

NEWS FLASH:

Finance Bill 2020 was tabled before the Parliament by the Finance Minister on 1st February 2020. As envisaged about the likelihood of changes to the provisions of the Finance Bill (refer Budget 2020 publication of Shanker and Kapani), during the passage of the Finance Bill at the Parliament, we note that the Finance Bill 2020 finally passed, on 23rd March 2020, by the Parliament has substituted/deleted few of the provisions tabled on 1 February 2020.

This publication would summarise few of the important amendments to the Income Tax Act arising from the said approved Bill on 23 March 2020.

Sr. No.	Subject of the Amendment	Existing Provisions of Income Tax Act as applicable to Assessment Year 2019-20	Proposal vide Finance Bill tabled on 1 st February 2020	Proposal vide Finance Bill approved on 23 rd March 2020
1	Residential Status	<p>Section 6(1) lays down conditions wherein an individual shall be considered to be resident in India in a financial year.</p> <p>Sub-clause (c) of clause (1) provides that an individual shall be a resident in India in the previous year if</p> <ul style="list-style-type: none"> a) He has been in India for a period of 365 days or more within 4 years preceding that previous year; and b) He is in India for a period 60 days or more in that financial year. <p>Explanation 1(b) to the afore-stated clause provides an exception for an individual – who is citizen of India or a person of Indian origin and who comes on a visit to India, by substituting the ‘182 days’ with ‘60 days’.</p>	<p>It was proposed to amend the exception to reduce the number of days to 120 days instead of the existing 182 days for such individuals.</p>	<p>The Act has been amended to provide that an individual – who is citizen of India or a person of Indian origin and who comes on a visit to India for 120 days shall be deemed to be resident only if the total income (excluding income from source outside India) of such resident exceeds INR 15 Lakh.</p>

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		<p>Section 6(6) provides for conditions in which a person shall be considered to be resident but “Not ordinarily resident” in India. Sub - clause (a) therein provides that an individual who has been non-resident in 9 out of 10 previous years preceding that year or he has been in India for 729 days or less during the 7 previous years preceding that year, shall be “not ordinarily resident” in India.</p>	<p>It was also proposed to amend clause (6) of Section 6 to relax the said conditions whereby an individual or the manager of HUF has been non-resident in India in 7 out of 10 previous years preceding that year to be “not ordinarily resident” in that year.</p> <p>Further, a new clause (1A) was proposed to be inserted to provide that irrespective of conditions given in Section 6(1), an Indian citizen who is not liable to tax in any other country or territory by reason of his domicile or residence or any other criteria of similar nature shall be deemed to be resident in India.</p>	<p>Proposal to amend Section 6(6) has been withdrawn and existing provisions of the Act shall continue.</p> <p>New clause (1A) has been inserted wherein an Indian citizen who is not liable to tax in any other country or territory by reason of his domicile or residence or any other criteria of similar nature shall be deemed to be resident in India only if the total income (excluding income from source outside India) of such resident exceeds INR 15 Lakh.</p> <p>It has also been clarified that a citizen of India or a person of Indian origin deemed to be a resident by getting covered under the above conditions shall be treated as ‘Not ordinarily resident’</p>
2	Dividend	<p>Section 115-O provides for levy of additional income tax at the rate of 15% plus surcharge and cess on any amount declared, distributed or paid by a domestic company by way of</p>	<p>It was proposed that no Dividend Distribution Tax shall be paid on the dividend declared, distributed or paid after 31st March 2020.</p>	<p>The Act has now been amended to provide relief to taxpayers wherein dividend declared before 31st March 2020 but paid on or after 1st April 2020 on which DDT had been paid shall not be subject to tax.</p>

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		<p>dividend, whether out of current or accumulated profits.</p> <p>Section 10(34) prescribed that income by way of dividends referred to in section 115-O shall not form part of total income</p>	<p>Consequential amendment had been proposed was proposed to withdraw exemption under section 10(34) on dividend income received on or after 1st April 2020 from domestic companies.</p> <p>New Section 80M was proposed to be introduced to allow deduction of dividend income received by one company from another domestic company if the said dividend is distributed by it to another domestic company one month prior the due date of filing return of income.</p> <p>Section 195 was proposed to be amended to provide for deduction of tax at source on dividends paid to non-resident</p>	<p>The Act has now been amended to allow deduction to domestic company in respect of dividends received by it from Foreign Company or a business trust.</p> <p>First Schedule has been amended to provide deduction of tax at source on dividends paid to non-resident at the rate of 20% subject to relevant DTAA provisions.</p>

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3	Exemption in respect of certain income of wholly owned subsidiary of Abu Dhabi Investment Authority and Sovereign Wealth Fund (specified persons)		A new section 10(23FE), was proposed to be introduced whereby it would provide exclusion from total income, any dividend, interest or long-term capital gains income of a specified persons arising from an investment made in India, in the form of debt or equity, in a company or enterprise carrying on the business of developing, or operating and maintaining, or developing, operating and maintaining any infrastructure facility as defined in the Explanation to clause (i) of sub-section (4) of section 80-IA or such other business as the Central Government may, by notification in the Official Gazette.	<p>The exemption as granted to specified persons has now also been extended to pension funds (meeting with certain criteria).</p> <p>The Act has been amended to provide exemption for investment in REIT and InvIT and Category-I and Category-II AIF having 100% investment in one or more company or enterprise engaged in specified infrastructure facilities and other businesses to be notified.</p>
4	Equalisation Levy	<p>As per Section 165, an equalisation levy at the rate of six per cent shall be charged on the amount of consideration for any specified service received or receivable by a person, being a non-resident from</p> <ul style="list-style-type: none"> (i) a person resident in India and carrying on business or profession; or (ii) a non-resident having a permanent establishment in India. <p>Where the amount exceeds INR 1 lakh and such services are provided by the PE in India and used in the business or profession of the assessee.</p>		<p>The Act has been amended to charge 2% of the amount of consideration received by the e- commerce operator for supply or services rendered or facilitation of supply or service</p> <ul style="list-style-type: none"> – to a person resident in India; or – to a non-resident for sale of data collected from a person resident in India; or – to a person who buys goods or services through an IP address located in India.

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				<p>The levy shall not be applicable where the e-commerce operator has PE in India and such supply of e-commerce services is effectively connected to such PE or where the sales, turnover or gross receipts of the e-commerce operator from such e-commerce supply is less than INR 2 Cr during a financial year.</p> <p>The levy of 2% shall also not be applicable to online advertisements and provision of digital advertising space which are covered separately.</p>
5	Applicability of TDS on E Commerce transaction (Section 194O)		<p>In case of credit of any amount by E Commerce Operator to E Commerce participants in respect of sale of Goods / provision of services facilitated through its platform, E Commerce Operator is required to deduct tax at source @ 1%.</p> <p>However in case E Commerce participant being Individual / HUF, E Commerce Operator is required to deduct tax at source when amount of credit is exceeding Rs. 5,00,000/- or aggregate of amounts of credit during the financial year is exceeding Rs. 5,00,000/- and PAN is furnished by E Commerce participant.</p> <p>As per proposed budget E Commerce</p>	<p>In Finance Bill 2020 there is no amendment regarding the applicability criteria. However following amendments has been made:</p> <ol style="list-style-type: none"> 1) Provision of Section 194O will be applicable from the 1st October, 2020 instead of 1st April, 2020. 2) The term E Commerce Operator has been amended along with the introduction of a specific sub-section to clarify who would be responsible for paying. As per said amendment E Commerce Operator means a Non Resident who owns, operates or manages digital or electronic facility or

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			<p>Operator means – Any person who owns, operates or manages digital or electronic facility or platform for electronic commerce and is a person responsible for paying to E-Commerce Participants</p> <p>This provision will be applicable from 1st April, 2020.</p>	<p>platform for inline sale of goods or online provision of services or both.</p> <p>3) Further provisions have been brought to grant power to the Central Government to issue guidelines for removing the difficulties in implementation.</p>
6	Insertion of New Section 194N	<p>In case of cash withdrawal of an amount or aggregate of amounts during the previous year, in excess of Rs. 1,00,00,000/- by any recipient from Banking Company / Banking Institution / Co-Operative Society Engaged in Banking business / post, such Banking Company / Banking Institution / Co-Operative Society Engaged in Banking business / post office is liable to deduct tax at source @ 2%.</p> <p>However this section will not apply to cash withdrawals made by Government, Banking company, Co-operative society engaged in Banking business, Business correspondent/White label automated teller Machine operator of such Banking company or Co-operative society.</p>		<p>Newly inserted Section 194N is replacing the old provision and will be applicable from 1st July, 2020 and are stated as below:</p> <p>In case of cash withdrawal of an amount or aggregate of amounts during the previous year, in excess of Rs. 1,00,00,000/- by any recipient from Banking Company / Banking Institution / Co-Operative Society Engaged in Banking business / post, such Banking Company / Banking Institution / Co-Operative Society Engaged in Banking business / post office is liable to deduct tax at source @ 2%.</p> <p>However in case recipient has not filed return of income for all of the three assessment years immediately preceding the previous year of such withdrawal, then the applicable TDS rates will be as follows:</p>

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				<p>1) Amount of cash withdrawal exceeding Rs. 20 Lakhs but upto Rs. 1 Cr. @ 2% of the entire sum.</p> <p>2) Amount of cash withdrawal exceeding Rs. 1 Cr. @ 5% of entire sum.</p> <p>However this provision will not apply to cash withdrawals made by Government, Banking company, Co-operative society engaged in Banking business, Business correspondent/White label automated teller Machine operator of such Banking company or Co-operative society.</p>
7	Concessional withholding regime for royalty payment (Section 194J)	Any person responsible for paying any fees for professional services or technical services including payment for royalty is required to deduct the tax at source @ 10%.	<p>Any person responsible for paying any professional fees is required to deduct tax at source @ 10%.</p> <p>However where any person is responsible for paying any technical fees (other than professional services) is required to deduct the tax at source @ 2%.</p>	<p>Any person responsible for paying any professional fees is required to deduct tax at source @ 10%.</p> <p>However where any person is responsible for paying any technical fees (other than professional services) including royalty where such royalty is in nature of consideration or exhibition of cinematographic films, is required to deduct tax at source @ 2%.</p>
8	Tax Collection at Source (TCS) in respect of remittance under Liberalized		It is proposed that with effect from 1 st April, 2020, TCS at prescribed rates would apply on followings:	It is proposed that with effect from 1 st October, 2020, TCS at prescribed rates would apply on followings:

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	Remittance Scheme (LRS), Sale of Goods by certain Seller and Sale of overseas tour package (Section 206C)		<ol style="list-style-type: none"> 1) On remittance overseas under Liberalized Remittance Scheme (LRS) exceeding Rs. 7,00,000/- in a financial year @ 5% 2) On sale of overseas tour program package @ 5% 3) On sale of goods exceeding Rs. 50,00,000/- by seller whose turnover / gross receipts exceeds Rs. 10,00,00,000- @ 0.1% 	<ol style="list-style-type: none"> 1) On remittance overseas under Liberalized Remittance Scheme (LRS) exceeding Rs. 7,00,000/- in a financial year @ 5% <p>However the above threshold limit of Rs. 7,00,000/- will not be applicable if the amount is being remitted for purchase of overseas tour program package. Further the above rate of 5% will be reduced to 0.5% if remittance is out of loan obtained from a financial institution (as defined in Section 80E of the Act) for the pursuing any education.</p> <ol style="list-style-type: none"> 2) On sale of overseas tour program package @ 5% 3) On sale of goods exceeding Rs. 50,00,000/- by seller whose turnover / gross receipts exceeds Rs. 10,00,00,000- @ 0.1% <p>The exclusions to applicability of TCS on sale of goods has been amended to payments made for goods which have been exported out of India. Further the exclusion to the definition of buyer has been amended to also include persons importing goods into India. Further a new sub section has been inserted stating that if any difficulty arises</p>

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				in giving effect to the provisions of the section, the Central Board of Direct Taxes may with the approval of central Government issue guidelines for removing such difficulty.
9	Withholding of taxes on Dividends	The amount of dividend if exceeds Rs. 2,500 during the FY, TDS @ 10%	The amount of dividend exceeds Rs. 5,000 during the FY, TDS @ 10%	The amount of dividend does not exceed Rs.5,000 during the FY, TDS @ 10%
10	Surcharge on Dividend Income to non-residents individuals	The surcharge rate is 10% (If Income not exceeding 1 Cr), 15% (If Income not exceeding 2 Cr), 25% (If Income not exceeding 5 Cr) and 37% (If Income exceeding 5 Cr)	The surcharge rate is 10% (If Income not exceeding 1 Cr), 15% (If Income not exceeding 2 Cr), 25% (If Income not exceeding 5 Cr) and 37% (If Income exceeding 5 Cr)	Subject to maximum surcharge of 15%
11	No Deduction in certain cases			Provision for non-deduction of tax or deduction of tax at a lower rate from such person or class of persons, including institution, association or body or class of institutions, associations or bodies as may be notified by the Central Government in official gazette
12	Exemption to business trust from SPVs	Dividend income received by Business trust i.e. REITs & Invits from SPVs is exempt.	It is proposed to amend the said clause so as to exempt all dividend received or receivable by business trust from a special purpose vehicle under the said clause.	The exemption shall be available only if the SPVs who are declaring or distributing dividend has not adopted the beneficial corporate tax rate under section 115BAA of income tax act.
12	Change in the meaning of safe harbour	The determination of arm's length price shall be subject to safe harbour rules	It is proposed to amend sub-section 1 in section 92CB to include determination of attribution of profit to the permanent	A new explanation has been inserted to provide the meaning of 'transfer price' as 'the transfer price or income, deemed to

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			establishment of a non-resident under Section 9(1)(i) within the scope of Safe Harbour Rules in addition to determination of the arm's length price under section 92C or 92CA.	accrue or arise under the clause (i) of sub-section (1) of section 9, as the case may be, declared by the assessee.

DISCLAIMER

For private circulation and for internal use. This document summarizes key provisions contained in the Finance Minister Speech and Finance Bill presented in Lok Sabha on 23rd March 2020. Certain policy announcement and changes to the statute carried out by the Finance Minister in the recent past is not brought out in this document. Information is being made available at this document purely for the benefit of the readers. Whilst every care has been taken in the preparation of this document, it may contain errors for which we should not be held responsible. It must be stressed that the Finance Bill may contain proposals which have not been referred to in the budget speech and additionally, the detailed proposal are liable to amendment during the passage of the Finance Bill through Parliament. The information given in this document provides a bird's - eye view on the changes proposed and should not be relied for the purpose of economic or financial decisions. Each such decision would call for specific reference of the relevant statutes and consultation of an expert.

SHANKER AND KAPANI.

CHARTERED ACCOUNTANTS

NTC House, 2nd Floor,
15, N.M.Marg, Ballard Estate,
Mumbai - 400 001.

E-mail :- jayesh.kapani@shankerkapani.in

:- kapani@gmail.com

Website :- www.shankerkapani.in

Tel No. :- +91-22-61589700/22695719   