Union Budget 2019

SURESH & CO.

ANNVESHAN

Contents

Executive Summary

- Reduced tax rate for corporates with turnover up to ₹. 400 cr.
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- Enhanced benefits for promotion of IFSC (International Financial Service Centre)
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- LDRS (Legacy Dispute Resolution Scheme) for closure of pre GST disputes

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.

Highlights

- 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.
- The main vision is to help India grow into a $5 trillion economy by 2024-25. The key aim is to make India the third largest economy in the world and for that India will need to achieve an annual GDP growth rate of 8 per cent.
- CPI inflation declined to 3.4 per cent in 2018-19 from 3.6 per cent in 2017-18.
- General fiscal deficit seen at 5.8% in 2018-19 against 6.4% in 2017-18.
- The Survey stated that India's economy performed well during the last 5 years. India became the sixth largest economy by sustaining growth rates higher than China.
- The estimated growth rate for agriculture, forestry and fishing sectors is 2.9 per cent. The projected output of food grains production for 2018-19- 283.4 million tons.
- Direct taxes grew by 13.4 per cent owing to improved performance of corporate tax. However, indirect taxes fell short of budget estimates by about 16 per cent, following a shortfall in GST revenues (including CGST, IGST and compensation cess) as compared to the budget estimates.
- Imports slated to grow at 15.4% while exports projected to grow at 12.5% for the year 2018-19. The Economic Survey suggests that exports must form an integral part of the growth model because higher savings preclude domestic consumption as the driver of final demand.
- Fixed investments up 10 per cent in 2018-19 from 8.3 per cent in 2016-17.
- Net employment generation in formal sector was higher at 8.15 lakh in March, 2019 as against 4.87 lakh in February, 2018 as per EPFO.
- Road construction grew @ 30 km per day in 2018-19 compared to 12 km per day in 2014-15.
- Total telephone connections in India touched 118.34 crore in 2018-19
- The IT-BPM industry grew by 8.4 per cent in 2017-18 to US$ 167 billion and is estimated to reach US$ 181 billion 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 profound impact that the Government's efforts of introducing the Insolvency and Bankruptcy Code and the adoption of the Goods and Services Tax, have had on improving Ease of Doing Business (EoDB) in India, with the Country being one of the biggest 'improvers' in the World Bank's EoDB 2019, with its rank jumping to 77 from 142 in the last four years.
- The Corporate Insolvency Resolution Process (CIRP) yielded a resolution of 94 cases (till March 2019) which has resulted in the settlement of claims worth Rs.1,73,359 crore. As on February 28, 2019, 6,079 cases involving a total amount of Rs.2.84 lakh crores have been withdrawn before admission under provisions of the Insolvency and Bankruptcy Code (IBC). Further, as per RBI reports, Rs.50,000 crore has been received by banks from previously non-performing accounts.
- Growth in fixed investment picked up from 8.3 per cent in 2016-17 to 9.3 per cent next year and further to 10 per cent in 2018-19.
- The Government of India initiated a big step in the form of Pradhan Mantri Ujjwala Yojana, providing access to around 7 Crore households under the

scheme. The survey says that India has achieved almost 100% household electrification of 21.44 Crore households. While renewable energy capacity has been expanded manifold, fossil fuel based energy is likely to continue. As on 5th March, 2019, 24.39 Crore LPG consumers have joined the scheme.

- Now, globally, India stands fourth in wind power, fifth in solar power and fifth in overall renewable power installed capacity. The cumulative renewable power installed capacity (excluding hydro above 25 MW) has more than doubled from 35 GW on 31st March, 2014 to 78 GW on 31st March, 2019. The target is to achieve an installed capacity of renewable based power of 175 GW by the year 2022
- Service sector growth declined from 8.1 per cent in 2017-18 to 7.5 per cent in 2018-19, due to decline in the growth in 'Public administration, defence & other services' and 'Trade, hotel & transport' sector. Yet, the sector continues to be the main contributor to growth of the Indian economy.
- The break-up of consequential train accidents shows that the incident of train collisions has come down to zero in the year 2018-19 in Indian Railways and the incidents of derailment have decreased from 78 in 2016-17 to 46 in the year 2018-19. Indian Railways carried 1221.39 million tonnes of revenue earning freight showing an increase of 61.84 million tonnes over the freight traffic of 2017-18 and translating into an increase of 5.33 per cent. There is an increase of 2.09 per cent the number of passengers carried by Indian Railways during 2017-18 as compared to 2016-17 and 0.64 per cent increase in 2018-19 as compared to 2017-18. The Indian Railways has initiated a major electrification program for electrifying 100 per cent of its Broad Gauge network. This would reduce the nation's dependence on imported diesel oil. As on 01 April, 2019, Indian Railways has 35,488 Route Kilometre (RKM) of network commissioned on electric traction which constitutes 51.85 per cent of total network and carries 64.50 per cent of freight and 53.70 per cent of coaching traffic. The pace of electrification accelerated and a total of 38,000 RKM has been identified for electrification by 2021.
- Core Gross Value Added (GVA) (measured as GVA except 'Agriculture & allied' activities, and 'Public administration & defence') shows higher growth than that of overall GVA in 2018-19. Core GVA growth picked up from 6.5 per cent in 2017- 18 to 7.0 per cent in 2018-19, whereas GVA growth slowed down marginally from 6.9 per cent in 2017-18 to 6.6 per cent in 2018-19.
- 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.
- India needs to have a well-designed minimum wage system, which would decrease wage inequality, alleviate poverty and bring inclusive growth especially at lower levels. A well-designed minimum wage system can be a potent tool for protecting workers and alleviating poverty, if set at an appropriate level that ensures compliance. International experience has shown that relatively simple systems are more effective and usually complex systems are least effective.

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
- Composition scheme has been formulated for suppliers of services. Under the scheme, persons with turnover up to Rs.50 lakhs need to pay tax equal to 6 per cent on their turnover and need to file their returns annually with quarterly payment from financial year 2019-20.
- GST Council once again allowed the migration process for taxpayers from erstwhile tax regimes. Due dates for furnishing return in Form GSTR-3B & Form GSTR-1 (for taxpayers with turnover more than Rs.1.5 crore) for such newly migrated taxpayers for the months from July, 2017 to December, 2018 was extended till 31.03.2019. Similarly, Form GSTR-1 (for taxpayers with turnover upto Rs.1.5 crore) for the quarters from July, 2017 to December, 2018 was extended till 31.03.2019.
- There were major rate reductions during the financial year 2018-19 only about 32 items are remaining in the 28 per cent slab.

Measures 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.
- Advisories are being issued, as and when required, to State Governments to take strict action against hoarding & black marketing, especially for commodities in short supply. These measures are taken to effectively enforce the Essential Commodities Act, 1955 & the Prevention of Black-marketing and Maintenance of Supplies of Essential Commodities Act, 1980.

International Developments

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.

India's balance of payment situation showed some signs of stress during H1 of 2018-19 as sharp rise in crude oil prices caused current account deficit (CAD) to deteriorate. India's CAD stood at US$51.9 billion (2.6 per cent of GDP) as compared to US$35.7 billion (1.8 per cent of GDP) a year ago for the same period.

Trade Deficit

Current Account Deficit (CAD) increased to 2.1 per cent 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 per cent 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 Reserves

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.

India's External Debt was USD 521.1 billion at end-December 2018, 1.6 per cent billion lower than its level at end-March 2018. The long-term debt declined by 2.4 per cent to USD 417.3 billion at end-December 2018 over end-March 2018, though its share was mostly same at 80.1 per cent of total external debt compared to 80.7 per cent during the same period.

Sector wise Impact

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 to help in doubling our farmers' income
- Dairying through cooperatives by creating infrastructure for cattle feed manufacturing, milk procurement, processing & marketing
- Jal Jeevan Mission to focus on integrated demand and supply side management of water at the local level, including creation of local infrastructure for source sustainability like rainwater harvesting, groundwater recharge and management of household wastewater for reuse in agriculture.

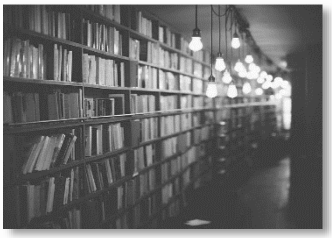
Infrastructure and Transportion

- The Jal Marg Vikas project for capacity augmentation of navigation on National Waterways aimed at smoothening internal trade carried through inland water transport.
- The UDAN Scheme to provide air connectivity to smaller cities and enabling the common citizens of our country to avail air travel.
- National Common Mobility Card (NCMC), the inter-operable transport card runs on RuPay card and would allow the holders to pay for their bus travel, toll taxes, parking charges, retail shopping and even withdraw money.
- Under FAME Scheme, advanced battery and registered e-vehicles will be incentivized under the Scheme with greater emphasis on providing affordable & environment friendly public transportation options for the common man
- Restructuring of National Highway Programme to ensure that the National Highway Grid of desirable length and capacity is created using financeable model
- Railway station to be modernised
- Indian Development Assistance Scheme (IDEAS) providing concessional financing for projects and contributes to infrastructure development and capacity building in the recipient developing countries to be revamped

Urban India

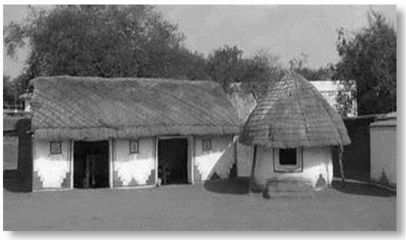
- Under Pradhan Mantri Awas Yojana – Urban (PMAY-Urban), over 81 lakh houses with an investment of about 4.83 lakh crores have been sanctioned of which construction has started in about 47 lakh houses, construction completed about 26 lakh and delivered about 24 lakhs.
- To enhance the metro railway initiatives by encouraging more PPP initiatives and ensuring completion of sanctioned works, while supporting Transit Oriented Development (TOD) to ensure commercial activity around transit hubs.
- PPP in railways infra development
- World's third largest domestic aviation market

Youth and Education



- New National Education Policy to transform India's higher education system to one of the global best education systems
- National Research Foundation (NRF) to be established to fund, coordinate and promote research in the country
- The Government enables about 10 million youth to take up industry-relevant skill training through the Pradhan Mantri Kaushal Vikas Yojana (PMKVY)
- To Increase focus on skill sets needed abroad including language training and also focus on new-age skills like Artificial Intelligence (AI), Internet of Things, Big Data, 3D Printing, Virtual Reality and Robotics for youths to take up overseas jobs.
- Pradhan Mantri Laghu Vyapaari Mann-Dhan Yojana (PMLVMY)- Pension benefits to around 3 crore retail traders and small shopkeepers with annual turnover less than ₹1.5 crore.
- Pradhan Mantri Shram Yogi Maan Dhan (PM-SYM)- About 30 lakh workers have joined the scheme.

Rural India



- Pradhan Mantri Awas Yojana – Gramin (PMAY-G) to achieve the objective of "Housing for All" by 2022. Average number of days for completion of houses has reduced from 314 days in 2015-16 to 114 days in 2017-18
- Pradhan Mantri Matsya Sampada Yojana (PMMSY) – the Department of Fisheries will establish a robust fisheries management framework. This will address critical gaps in the value chain, including infrastructure, modernization, traceability, production, productivity, post-harvest management, and quality control.
- Ujjwala Yojana and Saubhagya Yojana to assure the nation that every single rural family, except those who are unwilling to take the connection will have an electricity and a clean cooking facility by 2022.
- Pradhan Mantri Gram Sadak Yojana PMGSY-III is envisaged to upgrade 1,25,000kms of road length over the next five years
- The Scheme for Promotion of Innovation, Rural Industry and Entrepreneurship' (ASPIRE) has been consolidated for setting up of Livelihood Business Incubators (LBIs) and Technology Business Incubators (TBIs).
- To expand the Swachh Bharat Mission to undertake sustainable solid waste management in every village
- Bharat-Net is targeting internet connectivity in local bodies in every Panchayat in the country.

Ease of living

- The approach of mission LED bulb method to promote the use of solar stoves and battery chargers in the country.
- Pradhan Mantri Shram Yogi Maandhan Scheme for providing 3,000 per month as pension on attaining the age of 60 to crores of workers in unorganized and informal sectors.
- Mission LED bulb method to promote the use of solar stoves and battery chargers in the country.
- New series of coins of One Rupee, Two Rupees, Five Rupees, Ten Rupees and Twenty Rupees, easily identifiable to the visually impaired
- Har Ghar Jal – to all rural household by 2024

- 7 crore LPG connections delivered to rural household.

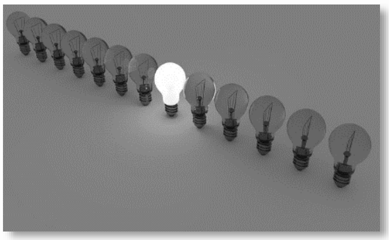
Banking and Finance Sector

- Proposed to strengthen the regulatory authority of RBI over NBFCs are being placed
- No the requirement of creating a DRR To allow NBFCs to raise funds in public issues which is currently applicable for only public issues as private placements are exempt
- To separate the National Pension System (NPS) Trust from Pension Fund Regulatory and Development Authority (PFRDA) with appropriate organizational structure.
- Reforms will be taken to strengthen governance in Public Sector banks
- 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
- Government has smoothly carried out consolidation, reducing the number of PSBs by 8
- NBFCs – that are fundamentally sound, will get fundings from govt to a total of 1lakh crore during the current financial year
- RBI has limited regulatory Authorities, Now the Regulatory Authorities of RBI over NBFC will be placed
- Proposals for strengthening the regulatory authority of RBI over NBFCs – Debenture Redemption Reserve to be maintained
- Proposal to return regulatory authority from NHB to RBI!
- Deposit taking and systemically important non-deposit taking NBFCs can now pay tax in the year they receive interest for certain bad or doubtful debts.

Tribal Heritage

- A digital repository is developed where documents, folk songs, photos & videos regarding their evolution, place of origin, lifestyle, architecture, education level, traditional art, folk dances and other anthropological details of the tribes in India are stored
- Stand-Up India Scheme has emerged thousands of entrepreneurs from women and from the Scheduled Castes and Scheduled Tribes, most of them assisted to set up their businesses and industry with capital provided under the Stand-Up India Scheme and scheme to be continued 2020-25.

Others



- Issuing Aadhaar Card for Non-Resident Indians with Indian Passports after their arrival in India without waiting for 180 days.
- Developing 17 iconic Tourism Sites into world class tourist destinations and to serve as a model for other tourism sites.
- For every verified women SHG member having a Jan Dhan Bank Account, an overdraft of 5,000 shall be allowed. One woman in every Self-Help Group (SHG) will also be made eligible for a loan up to 1 lakh under the MUDRA Scheme.
- linking creative industry with the economy and wherever it requires protecting Intellectual Property rights taking it to the National and International Market front.

Highlights

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.

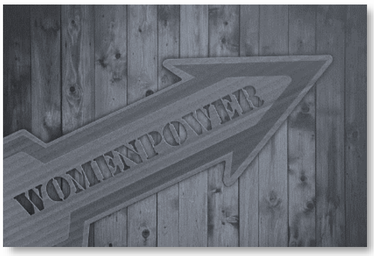
Startup Development

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

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
- With respect to customs, the objectives of securing our borders, achieving higher domestic value addition through make in India, reducing import dependence, protection to MSME sector, promoting clean energy, curbing non-essential imports, and

Women Empowerment (Naari Tu Narayani)



- Committee to be formed with Public and Private stakeholders for gender equality
- Every SHG Women having Jan Dhan Account – Rs. 5,000/- overdraft allowed
- Loan up to 1 lakh under Mudra Scheme for Women entrepreneurs (70% of beneficiaries under MUDRA scheme are women)

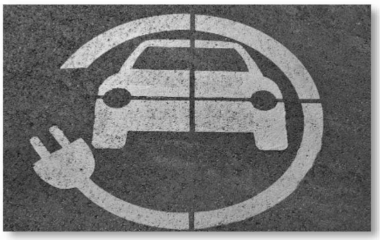
NRI

- 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

Railways Updates

- Railway infra would need an investment of 50 lakh crores between 2018 and 2030;
- PPP to be used to unleash faster development and delivery of passenger freight services
- Railway Station Modernization will be launched this year.
- Indian Railways to be encouraged to invest more in urban and suburban regions
- 657KM of Metro Rail operational in the country.

Electric 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

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
- Machines and robots to be deployed for scavenging
- Focus on VR, AI, Robotics training to youth to align India with the World

Securities Transaction Tax (STT)

- Levy of (STT) is only to the difference between settlement and strike price in case of exercise of options.

Milestones

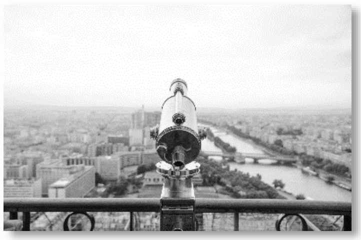
- Fastest growing major economy in the world
- 6th largest economy in 2019-20 (11th largest economy in 2013-14)
- CAD (cash against document is reduced to 2.1% of GDP in 2018-19 from 5.6% of GDP in 2013-14.

Cash-less transactions

- TDS of 2% on cash withdrawal exceeding ₹1 crore 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.

Vision for the next Decade

- Physical and social infrastructure
- Digital India
- Pollution free India
- Make in India



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.
Though there are no changes in Tax Slabs.
5 lacs by means of a tax rebate was provided in the Interim Budget. ***This rebate is not applicable for those earning taxable income above Rs 5 lacs.***

However, there is an amendment in the surcharge on income tax.

Taxable Income	**Rate of Surcharge**
Rs. 50 Lakhs to Rs. 1 Crore	10%
Rs. 1 Crore to Rs. 2 Crores	15%
Rs. 2 Crore to Rs. 5 Crores (increment)	25%
Above Rs. 5 Crores (increment)	37%

Illustration with respect to amendment in the surcharge on income tax:

Particulars	**Income >Rs. 2 Cr < 5Cr.**		**Income > Rs. 5 Crores**	
	Pre Budget	**Post Budget**	**Pre Budget**	**Post Budget**
Taxable Income	2,25,00,000	2,25,00,000	5,25,00,000	5,25,00,000
Tax on above income	65,22,500	65,22,500	1,55,62,500	1,55,62,500
Surcharge	9,84,375	16,40,625	23,34,375	57,58,125
Cess @ 4%	3,01,875	3,28,125	7,15,875	8,52,825
Total Tax	78,48,750	85,31,250	1,86,12,750	2,21,73,450
Difference in tax amount	6,82,500		35,60,700	
Average rate of tax	34.88%	37.92%	35.45%	42.24%
Diff. in average rate of tax	3%		7%	

Capital Gains

1. Transactions 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 incentivise 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)**

1. 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.

Whereas, in the proposed budget consideration for immovable property ***shall include all payments*** with respect to purchase of immovable property, such expenses are in the nature of club membership fee, car parking fee, electricity or water facility fee, maintenance fee, advance fee or any other charges of similar nature, which are incidental to transfer of the immovable property. Thus, the entire amount has to be considered for making the applicable TDS.

2. 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.

3. 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
- And others

Charitable Trust

Cancellation of registration of the Trust or Institution

There are amendments to the Charitable Trust under section 12AA & 13A of Income Tax Act.

The Principal Commissioner/ commissioner (exemption) has the right to cancel the registration of the charitable trust if: At the time of granting of registration/ Subsequent to Registration: The trust or institution's ***MATERIAL ACTIVITIES*** are not satisfiable to achieve its objectives ***under any other law*** after providing an opportunity to be heard.

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.

with the 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.

Similarly, with the amendment to second proviso to section 40(a)(ia), extended even to payments to Non-Resident where he remits necessary taxes, files his tax returns and obtains a certificate from Accountant, the assessee is allowed to claim deduction and 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.

For Banks & Financial Institutions including NBFC's: with the amendment to sec. 43D, the amounts recovered by them is taxable either on accrual or on actual receipt which-ever is earlier.

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.***

Additional Tax On distributed income on account of buy back of shares includes both Listed and unlisted:

Previously, Unlisted Companies were alone was liable for Tax on Buy Back of Shares. Now, it is extended even for Listed Companies with effect from 5th Day of July 2019. Thereby, Buy Back of Shares by any company is subject to tax under 115QA of the Act.

No Additional Tax on distributed income by a specified Mutual Fund U/s. 115R of the Act

No additional tax on distributed income shall be chargeable on or after 1st day of September 2019, by a specified Mutual Fund, out of its income derived from transactions made on a recognised stock exchange located in any International Financial Services Centre (IFSC).

Explanation: Specified Mutual Fund means a mutual fund specified under clause 10(23D)

a. Which is located in any International Financial Service Centre
b. whose units are held by the non-residents and
c. deriving its income solely in convertible foreign exchange.

Transfer of Pass through Losses in cases of Category I and Category II Alternative Investment Fund (AIF) U/s. 115UB of the Act

Earlier Section 115UB of the Act, provides for pass through of income earned by the Category I and II AIF, except for business income which is taxed at AIF level. Now it has been amended to provide that even losses (other than Business losses) shall also pass through to Unit holders as follows:

a) **Accumulated Losses (other than business Losses) till 31st March, 2019:** these losses shall be deemed to be the loss of a unit holder who has held the unit on 31st March, 2019 and allowed to be carry forward by him for the remaining period calculated from the year in which the loss had occurred for the first time, taking that year as the first year and it shall be set-off by him in accordance with the provisions of Chapter VI.

b) **Losses after 31st March, 2019:** the losses from 1st April, 2019 shall pass through to unit holders of a unit which has been held by the unit holder for a period of twelve months or more;

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 of losses

Benefit extended even if change in Share Holding ratio is below 51% in following circumstance.

1. Change in Voting ratio due to death of a shareholder or transfer of shared by way of Gift to any relative of a share holder
2. Change in Share Holding ratio during amalgamating/ demerger of a foreign company continue to be a shareholder of the amalgamated or the resulting foreign company.
3. Change in Share Holding ratio pursuant to the resolution plan approved under Insolvency & Bankruptcy Code 2016 (IBC) after affording reasonable opportunity of being heard to the Jurisdictional AO.
4. To a company and its subsidiary & subsidiary of such subsidiary:
   a) The Tribunal on application moved by Central Govt. has suspended the Board of Directors of such company and appointed new directors nominated by Central Govt. u/s. 242 of Companies Act, 2013.
   b) Change in Voting ratio pursuant to the resolution plan approved by the tribunal under Companies Act, 2013.

Facilitating Demerger of Ind AS compliant companies

In order to facilitate Tax Neutral demergers, a proviso is added to Sec. 2(19AA) which states that, the resulting company is not required to record the transferred property and liabilities at book value as on immediately before the demerger, if such resulting company has to comply to the Indian Accounting Standards. The inclusion of this sub clause will not impact on any taxes.

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.

The said clause was inserted vide Finance Act, 2017 in order to facilitate ease of doing business and to promote start-up India.

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 asseeese 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 assesse 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 assesse 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 assesse 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. For such deduction, the loan must be sanctioned during the period **01/04/2019 to 31/03/2023**.

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.**

Section 10(12A) – Income not included in total income - Any payment from the National Pension System Trust

Old Provision - Provides that any payment from the NPS Trust to an assessee on closure of his account or on his opting out of the pension scheme, to the extent it does not exceed 40% of the total amount payable to him at the time of such closure or on his opting out, is exempt from tax.
New Provision - With a view to enable the pensioner to have more disposable funds, it is proposed to increase the limit from 40% to 60%.

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

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

The existing provision of section 270A provide for various situations for the purposes of levy of penalty. In addition to the situations mentioned in section 270A, with effective from **1st April 2017** i.e from AY 2017-18, penalty u/s 270A shall be levied where the person has under-reported income and furnished his return for the first time under section 148 of the act.

Procedural

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

1) 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.1 lakh 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

Exemption of interest income of a non-resident on Rupee denominated bonds

Any interest payable by Indian company/ business trust to a non-resident on money borrowed in respect of rupee denominated bond availed during 17.9.2018 to 31.3.2019 is proposed to be exempt from tax in India.

This would be effective from 1.4.2019; AY 2019-20 onwards.

Interest payable to a non-resident by a unit in IFSC exempt

Interest payable to a non-resident by a unit located in International Financial Services Centre ('IFSC') on money borrowed after 1.9.2019 is proposed to be exempt. The taxing provisions of Section 115A in respect of income of a non-resident shall not apply to such units in IFSC. Effective from AY 2020-21

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

India deposits its Multilateral Instrument ('MLI') ratification instrument with the OECD on 25.06.2019.

India recently deposited its ratification instrument on MLI with OECD depository. This will come into force from 01.10.2019 onwards and will be effective from FY 2020-21 onwards (with respect to TDS on payments).

Out of 89 countries which have signed the MLI, only 25 countries (including India) as of now have ratified and deposited the instrument. With a very short time remaining for the MLI to be affected, only those Tax Treaties ('DTAA') where the respective countries have taken position concurring with India shall undergo modifications.

AO order on Advance Pricing Agreement.

Under Section 92CD (3), an assessee who enters into an Advance Pricing Agreement (APA) shall furnish a modified return in accordance with and limited to the agreement, even for the assessment years where the assessment or re-assessment proceedings has already been completed. It is proposed that in such cases, the assessing officer shall pass an order, modifying the total income of the relevant assessment year determined in such assessment or reassessment, having regard to and in accordance with the APA. Previously, the assessing officer was required to assess or reassess or recompute the total income of the relevant assessment year having regard to and in accordance with the agreement. Effective from 01.09.2019.

Secondary Adjustments

It is proposed to amend section 92CE pertaining to Secondary Adjustments of the Act so as to provide that: -

(i) the condition of threshold of one crore rupees and of the primary adjustment made up to assessment year 2016-17 are alternate conditions and both need not be satisfied together;

(ii) the assessee shall be required to calculate interest on the excess money or part thereof;

(iii) the provision of this section shall apply to the agreements which have been signed on or after 1st April, 2017. However, no refund of the taxes already paid till date under the pre-amended section would be allowed;

(iv) the excess money may be repatriated from any of the associated enterprises of the assessee which is not resident in India;

(v) in a case where the excess money or part thereof has not been repatriated in time, the assessee will have the option to pay additional income-tax at the rate of eighteen per cent on such excess money or part thereof in addition to the existing requirement of calculation of interest till the date of payment of this additional tax. The additional tax is proposed to be increased by a surcharge of 12%;

(vi) the tax so paid shall be the final payment of tax and no credit shall be allowed in respect of the amount of tax so paid;

(vii) the deduction in respect of the amount on which such tax has been paid, shall not be allowed under any other provision of this Act; and

(viii) if the assessee pays the additional income-tax, he will not be required to make secondary adjustment or compute interest from the date of payment of such tax.

The amendments proposed under (i) to (iv) above will take effect retrospectively from the 01.04.2018; AY 2018-19 onwards.

The amendments proposed in under (v) to (viii) above will be effective from 01.09.2019 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.

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 1 of 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 upto 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 (FORM GSTR-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.
- The Central Government may disburse GST refund amount to the taxpayers in respect of refund of State taxes as well.
- The National Appellate Authority for Advance rulings has the power to hear the appeals against conflicting Advance rulings of Appellate Authorities of 2 or more State or UT and pass order.
- Under section 171, subsection (3A) has been inserted, that is read as follows:
  Where the Authority referred to in sub-section (2) after holding examination as required under the said sub-section comes to the conclusion that any registered person has profiteered under sub- section (1), such person shall be liable to pay penalty equivalent to ten per cent. of the amount so profiteered.

The CGST Act is being amended so as to empower the National Antiprofiteering Authority to impose penalty equivalent to 10% of the profiteered amount. No penalty shall be leviable if the profiteered amount is deposited within 30 days from the date of passing of order by the Authority.

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 following 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.
7. The registered person opting to pay central tax at the rate of three percent under this notification shall be liable to pay central tax on inward supplies on which he is liable to pay tax under sub-section (3) or, as the case may be, under sub-section (4) of section 9 of said Act at the applicable rates.

6. Notification No. 07/2019 – Central Tax (Rate) dated 29th March 2019

As per the notification,_goods or services or both received from an unregistered supplier shall pay tax on reverse charge basis as recipient of such goods or services or both, namely:

Sl.No.	Category of supply of goods or services	Recipient of goods and services
1.	Supply of such goods and services or both [other than TDR & upfront premium] which constitute the shortfall of 80%	Promoter
2.	Cement falling in chapter heading 2523	
3.	Capital goods falling under any chapter in the first schedule to the Customs Tariff Act, 1975	

Customs

1. Departure Manifest

Section 41 has been amended so as to provide a facility that the departure manifest or export manifest can also be furnished by a person notified by the Central Government, in addition to the person-incharge of the conveyance.

2. Verification of Identity and Compliance

A new chapter XIIB titled "Verification of Identity and Compliance" has been inserted.

Under the above mentioned chapter, the proper officer of Customs are empowered to carry out verification of a person for ascertaining compliance with the provision of the Customs Act or any other law for the time being in force, for protecting the interests of revenue or to prevent smuggling in the manner as may be prescribed.

The proper officer may require a person whose verification he considers necessary for protecting the interest of revenue or for preventing smuggling, to do all or any of the following, namely: -

a) undergo authentication, or furnish proof of possession of Aadhar number, in such manner and within such time as may be prescribed;
b) submit such other document or information, in such manner and within such time as may be prescribed:

Punishment for contravention:

i) On failing to comply with the above or on submission of incorrect documents or information, the officer may by order suspend:
(a) clearance of imported goods or export goods;
(b) sanction of refund;
(c) sanction of drawback;
(d) exemption from duty;
(e) license or registration granted under this Act; or
(f) any benefit, monetary or otherwise, arising out of import or export,

ii) On failure of authentication the proper officer may direct that such person shall not have the benefit of any of the items specified above from (a) to (f) of clause (i).

The order of suspension shall remain in force until the person concerned complies with the requirements of sub-section (1) or furnishes correct document or information thereunder.

3. Proper officer to scan or screen the body of person

- The proper officer may detain such person, and shall with the prior approval of the Deputy Commissioner of Customs or Assistant Commissioner of Customs screen or scan such person using such equipment as may be available at the customs station, but without prejudice to:
  a) any of the rights available to such person under any other law for the time being in force,
  b) a consent for such screening or scanning,

  and forward a report of such screening or scanning to the nearest magistrate if such goods appear to be secreted inside his body.
- So as to enable the magistrate to take action upon the report of scanning or screening by the proper officer under sub-section (6) the words “from the proper officer under clause (a) of sub-section (1)” have been inserted.

4. Power to arrest

Section 104 has been amended so as to:

1. empower an officer of customs to arrest a person who has committed an offence outside India or Indian Customs waters also
2. specify two particular offences which shall be cognizable which are as follows:
   (a) fraudulently availing of or attempting to avail drawback or any exemption from duty provided under this Act, where the amount of drawback or exemption from duty exceeds fifty lakh rupees; or
   (b) fraudulently obtaining an instrument for the purposes of this Act or the Foreign Trade (Development and Regulation) Act, 1992, and such instrument is utilised under this Act, where duty relatable to such utilisation of instrument exceeds fifty lakh rupees,
3. specify that fraudulently obtaining an instrument for the purposes of this Act or the Foreign Trade (Development and Regulation) Act, 1992 and such instrument is utilised under this Act, where duty relatable to such utilisation of instrument exceeds fifty lakh rupees, shall be a non-bailable offence.

5. Custody of seized goods

Section 110 is being amended so as to

1) substitute the existing provisos, such that where it is not practicable to remove, transport, store or take physical possession of the seized goods for any reason, the proper officer may:
   a. give custody of the seized goods, or
   b. serve an order,

   to the owner of the goods or the beneficial owner or any person holding himself out to be the importer, or any other person from whose custody such goods have been seized, on execution of an undertaking by such person that he shall not remove, part with, or otherwise deal with the goods except with the previous permission of such officer.

2) insert a new sub-section (5), so as to empower the proper officer to provisionally attach any bank account for safeguarding the government revenue and prevention of smuggling, for a period not exceeding six months. It is also being provided that a Principal Commissioner of Customs or Commissioner of Customs may further extend the period of attachment up to six months.

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.

Sabka Vishwas Legacy Dispute Resolution Scheme

While it has been two year of GST implementation, litigation of pre-GST (Excise and Service Tax) has been the major concern and still there is nearly Rs. 3.75 Lac Crore blocked.

So, the government to get off the baggage has introduced a scheme, which shall be called **Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019** (hereafter in this Chapter referred to as the "Scheme"), it is proposed for quick closure of the pending litigations.

1.What is this Scheme

The scheme announced by government of India for dispute lying under pre- GST regime of Indirect tax enactment to bring an end to these disputes and close all these legacy cases by providing a onetime opportunity.

2.What are Type of duty covered under this scheme

Following are the indirect tax disputed duty covered under this scheme namely-

- Central excise Duty
- Service tax
- Cess

3. What nature of Tax dues are allowed under this scheme

- In case of single appeal, arising out of order pending as on 30th June 2019, before the appellate forum, the total amount of duty which is being disputed in the said appeal
- In case of multiple appeal, one from department and one from declarant, the sum of such amount which is being disputed in the departmental appeal
- In case of show-cause notice received under any indirect tax enactments on or before 30th June 2019, the such amount of duty stated to be payable by the declarant in the said notice
- In case of any enquiry, Investigation or audit pending against the declarant, the amount of duty which is quantified on or before 30th June 2019
- In case of voluntarily disclosed by the declarant, then such amount
- In case of amount in arrears relating to declarant is due, then such amount in arrears

4. What is the amount or quantum of relief available to the declarant under this scheme

		Relief is Equal to	
SL. No	**Scenarios**	**For Less than 50 Lacs**	**For More than 50 Lacs**
1	Show cause notice of one or more appeals arising out of such notice which is pending on 30th Day of June 2019	70% of Tax Dues	50% of Tax dues
2	If amount relates to Late fees or penalty	100% of Penalty or late fees	100% of Penalty or late fees
3	Amount relatable to an amount in arrears	60% of the tax dues	40% of the tax dues

4	Amount as declared in a return by the declarant and not paid	60% of the tax dues	40% of the tax dues
5	Amount linked to audit or enquiry or investigation and amount has been quantified as on 30th June 2019	70% of Tax Dues	50% of Tax dues

5. Whom is the scheme not applicable

- Declarant whose appeal has been heard finally as on or before 30th June 2019
- Who have been issued Show cause notice and final hearing has taken place on or before 30th June 2019
- Who have been issued show cause notice under indirect tax for erroneous refund
- Who is under an audit or enquiry or investigation and amount has not been quantified as on 30th June 2019
- Who makes Voluntary disclosure under Enquiry or investigation or audit
- Duty payable based on the amount declared in return filed and is still unpaid
- Who has filed an application in the settlement commission for settlement of cases

6. Is there any prescribed mechanism for filing the application under this scheme

As of now government has not prescribed any form but soon there will an electronic form which will be notified by the government requiring declarant to file.

Service Tax

- Grant of Liquor License against license fee or application fee or whatever name called by the state government is exempted from service tax for the period commencing from 1st April 2016 to 30th June 2017
- Services provided by the Indian Institutes of Management to their students, by way of the following educational programmes, except Executive Development Programme,
  (a) Two-year full time Post Graduate Programmes in Management for the Post Graduate Diploma in Management, to which admissions are made on the basis of Common Admission Test (CAT), conducted by Indian Institute of Management;
  (b) fellow programme in Management;
  (c) five-year integrated programme in Management.
  are proposed to be exempted from service tax for during the period commencing from the 1st July 2003 to 31st March 2016.
- No service tax shall by collected for upfront amount, called as premium, salami, cost, price, development charges or by any other name, payable in respect of service by way of granting long term lease of thirty years or more of plots for development of infrastructure for financial business, provided or agreed to be provided by the State Government Industrial Development Corporations or Undertakings or by any other entity having fifty per cent. or more of the ownership of the Central Government or the State Government or the Union territory, either directly or through an entity which is wholly owned by the Central Government or the State Government or the Union territory, to the developers in any industrial or financial business area during the period commencing from the 1st day of October, 2013 and ending with the 30th day of June, 2017.

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 fiing 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 dematerialised 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 dematerialised form.

Objective behind the amendment

To ensure adequate reporting requirements regarding compliance with rules relating to issue of securities of the company.

Fees for INC-32 (for Incorporation document)

Earlier INC-32 (SPICe) fee for companies incorporated with nominal capital up to Rs. 10 lakhs and in respect of companies not having a share capital whose number of members as stated in the articles of association does not exceed twenty, fee on INC-32 (SPICe) was not be applicable.

Amendment

As per the amendment the limit for companies incorporated with share capital up to Rs.15,00,000 the fee is Zero. However, there is no change in Companies which do not have share capital.

Objective behind the amendment

To reduce the burden of Incorporation fee expenses on small companies there by promoting the incorporation of new companies and to encourage start-ups.

AGILE (Application for GST, EPFO and ESIC registration along with company incorporation 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.

Objective behind the amendment

To simplify the process, instead of filing the Director KYC details in Form the same will be made easy using the web-based platform to reduce the complications and make the process faster.
Note: But the web-based platform is not fully functional till date.

Filing of DPT-3 Return of Deposits accepted

New Insertion

Every company other than Government company shall file a **onetime return** of outstanding receipt of 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

Forms to be filed relating to Significant Beneficial Owners

New Insertion

- Significant Beneficial Owners (“SBO’) shall report to the Reporting entity within 90 days of commencement of the Rules in Form BEN-1
- Within 30 days of receipt of declaration, the Reporting Entity shall file in Form BEN-2 to the Registrar.
- Reporting Entity shall maintain a register in Form BEN-3, of such details furnished by SBO in Form BEN-1.
- In case the Reporting Entity has reasons to believe that a person is an SBO, entity shall send a notice in Form BEN-4 requiring such information from that person.
- If such person still fails to furnish such information in Form BEN-4, then the Reporting Entity shall report the same to NCLT and action shall be taken on such person.

Penalties for Non-Compliance with SBO Rules

SBO’s not filing Form BEN-1 would be imposed a fine ranging between INR 1,00,000 to INR 10,00,000; and for a continuing offence, an additional fine of INR 1,000 would be imposed for every day of default.

Companies which are not compliant with the respective norms would be penalized with a sum of INR 10,00,000 to INR 50,00,000 (also applies to the people in-charge); and for continued offences, an additional fine of Rs. 1,000 would be imposed for every day of default.

Objective

To identify the actual beneficiaries of the securities of a company and identify in whom the real controlling interest of the company lies with.

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, Company Secretary should be sent to email id of RBI – *fla@rbi.org.in*.

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

Objective

To make the process of filing of FLA simple and transparent.

Foreign Exchange Management (Foreign Currency Accounts by a person resident in India) (Amendment) Regulations, 2019

In Regulation 4, the existing sub-regulation (G)(2), An authorized dealer in India may, subject to the directions as may be issued by the Reserve Bank, allow ship-manning/ crew managing agencies in India to open and maintain non-interest-bearing foreign currency accounts in India for the purpose of undertaking transactions in the ordinary course of their business.

Shall be substituted as follows:

An authorized dealer in India may, subject to the directions as may be issued by the Reserve Bank, allow ship-manning / crew managing agencies in India **and re-insurance and composite insurance brokers registered with IRDA** to open and maintain non-interest bearing foreign currency accounts in India for the purpose of undertaking transactions in the ordinary course of their business.**”**

Foreign Exchange Management (Export and import of Currency) (Amendment) Regulations, 2019

(i) The existing sub-Regulation (1) of Regulation 8 Take or send out of India to Nepal or Bhutan, currency notes of Government of India and Reserve Bank of India notes (other than notes of denominations of above Rs.100 in either case) ;

shall be substituted with the following, namely;

Take or send out of India to Nepal or Bhutan, currency notes of Government of India and Reserve Bank of India notes (other than notes of denominations of above Rs.100 in either case), provided that an individual travelling from India to Nepal or Bhutan can carry Reserve Bank of India notes of Mahatma Gandhi (new) Series of denominations Rs. 200/- and/or Rs. 500/- up to a total limit of Rs. 25,000;

Foreign Exchange Management (Establishment in India of a branch office or a liaison office or a project office or any other place of business) Regulations, 2016

Existing Regulation

Prior to amendment, it read as Provided that in the case of proposal for opening a project office relating to defence sector, no separate reference or approval of Government of India shall be required if the said non-resident applicant has been awarded a contract by / entered into an agreement with the Ministry of Defence or Service Headquarters or Defence Public Sector Undertakings.

Amended Regulation

Approval of the Reserve Bank of India **is not required** in case where Government approval or license/permission by the concerned Ministry/ Regulator has already been granted if the principal **business of the applicant falls in Defence sector also**.

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.

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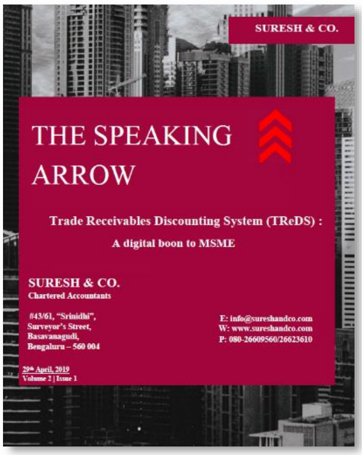
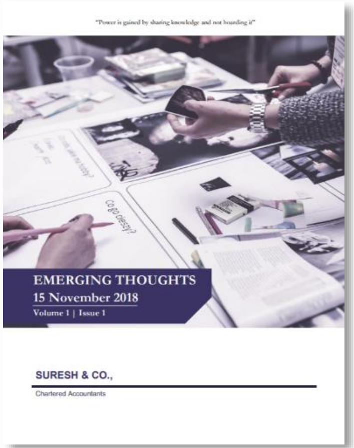


The Speaking Arrow

Spotted & Reported



Emerging Thoughts

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References:

- Finance Bill
- Budget Speech
- Budget Highlights
- Other relevant statutes