will take effect from 1st April, 2020 and will, accordingly, apply in relation to the assessment year 2020-21 and subsequent years.

▪ **Tax Incentive for electric vehicles**

With a view to improve environment and to reduce vehicular pollution, it is proposed to insert a new section 80EEB in the Act so as to provide for a deduction in respect of interest on loan taken for purchase of an electric vehicle from any financial institution up to one lakh fifty thousand rupees subject to the following conditions:

- the loan has been sanctioned by a financial institution including a non-banking financial company during the period beginning on the 1st April, 2019 to 31st March, 2023;
- the assessee does not own any other electric vehicle on the date of sanction of loan.

This amendment will take effect from 1st April, 2020 and will, accordingly, apply in relation to assessment year 2020-2021 and subsequent assessment years.

▪ **Tax incentives for affordable housing**

In order to provide an impetus to the 'Housing for all' objective of the Government and to enable the home buyer to have low-cost funds at his disposal, it is proposed to insert a new section 80EEA in the Act so as to provide a deduction in respect of interest up to one lakh fifty thousand rupees on loan taken for residential house property from any financial institution subject to the following conditions:

- loan has been sanctioned by a financial institution during the period beginning on the 1st April, 2019 to 31st March 2020.
- the stamp duty value of house property does not exceed forty-five lakh rupees;
- assessee does not own any residential house property on the date of sanction of loan.

This amendment will take effect from 1st April, 2020 and will accordingly apply in relation to assessment year 2020-21 and subsequent assessment years.

With a view to align the definition of "affordable housing" under section 80-IBA with the definition under GST Act, it is proposed to amend the said section so as to modify certain conditions regarding the housing project approved on or after 1st day of September, 2019. The modified conditions are as under:

- the assessee shall be eligible for deduction under the section, in respect of a housing project if a residential unit in the housing project have carpet area not exceeding 60 square meter in metropolitan cities or 90 square meter in cities or towns other than metropolitan cities of Bengaluru, Chennai, Delhi National Capital Region (limited to Delhi, Noida, Greater Noida, Ghaziabad, Gurgaon, Faridabad), Hyderabad, Kolkata and Mumbai (whole of Mumbai Metropolitan Region); and
- the stamp duty value of such residential unit in the housing project shall not exceed forty five lakh rupees;

These amendments will take effect from 1st April, 2020 and will, accordingly, apply in relation to assessment year 2020-21 and subsequent assessment years.

▪ **Measures for resolution of distressed companies**

With respect to the carry forward of losses in case of companies where change in shareholding takes place, it has been provided in Section 79 that the provision of this section shall not apply to those companies, and their subsidiary and the subsidiary of such subsidiary, where-

- the National Company Law Tribunal (NCLT) on a petition moved by the Central Government under section 241 of the Companies Act, 2013 has suspended the Board of Directors of such company and has appointed new directors, who are nominated by the Central Government, under section 242 of the Companies Act, 2013: and

- a change in shareholding of such company, and its subsidiaries and the subsidiary of such subsidiary, has taken place in a previous year pursuant to a resolution plan approved by NCLT under section 242 of the Companies Act, 2013, after affording a reasonable opportunity of being heard to the jurisdictional Principal Commissioner or Commissioner.

Further, it is also proposed that under section 115JB of the Act for calculating book profit, the aggregate amount of unabsorbed depreciation and loss (excluding depreciation) brought forward shall also be allowed to be reduced in cases of the above mentioned companies.

This amendment will take effect from 1st April, 2020 and will, accordingly, apply in relation to the assessment year 2020-21 and subsequent assessment years.

▪ **Tax on income distributed to shareholder in case of listed companies**

Section 115QA of the Act provides for the levy of additional Income-tax at the rate of twenty per cent. of the distributed income on account of buy-back of unlisted shares by the company. As additional income-tax has been levied at the level of company, the consequential income arising in the hands of shareholders has been exempted from tax under clause (34A) of section 10 of the Act.

The existing anti abuse provision under Section 115QA of the Act, pertaining to buy-back of shares from shareholders by companies not listed on a recognised stock exchange, is proposed to be extended to all companies including companies listed on recognised stock exchange. Thus, any buy back of shares from a shareholder by a company listed on recognised stock exchange, on or after 5th July 2019, shall also be covered by the provision of section 115QA of the Act. Accordingly, it is also proposed to extend exemption under clause (34A) of section 10 of the Act to shareholders of the listed company on account of buy-back of shares on which additional income -tax has been paid by the company.

These amendments will take effect from 5th July, 2019.

▪ **Cancellation of registration of the Trust or Institution**

Section 12AA of the Act provides for manner of cancellation of registration in case of trust or institution for the purpose of availing exemption of its income under Section 11 of the Act. This section provides that cancellation of registration can be on two grounds:-

- the Principal Commissioner or the Commissioner is satisfied that activities of the exempt entity are not genuine or are not being carried out in accordance with its objects; and

- it is noticed that the activities of the exempt entity are being carried out in a manner that either whole or any part of its income would cease to be exempt .

In order to ensure that the trust or institution do not deviate from their objects, it is proposed to amend section 12AA of the Income-tax Act, so as to provide that,-

- at the time of granting the registration to a trust or institution, the Principal Commissioner or the Commissioner shall, inter alia, also satisfy himself about the compliance of the trust or institution to requirements of any other law which is material for the purpose of achieving its objects;
- where a trust or an institution has been granted registration under clause (b) of sub-section (1) or has obtained registration at any time under section 12A and subsequently it is noticed that the trust or institution has violated requirements of any other law which was material for the purpose of achieving its objects, and the order, direction or decree, by whatever name called, holding that such violation has occurred, has either not been disputed or has attained finality, the Principal Commissioner or Commissioner may, by an order in writing, cancel the registration of such trust or institution after affording a reasonable opportunity of being heard.

These amendments shall be effective from 1st September, 2019.

▪ **Relaxing the provisions of sections 201 and 40 of the Act in case of payments to non-residents**

The first proviso to sub-section (1) of section 201 specifies that the deductor shall not be deemed to be an assessee in default if he fails to deduct tax on a payment made to a resident, if such resident has furnished his return of income under section 139, disclosed such payment for computing his income in his return of income, paid the tax due on the income declared by him in his return of income and furnished an accountant's certificate to this effect.

It is proposed to amend the proviso to sub-section (1) of section 201 to extend the benefit of this proviso to a deductor, even in respect of failure to deduct tax on payment to non-resident. Consequent to this amendment, it is also proposed to amend the proviso to sub-section (1A) of section 201 to provide for levy of interest till the date of filing of return by the non-resident payee (as is the case at present with resident payee).

These amendments shall be effective from 1st September, 2019.

For the same reason, it is also proposed to amend clause (a) of section 40 to provide that where an assessee fails to deduct tax in accordance with the provisions of Chapter XVII-B on any sum paid to a non-resident, but is not deemed to be an assessee in default under the first proviso to sub-section (1) of section 201, then it shall be deemed that the assessee has deducted and paid the tax on such sum on the date of furnishing of the return of income by the payee referred to in that proviso. Thus, there will be no disallowance under section 40 in respect of such payments.

This amendment will take effect from 1st April, 2020 and will, accordingly, apply in relation to the assessment year 2020-21 and subsequent assessment years.

▪ **TDS on non-exempt portion of life insurance pay-out on net basis**

Under section 194DA of the Act, a person is obliged to deduct tax at source, if it pays any sum to a resident under a life insurance policy, which is not exempt under sub-section (10D) of section 10. The present requirement is to deduct tax at the rate of one per cent. of such sum at the time of payment. It is proposed to provide for tax deduction at source at the rate of five per cent. on income component of the sum paid by the person.

This amendment will take effect from 1st September, 2019.

GOODS & SERVICES TAX

- A new alternative composition scheme has been introduced through section 10, for suppliers of service or mixed suppliers. Furthermore it has been clarified that:
 - For the purpose of determining eligibility criteria, computation of aggregate turnover shall not include value of exempt supplies services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount.
 - Computation of turnover in a State or Union Territory, for the purpose of computing tax payable, shall not include value of exempt supplies of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount; and value of the first supplies from 1st of April till the date when the taxpayer becomes liable for registration.
- Section 22 has been amended to increase the exemption threshold to such amount not exceeding Rs. 40 lakhs for suppliers engaged in exclusive supply of goods.
- Composition taxpayers to furnish annual return along with quarterly payment of taxes whereas other specified taxpayers may be given the option for quarterly or monthly furnishing of returns and payment of taxes under the proposed new return system.
- New proviso in sub-sections (1) is being inserted in section 50 of the CGST Act so as to provide for charging interest only on the net cash tax liability, except in those cases where returns are filed subsequent to initiation of any proceedings under section 73 or 74 of the CGST Act.
- A new section 53A is being inserted in the CGST Act so as to provide for transfer of amount between Centre and States consequential to amendment in section 49 of the CGST Act allowing transfer of an amount from one head to another head in the electronic cash ledger of the registered person.

EXCISE & SERVICE TAX

Sabka Vishwas Legacy Dispute Resolution Scheme

A dispute resolution cum amnesty scheme called the Sabka Vishwas Legacy Dispute Resolution Scheme is being introduced for resolution and settlement of legacy cases of Central Excise and Service Tax.

THANK YOU

JAIN SARAOGI & CO.
CHARTERED ACCOUNTANTS

1 Crooked Lane, Kolkata (West Bengal) 700069
Ph : +91-33-22485099/4130 | M: +91-9836184131
Branches : Ranchi (Jharkhand) & Guwahati (Assam)
Email : info@jainsaraogi.com | Website : www.jainsaraogi.com

Disclaimer:

This document has been prepared solely for information purposes and does not constitute a solicitation to any class of persons to act on the basis of opinions expressed in this publication. The information contained herein is subject to change without prior notice with the change in regulations. While every effort has been made to ensure the accuracy and completeness of information contained in this document, we assume no responsibility for any errors or omissions of information. This document is for private circulation only intended for clients of Jain Saraogi & Co.