
AMENDMENTS
IN
FINANCE BILL, 2020

*(To Be Read In Conjunction With The Budget Updates Available
On Our Website mahendrasatya.com)*

Introduction

- On 1st February the Hon'ble Finance Minister presented the Finance Bill, 2020 in the Lok Sabha (hereinafter referred to as '**Then**')
- On 23rd March, 2020 the Lok Sabha passed the Finance Bill, 2020 with certain amendments.
- On 27th March, 2020 the Finance Bill, 2020 received the assent of the Hon'ble President and became **The Finance Act, 2020**. (hereinafter referred to as '**Now**')

Residential Status

- **Then:** An Indian citizen/person of Indian origin, shall be resident in India in case their stay is 120 (earlier 182) days or more in a FY
- **Now:** Above amendment applicable only where Total Income (Other than income from foreign sources) exceeds 15 Lakhs. Such Individual shall be Not Ordinary Resident (NOR) where period of stay is more than 120 days but less than 180 days. (Applicable From AY 2021-22).

Deemed Resident (DR)

- **Then:** An Indian citizen shall be DR when he is not liable to tax in any country/jurisdiction by reason of his domicile/residence/any other criteria of similar nature.
- **Now:** Above amendment applicable only where Total Income (Other than income from foreign sources) exceeds 15 Lakhs. Such individual shall be considered as NOR. (Applicable From AY 2021-22).

Not Ordinary Resident (NOR)

- **Then:** Individual/HUF shall be deemed to be NOR if he/Karta of HUF has been a NR in any 7 out of the 10 immediately PY.
- **Now:** The above amendment is deleted. Earlier provisions shall continue being:- Individual/Karta of HUF has been NR in India for atleast 9 out of 10 years preceding the PY; or Individual/Karta of HUF has been in India for 729 days or less during 7 years preceding the PY.

Overview of the amendments relating to Residential Status of an Individual

Class of Individual	Total income (excluding income from foreign sources)	Minimum no. of days of stay in India during the relevant year to be considered as 'Resident in India'	Whether liable to pay tax in any Other country?	Residential Status if stay in India is less than no. of days mentioned in condition (b)
	(a)	(b)	(c)	(d)
Indian citizen going outside India as a crew member or for employment	Not exceeding Rs. 15 lakhs	182 days	Yes	Non-resident
	Not exceeding Rs. 15 lakhs	182 days	No	Non-resident
	Exceeding Rs. 15 lakhs	182 days	Yes	Non-resident
	Exceeding Rs. 15 lakhs	182 days	No	Not Ordinarily Resident*
Indian citizen visiting India	Not exceeding Rs. 15 lakhs	182 days	Yes	Non-resident
	Not exceeding Rs. 15 lakhs	182 days	No	Non-resident
	Exceeding Rs. 15 lakhs	120 days (and 365 days in last 4 years)	Yes	Non-resident
	Exceeding Rs. 15 lakhs	120 days (and 365 days in last 4 years)	No	Not Ordinarily Resident*
Any other Indian citizen (does not visit India during the year)	Not exceeding Rs. 15 lakhs	-	Yes	Non-resident
	Not exceeding Rs. 15 lakhs	-	No	Non-resident
	Exceeding Rs. 15 lakhs	-	Yes	Non-resident
	Exceeding Rs. 15 lakhs	-	No	Not Ordinarily Resident*
Person of Indian origin visiting India	Not exceeding Rs. 15 lakhs	182 days	-	Non-resident
	Exceeding Rs. 15 lakhs	182 days (and 365 days in last 4 years)	-	Not Ordinarily Resident*
	Exceeding Rs. 15 lakhs	120 days (and 365 days in last 4 years)	Yes	Non-resident
	Exceeding Rs. 15 lakhs	120 days (and 365 days in last 4 years)	No	Non-resident

* The period of stay in India should be 120 days or more but less than 182 days

Sec 115BAC for Professional Income

- **Then:** To pay concessional tax assessee is required to exercise the option on or before the due date of furnishing ITR. Once exercised, it will be applicable to forthcoming years as well if assessee is earning business income otherwise he shall have a choice to decide every year.
- **Now:** Amend 115BAC to include that taxpayers having income from profession shall also get only one time option to opt for concessional tax regime.

Corpus Donations received by Sec. 10(23C) Institutions

- **Then:** No Amendment
- **Now:** Corpus donations shall not form part of the income of such institutions thereby bringing 10(23C) Institutions at par with exemption available to trusts/institutions registered u/s 12A/12AA/12AB. Further, corpus donations by one 12AA/10(23C) entity to another 12AA/10(23C) entity shall not be treated as application of income.

Dividend Exemption

- **Then:** DDT abolished on Dividends/income declared/ distributed/ paid by domestic companies /mutual funds on or after 1st April, 2020. Consequently, exemption u/s 10(34) is removed.
- **Now:** Now 10(34) will not apply to dividend received on or after 1st April,2020. However exemption u/s 10(34) will apply in following cases:- Dividend received on or after 1st April,2020 but on which DDT or tax u/s 115BBDA has already been paid

Inter-Corporate Dividend (Sec 80M)

- **Then:** Inter-corporate dividend received by domestic co. from another domestic co. to be reduced from total income of that company that further distributes the same to shareholders within 1 month before the due date of filing return.
- **Now:** Now benefit extended to dividend received from foreign company or a business trust.

Deduction u/s 80M

- **Then:** Domestic companies have option to be taxed at concessional tax rates w.e.f. 1st April, 2020. Various conditions are provided including non-availability of deductions under Chapter-VIA except deductions under Section 80JJAA or Section 80LA.
- **Now:** Now deduction u/s 80M shall be available along with Sec. 80JJAA and 80LA to the companies opting for new tax regime w.e.f. AY 2021-22.

TDS on Dividend Distributed to Non-Residents

- **Then:** No specific rate of TDS on dividend distributed
- **Now:** TDS@ 20% (plus surcharge and cess) on Dividend distributed to NR shareholders incl. foreign companies. However in case DTAA provides for a lower rate, the same shall be applicable.

Tax On Specified Income of Non-Residents

- **Then:** No Amendment
- **Now:** Dividend/ interest income, capital gains, royalty and fee for technical services of NR are taxable @ 5%:-Interest referred to u/s 10(47), 194LC/LD/LBA(2). Now sections 194LC/LD/LBA(2) have been excluded from purview of 5% taxation and instead refer to tax rates under respective sections.

TDS On Cash Withdrawal From Banking Company /Co-op. Bank/Post Office

- **Then:** No Amendment
- **Now:** TDS @2% on cash withdrawal exceeding Rs. 1 Cr. If the person has not filed ITR for 3 PYs immediately preceding the PY in which cash is withdrawn, and due date for filing ITR has expired, the TDS shall be: a) 2% when cash withdrawn exceeds Rs. 20 lakhs during PY; or b) 5% where cash withdrawn exceeds Rs. 1 Cr. during the PY. The tax shall be deducted only on the amount exceeding Rs. 20 lakhs or Rs. 1 crore, as the case may be. (Applicable from 1st July, 2020)

Redemption of Mutual Funds

- **Then:** Mutual Funds to deduct tax @ 10% while making payment of income to the unit-holders.
- **Now:** Above amendment is not applicable on capital gain arising on transfer of units.

Definition of E-Commerce Operator (EO)

- **Then:** As per Sec. 194-O EO is defined as the person responsible for payment to e-commerce participant.
- **Now:** The definition of EO has been amended to remove the condition that requires an EO to make payment to e-commerce participant.

TDS on Royalty

- **Then:** Remove exemption for royalty income deemed to accrue/arise in India w.r.t. sale, distribution or exhibition of cinematographic films for non residents
- **Now:** TDS @ 2% on royalty income arising to a person by way of sale, distribution or exhibition of cinematographic films (Earlier 10%)

TDS on Income From SPV

- **Then:** Business Trust to deduct tax @ 10% on dividend distribution to unit-holders
- **Now:** Above amendment not applicable where SPV (from which business trust receives dividend) opts for sec. 115BAA. Therefore where SPV opts for concessional tax regime u/s 115BAA, no TDS shall be deducted on the dividend distributed and income of unitholders shall be exempt u/s 10(23FD).

Amendment in Sec. 194A and 197A(1F)

- **Then:** No Amendment
- **Now:** A new sub-section (5) has been inserted in Sec. 194 to provide absolute powers to the CG to notify cases where no tax shall be deducted or to provide for the lower rate of tax in certain cases. Sec. 197A(1F) has been substituted to provide that no TDS shall be made or deduction of tax shall be made at a specified lower rate by the deductor in cases notified by the CG.

Liberalised Remittance Scheme (LRS)

- **Then:** TCS @5% by an authorised dealer who receives an amount/aggregate amount of Rs. 7 lakh or more during the FY from a person for remitting such amount out of India under LRS.
- **Now:** The above amendment is applicable only on the amount in excess of Rs. 7 lakh

Overseas Tour Program Package

- **Then:** TCS @5% by seller of such package from buyer
- **Now:** Authorised dealer/seller shall be required to collect tax @5% even if the amount/aggregate amounts being remitted by the buyer for the overseas tour package in a FY is less than Rs. 7 lakh. Further, authorised dealer shall not collect the tax on an amount in respect of which the tax has already been collected by the seller.

Foreign
Currency
Remitted
Towards
Loan
Repayment

- **Then:** No Amendment
- **Now:** TCS @ 0.5% by an authorised dealer where amount being remitted out of India is a loan obtained from a banking company (incl. any bank/banking institution) or any other financial institution notified by CG for Sec. 80E, for the purpose of pursuing any education.

TCS on Sale
of Goods

- **Then:** TCS @ 0.1% on the sale of goods exceeding 50 Lakhs other than those already covered under section 206C.
- **Now:** The above amendment is not applicable in respect of goods exported out of India and goods imported into India.

Amendments
to TCS
Provisions

- **Then:** All Amendments proposed in Finance Bill,2020 to be applicable from 1st April, 2020
- **Now:** Now the amendments shall be applicable from 1st October, 2020

Equalisation Levy (EL)

- **Then:** No Amendment
- **Now:** W.e.f. 1st April, 2020 EL be charged @2% on amount received/receivable for e-commerce supply or services made or facilitated by an e-commerce operator(EO). As per Sec. 166A, any person responsible for paying any sum to a NR EO will not be liable to withhold the amount towards EL and deposit it with the Central Govt. Obligation to deposit the EL is only on the EO. Exemption is provided u/s 10(50) on such income on which equalisation levy has been paid.

Income Of Sovereign Wealth Fund (SWF)

- **Then:** Provides exemption to income of SWF or wholly owned subsidiary of Abu Dhabi Investment Authority
- **Now:** Investment should be made during the period between 01-04-2020 to 31-03-2024. This amendment is made to clarify that no exemption shall be available in respect of income arising from investment made before 01-04-2020. The investment should be made for a period of 3 years.

Meaning of Safe Harbour

- **Then:** 'Safe harbour' means circumstances in which the IT authorities shall accept the transfer price declared by the assessee.
- **Now:** 'Safe harbour' shall now cover the transfer price or income, deemed to accrue or arise under section 9(1)(i) which covers various types of income, i.e., income through or from any business connection in India, any property in India etc

Definition of
Chief
Commissioner

- **Then:** No Amendment
- **Now:** Section 2(15A) to include the Director General and Principal Director General of Income Tax within the meaning of 'Chief Commissioner'.

Disclaimer:

This publication contains information for general guidance only. It is not intended to address the circumstances of any particular individual or entity. Although best of the endeavour has been made to provide the provisions in a simpler and accurate form, there is no substitute to detailed research with regard to the specific situation of a particular individual or entity. Mahendra K. Satya & Co. or any of its officials do not accept any responsibility for loss incurred by any person for acting or refraining to act as a result of any matter in this publication.

THANK YOU

-Mahendra K. Satya & Co.