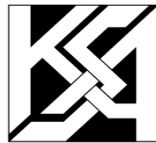


BUDGET

AN OVERVIEW

2019



K. S. Aiyar & Co.

BTA Consultants India Pvt. Ltd.

India Law Alliance

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1. INTRODUCTION

The results of the General Election held in April/May 2019 were a defining moment in electoral history of Indian democracy. The electorate have reposed full faith and trust in our incumbent visionary Prime Minister with the hope that he is the one who can take our country to glorious heights. The catalyst needed for that is the support of the citizens to respond in a manner which is worthy of a patriot.

In line with PM's vision, The Finance Minister was expected to prove herself, after a very good tenure as defence minister, and she has not disappointed on that score.

The Government has clearly focused on taking our US\$ 3 Trillion economy to a new projected level by focusing on fundamentally important areas such as infrastructure, real estate, measures to boost rural economy, providing tax payer friendly environment, water resource management, women empowerment, labour reforms, Bharatmala Phase 2, UDAAN, Jal Marg Vikas, Rural PMAY-U, MSME related reforms, FAME Scheme, faceless assessments, close monitoring of Banking & IBC, Swatch Bharat Mission, Pradhan Mantri Gram Sadak Yojana, UJALA- For rural electrification, MGNREGA, Jal Shakti Mantralay, Pradhan Mantri Laghu Vyapaari Maan Dhan Yojana, Pradhan Mantri Shram Yogi Maan Dhan. The fiscal deficit is projected at 3.3% in 2019-20, down from 4.5% in 2013-14.

The Union Budget provides a one-time cover for pooled assets as a solution for NBFC liquidity which is dogging the economic situation of the day. Faceless scrutiny assessments may completely defuse corruption for once and for all. Announcement of a Gandhipedia came as unexpected as the Public Sector Enterprise, New Space India Limited (NSIL), which being the commercial arm of Department of Space and ISRO, may well make it self-funding. The government will examine suggestions of further opening up of FDI in aviation, media, AVGC (Animation, Visual effects, Gaming and Comics) and insurance sectors. The FM feels that those in the highest income bracket need to contribute more to the nation - surcharge on individual income of Rs 2-5 crore and over Rs 5 crore will result in effective tax rates of additional 3% and 7% respectively. The Union Budget has in its cross-hairs, our Hon PM Modi's challenging target of turning India into a \$5 trillion economy in the next five years, which will require an annual growth rate of over 10 per cent.



2. EXECUTIVE SUMMARY

DIRECT TAXES

- Individuals and HUFs to pay surcharge at substantially enhanced rates where incomes are over Rs.2 Crores and 5 Crores
- Corporate tax rate to be @ 25% for turnover up to Rs. 400 Crores
- PAN and Aadhar Number interchangeable. Return of income can be filed with Aadhar number if PAN not available.
- Push to digital transactions by including various other non-cash modes for payments
- Relief from non-deduction of TDS in case of payment to Non-resident
- Incentive to Non-Banking Finance Companies
- Tax incentives for affordable residential houses and loan taken for purchase of an electric vehicle
- Increase in rate of tax deduction from 1% to 5% on gross pay out of Life Insurance policies
- Listed companies to pay tax on buy back
- TDS by bank on cash drawings
- TDS to be deducted by all individuals/HUF on certain payments

INDIRECT TAXES

Goods and Services Tax

1. Set up of a single nation-wide Appellate Authority for resolving conflicting Advance rulings
2. Rationalisation of provisions relating to return periodicity, fungibility of cash ledger balances, interest liability on tax dues
3. Introduction of composition scheme for service providers with a tax rate of up to 6%



Amnesty Scheme for legacy indirect tax dues

The 'Sabka Vishwas Legacy Dispute Resolution Scheme' has been introduced for resolution and settlement of legacy cases under various indirect tax laws including the Excise and Service Tax laws.

Customs

Revision in customs duty rates on certain commodities as well as changes relating to penalty provisions and procedural matters

Excise

Revision in excise duty rates on certain commodities



3. DIRECT TAX PROPOSALS

3.1 RATE OF TAX FOR ASSESSMENT YEAR 2020-21

- a. There is no change in the Personal Income, HUF, AOP, BOI tax rates. However, there are following changes in rate of surcharge:

Income	Surcharge Rate
Rs. 50 Lakhs to Rs. 100 Lakhs	10%
Rs. 100 Lakhs to Rs. 200 Lakhs	15%
Rs. 200 Lakhs to Rs. 500 Lakhs	25%
Rs. 500 Lakhs & Above	37%

- b. There is no change in the tax rates or surcharge in the case of firm/LLP, co-operative society or local authority.
- c. There is no change in the tax rates of Companies except domestic company.

Description	Rate of Tax
Turnover in financial year 2017-18 up to Rs. 400 crores	25%
Others	30%

3.2 NEW TAX INCENTIVES AND RELIEFS

Acquisition by Ind-AS complaint companies

It is proposed to amend sub-clause (iii) in clause (19AA) of section 2 to provide relief of tax neutral concept to a company following Companies (Indian Accounting Standards) Rules, 2015 by not recording the book value of demerged company for acquired assets and liabilities.



Promoting Digital Payments

With a view to promote digital payment it is proposed to amend following sections to include “through such other electronic mode as may be prescribed” to existing modes of payment for allowing the expenditure/cost:

- a. Donation to political party u/s 13;
- b. Expenditure of capital nature u/s 35AD;
- c. Cash expenses u/s 40A;
- d. Actual cost under second proviso to sub-section (1) of section 43;
- e. Consideration received u/s 43CA
- f. Guidance value under second proviso to sub-section (1) of section 50C;
- g. Other sources of income under second proviso sub-clause(b) of clause (x) of sub-section (2) of section 56;
- h. Presumptive taxation @ 6% u/s 44AD;
- i. Additional employee cost deduction u/s 80JJAA

The above amendments are applicable for Assessment year 2020-21

- j. Accepting loan/deposit u/s 269SS;
- k. Accepting amount of Rs.2 Lakhs or more u/s 269ST
- l. Repaying loan/deposit u/s 269T.

The above amendments are applicable from 1st September 2019

TDS non deduction in case of Non-resident

It is proposed to insert a proviso under sub-section (1) of section 40 to allow relief in cases where any payment is made to a non-resident without deduction of tax at source if an accountant's certificate is provided to the effect that such non-resident has filed return of income and has disclosed such payment for computing the income.

NBFC interest accounting

Under existing provisions of sections 43B & 43D NBFCs are not covered. It is proposed to include deposit taking NBFCs and systematically important non-deposit taking NBFCs (defined as NBFC registered with RBI as non-deposit taking NBFC and having assets of not less than Rs.500 Crores) under these sections. Any interest paid on or before due date of filing return of income u/s 139 will be allowed as deduction u/s 43B and NBFC will offer interest received on bad/doubtful debt on receipt basis instead of accrual basis u/s 43D.



Fair market value for certain type of shares

It is proposed to provide relief by amending clause (x) sub-section (2) section 56 regarding determination of fair market value of shares in case of transfer by certain class of persons and subject to such conditions as may be prescribed.

Consequential amendment is also proposed to section 50CA for computing capital gains.

Capital Gains for start ups

It is proposed to amend sections 54GB to provide following reliefs:

- a. Extend the benefit up to 31st March, 2021 instead of 31st March 2019;
- b. Shareholding to 25% instead of 50%; and
- c. Restricting transfer of computer or computer software to 3 years instead of 5 years.

National Pension Scheme – Central Government Employees

Following amendments are proposed in respect of investment in National Pension Scheme:

- a. Section 10 – Exemption up to 60% (as against 40%) of amount received at the time of closure or opting out of the scheme;
- b. Section 80C – Contribution to Tier 2 account also will be eligible for deduction under this section.
- c. Section 80CCD – Contributions up to 14% (as against 10%) of salary will be eligible for deduction in respect of contribution made by Central Government to the account of employee;

Tax incentive for residential houses

It is proposed to insert a new section 80EEA to provide for a deduction in respect interest of Rs. 1,50,000 on loan taken for residential house from any financial institution fulfilling following conditions:

- Loan is sanctioned between 1st April 2019 to 31st March 2020;
- Stamp duty value is less than Rs.45 lakhs;
- Tax payer does not own any other residential house.

Affordable Housing

It is proposed to amend section 80IBA to align the definition of Affordable housing as under GST Act for projects approved after 1st September, 2019 fulfilling modified conditions as under:

- The housing project should have residential units not exceeding 60 square meters in case of metropolitan cities (Bengaluru, Chennai, Delhi, Hyderabad, Mumbai, Kolkata) and 90 square meters for other cities;
- The stamp duty value of residential unit is less than Rs.45 Lakhs.



Electric vehicle

It is proposed to insert a new section 80EEB to provide for a deduction in respect interest up to Rs. 1,50,000 on loan taken for purchase of an electric vehicle from any financial institution including NBFC's fulfilling following conditions:

- The loan is sanctioned between 1st April 2019 to 31st March 2020;
- The tax payer does not own any other electric vehicle.

3.3 ADDITIONAL TAX BURDEN

Gift to Non-Resident

It is proposed to insert clause (viii) in sub-section (1) of section 9 to treat gift of money or property, as referred to in clause (ix) of sub-section (2) of section 56, made by a resident to a person outside India, as income which will be deemed to accrue or arise in India.

The above amendment is applicable from 5th July 2019

Penalty provisions related to under reported income

It is proposed to amend section 270A for levy of penalty by including the returns filed under section 148 for the first time for under reporting and misreporting.

This amendment is applicable from Assessment year 2017-18.

Transfer of shares by certain companies

It is proposed to insert a new proviso under clause (viib) in sub-section (2) of section 56 whereby if the conditions specified for exemption on transfer of shares exceeding the fair market value by a notified company are not fulfilled the consideration received in excess of the face value shall be deemed to be the income of the company during the year in which such failure has taken place.

International transaction and specified domestic transaction

It is proposed to substitute section 92D requiring the constituent entity of an international group to provide information, document and filing of required form to the prescribed authority even if there is no international transaction by the constituent entity removing the threshold limit for such maintenance, keeping and furnishing of information.

TDS on Life Insurance policies which are not exempt under section 10(10D)

It is proposed to amend section 194DA whereby TDS of 5% of the net income, after deducting the premium paid by the policy holder, instead of 1% on the gross pay out of insurance policies.

This amendment is applicable from 1st September, 2019.



Tax on buyback of shares by listed companies

Presently under section 115QA an additional income tax of 20% of the distributed income on account of buyback of shares is payable by unlisted companies. It is proposed to amend the existing provision to include the listed companies as well. Consequently, the income arising in the hand of the shareholder continues to be exempt under section 10(34A) for listed and unlisted companies.

This amendment is applicable from 5th July, 2019.

Cash withdrawal

It is proposed to insert a new section 194N where a TDS of 2% is to be deducted by a banking company, cooperative bank and post office from any person who has withdrawn in excess of Rs. 1 Crore during a financial year. However, exemptions are given for certain government, banking companies and notified entities.

This amendment is applicable from 1st September, 2019.

TDS on payment by Individuals/HUF

It is proposed to insert Section 194M to provide for TDS of 5% on payments made to Contractors and Professionals by Individuals and HUFs, who are not subject to audit, where the aggregate payments are in excess of Rs. 50 Lakhs.

It is further proposed that such individual/HUF is not required to obtain TAN.

This amendment is applicable 1st September, 2019.

Purchase of Immovable property

It is proposed to amend section 194IA to include in the definition of “consideration for immovable property” all charges in the nature of club membership fee, car parking fee, electricity or water facility fee, maintenance fee, advance fee or any other charges of similar nature, which are incidental to transfer of immovable property.

This amendment is applicable 1st September, 2019.

3.4 PROCEDURAL CHANGES

Alternate Reporting Entities

It is proposed to clarify by amending section 286 that the accounting year of the parent company shall be the reporting accounting year of the alternate reporting entity of the international group.

This amendment is applicable from Assessment year 2017-18.



Mandating acceptance of payments through prescribed electronic modes

It is proposed to insert a new section 269SU to provide that every person carrying on a business whose turnover or gross receipts are more than Rs.50 Crores in a financial year shall provide facility for accepting payment through prescribed electronic modes in addition to the existing electronic modes of payment. Failure to provide such prescribed electronic mode of payment shall attract a penalty of Rs. 5,000 per day during which the failure continues, if good and sufficient reasons are not provided.

This amendment is applicable from 1st November, 2019.

PAN and Aadhaar substitution

It is proposed to amend section 139A to provide every person who, has not been allotted PAN enters into specified transaction can quote Aadhaar number in lieu of PAN. Such person shall be allotted PAN in a prescribed manner.

Further, if PAN and Aadhaar have not been linked such person can quote Aadhaar number in lieu of PAN. Duty has been cast upon the person receiving the document to ensure the PAN or Aadhaar quoted in such document as the case maybe.

It is also proposed to amend sub-section (2) of section 139AA to invalidate the PAN allotted to a person if it is not linked with Aadhaar on or before the notified date.

It is also proposed to levy penalty under section 272B.

This amendment is applicable from 1st September, 2019.

Note : All amendments are applicable for assessment year 2020-21 unless specified otherwise



4. INDIRECT TAX PROPOSALS

4.1 GOODS AND SERVICES TAX LAW:

Constitution of National Appellate Authority for Advance Ruling ('NAAAR')

The NAAAR to be set up to deal with conflicting advance rulings issued by the Authority for Advance Rulings of different states in case of an entity having registrations in multiple States / UTs under GST.

The NAAAR would bring much needed clarity for tax payers facing conflicting advance rulings in different states.

Returns / Payment of Tax:

- (a) Necessary changes in the law proposed to be made for implementation of new scheme for GST returns.
- (b) It would now be possible to transfer balances in electronic cash ledger between major / minor heads.
- (c) Interest (except when paid after commencement of demand /recovery proceedings under Sections 73 /74 of the CGST Act) would now be payable only on net tax liability paid in cash after adjusting the available input tax credit.

Composition Scheme

- (a) Alternative composition scheme for service providers having a turnover in the preceding financial year of up to Rs. 50 lakh rupees to be introduced with a GST rate of up to 6%. This limit of Rs. 50 lakhs will not include on interest or discount earned on services provided by way of extending deposits, loans and advances.
- (b) Section 10 of the CGST Act to be amended to so as to make casual taxable persons and non-resident taxable persons ineligible to opt for composition scheme.
- (c) Manufacturers, Traders, Restaurant service providers opting for composition scheme can provide services up to 10% of turnover in a State/ UT or Rs. 5 lakhs whichever is higher out of the total turnover in the preceding financial year. Proposed amendments to clarify that this limit for services will not include on interest or discount earned on services provided by way of extending deposits, loans and advances.
- (d) Composition tax payers to file one return per year along with quarterly payment of taxes.



Registration:

- (a) It is proposed to give necessary powers to the Central Government to enhance the registration limit for persons engaged exclusively in the supply of goods from Rs. 20 lakhs to up to Rs. 40 lakhs at the request of a State and on recommendation of the GST Council.
- (b) Aadhar authentication proposed to be made mandatory for obtaining new registration under GST for specified classes of persons.

Miscellaneous:

- (a) Proposed to enable Government to direct a specified class of persons to mandatorily provide their customers option to make electronic payments in prescribed modes.
- (b) National Anti-profiteering authority to be empowered to impose penalty equivalent to 10% of the profiteered amount.
- (c) 'Uranium Ore concentrate' to be retrospectively exempted from GST for the period 1 July 2017 to 14th November 2017.

Amnesty scheme for legacy disputes

The 'Sabka Vishwas Legacy Dispute Resolution Scheme' proposed to be introduced for resolution and settlement of legacy cases under various indirect tax laws including the Excise and Service Tax laws. Tax dues as on 30th June 2019 would be eligible for settlement under this scheme with relief provided to the extent of a maximum of 70% as seen in the overview below:

Sr No	Nature of Dues	Threshold Limit for Tax dues	Extent of Relief
1	Dues relatable to show cause notices or appeals arising therefrom	Up to Rs. 50 lakhs	70% of tax dues
	Dues relatable to show cause notices or appeals arising therefrom	Above Rs. 50 lakhs	50% of tax dues
2	Dues relatable to show cause notices for late fees or penalty where the tax dues are paid /are nil	NA	Entire amount of late fees and penalty
3	Dues relatable to amount in arrears	Up to Rs. 50 lakhs	60% of tax dues
	Dues relatable to amount in arrears	Above Rs. 50 lakhs	40% of tax dues
4	Dues linked to enquiry, investigation or audit	Up to Rs. 50 lakhs	70% of tax dues
		Above Rs. 50 lakhs	50% of tax dues



4.2 CUSTOMS DUTY

Verification of Identity and Compliance.

Proper officers to be authorized to mandate any person to undergo authentication by way of producing proof of possession of Aadhar number or any other prescribed manner and in the course of ensuring compliance under the provisions of customs act 1962 including those relating to clearance of import or export goods, refunds, exemption from duty, etc.

Offences & Penalties

- (a) Officers of customs to be now empowered to arrest a person outside India / outside Indian Customs boundaries for an offence committed under this Act.
- (b) Treatment of certain offences:
 - i) Wrongly availing duty drawback or duty exemption in excess of Rs 50 Lakhs to be considered as a cognizable offence.
 - ii) Wrongly utilizing duty scrips in excess of Rs 50 Lakhs to be considered as a cognizable and non- bailable offence.
- (c) Maximum penalty on contravention of any provision of the act to be increased to up to Rs 4 Lakhs.
- (d) Maximum penalty on contravention of the rules and regulations published by the official gazette to be increased from Rs 50 thousand to Rs 2 Lakhs.

1. Changes to Customs Tariff

Custom duty has been increased on commodities like construction materials, precious metals, automobile parts electronics and electrical equipment.

Basic customs duty rates has been changed in respect of defence. Medical, food processing, nuclear fuels and energy projects, oils and associate chemicals, petroleum products, plastic, rubber and other products.

4.3 EXCISE DUTY

Excise duty has been changed on commodities like petroleum crude, cigarettes and tobacco products.



5. OTHER MAJOR POLICY INITIATIVES

- India to be 3 trillion \$ economy in the current year and expected to reach 5 trillion in the next few years.
- Modern tenancy law to be finalized and circulated to the states to replace the existing archaic rental laws
- A new scheme for Pradhan Mantri Karam Yogi Maan-dhan Scheme for extending pension benefits to Rs.3.00 crore retail traders and small shopkeepers with an annual turnover of less than Rs.1.50 Crores.
- Measures to enhance source of capital for infrastructure financing includes a credit guarantee enhancement corporation, long term bonds with a specific focus on infrastructure and FIs/FPIs in debt securities issued by Infrastructure debt fund – NBFCs.
- SEBI to consider increase in minimum public shareholding in listed company from 25% to 35%.
- To initiate steps towards creating an electronic fund raising platform under SEBI for listing social enterprises and voluntary organizations.
- New Space India Limited (NSLI) as a public sector enterprise to be a commercial arm of ISRO.
- “Study in India” initiative to create world class institutions which will bring foreign students to study in India.
- To streamline multiple labour laws into 4 labour codes.
- Public sector banks or to be provided additional Rs. 70,000 crores to boost credit and provide strong impetus to the economy
- Opening up of FDI in aviation, insurance and media after due consideration.
- 100% FDI in insurance intermediaries and local sourcing norms to be eased for single brand retails
- RBI to regulate housing finance sector instead of National Housing Bank



CONTACT INFORMATION

MUMBAI (BOMBAY)

#F-7 Laxmi Mills,
Shakti Mills Lane (Off Dr. E. Moses Rd),
Mahalaxmi, Mumbai – 400 011.

T 91-22- 6655-1770

91-22- 2493-2502

91-22- 6655-1790

F 91-22- 6655-1774

E mail@bta-india.com

mail@ksaiyar.com

www.ksaiyar.com

www.bta-india.com

www.indialawalliance.com

www.protunekesaiyar.com

CHENNAI (MADRAS)

54/2, Paulwells Road,
St. Thomas Mount, Chennai - 600 016

T 91-44 22330206

F 91-44 22330207

KOLKATA (CALCUTTA)

9, Syed Amir Ali Avenue
Flat – 2, 4th Floor, Kolkata - 700 017.

T 91-33-2281-7652, 2281-7653

T/F 91-33-2281-7654

GOA

102, "Govinda", M.G. Road,
Panaji -403 001, Goa
(Please contact Mumbai office)

BENGALURU (BANGALORE)

#10, 1st Floor,
18th Cross, Near 6th Main,
Malleshwaram,
Bangalore – 560055

T 91-80-2334 -7171 / 2336-7171

F 91-80-2331-1221

COIMBATORE

'Kalpatharu', 4th Floor,
New No. 57,
East Sambandam Road
R. S. Puram, Coimbatore – 641 002

T 91-422 – 254-0972

F 91-422 – 254-4690

HYDERABAD

Ground Floor, Plot No 44
Union Bank of India Colony,
Road No 3, Banjara Hills
(Behind TV9 office), Hyderabad - 500 034

T 91-40 – 2355-5799

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