GUIDE TO FINANCE (NO. 2) ACT 2019
## TAX RATES

### 1.1 RATE OF TAX APPLICABLE FOR ASSESSMENT YEAR 2020-21 AND ASSESSMENT YEAR 2019-20

The tax rates for the Financial Year 2018-19 (Assessment Year 2019-20) and Financial Year 2019-20 (Assessment Year 2020-21) shall be as follows:

<table>
<thead>
<tr>
<th>Individual (below the age of 60 years)/HUF/AOP/BOI/AJP</th>
<th>Net Income Range</th>
<th>Income-tax Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>AY 2020-21*</td>
</tr>
<tr>
<td>1 Up to ₹ 2,50,000</td>
<td>Nil</td>
<td>Nil</td>
</tr>
<tr>
<td>2 ₹ 2,50,001 to ₹ 5,00,000</td>
<td>5%</td>
<td>5%</td>
</tr>
<tr>
<td>3 ₹ 5,00,001 to ₹ 10,00,000</td>
<td>20%</td>
<td>20%</td>
</tr>
<tr>
<td>4 Above ₹ 10,00,000</td>
<td>30%</td>
<td>30%</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Resident Senior Citizen</th>
<th>Net Income Range</th>
<th>Income-tax Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>AY 2020-21*</td>
<td>AY 2019-20**</td>
</tr>
<tr>
<td>1 Up to ₹ 3,00,000</td>
<td>Nil</td>
<td>Nil</td>
</tr>
<tr>
<td>2 ₹ 3,00,001 to ₹ 5,00,000</td>
<td>5%</td>
<td>5%</td>
</tr>
<tr>
<td>3 ₹ 5,00,001 to ₹ 10,00,000</td>
<td>20%</td>
<td>20%</td>
</tr>
<tr>
<td>4 Above ₹ 10,00,000</td>
<td>30%</td>
<td>30%</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Resident Super Senior Citizen</th>
<th>Net Income Range</th>
<th>Income-tax Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>AY 2020-21*</td>
</tr>
<tr>
<td>1 Up to ₹ 5,00,000</td>
<td>Nil</td>
<td>Nil</td>
</tr>
<tr>
<td>2 ₹ 5,00,001 to ₹ 10,00,000</td>
<td>20%</td>
<td>20%</td>
</tr>
<tr>
<td>3 Above ₹ 10,00,000</td>
<td>30%</td>
<td>30%</td>
</tr>
</tbody>
</table>

* A resident individual, whose taxable income does not exceed ₹ 5,00,000, can claim rebate under section 87A. The amount of rebate shall be lower of 100% of income-tax or ₹ 12,500.

** A resident individual, whose taxable income does not exceed ₹ 3,50,000, can claim rebate under section 87A. The amount of rebate shall be lower of 100% of income-tax or ₹ 2,500.

<table>
<thead>
<tr>
<th>Business Entity</th>
<th>Income-tax Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Firm/Local Authority</td>
<td>AY 2020-21</td>
</tr>
<tr>
<td>Domestic Company</td>
<td>30%</td>
</tr>
<tr>
<td>Foreign Company</td>
<td>40%</td>
</tr>
</tbody>
</table>

* Tax rate is 25% if turnover or gross receipts in the previous year 2016-17 doesn’t exceed ₹ 250 crore.

** Tax rate is 25% if turnover or gross receipts in the previous year 2017-18 doesn’t exceed ₹ 400 crore.

<table>
<thead>
<tr>
<th>Co-operative Society</th>
<th>Net Income Range</th>
<th>Income-tax Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>AY 2020-21</td>
<td>AY 2019-20</td>
</tr>
<tr>
<td>1 Up to ₹ 10,000</td>
<td>10%</td>
<td>10%</td>
</tr>
<tr>
<td>2 ₹ 10,001 to ₹ 20,000</td>
<td>20%</td>
<td>20%</td>
</tr>
<tr>
<td>3 Above ₹ 20,000</td>
<td>30%</td>
<td>30%</td>
</tr>
</tbody>
</table>

The above rates are exclusive of Surcharge and Education Cess.

### 1.2 RATE OF SURCHARGE

<table>
<thead>
<tr>
<th>Taxpayer</th>
<th>AY 2020-21</th>
<th>AY 2019-20</th>
</tr>
</thead>
<tbody>
<tr>
<td>Range of Income</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Above ₹ 50 Lakhs but up to ₹ 1 Crore</td>
<td>10%</td>
<td>12%</td>
</tr>
<tr>
<td>Above ₹ 1 Crore but up to ₹ 2 Crore</td>
<td>15%</td>
<td>12%</td>
</tr>
<tr>
<td>Above ₹ 2 Crore but up to ₹ 5 Crore</td>
<td>25%</td>
<td>12%</td>
</tr>
<tr>
<td>Above ₹ 5 crore but up to ₹ 10 Crore</td>
<td>37%</td>
<td>12%</td>
</tr>
<tr>
<td>Above ₹ 10 Crore</td>
<td>37%</td>
<td>12%</td>
</tr>
<tr>
<td>Above ₹ 50 Lakhs but up to ₹ 1 Crore</td>
<td>10%</td>
<td>12%</td>
</tr>
<tr>
<td>Above ₹ 1 Crore but up to ₹ 2 Crore</td>
<td>15%</td>
<td>12%</td>
</tr>
<tr>
<td>Above ₹ 2 Crore but up to ₹ 5 Crore</td>
<td>25%</td>
<td>12%</td>
</tr>
<tr>
<td>Above ₹ 5 crore but up to ₹ 10 Crore</td>
<td>37%</td>
<td>12%</td>
</tr>
<tr>
<td>Above ₹ 10 Crore</td>
<td>37%</td>
<td>12%</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Taxpayer</th>
<th>AY 2020-21</th>
<th>AY 2019-20</th>
</tr>
</thead>
<tbody>
<tr>
<td>Range of Income</td>
<td></td>
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<td>12%</td>
</tr>
<tr>
<td>Above ₹ 5 crore but up to ₹ 10 Crore</td>
<td>15%</td>
<td>12%</td>
</tr>
<tr>
<td>Above ₹ 10 Crore</td>
<td>15%</td>
<td>12%</td>
</tr>
</tbody>
</table>
### 1.3 HEALTH AND EDUCATION CESS

The health and education cess at the rate of 4% shall be computed on aggregate of Income-tax and Surcharge.

### 2 INCOME EXEMPT FROM TAX

#### 2.1 EXEMPTION FOR WITHDRAWAL FROM NPS

**2.1-1 Exemption up to Assessment Year 2019-20**

NPS is a voluntary contribution by an individual in a pension fund to enable him to draw pension after he attains 60 years of age. As per the scheme, the person is allowed to withdraw 60% of total savings as a lump sum at the time of retirement and the balance 40% is required to be used to purchase an annuity scheme from a life insurance company to get monthly pension for the rest of life.

As per section 10(12A) of the Income-tax Act, any payment from NPS, on closure of account or on opting out of the pension scheme, shall not be chargeable to tax to the extent it does not exceed 40% of the total amount payable to him.

**2.1-2 Exemption from Assessment Year 2020-21**

Though as per the NPS scheme, a person can withdraw up to 60% of the total corpus, but Income-tax Act allowed an exemption up to 40% of the same. The Finance (No. 2) Act, 2019 has increased the limit of exemption from 40% to 60% to make it in symmetry with NPS scheme. Thus, from Assessment Year 2020-21 the total amount allowed to be withdrawn from NPS shall be tax-free.

### 3 PROFIT AND GAINS FROM BUSINESS OR PROFESSION

#### 3.1 INTEREST ON NPAs CAN BE RECOGNIZED ON RECEIPT BASIS BY NBFCs

**3.1-1 Provisions up to Assessment Year 2019-20**

As per section 43D of the Act, in case of banks and financial institutions, the interest income from bad and doubtful debts shall be chargeable to tax in the year of credit to profit and loss account or on actual receipt, whichever is earlier. The benefit of such provision is currently available to public financial institutions, scheduled banks, cooperative banks, State financial corporations, State industrial investment corporations and public companies like housing finance companies.

**3.1-2 Provisions applicable from Assessment Year 2020-21**

The Finance (No. 2) Act, 2019 has covered ‘Deposit Taking NBFCs’ and ‘Systemically Important Non-deposit Taking NBFCs’ in the ambit of section 43D.

Consequential amendment has also been made under section 43B to provide that interest on loans taken from such NBFCs shall be allowed to be deducted only if same is paid on or before the due date of furnishing of return of income of the relevant previous year.

‘Deposit Taking NBFC’ means a NBFC which is accepting or holding public deposits and is registered with the RBI.

‘Systemically Important Non-deposit Taking NBFC’ means a NBFC which is not accepting or holding public deposits and having total assets of not less than ₹ 500 crore as per the last audited balance sheet and is registered with the RBI.
4 CAPITAL GAINS

4.1 CONDITIONS RELAXED FOR CLAIMING SECTION 54GB EXEMPTIONS IF INVESTMENT IS MADE IN ELIGIBLE START-UP

4.1-1 Provisions applicable up to Assessment Year 2019-20

Section 54GB provides exemption to an Individual and HUF from the long-term capital gains arising from transfer of a residential house property. This exemption is allowed if amount of capital gains is invested in equity shares of an ‘eligible company’. The exemption is allowed subject to fulfilment of following conditions:

(a) The company is incorporated in India on or after April 1 of the previous year, in which capital gains arises, and up to the due date of furnishing the return of income.
(b) It is engaged in the business of manufacture of any article or thing or in an eligible business.
(c) The transferor (assessee) of residential property has more than 50% share capital (or voting right) of such company (after subscription).
(d) The company is either an eligible start-up or SME.
(e) The company utilizes the amount to purchase new assets, which shall not be transferred for 5 years from the date of acquisition.

The exemption is available only if the original asset is transferred between 01-04-2012 and 31-03-2017. However, if capital gain has to be invested in an eligible start-up, the original asset can be transferred up to 31-03-2019.

4.1-2 Provisions applicable from Assessment Year 2020-21

To incentivize the start-ups, the Finance (No. 2) Act, 2019 has made following amendments in section 54GB:

(a) The sunset date for transfer of original capital asset (residential property) for investment in eligible start-ups is extended from 31-03-2019 to 31-03-2021
(b) The condition of minimum holding of 50% of share capital or voting rights in the start-up is relaxed to 25%.
(c) The condition which restricts the transfer of new asset for 5 years is reduced to 3 years in case of computer or computer software.

4.2 SECTION 50CA TO BE RELAXED IN SPECIFIED CASES

Section 50CA provides that where consideration received or accrued from transfer of unquoted shares of a company, is less than its fair market value (FMV), the FMV so determined shall be deemed to be the full value of consideration as a result of such transfer.

Determination of FMV based on the prescribed rules may result into genuine hardship where consideration for transfer of shares is approved by certain authorities and the person transferring the share has no control over such determination. Thus, Section 50CA is amended to empower the Board to prescribe transactions undertaken by certain class of persons to which the provisions of Section 50CA shall not be applicable.

The amendment shall be applicable from Assessment 2020-21.

5 INCOME FROM OTHER SOURCES

5.1 GIFT RECEIVED BY A NON-RESIDENT SHALL BE DEEMED TO ACCRUE OR ARISE IN INDIA

5.1-1 Existing provision

Section 56(2)(x) of the Income-tax Act provides that where any sum of money or property (whether immovable or movable) received by a person without consideration or for inadequate consideration, it shall be taxable under the head ‘Income from Other Sources’ in the hands of such person. However, no tax shall be payable if money or property is received from specified person (say, relatives) or on specified occasions (say, on the occasion of marriage).

5.1-2 Amendment by the Finance (No. 2) Act, 2019

Though section 56(2)(x) applies in case of every person, but it has been reported that gifts by a resident person to a non-resident are claimed to be non-taxable in India as the income does not accrue or arise in India. To ensure that such gifts made by residents to a non-resident person are subjected to tax in India, a new clause (viii) has been inserted in section 9 to provide that any income arising outside India, being money as referred to in section 2(24)(xviia), paid on or after 05-07-2019, by a person resident in India to a non-resident or a foreign company shall be deemed to accrue or arise in India.

1. The fair market value of unquoted shares is determined as per Rule 11UA read with Rule 11UA of the Income-tax Rules, 1962.
Income Tax Publications 2019

- Income Tax Act
  64th Edition
  *Also Available Pocket Edition*

- Direct Taxes Ready Reckoner
  Dr. Vinod K. Singhania
  43rd Edition

- Income Tax Rules
  56th Edition

- Master Guide to Income Tax Act with Commentary on Finance (No. 2) Act, 2019
  Pradeep S. Shah & Rajesh Kadakia
  29th Edition

- Master Guide to Income Tax Rules
  26th Edition

- Direct Taxes Manual
  49th Edition
  *Vol. 1: Acts*
  *Vol. 2: Rules*
  *Vol. 3: Landmark Rulings/Direct Tax Law Lexicon/Circulars/Schemes/FATCA, etc.*

- Direct Taxes Law & Practice with Case Studies & Tax Planning
  Professional Edition
  Dr. Vinod K. Singhania

- Deduction of Tax at Source with Advance Tax & Refunds
  Dr. Vinod K. Singhania
  32nd Edition

- TDS - How to Meet Your Obligations with TDS Tax Tables
  25th Edition

- Guide to Tax Audit
  CA. Srinivasan Anand G.

- Taxation of Capital Gains

- New Law relating to Taxation of Start-ups & Investors

- Guide to Minimum Alternate Tax (MAT) & Alternate Minimum Tax (AMT)
  CA. Srinivasan Anand G.

- MAT & AMT with Ind AS Impact on MAT Computation
  CA. Bhimanshu Kansal

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  CA. Srinivasan Anand G.
  4th Edition

- Guide to Section 14A Disallowance

- Guide to Transfer Pricing
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- Taxation of Loans, Gifts & Cash Credits

- Law relating to Benami Properties

- Law relating to Assessment in Search Cases
  G.C. Das/K. Chandradas

- Balance Sheet Decoded
  G.C. Pipara
  2nd Edition

- Law & Practice relating to Income Computation & Disclosure Standards
  Chintan N. Patel
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- Prohibition of Benami Property Transactions Act 1988

- Guide to Fugitive Economic Offenders Act 2018
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- Law Relating to NFRA/Audit & Auditors
  CA Srinivasan Anand G.
  2nd Edition

- Tax Practice Manual
  Mahendra B. Gabhawala/Aprameya M. Gabhawala
  6th Edition

- Taxation of Trusts & NGOs
  Dr. Manoj Fogla
  12th Edition

- Roy Rohatgi
  on International Taxation
  IBFD
In view of this new clause, the income shall be deemed to accrue or arise in India if it arises due to payment of money (in excess of ₹ 50,000), without adequate consideration, by a resident person to a non-resident. It does not mention anything about the taxability of gift of property as referred to in section 56(2)(x), inter alia, immovable property, gold, securities, etc. Thus, if a resident person transfers any property to a non-resident or foreign company then tax shall be levied as per the existing provisions of Income-tax Act read with Double Taxation Avoidance Agreement (DTAA).

As per provisions of section 9(1)(j) all income accruing or arising, whether directly or indirectly, through or from any property, asset or source of income in India shall be deemed to accrue or arise in India. The word ‘through’ has been defined to include ‘by means of’, ‘in consequence of’ or ‘by reason of’. Further, it has been provided that any share or interest in a foreign company or entity shall be deemed to be situated in India if the share or interest derives, directly or indirectly, its value substantially from the assets located in India.

Thus, any income arising ‘by means of’ any property or asset or source of income in India, it may be deemed to accrue or arise in India as per the existing provisions of section 9. If a person gifts the sum of money, received from any source of income in India, it shall be deemed to accrue or arise in India.

However, the exemption provided under section 56 shall continue to apply even in such cases. In other words, no tax shall be levied if property is received by person outside India from a relative resident in India or on the occasion of his marriage.

5.1-3 Benefit of DTAA

Though the provisions of section 9 has been amended to cover gift of money but the ultimate taxability of such gifts shall be decided in accordance with provisions of relevant DTAA, if provisions of DTAA are more beneficial, then the non-resident person can choose to apply the provisions of DTAA. All double taxation agreements, India has signed with the foreign countries contain a residuary article ‘Other Income’ which deals with all other incomes not dealt with in any other articles of the said DTAA. Some of the DTAA allocate the taxing rights to the source country if such residuary income is not dealt with in any other provision of that DTAA, while as some DTAA provide the taxing right to the resident country only. Thus, if such residuary income is not taxable in India as per DTAA, the deeming fiction introduced in the domestic law can be outweighed by the DTAA. In other words, even if income by way of gift received by non-resident from a person resident in India is deemed to accrue or arise in India, a person can take recourse of the provisions of DTAA to escape from this deeming fiction.

5.1-4 Overview

The impact of the amendment in section has been enumerated in below table:

<table>
<thead>
<tr>
<th>Nature of gift</th>
<th>Taxability up to 4/7/2019</th>
<th>Taxability on or after 5/7/2019</th>
</tr>
</thead>
<tbody>
<tr>
<td>Money paid out of any source of income in India</td>
<td>Not-taxable</td>
<td>Taxable</td>
</tr>
<tr>
<td>Money paid out of any source of income outside India</td>
<td>Not-taxable</td>
<td>Taxable</td>
</tr>
<tr>
<td>Immovable property situated in India</td>
<td>Taxable</td>
<td>Taxable</td>
</tr>
<tr>
<td>Immovable property situated outside India</td>
<td>Not-taxable</td>
<td>Not-taxable</td>
</tr>
<tr>
<td>Shares of an Indian Company</td>
<td>Taxable</td>
<td>Taxable</td>
</tr>
<tr>
<td>Shares of a foreign company which derive their value substantially from assets located in India</td>
<td>Taxable</td>
<td>Taxable</td>
</tr>
<tr>
<td>Shares of any other foreign company</td>
<td>Not-taxable</td>
<td>Not-taxable</td>
</tr>
<tr>
<td>Jewellery or Bullion situated in India</td>
<td>Taxable</td>
<td>Taxable</td>
</tr>
<tr>
<td>Jewellery or Bullion situated outside India</td>
<td>Not-taxable</td>
<td>Not-taxable</td>
</tr>
<tr>
<td>Motor car situated in India</td>
<td>Not-taxable</td>
<td>Not-taxable</td>
</tr>
<tr>
<td>Motor car situated outside India</td>
<td>Not-taxable</td>
<td>Not-taxable</td>
</tr>
</tbody>
</table>

5.2 EXEMPTION GIVEN TO CATEGORY-II AIF FROM ‘ANGEL TAX’

5.2-1 Provision up to Assessment Year 2019-20

As per section 56(2)(viii), if a closely held company receives, from any resident person, any consideration for issue of shares that exceeds the face value of such shares, the aggregate consideration received for such shares as exceeds the fair market value of the shares is taxable as income from the other sources.

However, the above provision shall not apply in following cases:

(a) Where consideration for issue of shares is received by a venture capital undertaking from a venture capital company or a venture capital fund which have granted a certificate of registration as Category I Alternative Investment Fund;

(b) Where consideration is received by a start-up company in respect of shares issued to a resident person. However, a start-up company shall fulfill the condition mentioned in the notification2 issued by the Department for Promotion of Industry and Internal Trade (DPIIT).

5.2.2 Amendment made by the Finance (No. 2) Act, 2019

With a view to facilitate venture capital undertakings to receive funds from Category-I AIF, section 56(2)(viiib) has been amended by the Finance (No. 2) Act, 2019 to provide the exemption in respect of fund received by venture capital undertakings from Category II AIF as well.

5.3 ‘ANGEL TAX’ TO BE CHARGED IF AN ELIGIBLE START-UP SUBSEQUENTLY DOESN’T FULFIL CONDITION OF DPIIT’S NOTIFICATION

The DPIIT had issued a Notification No. 501(E), dated 23-05-2017, which was suppressed by the Notification No. 364(E), dated 11-04-2018. This notification was also suppressed by the latest Notification No. 127(E), dated 19-02-2019. The purpose of this notification is to allow the exemption from angel tax under section 56(2)(viiib) and to allow the deductions under section 80-IAC to the start-ups. The exemption under this notification is allowed if start-up fulfills the prescribed conditions, *inter alia*, company does not invest in specified assets such as share and securities, motor vehicle of value of more than ₹ 10 lakhs, etc.

With a view to ensure compliance to the conditions specified in the notification, the Finance (No. 2) Act, 2019 reiterates that in case of failure to comply with the conditions specified in the notification (as referred to above) the consideration received from issue of shares, as exceeding the fair market value of such shares, shall be deemed to be income of the company chargeable to tax for the previous year in which such failure takes place. When the exemption is withdrawn, it shall be deemed that the company has misreported the said income and, consequently, a penalty of an amount equal to 200% of tax payable on the under reported income (i.e., difference between issue price and fair market value of shares) shall be levied as per section 270A.

Example, X Pvt. Ltd., a start-up company, issues 10,000 shares of face value ₹ 10 each at a price ₹ 500 each. The fair market value of such share is ₹ 300 each. What shall be the tax treatment in following three scenarios:

1. If company does not fulfil the conditions of DPIIT’s notification
2. If company fulfills the conditions of DPIIT’s notification
3. If company after fulfilling the conditions of DPIIT’s notification, fails to comply with any of the conditions mentioned therein.

<table>
<thead>
<tr>
<th>Particulars</th>
<th>Scenario 1</th>
<th>Scenario 2</th>
<th>Scenario 3</th>
</tr>
</thead>
<tbody>
<tr>
<td>Face value of share (a)</td>
<td>₹ 10</td>
<td>₹ 10</td>
<td>₹ 10</td>
</tr>
<tr>
<td>FMV of share (b)</td>
<td>₹ 300</td>
<td>₹ 300</td>
<td>₹ 300</td>
</tr>
<tr>
<td>Issue price (c)</td>
<td>₹ 500</td>
<td>₹ 500</td>
<td>₹ 500</td>
</tr>
<tr>
<td>Number of shares (d)</td>
<td>10,000</td>
<td>10,000</td>
<td>10,000</td>
</tr>
<tr>
<td>Whether tax to be levied under Section 56(2)(viiib)?</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td>How much to be levied under Section 56(2)(viiib)? [e = d x (c-b)]</td>
<td>₹ 20,00,000</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Failure to comply with the conditions of DPIIT’s notification</td>
<td>-</td>
<td>No</td>
<td>Yes</td>
</tr>
<tr>
<td>Deemed income under Section 56(2)(viiib) due to subsequent failure to comply with the conditions [f = d x (c-b)]</td>
<td>-</td>
<td>-</td>
<td>₹ 20,00,000</td>
</tr>
<tr>
<td>Tax payable on such deemed income (assuming tax rate of 30%) [g = f x 30%]</td>
<td>-</td>
<td>-</td>
<td>₹ 6,00,000</td>
</tr>
<tr>
<td>Penalty to be levied under Section 270A [h = g x 200%]</td>
<td>-</td>
<td>-</td>
<td>₹ 12,00,000</td>
</tr>
</tbody>
</table>

6 DEDUCTION UNDER CHAPTER VI-A

6.1 DEDUCTION UNDER SECTION 80C IN RESPECT OF CONTRIBUTION TO TIER-II NPS A/C BY CENTRAL GOVERNMENT’S EMPLOYEES

Under NPS, two sub-accounts are maintained. Tier-I account is mandatory but Tier-II is optional. All tax benefits, annuity restrictions, exit and withdrawal rules are applicable to NPS Tier-I account only. NPS Tier-II account is like an open ended mutual fund for which no tax deductions are available.

With effect from Assessment Year 2020-21, contributions made by Central Government employees to Tier-II NPS account shall be eligible for deduction under section 80C if amount is locked-in for a minimum period of 3 years.
6.2 DEDUCTION IN RESPECT OF CONTRIBUTION MADE TO NPS BY CENTRAL GOVERNMENT ON BEHALF OF ITS EMPLOYEES

6.2-1 Deduction up to Assessment Year 2019-20

Section 80CCD of the Income-tax Act allowed deduction of up to 10% of salary to Central Government’s employees in respect of contribution made by the Central Government in NPS.

6.2-2 Deduction from Assessment Year 2020-21

The Central Government used to make contribution of 10% to the NPS accounts of its employees, but from 01-04-2019 the Central Government contribution from 10% to 14%. However, the mandatory contribution by the employees will remain 10%.

Consequently, Section 80CCD has been amended by the Finance (No. 2) Act, 2019 to provide deduction of 14% of basic salary plus DA. Thus, the Central Government employees shall be entitled to claim deduction of entire 14% of their salary contributed by the Central Government in their NPS account.

From the Assessment Year 2020-21, the deduction under Section 80CCD shall be as under:

<table>
<thead>
<tr>
<th>Contribution to NPS</th>
<th>Taxability</th>
</tr>
</thead>
<tbody>
<tr>
<td>Employees’ contribution to NPS</td>
<td>Deduction allowed under section 80CCD up to 10% of salary plus additional deduction of up to ₹ 50,000.</td>
</tr>
<tr>
<td>Employers’ contribution to NPS</td>
<td>Deduction allowed up to 14% of salary plus DA in case of Central Government employees. In case of any other employer, the limit is 10% of salary plus DA.</td>
</tr>
<tr>
<td>Any other person not being an employee</td>
<td>20% of gross total income of such person</td>
</tr>
</tbody>
</table>

The deduction under section 80EE is allowed subject to following conditions:

(a) the loan should be sanctioned by the financial institution during the period beginning on 01-04-2016 and ending on 31-03-2017;
(b) the amount of loan should not exceed ₹ 35 lakhs;
(c) the value of residential house property should not exceed ₹ 50 lakhs; and
(d) the assessee should not own any residential house property on the date of sanction of loan.

6.3 DEDUCTION IN RESPECT OF INTEREST ON HOUSING LOAN

6.3-1 Deduction up to Assessment Year 2019-20

Income-tax Act allows deduction to an individual under section 24(b) and section 80EE for the interest paid on loan taken to purchase or construct a residential house property. Section 24(b) allows aggregate deduction of up to ₹ 2 lakh in case of self-occupied properties, subject to certain conditions. Further, an individual can also claim additional deduction of up to ₹ 50,000 under section 80EE with respect to interest on housing loan.

With an objective to provide an impetus to the ‘Housing for all’ initiative of the Government and to enable the home buyer to have low-cost funds at his disposal, the Finance (No. 2) Act, 2019 has inserted a new section 80EEA under the Income-tax Act for those individuals who are not eligible to claim deduction under section 80EE. An individual can claim deduction of up to ₹ 1,50,000 under section 80EEA subject to following conditions:

(a) Loan should be sanctioned by the financial institution during the period beginning on 01-04-2019 and ending on 31-03-2020;
(b) Stamp duty value of residential house property should not exceed ₹ 45 lakhs;
(c) The assessee should not own any residential house property on the date of sanction of loan; and
(d) The assessee should not be eligible to claim deduction under section 80EE.

Hence, an individual who does not meet the criteria of section 80EE shall now be eligible to claim deduction under section 80EEA of up to ₹ 150,000 in addition to deduction under section 24(b). Thus, the aggregate deduction which can claimed in respect of interest on housing loan shall be ₹ 350,000.

6.4 DEDUCTION FOR INTEREST ON LOAN TAKEN TO BUY ELECTRIC VEHICLES

With a motive to make a pollution free India by reducing vehicular pollution, the Finance (No. 2) Act, 2019 has inserted a new section 80EEB under the Income-tax Act to provide a deduction of up to ₹ 150,000 to an individual in respect of loan taken to purchase an electric vehicle.

The deduction shall be available if loan has been sanctioned by the financial institution during the period beginning from 01-04-2019 and ending on 31-03-2023. This deduction shall be available from Assessment Year 2020-21 onwards.

7 INCOME-TAX RETURN AND ASSESSMENT

7.1 RETURN FILING HAS BEEN MADE MANDATORY IN CERTAIN CIRCUMSTANCES

7.1-1 Amendment made by the Finance (No. 2) Act, 2019

In order to ensure that persons, entering into certain high value transactions, furnish the Income-tax return, the Finance (No. 2) Act, 2019 has amended section 139 so as to provide that, in addition to those who were required to furnish their return of income, a person shall be mandatorily required to file his return of income, if during the previous year he:

1. Has deposited an amount (or aggregate of amount) in excess of ₹ 1 crore in one or more current account maintained with a bank or a co-operative bank.

2. Has incurred aggregate expenditure in excess of ₹ 2 lakh for himself or any other person for travel to a foreign country.

3. Has incurred aggregate expenditure in excess of ₹ 1 lakh towards payment of electricity bill.

4. Fulfils such other conditions as may be prescribed.

Further, filing of Income-tax return is made mandatory in case of an Individual, HUF, AOP, BOI or AJP, if total income of such person before claiming capital gain exemption under Sections 54, 54B, 54EC, 54F, 54G, 54GA and 54GB, exceeds the maximum amount not chargeable to tax.

The amendment shall be applicable from Assessment Year 2020-21.

7.1-2 When return filing shall be mandatory for Assessment Year 2020-21

From Assessment Year 2020-21, the filing of Income-tax return by an Individual shall be mandatory in following situations.

| If his income exceeds exemption limit | If income of an individual or HUF, before claiming the following deductions or exemptions, exceeds the maximum exemption limit then it is mandatory for him to file the return of income:
| 1. Exemption under section 10(38)^4 |
| 2. Deduction under sections 10A, 10B, 10BA |
| 3. Exemption under section 54, 54B, 54D, 54EC, 54F, 54G, 54GA or 54GB^5 |
| 4. Deduction under sections 80C to 80U |
| This provision shall apply to both resident and non-resident individuals. |

| If he has assets outside India | An Individual, being a resident and ordinary resident in India, shall have to file his return of income, even if his income does not exceed the maximum exemption limit, if he:
| 1. Holds, as a beneficial owner or otherwise, any asset (including any financial interest in any entity) located outside India |
| 2. Has signing authority in any account located outside India |
| 3. Is a beneficiary of any asset (including any financial interest in any entity) located outside India. |

| If he deposits more than ₹ 1 crore in bank account | An Individual shall file his return of Income, even if his income does not exceed the maximum exemption limit, if he has deposited an amount (or aggregate of amount) exceeding ₹ 1 crore in one or more current accounts maintained by him with a banking company or a co-operative bank. No reference has been made by the Finance (No. 2) Act, 2019 for the deposit made in the current account maintained with a Post office. Thus, if a person is depositing more than ₹ 1 crore in a current account with a post office and his income is less than maximum exemption limit, he is not required to furnish his return of income. |

| If foreign travel expense is more than ₹ 2 lakh | An Individual shall file his return of Income, even if his income does not exceed the maximum exemption limit, if he has incurred more than ₹ 2 lakh on travel to a foreign country, either for himself or for any other person. |

| If electricity consumption is more than ₹ 1 lakh | An Individual shall file his return of Income, even if his income does not exceed the maximum exemption limit, if he has incurred an expenditure exceeding ₹ 1 lakh on electricity consumption. |

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4. Exemption under section 10(38) has been withdrawn with effect from Assessment Year 2019-20 vide Finance Act, 2018.

5. Inserted by the Finance Act (No. 2), 2019, with effect from Assessment Year 2020-21. Exemption allowed under section 54EE has not been covered in the list possibly due to the reason that Govt. has not notified any fund so far which can provide this exemption.
7.2 PAN AND AADHAAR ARE INTERCHANGEABLE FOR INCOME-TAX PURPOSE

Section 139A of the Income-tax Act, 1961, prescribes various conditions under which an assessee is required to obtain PAN. He needs to mention his PAN in all communications with the Income-tax Dept. and in specified financial transactions which exceed the threshold limit.

However, there can be situations where a person entering into high-value transactions, such as purchase of foreign currency or huge withdrawal from the banks, does not possess a PAN. Thus, the Finance (No. 2) Act, 2019, has prescribed the following relaxations from mandatory quoting of PAN:

1. A person who has not been allotted a PAN but possesses Aadhaar number may furnish or intimate or quote his Aadhaar and PAN shall be allotted to such person in prescribed manner.

2. Every person who has been allotted a PAN, and who has linked his Aadhaar number with PAN as per section 139AA, may furnish his Aadhaar number in lieu of a PAN for all the transactions where quoting of PAN is mandatory as per Income-tax Act.

Consequential amendments and insertions have been made in the penal provisions of section 272B so as to levy a penalty of ₹10,000 for each default in the following cases:

1. If assessee fails to quote or intimate his PAN or Aadhaar or quotes or intimates invalid PAN or Aadhaar.

2. If assessee fails to quote or authenticate his PAN or Aadhaar in specified transactions.

3. If receiver (i.e., banks, financial institution, etc.) of documents in respect of specified transactions fails to ensure that the PAN or Aadhaar are duly quoted and authenticated.

The amendment shall be applicable from September 1, 2019.

7.3 PAN WILL BE INOPERATIVE IF NOT LINKED WITH AADHAAR

7.3-1 Position up to August 31, 2019

As per existing proviso to section 139AA(2), PAN allotted to a person shall be deemed to be invalid if he fails to intimate his Aadhaar to the Dept., on or before the notified date. As a result, the PAN shall be deemed to be invalid even in all those financial transactions, or Income-tax return, which have been done or filed, as the case may be, before the date on which PAN is deemed to be invalid.

7.3-2 Position from September 1, 2019

In order to protect the validity of transactions carried out previously through such PAN, the Finance (No. 2) Act, 2019, has amended the said proviso to provide that if a person fails to intimate the Aadhaar number, the PAN allotted to such person shall be made inoperative (without declaring it invalid) in the prescribed manner.

7.4 RELIEF UNDER SECTION 89 ALLOWED TO BE DEDUCTED FOR CALCULATION OF INTEREST

Sections 234A, 234B and 234C provides for calculation of interest on the amount of Income-tax payable by an assessee as reduced by:

(a) Advance-tax
(b) TDS or TCS
(c) Relief under section 90, 90A or 91
(d) MAT Credit or AMT Credit

These provisions don’t provide for reduction of relief under section 89 from tax payable for calculations of interest.

The Finance (No. 2) Act, 2019 has amended these provisions retrospectively so as to allow reduction of section 89 relief in addition to other deduction, as specified above, for the purpose of calculation of interest. Corresponding amendments have also been made in section 140A. section 143 has also been amended on similar line for processing of return after allowing relief under section 89.

The amendment shall be applicable retrospectively from Assessment 2007-08.

7.5 PROSECUTION ON FAILURE TO FURNISH RETURN OF INCOME

7.5-1 Upto Assessment year 2019-20

As per section 276CC, if an assessee fails to furnish his return of income wilfully before the end of relevant assessment year and tax payable by him, on total income determined on regular assessment, after reducing advance tax and TDS exceeds ₹3,000, then he shall be liable for prosecution for a term ranging from 3 months to 7 years, depending upon the amount of tax which has been evaded.

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6. The due date for such linking had been extended at multiple occasions and the latest date is 30-09-2019.
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7.5-2 From Assessment year 2020-21
The existing provisions of section 276CC do not provide for taking into account tax collected at source and self-assessment tax for the purposes of determining the tax liability. Since the intent of said provision has always been to take into account pre-paid taxes, while determining the tax payable, the Finance (No. 2) Act, 2019 has amended the said section so as to make the legislative intention clear and to include the self-assessment tax, if any, paid before the expiry of the assessment year, and tax collected at source for the purpose of determining tax liability. Further, the threshold of tax payable has been increased from the existing ₹ 3000 to ₹ 10,000.

8 TAX DEDUCTED AT SOURCE (TDS)

8.1 INDIVIDUALS AND HUFS (NOT LIABLE FOR TAX AUDIT) SHALL DEDUCT TAX FROM SUM PAYABLE TO RESIDENT CONTRACTOR, BROKERS OR PROFESSIONALS

As per the provisions of section 194C, 194H and Section 194J, no tax is required to be deducted by an individual or HUF from payment made to contractor, brokers or professional in the following cases:

1. If payment is made for services received for personal use
2. If turnover or gross receipt of the payer, being an Individual or HUF, from the business or profession doesn’t exceed the monetary limit prescribed as specified in section 44AB.

Due to the exemption provided under Section 194C, Section 194H and Section 194J, substantial payments made by individuals or HUFS in respect of contractual work, commission, brokerage or for professional service were escaping the levy of TDS.

Thus, a new section 194M has been inserted in the Income-tax Act to provide for levy of TDS, at the rate of 5% on the sum paid or credited, to a resident, in a year on account of contractual work, commission (not being insurance commission referred to in Section 194D), brokerage or professional fees, by an individual or a HUF, if aggregate of such sum exceeds ₹ 50 lakhs in a year. However, in order to reduce the compliance burden, it has been provided that such individuals or HUFS can deposit the tax deducted using their PAN and shall not be required to obtain TAN.

If estimated tax liability of the deductee justifies no deduction of tax or deduction of tax at lower rate, he can apply to the Assessing Officer under section 197 to issue a nil or lower TDS certificate. Thus, payee can apply to the Assessing Officer to obtain such certificate in respect of sum paid or payable which are subject to TDS under section 194M.

8.2 IN CASE OF PURCHASE OF IMMOVABLE PROPERTY, TAX TO BE DEDUCTED ON GROSS AMOUNT INCLUDING INCIDENTAL CHARGES

As per section 194-IA, any person (buyer) who is responsible for making payment of sales consideration in respect of purchasing an immovable property shall deduct tax therefrom. Tax is deductible under this provision if amount of ‘consideration’ paid or payable for transfer of immovable property is ₹ 50 lakhs or more. The term ‘consideration’ for immovable property has not been defined for the purposes of deduction of tax under this section.

In a transaction involving purchase of immovable property, there are other types of payments made besides the sales consideration and the buyer is contractually bound to make such payments to the builder/seller, either under the same agreement or under a different agreement. Accordingly, an Explanation has been inserted in section 194-IA to provide that the term ‘consideration for transfer of any immovable property’ shall include all charges of the nature of club membership fee, car parking fee, electricity and water facility fees, maintenance fee, advance fee or any other charges of similar nature, which are incidental to transfer of the immovable property.

8.3 BANKS AND POST OFFICES TO DEDUCT TAX FROM CASH WITHDRAWALS EXCEEDING ₹ 1 CRORE

8.3-1 Provision applicable from 01-09-2019

In order to discourage cash transactions and move towards cash-less economy, a new section 194N has been inserted in the Income-tax Act. As per this new provision, tax shall be deducted by a banking company or co-op. bank or post office at the rate of 2% from the amount withdrawn in cash from any account (saving or current account) if aggregate of amount withdrawn from one or more accounts exceeds ₹ 1 crore during the previous year. The tax shall be deducted on the amount exceeding ₹ 1 crore only.

The provisions of section 194N shall be applicable from September 1, 2019.

Example, Mr A has saving and current account with a bank. The details of cash withdrawn from the both the accounts are as follows:
8.3-2 Consequential amendment in Section 198

Generally, tax is deducted from the gross sum payable to the deductee and after deduction only the net amount is paid to him. To avoid any confusion on the amount of taxable income, the provisions of section 198 clarifies that the tax which has been deducted in accordance with the provision of the Income-tax Act, 1961, shall be deemed as income of the assessee. In other words, the total amount to be considered for calculation of taxable income shall be aggregate of net sum paid or payable to the deductee and the amount of tax deducted at source.

Currently, this rule is subject to one exception. However, after introducing the new TDS provision of section 194N, tax deducted shall not be deemed as income of the deductee in following two cases:

(a) Where employer himself pays tax on non-monetary perquisites and no amount is deducted from the salary of employee.

(b) Where a banking company, co-operative bank or a post office deducts tax under Section 194N from cash withdrawn in excess of ₹ 1 crore during the financial year.

8.4 FACILITY TO BE PROVIDED FOR FILING OF ONLINE APPLICATION TO OBTAIN CERTIFICATE FOR LOWER OR NIL RATE OF TDS IN CASE OF SUM PAID TO NON-RESIDENT

As per section 195, every payee (resident or non-resident) shall be responsible for deduction of tax at source under this provision from payment of any sum to a non-resident which is chargeable to tax. The tax shall be deducted under this provision only if income of non-resident is taxable in India.

If sum payable to a non-resident is taxable in India but the person responsible for making the payment believes that the entire sum shall not be taxable but only a portion thereof shall be taxable in India, he may make an application to the Assessing Officer to determine the appropriate proportion of such sum so chargeable, and upon such determination, tax shall be deducted only on that proportion of the sum which is so chargeable.

Currently, no form has been prescribed by the Dept. for filing of an application by the payer to obtain a certificate for deduction of tax at lower or nil rate. Thus, the payer has to follow the manual process by approaching the Assessing Officer with an application to require him to issue an order under section 195(2).

In order to streamline the process and to enable tax administration in monitoring such payments, the provisions of section 195(2) has been amended to prescribe the form and manner of application to the
Assessing Officer and also for the manner of determination of appropriate portion of sum chargeable to tax by the Assessing Officer. Thus, the CBDT shall prescribe the form and electronic process through which the payer can file an application to obtain the certificate for lower or nil rate of TDS. Similar amendment has also been made in section 195(7) which are applicable to specified class of persons or cases.

The amendment shall be applicable from November 1, 2019.

8.5 TDS FROM PAYMENT IN RESPECT OF LIFE INSURANCE POLICY

8.5-1 Provisions applicable up to Assessment Year 2019-20

As per section 194DA, any payment in respect of life insurance policy to a resident person shall be subject to TDS at the rate of 1%. The tax shall be deducted under this provision at the time of payment on the gross amount, if sum payable exceeds ₹ 1 lakh. However, no tax is required to be deducted if amount payable under an insurance policy is exempt from tax under Section 10(10D) or the sum is received on the occasion of death of the insured person.

8.5-2 Provisions applicable from 01-09-2019

The Finance (No. 2) Act, 2019 has made an amendment under section 194DA to levy TDS on net income instead of gross amount. The amendment has been made as taxpayers were facing hardships due to deduction of tax from the gross amount whereas they were liable to pay tax only on net income. As per the amendment, the deductor is now required to deduct tax only on the income component comprised in the insurance pay-out at the rate of 5% (in contrast to 1% on the gross amount).

The provisions of section 194DA does not prescribe any mechanism for computation of taxable income in case of insurance proceeds. When an insurer takes the insurance policy, he gets the right to receive sum due against his insurance policy either on maturity or on its surrender. Therefore, right to receive sum from insurance policy is a capital asset within the meaning of section 2(14) and any income or losses arising on its transfer shall be chargeable to tax under the head ‘Capital Gains’. If an insurance policy has been held for more than 36 months, it shall be considered as long-term capital assets, accordingly the benefit of cost inflation index shall be given while computing the amount of capital gains.

Example, in Financial Year 2013-14, Mr A buys an insurance policy of ₹ 50 lakhs (for a term of 20 years) by paying the premium of ₹ 10 lakhs. He surrenders the policy for ₹ 15 lakhs on 01-10-2019. Prior to the Finance (No. 2) Act, 2019, the payer insurance co. was required to deduct tax at the rate of 1% on total sum paid (i.e., ₹ 15 lakhs) to Mr. A. However, after the amendment, tax shall be deducted at the rate of 5% on the net income and not on the gross amount paid to insured (Mr A).

Thus, the insurance company will be required to compute the taxable amount in hands of Mr. A. In this case, long term capital gains will arise in the hands of Mr. A as period of holding is more than 36 months. Let’s assume the cost inflation index for the financial year 2019-20 is 289, the indexed cost of acquisition of such insurance policy shall be ₹ 13,13,636 (₹ 10 lakhs* 289 (CII for FY 2019-20)/220 (CII for FY 2013-14). Thus, the long-term capital gains in such case shall be ₹ 186,364 (i.e. ₹ 15,00,000 less ₹ 13,13,636). Insurance company shall deduct tax under section 194DA at the rate of 5% on the taxable income only - ₹ 9,318 (5% of ₹ 186,364).

As section 194DA does not prescribe any mechanism for computation of income, the income from surrender or maturity of insurance policy shall be computed in the manner as presented above.

8.6 RELAXING THE PROVISIONS OF SECTION 201 IN CASE OF PAYMENTS TO NON-RESIDENTS

As per section 201, if any person responsible for deduction of tax at source, fails to deduct the whole or any part of the tax or after deduction fails to deposit the same to the credit of the Central Government, then he shall be deemed to be an assessee-in-default. However, he will not be treated as an assessee-in-default if payment is made to a resident person, who has paid tax on such income and has included such income in the return submitted under section 139. The payer will have to obtain a certificate to this effect from a Chartered Accountant in Form No. 26A and submit it electronically. Currently, this concession is available only for the payment made to a resident person.

In case of similar failure on payments made to a non-resident, such relief is not available to the deductor. To remove this anomaly, section 201 has been amended to extend the benefit to a deductor even in respect of failure to deduct tax from sum paid to non-resident.

Consequential, amendment has been made in the provision for computation of interest. Thus, where deductor fails to deduct the tax from the amount paid or payable to payee (resident or non-resident) but he is not deemed to be assessee-in-default, he shall continue to be liable to pay the interest from the date on which tax was required to be deducted to the date of furnishing of return of income by the payee.

Since the benefit of section 201 has been extended to payments made to non-residents as well. section 40(a)(i), which provides for disallowance of expense in case of TDS default, has also been amended to
provide that where deductor has failed to deduct the tax and he is not deemed to be an assessee in default, then it shall be deemed that the assessee has deducted and paid the tax on the date on which the payee has furnished his return of Income.

The amendment shall be applicable from September 1, 2019.

9 SET OFF AND CARRY FORWARD OF LOSSES

9.1 CONDITIONS OF SECTION 79 RELAXED TO ALLOW AN ELIGIBLE START-UP TO CARRY FORWARD THE LOSSES

9.1-1 Provisions applicable up to Assessment Year 2019-20

The current provisions of section 79 has imposed following certain conditions to carry forward the losses in case of closely held companies:

(a) In the year of set-off of losses, at least 51% of voting power should be beneficially held by the same persons who held them on the last day of the year in which loss was incurred.

(b) In case of an eligible start-up, 100% of shareholders, on the last day of the previous year in which loss was incurred, should continue to hold the shares on the last day of the previous year in which loss is set-off. Further, losses should have been incurred during the period of 7 years from the year of incorporation.

9.1-2 Provisions applicable from Assessment Year 2020-21

To facilitate ease of doing business in case of an eligible start-up, section 79 has been amended to provide that loss incurred, by the 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 specified above, i.e. continuity of 51% shareholding or continuity of 100% of original shareholders.

10 CORPORATE TAX

10.1 LISTED COMPANIES TO PAY TAX ON BUY-BACK OF SHARES

10.1-1 Provisions applicable up to Assessment Year 2019-20

When a company buys-back shares from the shareholders, the capital gains arising therefrom is taxable in the hands of the shareholders except in case of unlisted company. In case of buy-back of shares by the unlisted companies, section 115QA provides for levy of additional Income-tax on the companies at the rate of 20% of the distributed income. Consequently, the capital gain arising in the hands of the shareholders are not charged to tax as tax is levied at the level of the company.

10.1-2 Provisions applicable from 05-07-2019

Section 115QA was introduced as an anti-abuse provision to check the practice of unlisted companies resorting to buy-back of shares instead of payment of dividends. This practice was noted amongst unlisted companies as tax rate for capitals gains was lower than the rate of Dividend Distribution Tax (DDT).

The instances of similar tax arbitrage have now come to notice in case of listed companies as well, whereby the listed companies are also indulging in such practice of resorting to buy-back of shares, instead of payment of dividends. Hence, in order to curb such tax avoidance practice adopted by the listed companies, the scope of existing anti abuse provision of section 115QA has been extended in case of listed company as well. Thus, any buy back of shares from a shareholder by a listed company shall also be covered by the provision of section 115QA. Consequently, section 10(34A) has also been amended to exempt the capital gains arising in the hands of shareholders on account of buy-back of shares on which additional income-tax has been paid by the company.

10.2 TAX COMPLIANT DEMERGER V/S-A-VIS IND-AS COMPLIANT DEMERGER

Income tax Act, 1961, provides various exemptions in case of demerger. The term demerger has been defined in the clause (19AA) of Section 2. In order to claim exemption from Income-tax, an entity needs to fulfil all the conditions prescribed under section 2(19AA).

One of the conditions for a tax neutral demerger is that the assets and liabilities of the demerged company should be transferred to the resulting company at book value appearing in the books of demerged company.

Since an Indian Accounting Standards (Ind-AS) compliant company is required to record the property and the liabilities of the undertaking at a value different from the book value of the demerged company. Thus, Finance (No. 2) Act, 2019, has inserted a provision in sub-clause (iii) in clause (19AA) of Section 2, to provide that the requirement of recording property and liabilities at book value by the resulting company shall not be applicable where the resulting company is complying with the Ind-AS and value of the property and liabilities of the undertaking received are recorded by it at a value different from that appearing in the books of account of the demerged company immediately before demerger.
10.3 RELAXATION OF MAT PROVISIONS IN CASE OF DISTRESSED COMPANIES

10.3-1 Provision applicable upto Assessment Year 2019-20
Minimum Alternate Tax or MAT is payable by companies whose tax on total income is less than 18.5% of ‘book profit’. ‘Book profit’ is computed by making specified additions and deletions to the profits determined as per statement of profit or loss of the company.

While computing the book profits in case of a company against which an application for corporate insolvency resolution process has been filed under Insolvency and Bankruptcy Code (IBC), the aggregate amount of unabsorbed depreciation and brought forward loss of a company is allowed as deduction if such application is admitted by the adjudicating authority.

10.3-2 Provision applicable from Assessment Year 2020-21
With an objective to facilitate resolution of distressed companies, the Finance (No. 2) Act, 2019, has allowed to deduct the aggregate amount of unabsorbed depreciation and brought forward losses even in cases where NCLT, on a petition moved by the Central Govt. under section 241 of the Companies Act, 2013, has suspended the board of directors of the company and has appointed new directors. The deduction shall be allowed even to subsidiary and the subsidiary of such subsidiary of the company.

11 OTHERS

11.1 EXPANDING SCOPE OF ELECTRONIC PAYMENT
There are various sections in the Income-tax Act, 1961 which prohibits an assessee from making cash payments or taking cash receipts, i.e., sections 40A, 13A, 269SS, 269T, etc. The sections allow payment or receipt through an account payee cheque or an account payee bank draft or use of electronic clearing system through a bank account (acceptable mode of payment).

In order to encourage other electronic modes of payments like, payment through wallets, it is proposed to prescribe all other acceptable mode of payments in these provisions.

11.2 BUSINESSES SHALL ACCEPT PAYMENTS THROUGH NOTIFIED ELECTRONIC MODES
The Finance (No. 2) Act, 2019 has inserted a new section 269SU in Income-tax Act. The section provides that every person engaged in business should mandatorily provide the facility for accepting payment through prescribed electronic mode, if the gross receipts from such business exceeds ₹ 50 crore during the immediately preceding previous year. The acceptable electronic modes shall be notified by the Income-tax Department.

Consequential penal provisions have been inserted in Section 271DB, which provides for penalty of ₹ 5,000 rupees for every day of default in case the person does not accept payment through notified digital modes. The section also provides for immunity from penalty in case person proves that there is a good and sufficient reasons for such default.

The amendment shall be applicable from November 1, 2019.

11.3 Pr. CIT TO ENSURE COMPLIANCE OF OTHER LAWS BEFORE GRANTING SECTION 12AA REGISTRATION OR EXEMPTION UNDER SECTION 10(23C)
Section 12AA provides the procedure for registration of a trust. As per section 12AA, if CIT is satisfied about the objects of the trust and the genuineness of the activities of the trust, he shall pass an order granting registration of the trust. This order shall be passed in writing and the copy of order shall be sent to the applicant.

The Finance (No. 2) Act, 2019 has inserted the following additional conditions in section 12AA which shall be applicable from September 1, 2019:

(a) At the time of granting of registration to a trust or institution, the Pr. CIT or CIT shall satisfy himself about the compliance to requirements of any other law which is material for the purpose of achieving its objects;

(b) Pr. CIT or CIT may cancel the registration, if it is noticed that the trust or institution has violated requirements of any other law which was material for the purpose of achieving its objects.

Similarly, the prescribed authority shall ensure that the institutes eligible for section 10(23C) exemption comply with the requirements prescribed under any other law for the time being in force. Generally, charitable or religious institutes, educational institutions and medical institutes are eligible for exemption under section 10(23C).

11.4 INCREASE IN TIME LIMIT FOR SALE OF ATTACHED IMMOVABLE PROPERTY
Rule 68B of Second Schedule to the Income-tax Act provides the time limit for sale of attached immovable property for recovery of tax. It provides that sale of attached immovable property towards the recovery of tax, penalty, etc., shall take place within 3 years from the end of financial year in which order
of attachment has become final or conclusive. The Finance (No. 2) Act, 2019 has extended the said period of attachment from 3 years to 7 years. The CBDT may further extend the period of 7 years for another period of 3 years.

The amendment shall be applicable from September 1, 2019.

11.5 AMENDMENT PROPOSED TO MAKE NORMS OF STATEMENT OF FINANCIAL TRANSACTIONS MORE EFFECTIVE

Section 285BA requires furnishing of Statement of Financial Transaction (SFT) by specified reporting entities. SFT provides a reporting mechanism wherein specified entities are required to provide information of material financial transactions to the Income-tax Dept. This Statement is filled annually on or before 31st May immediately following the financial year in which transaction is registered or recorded.

Rule 114E prescribes the transactions in respect of which statement of financial transaction has to be filed. A transaction is required to be reported under the statement only when value of such transaction exceeds the threshold limit. Various threshold limits have been prescribed in respect of various transaction in Rule 114E. However, it has been provided in section 285BA(3) that the threshold limit of such reportable transactions should not be less than ₹ 50,000.

With a view to seek information of small amount transactions as well, section 285BA(3) has been amended to remove the current threshold limit of ₹ 50,000. The CBDT has been empowered to prescribe more reporting entities for the purpose of section 285BA.

The provisions of section 285BA(4) provides that in case discrepancy in SFT is not rectified within stipulated time, the SFT shall be treated as invalid. An amendment has been made to this provision that statement with inaccurate information shall be considered as defective statement.

Section 271FAA levies penalty of ₹ 50,000 on specified reporting entities for providing inaccurate information in the statement of financial transaction. The Finance (No. 2) Act, 2019 has widened the scope of section 271FAA by covering all the reporting entities of section 285BA within its ambit. Accordingly, all the reporting entities are liable to pay penalty of ₹ 50,000 for furnishing inaccurate statement of financial transaction under section 285BA.

The amendment shall be applicable from September 1, 2019.

With effect from 01-09-2019, the penalty to be levied for not complying with the provisions of section 285BA shall be as under:

<table>
<thead>
<tr>
<th>Status of filing</th>
<th>Inaccurate particulars furnished</th>
<th>Revised statement filed to rectify error</th>
<th>Penalty</th>
</tr>
</thead>
<tbody>
<tr>
<td>Statement not filed and no notice has been issued by the authorities</td>
<td>-</td>
<td>-</td>
<td>₹ 500 per day of default</td>
</tr>
<tr>
<td>Statement not filed even in response to notice issued by the authorities</td>
<td>-</td>
<td>-</td>
<td>₹ 1,000 per day of default (to be levied from the day on which period specified in notice expires)</td>
</tr>
<tr>
<td>Statement filed within 30 days in response to notice issued by the authorities</td>
<td>-</td>
<td>-</td>
<td>₹ 500 per day of default (to be levied for the period of delay in filing of such statement)</td>
</tr>
<tr>
<td>Statement filed voluntarily</td>
<td>Yes</td>
<td>No</td>
<td>₹ 50,000</td>
</tr>
<tr>
<td>Statement filed voluntarily</td>
<td>Yes</td>
<td>Yes</td>
<td>-</td>
</tr>
</tbody>
</table>
GST

Finance (No. 2) Bill 2019 Publications

- GST Ready Reckoner
  V.S. Datey

- GST Manual with
  GST Law Guide &
  Digest of Landmark Rulings
  Set of 2 Vols.

- GST Tariff with GST Rate Reckoner
  Set of 2 Vols.

- GST Case Laws Digest
  A Section-wise Case Book of
  Judgments/Orders of High Courts/AAAR/
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- GST - How to Meet
  Your Obligations (Set of 3 Vols.)
  S.S. Gupta

- GST Law & Practice
  CA Divya Bansal

- GST Compliance Manual
  Aditya Singhania/Aditi Singhania

- GST Made Easy
  Answer to all Your Queries on GST
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- GST Refunds
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- GST Input Tax Credit
  V.S. Datey

- GST E-Way Bill
  V.S. Datey

- GST on Works Contract & Other
  Construction/EPC Contracts
  Sudipta Bhattacharjee/
  Abhishek Garg/Rishabh Prasad

- GST on Works Contract &
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- GST on Builders &
  Real Estate Transactions
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