

BUDGET 2019 NEWS FLASH:
KEY PROPOSALS CONCERNING FOREIGN INVESTMENTS IN INDIA

Finance Minister Smt. Nirmala Sitharaman presented the India Budget 2019 before the House of Parliament on Friday 5th July 2019. Finance Minister Smt. Nirmala Sitharaman, in her maiden Budget speech, today said the Indian economy had reached from \$1.85 trillion to \$2.7 trillion, and that the Centre had the target of taking it to \$5 trillion by FY25. This is the Government's first budget after re-election clouded by subdued economic growth, challenging fiscal situation and farm distress. The budget seeks to set the tone for the next term of the Government and the direction in which the Government is headed.

Announcing a slew of measures, Finance Minister aims to push investment in infrastructure development, industrial development, fiscal consolidation and inflation management. Ease of doing business and ease of living remains to be the major agenda for the Government which underlines all the major reforms. Attracting foreign investment remains to be a top priority to fuel the growth of the economy and has proposed to amend FDI norms for certain sectors or to bring clarity. The Government also aims to bring clarity to direct and indirect taxation regime.

Keeping in Mind the population at large, the Government has taken measures to transform rural India by developing road infrastructure, rural electrification, water security, women empowerment and women led development initiatives, labour and youth welfare programmes. The governments vision for the next decade is physical and social infrastructure, digital India, pollution free India, Make in India, water management and clean rivers, blue economy, space programs, self-sufficiency and export of food grains, health society, team India with jan Bhagidari.

Some of the announcements concerning foreign investors are summarized below:

1. Policy Announcements on Foreign Direct Investments

Concerning FDI and Related regulations

• Roadmap for Airline and International Financial Services Centre (IFSC)

- ❖ As a measure to make the airline industry self-reliant, creating aircraft leasing business, creating jobs in the aviation finance and tapping the underlying potential in the International Financial Services Centre (IFSC), the Government intends to devise a regulatory roadmap to make India a hub for such activities.

• Investment by FII/FPI in Debt Securities

- ❖ The Government proposes to permit investments made by FIIs/FPIs in debt securities issued by Infrastructure Debt Fund – Non-Bank Finance Companies (IDF-NBFCs) to be transferred/sold to any domestic investor within the specified lock-in period.



• Rationalization of KYC Norms for FPI

- ❖ The Government intends to harmonize the existing Know Your Customer (KYC) norms and make it and hassle free investment experience for Foreign Portfolio Investors. The proposals are to rationalize and streamline norms for FPIs to make it more investor friendly without compromising the integrity of cross-border capital flows.

• FDI in Insurance and Single brand retail

- ❖ Insurance Intermediaries shall be permitted 100% Foreign Direct Investment (FDI)
- ❖ Local sourcing norms for FDI in Single Brand Retail sector will be eased.

• Annual Global Investors Meet

- ❖ The Government is contemplating to organize in India, using National Infrastructure Investment Fund (NIIF) as the anchor, to get all three sets of global players-top industrialists/corporate honchos, top pension/insurance/sovereign wealth funds and top digital technology/venture funds to mobilize global savings, mostly institutionalized in pension, insurance and sovereign wealth funds.

• Statutory limit for FPI to be raised, permit to subscribe debt securities issued by ReITs and InvITs

- ❖ The Government proposes to increase the statutory limit for FPI investment in a company from 24% to sectorial foreign investment limit with option given to the concerned corporate to limit it to a lower threshold. FPIs will be permitted to subscribe to listed debt securities issued by ReITs and InvITs.

• NRI-Portfolio Investment Scheme Route to be merged with Foreign Portfolio Investment Route.

- ❖ With a view to provide NRIs with seamless access to Indian equities the NRI-Portfolio Investment Scheme Route to be merged with Foreign Portfolio Investment Route.

• Foreign shareholding limit to be raised in PSU units

- ❖ The Government shall take necessary steps to meet public shareholding norms of 25% for all listed PSUs and raise the foreign shareholding limits to maximum permissible sector limits for all PSU companies.



Clarifications and support for Start-ups

• Valuation of Share premiums not to be challenged

- ❖ To resolve issues related to 'angel tax', the start-ups and their investors filing the requisite declarations and disclosing information in their returns will not be subjected to scrutiny in respect of valuations of share premiums.

• Faster completion of cases pending assessment

- ❖ CBDT shall make special arrangements for pending assessments of start-ups and redressal of their grievances. Department will ensure no inquiry or verification can be carried out by Assessing Officer without approval of supervisory officer.

• Benefit of non-justification of valuation of shares extended to Category-II AIF

- ❖ Start-ups will not be required to justify fair market value of their shares issued to Category-I as well as Category-II AIF. Valuation of shares will be beyond the scope of Income tax scrutiny.

• Other clarifications

- ❖ Relaxation in some conditions for carry forward and set off of losses in case of start-ups.
- ❖ Extension in the period of exemption of capital gains arising from sale of residential house for investment in start-ups up to 31st March 2021.

2. Direct Tax Proposals

Tax Rates

- ❖ In the case of non-resident corporate assessee, the rates of tax are the same as those specified for the financial year 2018-19.
- ❖ In the case of non-resident individual, HUF the highest effective rate of tax shall be 43.68%

Concerning tax incentives and concessions

• Incentives to promote International Financial Services Centre (IFSC) in GIFT City

- ❖ 100 % profit-linked deduction under section 80-LA in any ten-year block within a fifteen-year period
- ❖ Exemption from dividend distribution tax from current and accumulated income to companies and mutual funds



Other Tax Proposals**• Secondary Adjustment**

- ❖ Indian entity suffering from primary adjustment- option to pay one-time tax of 18% plus surcharge 12%

• CbCR

- ❖ Accounting year definition in CbCR rationalized.

• Offshore funds- Safe harbour

- ❖ Section 9A offshore funds safe harbor regime liberalized. Condition of ALP for remuneration of fund manager in India removed. Board to prescribe minimum remuneration.

• Gifts by Resident to non-resident

- ❖ Gifts made by Resident to non-resident shall now be taxable in India as the same shall be deemed to accrue or arise in India. However, exemptions under Income Tax Law and Treaty benefit will continue to apply.

• Income from rupee denominated bonds

- ❖ Non-residents deriving income by way of Interest on money lent by it to specified companies having issued rupee denominated bonds between the period 17th September, 2018 to 31st March, 2019, shall be exempt from tax.

• Income from money lent to units in IFSC

- ❖ Non-residents deriving income by way of Interest on money lent by it to unit located in IFSC on or after 1st September, 2019, shall be exempt from tax.

• Effect of APA

- ❖ Where the assessment or reassessment has already been completed and modified return of income has been filed by the taxpayer pursuant to the entering of APA, then the assessing officer shall pass an order only to extent modifying total income determined in accordance with the APA.

• Online application for withholding tax

- ❖ Process of making an application to the Assessing Officer for lower/ nil withholding tax certificate to be made online.



- **Assessee deemed to be in default**

- ❖ In respect of failure to deduct tax on payment to non-resident, deductor shall not be deemed to be an assessee in default where the non-resident has disclosed the respective income in his return of income and paid the tax due. Interest shall be levied till the date of filing of return by the non-resident payee.

