UNION BUDGET 2019

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Abstract

- Corporate tax with turnover up to Rs. 400 slashed to 25% from current tax rate of 30%.
- To resolve the angel tax issue, startups will not be subject to any scrutiny in respect to valuation. Funds raised by startups will not require any scrutiny by the I-T department.
- Additional tax benefit on purchase of Electrical vehicles.
- Existing KYC norms for FPIs to be rationalized and simplified to make it more investor-friendly.
- Additional benefit for investment in affordable houses.
- Investment by FIIs and FDIs in debt securities in infrastructure debt funds to be allowed.
- Benefits for NBFC.
- Enhanced benefits for promotion of IFSC (International Financial Service Centre)
- Enhancement in financing options for MSMEs.
- LDRS (Legacy Dispute Resolution Scheme) for closure of pre GST disputes.
- Custom duty on gold and other precious metals.
- Steps towards cash less economy.

Economic Survey 2018-19

- The Economic Survey projects the official version of the state of the economy and acts as a precursor to the budget. Economic Survey discusses the outlook, prospects and challenges of the economy while recommending reform measures that are essential to propel the economy.

KEY HIGHLIGHTS:

- Survey states that pathways for trickle-down opened up during the last five years; and benefits of growth and macroeconomic stability reached the bottom of the pyramid.
- Growth of the Indian economy moderated in 2018-19 with a growth of 6.8 per cent, slightly lower than 7.2 per cent in 2017-18. On the other hand, the world output growth declined from 3.8 per cent in 2017 to 3.6 per cent in 2018. Real GDP growth for the year 2019-20 is projected at 7 per cent, reflecting a recovery in the economy after a deceleration in the growth momentum throughout 2018-19.
- Sustained real GDP growth rate of 8% needed for a $5 trillion economy by 2024-25.
- CPI inflation declined to 3.4 per cent in 2018-19 from 3.6 per cent in 2017-18.
- General fiscal deficit seen at 5.8% in 2018-19 against 6.4% in 2017-18.

- The estimated growth rate for agriculture, forestry and fishing sectors is 2.9 per cent. The projected output of food grains production for 2018-19- 283.4 million tons.
- Direct taxes grew by 13.4 per cent owing to improved performance of corporate tax. However , indirect taxes fell short of budget estimates by about 16 per cent, following a shortfall in GST revenues(including CGST, IGST and compensation cess) as compared to the budget estimates.
- Imports slated to grow at 15.4% while exports projected to grow at 12.5% for the year 2018-19. The Economic Survey suggests that exports must form an integral part of the growth model because higher savings preclude domestic consumption as the driver of final demand.
- Fixed investments up 10 per cent in 2018-19 from 8.3 per cent in 2016-17.
- Total telephone connections in India touched 118.34 crore in 2018-19
- Banking system improved as NPA ratios declined and credit growth accelerated. NPAs have reduced to 10.1% at the end of December 2018 from 11.5% at the end of March 2018.

- The Government of India initiated a big step in the form of Pradhan Mantri Ujjwala Yojana, providing access to around 7 Crore households .The survey says that India has achieved almost 100% household electrification of 21.44 Crore households.
- Now, globally, India stands fourth in wind power, fifth in solar power and fifth in overall renewable power installed capacity. Service sector growth declined from 8.1 percent in 2017-18 to 7.5 per cent in 2018-19, due to decline in the growth in 'Public administration ,defense & other services' and 'Trade, hotel & transport' sector.
- Gross Value Added (GVA) in agriculture improved from a negative 0.2 per cent in 2014-15 to 6.3 per cent in 2016-17 but decelerated to 2.9 per cent in 2018-19.
- Forex earnings from tourism stood at US$ 27.7 billion in 2018-19 compared to US$ 28.7 billion in 2017-18. 10.6 million foreign tourists visited in 2018-19 compared to 10.4 million in 2017-18.
- Through Swachh Bharat Mission, 93.1% of the households have access to toilets and of which 96.5% of those with access to toilets are using them in rural India.
- The Samagra Shiksha launched in 2018-19 aims at ensuring inclusive and quality education from pre-school to senior secondary stage.

Goods and service tax

- Threshold limit of aggregate turnover for exemption from registration and payment of GST for the suppliers of goods has been enhanced from Rs.10 lakhs to Rs.20 lakhs (in the States of Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland , Puducherry, Sikkim, Telangana, Tripura and Uttarakhand) and from Rs.20 lakhs to Rs.40 lakhs for other States, with effect from 01.04.2019.
- Composition scheme has been formulated for small businessman - supplier of goods and restaurant services. Under the scheme, persons with turnover up to Rs.1.5 crore (Rs.75 lakhs in States of Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura and Uttarakhand) need to pay tax equal to 1 per cent to 5 per cent on his turnover and to file returns annually, with quarterly payment from FY 2019-20.

Measure to Boost GST

- Relief has been given to exporters by giving them an option to export without payment of tax, by submitting a simple letter of undertaking on their letter heads. This is in line with the philosophy of charging no tax on exports.
- Merchant exporters have to pay nominal GST of 0.1 per cent for procuring goods from domestic suppliers for export.

Measures to control Inflation

- Prohibition on export has been withdrawn in April 2018 on all varieties of edible oils, except mustard oil. Export of mustard oil in branded consumer packs of up to 5 kgs is permitted with a Minimum Export Price (MEP) of United States Dollar (USD) 900 per million ton (MT).
- The order empowering States/ UTs to impose controls including Stock Limits on Edible Oils and Edible Oilseeds has been withdrawn vide Notification dated June 13, 2018.

International Development

- 2018-19 has closed with growth in world output on a downward trajectory. The World Economic Outlook (WEO) in its April 2019 issue has projected growth in world output at 3.3 per cent in 2019, down from 3.6 per cent obtained in 2018. Heightened US China trade tensions has been stated as one of the reasons behind the global slowdown that has spilled into other economies including India through the channel of exports. Beginning 2019 global slowdown has made advanced countries persist with their accommodative monetary policy stance. This has escalated portfolio investment into emerging market economies making their currencies stronger and imports cheaper.

Trade Deficit

- Current Account Deficit (CAD) increased to 2.1 percent of GDP in 2018-19, up from 1.8 per cent in 2017-18, it is within manageable levels. The widening of the CAD has been driven by a deterioration in the trade deficit from 6.0 per cent of GDP in 2017-18 to 6.7 percent in 2018-19. Rise in crude oil prices in 2018-19 led to the deterioration of trade deficit. Acceleration in the growth of remittances has, however, prevented a larger deterioration of CAD.

Foreign Exchange Reserve

- India's foreign exchange reserves continue to be comfortably placed in excess of USD 400 billion. The Rupee traded in the range of 65-68 per USD in 2017-18 but depreciated to 70-74 in 2018-19. The exchange rate in 2018-19 has been more volatile than in the previous year, mainly due to volatility in crude prices, but not much due to net portfolio flows. The Real Effective Exchange Rate also depreciated in 2018-19, making India's exports potentially more competitive. The income terms of trade, a metric that measures the purchasing power to import, has been on a rising trend, possibly because the growth of crude prices has still not exceeded the growth of India's export prices.

Sector Wise Impact

1. Agriculture

- 10,000 new Farmer Producer Organizations to ensure economies of scale for farmers over the next five years. Innovative Zero Budget Farming model to train farmers is established.

2. Infrastructure and transportation

- The Jal Marg Vikas project for Capacity augmentation of navigation on National Waterways.

3. Banking and Finance sector

- Proposed to strengthen the regulatory authority of RBI over NBFCs are being placed.
- NPAs of commercial banks reduced by over 1 lakh crores over last year.
- Record Recovery of over 4lac crores with IBC.
- NPAs of commercial banks reduced by over 1 lakh crores over last year.
- After Consolidation of Public Sector Banks, now 70,000 crores of Capital boost for credit improvement.

4. Labour Laws

- Proposing to streamline multiple labour laws into a set of four labour codes.
- Process of registration and filing of returns will get standardized and streamlined.
- Less disputes.

5. Startup Development

- Exclusive programs for startup's on TV Channel (DD News).
- Encourage start-ups by releasing entrepreneurial spirits.

6. MSME

- 350 crore rupees allocated for 2% interest subvention for all GST-registered MSMEs on fresh or incremental loans.
- MSME: Large scale extensive reforms planned, government to create a platform for MSME payments.
- MSME to get loans up to 1 crore within 59 minutes and 350 Crore loans already given.

7. NRI

- Proposal for Issuance of Aadhar Card on arrival for NRIs with Indian Passports.
- • Aadhaar card for NRI's post arrival in India.
- • To increase NRI investment in Indian capital market – NRI portfolio scheme route and FPI route should merge.

8. Electrical Vehicles

- Lower GST Rate from 12% to 5% on Electric vehicle and Additional Income Tax Deduction of 2.5 Lakh on Interest paid on loan taken to purchase an electric vehicle.
- To make electric vehicles affordable, additional IT deduction on 1.5 lakh on interest paid on loan taken to purchase electric Vehicles.

9.Technology

- Solar storage batteries and chargers included in 35AD deduction: FM
- Program of mass scaling of LED Bulbs – Approx. 35 Crores of LED bulbs distribute

10. Cash-Less Transactions

- TDS of 2% on cash withdrawal exceeding 1crore in a year from a bank account to promote less cash economy.
- No charges or MDR on specified digital mode of payments. These modes are to be compulsorily provided by large businesses.

11.Milestones

- Fastest growing major economy in the world
- 6 the largest economy in 2019-20 (11th largest economy in 2013-14)
- CAD (cash against document is reduced to 2.1% of GDP in 2018-19 from 5.6% of GDP in 2013-14.

DIRECT TAXES

- No change in rate of tax.
- There are no changes in tax slabs including the Basic exemption limits. The previous year tax slabs are continued for Financial Year 2019-20.
- Rebate is up to Rs. 12500 for Resident individual having total income of up to Rs. 5,00,000.
- Amendment in Surcharge on income tax:

Taxable Income	Rate of surcharge
Rs. 50 lakhs to Rs. 1Crore	10%
Rs 1 Crore to Rs. 2 Crore	15%
Rs 2 Crore to Rs. 5 Crore(increment)	25%
Above Rs. 5 Crore(increment)	37%

Capital Gains

1. Transaction not regarded as transfer:

Old provision:

- Any transfer of capital asset being bond or GDR or rupee denominated bond of an Indian company or derivate made by a non-resident on recognized stock exchange located in any IFSC and consideration for the same is paid or payable in foreign currency shall not be regarded as transfer u/s 47.

Proposed:

- The above provision shall also be applicable to transfer of such other securities as may be notified by Central Government in this behalf by a non-resident or ***specified fund*** on recognized stock exchange located in any IFSC and consideration for the same is paid or payable in foreign currency shall not be regarded as transfer u/s 47 with effect from 01 April 2020.

Specified fund *means a fund established or incorporated in India in the form of a trust or a company or a limited liability partnership or a body corporate: -*

(i) a Category III Alternative Investment Fund and is regulated under the Securities and Exchange Board of India

(ii) which is located in any International Financial Services Centre;

(iii) which is deriving income solely in convertible foreign exchange

(iv) of which all the units are held by non-residents;

Time limit for investment in Startup is extended U/s. 54GB:

Currently, the benefit of this section was only available for investment in the equity shares of eligible start-ups and the due date was given as 31st March 2019. Thus, no benefit was available for residential property transferred after 31st March 2019.

In order to incentivize investment in eligible start-ups, it is proposed to amend this section as:

1. Due date has been extended from 31st March 2019 to 31st March 2021 thus the benefit is still available even if the residential property is transferred up to 31st March 2021.

2. Relax the condition of minimum shareholding of 50% of share capital or voting rights to 25%

3. Relax the condition restricting transfer of new asset being computer or computer software from the current 5 years to 3 years.

2. Section 56(viib) – Incentives for Category II AIF

Exemption from this provision has been provided for the consideration for issue of shares received by a Venture capital undertaking from a venture capital company or a venture capital fund or by a company from a class / classes of persons as may be notified by Central Government in this behalf. Currently the benefit of exemption is available to Category I AIF with a view to facilitate venture capital undertakings to receive funds from Category II AIF. It is proposed to extend this exemption to fund received by Venture Capital Undertakings from Category II AIF, as well, with effect from AY 2020-21.

Withholding Taxes

Amendment in section 194 DA – TDS on non-exempt portion of life insurance pay out on net basis

Existing provision

- Any person responsible for paying to a resident any sum under a life insurance policy, including the sum allocated by way of bonus on such policy, other than the amount not includable u/s 10(10D) shall, at the time of payment deduct income-tax @ 1% provided the aggregate amount of such payments during financial year is more than or equal to Rs. 1 Lakh

Proposed provision

- The rate of income tax on such payments in respect of life insurance policy shall be increased from 1% to 5% on net income (i.e after deducting the amount of insurance premium paid by him from the total sum received)

Amendment in section 194 IA Payment on transfer of certain immovable property other than agricultural land.

- Any person, being a transferee, responsible for paying any sum by way of consideration for transfer of any immovable property shall deduct TDS @ 1% if the consideration for the same exceeds Rs. 50 Lakhs. The consideration includes only the cost of the immovable property.

194-M – Withholding of taxes on payment of Professional fees or Contract amount

- Any person, being an individual or a HUF responsible for paying amount to any resident for carrying out any work in pursuance of a contract or by way of fees for professional services during the financial year, shall deduct an amount equal to 5% as TDS.
- Whereas, this section is not applicable if aggregate of such sums paid to a resident during a financial year does not exceed 50 Lakhs. However, in order to reduce compliance burden, it is proposed that Individuals & HUF's shall be able to deposit the tax deducted using their PAN & are not required to obtain TAN. Further, lower rate of tax can be availed u/s 197.

194- N – Withholding of tax on payment if Cash more than 1 crore

- Every person being a banking company, Co-operative society engaged in carrying banking business, or a post office. who is responsible for paying any sum in cash, in excess of Rs.1 Crore during the previous year, to any person shall, at the time of payment of such sum, deduct an amount equal to 2%, as income-tax (TDS).However, this section does not apply to any payment to:
- Government
- Any banking company,
- Any business correspondent of banking company or co-operative society engaged in carrying on the business of banking, in accordance with the guidelines issued by RBI.

Expenditure allowed only for payments made through Banking/ any such other electronic mode.

- a) The deductions u/s. 35AD for capital expenditure exceeding Rs. 10,000/- shall be allowed only if such payments are made to a person by an account payee cheque or bank draft or electronic clearing system through a bank account or such other electronic mode.
- b) Expenses incurred in excess of Rs. 10,000/- will be allowed for deduction u/s. 40A, now extends even for payments made in any such other electronic mode.
- c) Similarly, u/s. 43(1), determination of actual cost of the asset any shall include payment made to a person exceeding Rs. 10,000/- only if it is made through an account payee cheque or bank draft or electronic clearing system through a bank account or such other electronic mode.
- d) With effect from 5th July 2019, Donations to Political Parties shall be only in banking channel/ any other Electronic mode and Donations received by a political party exceeding Rs. 2,000/- will be exempted only if the donation is received through account payee cheque/ account payee bank draft/ use of electronic clearing system. (Receipt of amount through Electoral Bond is removed by Finance Act 2019.

Remittance of tax by recipient will be deemed to be tax deducted and paid by the assessee.

- Amendment to sec. 40(a)(i), the assessee shall be allowed to claim deduction even if the assessee has not deducted tax at source, only if the recipient has remitted necessary taxes, filed his return of Income u/s. 139 and has obtained certificate for the same from the Accountant. Accordingly, the assessee will not be construed as "Assessee in Default" U/s. 201 of the Act.

Financial Institutions includes NBFC's:

- With effect from Financial year 2019-20, the Interest expenditure is allowed u/s. 43B, *only* on actual payment, is now extended even for borrowing from Non- Banking Financial sectors (NBFC's).
- Similarly, any deductions availed in previous years (till 31st March 2019) without actual payments, shall not be allowed again upon actual payment.

Corporate Tax

- Beneficial Corporate tax rate of 25% has been extended to the companies having turnover up to 400 cr. which is going to benefit 99.3% of the existing companies.

Minimum Alternative Tax (MAT) under section 115JB:

- For calculation of Book Profits under MAT:
- The benefit to carry forward and set off. of Unabsorbed Depreciation & Loss were provided earlier to a Company applied for corporate insolvency resolution process has been admitted by the Adjudicating Authority under Insolvency and Bankruptcy Code, and now it has extended to a Company, and its subsidiary and subsidiary of such subsidiary where the Tribunal, on an petition moved by Central Govt. by suspending the existing Directors and appointed new directors nominated by Central Govt.

No DDT (dividend distribution Tax) related to income of IFSC U/s. 115O of the Act

- No tax on distributed income shall be chargeable related to total income of a company being an unit of an International Financial Services Centre (IFSC) which is deriving income solely in convertible foreign exchange, for any Asst. Year on any amount declared, distributed or paid by such company, by way of dividend out of its current income and now it's also extended not only out of its current income but also included out of its Accumulated Income.

Filing of Statement of Financial Transaction (SFT) – widening the scope without any limit U/s. 285BA

- In order to enable prefilling of return of income, it is proposed to obtain information by widening the scope of furnishing of statement of financial transaction with effect from 1st September 2019, aggregate value of specified transactions during a financial year of current threshold of Rs. 50,000/- is reduced to NIL.

Carry forward and set off losses

Benefits to Start-Up's

- To facilitate ease of doing business in the case of an eligible start-up, it is proposed to amend section 79 so as to provide that loss incurred in any year prior to the previous year, in the case of closely held eligible start- up, shall be allowed to be carried forward and set off against the income of the previous year on satisfaction of either of the two conditions stipulated currently at clause (a) or clause (b).
- (a) No loss incurred in any year prior to the previous year shall be carried forward and set off against the income of the previous year, unless on the last day of the previous year, the shares of the company carrying not less than fifty-one percent of the voting power were beneficially held by persons who beneficially held shares of the company carrying not less than fifty- one per cent of the voting power on the last day of the year or years in which the loss was incurred.
- (b) the loss incurred in any year prior to the previous year shall be carried forward and set off against the income of the previous year, if, all the shareholders of such company who held shares carrying voting power on the last day of the year or years in which the loss was incurred, continue to hold those shares on the last day of such previous year and such loss has been incurred during the period of seven years beginning from the year in which such company is incorporated.

Relief allowable u/s 89 – [Relief when salary etc. is paid in arrears or in advance]

- The computation of tax liability u/s 140A, 143(1)(c), 234A, 234B, 234C shall be made after considering the relief u/s 89 along with other credits available to the assessee like advance taxes, TDS, Foreign tax credit etc. This provision is retrospectively effective from 1st April 2007.

Insertion to sec 139A

- PAN & Aadhaar can be used interchangeably for income tax purpose including filing of returns. If one doesn't have PAN they can quote Aadhaar number.

Insertion of sub-section 6A to 139A

- Every person entering into a prescribed transaction, may disclose his Aadhar Number or PAN in the documents pertaining to such transactions. If a person fails to disclose his Permanent Account Number (PAN) or Aadhar Number, then the Assessing Officer as per section 272B(2A) may direct to pay a sum of Rs.10,000/- for each default.

Amendment to section 139AA(2)

- **Old Provision** – Where he assesses fails to link Aadhar number, then the PAN allotted, shall be deemed to be invalid.
- **New Provision** – where the assessee fails to link the Aadhar number, then the PAN of such person shall become inoperative. This amendment will take effect from **1st September, 2019.**

DEDUCTIONS under section 80

New Sections inserted to the Act

Section 80EEA – Deduction in respect on interest on house property loan

"House for all"

- This section is introduced to provide relief for individual assesses, who are not availing the benefits of Section 80EE, in respect of the interest on loan for **Residential property**.
- The assessee can claim a maximum deduction of Rs.1,50,000/- in respect of the interest payable on loan taken from financial institutions for the purpose of residential property subject to the following conditions:

  1) The loan must be sanctioned during the period 01/04/2019 to 31/03/2020.

  2) The stamp duty of the residential property should not exceed 45Lakhs.

  3) The assessee should not own any residential property on the date when loan was sanctioned.

Section 80EEB - Deduction in respect on interest on Electric vehicle loan

- This section is introduced to encourage people to use Electric vehicles, which are Eco-friendly. Thus improving the environment.
- The assessee can claim a maximum deduction of Rs.1,50,000/- in respect of the interest payable on loan taken from financial institutions for the purpose of electric vehicles

Section 80-IBA - Deductions in respect of profits and gains from housing projects

- Provision inserted is specifically for the projects approved on or after 01/09/2019. The same provisions as earlier applies, however with there are few changes as under:

  1) Bengaluru, Delhi National Capital Region (limited to Delhi, Noida, Greater Noida, Ghaziabad, Gurugram, Faridabad) and Hyderabad are added to the list of Metropolitan cities.

  2) The carpet area of residential unit has been increase to 60 sq. mt for metropolitan cities and 90 sq. mt for any other locations.

  3) Stamp duty value of the residential unit should not be more than 45 Lakhs.

- The earlier provision is effective for projects approved on or before 31/03/2019 and the new provision inserted is effective for projects approved on or after 01/09/2019. This section is not applicable for projects approved between 01/04/2019 to 31/08/2019.

Amendment of the provisions of section 276CC

- **Old Provision** - Prosecution proceeding for failure to furnish the return of Income shall not be proceeded against any person other than company if the tax payable on regular assessment is not more than Rs.3,000/- after reduction of advance tax and TDS.

- **New Provision** - Prosecution proceeding for failure to furnish the return of Income shall not be proceeded against any person other than company if the tax payable on regular assessment is not more than Rs.10,000/- after reduction of advance tax, self-assessment tax and TDS, TCS.

Non-Beneficial

Rationalization of penalty provisions relating to under-reported income u/s 270A.

Procedural

Mandatory furnishing of return of income U/s section 139(1) by certain persons

- **Old Provision** - Every person is required to furnish the return of Income, if the total Income exceeds basic exemption limit without considering the provisions of clause (38) of section 10 or section 10A or section 10B or section 10BA or Chapter VI-A.
- **New Provision** - In addition to the above provisions it is also further mandated to furnish the return of Income for persons before claiming the deductions under sections 54, 54B, 54D, 54EC, 54F, 54G, 54GA and 54GB of the Act, if the Total Income exceeds the basic exemption limit.
- The Above amendment is effective from 1st April 2020 i.e. from AY 2020-21.
- 2) In order to ensure that persons who enter into certain high value transactions do furnish their return of income, the following persons are required to furnish the return of Income even if the Total Income has not exceeded basic exemption limit –
- (i) Has deposited more than Rs.1 Crore in one or more current account in bank/Co-operative bank.
- (ii) Has incurred expenditure of more than Rs.2 lakh for himself or any other person for travel to a foreign country; or
- (iii) Has incurred expenditure of more than Rs.1lakh towards consumption of electricity.

Mandating acceptance of payments through prescribed electronic modes u/s 269SU and 271DB

- **269SU** – Every person whose total sales, turnover or gross receipts in business exceeds Rs.50 crores shall accept the payment through the prescribed electronic modes, in addition to the facility for other electronic modes of payment.
- **271DB** – Non Compliance of section 269SU attracts penalty of Rs.5,000/- for every day during which the failure continues.
- This amendment is effective from **1st November 2019**.

Amendment to Section 271FAA

- Penalty provisions contained in section 271FAA so as to ensure correct furnishing of information in the SFT and widen the scope of penalty to cover all the reporting entities under section 285BA. This amendment is effective from **1st September 2019.**

International Tax and Transfer Pricing

Income by way of gifts of a non-resident would be deemed to accrue or arise in India.(New provision)

- It is proposed that any gifts which may be received by a non-resident from an Indian resident will be deemed to accrue or arise in India and taxed accordingly. However, the existing provisions for exempting gifts shall continue for such gifts also. Where there is an applicable DTAA, the same shall continue with respect to such gifts. Effective from 1.4.2019; AY 20-21 onwards.

Relaxation of the requirements for eligible investment funds (modification)

- Subject to fulfilment of certain conditions a foreign eligible investment fund would not be treated to have a business connection in India. One of them was pertaining to the corpus of the fund which was established in the previous year. It is proposed that the period to be considered for ascertaining the limit of 1 crore would be six months or end of previous year whichever is later. Also, the calculation of remuneration of the manager of such funds would be prescribed. Earlier, this was required to be at arm's length. Effective from 1.4.2019; AY 2019-20 onwards.

Online filing of application for availing the lower rate / NIL TDS certificate (modification)

- It is proposed to do away with the existing manual process of obtaining the lower / nil with-holding tax certificate from the Assessing Officer and in this regard, it is proposed to prescribe the form and manner of making an application to the AO for this purpose. Effective from 1.11.2019 onwards

Maintenance and keeping of Transfer Pricing Documentation

- It is proposed that a constituent entity of an international group, shall keep and maintain the information and document and shall provide such information to the prescribed authority and shall file the prescribed form, even when there is no international transaction undertaken by such constituent entity. Effective from 01.04.2020; AY 2020-21 onwards.

Furnishing of CbC report in respect of International Group

- Where the Alternate Reporting Entity (ARE) of an international group is a resident of India, and the parent entity is a non-resident, it is proposed that the accounting year for CbC Reporting for such ARE shall be the accounting year applicable to such parent entity. Effective from 01.04.2017; AY 2017-18 onwards.

INDIRECT TAXES (GOODS AND SERVICES TAX)

Amendments in CGST Act,2017

• In section 2 clause 4 the words "National Authority for Advance ruling" has been inserted after the words "The Appellate Authority for Advance ruling"

• In section 10, a new sub section was inserted for bringing the supplier of services eligible for composition scheme.Further explanation has been added in sub-section 1of section 10 which states that the value of supply of services by way of extending loans, advances or deposits in return of interest or discount shall not be considered for calculating the value of aggregate turnover for determining the eligibility for the Composition scheme and the tax payable.

•After sub-section 2 of section 10, sub-section 2A has been inserted which states that a registered person whose aggregate turnover in the preceding Financial year does not exceed 50 lakh rupees may opt to pay CGST and SGST/UTGST @ 3% respectively.

•In section 22 (Registration) an explanation has been inserted for determining the tax payable by a person stating that the turnover of the State or UT shall not include the value of Supplies from 1St April of a Financial year up to the date he becomes liable for such registration and exempt supply of services by way of extending loans, advances or deposits in return of interest or discount.

- New sub-sections 6A, 6B, 6C and 6D under section 25 (Procedure of Registration) has been inserted which makes Aadhaar authentication mandatory for specified class of new taxpayers or registered tax payers and to prescribe alternate and viable means of identification in case Aadhaar number is not assigned as may be notified by the Central Government on recommendations of the Council.
- A new section has been inserted in the CGST Act so that specified suppliers shall have to mandatorily give the option of specified modes of electronic payment to their recipients.
- The CGST Act is being amended so as to allow the composition taxpayers to furnish annual return along with quarterly payment of taxes; and other specified taxpayers may be given the option for quarterly or monthly furnishing of returns and payment of taxes under the proposed new return system.
- The Commissioner has been empowered to extend the due date for furnishing Annual return (FORM GSTR-9/9A) and reconciliation statement (FORMGSTR-9C).
- A facility has been provided to the registered person to transfer an amount from one (IGST/CGST/SGST) head to another (IGST/CGST/SGST) head in the electronic cash ledger.
- Interest shall be charged only on the net cash tax liability, except in those cases where returns are filed subsequent to initiation of any proceedings under the GST Act.
- The Commissioner has the power to extend the due date for furnishing of monthly and annual statement by the person collecting tax at source.

Notifications

1. Notification No.1/2019 – Central Tax (Rate)

- This notification specifies that, from 1st Feb 2019, the purchases made by a registered person from an unregistered person and payment of GST under Reverse charge mechanism has been rescinded.

2. Notification No.1/2019 - Integrated Tax (Rate)

- This notification specifies that, from 1st Feb 2019, the purchases made by a registered person from an unregistered person and payment of GST under reverse charge mechanism has been rescinded.

3. Notification No. 10/2019 - Central Tax dated 7th March 2019

- The notification exempts the following category of persons from obtaining registration under the said Act with effect from 1st April 2019.
- Any person, who is engaged in exclusive supply of goods and whose aggregate turnover in the financial year **does not exceed forty lakh rupees**, except, - (a) persons required to take compulsory registration; (b) persons engaged in making supplies of the goods:1. Ice cream and other edible ice, whether or not containing cocoa. 2. Pan masala 3. Tobacco and manufactured tobacco substitutes. (c) persons engaged in making intra-State supplies in the States of Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Puducherry, Sikkim, Telangana, Tripura, Uttarakhand; and (d) persons obtaining voluntary registration under the Act and also who intend to continue their registration.

4. Notification No. 14/2019 – Central Tax dated 7th March 2019

- The above notification prescribes that an eligible registered person, whose aggregate turnover in the preceding financial year did not exceed one crore and fifty lakh rupees, may opt to pay tax under Composition Scheme, with effect from 1st April 2019, except if such person is a manufacturer of the said goods namely:1. Ice cream and other edible ice, whether or not containing cocoa. 2. Paan masala 3. Tobacco and manufactured tobacco substitutes. The limit shall be seventy – five lakh rupees in case of persons registered in the states of Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura and Uttarakhand.

5. Notification No. 02/2019 – Central Tax (Rate) dated 7th March 2019

- The notification shall come into effect on 1st April 2019. It has notified the central tax, on the intra-State supply of goods or services or both as specified below:

a) The rate prescribed is 3%,

b) The following conditions are prescribed:

1.Supplies are made by a registered person, -

(i) whose aggregate turnover in the preceding financial year was fifty lakh rupees or below;

(ii) who is not eligible to pay tax under sub- section (1) of section 10 of the said Act;

(iii) who is not engaged in making any supply which is not leviable to tax under the said Act;

(iv) who is not engaged in making any inter-State outward supply;

(v) who is neither a casual taxable person nor a non-resident taxable person;

(vi) who is not engaged in making any supply through an electronic commerce operator who is required to collect tax at source under section 52; and

(vii)who is not engaged in making supplies of the goods, the description of which is specified in column (3) of the Annexure below and falling under the tariff item, sub-heading, heading or Chapter, as the case may be, as specified in the corresponding entry in column (2) of the said annexure.

2. Where more than one registered persons are having the same Permanent Account Number, issued under the Income Tax Act, 1961(43 of 1961), central tax on supplies by all such registered persons is paid at the rate specified in column (2) under this notification

3. The registered person shall not collect any tax from the recipient on supplies made by him nor shall he be entitled to any credit of input tax.

4. The registered person shall issue, instead of tax invoice, a bill of supply as referred to in clause (c) of sub-section (3) of section 31 of the said Act with particulars as prescribed in rule 49 of Central Goods and Services Tax Rules

5. The registered person shall mention the following words at the top of the bill of supply, namely: - 'taxable person paying tax in terms of notification No. 2/2019-Central Tax (Rate) dated 07.03.2019, not eligible to collect tax on supplies.

6. The registered person opting to pay central tax at the rate of three percent under this notification shall be liable to pay central tax at the rate of three percent on all outward supplies specified in column (1) notwithstanding any other notification issued under sub-section (1) of section 9 or under section 11 of said Act.

6. Obtaining any instrument by fraud, collusion, willful misstatement or suppression of facts

- Section 114AB has been inserted to provide that any person who has obtained any instrument by fraud, collusion, willful misstatement or suppression of facts and such instrument has been utilized by such person or any other person for discharging duty, such person to whom the instrument was issued shall be liable for penalty not exceeding the face value of such instrument.

Company Law Updates

Companies Incorporation Rules

- Presently anyone wants to incorporate a section-8 company, shall submit the application by filing form No.INC-12 and once permission is granted, form INC-32(SPICe) to be filed. However as per Companies (Incorporation) 6th Amendment Rules,2019 – notification dated 07 June 2019, the following rule was amended;

Amendment

- A person or an association of persons desirous of incorporating a company under section 8(1), shall make an application in Form No.INC-32(SPICe) with effect from the 15 August 2019 filing INC-12 is not required.

Objective behind the amendment :

- The objective of the amendment was to reduce the burden of filing multiple forms and making the system more user friendly.

Removal of Names of Companies from the Register of Companies

Currently application fees for removal of name of the company in Form STK-2 is Rs.5000/- .

Amendment

As per the notification application fees revised to Rs.10,000.

Apart from the increase in filing fees, MCA also amended the following.

No application in Form No. STK-2 shall be filed by a company unless it has filed overdue Financial Statement (AOC-4/AOC-4 XBRL) and Annual Returns (MGT-7) up to the end of the financial year in which the company ceased to carry its business operations. Statement of Accounts that accompany form STK -2 shall be in Form STK - 8.

Objective behind the amendment:

MCA by inserting this proviso to Rule 4(1), has made it very clear that the company can file form STK-2 only when it has filed all overdue returns till the end of financial year in which the company ceased to carry its business and also it prescribed a format for statement of accounts in STK-8.

ACTIVE Form by directors - New Insertion in Rule

- All companies incorporated before 31 December 2017were required to file e-Form ACTIVE (INC- 22A) on or before 25 April 2019. Failure in filing before due date will lead to a penalty of Rs. 10,000 along while filing.
- Where a company fails to file the e-form ACTIVE within the period specified therein, the status of DIN of its' existing directors shall be marked as "Director of ACTIVE non-compliant company". Only after the company files the e-form ACTIVE, the status of DIN of directors of such company shall be marked as "Director of ACTIVE compliant company".

- Also without filing the e-form ACTIVE, the company is not allowed to file forms like SH-07, PAS-03, DIR- 12, INC-22, INC-28.
- Objective behind the amendment:
- To ensure that there are no shell companies existing and update information of all the active companies.
- Issue of securities in dematerialized form by unlisted public companies
- Currently, the unlisted public companies has to provide reconciliation of Share Capital Audit Report as provided under regulation 55A of SEBI Regulations, 1996 and Companies (Prospectus and Allotment of securities) Rules on a half-yearly basis to the Registrar under whose jurisdiction the registered office of the company is situated physically.
- Amendment
- As per the notification, every unlisted public company governed by this rule shall submit Form PAS-6 to the Registrar with such fee within 60 days from the conclusion of each half year duly certified by a company secretary in practice or chartered accountant in practice.
- Further the company shall immediately bring to the notice of the depositories any difference observed in its issued capital and the capital held in dematerialized form.

New Insertion

- As per amendment, the application for incorporation of a company shall be accompanied by e-form AGILE (INC-35) containing an application for registration of the following, namely:
- (a) GSTIN with effect from 31 March 2019
- (b) EPFO with effect from 08 April 2019
- (c) ESIC with effect from l5 April 2019
- However, any company who wish not to go for the above registrations at the time of incorporation, there is an option to select No and file AGILE.

Objective

- To simplify the process of obtaining statutory registrations like GST, EPF and ESI by compiling the same with (SPICe INC-32) at the time of incorporation of company.

Annual Filing of DIR-3 KYC

- Every individual who has been allotted a Director Identification Number (DIN) as on 31st March of a financial year as per these rules shall, submit e- form DIR-3-KYC to the Central Government on or before 30 April of immediate next financial year.

Amendment

- It is proposed that every person who has already filed DIR-3 KYC will only be required to complete his/her KYC through a simple web-based verification service, with pre-filled data based on the records in the registry, for ease of verification by the person concerned. However, in case a person wishes to update his mobile number or e- mail address, he would be required to file e-form DIR-3 KYC, as this facility of updation is not being proposed in the web-based service. In case of updation in any other personal detail, e-form DIR- 6 may be filed for updation of the same before completion of KYC through the web-based service.

New Insertion

- Every company other than Government company shall file a onetime return of outstanding receiptof money or loan by a company but not considered as deposits (as per relevant rules) from the 01 April 2014 to 31 March 2019 in form DPT-3 within 90 days from the closure of financial year i.e by 29th June of next financial year.
- Also, every company other than Government company shall also file annual return capturing the details of outstanding receipt of money or loan by a company but not considered as deposits, for total amount stood as on 31 March 2019 on or before 30 June 2019.
- Objective
- The objective behind the new rule was to collect the information for exempted deposits and deposits from the companies.
- Filing of form MSME I

New Insertion

- Form MSME I is required to be filed by all companies, who get supplies of goods or services from micro, small & medium enterprises and whose payments dues to such micro and small enterprise suppliers exceed forty-five days from the date of acceptance or the date of deemed acceptance of the goods or services as per the provisions of section 9 of the Micro, Small and Medium Enterprises Development Act, 2006, shall submit a return to the Ministry of Corporate Affairs in Form MSME.

Objective

- The objective behind bringing this rule is to protect MSME sector from long dues from service/ material recipients and also making companies more diligent in clearing their invoices within 45 days from the date of invoice to MSMEs

FEMA Updates

Annual Return on Foreign Liabilities and Assets

Reporting by Indian Companies

- Fill in the details of FLA in excel based format which can be downloaded online and through the email ID of authorized person like CEO, Director,
- **Amendment** - New Procedure
- With the objective to enhance the security-level in data submission and further improve the data quality, the present email-based reporting system for submission of the FLA return will be replaced by the web-based system online reporting portal https://flair.rbi.org. User has to register themselves to submit the form FLA.
- The successful registration on web-portal will enable users to generate RBI-provided login- name and password for using FLA submission gateway and would include system-driven validation checks on submitted data.
- Reporting entities will get system- generated acknowledgement receipt upon successful submission of the form.Entity can revise the data, if required
- Entities can submit FLA information for earlier year/s after receiving RBI confirmation on their request email. Filing of form FLA is also applicable for Limited Liability Partnerships

- **Updates from Budget 2019 in FEMA**
- Local sourcing norms will be relaxed for the single- brand retail sector.
- Govt to open FDI in aviation, insurance, animation AVGC and media.