

Highlights of the Finance Bill, 2020

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The Finance Minister has recently presented the Finance Bill, 2020. The provisions of this Bill shall be applicable for the Financial Year 2020-21. (i.e. for the Assessment Year 2021-22) unless specifically mentioned otherwise.

The following are the highlights:

A. Provisions applicable to Individuals, HUF, AOP and BOI

- It is proposed to introduce Section 115BAC for providing alternate rates of taxation in respect of individuals and HUFs. The following are the salient features of this provision:
 - An individual or HUF can opt to be taxed at the following rates provided the conditions specified thereafter are satisfied:

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

- ❖ The following allowances and deductions should NOT be claimed:
 - a. Any deduction u/s 80C (LIC premium, tuition fees, principal repayment of housing loan etc.)
 - b. 80D (Mediclaime premium and health check-up)
 - c. 80E – Interest on educational loan
 - d. 80EEA – Housing loan interest
 - e. 80G (Donation)
 - f. Deduction for family pension
 - g. Interest on Housing Loan under section 24
 - h. Standard Deduction of Rs.50,000/- for salaried individuals
 - i. Professional Tax paid
 - j. Leave Travel Concession & House Rent Allowance
 - k. Any special allowance allowed on basis of actual expenditure (Section 10(14))

- l. Additional depreciation of 20% on plant & machinery
- m. Deductions under Sections 32AD, 32AB, 33ABA, 35 and 35AD

- ❖ No set off of any brought forward loss / unabsorbed depreciation shall be allowed if such loss or depreciation pertains to the deductions specified above.
 - ❖ No carry forward of loss or unabsorbed depreciation shall be allowed.
 - ❖ Set-off of loss from house property shall be allowed only against income from house property and not any other income.
 - ❖ The return of income must be filed within the due date.
- It is to be noted that there is no separate distinction for senior and super-senior citizens in this section.
 - Surcharge and education cess shall be applicable on total income as per the regular rates as detailed below.
 - In case of non-business assessee, the option to pay tax under these rates can be exercised every year.
 - In case of business assessee, once the option is exercised, it shall apply to all subsequent years. If the option is withdrawn in any subsequent year, then it can never be opted for again.
- In case, an assessee does not opt for the above provisions of Section 115BAC, the existing tax rates shall apply. Summarized below are the existing tax rates applicable for AY 2021-22:

❖ **Basic slab rates**

For Resident Individuals (Below 60 years)/Non-Resident Individual/HUF/AOP:

Total Income	Rate of Tax
Upto Rs.2,50,000/-	Nil
Rs. 2,50,001/- to Rs.5,00,000/-	5%
Rs. 5,00,001/- to Rs. 10,00,000/-	20%
Above Rs. 10,00,000/-	30%

For Resident Senior Citizen (60 Years and above but below 80 years):

Total Income	Rate of Tax
Upto Rs.3,00,000/-	Nil
Rs.3,00,001/- to Rs.5,00,000/-	5%
Rs.5,00,001/- to Rs.10,00,000/-	20%
Above Rs.10,00,000/-	30%

For Resident Super Senior Citizens (i.e. 80 years and above of age):

Total Income	Rate of Tax
Upto Rs.500,000/-	Nil
Rs.5,00,001/- to Rs.10,00,000/-	20%
Above Rs.10,00,000/-	30%

❖ **Surcharge**

Total Income	Surcharge (%)
Rs. 50 lakhs to Rs. 1 crore	10%
Rs. 1 crore to Rs. 2 crore	15%
Rs. 2 crore to Rs. 5 crore	25%
Above Rs. 5 crore	37%

❖ **Cess**

Health & Education cess shall be levied at 4% on the aggregate of income tax and surcharge, if any.

➤ There have been some changes with respect to the determination of residence and consequent taxability of NRIs:

- As per the existing provisions, an Indian citizen or a person of Indian origin who has gone abroad for the purpose of employment shall be deemed to be a resident if -
 - He has been in India for an overall period of 365 days or more within four years preceding that year, and
 - he is in India for an overall period of **182** days or more in that year.

It is proposed to amend the above provision by replacing the period of 182 days with 120 days.

- Further, an individual or an HUF shall be said to be “not ordinarily resident” in India in a previous year, if the individual or the manager of the HUF has been a non-resident in India in **seven out of ten** previous years preceding that year.
Earlier, it was **nine out of ten** years.
- An individual, being a citizen of India, shall be deemed to be resident in India in any previous year, if he is not liable to tax in any other country or territory by reason of his domicile or residence or any other criteria of similar nature.

- Under the existing provisions of the Act, there was no upper cap for deduction of contribution by the employer to
 - recognized provident fund
 - approved superannuation fund and
 - National Pension Scheme (NPS)

Now, a consolidated upper cap of Rs. 7,50,000 per annum has been proposed and any contribution in excess of this cap shall be taxable in the hands of the employee.

- Currently, tax on perquisite of ESOP 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 of payment of taxes by the employees of eligible start-ups or TDS by the start-up employer, it is proposed that the payment of tax (deduction of TDS on such ESOPs be deferred to within 14 days of the earliest of the following–
 - the expiry of forty eight months from the end of the relevant assessment year; or
 - the date of the sale of such specified security or sweat equity share by the assessee; or
 - the date of which the assessee ceases to be the employee of the person;

on the basis of rates in force of the financial year in which the said specified security or sweat equity share is allotted or transferred.

- The provisions of section 80EEA which provided a deduction in respect of interest of up to Rs. 1,50,000/- on loan taken for residential house property from any financial institution during the period beginning on the 1st April, 2019 to 31st March 2020 provided the stamp duty value of house property does not exceed forty-five lakh rupees and the assessee does not own any residential house property on the date of sanction of loan has now been extended till 31st March 2021.

B. Common provisions applicable to all assessees

- It has been proposed to remove the concept of Dividend Distribution Tax in respect of dividend from shares and units of Mutual Funds declared after 1.4.2020.

The following are the consequences of the above proposal:

- Dividend from shares and dividend from MFs which were exempt earlier in the hands of the investor under sections 10(34) and 10(35) will now be taxable.
 - At the time of taxing the above in the hands of the investor, only interest expense (*incurred on loan borrowed for the purpose of investment*) to the extent of 20% of the dividend income shall be allowed as a deduction.
 - The provisions of Section 115BBDA which provided for taxation of dividend from shares in excess of Rs. 10 lakhs shall not be applicable.
 - TDS shall be deducted at 10% by the person responsible for the declaration and payment of dividends against equity or preference shares (Section 194) and also against units of Mutual Funds (Section 194K) if such dividend exceeds Rs. 5,000/- in a year.
 - In case of non-residents, TDS will be deducted at the rates in force or as per DTAA, whichever is applicable.
- Presently, Section 115A(5) provides that a non-resident or a foreign company is not required to furnish its return of income if its total income consists only of dividend or interest income and the TDS on such income has been deducted. It is proposed to amend the section so as to include royalty and fee for technical services also in its scope provided TDS is done on the said income.
 - On sale of any land or building, being a capital asset, if the sale consideration is less than the value adopted for payment of stamp duty, then the latter shall be deemed to be the full value of sale consideration and shall be taxed accordingly in the hands of the seller under section 50C and correspondingly in the hands of the buyer under section 56. A relief was available for a variation of upto 5% between the actual sale consideration and the stamp duty valuation. This relief has now been extended to 10%.
 - For computing capital gains in respect of an asset acquired before 1st April, 2001, the assessee has been allowed an option of either to take the fair market value of the asset as on 1st April, 2001 or the actual cost of the asset as cost of acquisition. Now it is proposed to insert a proviso to provide that fair market value of such an asset on 1st April, 2001 shall not exceed the stamp duty value of such asset as on 1st April, 2001 where such stamp duty value is available.
 - With respect to deduction under section 80G for donations, presently, the deduction is allowed on the basis of receipts issued by the donee. Henceforth, such deduction

will be available to the donor only if the donee has filed a statement with the Income Tax department furnishing the details of donations received by it.

- In the case of a capital asset, being units in a segregated portfolio, the period of holding shall be considered from the date from which the original units in the main portfolio were held by the assessee.
Further, the cost of acquisition of such units in the segregated portfolio shall be the amount which bears to the cost of acquisition of units held by the assessee in the total portfolio, the same proportion as the net asset value of the asset transferred to the segregated portfolio bears to the net asset value of the total portfolio immediately before the segregation of portfolios.

C. Provisions applicable to Trusts

- Under the Finance Bill, 2020, amendments are proposed in section 10(23C), section 11, section 12A, section 12AA and section 80G. A new section 12AB is also proposed to be introduced. All these amendments are proposed to be made w.e.f. 01st June, 2020.

An overview of the proposed changes is as follows:-

- New provisions / procedure for registration / approval:

The registration of a charitable / religious trust, institution is presently given u/s. 12AA of the Income Tax Act (“Act”). Now, w.e.f. 01st June, 2020, it is proposed to make this section ineffective and provide for registration under new section 12AB.

For institutions approved under clauses (iv), (v), (vi) and (via) of section 10(23C) and under section 80G, new provisions / procedure for approval has been proposed, but the same is by way of proposed amendments in the section 10(23C) itself.

- Existing registered / approved entities also required to re-obtain registration / approval:

The application for re-obtaining the approval / registration will have to be given within the period of three months from the date of coming in to force of the amendment.

- New registration / approval for limited period of 5 years only:

Presently, the registration u/s. 12AA and approval u/s. 10(23C) and 80G are given without any expiry period (though it may be cancelled in specific circumstances). Now, under the new provisions these are proposed to be given only for a limited period of 5 years (without any discretion in the hands of the authorities for any period less than 5 years etc.). On expiry of the aforesaid period the registration / approval may be re-obtained.

Similarly, an entity already approved under section 80G shall also be required to apply for approval and on doing so, the approval, registration or notification in respect of the entity shall be valid for a period not exceeding 5 years at one time.

- Renewal of registration / approval after expiry of 5 years:

The application for re-obtaining the registration / approval will have to be given at least 6 months prior to the expiry of the registration / approval.

➤ Procedure for fresh first time applicants:

The application for fresh registration / approval is to be made at least one month prior to the commencement of the previous year relevant to the assessment year from which said approval / registration is sought. A provisional registration valid for a period of 3 years shall be given.

➤ Procedure for conversion of provisional registration to full / final registration:

The provisionally registered institutions etc. will have to apply for full / final approval at least 6 months prior to the expiry of the provisional registration or within 6 months of commencement of activities which is earlier.

- The entities receiving donation/sum u/s 80G shall be required to furnish a statement in respect of such sums received by it, and to issue a certificate to the donor. The claim of the donor for deduction in respect of this amount will be allowed on the basis of such statement only.

In order to ensure proper filing of the statement, a fee of a sum of Rs. 200 for every day during which the failure continues shall be levied.

D. Provisions applicable to business assessees

- Presently the limit for applicability of tax audit for business entities is Rs. 1 crore. It is proposed to increase the limit to Rs. 5 crores only for those business entities whose –
 - aggregate **cash receipts** during the year does not exceed 5% of the sales, turnover or gross receipts; **and**
 - aggregate **cash payments** during the year does not exceed 5% of the sales, turnover or gross receipts.
- As per the existing provisions, in case of a partner in a firm which is liable to tax audit, the due date for the income tax return of such partner is the same as the due date of the firm only if such partner is a “working” partner. It is now proposed to remove the word “working” so as to make the second due date applicable to **all** partners of a firm.
- The due date for filing of the income tax returns for companies and for persons liable to tax audit has been changed from 30th September to 31st October of the assessment year.
- However, in order to facilitate the pre-filing of various allowances and disallowances in the income tax returns from the tax audit reports, the due date for filing such tax audit reports has been set at one month prior to the due date of filing IT returns (i.e. 30th September).
- Further, the due date for furnishing the Transfer Pricing Report in Form 3CEB under section 92E is being amended to mean one month prior to the due date for filing of returns. This implies that the said form should be furnished by 31st October of the assessment year. The due date for income tax returns in case of TP applicability will remain 30th November.
- A summary of the proposed due dates is as below:

<i>Nature of assessee</i>	<i>Return / Form</i>	<i>Existing due date</i>	<i>Proposed due date</i>
Salaried Individuals and non-tax audit cases	IT returns	31 st July	31 st July
Companies and tax audit cases	Tax audit (Form 3CD)	30 th September	30 th September
	IT returns	30 th September	31st October
Transfer pricing applicable assessees	Tax audit (Form 3CD)	30 th November	31st October
	TP Report (Form 3CEB)	30 th November	31st October
	IT returns	30 th November	30 th November

- Presently, only a director, in case of a company, and a partner, in case of a firm are eligible to verify the income tax returns of such company or firm, as the case may be. It is now proposed that any other person who is prescribed for this purpose may also verify the returns.
- As per the existing provisions of TDS, a person who is liable to tax audit under section 44AB is required to deduct tax at source under the various sections such as 194A, 194C, 194H, 194I and 194J.
This is now being amended so as to provide that any person whose total sales, gross receipts or turnover from business or profession carried on by him exceeds Rs. 1 crore in case of business or Rs. 50 lakhs in case of profession shall be liable to deduct tax at source regardless of the applicability of tax audit to such person.
- As per the current provisions, TDS on both professional fees and technical services under section 194J is required to be deducted at 10%. As per the proposed amendment, TDS on technical fees is now required to be deducted at 2% only. Professional fee continues to be under the 10% requirement.
- The following new requirements are proposed to be introduced under section 206C which deals with TCS (tax collection at source):
 - A seller of goods whose total turnover from the business exceeds Rs. 10 crores in the immediately preceding financial year shall collect TCS at the rate of **0.1%** on consideration received from a buyer in excess of Rs. 50 lakhs during the year. In case of non-availability of PAN / Aadhaar, the rate applicable shall be 1%.
 - An authorized dealer shall be liable to collect TCS at a rate of **5%** if he receives in aggregate Rs. 7,50,000 or more in a financial year from a person for remittance out of India under the Liberalized Remittance Scheme of the RBI.
 - A seller of an overseas tour program package shall be liable to collect TCS from the buyer at the rate of **5%**. The said requirement shall not arise if the buyer has deducted TDS on such amount. In case of non-availability of PAN, the rate applicable shall be 10%.
- A new section 271AAD is proposed to be introduced so as to provide that if it is found that in the books of account maintained by any person there is—
 - a false entry (includes use of forged or falsified invoices); or
 - an omission of any entry which is relevant for computation of total income of such person, to evade tax liability,
then, a penalty of a sum equal to the aggregate amount of such false or omitted entry may be levied.

E. Provisions applicable to Companies

Rates of Tax:

- No changes have been made in the rates of taxation of income in respect of companies.
- The tax rates applicable for corporate assessees for A.Y. 2021-22 are as follows:

Particulars	Domestic company		Foreign Company/ Branch
	Turnover (during FY 2018-19) ≤ 400 crores	Turnover (during FY 2018-19) > 400 crores	
Basic rate	25%	30%	40%
Surcharge			
- Total Income up to Rs. 1 crore	Nil	Nil	Nil
- Total Income Rs. 1 crore to Rs. 10 crore	7%	7%	2%
- Total Income Rs. 10 crore and above	12%	12%	5%
Health & Education Cess	4%	4%	4%

Also, companies may opt for concessional rates of tax under the following sections:

- **Section 115BA** – A **manufacturing** company set up on or after 1.3.2016 and not claiming deductions u/s 10AA, 32(1)(iia), 32AC, 32AD, 33AB, 33ABA, 35, 35AD, 35CCC, 35CCD or under Chapter VI-A and not carrying forward losses to subsequent years may be taxed at **25%**.
- **Section 115BAA** – A domestic company not claiming deductions u/s 10AA, 32(1)(iia), 32AC, 32AD, 33AB, 33ABA, 35, 35AD, 35CCC, 35CCD or under Chapter VI-A and not carrying forward losses to subsequent years may be taxed at **22% plus surcharge and education cess**.
MAT provisions shall not be applicable to such companies opting for this section. Once exercised, such option cannot be withdrawn for the same or subsequent AYs.
- **Section 115BAB** - A **manufacturing** company set up on or after 1.10.2019 and commences production before 31.3.2023 and not claiming deductions u/s 10AA, 32(1)(iia), 32AC, 32AD, 33AB, 33ABA, 35, 35AD, 35CCC, 35CCD or

under Chapter VI-A and not carrying forward losses to subsequent years may be taxed at **15%**.

MAT provisions shall not be applicable to such companies opting for this section. Once exercised, such option cannot be withdrawn for the same or subsequent AYs.

- The existing provisions of section 80-IAC of the Act provide for a deduction of an amount equal to 100% of the profits and gains derived from an eligible business by an eligible start-up if certain conditions are fulfilled. It is proposed to further extend the benefit by way of the following amendments:

Existing conditions	Proposed conditions
100% Deduction for profit of 3 consecutive assessment years out of 7 years beginning from the year in which it is incorporated	100% Deduction for profit of 3 consecutive assessment years out of 10 years beginning from the year in which it is incorporated
Total turnover of the startup does not exceed Rs. 25 crore in any of the previous years	Total turnover of the startup does not exceed Rs. 100 crore in any of the previous years

F. TDS Rate Chart**AssessmentYear: 2021-22****Financial Year: 2020-21**** changes are indicated in bold*

Section	Nature of Payments	Threshold limit (Rs.)	Rate - Ind/HUF (%)	Rate - Others (%)
192	Salaries	As per the prescribed slab rates applicable		
192A	Payment of accumulated balance due to employee from PF	50,000/-	10	10
193	Interest on securities	10,000/-	10	10
193	Interest on Debentures	5,000/-	10	10
194	Dividends	5,000/-	10	10
194A	Interest other than Interest on securities(including Recurring deposit) by Bank/Post office/ Co-operative Societies	40,000/-	10	10
		50,000/- (for senior citizens)	10	-
194A	Interest other than Interest on securities by Others	5,000/-	10	10
194B	Lottery / Cross Word Puzzle	10,000/-	30	30
194BB	Winnings from Horse Race	10,000/-	30	30
194C	Single Contracts	30,000/-	1	2
	Aggregate contract	1,00,000/-		
194D	Insurance commission	15,000/-	5	5
194DA	Payment in respect of Life Insurance (including bonus)	1,00,000/-	5	-
194E	Payments to non-resident sportsmen or sports associations	-	20	20
194EE	Refund of NSS	2,500/-	10	-
194F	Repurchase of units by MF/UTI	-	20	20
194G	Commission on sale of a Lottery Tickets	15,000/-	5	5
194H	Commission or Brokerage	15,000/-	5	5
194I	Rent of Land and Building	2,40,000/-	10	10
194IA	Transfer of immovable property other then agricultural Land	50,00,000/-	1	1

194-IB	Rent (paid by non-tax audited individuals & HUF)	50,000/- p.m.	5	-
194J	Professional /Royalty & Non-compete fees /payments to directors	30,000/-	10	10
	Technical services	30,000/-	2	2
194K	Income from units of Mutual Funds	5,000/-	10	10
194LA	Compensation on acquisition of immovable property	2,50,000/-	10	10
194LB	Interest from an Infrastructure Bond	-	5	5
194LC	Interest to Non Resident from Indian company/business trusts engaged in certain business	-	4	4
194M	Payments by individual / HUF to contractor / professional	50,00,000/-	5	5
194N	Payment (<i>by a banking institution</i>) of cash to a person from an account maintained by such person	1 crore	2	2
194-O	Payment by e-commerce operator to e-commerce participant	5,00,000/-	1	1