India: Budget 2019 proposals set to increase mobility program costs

July 10, 2019

In brief

The Government of India presented the Union Budget for the fiscal year 2019-20 (the Budget) on July 5, 2019. Key Budget proposals related to personal taxation are summarized below, including an increase in the maximum marginal tax rate to 42.74% (from 35.88%) due to an increased surcharge.

In detail

Income tax rates

No change is proposed for slabs and tax rates. However, the surcharge has been increased from 15% to 25% where the taxable income exceeds INR 20 million, and to 37% where the taxable income exceeds INR 50 million. The effective maximum marginal tax rates are outlined below:

Taxable income	Present	Proposed
Exceeding INR 5 million but not exceeding INR 10 million	34.32%	34.32%
Exceeding 10 million but not exceeding INR 20 million	35.88%	35.88%
Exceeding INR 20 million but not exceeding INR 50 million	35.88%	39%
Exceeding INR 50 million	35.88%	42.744%

Deductions

Proposals include:

- An additional deduction up to INR 0.15 million per annum in respect of interest on housing loans for first time home buyers, subject to the fulfillment of certain conditions.
- A deduction up to INR 0.15 million for interest regarding loans for the purchase of an electric vehicle from any financial institution, subject to the fulfillment of certain conditions.

Exemptions

Under the existing scheme of National Pension System (NPS), an individual can withdraw up to 60% of the corpus fund as a lump sum payment on retirement. Presently, 40% of the corpus fund so withdrawn is exempt and 20% is taxable in the hands of the taxpayer. It is now proposed to raise the exemption limit from the existing 40% to 60% of the corpus fund.

Mandatory filing of tax returns

An individual now would be required to file a return of income in the following cases, even if total income does not exceed the maximum amount not chargeable to tax:

- Deposits more than INR 10 million in a current account; or
- Incurs expenditure on himself or any other person of more than INR 0.2 million on foreign travel;
- Incurs expenditure of more than INR 0.10 million on electricity consumption; or
- Fulfilment of such other conditions as prescribed; or
- The total income exceeds the maximum amount not chargeable to tax before claiming capital gains exemption on investment in residential property, bonds, etc.

Tax deducted at source (TDS)

Presently, there is no requirement for an individual or HUF to deduct tax at source on payments made to a resident contractor or professional when it is for personal use, or if the individual or HUF is not subjected to audit for his business or profession. A new provision is proposed to make it obligatory for such individual or HUF to deduct tax at source at the rate of 5% if the annual payment made to a resident contractor or professional exceeds INR 5 million. However, such individuals would be able to remit the TDS using their PAN (similar to TDS on rent and property purchases).

This amendment is proposed to be effective from September 1, 2019.

In addition, the term ‘consideration for immovable property’ is presently not defined for tax deduction purposes in cases pertaining to the transfer of immovable property. Besides the sales consideration, the buyer is contractually bound to make additional payments for getting rights to other amenities. The term 'consideration for immovable property' is proposed to include all charges for club membership fees, car parking fees, electricity and water facility fees, maintenance fees, advance fees, or any other charges of similar nature, which are incidental to the transfer of immovable property.

This amendment is proposed to be effective from September 1, 2019.

A new section is proposed for TDS at 2% on cash withdrawn in excess of INR 10 million during the financial year from any account maintained with a banking company or cooperative bank or post office.

An online procedure to apply for a lower or 'nil' withholding certificate in cases pertaining to the deduction of taxes for payments to a non-resident has been proposed.

Amendments regarding undisclosed foreign income and assets

In relation to The Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 (the BM Act), proposals include:

- Amending the definition of ‘assessee’ as provided in the BM Act to include cases where the individual is qualifying as non-resident or not ordinarily resident in the relevant financial year, who was resident in India either in the financial year to which the undisclosed overseas income relates, or in the financial year in which the undisclosed asset located outside India was acquired. Currently, the definition of ‘assessee’ does not cover non-residents or persons not ordinarily resident.
- Clarifying the legislative intent behind enacting the BM Act, which was to tax certain foreign income and assets that were not charged to tax under the Income-tax Act.

The proposed amendment would take effect retrospectively from July 1, 2015.

Rationalization of the Income Declaration Scheme, 2016 (IDS)

Under the IDS, all the dues were required to be paid in three installments. This requirement ended on September 30, 2017 and there was no provisions in the IDS to allow a refund of the excess amount received as a tax, surcharge, or penalty.

The proposal would amend the IDS to enable payment of dues along with interest, at the rate of 1% every month or part of the month from the due date to the date of such payment. In addition, there is a proposal to empower the central government to notify the class of persons to whom the excess amount paid towards the tax, surcharge, and penalty shall be refunded.

This amendment would provide another opportunity to the declarants to comply with the IDS introduced by the government and is intended to address concerns where excess

amounts were paid to the authorities and no refund was provided.

Others

- To ensure ease of compliance, there is a proposal to enable the interchangeability of the PAN and Aadhaar numbers. A person whose PAN and Aadhaar are interlinked could, at his/her discretion, choose to provide the Aadhaar in place of the PAN. Any person who does not have a PAN could provide his/her Aadhar number, wherever needed.
- It would be mandatory to link the Aadhar and PAN on or before the notified date – the PAN is proposed to become obsolete. This amendment is effective from September 1, 2019.
- A scheme of faceless, electronic assessment is proposed, involving no human interface. To start with, such e-assessments would be carried out in cases requiring verification of certain specified transactions or discrepancies.
- Pre-populated income tax returns would be made available to taxpayers. Such returns would contain details of salary income, capital gains from securities, bank interest, etc. The information would be populated from sources such as stock exchanges, banks, EPFO, mutual funds, etc. This aims to simplify tax filing processes and at the same time, ensure greater accuracy of income and tax reporting.
- Any sum of money paid or any property situated in India transferred by a person resident in India to a person outside India, proposed to be deemed to accrue or arise in India, would be taxed accordingly subject to the prescribed exemption.
- The threshold limit of outstanding assessed tax for initiating a prosecution proceeding for the failure to furnish an income tax return is proposed to increase from INR 0.003 million to INR 0.01 million.
- There is a proposal to empower the Central Board of Direct Taxes (CBDT) to prescribe transactions undertaken by certain classes of persons in connection with anti-abuse provisions regarding the transfer of a capital asset at a lower valuation or consideration. This would address difficulties faced when determining the fair market value in accordance with the prescribed rules.

The takeaway

The Budget proposals reflect a continued focus by the government on compliance in order to improve tax collections.

One of the key changes proposed in the Budget potentially could affect globally mobile employees is the increase in the maximum marginal tax rate to 42.74% (from 35.88%) due to an increased surcharge. This is likely to raise the cost of assignments due to increased Indian tax liability and related tax gross-up impact if tax equalization occurs.

Mobility program managers should take note of the proposed changes and their impact on budgets. They also may consider informing assignees about these proposed changes by sharing this Insight.

Let's talk

For a deeper discussion of how this issue might affect your business, please contact your Global Mobility Services engagement team or one of the following professionals from PwC India:

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