Covering

- Amendments made by the Finance (No. 2) Act, 2019
- New Income-tax Bill: Key recommendations in Task Force's Report
- Key announcements made by the FM in the press conference
Amendments made by the Finance (No. 2) Act, 2019

The Finance (No. 2) Act, 2019 has made 70 amendments to the Income-tax Act, 1961 either by inserting new Sections or by amending the existing provisions. Some of the key amendments made by the Finance (No. 2) Act, 2019 are enumerated below.

EXEMPTION FOR WITHDRAWAL FROM NPS

As per National Pension Scheme (NPS), a person is allowed to withdraw 60% of the corpus at the time of closure or opting of the scheme. Section 10(12A) of the Income-tax Act has been amended to provide that amount so withdrawn from NPS shall be completely tax free.

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

To incentivize the start-ups, Section 54GB has been amended to extend the sunset date for transfer of original capital asset (residential property) for investment in eligible start-ups from 31-03-2019 to 31-03-2021. Further, the condition of minimum holding of 50% of share capital or voting rights in the start-up is relaxed to 25% and restriction on transfer of new asset for 5 years is reduced to 3 years in case of computer or computer software.

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

Section 9 has been amended to provide that any income arising outside India, being money paid without consideration 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.

However, no income shall be deemed to accrue or arise in India if aggregate amount received during the year doesn’t exceed ₹ 50,000. Further, the exemption provided under section 56 such as receipt of money from relatives or on occasion of marriage shall continue to apply.

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

With a view to facilitate venture capital undertakings to receive funds from Category-II AIF, Section 56(2)(viib) 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.

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

With a view to ensure compliance to the conditions specified in the DPIIT’s notification, the Finance (No. 2) Act, 2019 reiterates that in case of failure to comply with the conditions specified in the such notification, 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 underreported income (i.e., difference between issue price and fair market value of shares) shall be levied as per section 270A.

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

With effect from Assessment Year 2020-21, contributions made by Central Government employees to Tier-II NPS account shall be eligible
Finance (No.2) Act 2019 Publications

**ESSENTIALS**
- Income Tax Act
- Income Tax Rules
- Direct Taxes Manual (3 Vols.)
- Direct Taxes Ready Reckoner
  Dr. Vinod K. Singhania
- Benami Black Money & Money Laundering Laws
- Master Guide to Income Tax Act with Commentary on Finance (No. 2) Act, 2019
  Pradeep S. Shah & Rajesh Kadakia
- Master Guide to Income Tax Rules

**COMMENTARIES**
- Direct Taxes Law & Practice with Case Studies & Tax Planning
  Dr. Vinod K. Singhania
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**GUIDES**
- TDS - How to Meet Your Obligations with TDS Tax Tables
- Guide to Tax Audit
  CA. Srinivasan Anand G.
- Law relating to Taxation of Start-ups & Investors
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for deduction under Section 80C if amount is locked-in for a minimum period of 3 years.

**DEDUCTION IN RESPECT OF CONTRIBUTION MADE TO NPS BY CENTRAL GOVERNMENT ON BEHALF OF ITS EMPLOYEES**

Section 80CCD has been amended to provide that the Central Government employees shall be entitled to claim deduction of up to 14% of their salary contributed by the Central Government in their NPS account.

**DEDUCTION IN RESPECT OF INTEREST ON HOUSING LOAN**

A new section 80EEA has been inserted to provide deduction of up to ₹ 1,50,000 in respect of interest of housing loan. Deduction under section 80EEA shall be allowed to those individuals who are not eligible to claim deduction under section 80EE and has taken loan from financial institution during the period beginning on 1-4-2019 and ending on the 31-3-2020 for acquisition of a residential house property whose stamp duty value does not exceed ₹ 45 lakhs.

**DEDUCTION FOR INTEREST ON LOAN TAKEN TO BUY ELECTRIC VEHICLES**

The Finance (No. 2) Act, 2019 has inserted a new Section 80EEB under the Income-tax Act to provide a deduction of up to ₹ 1,50,000 to an individual in respect of interest on 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 1-4-2019 and ending on 31-3-2023.

**RETURN FILING HAS BEEN MADE MANDATORY IN CERTAIN CIRCUMSTANCES**

Section 139 has been amended 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:

(a) 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.

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

(c) Has incurred aggregate expenditure in excess of ₹ 1 lakh towards payment of electricity bill.

(d) 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.

**PAN AND AADHAR ARE INTERCHANGEABLE FOR INCOME-TAX PURPOSE**

Section 139A has been amended to provide that every person who is required to furnish or intimate or quote his permanent account number (PAN) under the Income-tax Act may furnish his Aadhaar in lieu of PAN.

**PAN WILL BE INOPERATIVE IF NOT LINKED WITH AADHAAR**

Section 139AA has been amended to provide that PAN allotted to a person shall be made inoperative if he fails to intimate his Aadhaar to the Deptt., on or before the notified date.

**PROSECUTION ON FAILURE TO FURNISH RETURN OF INCOME**

Section 276CC provides exemption from prosecution on failure to furnish return of income before the expiry of the Assessment Year if tax payable by assessee doesn’t exceed ₹ 3,000. 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.
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INDIVIDUALS AND HUFs (NOT LIABLE FOR TAX AUDIT) SHALL DEDUCT TAX FROM SUM PAYABLE TO RESIDENT CONTRACTOR, BROKERS OR PROFESSIONALS

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.

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

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.

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

A new section 194N is inserted to provide for deduction of tax on the amount of cash withdrawal made by any person from his bank or post office account(s). Every bank or post office shall be liable to deduct tax at the rate of 2% if the aggregate amount of cash withdrawal during the previous year by a person from one or more of his bank or post office account, as the case may be, exceeds ₹ 1 crore.

Section 194N is made applicable from September 1, 2019. Therefore, the CBDT has issued a Press Release, Dated 30-08-2019 to clarify that any cash withdrawal prior to 1st September, 2019 will not be subjected to the TDS under Section 194N. However, since the threshold of ₹ 1 crore is with respect to the previous year, calculation of amount of cash withdrawal for triggering deduction under section 194N shall be counted from 1st April, 2019.

TDS FROM PAYMENT IN RESPECT OF LIFE INSURANCE POLICY

Section 194DA has been amended to provide that the payment in respect of life insurance policy to a resident person shall be subjected to TDS at the rate of 5% of income component comprised in the insurance pay-out instead 1% of the gross amount.

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.

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

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
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the two conditions specified above, *i.e.* continuity of 51% shareholding or continuity of 100% of original shareholders.

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

Section 115QAA, which provides for levy of additional Income-tax on the unlisted companies at the rate of 20% of the distributed income by way of buy-back of shares, has been made applicable in case of listed companies as well with effect from 5-7-2019. Thus, listed companies shall also be liable to pay on buy back of shares from a shareholder. 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.

**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 13A, 40A, 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, relevant sections have been amended to prescribe other electronic modes of payment.

**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.

**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).

**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
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attachment from 3 years to 7 years, The CBDT may further extend the period of 7 years for another period of 3 years.

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

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.
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New Income-tax Bill: Key recommendations in Task Force’s Report

The Government has constituted a task force in November 2017 to draft a new direct tax laws in consonance with economic needs of the country. The proposed new Income-tax law, if accepted, will replace the existing Income-tax Act, 1961 which is a 58 years old legislation. The task force headed by the CBDT member, Mr. Akhilesh Ranjan has submitted its report on the new Income-tax law. However, the details of report and its recommendations have not been made public as yet.

As gathered from different sources, it appears that the task force has submitted following recommendations in respect of new Income-tax law:

**INCENTIVES FOR START-UPS**
The task force has proposed a slew of incentives for start-ups in its report. With an emphasis on reducing litigation, the report has suggested that the tax treatment for start-ups should be separate.

**CHANGE IN REASSESSMENT RULES**
The task force has suggested major changes in reassessment provisions in a bid to reduce the litigation. The report has suggested various changes in the current provisions of sections 147 and 148 which empower the Assessing Officers to re-open the assessments. It is recommend to increase the threshold limit for re-opening of cases. Further, the pre-defined criteria to select cases for re-assessment should be more stringent.

**ABOLISH DIVIDEND DISTRIBUTION TAX (DDT)**
The task force has recommended to abolish the dividend distribution tax (‘DDT’). DDT is a tax which is required to be paid by the companies distributing dividends to its shareholders. It is recommended that instead of levying DDT on companies, the tax should be levied in the hands of shareholders.

**REDUCED 25% TAX RATES FOR ALL CORPORATES**
It is recommended to reduce the tax rates for all the corporates to 25%. The existing tax rates for a domestic company and a foreign company are at 30% and 40% respectively.

**NEW SLAB RATE FOR PERSONS HAVING INCOME UP TO ₹ 50 LAKH**
The existing Income-tax Act, provides for levy of 5% tax on income ranging between ₹ 2.5-5 lakhs, 20% for ₹ 5-10 lakhs and 30% for more than ₹ 10 lakhs. The task force has recommended to introduce a new slab for those earning up to ₹ 50 lakhs so as to grant relief to individual taxpayers.

**ASSESSMENT UNITS SHOULD CONDUCT ASSESSMENT INSTEAD OF ASSESSING OFFICER**
Under the Income-tax Act, Assessing Officers are empowered to carry out assessments of the taxpayers. The report has suggested that regular assessments shall be carried out by ‘Assessment Units’ instead of ‘Assessing Officers’. The task force has proposed to replace the word ‘Assessing Officer’ with ‘Assessment Units’ in the new Income-tax laws.

**FUNCTIONAL UNITS WOULD BE ESTABLISHED BASED ON IRS OFFICER SECTORIAL SPECIALIZATION**
The task force has recommended to establish the functional units based on sector-wise specialization of IRS officers. The functional units will carry out transfer pricing assessments and handle industry specific tax matters.

**LITIGATION MANAGEMENT UNIT TO MANAGE TAX LITIGATION PROCESS**
The number of litigations relating to various provisions of Income-tax Act, 1961 are enormous. To handle such litigations, the Task force has recommended to establish a separate litiga-
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tion management unit to manage the entire tax litigation process.

**TAXPAYER WOULD BE ABLE TO APPROACH CBĐT FOR CLARIFICATION**

The task force has recommended to introduce the concept of ‘public ruling’ whereby taxpayers can approach CBĐT for clarification on controversial tax matters.

**BRANCH PROFIT TAX ON REPATRIATION OF FUNDS BY FOREIGN COMPANIES TO FOREIGN HEADQUARTERS**

Foreign companies will have to pay branch profit tax in addition to normal tax on repatriating funds to foreign headquarters.

**PENAL OF MEDIATORS FOR SETTLEMENT OF THE TAX DISPUTES**

The task force has recommended to form a penal of ‘mediators’ who would assist in negotiation between tax department and the taxpayers for the settlement of tax disputes.

**TRANSFER PRICING ASSESSMENT WOULD BE CARRIED OUT BY SEPARATE FUNCTIONAL UNIT**

The task force has recommended to separate transfer pricing assessments from regular assessments. Further, transfer pricing assessment will be carried out by functional unit.

**NO INHERITANCE TAX**

There were speculations that the Government may reintroduce the Inheritance Tax in the Union Budget 2019 to enhance tax revenue but no such proposal was actually made in the Budget. The task force has also not recommended to levy inheritance tax.

**VIDEO RECORDING OF STATEMENTS**

The task force has recommended video recording of statements made during the course of search & seizure and survey operations. This will help deptt. to have evidence that no pressure or coercion was applied on person while recording the statement.

**RESTRUCTURING OF MAT PROVISIONS**

Minimum Alternate Tax (MAT) is payable by the companies whose tax on total income is less than 18.5% of ‘book profit’. The task force has recommended restructuring of existing MAT provisions.

**ARTIFICIAL INTELLIGENCE FOR TAX COMPLIANCE**

The report has suggested use of artificial intelligence (AI) in the tax-compliance and administration process. It has been proposed to introduce collaborative compliance in direct tax administration which will integrate data from banks, financial institutions and GST network. This will done to ensure that the scope of taxable income increases.
Key announcements made by the FM in the press conference

On August 23, 2019, the Finance Minister held a press conference to announce certain measures Govt. will be taking to give a boost to the securities market and economy. Some of the key measures that have been announced includes the relief to the FPI from the enhanced surcharge, de-criminalization of CSR violations, and immunity to eligible start-ups and investors from angel tax. The key announcement made by the Finance Minister are as under:

ENHANCED SURCHARGE HAS BEEN WITHDRAWN IN RESPECT OF CAPITAL GAINS

The enhanced rate of surcharge of 25% or 37%, as the case may be, shall not be levied on tax payable on the capital gains computed under section 111A, section 112A or section 115AD. Thus, the higher surcharge shall not be levied on tax payable on the income arising from transfer of following capital assets:

(a) Listed equity shares
(b) Listed units of equity oriented mutual fund
(c) Listed units of business trust
(d) Derivatives, i.e., Future & Options

NO ANGEL TAX ON RECOGNIZED START-UP

The Finance Minister has announced that the provisions of section 56(2)(viib) shall not be applicable to the recognized start-ups and the investors. Inspite of various directions issued by the CBDT, start-ups were facing difficulties from getting relief from the revenue officers and they have been continuously pleading to the Deptt. to provide relief from angel tax in respect of all pending proceedings as well.

Pursuant to the assurance given by the Finance Minister, the CBDT has issued a consolidated Circular No. 22, dated 30-08-2019 in respect of assessment of start-ups to provide that the provisions of section 56(2)(viib) shall not be applicable to start-ups who have been recognized by Department for Promotion of Industry and Internal Trade (DPIIT) and filed Form No. 2.

NEW DEDICATED DIVISION TO ADDRESS THE PROBLEM OF START-UP

The Finance Minister announced setting-up a dedicated cell under the member of CBDT for addressing the problems of Start-ups. A start-up having issues related to Income-tax can approach the cell for quick resolution of the problem. Pursuant to this announcement, the CBDT has constituted a Start-up Cell in order to redress grievances and address various tax related issues in the case of start-ups. Grievances may be filed with the cell offline as well as online. The cell will also be accessible telephonically for speedy resolution.

DISPOSAL OF NOTICES

With effect from 01-10-2019, all the Income-tax notices issued to the taxpayer shall be disposed of within three months from the date of reply by the taxpayer. All the old notices shall be decided by 01-10-2019.

ADDITIONAL DEPRECIATION ON VEHICLES PURCHASED TILL MARCH 2020.

It has been decided to allow additional depreciation of 15%, taking it to 30%, on all vehicles purchased till 31-03-2020.
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