

BUDGET 2020-21



Deposits / Remittances / Investments / Loans







**New Tax Bucket
for
Individual & HUF**

**Modification in
Residency
Provision**

Budget Highlights for Non-Residents

As proposed in The Finance Bill, 2020 introduced by Finance Minister of India on 1st February, 2020.

The Finance Minister in her Budget proposal has sought to introduce measures which are focused on continued growth and ensuring India stays globally competitive and a favoured destination for investment.

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**NRI Permitted to
File Objection to
Dispute Resolution
Panel.**

AJ TAX AMENDMENTS

I. MODIFICATION OF RESIDENCY PROVISIONS IN INDIA

NEW PROVISIONS FOR RESIDENCE IN INDIA

The issue of stateless person has been bothering the tax world for quite some time. It is entirely possible for an individual to arrange his affairs in such a fashion that the said person is not liable to tax in India as well as in any other country or jurisdiction during a year.

In light of above, it is proposed as an Anti-Tax Abuse measure that an Indian Citizen 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, to hold that individual Indian Citizen as deemed to be "Resident" in India in the relevant year, irrespective of number of days of stay in India.

The Government of India has issued a press release dated 2nd February, 2020 to clarify that this provision is not intended to include in tax net those Indian citizens who are bonafide workers in other countries, including Middle East, who are not liable to tax in these countries on income earned there. The press release further clarifies that in case of an Indian Citizen who becomes a deemed resident of India, then income earned outside India shall not be taxed in India, unless it is derived from an Indian business or profession.

CHANGES TO DETERMINE RESIDENCE FOR NON-RESIDENT ON VISIT TO INDIA

Presently, an individual being Citizen of India or a PIO, who being outside India was considered as Non-resident of India, if he/she comes on a visit to India for a period of less than 182 days in a year.

It is now proposed to reduce the aforesaid stay in India for such individuals for a period of less than 120 days in a year to be regarded as Non-resident of India.

In other words, such individual would be regarded as Resident in India, if his/ her stay in India is

- 120 days or more in the relevant year; and
- 365 days or more in the four years preceding the relevant year

Further, it is pointed out that Indian Citizen leaving India for employment or as crew member of an India ship outside India, the period of stay shall continue to remain 182 days in a year for determining Residence in India.

CHANGES TO DETERMINE RESIDENCE AS 'RNOR' OF INDIA

At present, an individual is said to be "Resident not ordinarily resident" i.e. RNOR in the relevant year, if such individual satisfies one of the following conditions:

Condition		Status
1. He is non-resident of India for at least 9 out of 10 previous years prior to the previous year under consideration	>>	If yes, he is RNOR
2. His stay in India during the 7 previous year prior to the relevant year under consideration should be 729 days or less	>>	If yes, he is RNOR

Similar provisions also exist for determination of status of HUF

It is now proposed to relax the aforesaid conditions as under:

Condition		Status
The individual is non-resident, for at least 7 out of 10 previous years prior to the relevant year under consideration.	>>	If yes, he is RNOR

Similarly, HUF will be regarded as RNOR if its manager has been non-resident in India in 7 out of 10 previous year preceding the relevant year.

II. NEW TAX REGIME FOR INDIVIDUALS AND HUF

On satisfaction of certain conditions, an individual or HUF shall, from assessment year 2021-22 onwards, have the option to pay tax in respect of the total income at following rates:

Total Income	Rate of Tax
Upto ₹ 2,50,000	Nil
₹2,50,001 to ₹5,00,000	5%
₹5,00,001 to ₹7,50,000	10%
₹7,50,001 to ₹10,00,000	15%
₹10,00,001 to ₹12,50,000	20%
₹12,50,001 to ₹ 5,00,000	25%
Above ₹15,00,000	30%

The option for new tax regime shall become invalid in respect of the previous year or previous years where the person fails to comply with the below conditions and other provisions of the Act shall apply as if option is not exercised.

The option shall be exercised for every previous year where the individual or the HUF has no business income, and in other cases the option once exercised for a previous year shall be valid for that previous year and all subsequent years.

The concessional rate shall not apply unless option is exercised by the individual or HUF in the form and manner as may be prescribed,-

- where such individual or HUF has no business income, along with the return of income to be furnished under sub-section (1) of section 139 of the Act; and
- in any other case, on or before the due date specified under sub-section (1) of section 139 of the Act for furnishing the return of income for any previous year relevant to the assessment year commencing on or after 1st April 2021 and such option once exercised shall apply to subsequent assessment years;

The provisions for alternate minimum tax shall not be applicable to taxpayers opting for new tax regime.

The condition for opting the new tax regime shall be that the total income of the individual or HUF is computed—

1. Without claiming the Exemptions and Deductions:

Section	Particulars
10(5)	Leave Travel Concession
10(13A)	House Rent Allowance
10(14)	Allowance other than Transport Allowance granted to a divyang employee, Conveyance Allowance, travel on tour or transfer allowance and daily allowance to meet the ordinary daily charges incurred by an employee on account of absence from his normal place of duty
10(17)	Allowances to MPs/MLAs
10(32)	Deduction of income of minor child upto ₹1,500 per child for maximum 2 children
10AA	Special provisions in respect of newly established Units in Special Economic Zones

Section	Particulars
16	Standard deduction of ₹50,000, deduction for entertainment allowance for government employees of ₹5,000 and professional tax ₹2,500
24(b)	Interest on house property in respect of self-occupied or vacant property (Loss from rented house property shall not be allowed to be set off under any other head and would be allowed to be carried forward)
32(1)(iia)	Additional depreciation at 20%
32AD	Investment in new plant and machinery in notified backward areas in certain states.
3AB	Tea/Coffee/Rubber development account
33ABA	Site Restoration Fund
35(1)(ii)	Deduction in respect of amount paid to university, college or other institution for certain scientific research
35(1)(iia)	Deduction in respect of amount paid to certain companies to be used for scientific research
35(1)(iii)	Deduction in respect of amount paid to research association
35(2AA)	Expenditure on scientific research
35AD	Deduction in respect of expenditure on specified business
35CCC	Expenditure by way of payment to association and institutions for carrying out programmes of conservation of natural resources
57(iia)	Deduction from family pension
Chapter VI-A – Part C	Certain specified deductions in respect of investment made. (Other than section 80CCD(2) employer contribution on account of employee in notified pension scheme; section 80LA i.e. person having unit in IFSC subject to certain conditions and section 80JJAA i.e. deduction in respect of employment of new employees)

2. Without claiming set-off of any loss carried forward or depreciation from any earlier assessment year if such loss or depreciation is attributable to any of the deductions referred to in the above table (such loss deemed to have been allowed)
3. Without claiming the set-off of any loss under the head house property with any other head of income
4. By claiming the depreciation, other than additional depreciation, determined in such manner as may be prescribed
5. Without any exemption or deduction for allowance of perquisite provided under any other law for the time being in force.

III. TAXATION OF DIVIDEND INCOME FROM DOMESTIC COMPANIES AND MUTUAL FUNDS

At present, distribution tax is to be paid by the domestic companies and mutual funds on the dividend distributed to its shareholders and unit holders respectively and such dividend income is exempt in the hands of shareholder/ unit holders, except the dividend from domestic companies exceeding Rs. 10 lacs, chargeable to tax at 10% in hands of shareholders being resident in India.

Due to non-availability of credit of DDT to most of the foreign investors in their home country results in reduction of rate of return on equity capital for them and in order to remove the cascading effect, It is now proposed that no distribution tax shall be paid by the domestic companies/ mutual funds and dividend from a domestic company /mutual funds to be taxable in the hands of recipient i.e. shareholders/unit holders at their slab rate/ rates prescribed under DTAA, whichever is beneficial.

Further, it is also proposed that no deduction of expenses shall be allowed from dividend income, other than deduction on account of interest expense and such interest expense shall not exceed 20% of the dividend income.

Since the dividend income is now taxed in the hands of recipient, corresponding amendments have been proposed in the provisions relating to withholding of taxes:

- It has been proposed that domestic companies shall deduct tax on the dividends distributed as per the below rates:

Assessee	Rate of tax deduction
Resident shareholder	10% on the dividend exceeding Rs 5,000
Non Resident shareholder	30% + Surcharge + Health and Education cess

- It has been proposed that mutual funds shall deduct tax on the dividends distributed as per the below rates:

Assessee	Rate of tax deduction
Resident unit holder	10% on the dividend exceeding Rs 5,000
Non Resident shareholder	20% + Surcharge + Health and Education cess

Further in case of NRI's, taxes paid / with held in India may be available as a tax credit against the tax liability on such income in their home country.

IV. INCREASE IN STAMP DUTY VALUE LIMIT OF 5% TO 10% WHILE DETERMINING SALE CONSIDERATION

At present, while taxing income from capital gains, business income and other income arising on transfer of immovable property, the sale consideration or stamp duty value, whichever is higher, is adopted and the difference is counted as income both in the hands of purchaser and seller. Further, no adjustments shall be made in case of sale consideration for computation of income arising on sale of immovable property, in case, where the variation between the stamp duty value and the sale consideration is not more than 5% of the sale consideration.

It is now proposed to extend the present limit of 5% to 10% of the sale consideration.

V. FAIR MARKET VALUE AS ON 01 APRIL, 2001.

Presently, for computing capital gains in respect of capital asset, being land or building or both acquired before 1st April, 2001, the assessee is allowed an option of either taking the fair market value of the asset as on 1st April, 2001 or the actual cost of the asset as the cost of acquisition. As a result, the assessee was allowed to claim a fair market value which was higher than the stamp duty value of such asset.

It is now proposed to restrict the fair market value of such asset on 1st April, 2001 to not exceed the stamp duty value (being value considered by the Government for levy of stamp duty) of such asset as on 1st April, 2001.

VI. TAX ON DIVIDEND, INTEREST, ROYALTY AND FEES FOR TECHNICAL SERVICES RECEIVED BY NRI

The Special Rates of Tax has been prescribed for following nature of income earned by non-residents:

Nature of Income	Basic Rate of Tax
Dividend income from shares and mutual funds	20%
Interest income from Government or Indian concern in foreign currency	20%
Interest income from Infrastructure Debut fund, Rupee denominated bonds of Indian Company, etc	20%
Royalty	20%
Fees for Technical Services	20%

It is proposed that if the Non-resident's total income subject to tax in India consists of only the aforesaid sources of income and the tax has been withheld in India on the said income at the rate not less than the rates of taxes as tabulated in above, then it shall not be necessary for the said Non-resident assesses to file their return of income in India.

VII. NRI NOW PERMITTED TO FILE OBJECTIONS TO DISPUTE RESOLUTION PANEL

Dispute Resolution Panel is an alternative dispute resolution panel comprising of Collegium of Three Principal Commissioner or Commissioners of Income tax ['Senior Income-tax Officer'] providing for speedy disposal of litigations to only eligible assesses.

It is now proposed to expand the scope of the above provision by including Non-resident in the definition of eligible assessee as well as cover any variation in the return on income, which is prejudicial to the interest of the assessee.

The above amendment shall be effective from 1st April 2020, thus, if the AO proposes to make any variation after this date, which is prejudicial to the eligible assessee, and then the above provision shall be applicable.

VIII. EXPANSION OF SCOPE OF TAX COLLECTION AT SOURCE ('TCS')

At present, every person, being a seller shall, at the time of debiting the amount payable by the buyer to the account of the buyer or at the time of receipt of such amount from the said buyer, shall collect from the buyer of goods (alcoholic liquor, forest produce, scrap, etc.) a sum equal to specified percentage as income-tax.

It has now been proposed to widen the tax net and levy TCS on overseas remittance and for sale of overseas tour package.

- **TCS on overseas remittance under LRS:**

Authorised Dealers when remitting funds under LRS shall be liable to collect TCS at the rate of 5%, if the amount of remittance per Financial Year exceeds Rs. 7 lakh. If PAN/Aadhaar is not available of the remitter, then the rate shall be 10%.

- **TCS on sale of overseas tour package:**

A seller of an overseas tour program package (including travel or hotel stay or boarding or lodging or any other expense of similar nature), who receives any amount from buyer of such package, shall be liable to collect TCS at the rate of 5%. If PAN/Aadhaar is not available of the buyer of such package, the rate shall be 10%.

- **TCS on sale of goods above specified limit:**

A seller of specified goods whose turnover is more than Rs. 10 Crore preceding financial year then he shall be liable to collect TCS at the rate of 0.1% of sale consideration exceeding Rs. 50 lakh. In case PAN/Aadhaar is not available of the goods recipient then the rate shall be 1%. Further, no such TCS is to be collected, if the seller is liable to deduct TDS under any provision of the Act and has deducted such amount.

IX. TAXATION IN RESPECT OF ELIGIBLE START-UPS

At present, a deduction of an amount equal to 100% of the profits and gains derived by an eligible start-up for 3 consecutive assessment years out of 7 years is allowed at the option of the assessee, provided the total turnover of its business does not exceed Rs. 25 crore in the year in which the deduction is claimed.

It is now proposed that the said deduction shall be allowed for 3 consecutive assessment years out of 10 years beginning from the year in which it is incorporated. Further, the total turnover limit has been increased to Rs. 100 crore from existing Rs. 25 crore.

X. ALIGNING PURPOSE OF ENTERING INTO DTAA WITH MULTILATERAL INSTRUMENT (MLI)

India has recently signed the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (commonly referred to as MLI) along with many countries and its provisions will be applicable on India's DTAA's from FY 2020-21 onwards which shall act as a deterrent to tax planning strategies and curb revenue loss through treaty abuse and base erosion and profit shifting strategies.

Therefore in light of above it is proposed to amend the Act so as to clarify intent of the Indian Government to that effect.

XI. THRESHOLD LIMIT FOR TAX AUDIT

At present, every person carrying on business is required to get his accounts audited, if his total sales turnover or gross receipts exceeds one crore rupees in any previous year and for a person carrying on profession is required to get his accounts audited if his gross receipts exceeds fifty lakh rupees in any previous year.

In order to reduce compliance burden on SME's, it is proposed to increase the threshold limit for person carrying on business from one crore rupees to five crore rupees 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

Further, to enable pre-filing of returns in case of persons having income from business or profession, it is required that the tax audit report may be furnished by the said assessee at least one month prior to the date of filing return of income i.e. by 30th September, of the assessment year.

XII. DUE DATE FOR FILING RETURN OF INCOME

At present the due date for filing return of income in case of a company or person whose accounts are required to be audited under any law or working partner of a firm whose accounts are required to be audited under any law is 30th September of the Assessment year.

It is now proposed to extend the due date for filing return of income from 30th September to 31st October of the assessment year from AY 2020-21.

Further, it is also proposed that said benefit of extended due date for filing return i.e. 31st October of assessment year, shall be available to all the partners of the firm whose accounts are required to be audited under any law.

XIII. ANNUAL INFORMATION STATEMENT

At present, details of income and tax is deducted/collected thereon are reflected in Form 26AS of the tax payer. However, with the advancement in technology, multiple information in respect of a person such as sale/purchase of immovable property, share transactions etc. are being captured or proposed to be captured. It is envisaged that in order to facilitate compliance, this information will be provided to the assessee by uploading the same in the registered account of the assessee on the designated portal of the Income-tax Department, so that the same can be used by the assessee for filing of the return of income and calculating his correct tax liability.

It is proposed to delete section 203AA and insert of section 285BB which proposes to mandate the prescribed income tax authority or person authorized by them to upload a statement in the registered account (e-filing account) of assessee a statement in such form and manner and setting forth such information, which is in the possession of an income-tax authority.

XIV. FACELESS APPEAL PROCEEDINGS AND PENALTY PROCEEDINGS

Currently, the Government is already undertaking Faceless Assessments, whereby the physical interface between the Assessing Officer and the Assessee is eliminated, so as to bring transparency in the process.

The Central Government has now proposed to notify by 31st March, 2022, an e-appeal scheme and e-penalty scheme for disposal of appeals and penalties, respectively.

XV. "VIVAD SE VISHWAS" SCHEME(TAX DISPUTE SETTLEMENT SCHEME)

To reduce tax litigation, a new "Vivad Se Vishwas" scheme to be introduced.

A taxpayer would be required to pay only the amount of the disputed taxes and will get complete waiver of interest and penalty provided he pays the disputed taxes by 31st March 2020.

Those who avail the scheme after 31st March 2020 will have to pay some additional amount. The scheme will remain open till 30th June 2020.

XVI. EXTENSION OF TIME LIMIT FOR SANCTIONING OF LOAN FOR AFFORDABLE HOUSING

At present, if an individual has taken loan from any financial institution for acquisition of an affordable residential house property during the period 01st April, 2019 to 31st March, 2020, deduction of interest expenditure upto Rs 1,50,000 is allowed subject to certain conditions.

In order to continue promoting purchase of affordable housing, it is now proposed to extend the period of sanctioning of loan by the financial institution up to 31st March, 2021.

XVII. Deferring TDS or tax payment in respect of Perquisite Income earned from ESOPs of start-ups.

ESOPs have been a significant component of the compensation for the employees of start-ups. Currently ESOPs are taxed as perquisites under section 17(2) of the Act read with Rule 3(8)(iii) of the Rules. The taxation of ESOPs is split into two components:

- Tax on perquisite as income from salary at the time of exercise.
- Tax on income from capital gain at the time of sale.

The tax on perquisite is required to be paid at the time of exercising of option which may lead to cash flow problem as this benefit of ESOP is in kind.

In order to ease the burden, it is now proposed to defer the payment of taxes by employees of the eligible start-ups referred to in section 80-IAC, or liability to deduct TDS by the start-up employer responsible for paying such perquisite income. The payment of taxes or deduction of tax at source shall be made within fourteen days –

- After the expiry of forty-eight months from the end of the relevant assessment year, or
- From the date of sale of such sweat equity share by the employee, or
- From the date the employees ceases to be employed with the employer;

Whichever is earlier based on the rates in force of the financial year in which the said shares were allotted or transferred

XVIII. INTRODUCTION OF COMBINED UPPER LIMIT FOR CONTRIBUTION TO VARIOUS SCHEMES/FUNDS BY THE EMPLOYER:

At present, the contributions made by the employer on behalf of the employees to various schemes/ funds are chargeable to tax under the head "Income from Salary" subject to specified limits. However, there is no combined upper limit for such contributions made the employer.

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In addition to the existing limits, it is now proposed to introduce a combined upper limit for the aggregate contribution made to the account of an employee by the employer to Recognized Provident Fund, NPS and approved superannuation fund of rupees seven lakh and fifty thousand rupees in a previous year. The amount of contribution exceeding the aforesaid limit shall be chargeable as perquisite in the relevant assessment year.

Further, it is also proposed that any annual accretion by way of interest, dividend or amount similar nature during the previous year of the scheme/fund shall be treated as perquisite to the extent it relates to employer's contribution which is included in total income

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B] RATES OF TAX

I. FOR NON RESIDENT INDIVIDUALS

(a) The following tax rates are applicable as per the current provisions:

Financial Year (April-2019 to March-2020)	
Individual's Total Income	Rate
Up to ₹ 2,50,000/-	Nil (Refer Note 3)
₹ 2,50,001/- to 5,00,000/-	5% of the amount by which the total income exceeds ₹ 2,50,000/-
₹ 5,00,001/- to 10,00,000/-	₹12,500 plus 20% of the amount by which the total income exceeds ₹5,00,000/-
Exceeds ₹ 10,00,000/-	₹1,12,500 plus 30% of the amount by which income exceeds ₹10,00,000/-

(b) **New income-tax regime** has been introduced under the newly inserted section 115BAC of the Act, which is optional for the tax payers. The new regime provides reduced slab rates (as mentioned below) that are applicable without certain exemptions and deductions:

Financial Year (April-2020 to March-2021)	
Individual's Total Income	Rate
Up to ₹ 2,50,000/-	Nil (Refer Note 3)
₹ 2,50,001/- to 5,00,000/-	5% of the amount by which the total income exceeds ₹ 2,50,000/-
₹ 5,00,001/- to 7,50,000/-	₹12,500 plus 10% of the amount by which the total income exceeds ₹5,00,000/-
₹ 7,50,001/- to 10,00,000/-	₹37,500 plus 15% of the amount by which income exceeds ₹7,50,000/-
₹ 10,00,001/- to 12,50,000/-	₹75,000 plus 20% of the amount by which income exceeds ₹10,00,000/-
₹ 12,50,001/- to 15,00,000/-	₹1,25,000 plus 25% of the amount by which the total income exceeds ₹12,50,000/-
Exceeds ₹ 10,00,000/-	₹1,87,500 plus 30% of the amount by which income exceeds ₹15,00,000/- (Refer Note 1)

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

Income	Rate of Surcharge	Effective tax rate after surcharges and cess
₹50 lacs to ₹1crore (incl. income under sections 111A and 112A)	10%	34.32%
₹1crore to ₹2crores (incl. income under sections 111A and 112A)	15%	35.88%
₹2 crores to ₹ 5 crores (incl. income under sections 111A and 112A not covered below)	15%	35.88%
₹2 crores to ₹ 5 crores (incl. income under sections 111A and 112A)	25%	39.00%
Above ₹ 5 crores (incl. income under sections 111A and 112A)	37%	42.744%

Provided that in case where the total income includes any income chargeable under section 111A and section 112A of the Act (being an equity share or an equity oriented mutual fund unit and unit of business trust), 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.

III. FOR FOREIGN COMPANIES

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

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C] RATES OF TAX DEDUCTED AT SOURCE (TDS)

The basic TDS Rates as applicable in case of non-resident, 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 and Equity Shares sold on Recognized Stock Exchange 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	30%	11.10%**	1.644%	42.744%**
II) Long Term	20%	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	30%	11.10%**	1.644%	42.744%**
8. Dividend on units of mutual funds	20%	7.40%**	1.096%	28.496%**

*Considering the surcharge as 15%.

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

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This document should not be considered as substitute for specialized Professional advice and expert guidance should be sought before acting upon it.