Union Budget 2020-21

Rebuilding momentum

pwc

Contents

Foreword

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Mercurial micro and macro factors, geopolitical uncertainty coupled with a recent slowdown, are impacting the Indian economy. The one universal expectation of various stakeholders from the Government has been a rational yet rapid resolution to their financial woes. In such a scenario, Budget 2020 was widely anticipated to provide a reasonable resolution to the fickle Indian economic outlook.

The Finance Minister in her marathon budget speech focused on the trinity of aspirational India, economic development and caring society. She has attempted to touch upon various issues contributing to the ease of living and in this context, the financial sector finds a special mention. A sound financial sector and corruption free, good governance have been identified as prerequisites for attaining the goals stated in the budget speech.

For the financial services sector (which include foreign and domestic funds), the thrust of the Budget is understandably and expectedly on infrastructure, foreign investments, NBFCs, and the real estate sector. To provide impetus to infrastructure development, the investment income of specified sovereign wealth funds from investments in qualifying infrastructure entities is proposed to be exempted from tax. The extension of lower withholding tax rate of 5% for interest income from external commercial borrowings/ rupee-denominated bonds and on specified bonds issued to FPIs was an expected move. The proposed measures, such as increase in limit for FPI investment in corporate bonds, floating of debt-ETF consisting primarily of Government securities, etc., will also boost the debt investment regime. The NBFC sector, which is reeling under a crippling liquidity crunch, has received appropriate policy and regulatory attention.

Similarly, the nascent IFSC continues to garner support from the Government; it is proposed to set up an International Bullion exchange in GIFT IFSC to cater to global market participants. The carry forward of tax losses is proposed to be permitted in case of amalgamation of public sector banks or public sector general insurance companies. Certain onerous safe harbour rules for Indian investment managers managing offshore funds have been relaxed. In real estate sector, an extension of time limit is proposed for tax incentives for the affordable housing sector and increase in safe harbour limit for real estate transactions below stamp duty reckoner value. The much talked about abolishment of DDT is conducive for foreign investors but a mixed bag feeling for domestic shareholders, who are now taxable with restrictions on allowable deductions.

Overall, the plethora of policy proposals, regulatory announcements and tax amendments impacting the entire gamut of the financial services sector demonstrate the Government's intent to build, boost and bolster this sector, which is critical to the Indian growth story.

Section 1

Economic performance

Economic performance

Global economy

- Global output estimated to grow at 2.9% as compared to 3.6% in 2018
- Trade tensions (although stabilising) between China and the USA contributing to decline in world trade and output
- Global inflation remained muted in 2019

Indian economy

- India jumped 79 positions to rank 63 in 2019, from 142 in 2014, in the World Bank's "Doing Business" rankings, propelled by GST and IBC reforms
- India's GDP growth moderated to 4.8% in H1 of 2019-20 compared to 6.2% in H2 of 2018-19
- Current Account Deficit narrowed to 1.5% of GDP in H1 of 2019-20 from 2.1% in 2018-19
- Headline inflation increased from 3.3% in H1 of 2019-20 to 7.35% in December 2019 due to temporary increase in food inflation, which is expected to decline by year end
- Gross Tax Revenue for 2019-20 estimated to be US$350bn. Growth of 9.5% over the same period last year (RE)
- 17.2% divestment proceeds raised of targeted divestment proceeds of US$15bn
- External debt remains low at 20% of GDP
- Foreign exchange reserves stands at US$461bn as on 10 January 2020
- Capacity utilisation of manufacturing sector remains stable at 73.6% in Q1 of 2019-20

Outlook

- India's economy to become the fifth largest in the world measured by GDP
- India's real GDP growth expected between 6% to 6.5% in 2020-21 as compared to 5.8% growth projected by the International Monetary Fund and World Bank
- Counter-cyclical fiscal policy may have to be adopted to create additional fiscal headroom

Source: Economic Survey 2019-20 retrieved from https://www.indiabudget.gov.in/economicsurvey/

Economic performance

Capital markets

- US$10.55bn (PY US$6.34bn) raised from primary market during April - December 2019
- FDI of US$21.3bn raised in the first six months of 2019-20
- Net FPI inflows in the first eight months of 2019-20 stood at US$12.6bn

Asset management

- Net inflow of US$27.14bn (PY US$11.42bn) in mutual funds industry during April to December 2019
- Net AUM of all mutual funds increased by 18.4% (YoY) to US$375bn at the end of December 2019
- Target to develop offshore fund management industry to boost financial services exports

Banking sector

- Capital to risk-weighted asset ratio of SCBs increased from 14.3% to 15.1% between March 2019 and September 2019
- Bank credit growth (YoY) moderated from 12.9% in April 2019 to 7.1% as on 20 December 2019.
- NBFCs credit growth (YoY) declined from 27.6% in September 2018 to 9.9% as on 30 September 2019
- Gross NPA ratio for SCBs remains unchanged at 9.3% between March and September 2019
- Gross NPA ratio increased slightly for NBFCs, from 6.1% in March 2019 to 6.3% in September 2019

Infrastructure sector

- Infrastructure projects worth US$1.4tn to be created over the next five years
- Target to set up 100GW solar power projects, which is estimated to cost US$86bn
- India is the second largest Emerging Green Bond Market after China
- 100 more airports to be made operational by FY 2023-24
- Pace of road construction has moderated to 12.7 km per day as on 30 September 2019 from 29.65 km per day in 2018-19

Housing sector

- 10.3m houses approved under PMAY(U) Scheme, of which 3.2m houses already delivered
- ECB guidelines to be relaxed to facilitate financing of home buyers eligible under PMAY

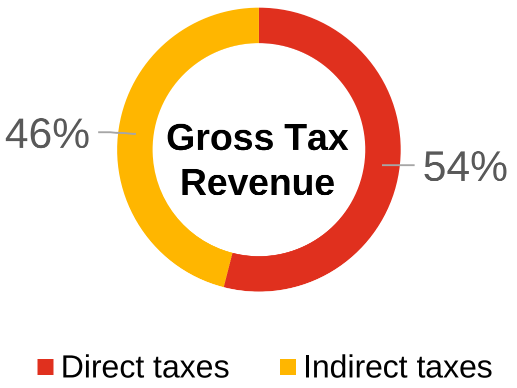
Logistics sector

- India ranks 44th globally, as per the World Bank's Logistics Performance Index in 2018
- Logistics sector expected to touch US$215bn by 2020 (currently estimated at US$160bn)
- Logistics sector is expected to be the largest job creator by 2022

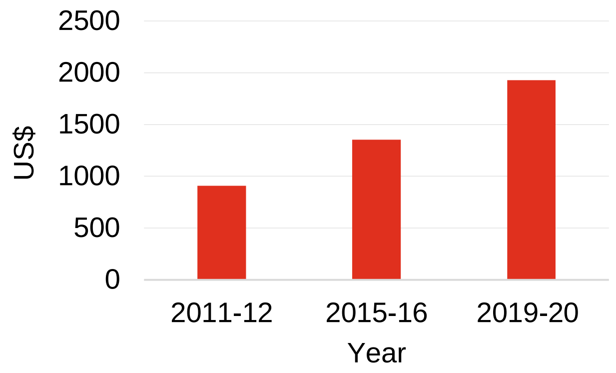
Source: Economic Survey 2019-20 retrieved from https://www.indiabudget.gov.in/economicsurvey/

Key economic indicators

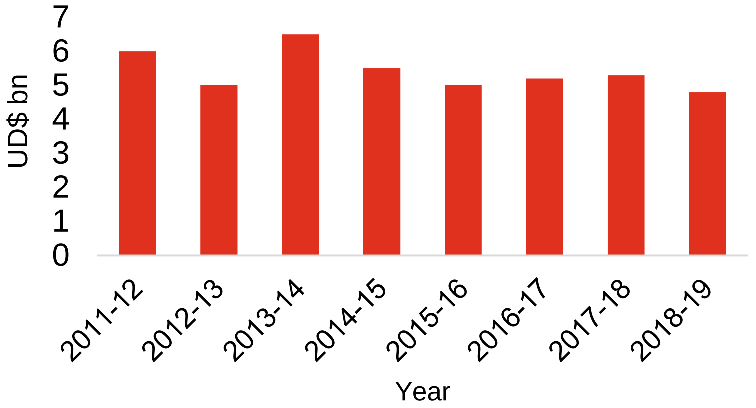
Composition of taxes in Gross Tax Revenue in 2019-20



Per capita net national income at current prices



India's Financial Services Exports



Road Length Awarded and Constructed (Length in km)

Particulars	2015-16	2016-17	2017-18	2018-19	2019-20 (H1)
Award of NHs/ Road projects	10,098	15,948	17,054	5,494	2,103
Construction of NHs/ Roads	6,061	8,231	9,829	10,855	4,622
Road construction per day	17	23	27	29.65	12.7

Smart Cities Mission: Major achievements (as on 14 November 2019)

Smart Command & Control Centres
26 cities — US$591m

Vibrant Public Spaces
44 projects — US$109m

Public private partnership (PPP)
82 projects — US$529m

Smart water
51 projects — US$305m

Smart Roads
127 projects — US$255m

Smart solar
39 projects — US$29m

Source: Economic Survey 2019-20 retrieved from https://www.indiabudget.gov.in/economicsurvey/

Key economic indicators

Sector-wise breakup of the total cases admitted by NCLT for CIRP during the quarter

Sector	April-Jun 2019	July-Sep 2019	Oct-Dec 2019
Extraterritorial organisations and bodies	1	4	3
Agriculture, Hunting and Forestry	9	18	15
Construction	28	64	65
Education	2	1	2
Electricity, Gas and Water Supply	7	23	22
Financial Intermediation	4	6	5
Health and Social Work	3	5	9
Hotels and Restaurants	8	12	12
Manufacturing	125	208	232
Mining and Quarrying	2	5	5
Other Community, Social and Personal Service Activities	4	5	7
Others	4	8	8
Real Estate, Renting and Business Activities	62	125	109
Transport, Storage and Communications	8	22	12
Wholesale and Retail Trade; Repair of Motor Vehicles, Motorcycles and Personal and Household Goods	33	59	55
Fishing	0	0	1
Grand Total	**300**	**565**	**562**

NPAs of SCBs recovered through various channels in FY 2018-19 (Provisional)

US$ bn

Recovery Channel	Amount involved	Amount recovered	Amount recovered (in %)
Lok Adalats	7.64	0.40	5.3
DRTs	43.78	1.51	3.5
SARFAESI Act	41.29	5.98	14.5
IBC	23.80	10.11	42.5
Total	**116.51**	**18.00**	**15.5**

Size of India's Domestic Fund Management Industry and Offshore Funds

US$ bn

Domestic Funds	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19
AUM of AMCs	129	137	173	186	271	328	344
Assets Managed By Portfolio Managers*	12	14	19	21	29	38	41
AUM of AIFs	0.3	2	4	6	13	25	41
FPI Funds	**2012**	**2013**	**2014**	**2015**	**2016**	**2017**	**2018**
AUM of FPIs	243	237	356	351	346	514	451
AUM of India-Focused FPI Offshore Funds**	21	17	23	24	22	31	N.A.

* Includes non-EPFO/PFs discretionary assets and non-discretionary assets
** Estimates would be higher if AUM for regional/global diversified FPI offshore funds with partial investment allocation to India are included

Source: Economic Survey 2019-20 retrieved from https://www.indiabudget.gov.in/economicsurvey/

Section 2

Budget highlights

Budget highlights

Key direct tax proposals

Overseas transfer*

- Currently, overseas transfer provisions do not apply to transfer of investments in a category I or category II FPI under the 2014 SEBI FPI Regulations
- In view of the new FPI regulations announced in 2019 in supersession of erstwhile FPI regulations, it is now proposed to amend the overseas transfer provisions to restrict the exemption to transfer of investments in a category I FPI under 2019 SEBI FPI Regulations
- Investment in category I and category II FPI under 2014 SEBI FPI Regulations are proposed to be grandfathered, provided such investments were made before 23 September 2019

DDT Abolished

- Domestic companies no longer liable to pay DDT (which was paid at an effective rate of ~20.56%, including surcharge and cess) on dividends distributed
- Such dividends are now proposed to be taxed directly in the hands of the shareholder at the following rates:
  - For residents - Based on applicable tax rates
  - For non-residents - 20% (subject to treaty provisions, if applicable)
- Additional 10% tax on dividends exceeding INR 1m received by specified persons proposed to be deleted
- Company required to withhold taxes at the following rates:
  - For residents: 10% (where dividend exceeds INR 5,000)
  - For non-residents: 20% (subject to treaty provisions, if applicable)
- No deduction for expenses allowed against dividend income, other than interest expenditure, which is capped at 20% of such dividend income
- Cascading effect proposed to be removed where dividend received by a domestic company from another domestic company is distributed before the specified due date (i.e. one month prior to the date of filing the tax return)
  - Dividends received from foreign company subject to cascading effect
- Dividends on ADR/ GDR proposed to be taxed at a reduced rate of 10%

Point of view

With the return to the classical system of taxation of dividends, which is in line with global practice, the Government has accepted a key demand from industry. This would allow international investors to claim credit for taxes paid on dividends, increasing the tax efficiency of their investment structures.

At the same time, as far as domestic investors are concerned the impact of the proposed regime would depend on their specific tax situation and in some cases could result in an increased tax burden. Considering, the Government’s intent to simplify and streamline the tax law, the buy-back distribution tax regime could also have been calibrated in line with the changes in taxation of dividend.

*Proposed amendments to take effect from FY 2019-20

Budget highlights

Key policy announcements

Warehousing and cold storage

- Viability gap funding to be provided for setting up efficient warehouses on PPP basis
- “Kisan Rail” - a seamless national cold supply chain to be set up by Indian Railways on PPP basis

Healthcare

- Viability gap funding window to be provided for setting up hospitals on PPP basis
- Proposal to attach a medical college to existing district hospitals on PPP basis

Power

- Farmers may be able to contribute to solar power generation by utilising barren lands
- Proposal to set up a large solar power capacity alongside the rail tracks, on the land owned by the railways

Transportation

- Development of 2,500 km access control highways, 9,000 km of economic corridors, 2,000 km of coastal and land port roads and 2,000 km of strategic highways to be undertaken
- At least 12 lots of highway bundles of over 6,000 km to be monetised before 2024
- At least one major port to be corporatised and listed on stock exchanges
- Over 100 airports to be developed by 2024 to support Udaan scheme

Other proposals

- Proposal to develop five new smart cities on PPP basis
- Proposal to expand the national gas grid from the present 16,200 km to 27,000 km
- Policy to enable private sector to build Data Centre parks to be rolled out soon

Budget highlights

Private equity and VC	Real estate and Infrastructure	International Financial Service Center	Banking, NBFC and capital markets	Insurance and asset management	Start-ups/ E-commerce	Other tax proposals

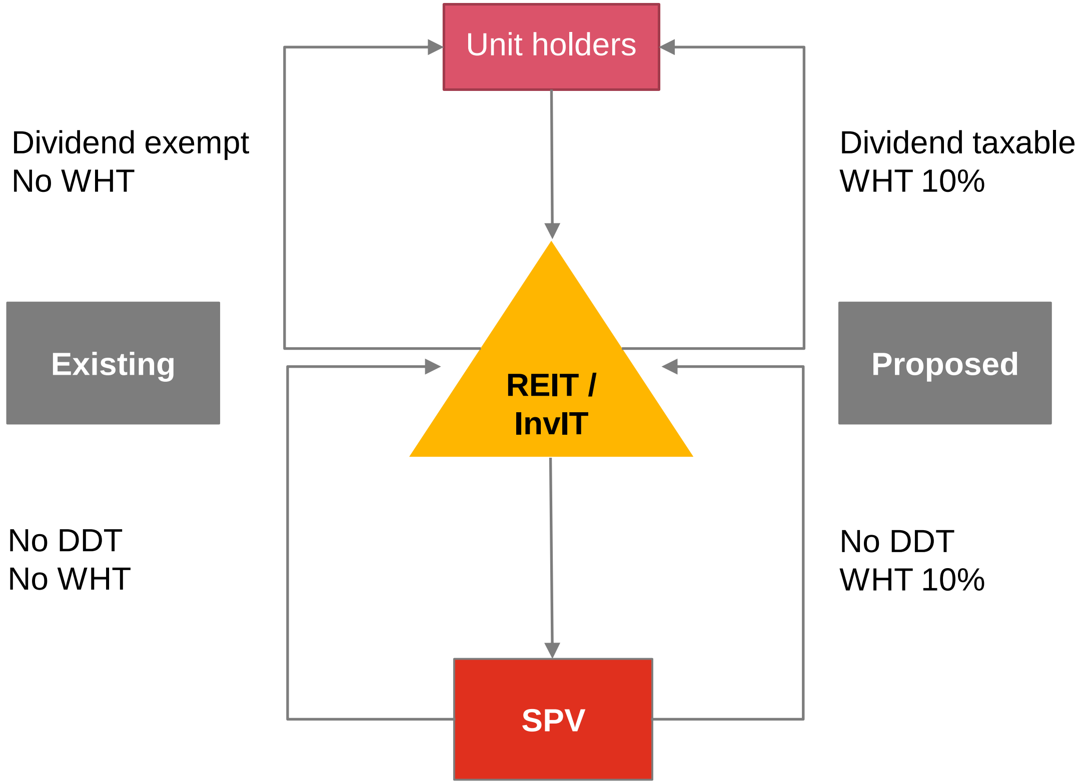
Key direct tax proposals

REITs/ InvITs

- Dividends from SPVs exempt in the hands of REITs / InvITs
  - On account of abolishment of DDT regime, WHT at 10% applicable at SPV level on such dividends
- Dividend distributed to unitholders taxed at applicable rates. WHT at 10% proposed on such dividends distributed by REITs/ InvITs
  - Non-residents taxed on dividend at the rate of 20% - additional taxes to be discharged (subject to treaty provisions)
- The beneficial tax regime, currently covering listed InvITs, now proposed to be extended to unlisted InvITs

Affordable housing

- Time limit for approval of affordable housing projects, eligible for tax holiday, extended to 31 March 2021
- Interest on loans (upto INR 0.15m) for affordable houses sanctioned on or before 31 March 2021 eligible for deduction



Budget highlights

Key direct tax proposals

Transactions involving immovable property

- Deemed consideration provisions for taxation of income on transfer of immovable properties not to apply if the stamp duty value of the immovable property does not exceed the transaction value by more than 10% (currently, 5%) of the transaction value
  - Similar proposal for deemed income in the hands of recipient of immovable properties
- For determining the cost of acquisition in case of capital assets being land or building (acquired prior to 1 April 2001), the FMV of such an asset as on 1 April 2001 is proposed to be restricted to the stamp duty value as on 1 April 2001

Infrastructure*

- Concessional rate of 15%, available to newly incorporated manufacturing companies, now extended to companies engaged in the generation of electricity

Tax exemption for Sovereign Wealth Fund (SWFs)

- Tax exemption proposed for notified SWFs (including wholly owned subsidiary of ADIA) fulfilling certain conditions, for dividends, interest and long-term capital gains arising from a debt or equity investment made in India, if such investment is:
  - made on or before 31 March 2024;
  - held for at least three years; and
  - in a company which is engaged in specified infrastructure business or such other business as may be prescribed

Other changes

- For specified business, taxpayers can exercise an option to claim 100% deduction of the capital expenditure incurred or claim depreciation
  - taxpayers claiming depreciation may also be able to opt for concessional corporate tax regime

Point of view

The Infrastructure sector will get a boost from investments by SWFs with the exemption. This should also provide an impetus to the planned monetisation of road and port assets.

Policy announcements in real estate are in line with the overall global market dynamics. Creation of new smart cities, ‘study in India’, development of data centres and modernisation of railway stations are likely to keep the sector upbeat over a medium to long term. On account of the DDT abolishment, REIT / InvIT yields are likely to be impacted negatively. Further, for SWFs tax exemption to be more impactful, investments by SWFs in investment vehicles such as InvITs, AIFs, etc. should also have been covered.

*Proposed amendment to take effect from FY 2019-20

Budget highlights

Private equity and VC	Real estate and Infrastructure	International Financial Service Center	Banking, NBFC and capital markets	Insurance and asset management	Start-ups/ E-commerce	Other tax proposals

Key policy announcement

- It is proposed to set up an international bullion exchange in GIFT-IFSC for trading by global market participants, leading to better price discovery for gold, creation of jobs in India and enhancing India's position worldwide

Key direct tax proposals

- Interest payable by an Indian company or a business trust on monies borrowed by it from a source outside India by issue of long-term bonds or rupee-denominated bonds listed only on a recognised stock exchange in IFSC proposed to be subject to WHT at the rate of 4%, subject to the following conditions:
  - Such bond is issued between 1 April 2020 and 30 June 2023, and
  - The interest does not exceed the interest rate prescribed by the Central Government

Other

- Exemption from stamp duty proposed in respect of instruments transacted in stock exchanges and depositories established in IFSC

Point of view

The Central Government and the RBI have undertaken a series of measures to encourage the growth of IFSC, including recent steps such as operationalising the trading of INR based derivatives in the IFSC. As mentioned by the Finance Minister, IFSC has the potential to become a centre of international finance and a hub for high-end data processing.

Budget highlights

Private equity and VC	Real estate and Infrastructure	International Financial Service Center	Banking, NBFC and capital markets	Insurance and asset management	Start-ups/ E-commerce	Other tax proposals

Key Policy announcements

- Certain categories of Government securities (to be specified) proposed to be opened up for non-resident investors
- The aggregate limit of FPI investments in corporate bonds proposed to be increased from 9% to 15% of the total issued Indian corporate debt
- Proposal to float a new debt-ETF consisting primarily of Government securities to enable retail participation
- Proposal to formulate a legislation to establish a mechanism for netting financial contracts, intended to improve investors confidence and expand the scope of CDS
- NABARD refinance scheme to be extended to NBFCs and cooperatives providing agricultural credit
- Scheme to be introduced for banks to provide subordinate debt/ quasi equity to MSMEs to address working capital requirements. This would be fully guaranteed through the Credit Guarantee Trust for Medium and Small Entrepreneurs
- New scheme of INR 10bn to boost exports by mid-size companies in certain sectors to be anchored by EXIM Bank together with SIDBI
- SARFAESI Act coverage proposed to be widened to include NBFCs with asset size of INR 1bn (currently, INR 5bn) or more; and for secured loans having outstanding principal amount of INR 5m (currently, INR 10m) or more
- The Government will devise a mechanism to offer liquidity support to the NBFC sector including guaranteeing of securities
- Factoring Regulation Act, 2011 proposed to be amended to enable all NBFCs to provide invoice financing facilities to MSMEs through TReDS
- App-based invoice financing loan product to be launched for MSMEs to address the problem of delayed payments and consequential cash flow mismatches

Budget highlights

Key direct tax proposals

- Relaxation from applicability of quasi thin capitalisation norms to be provided with respect to interest expenses on borrowings from a PE (branch) of a foreign bank in India
- Concessional WHT rate of 5% for interest on eligible ECB to be extended for such ECB raised before 1 July 2023 (currently, 1 July 2020)
- Concessional WHT rate of 5% on interest payable to FPIs on specified rupee-denominated bonds to be extended to interest payable before 1 July 2023 (currently, 1 July 2020)
  – Aforesaid 5% concessional WHT rate also proposed to be extended to investment by FPIs in municipal debt securities
- Authorised dealer to collect tax at source at the rate of 5% for remittance under LRS (where aggregate remittance in a FY is INR 0.7m or more)
- For certain cooperative banks, it is now proposed to introduce a requirement to withhold taxes on payments made to a resident, subject to specified conditions
- Beneficial provisions of carry forward of accumulated loss and unabsorbed depreciation proposed to be extended to amalgamation of specified PSB*

Commodities Transaction Tax (CTT)

- Scope of CTT levy proposed to be widened to align with the changes in commodity derivative product segments.
- CTT rates proposed to be rationalised for different taxable transactions (please refer to Annexure 1 for CTT rates)

Point of view

The budget policy proposals contain measures targeted at various segments of the banking industry. With the proposed introduction of netting of financial contracts, increased corporate governance and target to tap the markets for additional capital, the industry is poised to scale higher levels of competitiveness. Proposals relating to quasi thin capitalisation and carry forward of losses in public sector bank mergers, can been seen as tax enablers to transactions in banking. As the industry matures to support a reviving economy, providing tax parity to foreign banks operating in India would be keenly awaited.

In the current situation of deteriorating health score of NBFCs, the Budget proposals towards liquidity support, widening of SARFAESI coverage and permissibility for all NBFCs to undertake MSME invoice financing through TReDS should provide a much needed boost to the sector.

*Proposed amendment to take effect from FY 2019-20

Budget highlights

Insurance

Key policy announcements

- Proposal for part sale of Government's stake in LIC by way of IPO
- Deposit insurance coverage for a bank depositor increased to INR 0.5m (currently, INR 0.1m)

Key direct tax proposals

Amendment to Rule 5*

- Taxpayers are allowed to claim deduction for certain specified expenses in the year of payment. However, the income computation mechanism (Rule 5 in the First Schedule) applicable to non-life insurance companies did not explicitly provide allowance of such specified expenses in the year of payment
- The amendment proposed to Rule 5 provides that non-life insurance companies, like other taxpayers, can claim allowance of such expenses in the year of payment

Others

- It is proposed to amend provisions of the Act to allow carry forward of accumulated tax losses and unabsorbed depreciation on amalgamation of two public sector non-life insurance companies under a scheme sanctioned and brought into force by the Central Government*
- Perquisite to now include contribution by the employer in excess of INR 0.75m made to recognised provided funds, pension scheme of the Central Government and any approved superannuation fund
- Individuals and HUFs opting to avail benefit of the lower tax rates under the newly proposed section 115BAC of the Act, will not be eligible to claim benefits, inter alia, under section 80C (life insurance premium), 80CCC (contribution to certain pension funds), 80CCD (contribution to pension scheme of the Central Government) and 80D (deduction in respect of health insurance premium)

Point of view

Amendment to Rule 5 in the First Schedule is a welcome move. This was one of the key demands in the representation made by the non-life insurance industry to the CBDT and will allow insurers to claim the expenses disallowed under section 43B of the Act without any scope for litigation.

While this amendment allows claiming of expenses on payment basis, there still exists no explicit provision for allowance of certain other disallowances, e.g., expenses disallowed for non-deduction of taxes at source or short deduction of taxes at source, etc.

Separately, individuals in the lower income group may not be inclined to invest in insurance (both life and general) if they opt to avail benefit of lower tax rates. This seems contrary to the Government's objective of increasing the penetration of insurance in India.

*Proposed amendment to take effect from FY 2019-20

Budget highlights

Asset management

Key direct tax proposals

Safe harbour provisions – Fund management*

- Onshore fund management activity should not constitute a business connection or result in offshore fund being regarded as a tax resident in India, subject to fulfilment of certain safe harbour conditions. It is proposed to relax the following conditions:
  - Time limit for achieving monthly average corpus of INR 1bn for newly established funds proposed to be extended to 12 months from the last day of the month of its establishment or incorporation
  - Contribution up to INR 250m made by an eligible fund manager during the first three years of operation of the fund, not to be considered for the purpose of calculation of aggregate participation by persons resident in India

Abolishment of tax on income distributed to unitholders

- Mutual funds are no longer required to pay additional income tax on income distributed to unitholders. Such income is proposed to be taxed directly in the hands of the unitholders at the applicable tax rates
- Mutual funds are required to withhold tax on income in respect of units at the rate of 10% on income (in excess of INR 5,000) paid to a resident / 20% on any income paid to an NR
- Deduction against income from mutual funds allowed only for interest expenditure with a cap of 20% of such income

Taxability of segregated portfolios of a mutual fund scheme*

- The period of holding for units in the segregated portfolio to be reckoned from the period for which the original units in the main portfolio were held by the taxpayer
- Acquisition cost of units in segregated portfolio to be proportionate to the NAV of assets transferred to the segregated portfolio to the NAV of the total portfolio immediately before the segregation. The cost of acquisition of the original units in the main portfolio to be reduced by the acquisition cost of units in the segregated portfolio

Point of view

With dividends from companies being exempt in the hands of mutual funds and the elimination of tax on income distributed by mutual funds, the new regime for taxation may encourage investors to invest in capital markets through growth plans of mutual funds. Changes announced *vis-à-vis* cost and period of holding in segregated portfolios provide much needed clarity to the investors.

*Proposed amendment to take effect from FY 2019-20

Budget highlights

Private equity and VC	Real estate and Infrastructure	International Financial Service Center	Banking, NBFC and capital markets	Insurance and asset management	Start-ups/ E-commerce	Other tax proposals

Key policy announcements

- Policy for enhanced protection of IP to be introduced to promote knowledge-driven enterprises
- Early life funding (including a seed fund) proposed to be provided to support ideation and development of early stage start-ups

Key direct tax proposals

Relaxations to the tax holiday regime

- Period for eligible start-ups to claim tax holiday proposed to be increased to ten years from seven years
- Cap on turnover to qualify as an eligible start-up proposed to be increased to INR 1bn from INR 250m

Deferment of taxes on exercise of ESOP

- Payment of perquisite tax on allotment or transfer of specified securities to an employee of an eligible start-up proposed to be deferred to the earlier of: (a) expiry of 48 months from the end of the relevant AY; (b) sale of the specified security; or (c) cessation of employment
- Tax to be paid basis the rates applicable for the FY in which the specified security is allotted or transferred to the employee

WHT on e-commerce transactions

- WHT at the rate of 1% proposed to be introduced on payments to an e-commerce participant by an e-commerce operator for sale of goods or provision of services facilitated by the e-commerce operator (5% in case PAN/ Aadhaar number is not furnished)
- Payment made by the purchaser of goods or recipient of services directly to the e-commerce participant facilitated by the e-commerce operator shall be deemed to be an amount paid by the e-commerce operator and subject to the aforesaid WHT
- Payments not exceeding INR 0.5m in a FY to an individual/ HUF not subject to such WHT (provided PAN/ Aadhaar number is furnished)

Point of view

The Government continues to acknowledge the Indian spirit of entrepreneurship with announcements such as seed-funding for start-ups and directing infrastructure agencies of the Government to involve youth-power in start-ups. While certain steps such as the levy of WHT on e-commerce transactions and failure to calibrate the capital gains tax on unlisted shares may dampen the spirit of the start-up ecosystem, the continued commitment of the Government to support start-ups is encouraging.

Budget highlights

Key direct tax proposals

Proposed new tax regime for Individuals and HUFs

- New tax regime (optional) proposed for individuals and HUFs if they do not avail specified exemptions/ deductions. Please refer to Annexure 2 for analysis of the proposed regime

Individual residency test

- Indian citizen proposed to be deemed resident in India if not liable to tax in any other country by reason of domicile or residence in the other country
- It is proposed that the threshold for number of days visit by Indian citizens/ PIO be reduced to 120 days (from 182 days), for being regarded as NR, in addition to the existing applicable conditions
- Definition for an individual to be regarded as “not ordinarily resident” proposed to be amended as follows:

Existing Conditions	Proposed Conditions
Aggregate stay <= 729 days in last seven years	-
NR for at least nine out of ten years	NR for at least seven out of ten years

Increase in threshold for tax audit

- Increase in tax audit threshold to INR 50m from INR 10m (subject to cash receipts and payments not exceeding 5% of total receipts and total payments, respectively)

No return filing obligation for NR*

- NR is not required to file a tax return if its total income consists of certain specified income. It is proposed to include royalty and FTS as part of such specified income. This is subject to appropriate tax being withheld in accordance with domestic tax law

Reduced withholding tax rate on FTS payments to residents

- Withholding tax rate reduced to 2% from 10% in case of FTS payments (except professional services)

Due date for tax returns filing revised*

- Due date for filing tax returns for corporates and taxpayers (subject to tax audit) postponed to 31 October from 30 September of the relevant AY

Transfer pricing*

- Coverage of Advance Pricing Agreement and Safe Harbour provisions expanded to cover determination of income attributable to a Business Connection in India
- Due date for furnishing the Accountants Report (Form 3CEB) and maintenance of transfer pricing documentation advanced from 30 November to 31 October of the relevant AY

*Proposed amendment to take effect from FY 2019-20

Budget highlights

Tax Disputes

- A new scheme (Vivad Se Vishwas) announced for taxpayers whose matters are under litigation
  - A complete waiver of interest and penalty if disputed tax is paid before 31 March 2020
  - Additional amount to be paid if taxpayer chooses to discharge disputed taxes post 31 March 2020 but before scheme closing date, i.e., 30 June 2020
- Non-corporate foreign investors proposed to be permitted to file objections with the Dispute Resolution Panel against the draft assessment order (currently, in the context of non-residents, this facility is available only for foreign corporates)

E-appeals

- E-appeal scheme proposed to be launched, eliminating the interface between Commissioner (Appeals) and the taxpayer
- Multiple Commissioners (Appeals) to dispose appeals based on their functional specialisation

Stay of Demand

- Tribunal to grant stay of demand subject to taxpayer paying minimum 20% of sum payable or provides security of equivalent amount

Taxpayer's charter

- CBDT to introduce taxpayer's Charter enumerating taxpayer's rights to ensure transparency and accountability in tax administration

Others

- Form 26AS proposed to be replaced with a comprehensive annual information statement, e.g., to cover details of prescribed financial transactions and taxes paid of the taxpayer*
- New penalty provisions introduced to cover for false entries or omission of any entry to evade taxes

Point of view

One would need to see whether the proposed changes in the individual tax rates have the desired effect of increasing disposable income after considering removal of exemptions and deductions. The change in definition of an Indian resident would also be an important aspect to be considered.

The proposal to introduce "Vivad Se Vishwas" scheme and E-appeals scheme emphasises the Government's intent to reduce litigation, increase transparency and improve overall ease of doing business in India. A longer window to avail relief and a reduced tax rate under the "Vivad se Vishwas" scheme could have been a win-win proposition.

*Proposed amendment to take effect from 1 June 2020

Section 3

Annexures

Annexure 1

Commodities transaction tax rates proposed (effective 1 April 2020)

Sr. No.	Taxable commodities transaction	Existing	Proposed	Value of taxable transaction	Payable by
1	Sale of commodity derivative	0.01%	0.01%	Price at which the commodity derivative is traded	Seller
2	Sale of an option on commodity derivative	0.05%	0.05%	Option premium	Seller
3	Sale of an option on commodity derivative, where option is exercised	0.0001%	0.0001%	Settlement price	Purchaser
4	Sale of option in goods, where option is exercised resulting in actual delivery of goods	-	0.0001%	Settlement price	Purchaser
5	Sale of option in goods, where option is exercised resulting in a settlement otherwise than by the actual delivery of goods	-	0.125%	Difference between the settlement price and strike price	Purchaser
6	Sale of commodity derivative based on prices or indices of prices of commodity derivatives	-	0.01%	Price at which the commodity derivative based on prices or indices of prices of commodity derivatives is traded	Seller
7	Sale of option in goods	-	0.05%	Option premium	Seller

Annexure 2

Proposed tax regime for Individuals and HUFs

Income (in INR)	Existing Tax Rate*	Proposed Tax Rate*	Reduction in tax rate
0 – 250,000	0.00%	0.00%	0.00%
250,001 – 500,000	5.20%	5.20%	0.00%
500,001 – 750,000	20.80%	10.40%	10.40%
750,001 – 1,000,000	20.80%	15.60%	5.20%
1,000,001 – 1,250,000	31.20%	20.80%	10.40%
1,250,001 – 1,500,000	31.20%	26.00%	5.20%
1,500,001 – 5,000,000	31.20%	31.20%	0.00%
5,000,001 – 10,000,000	34.32%	34.32%	0.00%
10,000,001 – 20,000,000	35.88%	35.88%	0.00%
20,000,001 – 50,000,000	39.00%	39.00%	0.00%
Above 50,000,000	42.74%	42.74%	0.00%

Key conditions for proposed tax rate are as follows

- Individuals/ HUFs with no business income - Option to exercise available every year
- Individuals/ HUFs with business income - Option exercised can be withdrawn once. However, if withdrawn, taxpayer shall never be eligible to exercise this option, except where such taxpayer ceases to have any business income, in which case, the option shall be available
- The option needs to be exercised on or before the due date for filing tax return
- Deductions - Individuals/ HUFs shall have to forgo certain deductions/ specified exemptions/ specified incentives. Some of the key deductions not available are house rent allowance, leave travel allowance, standard deduction for salaried employees, investment under section 80C, 80D, etc.
- Set-off and carry forward provisions - No set-off of any loss or depreciation carried forward from an earlier year to the extent that such loss is attributable to any deduction mentioned above. In addition, loss under the head “income from house property” cannot be set off against any other head of income
- If an individual or HUF has a unit in IFSC, profit-linked deduction still available

*Tax rates are inclusive of applicable surcharge and cess

Section 4

Glossary

Glossary

Abbreviation	Particulars
2014 SEBI FPI regulations	Securities and Exchange Board of India (Foreign Portfolio Investors) Regulations, 2014
2019 SEBI FPI regulations	Securities and Exchange Board of India (Foreign Portfolio Investors) Regulations, 2019
Act	Income-tax Act, 1961
ADIA	Abu Dhabi Investment Authority
ADR	American Depository Receipts
AIFs	Alternative Investment Funds
AMCs	Asset Management Companies
AUM	Assets Under Management
AY	Assessment Year
bn	Billion
CBDT	Central Board of Direct Taxes
CDS	Credit default swaps
CIRP	Corporate Insolvency Resolution Process
CTT	Commodities Transaction Tax
DDT	Dividend Distribution Tax

Abbreviation	Particulars
DRTs	Debts Recovery Tribunals
ECB	External Commercial Borrowings
EPFO	Employees' Provident Fund Organisation
ESOP	Employee Stock Option Plan
ETF	Exchange-traded Fund
EXIM	Export-Import Bank of India
FDI	Foreign Direct Investment
FMV	Fair Market Value
FPI	Financial Portfolio Investor
FTS	Fees for Technical Services
FY	Financial Year
GDP	Gross Domestic Product
GDR	Global Depository Receipts
GIFT IFSC	Gujarat International Finance Tec-City IFSC
GST	Goods and Services Tax
GW	Gigawatts
H1	First half of the year

Abbreviation	Particulars
H2	Second half of the year
HUF	Hindu Undivided Family
IBC	Insolvency and Bankruptcy Code, 2016
IFSC	International Finance Service Centre
INR	Indian Rupee
InvIT	Infrastructure Investment Trust
IP	Intellectual property
IPO	Initial public offer
km	Kilometers
LIC	Life Insurance Corporation of India
LRS	Liberalised Remittance Scheme
m	Million
MSMEs	Medium, Small and Micro Enterprises
N.A.	Not applicable
NABARD	National Bank for Agriculture and Rural Development
NAV	Net Asset Value
NBFC	Non Banking Financial Company

Unless otherwise mentioned, tax rates are exclusive of applicable surcharge and cess

Glossary

Abbreviation	Particulars
NCLT	National Company Law Tribunal
NHs	National Highways
NPAs	Non-performing Assets
NR	Non-Resident
PAN	Permanent Account Number
PE	Permanent Establishment
PFs	Pension Funds
PIO	Person of Indian Origin
PMAY	Pradhan Mantri Awas Yojna
PMAY(U)	Pradhan Mantri Awas Yojana (Urban)
PPP	Public Private Partnership
PSB	Public Sector Banks
PY	Previous year
Q1	First quarter of the year
RBI	Reserve Bank of India
RE	Revised Estimates
REIT(s)	Real Estate Investment Trust(s)

Abbreviation	Particulars
SARFAESI Act	Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002
SCBs	Scheduled Commercial Banks
SIDBI	Small Industry Development Bank of India
SPV	Special Purpose Vechicle
SWFs	Sovereign Wealth Funds
tn	Trillion
treaty provisions	Provisions of double taxation avoidance agreement entered into by Government of India
TReDS	Trade Receivables electronic Discount System
Tribunal	Income-tax Appellate Tribunal
US$	United States Dollars
USA	the United States of America
VC	Venture Capital
WHT	Withholding Tax
YoY	Year on Year

Unless otherwise mentioned, tax rates are exclusive of applicable surcharge and cess

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