

# Union Budget

2020-21

## Key Tax Proposals



## Individual taxation

- **Indian Citizens or Person of Indian origin living outside India:** Residency test for individuals reduced to 120 days from 182 days in a fiscal year
- **Individuals:** To qualify as ordinary resident if presence in India is 4 out of 10 fiscal years
- **Deemed Residency:** Indian citizens deemed to be a resident in India if not liable to tax in any other country or territory by reason of their domicile, residence, etc.



## Dividends from domestic companies

- On account of the change to the dividend distribution tax regime, additional tax of 10% on individual shareholders abolished



## Personal tax rates

- New tax regime option provided devoid of any deductions and exemptions (including standard deduction, deduction for investments namely LIC, PPF etc.)
- Comparative analysis of existing and new regime:

Income limit between (amt. in INR)		Proposed rates	Maximum effective tax rate	Existing - maximum effective tax rate	Reduction in tax rates
-	250,000	0%	0.000%	0.000%	0.00%
250,001	500,000	5%	5.200%	5.200%	0.00%
500,001	750,000	10%	10.400%	20.800%	-10.40%
750,001	1,000,000	15%	15.600%	20.800%	-5.20%
1,000,001	1,250,000	20%	20.800%	31.200%	-10.40%
1,250,001	1,500,000	25%	26.000%	31.200%	-5.20%
1,500,001	5,000,000	30%	31.200%	31.200%	0.00%
5,000,001	10,000,000	30%	34.320%	34.320%	0.00%
10,000,001	20,000,000	30%	35.880%	35.880%	0.00%
20,000,001	50,000,000	30%	39.000%	39.000%	0.00%
> 50,000,001		30%	42.744%	42.744%	0.00%



## Dividend taxation

- Incidence of dividend taxation shifted to the shareholder at applicable rates (as against the domestic company declaring dividends)
- WHT at 10% if dividend exceeds INR 5,000 for resident shareholders
- WHT at 20% (plus applicable surcharge or cess) or lower treaty rate for NR shareholders
- Interest expense deductible to the extent of 20% of such dividend income



## Rationalisation of provisions for startups

- Proposal to defer requisite taxation on exercise of ESOP to earlier of five years from the said date or date of leaving of employment or the date of actual sale of shares for employees of eligible startups
- Turnover criteria for eligible startups to qualify for tax holiday increased to INR 100 crore (from the existing INR 25 crore)
- Flexibility provided to eligible startups to claim tax holiday for three consecutive years out of ten years from incorporation (from exiting seven years)



## Tax Collection at Source (TCS)

- New provisions introduced to cover remittances made under
  - The 'liberalized remittance scheme' of RBI or sale of overseas tour package at 5% (else at 10% if no PAN/Aadhaar); and
  - sale of goods (aggregate of value exceeding INR 50 lakhs) subject to TCS at 0.1% of the sale consideration (else at 1% if no PAN/Aadhaar)



## WHT provisions

- Sunset clause extended up to 1 July 2023 for 5% WHT rate on interest on foreign currency borrowings, masala bonds, and certain bonds to FIIs/QFIs, etc.
- WHT on technical services (excluding professional services) to be reduced to 2% as against the existing 10%
- WHT under works contract at 2% to cover cases of contract manufacturing where raw material is provided by related parties



## Withholding tax (WHT) on e-commerce

- E-commerce operator to withhold tax at 1% on proceeds paid to e-commerce participant (i.e. seller); else at 5% if no PAN/Aadhaar
- E-commerce operator to withhold even if the payment moves directly from the customer to the e-commerce participant
- No WHT for individual/HUF where sale through the e-commerce operator does not exceed INR 5 lakh
- Provisions not applicable to amount received by an e-commerce operator for hosting advertisements





## Improving effectiveness of tax administration

- Ambit of Dispute Resolution Panel expanded to cover variations by tax officer that is prejudicial to the interest of a taxpayer (i.e. either a foreign company or any non-resident)
- E-appeal scheme (including e-scheme for imposing penalty) to be notified to bring in greater efficiency, transparency and accountability while eliminating interface with the appellate fora
- Income Tax Appellate Tribunal to provide stay of demand on deposits of 20% of the amount of tax, interest, fee, penalty, or any other sum payable by a taxpayer
- To adopt and declare a taxpayer charter within which the tax administrative body (i.e. CBDT) will issue orders, instructions, directions or guidelines to the tax office for effective administration of the Income-tax Act, 1961
- Dispensation from return filing compliance for NR (without a permanent establishment in India) earning income from royalties or fees for technical service on which WHT at 10% (plus applicable surcharge or cess) is applied



## Deferring of Significant Economic Presence (SEP), extending of source rule

- SEP applicability deferred to 1 April 2022 in light of ongoing discussion in G20-OECD BEPS project
- Source based taxation on income from:
  - advertisements which targets customer residing in India or a customer who accesses the advertisement through internet protocol address located in India;
  - sale of data collected from person residing in India or from a person who uses internet protocol address located in India; and
  - sale of goods or services using data collected from person residing in India or from a person who uses internet protocol address located in India
- India has amended the preamble of the tax treaties to align with the Multilateral Instrument to reiterate that tax treaties are not to be applied to create opportunities of non-taxation or reduction of tax through evasion/avoidance



## Transfer Pricing

- Form 3CEB/transfer pricing report to be furnished by 31 October 2020
- Safe harbour provision and advance pricing agreement (including rollback) amended to cover attribution of profits to a permanent establishment (PE)
- Interest limitation rule amended to exclude interest paid/payable on loan extended by a PE of a non-resident bank for determining tax deductibility



## Indirect tax – Customs

- Health cess at 5% proposed to be levied on import of medical devices to support health infrastructure
- Proposal to review Rules of Origin for sensitive items, in order to arrest undue claims under FTA