Union Budget 2020

SURESH & CO.

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Contents

EXECUTIVE SUMMARY

- Reduction in tax rates (optional) for Individuals/HUF
- DDT abolishment
- Ease of tax structure for start ups
- Benefits to SMEs
- Tax litigation schemes
- Exemptions for Foreign Sovereign Funds
- Charter for taxpayers
- Increase in Insurance for banking deposits from Rs.1 lakhs to Rs. 5 lakhs
- Partial disinvestment in LIC and Complete disinvestment in IDBI

ECONOMIC

SURVEY 2019-20

Economic Survey 2019-20

This first survey of Modi 2.0 Government was tabled by the Union Finance Minister Nirmala Sitharaman and outlines the blueprint to achieve PM Narendra Modi's vision of USD 5 trillion Economy.

Can India become a 5Trillion $ economy?

The Prime Minister of India Narendra Modi declared that he wanted India to be a "$5 trillion economy" by 2024. He said, it will be "challenging, but achievable."

The Survey has projected the real GDP growth at 7 percent for the year 2019-20, considering the expected pickup in the growth of investment and consumption. 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.

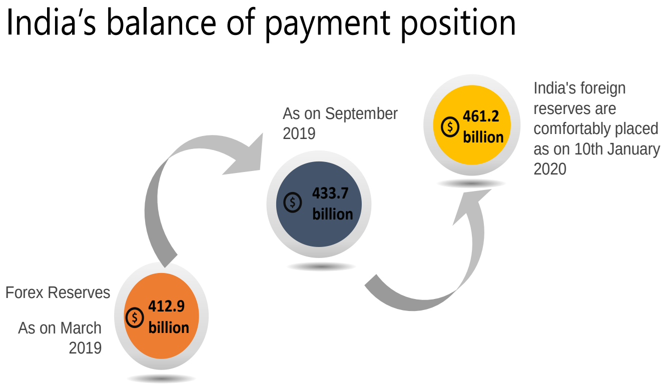
HIGHLIGHTS

- **Bringing the sense of Duty**

- The merchandise exports contracted 1.8 per cent in December, declining for fifth month in a row month, even as the trade deficit fell to $11.25 billion from a year ago period, the government data released on Wednesday showed. In December 2019, the exports fell to $27.36 billion as against the corresponding period a year ago. The imports also declined 8.8 per cent to $38.61 billion, the data also showed. During April-December 2019-20, exports fell 1.96 per cent to $239.29 billion, imports declined by 8.9 per cent to $357.39 billion, leaving a trade deficit of $118.10 billion.

India's economic growth

- The Economic Survey 2019-20 has proposed India can create well-paid four crore jobs by 2025 and eight crore by 2030 by integrating "assemble in India for the world" into government's Make in India initiative and exporting network products that can give substantial push to India's target of becoming a $5 trillion economy.
- The country needed to spend $1.4 trillion on infrastructure to remove the constraints in growth, as power shortages, inadequate transport and poor connectivity affects overall growth performance, and to achieve a GDP of $5 trillion by 2024-25.
- **Position of India's balance of payment**



- The Survey suggested providing ESOPs to public sector bank employees to enable them to become owners in the banks. Employee stock ownership plans (ESOPs) will incentivise the bank employees to embrace risk-taking and innovation continually, it said.
- It takes more documents to open a restaurant in Delhi as compared to documents needed for a license to procure new arms and major fireworks, says the Economic Survey for 2019-20.
- Funding of the Rs 102 lakh crore National infrastructure pipeline recently unveiled by the

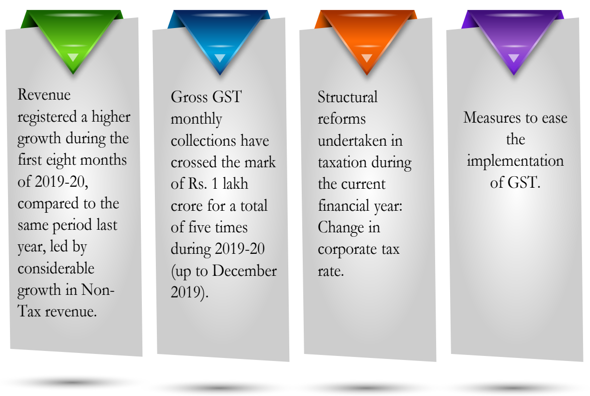
Indian government "would be a challenge", the Economic Survey for 2019-20 said.

- Indian companies garnered nearly Rs 74,000 crore through public issuance of equity and debt during April-December this fiscal, a 66 per cent jump from the preceding financial year, with rights issue emerging as the most preferred route for financing business needs. Companies had raised Rs 44,355 crore in the April-December period of 2018-19.

- **A detailed look at Modi govt's Thalinomics**
  - An attempt to quantify what a common person pays for a Thali across India.
  - A shift in the dynamics of Thali prices since 2015-16.
  - Absolute prices of a vegetarian Thali have decreased significantly since 2015-16 across India and the four regions; though the price has increased during 2019-20.
  - Post 2015-16: Average household gained close to Rs. 11, 000 on average per year from the moderation in prices in the case of vegetarian Thali.
  - Average household that consumes two non-vegetarian Thalis gained close to Rs. 12, 000 on average per year during the same period.
  - From 2006-07 to 2019-20: Affordability of vegetarian Thalis improved 29 %.
  - Affordability of non-vegetarian Thalis improved by 18 %.

- **Fiscal Developments**

Fiscal Developments



- **China-model for jobs**

  Survey suggests a strategy similar to one used by China to grab this opportunity:
  - Specialization at large scale in labour-intensive sectors, especially network products.
  - Laser-like focus on enabling assembling operations at mammoth scale in network products.
  - Export primarily to markets in rich countries.
  - Trade policy must be an enabler.

- **Railways:**
  - Budgetary allocation of Rs 65,837 crore and the highest ever outlay for capital expenditure amounting to Rs 1.60 lakh crore for railways.
  - A new PPP model will usher in the new dawn of Indian railways.
  - Government to complete the dedicated freight corridor project by 2022.
  - Railways to be encouraged to invest more in suburban rail network via SPVs.
  - Railway infrastructure will need an investment of Rs 50 lakh crore between 2018 and 2030

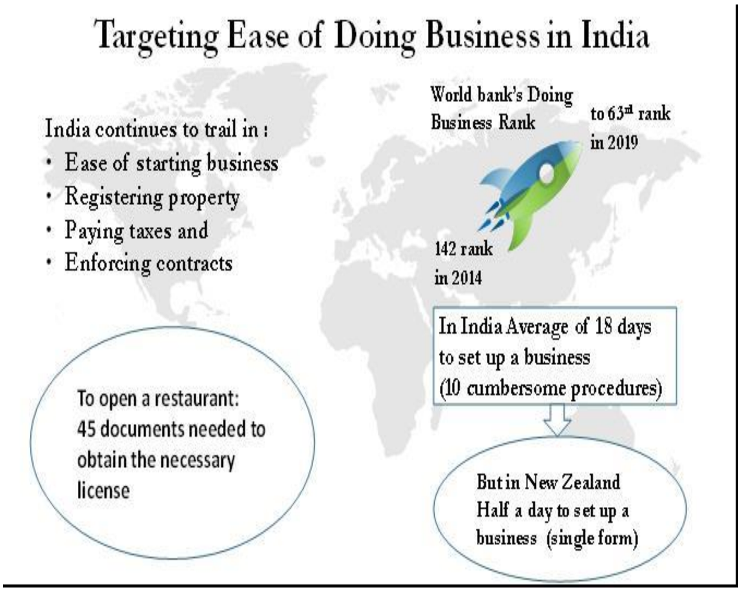
- **Education**
  - National research foundation to fund, coordinate and to promote research in the country.
  - New Higher Education Commission with focus on higher autonomy.
  - 'Study in India' programme to attract foreign students in higher education.
  - Rs 400 crore allocated for world-class higher education institutions in FY 20 .
  - To make the Indian youth ready to take up jobs in foreign countries, more emphasis on new-age skills like Artificial Intelligence, Internet of Things, Big Data.

- **Prices and Inflation**
  - Inflation Trends: Inflation witnessing moderation since 2014- Consumer Price Index (CPI) inflation increased from 3.7 per cent in 2018-19 (April to December, 2018) to

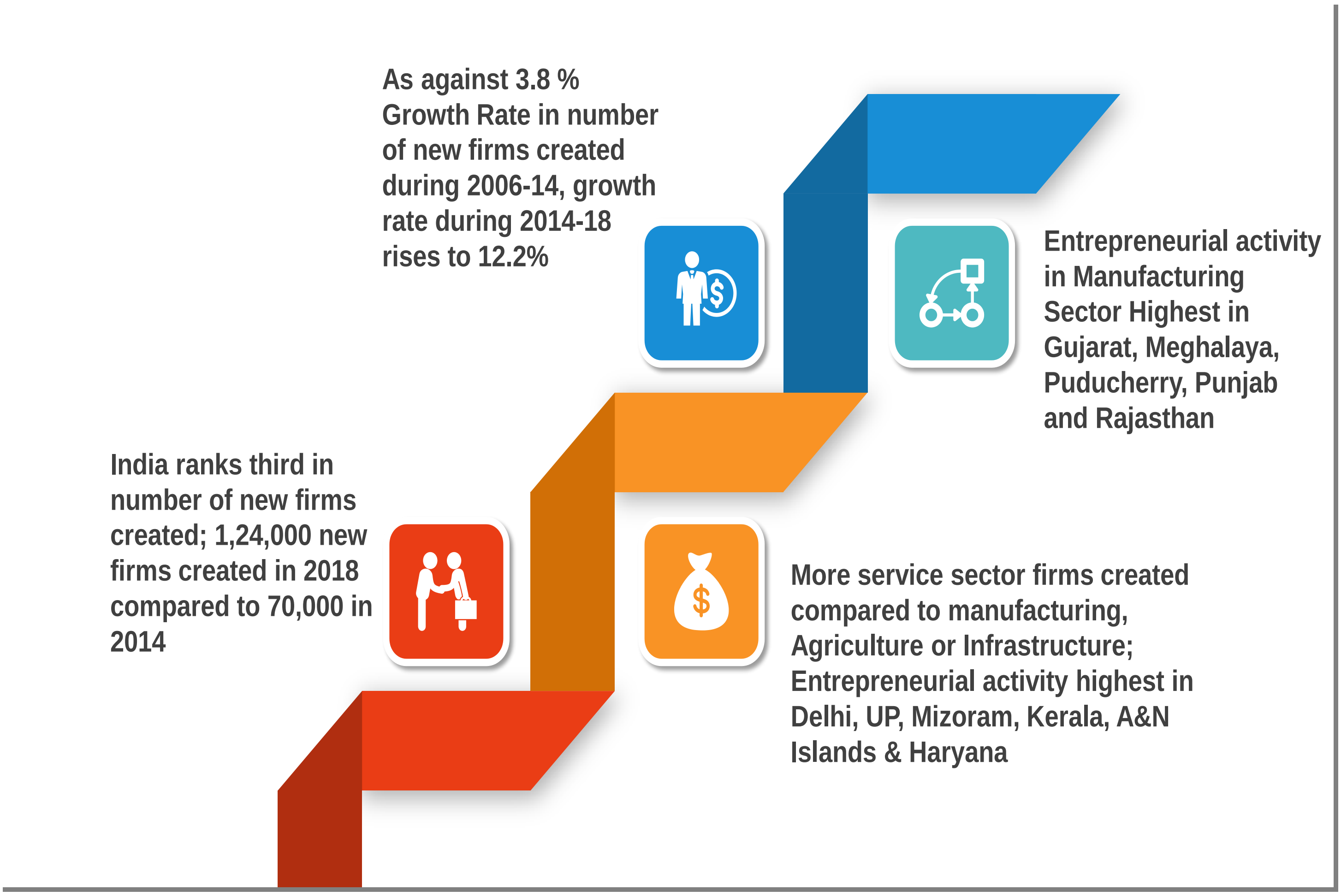
4.1 per cent in 2019-20 (April to December, 2019).

- WPI inflation fell from 4.7 per cent in 2018-19 (April to December, 2018) to 1.5 per cent during 2019-20 (April to December, 2019).
- Drivers of CPI - Combined (C) inflation: During 2018-19, the major driver was the miscellaneous group
- During 2019-20 (April-December), food and beverages was the main contributor.
- Among food and beverages, inflation in vegetables and pulses was particularly high due to low base effect and production side disruptions like untimely rain.

Ease of doing business in India



India's 'growth' in rankings



SECTOR WISE IMPACT

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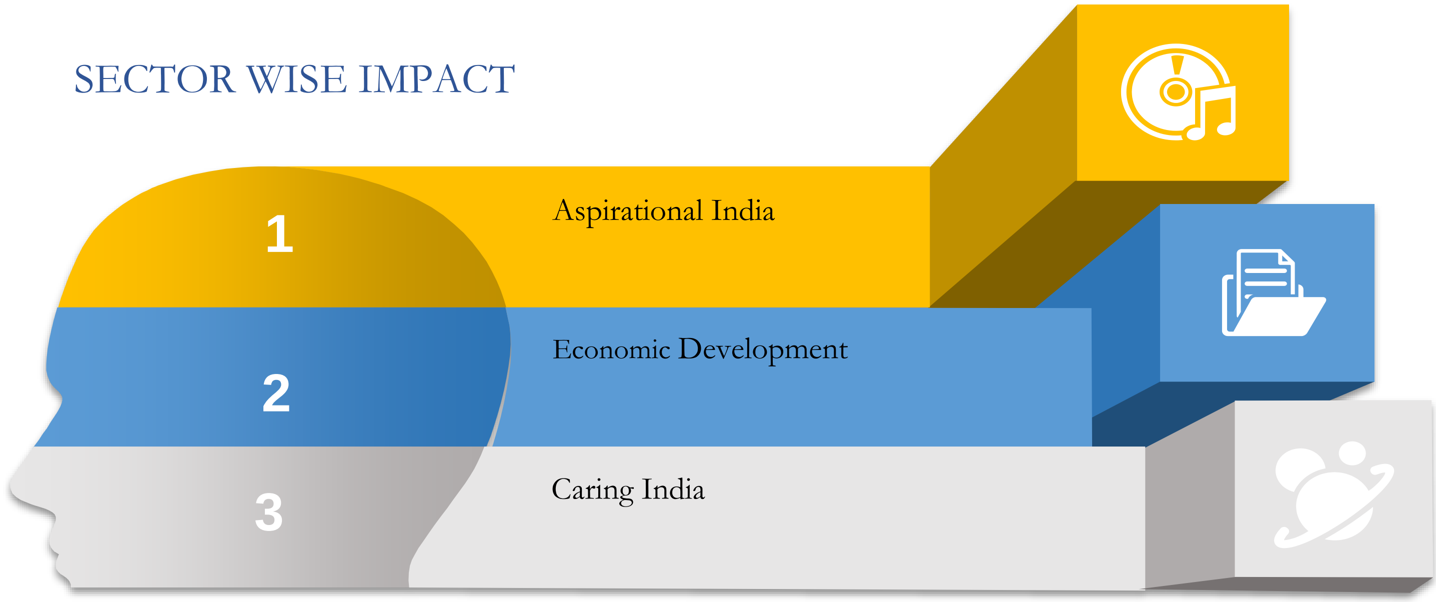


Aspirational India

Agriculture, Irrigation & Rural Development

- Action plan on Government commitment to doubling of farmers income by 2022
- Comprehensive measures for 100 water stressed districts.
- Urging farmers to use their barren lands for solar power generation to act as supplementary source of income.
- Moving towards traditional organic fertilizers
- Geo tagging of existing warehousing and setting up of efficient warehouse at PPP level.
- Village storage schemes
- Nation cold supply chain through "Kisan Rail" for perishable products
- Kisan Udaan scheme on International and National routes
- Strengthening of Online national organic product market.
- Doubling of milk production capacity
- Development, Management and convservation of marine fishery resources.

Wellness, Water and Sanitation

- Mission Indradhanush expanded to cover 12 such disease including 5 new vaccines.
- Ayushman empaneled hospitals in Tier-2 and Tier – 3 cities under PPP mode
- Using Machine learning and AI to target diseases under the Ayushman Bharath Scheme
- Expansion of Jan Aushadhi Kendra to all districts
- Efforts to declare India Tuberculosis free by 2025
- Water supply to all households and recharge and augmenting of water resources under the Jal Jeevan Mission
- Focus on solid waste collection, source segregation and processing towards Swacch Bharath Mission

Education and Skill Development.

- New Education policy to be introduced to address the need for job and life skills in addition to literacy skills
- Encouraging ECB and FDI in the sector to deliver high quality education
- To Improve employability, higher education institutions to be started with apprenticeship embedded as part of the program. Urban and local bodies to start internship programme for fresh engineers.

- Online education programme for students in deprived section to be offered
- Under Study in India, Ind-SAT to be held in Asian and African countries
- Establishment of National Police University and National Forensic science University
- Attach Medical college to existing Hospital under PPP mode.
- Large Hospitals with sufficient capacity to offer resident doctors DNB and FNB courses.

Economic Development

Industry, Commerce and Investment

- Portal for Investment Clearance Cell for "end to end" facilitation and support, information related to land banks and facilitate clearances
- To develop five new smart cities in collaboration with States in PPP mode.
- A National Technical Textiles Mission at an estimated outlay of 1480 crore.
- NIRVIK launched for higher insurance coverage, reduction in premium for small exporters and simplified claim settlements.
- 27,300 crore for development and promotion of Industry and Commerce

Infrastructure

- National Logistics Policy to create a single window e-logistics market
- Chennai-Bengaluru Expressway to be started.
- To monetise at least twelve lots of highway bundles of over 6000 Km before 2024.
- More Tejas type trains connecting iconic tourist destinations
- 148 km long Bengaluru Suburban transport project at a cost of 18600 crore
- 1.70 lakh crore for transport Infrastructure
- To expand the national gas grid to 27000 km
- 22,000 crore to power and renewable energy sector in 2020-21

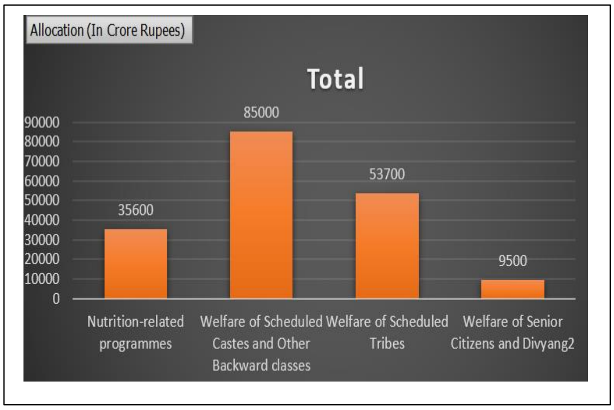
New Economy

- 6000 Crore to Bharatnet programme
- Knowledge Translation Clusters in Technology sectors
- To provide early life funding, including a seed fund to support ideation and development of early stage Start-ups.
- 8000 crore for the National Mission on Quantum Technologies and Applications.

Caring India

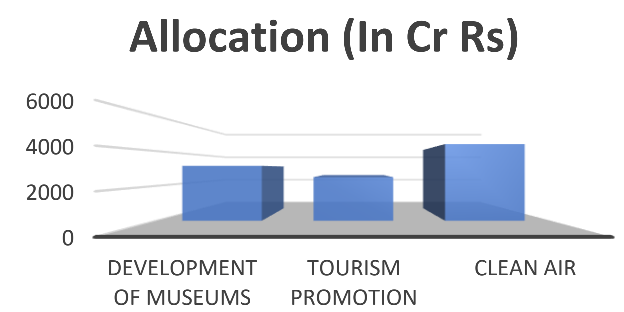
Women & Child, Social Welfare

- More than six lakh anganwadi workers are equipped with smart phones to upload the nutritional status of more than 10 crore households
- Allocation towards Women & Child, Social Welfare



Culture & Tourism & Environment

Government proposes to establish an Indian Institute of Heritage and Conservation under Ministry of Culture



HIGHLIGHTS

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Economy and Finance:

- Bank deposit insurance cover had been increased from ₹1 lakh to ₹5 lakh per depositor.
- Government plans to amend the Companies Act to decriminalize civil offences.
- Government to sell part of its stake in LIC via public offering.

Agriculture:

- A budget allocation of ₹2.83 lakh crore for the sector comprising agriculture and allied activities.
- Doubling farmers incomes by 2022.
- Agri-credit availability set at ₹15 lakh crore for 2020-21.
- Comprehensive measures for 100 water stressed districts.
- Provide 20 lakh farmers to set up standalone solar pumps. Help another 15 lakh farmers to solarize their power grid.
- Village storage scheme proposed to be run by women SHGs.
- Indian Railways to have refrigerated coaches capability in 'Kisan Trains' to carry perishables and milk.
- Krishi UDAN on international and national routes.

Health and Sanitation:

- An allocation of ₹69,000 crore for the health sector.
- ₹12,300 crore for Swachh Bharat this year.
- Proposal to set up hospitals in Tier-II and Tier-III cities with the private sector using PPP.
- Expand Jan Aushadhi scheme to provide for all hospitals under Ayushman Bharat by 2025.

Education:

- ₹99,300 crore for education sector in 2021 and about ₹3,000 crore for skill development.
- Urban local bodies to provide internship to young engineers for a year.
- Degree-level full fledged online education programmes by institutions ranked in top 100 in NIRF rankings, especially to benefit underprivileged students.
- A national police university and a national forensic science university is proposed to be setup.
- IND SAT exam for students of Asia and Africa to promote "Study in India" programme.

Infrastructure:

- Budget proposes to provide ₹1.7 lakh crore for transport infrastructure in 2021
- National Logistics Policy to be released soon.
- Chennai-Bengaluru Expressway to be started.
- Aim to achieve electrification of 27,000 km of lines.
- Plan to have a large solar power capacity for Indian Railways.
- The government also proposes a Bengaluru suburban rail project at a cost of ₹18,600 crore.
- Govt to monetise 12 lots of national highways by 2024.
- 100 more airports will be developed by 2024 to support UDAN.

DIRECT TAXES

DIRECT TAXES

Slab rates for Individuals/HUF:

There are changes in tax slabs for Financial Year 2020-21. However, the proposed budget offers Individuals the choice of paying tax under the new regime of the lower income tax rates by letting go the exemptions / deductions or continue to pay tax under the existing income taxes by claiming all applicable exemptions and deductions. In case of those persons having business income, they need to opt before the return filing due date for AY 2021-22 and the same will be applicable for subsequent assessment years. In other cases, they can choose to opt year-on-year before the due date for return filing.

The following are the changes in income tax rates with respect to Individuals and HUF as per the optional scheme:

Income slab	Existing rate with exemptions	Proposed rate without exemptions
a) Upto Rs. 2,50,000/-	NIL	NIL
b) From Rs. 2,50,001 to Rs. 5,00,000/-	5%	5%
c) From Rs. 5,00,001 to Rs. 7,50,000/-	20%	10%
d) From Rs. 7,50,001 to Rs. 10,00,000/-	20%	15%
e) From Rs. 10,00,001 to Rs. 12,50,000/-	30%	20%
f) From Rs. 12,50,001 to Rs. 15,00,000/-	30%	25%
g) Above Rs. 15,00,000/-	30%	30%

*Income upto Rs. 5,00,000, tax would be Nil based on existing rebates

Illustration having salary income with comparison to existing and proposed taxes

Income	Existing slab with exemptions	Proposed slab without exemption
Basic Salary	4,50,000	4,50,000
House Rent Allowance	1,80,000	1,80,000
Leave Travel Allowance	30,000	30,000
Other Allowance	2,40,000	2,40,000
Total Salary	**9,00,000**	**9,00,000**
Less: Exempt u/s 10		
LTA – Section 10(5)	-30,000	-
HRA Section 10(13A)	-1,80,000	-
Gross Salary	**6,90,000**	**9,00,000**
Less: Standard deduction u/s. 16(i)	-50,000	-
Gross Total Income	6,40,000	9,00,000
Less: Deduction under chapter VIA		
Section 80C	-1,50,000	-
Section 80D	-25,000	-
Total Income	**4,65,000**	**9,00,000**
Tax on above	**NIL**	**60,000**

Note: 1) The proposed income tax slabs might be beneficial for assessees having only Income from Other Sources and not claiming any investment benefits (i.e., Sec 80C, 80D).

If the Salaried Individual is claiming deductions under sections 80C, 80D, HRA Exemption, LTA Exemption, and deduction of Interest paid on housing loan for self-occupied property up to permissible limits, likely to be better off in the existing tax rates.

The following is the impact of existing and proposed slab rates.

Gross income	Tax payable in existing slab with exemptions	Tax payable in proposed slab without exemptions*	Impact
7,50,000	-	37,500	-37,500
10,00,000	21,500	75,000	-53,500
15,00,000	1,01,500	1,87,500	-86,000
25,00,000	3,36,000	4,87,500	-1,51,500
50,00,000	9,36,000	12,37,500	-3,01,500
1,00,00,000	21,36,000	34,87,500	-6,01,500

**Assumptions: Basic salary is 50% of the total salary and HRA is 40% of the basic salary. We have considered Deductions u/s 80C as Rs. 1,50,000, Section 80D – Rs. 25,000, and Leave Travel Allowance – Rs. 30,000. Standard deduction u/s 16 – Rs. 50,000*

RESIDENTIAL STATUS

Acceleration of period of stay in India to become a Tax Resident:

With respect to the determination of residential status of the Individual assesses, in case of a person being a citizen of India, or a person of Indian origin, being outside India and comes on a visit to India in a previous year the total number of days of stay in India has been reduced from 182 days to 120 days. Based on the above proposed amendment, if he / she visits India for a period exceeding **120 days** (earlier 182 days) **AND** was in India for a period exceeding 365 days in four years preceding the previous year will be treated as **Resident of India**.

Also, if an Individual assessee is a citizen of India and also **not** a tax resident of any other country on account of residence/domicile/such similar conditions of any country, such person shall be deemed to be the **Resident of India** for the purpose of taxation and his/her global income shall be taxable in India.

In case of an individual / HUF shall be called a Resident but not ordinarily resident if he/she was a Non-resident for nine years out of ten years preceding the previous year. Now it is proposed if he/she was a Non-resident for **seven years out of ten years** then shall be called a **Resident but not ordinarily resident**. In case of HUF the manager of the HUF was a Non-resident for seven years out of ten years preceding the previous year.

SALARY RELATED AMENDEMENTS

Taxing employer contributions in excess of Rs. 7,50,000 to Recognised funds

If the employer in aggregate has contributed to Superannuation Fund, Recognised Provident Fund or National Pension Scheme in excess of Rs. 7,50,000 in a year, then such excess contribution is liable for tax in the hands of the employee. Also, the interest / dividend / any other return earned on such excess contribution, would also be taxable in the hands of employee as a perquisite. Earlier this provision was applicable only towards the contribution in excess of Rs. 1,50,000 in case of Superannuation Fund and now this has been enhanced to other two funds also. There maybe practical difficulties in determining the income earned on such excess contribution.

Deferring Tax Payment in respect of income pertaining to Employee Stock Option Plan (ESOP) of Start – ups:

ESOP is a Significant component of the compensation for the employees of Start-ups. Currently ESOPs are taxed as perquisites under section 17(2) of the IT Act.

The tax on perquisite 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 the eligible start - ups or TDS by the start - up employer, it is proposed to make the following amendments-

Taxes needs to be paid on completion of five years of exercise or sale of such securities or when the person resigns from employment whichever is the earliest. The income is still part of the taxable income of the year in which the options are exercised and there are administrative provisions made to defer the tax payment.

OTHER INCOME TAX PROVISIONS

RATIONALISATION OF SECTION 43CA, 50C, AND 56 – (MODIFICATION)

To support genuine transactions in the real estate sector, it is proposed to provide that no adjustments shall be made in a case where the variation between stamp duty value and the sale consideration is not more than 10% of the sale consideration (Proposed to enhance the limit from 5% to 10%) i.e., This would be beneficial in case of sale by property developers as well as other investors and the persons receiving such properties.

TAX DEDUCTED AT SOURCE (TDS)

Applicability of TDS Provisions:

The proposed amendment relating to extending turnover threshold for getting books of accounts audited under section 44AB of Income Tax has been enhanced from **Rs. 1 crore** to Rs. **5 Crore**. However, the limit for Individuals and HUF continues to be Rs. 1 crore for business and Rs. 50 lakhs for professionals to comply with TDS/TCS provisions as per below sections:

- 194A – Interest other than interest on securities
- 194C – Payments to contractors
- 194H – Commission or Brokerage
- 194I - Rent
- 194J – Professional or Technical Services
- 206C

TDS on Dividend (Modification of Section 194/194K):

With removal of DDT and making dividends taxed in the hands of the recipient, companies / mutual funds are now required to deduct tax at 10% on dividend payouts above Rs.5,000/-.

TDS on Payment of certain sums paid by e-commerce operator to e-commerce *participant* (Insertion of Section 194-O):

It is proposed to insert a new section 194-O in the Act so as to provide for a new levy of TDS for e-commerce operators. The TDS is to be paid by e-commerce operator for sale of goods or provision of service facilitated by it through its digital or electronic facility or platform. Tax at one per cent is required to be deducted on the gross amount of such sales or service or both. Further, if PAN is not provided, the tax deduction will be at 5% (Sec. 206AA).

TDS on amount paid to contract manufacturer: (Modification to Sec. 194C)

TDS of 2% was required to be made by a person(customer) in case of payments to a contract manufacturer where such manufacturers used to buy raw materials from such person himself. Now, this has been extended even to cases where the contract manufacturer purchases raw material from associated or related parties of the customer.

TDS on amount paid for technical services (other than professional services) (Modification to Sec. 194J):

It is proposed to reduce rate for TDS in section 194J in case of fees for technical services (other than professional services) to two per cent from existing ten per cent. The TDS

Benefits to Start-ups (holding Inter-Ministerial Board of Certification) *(Section 80-IAC)*

i. Enhancement of time limit;

Start-ups can now claim the 3 year tax holiday in any of the 3 Assessment years (AYs) out of 10 AYs from the date of incorporation, as against the earlier 3 years out of 7 AYs.

ii. Enhancement of turnover limit;

Start-ups having turnover up-to 100 crores are now eligible to tax holiday limit, as compared to the earlier limit of Rs. 25 Crores.

Extension of 150% deduction for contribution to companies with scientific prospects *(Section 35)*

A deduction of 150% of scientific expenditure for universities engaged in scientific or statistical research was being allowed and is now extended to Companies registered in India with object of scientific research are also eligible for a deduction of 150%.

CHARITABLE TRUST & INSTITUTION

Rationalization of registration and approval process

With effect from 1st June 2020, every charitable trust or eligible institutions desiring to claim exemption u/s. 11, 12, 10(23C) etc., have to apply to the prescribed authority.

The prescribed authority will grant a provisional approval for 3 years and there after regular approvals for 5 years at a time.

Even, existing approved trust/ institutions are required to apply and to obtain a Unique Identification No. (fresh approval) within 30th August 2020.

Additional Compliances:

The donor will be allowed to avail deduction u/s. 80G/80GGA only if the Donee (trust or institution) furnish a statement in respect of donations received. Failure of which would attract the following:

- Section 234G: Fees of Rs.200 per day for default in furnishing of statement or certificate for receipt of donation by donee.
- Section 271K: Penalty for default for furnishing of statement or certificate for receipt of donation by donee, ranging from Rs. 10,000/- to Rs. 1,00,000/-.

ENHANCEMENT IN TAX AUDIT TURNOVER
(Ref. Section 44AB)

The Tax Audit turnover limit for person carrying on business has been enhanced from 1 Crore to 5 Crores, subject to the following conditions:

a) The aggregate of all receipts in cash during the previous year does not exceed 5% of such receipt;
and
b) The aggregate of all payments in cash during the previous year does not exceed 5% of such payment.

In all other cases, the existing limit of Rs. 1 Crore continues.

REMOVAL OF DIVIDEND DISTRIBUTION TAX (DDT)

Previously, the companies/ Mutual funds distributing dividends had to deduct tax (i.e., DDT at 17.65%) and then distribute the net amount to the investors. Such dividends were exempt in the hands of the investor subject to dividend from shares above Rs. 10 Lac's taxed at 10% plus applicable surcharge & cess.

Now, DDT has been abolished (115-O/ 115R) and the dividend recipient is now be liable for tax on this income.

Consequential impact on removal of DDT:

1. Further, the company shall now deduct tax at 10% on such dividend payments u/s. 194K.

2. The impact of the much-litigated provision of sec.14A (disallowances of expenses relating to earning exempt income) will now be reduced significantly.

3. The earlier DDT was not available as credit to the Non-Residents. With this change, the tax deducted in INDIA would now be eligible for tax credit in their home country. This would boost foreign direct investment into INDIA.

4. In case of companies receiving dividend and distributing the same to its shareholders can avail deduction u/s. 80M to the extent of dividend distributed in the same year or one month prior to return filing due date.

5. The recipient of dividend income or income from units of mutual fund can claim deduction on account of interest income, which is restricted to the maximum of 20% of such income without deduction u/s. 57 and no other expenses are allowed as deduction.

Extension of eligibility date for deduction of interest on Affordable housing loan *(Ref. Section 80EEA)*

The cut-off date for sanction of loan for claiming deduction under this section for interest on affordable housing loan is extended till 31st March, 2021

Faceless proceedings under Appeal to Commissioner of Income Tax and Penalty Proceedings.

1. Extension of Faceless proceedings under income tax to include first appellate proceedings and Penalty proceedings.
2. Introduction of dynamic jurisdiction whereby more than one CIT(A) officers can dispose of appeals.

[Amendment to Section 250 & 274]

Direct Tax Dispute Resolution Scheme - 'Vivad Se Vishwas' scheme

Introduction of tax amnesty scheme to reduce the pending litigations under the banner 'Vivad Se Vishwas' scheme. Further details of the scheme shall be released in due time.

Precondition to filing of Stay application before the Tribunal

Insertion of condition to pay minimum 20% of the disputed demand or providing security of equivalent amount for tribunal to entertain stay application (including extension of stay)

[Amendment to section 254]

Penalty on falsification of books of Account or omission & forgery of book entry

100% Penalty equivalent to transaction value on any assessee for false / omission of entry or forged documents or fake invoices leading to willful tax evasion including any person who helps or assists in tax evasion.

[Insertion of Section 271AAD]

Ramification of due date for filing Tax Audit Report, Other Reports for claiming deduction, Return of income.

The due date for furnishing of Tax audit report and return of income for such assesses have been ramified

Revised timelines:

Assessee	Due Date for Audit Report*	Due Date for Filing of Return of Income
Liable for Transfer Pricing	31 October	30 November
Not liable for Transfer Pricing	30 September	31 October

**Reports including 35D, 80JJAA, etc shall be filed on or before such dates*

Due date for filing of returns for Non-working partners aligned with the due date of filing for working partner, i.e., 31st October of the assessment year (along with return of income for Firm).

[Amendment to Section 139]

INTERNATIONAL TAX AND TRANSFER PRICING

INTERNATIONAL TAX AND TRANSFER PRICING

- **Due Date for filing Form 3CEB (Sec 92F)**

  The due date for filing of Form 3CEB from AY 2020-21 and onwards is 31 October.

Due date till FY 2018-19	Due Date from FY 2019-20
November 30th	**October 31st**

- **Reference to Dispute Resolution Panel (DRP) (Sec 144C)**

  1. Reference to DRP to include cases where AO proposes to make ***<u>any variation</u>*** which is prejudicial to the interest of the assessee.
  2. DRP extended even to a Non-Resident not being a company.

Any person to whom order of assessment occurs given by the AO and variations are made. — and — Non-Resident not being a company or a foreign company.

Extension of Safe Harbour Rules and in Advance Pricing Agreement to attribution of profit to Permanent Establishment (PE) also (Sec 92CB and 92CC)

The determination of attribution of income of a non-resident person to its Permanent Establishment (PE) in India could result in disputes. In order to provide certainty, the attribution of income in case of a non-resident person to the PE is proposed to be covered under the provisions of the Safe Harbour Rules and the Advance Pricing Agreement. Rules to be notified.

Thin Capitalisation rule excluded for Permanent Establishment of a non-resident Bank for the purpose of limitation of interest (Sec 94B)

It is proposed that interest limitation would not apply to interest paid in respect of a debt issued by a lender which is a PE of a non-resident, being a person engaged in the business of banking, in India w.e.f. AY 2021-22.

Deferring Significant Economic Presence (SEP)

With a view to extend the concept of business connection to cover taxation of digital economy, SEP was brought in under the concept of 'business connection'. The applicability of concept of SEP is proposed to be deferred to AY 2022-23 (Sec 9(1)(i)).

Extending source rule.

It is proposed to clarify that the source rule may also include income from advertisement that targets Indian customers or income from sale of data collected from India or income from sale of goods and services using such data collected from India. This would be applicable from AY 2021-22 (Sec 9(1)(i)).

The CBDT will come out with the necessary operational rules in this respect (Sec 295).

> Foreign entities which have may have such income as mentioned above have to maintain robust documentation to understand, the tax implications in India.

Benefit of Dividend Distribution Tax (DDT) removal to foreign companies

The erstwhile DDT though was an indirect tax cost, the credit for the same was not available in the home country of a foreign investor. Now, with dividends taxable in the hands of the recipient, the with-holding taxes payable in India as per the DTAA rates would be eligible for credit in home country. This is applicable from AY 2021-22 onwards (Sec 115O read with Sec 195).

Alignment purpose of Multi-Lateral Instruments (MLI) with DTAA.

In order to align the applicability of the MLIs along the lines of the DTAA's, an amendment is proposed to be made include the purpose of the MLI in the provisions of the Act and to extend the same to MLI which have been notified in this regard. India has signed the MLI. MLI is an outcome of G20-OECD project to tackle BEPS. These MLIs will modify India's DTAAs to curb revenue loss through treaty abuse and base erosion and profit shifting strategies by ensuring that profits are taxed where substantive economic activities generating the profits are carried out. The MLI will be applied alongside existing DTAAs, modifying their application in order to implement the BEPS measures. This is applicable from AY 2021-22 onwards (Section 90 and 90A)

> With MLIs being applicable from April 1, 2020 onwards, MLI should be read with the existing DTAA's to understand the tax implications on the payments / remittances being made to non-residents.

Exempting non-resident from filing of Income-tax return in certain conditions.

It is proposed to extend the exemption from filing of Income tax returns by non-residents in India if they have income by way of FTS or royalty from India and the tax has already been paid by way of with-holding of taxes.

Earlier, this benefit was only available to income from dividend / interest.

This is applicable from AY 2020-21 onwards (Sec 115A(5)).

> This is a welcome relief for the non-residents from burdensome compliance requirements. This also means that Form 3CEB under Transfer Pricing regulations may also not be required to be filed by such foreign entities.

Exclusion of income from sale, distribution or exhibition of cinematographic films from the ambit of 'royalty' definition

It is proposed to exclude 'consideration for the sale, distribution or exhibition of cinematographic films' from the definition of royalty. This amendment would be beneficial for the taxation of such income in the hands of a resident as for a non-resident, this was already not liable to tax owing to the DTAA benefit. This will be applicable from AY 2021-22 onwards (Sec 9(1)(vi)).

Extension of concessional TDS on CG approved borrowings

In order to attract fresh investment, create jobs, stimulate the economy, the concessional rate of TDS of 5% on interest on foreign borrowings subject to the prescribed conditions is proposed to be extended to long term bond or RDB borrowed between 1.4.2020 and 1.7.2023 and which is listed only on recognised stock exchange located in any IFSC (Sec 194LC).

Extension of concessional TDS to municipal debt securities

As Foreign Portfolio Investors (FPIs) have now been permitted to invest in municipal bonds by the SEBI and the RBI, it is proposed to extend the the concessional rate of TDS of 5% to these payments also and the same is extended to 1.7.2023. available for FPI investments in State Development Loans (SDL). (Sec 194LD)

Exemptions to income earned by Sovereign Funds

Income in the form of Long Term Capital Gains on exits held for more than 3 years, dividends, interest will not be liable to tax in case of investments made by WOS of Abu Dhabi Investment Authority and other notified sovereign funds in infrastructure undertakings and other notified business. This is applicable from AY 2021-22 onwards. (Sec 10(23FE)).

GOODS AND SERVICE TAX

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1. Benefits to Exporter

- To achieve higher export credit disbursement, a new scheme, NIRVIK (Niryat Rin Vikas Yojna) is proposed to be launched, which provides for higher insurance coverage, reduction in premium for small exporters and simplified procedure for claim settlements.
- It is proposed to digitally refund to exporters, duties and taxes levied at the Central, State and local levels, such as electricity duties and VAT on fuel used for transportation, which are not getting exempted or refunded under any other existing mechanism.
- This Scheme is proposed to be launched this year. ***Procedure is yet to be notified.***

2. Simplification in Compliance

- Aadhaar based verification of taxpayers is being introduced. This will help in weeding out dummy or non-existent units.
- A simplified return shall be implemented from the 01 April 2020 on pilot run basis.
- Features like SMS based filing for nil return, return pre-filling, improved input tax credit flow and overall simplification will be introduced.
- Time limit for issuing a general or specific order published in Official Gazette to remove the difficulties arising in giving effect to any provisions of the Act has been extended from 3 years to 5 years, i.e., till 30 June 2022.

3. Cancellation of Registration

- A person who has taken voluntary registration can now apply for cancellation of registration.
- Where a cancellation order is issued by proper officer, the person can apply for revocation of cancellation of registration within 30 days from receipt of such order.

In case of failure to file such application within 30 days; the Additional or Joint Commissioner can extend the period by further 30 days on sufficient cause and reasons to be recorded in writing.

Further the Commissioner can additionally extend the period up to 30 days.

4. Punishment and Penalties

- Fraudulent availment of ITC (without invoice or bill) is now a cognizable and non bailable offence
- In addition to the person committing the fraud, the punishment and penalty will also be applicable to:
  a. person who causes to commit the fraud and
  b. person who retains the benefit arising from fraud
- It is proposed to levy penalty in cases where during any proceedings under the Act, that in the books of accounts maintained by him there is a false entry, or any entry is omitted to evade tax liability.

The penalty shall be a sum which is equal to the aggregate amounts of such false entry or omitted entry.

Meaning of False Entry:

- Forged or falsified document such as false invoice;
- Issuance of invoice without actual supply of goods or services;
- Issuance of invoice to or from person who do not exist.

The above amendment will be effective from 01 April 2020.

5. Health Cess on Imported Medical devices

Health equipment forming part of fourth schedule which are imported into India, a duty of custom called Health Cess will be levied for the purpose of financing the health infrastructure and services.

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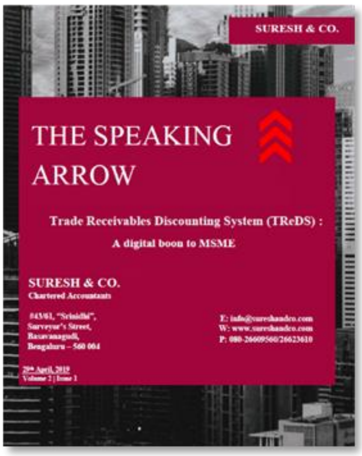

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- CBDT
- CBIC