BUDGET 2020 NEWS FLASH
KEY PROPOSALS CONCERNING FOREIGN INVESTMENTS IN INDIA

Honourable Finance Minister Smt. Nirmala Sitharaman presented the India Budget 2020 before the House of Parliament on Saturday 01st February 2020. In her speech, she said that India is the fifth largest economy of the world and that India aspires to become a $5 trillion economy by 2025.

The budget was focused on three major themes:

'*Aspirational India*',

'*Economic Development for all*' &

'*A Caring Society*'

The Budget has done a fair balancing act allocating funds and proposing new schemes for every sector under these three broad themes, targeted towards growth revival keeping the macroeconomic stability intact.

At a broader level, the Finance Minister articulated with great emphasis on the importance of wealth creators in the economy. It is pertinent to note that Economic Survey published earlier also emphasized that wealth creators are important for overall progress of the economy and society. And underlying this wealth creation are two fundamental principles of liberalized markets and trust. Also, there appears to be renewed thrust and emphasis on privatization which should boost productivity in the long run.

This year's budget focused more on opening capital markets and some changes in tax structure. In order to incentivize the foreign investment it has proposed 100% tax exemption with regard to investment in infrastructure and notified sectors.

Some of the announcements concerning foreign investments are summarized below:

1. Policy announcements on foreign investments.

- Categories of Government Securities opened for Non-resident
  - ❖ Certain specified categories of Government securities would be opened fully for non-resident investors, apart from being available to domestic investors as well.
- Limit for FPI holding in Corporate bonds increased
  - ❖ The limit for FPI's holding in corporate bonds, currently at 9% of outstanding stock, will be increased to 15% of the outstanding stock of corporate bonds.
- International Bullion Exchange in Gift City
  - ❖ GIFT City would set up an International Bullion exchange(s) as an additional option for trade by global market participants.

- Rupee derivatives trading in IFSC
  - ❖ Government and RBI has taken various measures to permit Rupee derivatives to be traded in the International Financial Services Centre

2. Direct Tax proposals related to rates of taxes and exemptions (Applicable from 1st April 2020 to 31st March 2021)

- Rate of Income Tax for Individual Non-resident investors

Total Income	Rates of Tax (%)		
	Tax Rate (%)	Cess @ 4%(%)	Effective Rates (%)
Upto Rs. 2,50,000	0.00%	0.00%	0.00%
Rs. 2,50,001 to Rs. 5,00,000	5.00%	0.20%	5.20%
Rs. 5,00,001 to Rs. 7,50,000	10.00%	0.40%	10.40%
Rs. 7,50,001 to Rs. 10,00,000	15.00%	0.60%	15.60%
Rs. 10,00,001 to Rs. 12,50,000	20.00%	0.80%	20.80%
Rs. 12,50,001 to Rs. 15,00,000	25.00%	1.00%	26.00%
Above Rs. 15,00,000	30.00%	1.20%	31.20%

  - ❖ There is no change in rate of Income tax for foreign companies
- Exemption to Sovereign Wealth Fund and Abu Dhabi Investment Authority (ADIA)
  - ❖ Income from interest, dividend and capital gains earned by wealth Fund of foreign governments and WOS of ADIA shall be exempt. Investment to be made in infrastructure and other notified sectors before 31st March, 2024 and with a minimum lock-in period of 3 years.
- Exemption on income accruing or arising to Indian Strategic Petroleum Reserves Limited (ISPRL)
  - ❖ Income earned by ISPRL, being a wholly owned subsidiary of Oil Industry Development Board under the Ministry of Petroleum and Natural Gas, arising from an arrangement for replenishment of crude oil stored in its storage facility in pursuance to directions of the Central Government in this behalf shall be wholly exempt.
- Removal of Dividend Distribution Tax
  - ❖ DDT has been removed. Dividend shall be taxed only in the hands of the recipients at their respective applicable rate. Non-resident shall be entitled to claim credit of withholding taxes against its tax liability in home country.
- Extension of Concessional rate of tax
  - ❖ Extension of the period up to 30th June, 2023 for lower rate of withholding of 5% under section 194LC for interest on moneys borrowed and bonds
  - ❖ Extension of the period up to 30th June, 2023 for lower rate of withholding of 5% under section 194LD for interest payment to Foreign Portfolio Investors (FPIs) and Qualified Foreign Investors (QFIs) in respect of bonds issued by Indian companies and government securities.
  - ❖ Concessional rate of withholding of 5% under section 194LD extended to interest payment made on the Municipal Bonds.
  - ❖ Reduction in withholding rate from 5% to 4% on interest payment on the bonds listed on IFSC exchange.

3. Other Direct Tax proposals

- No Dispute but Trust Scheme – 'Vivad Se Vishwas'Scheme
  - ❖ A new scheme to reduce pending litigation. Taxpayer would be required to pay only the amount of the disputed taxes. Complete waiver of interest and penalty provided he pays by 31st March, 2020. Those availing the scheme after 31st March, 2020 will have to pay some additional amount. The scheme will remain open till 30th June, 2020.
- Attribution of Income to PE to be covered under SHR and APA
  - ❖ In order to provide certainty, the attribution of income in case of a non-resident person to the AE is also required to be clearly covered under the provisions of the Safe Harbour Rules and the Advance Pricing Agreement.
- Change in residential status for individuals
  - ❖ Threshold of spending days at India for determining residency of individuals have been reduced from 182 days to 120 days
  - ❖ Any Indian citizen who is not liable to tax in any other country or territory due to his domicile or residence or any other similar criteria shall be deemed to be resident in India
- Provisions of MLI to be aligned with DTAA
  - ❖ Central Government may enter into an agreement with the Government of any country outside India or specified territory outside India for, inter alia, the avoidance of double taxation of income under the Act and under the corresponding law in force in that country or specified territory, as the case may be, without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance (including through treaty-shopping arrangements aimed at obtaining reliefs provided in this agreement for the indirect benefit of residents of any other country or territory).
- Amendment in Dispute Resolution Panel
  - ❖ Non-resident not being a company, or a foreign company may now file his objection to the DRP where the AO proposes to make any variation which is prejudicial to the interest of the assesse.
- Clarifications on Significant Economic Presence
  - ❖ Existing provisions of SEP to be omitted from AY 201-22 and new provisions shall take effect from AY 2022-23. Board shall be empowered to make rules which shall determine the manner in which income shall be arrived in case of operations carried out in India by a non-resident and transactions or activities of a non-resident
  - ❖ Source rule is proposed to be extended to include income from advertisement that targets Indian customers or income from sale of data collected from India or income from sale of goods and services using such data from AY 2021-22.
- Provisions of 194A shall not apply to person engaged in business of banking
  - ❖ Provisions of interest paid to AE limited to 30% of EBITDA would not apply to interest paid in respect of a debt issued by a lender which is a PE of a non-resident, being a person engaged in the business of banking, in India.
- Return of Income not to be filed if TDS has been deducted on certain incomes
  - ❖ Non-resident, shall not be required to if, total income consists of only dividend or interest income as referred to in 115A (1)(a) or royalty or FTS income of the nature specified in 115A(1)(b); and TDS has been deducted under the provisions of Chapter XVII-B of the Act at the rates which are not lower than the prescribed rates 115A(1).

- Deferral in taxation of ESOP in the hands of employees of start-ups
  - ❖ Taxation of ESOP in the hands of employees deferred by five years or till they leave the company or when they sell their shares, whichever is earliest.
- Increase in turnover limit and number of years for availing exemption for start-up
  - ❖ Eligible Start-up having turnover up to INR 100 Crores shall be allowed a deduction of 100% of its profits for three consecutive assessment years out of Ten years

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