BUDGET 2020-2021

As proposed in The Finance Bill, 2021 introduced by Finance Minister of India on 1st February 2021. **The Finance Minister in her Budget proposal has sought to provide major boost to Healthcare and Infrastructure sector and on the Direct tax front has aimed to implement the motto 'Minimum Government, Maximum Governance'. However, there has been no change in the Income-tax slab rates.**

A] BUDGET PROPOSALS

I. NEW PROVISIONS FOR DEEMED RESIDENCE IN INDIA

A new provision was introduced in the last Budget wherein an individual is deemed to be "Resident" in India in the relevant previous year, irrespective of number of days of stay in India if the following conditions are satisfied –

a. Individual is Citizen of India;

and

b. has total income exceeding Rs.15 lacs (other than income from the foreign sources) in India during the previous year;

and

c. who is not liable to tax in any country or territory by reason on his domicile or residence or any other criteria of similar nature.

Such individual shall be 'deemed residents' and considered as 'Resident but not ordinary resident' ('RNOR'). The said individuals with RNOR residential status, shall not be liable to tax in India in respect of any income arising outside India like salary income, capital gains, dividend, interest, rentals etc other than the income from the business activities outside India which is managed and controlled from India.

Subsequently, the Government of India issued clarification on 3rd February 2020 highlighting that the aforesaid new provision is not intended to include in tax net those Indian Citizens who are bonafide workers in other countries viz, Dubai and others.

The expression 'liable to tax' as highlighted above has been defined in the Budget 2021. The said expression has also been used in Double Taxation Avoidance Agreement entered in by India with other Countries but has not been defined in the said.

Agreements.

The Budget defines the expression "liable to tax" in relation to a person means there is a liability to tax on that person under the law of any country and will include a case where subsequent to imposition of such tax liability, an exemption is provided.

So, one may continue to hold that the said definition may not impact all those bonafide NRIs living in such foreign countries, with no tax regime, and who are employed and have obtained Tax Residency Certificate ('TRC') from the said foreign countries, more so because of the press note referred earlier issued by the Government. However, those persons who are not able to obtain TRC and comply with the number of days stay may have adverse implications in relation to their business and professional income arising in the countries outside India.

The provisions introduced in the Budget 2020 and later and this Budget defining the residential status and taxation of income thereof is plagued with lack of clarity and confusion among the professionals and Tax Payers.

One needs to further examine these provisions in more details to provide guidance to the Tax Payers.

II. Relief to Returning Indians on income accrued in their foreign retirement accounts:

At present, withdrawal from foreign retirement funds are taxed on receipt basis in foreign countries, while on accrual basis in India. In the bid, to remove said difficulties and hardship of double taxation of income to Returning Indians, a new Section is proposed to grant relief to income accrued in said retirement accounts held outside India in foreign country to be notified.

It is proposed to provide that the income shall be taxed in the manner and in the year as prescribed by the Central Government. Further, to be eligible to claim relief under this new provision, such retirement account should be opened by the Returning India while he/she was resident of such foreign country and such foreign country should not tax retirement benefits on accrual basis.

The said rules are yet to be prescribed by the Central Government

III. Taxation of proceeds of high premium unit linked insurance policy (ULIP)

At present, any sum received under a life insurance policy, including the sum allocated by way of bonus on such policy is exempt, provided the premium payable on such policy does not exceed ten percent of the actual capital sum assured for any of the years.

It is being noticed that many high-net-worth individuals were claiming exemptions under this clause by investing in ULIP with huge premium, whereas the intention of the legislative was to provide relief to small and genuine cases of life insurance. Hence, it is proposed to provide for the following:

- Exemption on redemption proceeds from ULIP shall not be available, if the amount of premium payable for any of the years during the term of policy exceeds two lakh and fifty thousand rupees except otherwise received on account of death.
- The said redemption proceeds would be taxable under the head income from capital gains. The capital asset being ULIP would be considered as short-term capital asset, if it is held for less than twelve months and long term capital asset, if held for more than twelve months.
- Further, the capital gains arising on redemption of long term capital asset shall be taxable at 10% and the capital gains on short term capital asset would be taxable at 15%.
- In addition to above, Securities Transaction Tax would be levied on redemption of said ULIP.
- This shall be applicable to ULIP issued on or after 1 February 2021

IV. Rationalisation of TDS provision on payments made to Foreign Institutional Investors (FIIs)/Foreign Portfolio Investors (FPIs):

At present, withholding of tax is prescribed on income of FII/FPI from securities (not being income from capital gain) at the rate of 20%.It is proposed to rationalize the above provision by providing for lower of the following rates of withholding, on the above-mentioned income:

a. at the rates provided in Double Taxation Avoidance Agreement as entered in by India with the resident country of FII/FPI, or

b. at the rate of twenty percent.

V. For Non-filers of Income-tax Return, a Higher Withholding Tax and Tax Collection at Source proposed

A New Section has been introduced to provide for higher rate of withholding tax and tax collection at source on specified nature of income in case of persons not filing return of income for previous two consecutive years.

However, the said provision is not applicable in case non-residents, unless the said non-resident has Permanent Establishment in India.

VI. Advance tax installment for dividend income

Presently, interest on shortfall of advance tax on account of dividend income is chargeable from the beginning of the year irrespective of the date of receipt/ declaration of dividend income.
Due to the intrinsic nature of dividend income, the accurate determination of advance tax liability on such dividend income is not possible. So, it is proposed that the liability to pay Advance tax in relation to the dividend income shall be determined only after receipt of dividend by the Shareholder. Accordingly, no interest shall be charged if the advance tax liability on dividend income is paid in the remaining installments of advance tax which are due after date of receipt dividend or where no installments are due, by the 31st March of the financial year.

VII. Threshold limit for Tax Audit

It is proposed to increase the threshold limit for tax audit for person carrying on business from five crore to ten crores in cases where aggregate of all receipts and payments in cash during the previous year does not exceed five percent of such receipts and payments respectively.

VIII. Filing return of Income

It is proposed that resident senior citizens [Age above 75 years], shall not be required to file return of income, if the conditions prescribed are satisfied. However, no such relief is provided to non-resident senior citizens.
It is further proposed that to reduce the time lines for filing belated return and revised return, which is tabulated in below

Particulars	Earlier Time limit	Proposed Time Limit
Revised Return of income	Before the end of the Assessment Year (i.e. by 31st March)	'3' months before the end of the Assessment Year (i.e. by 31st December)
Belated Return of income		

IX. Curtailing of time limits for Issue of Notice and Assessment of income by the Assessing Officer

Section	Earlier Provision	Proposed Provision
Intimation / Summary Assessment	One year from the end of the financial year in which the return was furnished.	Nine months from the end of the financial year in which the return was furnished.
Issuance of notice for scrutiny assessment	Six months from the end of the financial year in which the return is furnished.	Three months from the end of the financial year in which the return is furnished.
Completion of assessment	Twelve months from the end of the assessment year in which the income was first assessable	Nine months from the end of the assessment year in which the income was first assessable, for the assessment year 2021-22 and subsequent assessment years

X. Curtailing of time limits for Reopening of Tax Assessments

Under the existing provisions, the Assessing Officer has reason to believe that any income chargeable to tax has escaped assessment for any assessment year, he may re-open the case and assess or reassess or re-compute the total income for such year by issuing a notice.

The Bill proposes a new procedure of assessment of such cases which would result in less litigation and would provide ease of doing business to taxpayers. It is proposed to provide that before issuance of notice for reassessment, the Assessing Officer shall conduct enquiries, if required, and provide an opportunity of being heard to the Assessee However, this procedure of enquiry shall not be applicable in search or requisition cases.

Time limitation for issuance of notice for reassessment.

Earlier Provision	Proposed Provision	Prior Approval by
If income escaping assessment > 1 lac – up to '6' years	Assessing Officer in possession of books of account/documents/evidence which reveal that income is chargeable to tax, represented in the form of asset, which has escaped assessment > fifty lakh rupees - up to '10' years	Principal Chief Commissioner of Income-tax
If income escaping assessment < 1 lac – '4' years	For other cases – up to '3' years	Principal Commissioner of Income-tax

The above amendment shall facilitate the closure of Tax Assessment for all those taxpayers whose income escaped assessment is below Rupees fifty lakhs within the time limit of three years.

XI. Constitution of Dispute Resolution Committee for small and medium taxpayers

A New Scheme is proposed to be incorporated wherein the Central Government shall constitute one or more Dispute Resolution Committee ('DRC') which shall resolve disputes of such persons or class of person which shall be specified by the Government. The said Scheme is yet to be notified by the Government covering the different aspects of disputes. However, only those disputes where the returned income is fifty lakh rupee or less (if return of income has been filed) and the aggregate amount of variation proposed in specified order is ten lakh rupees or less shall be eligible to be considered by the DRC.
This shall facilitate to reduce long drawn out Appellate Proceedings in respect of tax payers having returned income less than rupees fifty lakhs and disputed income is up to rupees ten lakhs.

XII. Faceless proceedings before the Income-tax Appellate Tribunal (ITAT)

It is proposed to introduce new provision so as to provide that the Central Government may notify a scheme for the purposes of disposal of appeal by the ITAT in faceless regime so as to impart greater efficiency, transparency and accountability.

XIII. Pre-filing of Returns

In order to ease compliance of the Taxpayers in filing return of income, the details of capital gains from listed securities, dividend income and interest from banks, post office, etc. will also be pre-filled in the Return of income.

B] Rates of Tax

I. For Non Resident Individuals

The Non-Resident Individual has an option to tax his income as per the old income-tax regime or the new income-tax regime:

a) The following tax rates as per the old income-tax regime:	
Financial Year (April-2021 to March-2022)	
Individual's Total Income	**Rate**
Up to Rs.2,50,000	Nil (Refer Note 3)
Rs.2,50,001 to Rs.5,00,000	5% of the amount by which the total income exceeds Rs.2,50,000
Rs.5,00,001 to Rs.10,00,000	Rs.12,500 plus 20% of the amount by which the total income exceeds Rs.5,00,000
Exceeds Rs.10,00,000	Exceeds Rs.10,00,000 Rs.1,12,500 plus 30% of the amount by which income exceeds Rs.10,00,000

(b) The following tax rates as per the new income-tax regime (Refer note 4	
Financial Year (April-2021 to March-2022)	
Individual's Total Income	**Rate**
Up to Rs.2,50,000	Nil (Refer Note 3)
Rs.2,50,001 to Rs.5,00,000	5% of the amount by which the total income exceeds Rs.2,50,000
Rs.5,00,001 to Rs.7,50,000	Rs.12,500 plus 10% of the amount by which the total income exceeds Rs.5,00,000
Rs. 7,50,001 to Rs.10,00,000	Rs.37,500 plus 15% of the amount by which the total income exceeds Rs.7,50,000
Rs.10,00,001 to Rs.12,50,000	Rs.75,000 plus 20% of the amount by which the total income exceeds Rs.10,00,000
Rs. 12,50,001 to Rs.15,00,000	Rs.1,25,000 plus 25% of the amount by which the total income exceeds Rs.12,50,000
Exceeds Rs.15,00,000	Rs.1,87,500 plus 30% of the amount by which income exceeds Rs.15,00,000 (Refer Note 1)

Note 1: The amount shall be increased by a surcharge as follows –

a) The following tax rates as per the old income-tax regime:		
Income	**Rate of Surcharge**	**Effective tax rate after surcharges and cess**
Rs.50 lacs to Rs.1 crore (incl. dividend and income under sections 111A and 112A)	10%	34%
Rs. 1 crore to Rs.2 crores (incl. dividend and income under sections 111A and 112A)	15%	36%
Rs.2 crores and above (incl. dividend and income under sections 111A and 112A not covered below)	25%	39%
Above Rs.5 crores (excl. dividend and income under sections 111A and 112A)	37%	43%

Provided that in case where the total income includes dividend income and any income chargeable under section 111A and section 112A of the Act (being an equity share or an equity oriented mutual fund unit or unit of business trust and specified Unit Linked Insurance Policy (ULIPs)), the rate of surcharge on the amount of Income-tax computed in respect of that part of income shall not exceed 15%.

Note 2: Health and Education cess shall be levied at the rate of 4% payable on income-tax and surcharge.

Note 3: If NRI is having only Capital Gains (including Long term and Short term), there is no benefit of basic exemption slab available.

Note 4: New income-tax regime was introduced in the last Budget, which is optional for the tax payers. The new regime provides reduced slab rates that are applicable without certain exemptions and deductions as prescribed in the said regime.

II. For Foreign Companies

- Foreign companies are taxable at 40%
- 2% surcharge is applicable if the total income exceeds Rs.1 Crore but does not exceed Rs.10 Crores
- 5% surcharge is applicable if the total income exceeds Rs.10 Crores
- 4% Health and Education cess is applicable on income tax (inclusive of surcharge, if any)
- Marginal Tax Rate relief is available

C] Rates of Tax Deducted at Source (TDS)

The basic TDS Rates as applicable in case of non - resident individuals, subject to the DTAA relief, if any are as follows:-

Particulars	Rate of TDS	Surcharge	Health and Education cess @ 4%	Effective Tax Rate
1. Capital Gains on Equity Oriented Mutual Fund Units, Equity Shares sold on Recognized Stock Exchange, specified ULIPs and STT paid thereon:				
i) Short Term	15%	2.25%*	0.690%	17.94%*
ii) Long Term	10%	1.50%*	0.460%	11.96%*
2. Capital Gain on Debt Mutual Fund & listed securities other than (1)				
i) Short Term	15%	11.10%**	1.644%	42.744%**
ii) Long Term	10%	7.40%**	1.096%	28.496%**
3. Capital gain on Other Assets				
i) Short Term	30%	11.10%**	1.644%	42.744%**
ii) Long Term	20%	7.40%**	1.096%	28.496%**
4. Interest on Bank Deposits(NRO A/c)	30%	11.10%**	1.644%	42.744%**
5. Income From Rent	30%	11.10%**	1.644%	42.744%**
6. Royalty & Fees for Technical Service (FTS)	10%	3.70%**	0.548%	14.248%**
7. Dividend on shares	20%	3%*	0.92%	23.92%*
8. Dividend on units of mutual funds	20%	3%*	0.92%	23.92%*

*Considering the surcharge as 15%.
**Considering the surcharge as per the highest rate of 37%.

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