

## 7

## CHAPTER

## RELIEF TO INVESTORS IN CAPITAL MARKETS BY WITHDRAWAL OF ENHANCED SURCHARGE IN RESPECT OF TAX ON CAPITAL GAINS

### 7.1 WHAT IS THE 'ENHANCED SURCHARGE' INTRODUCED BY THE FINANCE (NO. 2) ACT, 2019 ON THE TAX APPLICABLE TO THE INCOMES OF INDIVIDUAL, HUF, AOP, BOI AND AJP

The Finance (No. 2) Act, 2019 increased the surcharge applicable to tax on incomes of individual, HUF, AOP, BOI and AJP whose total income exceeded two crore rupees.

The effect of the increase is summarised as under:

<i>Total income of individual/HUF/AOP/BOI/AJP</i>	<i>Surcharge applicable upto Assessment Year 2019-20</i>	<i>Enhanced Surcharge made applicable by the Finance (No. 2) Act, 2019 with effect from Assessment Year 2020-21</i>	<i>Remarks</i>
<b>Exceeds ₹ 50 lakhs but does not exceed ₹ 1 cr</b>	10%	-----	Surcharge retained at 10%
<b>Exceeds ₹ 1 cr but does not exceed ₹ 2 cr</b>	15%	-----	Surcharge retained at 15%
<b>Exceeds ₹ 2 cr but does not exceed ₹ 5 cr</b>	15%	<b>25%</b>	Surcharge enhanced by Finance (No. 2) Act, 2019 from 15% to 25%
<b>Exceeds ₹ 5 cr</b>	15%	<b>37%</b>	Surcharge enhanced by Finance (No. 2) Act, 2019 from 15% to 37%

## 7.2 WHAT IS THE NATURE OF RELIEF GIVEN BY THE ORDINANCE TO INDIVIDUAL, HUF, AOP, BOI AND AJP INVESTORS IN CAPITAL MARKETS IN RESPECT OF ENHANCED SURCHARGE

In order to stabilise the flow of funds into the capital market, the Ordinance has amended the Finance (No. 2) Act, 2019 to provide that enhanced surcharge introduced by the Finance (No. 2) Act, 2019 shall not apply on capital gains arising on sale of equity share in a company or a unit of an equity oriented fund or a unit of a business trust liable for securities transaction tax, in the hands of an individual, HUF, AOP, BOI and AJP.

It may be noted that AOP/BOI contemplated in this Chapter are not FPIs. For FPIs, see **Chapter 8**.

The Ordinance has made the following amendments to Paragraph A of Part III of Finance (No. 2) Act, 2019 to provide relief from enhanced surcharge to individual, HUF, AOP, BOI and AJP investors having total income exceeding ₹ 2 crores as under in **Table 7.1** below:

**TABLE 7.1**

<i>Different Situations (Quantum &amp; Composition of Total income of assessee individual, HUF, AOP, BOI or AJP) along with relevant clause under the sub-heading 'Surcharge on income-tax' in Paragraph A of Part III of the First Schedule to the Finance (No. 2) Act, 2019</i>	<i>Surcharge on income tax on that part of income (capital gains) which is taxable u/s 111A/112A</i>	<i>Surcharge on income-tax on other incomes</i>	<i>Remarks</i>
<b>Situation 1</b> Total income (including the income under the provisions of section 111A and section 112A) does not exceed ₹ 50 lakhs	Nil	Nil	No change made by the Ordinance vis-a-vis Finance (No. 2) Act, 2019
<b>Situation 2</b> Total income (including the income under the provisions of section 111A & section 112A) exceeds ₹ 50 Lakhs but does not exceed ₹ 1 cr [ <b>clause (a)</b> ]	10%	10%	--do---
<b>Situation 3</b> Total income (including the income under the provisions of section 111A & section 112A) exceeds ₹ 1 cr but does not exceed ₹ 2 cr [ <b>clause (b)</b> ]	15%	15%	---do--

<i>Different Situations (Quantum &amp; Composition of Total income of assessee individual, HUF, AOP, BOI or AJP) along with relevant clause under the sub-heading 'Surcharge on income-tax' in Paragraph A of Part III of the First Schedule to the Finance (No. 2) Act, 2019</i>	<i>Surcharge on income tax on that part of income (capital gains) which is taxable u/s 111A/112A</i>	<i>Surcharge on income-tax on other incomes</i>	<i>Remarks</i>
<p><b>Situation 4</b></p> <p>Total income (excluding the income under the provisions of section 111A &amp; section 112A) exceeds ₹ 2 cr but does not exceed ₹ 5 cr [<b>clause (c)</b>]</p> <p><b>Note:</b> Clause (c) should not be taken to mean that it deals with a situation where assessee has only other incomes and no capital gains taxable u/s 111A or u/s 112A. It simply means that enhanced surcharge of 25% will apply to tax on other incomes only when other incomes exceed ₹ 2 cr but does not exceed ₹ 5 cr. Assessee will not be hit with enhanced surcharge of 25% on other income in a case where his other income [i.e. total income (excluding the income under the provisions of section 111A &amp; section 112A)] do not exceed 2 cr and total income exceeds 2 cr only because capital gains u/s 111A/112A push the total income to above ₹ 2 cr. It means that, to decide whether tax on other income will attract surcharge of 25%, capital gains u/s 111A/112A should be excluded from total income and if total income exceeds ₹ 2 cr but not ₹ 5 cr then surcharge of 25% will apply to tax on other income and surcharge of 15% will apply to tax on such capital gains. [If total income excluding such capital gains is less than ₹ 2 crores but after inclusion of such capital gains, total income exceeds ₹ 2 crores, then it will be covered by <b>situation 6.</b>]</p>	15% <sup>1</sup>	25%	Ordinance gives relief in respect of capital gains income u/s 111A/112A by reducing applicable surcharge from 25% to 15%
<p><b>Situation 5</b></p> <p>Total income (excluding the income under the provisions of section 111A</p>	15% <sup>1</sup>	37%	Ordinance gives relief in respect of capital gains income

1. New first proviso inserted by the Ordinance limits surcharge to 15% on income tax on capital gains u/s 111A/112A.

<p><i>Different Situations (Quantum &amp; Composition of Total income of assessee individual, HUF, AOP, BOI or AJP) along with relevant clause under the sub-heading 'Surcharge on income-tax' in Paragraph A of Part III of the First Schedule to the Finance (No. 2) Act, 2019</i></p>	<p><i>Surcharge on income tax on that part of income (capital gains) which is taxable u/s 111A/112A</i></p>	<p><i>Surcharge on income-tax on other incomes</i></p>	<p><i>Remarks</i></p>
<p><b>&amp; section 112A) exceeds ₹ 5 cr [clause (d)]</b></p> <p><b>Note:</b> Clause (d) should not be taken to mean that it deals with a situation where assessee has only other incomes and no capital gains taxable u/s 111A or u/s 112A. It simply means that enhanced surcharge of 37% will apply to tax on other incomes only when other incomes exceed ₹ 5 cr.</p> <p>Assessee will not be hit with enhanced surcharge of 37% on other income in a case where his other income [<i>i.e.</i> total income (excluding the income under the provisions of section 111A &amp; section 112A)] do not exceed 5 cr and total income exceeds 5 cr only because capital gains u/s 111A/112A push the total income to above ₹ 2 cr. It means that, to decide whether tax on other income will attract surcharge of 37%, capital gains u/s 111A/112A should be excluded from total income and if total income exceeds ₹ 5 cr then surcharge of 37% will apply to tax on other income and surcharge of 15% will apply to tax on such capital gains [If total income excluding such capital gains is less than ₹ 2 crores but after inclusion of such capital gains, total income exceeds ₹ 2 crores, then it will be covered by <b>situation 6.</b>]</p>			<p>u/s 111A/112A by reducing applicable surcharge from 37% to 15%</p>
<p><b>Situation 6</b></p> <p>Total income (including the income under the provisions of section 111A &amp; section 112A) exceeds ₹ 2 cr but not covered by Situation 4 and Situation 5</p>	<p>15%<sup>2</sup></p>	<p>15%</p>	<p>Ordinance gives relief in respect of capital gains income u/s 111A/112A by reducing applica-</p>

2. New first proviso inserted by the Ordinance limits surcharge to 15% on income tax on capital gains u/s 111A/112A.

<i>Different Situations (Quantum &amp; Composition of Total income of assessee individual, HUF, AOP, BOI or AJP) along with relevant clause under the sub-heading 'Surcharge on income-tax' in Paragraph A of Part III of the First Schedule to the Finance (No. 2) Act, 2019</i>	<i>Surcharge on income tax on that part of income (capital gains) which is taxable u/s 111A/112A</i>	<i>Surcharge on income-tax on other incomes</i>	<i>Remarks</i>
<b>[New clause (e) inserted by the Ordinance]</b>			ble surcharge from 25%/37% to 15%  Ordinance gives relief in respect of other income by reducing surcharge from 25% or 37% to 15%

The amendments made by the Ordinance provide the following reliefs from enhanced surcharge to individual, HUF, AOP, BOI and AJP assesseees:

- (i) No matter how high the total income level of assessee, the surcharge on capital gains under section 111A & section 112A shall not exceed 15%.
- (ii) Surcharge will be 10% on tax on capital gains under section 111A & section 112A where the total income including such capital gains exceeds ₹ 50 Lakhs but not ₹ 1 cr. Surcharge on tax on remaining total income will be 10%.
- (iii) Surcharge will be 15% on tax on capital gains under section 111A & section 112A where the total income including such capital gains exceeds ₹ 1 cr but not ₹ 2 cr. Surcharge on tax on remaining total income will be 15%.
- (iv) Surcharge will be 15% on tax on capital gains under section 111A & section 112A where the total income including such capital gains exceeds ₹ 2 cr. Surcharge on tax on remaining total income will be 15%.
- (v) Where total income without considering capital gains under section 111A & section 112A exceeds ₹ 2 cr but not ₹ 5 cr, then assessee will pay surcharge of 25% (enhanced surcharge) on tax on such total income and he will pay surcharge of 15% on such capital gains.
- (vi) Where total income without considering capital gains under section 111A & section 112A exceeds ₹ 2 cr but not ₹ 5 cr, then assessee will pay surcharge of 37% (enhanced surcharge) on tax on such total income and he will pay surcharge of 15% on such capital gains.

In other words,

- ◆ Assessee will never be hit with a surcharge of 25% on tax on his income other than capital gains u/ss 111A & 112A merely because such capital gains push his total income into ‘exceeding ₹ 2 cr. but not ₹ 5 cr.’ bucket and but for such capital gains his total income is less than ₹ 2 cr.
- ◆ Assessee will be hit with a surcharge of 25% on tax on his total income other than such capital gains only if total income other than such capital gains exceeds ₹ 2 cr. but not ₹ 5 cr.
- ◆ Likewise assessee will never be hit with a surcharge of 37% on tax on his income other than capital gains u/ss 111A & 112A merely because such capital gains push his total income into ‘exceeding ₹ 5 cr’ bucket and but for such capital gains his total income is less than ₹ 2 cr.
- ◆ Assessee will be hit with a surcharge of 37% on tax on his total income other than such capital gains only if total income other than such capital gains exceeds ₹ 5 cr.
- ◆ In no case will surcharge on such capital gains exceed 15%.

The various permutations and combinations that can arise in 6 Situations in **Table 7.1** are shown in **Table 7.2** below:

**TABLE 7.2**

Sr. No.	Total Income of assessee before including capital gains under section 111A/112A	Total Income after including such capital gains	Surcharge on tax on such capital gains (Pre-amendment)	Surcharge on tax on such capital gains (after amendment by Ordinance)	Relief given by the Ordinance from enhanced surcharge on such capital gains	Surcharge on tax on other income Pre-amendment	Surcharge on tax on other income after amendment	Relief given by the Ordinance from enhanced surcharge on other income
(i)	≤ ₹ 50 Lakhs	≤ ₹ 50 Lakhs	----	-----	-----	----	-----	----
(ii)	≤ ₹ 50 Lakhs	> ₹ 50 Lakhs but ≤ ₹ 1cr	10%	10%	-----	10%	10%	----
(iii)	≤ ₹ 50 Lakhs	> ₹ 1 Cr but ≤ ₹ 2 cr	15%	15%	-----	15%	15%	----
(iv)	≤ ₹ 50 Lakhs	> ₹ 2 cr but ≤ ₹ 5 cr	25%	15%	10%	25%	15%	10%
(v)	≤ ₹ 50 Lakhs	> ₹ 5cr	37%	15%	22%	37%	15%	22%
(vi)	≤ ₹ 50 Lakhs but does not exceed ₹ 1 cr	> ₹ 50 Lakhs but ≤ ₹ 1cr	10%	10%	-----	10%	10%	---

Sr. No.	Total Income of assessee before including capital gains under section 111A/112A	Total Income after including such capital gains	Surcharge on tax on such capital gains (Pre-amendment)	Surcharge on tax on such capital gains (after amendment by Ordinance)	Relief given by the Ordinance from enhanced surcharge on such capital gains	Surcharge on tax on other income Pre-amendment	Surcharge on tax on other income after amendment	Relief given by the Ordinance from enhanced surcharge on other income
(vii)	>₹ 50 Lakhs but ≤ ₹ 1 cr	>₹ 1 Cr but ≤ ₹ 2 cr	15%	15%	-----	15%	15%	-----
(viii)	> ₹ 50 Lakhs but ≤ ₹ 1 cr	> ₹ 2 cr but ≤ ₹ 5 cr	25%	15%	10%	25%	15%	10%
(ix)	>₹ 50 Lakhs but ≤ ₹ 1 cr	> ₹ 5 cr	37%	15%	22%	37%	15%	22%
(x)	>₹ 1 cr but ≤ ₹ 2 cr	>₹ 1 Cr but ≤ ₹ 2 cr	15%	15%	---	15%	15%	----
(xi)	>₹ 1 Cr but ≤ ₹ 2 cr	>₹ 2 cr but ≤ ₹ 5 cr	25%	15%	10%	25%	15%	10%
(xii)	>₹ 1 cr but ≤ ₹ 2 cr	> ₹ 5 cr	37%	15%	22%	37%	15%	22%
(xiii)	> ₹ 2 cr but ≤ ₹ 5 cr	> ₹ 2 cr but ≤ ₹ 5 cr	25%	15%	10%	25%	25%	----
(xiv)	> ₹ 2 cr but ≤ ₹ 5 cr	> ₹ 5 cr	37%	15%	22%	37%	25%	12%
(xv)	> ₹ 5 cr	> ₹ 5 cr	37%	15%	22%	37%	37%	-----

The above permutations and combinations in **Table 7.2** above are illustrated in **Table 7.3** below:

**TABLE 7.3**

Sr. No.	Total Income of individual/HUF/AOP/BOI/AJP assessee before including capital gains u/s 111A/112A	Capital gains u/s 111A/112A	Total Income of individual/HUF/AOP/BOI/AJP assessee after including capital gains under section 111A & section 112A	Surcharge applicable on capital gains under section 111A & section 112A	Surcharge applicable on tax on total income other than capital gains
(i)	₹ 0.20 cr	₹ 0.25 cr	₹ 0.45 cr	NIL	NIL
(ii)	₹ 0.45 cr	₹ 0.50 cr	₹ 0.95 cr	10%	10%
(iii)	₹ 0.45 cr	₹ 0.70 cr	₹ 1.15 cr	15%	15%
(iv)	₹ 0.45 cr	₹ 3.00 cr	₹ 3.45 cr	15%	15%
(v)	₹ 0.45 cr	₹ 6.00 cr	₹ 6.45 cr	15%	15%
(vi)	₹ 0.60 cr	₹ 0.30 cr	₹ 0.90 cr	10%	10%
(vii)	₹ 0.60 cr	₹ 0.70 cr	₹ 1.30 cr	15%	15%
(viii)	₹ 0.60 cr	₹ 3.00 cr	₹ 3.60 cr	15%	15%

Sr. No.	Total Income of individual/HUF/AOP/BOI/AJP assessee before including capital gains u/s 111A/112A	Capital gains u/s 111A/112A	Total Income of individual/HUF/AOP/BOI/AJP assessee after including capital gains under section 111A & section 112A	Surcharge applicable on capital gains under section 111A & section 112A	Surcharge applicable on tax on total income other than capital gains
(ix)	₹ 0.60 cr	₹ 7.00 cr	₹ 7.60 cr	15%	15%
(x)	₹ 1.5 cr	₹ 0.45 cr	₹ 1.95 cr	15%	15%
(xi)	₹ 1.5 cr	₹ 2.5 cr	₹ 4.00 cr	15%	15%
(xii)	₹ 1.5 cr	₹ 5.0 cr	₹ 6.5 cr	15%	15%
(xiii)	₹ 3.00 cr	₹ 1.00 cr	₹ 4.00 cr	15%	25%
(xiv)	₹ 3.00 cr	₹ 2.5 cr	₹ 5.50 cr	15%	25%
(xv)	₹ 6.00 cr	₹ 1.00 cr	₹ 7.00 cr	15%	37%

**Illustration 7.1 - Mr. X is a resident, aged 44 years. His income details for FY 2019-20 are as follows:**

(i) Capital gains u/s 111A - ₹ 14,00,000

(ii) Capital gains u/s 112A - ₹ 7,00,000

(iii) Other income - ₹ 25,00,000

**Calculate his tax liability for FY 2019-20**

	Section 111A: Tax rate of 15%	Section 112A: Tax rate of 10% on capital gain exceeding ₹ 1 Lakh	Tax on other incomes	Total	Remarks
	₹	₹	₹	₹	
Income-tax	2,10,000	60,000	5,62,500	8,32,500	
Surcharge	NIL	NIL	NIL	NIL	Situation in Sl. No. (i) in above Tables 7.2 and 7.3
Income Tax & Surcharge	2,10,000	60,000	5,62,500	8,32,500	
Health & Education cess @ 4% of income tax and surcharge	8,400	2,400	22,500	33,300	
Total	2,18,400	62,400	5,85,000	8,65,800	

**Illustration 7.2 - Mr. X is a resident, aged 35 years. His income details for FY 2019-20 are as follows:**

(i) Capital gains u/s 112A - ₹ 90,000

(ii) Other income-----₹ 50,00,000



### Calculate his tax liability for FY 2019-20

One thing is clear. As capital gains under section 112A do not exceed the threshold limit of ₹ 1,00,000, no tax will be payable on it and consequently no surcharge or cess will apply to it. However, a question arises whether ₹ 90,000 will be included in total income for the purpose of ascertaining whether total exceeds ₹ 50 Lakhs for the purpose of surcharge.

The amended clause (a) under the sub-heading 'Surcharge on income-tax' in Paragraph A of Part III of the First Schedule to the Finance (No. 2) Act, 2019 reads "total income (including the income under the provisions of section 111A and section 112A)". The words "income under the provisions of ...section 112A" should be read with words 'total income including' preceding it. So, it needs to be examined with reference to section 112A whether income of capital gains upto threshold limit of ₹ 1,00,000 will be part of total income or not.

Section 112A(2)(ii) states that "the amount of income-tax payable on the total income as reduced by the amount of long-term capital gains referred to in sub-section (1) as if the total income so reduced were the total income of the assessee.". Thus, the provision contemplates total income as reduced by amount of long-term capital gains referred to in sub-section (1). It is pertinent that it does not refer to section 112A(2)(i) which provides for taxation of long term capital gains exceeding ₹ 1 lakh. Now, the long-term capital gain referred to in sub-section (1) are clearly the entire capital gains including first ₹ 1 lakh.

Thus, "total income (including income under the provisions of section 112A)" for the purposes of determining whether surcharge is attracted under clause (a) is ₹ 50,90,000. As ₹ 50,00,000 is exceeded, surcharge will be payable on tax on other income of ₹ 50,00,000

	Section 112A: Tax rate of 10% on capital gain exceeding ₹ 1 Lakh	Tax on other incomes	Total	Remarks
	₹	₹	₹	
Income-tax	NIL	13,12,500	13,12,500	
Surcharge @10%	NIL	1,31,250	1,31,250	Situation in Sl. No. (ii) in Table 7.2 and Table 7.3 above
Income Tax & Surcharge	Nil	14,43,750	14,43,750	
Marginal relief	NIL	68,250	68,250	
Income Tax & Surcharge after deducting marginal relief	NIL	13,75,500	13,75,500	
Health & Education cess @ 4% of income tax and surcharge	Nil	55,020	55,020	
Total	NIL	14,30,250	14,30,250	

Marginal relief is calculated as follows :

On 90,000 Capital gains	Nil
On balance 49,10,000 other income	12,85,500
Excess of total income over ₹ 50 lakhs	90,000
	<u>13,75,500</u>

Marginal relief = 14,43,750 – 13,75,500 = 68,250

**Illustration 7.3 - Mr. X is a resident, aged 61 years. His income details for FY 2019-20 are as follows:**

(i) Capital gains u/s 112A - ₹ 25,00,000

(ii) Capital gains u/s 111A - ₹ 20,00,000

(iii) Other income - ₹ 70,00,000

**Calculate his tax liability for FY 2019-20**

The tax liability shall be calculated as under:

	Section 111A: Tax rate of 15%	Section 112A: Tax rate of 10% on capital gain ex- ceeding ₹ 1 Lakh	Tax on other incomes	Total	Remarks
	₹	₹	₹	₹	
Income-tax	3,00,000	2,40,000	19,10,000	24,50,000	
Surcharge	45,000	36,000	2,86,500	3,67,500	Situation in Sl. No. (iii) in Table 7.2 and Table 7.3 above
Income Tax & Sur- charge	3,45,000	2,76,000	21,96,500	28,17,500	
Health & Education cess @ 4% of income tax and surcharge	13,800	11,040	87,860	1,12,700	
Total	3,58,800	2,87,040	22,84,360	29,30,200	

**Illustration 7.4 - Mr. M is a resident, aged 50 years. His income details for FY 2019-20 are as follows:**

(i) Capital gains u/s 112A - ₹ 1,00,00,000

(ii) Capital gains u/s 111A - ₹ 2,00,00,000

(iii) Other income - ₹ 1,00,00,000

### Calculate his tax liability for FY 2019-20

M's total income including capital gains under sections 111A and 112A is ₹ 4 cr and thus falls in ₹ 2 cr to 5 cr range. Surcharge on tax on capital gains will be 15%.

But what about surcharge on tax on other income? Will it be 25%? The answer is clearly No. This is because his other income alone (just ₹ 1 cr) does not fall in ₹ 2 cr to 5 cr range. Therefore, his case will fall under new clause (e) inserted by the Ordinance i.e. Situation 6 in **Table 7.1** above and not under Situation 4 of **Table 7.1** above.

His tax liability will be as under:

	<i>Section 111A: Tax rate of 15%</i>	<i>Section 112A: Tax rate of 10% on capital gain exceeding ₹ 1 Lakh</i>	<i>Tax on other incomes</i>	<i>Total</i>	<i>Remarks</i>
	₹	₹	₹	₹	
Income-tax	30,00,000	9,90,000	28,12,500	68,02,500	
Surcharge	4,50,000	1,48,500	4,21,875	10,20,375	Situation in Sl. No. (xi) in Table 7.2 and Table 7.3 above
Income Tax & Surcharge	34,50,000	11,38,500	32,34,375	78,22,875	
Health & Education cess @ 4% of income tax and surcharge	1,38,000	45,540	1,29,375	3,12,915	
Total	35,88,000	11,84,040	33,63,750	81,35,790	

**Illustration 7.5 - Mr. Z, a resident, is aged 40 years. His income details for FY 2019-20 are as follows:**

- (i) Capital gains u/s 112A - ₹ 40,00,000
- (ii) Capital gains u/s 111A - ₹ 60,00,000
- (iii) Other income - ₹ 3,00,00,000

### Calculate his tax liability for FY 2019-20

Here M's other income falls in 'exceeding ₹ 2 cr but not exceeding ₹ 5 cr' income slab for surcharge purposes. Therefore, his case will be covered under clause (c) i.e. Situation 4 and tax on his other income will attract surcharge of 25%. Tax on his capital gains u/s 111A and u/s 112A will attract surcharge of 15%

	Section 111A: Tax rate of 15%	Section 112A: Tax rate of 10% on capital gain exceeding ₹ 1 Lakh	Tax on other incomes	Total	Remarks
	₹	₹	₹	₹	
Income-tax	9,00,000	3,90,000	88,12,500	1,01,02,500	
Surcharge	1,35,000	58,500	22,03,125	23,96,625	Situation in Sl. No. (xiii) in Table 7.2 and Table 7.3 above
Income Tax & Surcharge	10,35,000	4,48,500	1,10,15,625	1,24,99,125	
Health & Education cess @4% of income tax and surcharge	41,400	17,940	4,40,625	4,99,965	
Total	10,76,400	4,66,440	1,14,56,250	1,29,99,090	

**Illustration 7.6 - Mr. Q, a resident, is aged 55 years. His income details for FY 2019-20 are as follows:**

(i) Capital gains u/s 112A - ₹ 2,50,00,000

(ii) Other income - ₹ 3,00,00,000

**Calculate his tax liability for FY 2019-20**

Though Mr. Q's total income exceeds ₹ 5 cr, he will not be hit with surcharge of 37% on his other income as his other income does not exceed ₹ 5 cr but falls in 'exceeding ₹ 2 cr but not exceeding ₹ 5 cr' income slab for surcharge purposes. His capital gains has pushed his total income into exceeding ₹ 5 cr slab. Mr. Q's case will fall under clause (c) i.e. Situation 4 and not Clause (d) i.e. Situation 5 in **Table 7.1** above and tax on his other income will attract surcharge of 25%. Tax on his capital gains u/s 111A and u/s 112A will attract surcharge of 15%. His tax liability shall be calculated as under:

	Section 112A: Tax rate of 10% on capital gain exceeding ₹ 1 Lakh	Tax on other incomes	Total	Remarks
	₹	₹	₹	
Income-tax	24,90,000	88,12,500	1,13,02,500	
Surcharge	3,73,500	22,03,125	25,76,625	Situation in Sl. No. (xiv) in Table 7.2 and Table 7.3 above

	<i>Section 112A: Tax rate of 10% on capital gain exceeding ₹ 1 Lakh</i>	<i>Tax on other incomes</i>	<i>Total</i>	<i>Remarks</i>
	₹	₹	₹	
Income Tax & Surcharge	28,63,500	1,10,15,625	1,38,79,125	
Health & Education cess @4% of income tax and surcharge	1,14,540	4,40,625	5,55,165	
Total	29,78,040	1,14,56,250	1,44,34,290	

**Illustration 7.7 - Mr. L, a resident, is aged 42 years. His income details for FY 2019-20 are as follows:**

(i) Capital gains u/s 112A - ₹ 1,00,00,000

(ii) Other income - ₹ 6,00,00,000

**Calculate his tax liability for FY 2019-20**

As Mr. L's other income exceeds ₹ 5 cr, his case falls under clause (d) i.e. situation 5 in **Table 7.1** above and tax on his other income will attract surcharge of 37%. His capital gains u/s 112A will only attract surcharge of 15%.

His tax liability shall be calculated as under:

	<i>Section 112A: Tax rate of 10% on capital gain exceeding ₹ 1 Lakh</i>	<i>Tax on other incomes</i>	<i>Total</i>	<i>Remarks</i>
	₹	₹	₹	
Income-tax	9,90,000	1,78,12,500	1,88,02,500	
Surcharge	1,48,500	65,90,625	67,39,125	Situation in Sl No. (xv) in Table 7.2 and Table 7.3 above 37% surcharge on tax on other income
Income Tax & Surcharge	11,38,500	2,44,03,125	2,55,41,625	
Health & Education cess @ 4% of income tax and surcharge	45,540	9,76,125	10,21,665	
Total	11,84,040	2,53,79,250	2,65,63,290	

**Illustration 7.8 - Mr. C, a resident, is aged 51 years. His income details for FY 2019-20 are as follows:**

(i) Capital gains u/s 112A - ₹ 6,00,00,000

(ii) Other income - ₹ 1,00,00,000

**Calculate his tax liability for FY 2019-20**

Though Mr. C's total income exceeds ₹ 5 cr, he will not be hit with surcharge of 37% on his other income as his other income does not exceed ₹ 5 cr but falls in "exceeding ₹ 50 Lakhs but not exceeding ₹ 1 cr" income slab for surcharge purposes. His capital gains has pushed his total income into exceeding ₹ 5 cr slab. Mr. Q's case will fall under new clause (e) i.e. Situation 6 and not clause (d) i.e. Situation 5 in **Table 7.1** above and tax on his other income will attract surcharge of 155%. Tax on his capital gains u/s 112A will attract surcharge of 15%.

His tax liability shall be calculated as under:

	<i>Section 112A: Tax rate of 10% on capital gain exceeding ₹ 1 Lakh</i>	<i>Tax on other incomes</i>	<i>Total</i>	<i>Remarks</i>
	₹	₹	₹	
Income-tax	59,90,000	28,12,500	88,02,500	
Surcharge	8,98,500	4,21,875	13,20,375	Situation in Sl. No. (ix) in Table 7.2 and Table 7.3 above
Income Tax & Surcharge	68,88,500	32,34,375	1,01,22,875	
Health & Education cess @ 4% of income tax and surcharge	2,75,540	1,29,375	4,04,915	
Total	71,64,040	33,63,750	1,05,27,790	

### **7.3 WHAT ABOUT PAYMENT OF ADVANCE TAX? WHETHER THE ABOVE CHANGES IN ENHANCED SURCHARGE ARE TO BE FACTORED IN FOR ADVANCE TAX CALCULATIONS AND PAYMENT?**

Yes. Corresponding amendments have been made in Part II of Paragraph A of First Schedule to the Finance (No. 2) Act, 2019.