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FINANCE BILL 2020-21

Key Changes in Finance Bill, 2020 - Passed by Lok Sabha

#FinanceBillwithShineWing #Finance Bill2020

PREFACE

With Government's eyes set on **USD 5 trillion economy** target, it was anticipated that the government will introduce big bang changes in the Budget 2020 on 01.02.2020.

It was then widely anticipated that Government will abolish Long Term Capital Gains. However, pursuant to abolition of Dividend Distribution Tax, introduction of "**Vivad Se Vishwaas Scheme**", Foreign Direct Investment in certain sectors like insurance, increasing the deposit insurance premium, Finance Ministry released the Finance Bill, 2020 on 01.02.2020.

Government seeks various comments from the Stakeholders in Market on views of the Finance Bill, 2020 and received recommendations from various independent bodies like ICAI, ICSI, ICWAI and other autonomous bodies.

The Budget Session was scheduled to end on 03.04.2020 but amid COVID-19 outbreak House curtailed its sitting and ended the Session on 23.03.2020 by passing the Finance Bill, 2020 in Lok Sabha.

The Bill which was presented originally in the Lok Sabha on 01.02.2020 has witnessed ample changes (*approximately 50+*) and not passed in its original shape. These changes included introduction of New amendments, expanded scope of some provisions, removal of some proposed amendments so on and so forth.

We have tried to compile a synopsis of major relevant changes made in the Finance Bill, 2020 (*as passed by the Lok Sabha*) vis-à-vis the Finance Bill, 2020 as presented in the Lok Sabha.

KEY DIRECT TAX CHANGES

S No	Area	Existing Provision/Proposed under Union Budget 2020	Changes made by Lok Sabha	Impact of Changes
1	Provisions related to Residential Status of Individual (Explanation 1 (b) to Section 6)	An Indian citizen or a person of Indian origin shall be considered a resident if he stays > 120 days in a financial year.	The limit of 120 days shall apply only in case of Individuals whose total income, other than income from foreign sources exceeds Rs. 15 lakhs during the previous year.	Limit of total income exceeding Rs. 15 Lakhs is introduced for reduced threshold of 120 days.
2	Residential Status of Stateless Person (Clause 1 (A) of Section 6)	An Indian citizen shall be deemed to be resident of India if he is not liable to pay tax in any other country due to the reason of his domicile or residential status. (Subject to clarification by CBDT dated 02.02.2020)	Passed with no changes. Except with additional condition that an Indian citizen shall be deemed to be resident of India only if his total income, other than Income from foreign sources > Rs. 15 lakhs.	Proposal upheld with introduction of additional qualifying cap of Rs. 15 Lakhs.
3	Residential Status of not-ordinary resident . (Clause 6 of Section 6)	UB proposed to alter existing condition, wherein the Individual or HUF shall be treated as Not Ordinarily Resident, if; i. he is non-resident in 7/10 immediately preceding years instead of earlier condition of 9/10. ii. the second condition for 729 days was proposed to be removed.	The proposed amendment has been withdrawn and existing conditions for 9/10 year and 729 days shall continue. Further, Lok Sabha added 2 more situations, wherein a resident person is deemed to be 'Not Ordinarily Resident' in India: i. Resident under amended provision of reduced 120 days condition. ii. Stateless person as mentioned under Section 6(1A).	The existing conditions for Not Ordinarily Resident shall continue to apply. Additionally, following persons shall be deemed to be Not Ordinarily resident : i. Resident under amended provision of reduced 120 days condition. ii. Stateless person as mentioned under Section 6(1A).


4	<p>Extended Scope of Equalisation levy (Chapter VIII of Finance Act, 2016)</p>	No changes proposed.	<p>Scope of Equalisation Levy is extended to cover the consideration received or receivable for e-commerce supply or services made or facilitated by an e-commerce operator.</p> <p>From 01.04.2020, the equalisation levy shall be charged at the rate of 2% from the consideration received or receivable by an e-commerce operator from e-commerce supply of goods or services made or provided or facilitated by it</p> <p>Except for the following persons;</p> <ul style="list-style-type: none"> i. Online Advertisement covered under Section 165. ii. E-Commerce Operator's receipts from such supply does not exceeds Rs. 2 crores (not buyer specific and shall include total turnover from all the specified buyers) iii. E-Commerce operator having a PE in India. 	<p>With effect from 01.04.2020, there will be two transactions chargeable to equalisation levy namely:</p> <ul style="list-style-type: none"> i. Sum received or receivable by a non-resident for the online advertisement services rendered to specified persons at the rate of 6% (existing section 165). ii. Sum received or receivable by an e-commerce operator from e-commerce supply of goods or services to specified persons at the rate of 2% (New section 165A).
5	<p>Scoping out of E-Commerce Supply from Normal Provisions. (Clause 50 of Section 10)</p>	No changes proposed.	Insertion of new clause wherein no tax shall be charged on income arising from any e-commerce supply or services made on which equalisation levy is chargeable u/s 165A.	Consequential changes with respect to the extension of scope of equalisation levy on E-Commerce Operator under section 165A.

6	TDS on Cash Withdrawals <i>(Section 194N)</i>	No changes proposed by Union Budget 2020 in Section 194N inserted by Finance (No.2) Act, 2019, Wherein tax shall be deducted by a banking company or a co-op. bank or a post office at the rate of 2% if aggregate amount of money withdrawn from one or more account > Rs. 1 crore.	Lok Sabha, substituted the existing section by new one to provide different tax rates for two different class of persons depending upon the status of filing of ITR for 3 immediately preceding previous years. <table border="1" data-bbox="972 456 1562 667"> <thead> <tr> <th>Money withdrawn</th> <th>No ITR Filed</th> <th>ITR Filed</th> </tr> </thead> <tbody> <tr> <td>Exceeding Rs. 20 Lakhs</td> <td>2% TDS</td> <td>NA</td> </tr> <tr> <td>Exceeding Rs. 1 Crore</td> <td>5% TDS</td> <td>2% TDS</td> </tr> </tbody> </table>	Money withdrawn	No ITR Filed	ITR Filed	Exceeding Rs. 20 Lakhs	2% TDS	NA	Exceeding Rs. 1 Crore	5% TDS	2% TDS	Enhanced Tax deduction rates (2% / 5%) shall apply based on the Income Tax Return history of the account holder. Substitution of old section with new has posed additional compliance for Banks, to ensure that whether account holder has filed ITR or not and what rate to apply.
Money withdrawn	No ITR Filed	ITR Filed											
Exceeding Rs. 20 Lakhs	2% TDS	NA											
Exceeding Rs. 1 Crore	5% TDS	2% TDS											
7	TCS on Overseas remittance <i>(Section 206C (1G))</i>	Foreign remittance through LRS – Authorized Dealer (AD) Bank to charge TCS @ 5% if he receives sum > Rs. 7 Lakh for remittance outside India (10% in no PAN / Aadhaar cases)	Passed with no changes. Except insertion of a proviso that; i. tax shall be collected only on the amount in excess of Rs. 7 lakhs. ii. tax has to be collected at a lower rate of 0.5% by an authorised dealer where amount being remitted is a repayment of education loan taken from Bank or any other FIs.	Clarification provided for collection of TCS in excess of Rs. 7 Lakhs and lower rate of TCS @0.5% for foreign education loan repayment provided. The provision shall be effective from 01.10.2020 instead of 01.04.2020.									
8	TCS on Sale of overseas tour package. <i>(Section 206C (1G))</i>	Seller of an overseas tour program package shall collect TCS @ 5% from consumer (10% in no PAN / Aadhaar cases)	Passed with no changes. Except insertion of proviso that the authorised dealer shall not collect the tax on an amount in respect of which the tax has already been collected by the seller.	To curb the practice that where buyer of package program, remit amount to seller of overseas tour program through LRS and claims exemption of Rs. 7Lakhs. It has been MANDATED FOR SELLER to collect TCS, but proviso added to avoid double collection and									

				<p>Authorised Dealer are given relief for not collecting TCS, in cases where Seller has already collected.</p> <p>The provision shall be effective from 01.10.2020 instead of 01.04.2020.</p>
9	<p>TCS on Sale of goods</p> <p>(Section 206C (1H))</p>	<p>Seller of goods having turnover exceeding Rs. 10 crores will be liable to collect TCS @ 0.1% on consideration received from buyer in a year in excess of Rs. 50 Lakh (1% in no PAN / Aadhaar cases)</p>	<p>Passed with no changes.</p> <p>Except insertion of a proviso that no tax shall be collected in respect of export or import of goods.</p>	<p>Export and Imports of goods are excluded from the ambit of sub-section.</p> <p>The provision shall be effective from 01.10.2020 instead of 01.04.2020.</p>
10	<p>TDS on Interest (other than Interest on Securities)</p> <p>(Section 194A & 197A)</p>	<p>No deduction of tax shall be made from the specified payment, as may be notified by the Central Government in this behalf.</p>	<p>Lok Sabha amended the section to provide the absolute powers to the Central Government to notify cases where no tax deduction or lower tax deduction shall be done.</p>	<p>Central Govt. has been empowered to notify specified payments for both nil deduction of tax and lower deduction of tax.</p>
11	<p>TDS on Fees for professional or technical services</p> <p>(Section 194J)</p>	<p>TDS @ 2% in case of fees for technical services (not being a professional service) and 10% of sum payable in any other cases.</p>	<p>The government has reduced the rate of tax deduction to 2% on professional royalty income arising to a person by way of sale, distribution or exhibition of cinematographic films instead of technical services.</p>	<p>TDS rate for royalty paid by way of sale, distribution or exhibition of cinematographic films has been reduced instead of FTS (Fee for technical services).</p>
12	<p>TDS on income in respect of Units</p> <p>(Section 194K)</p>	<p>Income in respect of units of Mutual Fund shall attract TDS @ 10% for payment exceeding Rs. 5,000. However, as per CBDT clarification, no TDS shall be deducted on capital gains arising through sale of such units.</p>	<p>To remove ambiguity, section explicitly included the CBDT clarification in section itself that no tax shall be deducted while making payment in respect of capital gain arising from transfer of units.</p>	<p>Inclusion of CBDT clarification for tax on capital gains on sale of units in the section itself.</p>

13	TDS on E-commerce transactions <i>(Section 194O)</i>	TDS at the rate of 1% of the gross receipts (5% in case of non-furnishing of PAN/ Aadhar) shall be deducted by the operator for the participants with turnover exceeding Rs. 5 Lakhs.	Passed with no changes. Except Lok Sabha directed to amend the definition of e-commerce operator to remove the condition which requires an e-commerce operator to make payment to e-commerce participant.	To remove the ambiguity, from the cases where payments are directly made by customers to e-commerce participants the definition of e-commerce operator has been amended.
14	Deduction in respect of certain inter-corporate dividends <i>(Section 80M)</i>	Due to the proposal to abolish the DDT, consequential amendment was done by re-introduction of section 80M, wherein inter-corporate dividend received from Indian Company was allowed as deduction from total income, if company further distributes such dividend income to the shareholders within one month before the due date of filing of return.	The scope of Section 80M has been expanded to include deduction for dividend received from foreign companies and business trust.	Scope of deduction available for inter-corporate dividend received has been expanded.
15	Clarification on rate of TDS on dividend to a Non-Resident or Foreign Company <i>(Section 195 read with Part II of First Schedule of Finance Bill, 2020)</i>	The dividend received by a non-resident person or a foreign company is taxable under section 195 at the rates in force. Whereas as per DTAA the dividend is taxable at a rate ranging between 5% to 15%. Although the relevant amendments were made for taxability of dividend in hands of recipient, the rates provided in Schedule of the Finance Act was not amended to provide a specific rate and dividend was falling under residuary entry i.e. 30% in case of Non-residents and 40% in case of Foreign Company.	The Lok Sabha amended schedule of the Finance Act to provide the rate of deduction of tax from dividend income distributed to a foreign company, non-resident Indian or other non-resident person. In case of all such persons, the tax shall be withheld from the dividend income at the rate of 20%.	With the amendment, tax has to be withheld on the dividend paid to foreign shareholders at the rate of 20% or the rates specified in DTAA whichever is beneficial to the assessee.

16	Income not included in Total Income (Clause 23C of Section 10)	NA	The Lok Sabha inserted an explanation that the corpus donation made to entities registered u/s 10(23C) will be exempt from tax. Further amendments are provided to include that corpus donation given by a Section 12AA registered institution to section 10(23C) approved institution will not be treated as an application of income.	The main agenda behind this proposal is to bring the entities registered u/s 10(23C) at par with the registered u/s 12A/12AA/12AB.
17	Exemption to Infrastructure Funds (Clause 23FE of Section 10)	The income earned by Sovereign Wealth Fund of Abu Dhabi Investment Authority by way of investing in India for infrastructure development were made exempt.	The Lok Sabha has expanded the scope to include investment made through AIFs and Pension funds created or established under the law of a foreign country as eligible persons. Further, the limit for investment period has been restricted from 01.04.2020 to 31.03.2024.	Investment receipt scope has been expanded.
18	Taxation of Dividend (Clause 34 of Section 10)	DDT Abolished and dividend exemption in the hands of shareholders withdrawn.	Lok Sabha additionally provided that dividend received by the assessee on or after 01.04.2020 shall not be included in his income if tax has already been paid on such income by the Company paying dividend.	With the ongoing concerns of DDT paid on interim dividend, changes have been made for the benefit of assessee in cases where dividend has been declared on or before 31.03.2020 and DDT has already been paid by Company, but the same is not received by taxpayer yet.
19	Tax on dividends, royalty and FTS in the case of	No changes proposed.	The Lok Sabha removed the tax rate from respective section and the rates are now referred back to those provided in the section of TDS.	Section 115A, now restrains from giving references to absolute rates for taxability, rather it shifts



	foreign companies <i>(Section 115A(BA))</i>			reference to the parent provisions only.
20	New Tax Regime for Individuals <i>(Section 115BAC)</i>	An Individual and HUF can opt for concessional tax regime. The taxpayer (except those having business income) shall have an option, every year to decide whether to opt the new regime or not.	Lok Sabha has included professional as well along with business for opting the new regime.	Now, even the taxpayer earning professional income can opt only once. Option once exercised cannot be withdrawn subsequently.
21	New Tax Regime for Corporates <i>(Section 115BAA and 115BAB)</i>	Domestic companies opting for new tax regime under 115BAA and 115BAB, shall not avail deductions under Chapter-VIA except deductions under Section 80JJAA or Section 80LA.	The Lok Sabha has expanded the scope of deductions available for inter-corporate dividends under section 80M.	Deduction of inter-corporate dividends received now available for companies going in new tax regime.

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