The Finance (No.2) Bill, 2019

Key takeaways related to Direct Taxes

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Introduction

The Finance (No. 2) Bill, 2019 was presented by the Finance Minister Nirmala Sitharaman in the Lok Sabha at Parliament, on 5 July 2019.

This document compiled by CA Saili Kulkarni, Product Manager at Riverus & Anuj Sharma, Associate, Verus has the key takeaways from Finance Bill related to Direct taxes.

About Verus and Riverus

Verus provides legal services to leading Indian and multi-national corporates, banks financial institution, apex government organization and promising entrepreneur.

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Key Takeaways

1. The Finance Minister proposed the introduction of **'Faceless Assessment',** i.e. there will be no human intervention by cutting down the interaction between the taxpayers and the income tax officers while scrutinizing tax returns.

2. A **lower tax rate of 25%** is proposed to be extended to all **companies** having a total turnover or gross receipts up to four hundred crore rupees in the previous year 2017-18.

3. **Income** of the nature referred in **section 2(24)(xviia),** arising from any sum of money paid, or any property situated in India transferred, on or after July 5th, 2019 by a person resident in India to a person outside India shall be deemed to **accrue or arise in India** under Section 9.

   Applicable from AY 2020-21 and subsequent assessment years.

4. A **new Section 194N** is proposed to be inserted in the Act to provide for levy of TDS at the rate of two per cent on cash payments in excess of one crore rupees in aggregate made during the year, by a banking company or cooperative bank or post office, to any person from an account maintained by the recipient.

   This amendment will take effect from 1st September 2019.

5. A **new section 269SU** is proposed to be inserted in the Act to provide that every person carrying on business and having total sales, turnover or gross receipts in business exceeding fifty crore rupees, shall provide facility for accepting payment through prescribed electronic modes, in addition to the facility for other than electronic modes of payment.

   This amendment will take effect from 1st November 2019.

6. With a view to promote the development of world class financial infrastructure and incentivize operations of **International Financial Services Centre ('IFSC'),** following **benefits** have been proposed:

   a. Any **transfer of a capital asset**, specified in the said clause by Category III Alternate Investment Fund ('AIF') of which all the unit holders are non-resident, are not regarded as transfer subject to fulfillment of specified conditions.

Applicable from AY 2020 - 21 and subsequent assessment years.

   b. Any **income by way of interest payable** to a non-resident by a unit located in IFSC in respect of monies borrowed by it on or after 1st September 2019, shall be exempt.

Applicable from AY 2020-21 and subsequent assessment years.

   c. Any **dividend paid out of accumulated income** derived from operations in IFSC, after 1st April 2017 shall also not be liable for tax on distributed profits.

This amendment will take effect from 1 September 2019.

   d. **No additional income-tax** shall be chargeable in respect of any amount of income distributed, on or after the 1st September 2019, by a Mutual Fund of which all the unit holders are non-residents and which fulfills certain other specified conditions.

This amendment will take effect from 1st September 2019.

   e. The **deduction under section 80LA of the Act** shall be **increased** to one hundred per cent for any ten consecutive years. The assessee, at his option, may claim the said deduction for any ten consecutive assessment years out of fifteen years beginning with the year in which the necessary permission was obtained.

Applicable from AY 2020-21 and subsequent assessment years.

7. A **new Section 80EEB** is proposed to be inserted in the Act to provide for deduction of up to one lakh fifty thousand rupees in respect of interest on loan taken for purchase of an electric vehicle from any financial institution subject to fulfilment of certain conditions.

8. It is proposed to provide an exemption by amending section 10 to exempt income payable by way of interest to a non-resident by the specified company in respect of money borrowed from a source outside India by way of issue of rupee denominated bond (as referred to in section 194LC) during the period beginning from the 17th September, 2018 and ending on the 31st March, 2019.

Applicable from AY 2019-20 and subsequent assessment years.

9. Proposed **Incentives for Start-Ups**:

   a. Start-ups will **no**t be subjected to any kind of **scrutiny i**n respect to **share value premium** subject to filing of requisite declarations and information in their return of income.

   b. Even the **valuation of Category II AIF funds will be out of I-T scrutiny.**

Applicable from AY 2020-21 and subsequent assessment years.

   c. **Amendment in Section 79** to provide that loss incurred in any year prior to the previous year, in the case of 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 stipulated currently clause (a) or clause (b) of Section 79.

   d. **Amendment in Section 54GB** to extend the sunset date for transfer of residential house property, in respect of investment made in eligible start-ups, from 31st March, 2019 to 31st March, 2021. The amendment also relaxes the condition of minimum shareholding of fifty per cent of share capital or voting rights to twenty five per cent.

Applicable from AY 2020-21 and subsequent assessment years.

10. **Buy-back of shares** from a shareholder of a listed company, on or after 5th July 2019, is also proposed to be covered by the provisions of Section 115QA. Thus, requirement of payment of additional tax on distributed income on buy-back of its shares will also be applicable to listed companies. Consequently, it is proposed to extend the exemption under Section 10(34A) to shareholders of listed company on account of buy-back of shares on which such additional tax has been paid.

These amendments will take effect from 5th July 2019.

11. It is proposed to **amend** to extend the benefit of first proviso to **Section 201(1)** to a deductor, even in respect of failure to deduct tax on payments made to non-resident. Thus, a deductor shall not be deemed to be an assessee in default even if he fails to deduct tax from sum paid to a non-resident, if such non-resident discloses such income in his return of income and pays tax due on such income and a certificate from a Chartered Accountant is furnished to this effect.

12. It is proposed to **substitute Section 92D** of the Act, in order to provide that the information and document to be kept and maintained by a constituent entity of an international group, and filing of required form to the prescribed authority, shall be applicable even when there is no international transaction undertaken by such constituent entity.

Applicable from AY 2020-21 and subsequent assessment years.

13. It is proposed to **amend Section 12AA** of the Income-tax Act, so as to provide that at the time of granting of registration to a trust or institution the Principal Commissioner or Commissioner shall also satisfy requirements of any other law which is material for the purpose of achieving its objects. Further, the Principal Commissioner or the Commissioner have the authority to cancel such registration if he notices

that trust or institution has violated requirements of any other law which was material for the purpose of achieving its objects.

14. It is proposed to **amend Section 111A** of the Act so as to extend the concessional rate of tax for short-term capital gains in respect of transfer of fund of funds set up for disinvestment of Central Public Sector Enterprises (CPSEs).

Applicable from AY 2020-21 and subsequent assessment years.

15. In order to provide assistance in recovery of tax as per treaty obligation with the other country, it is proposed to **amend Section 228A** of the Act so as to provide for tax recovery where details of property of the persons are not available but the said person is a resident in India. It is also proposed to amend the said section so as to provide for tax recovery, where details of property of an assessee in default under the Act are not available but the said assessee is a resident in a foreign country.

These amendments will take effect from 1st September 2019.

16. **Securities Transaction Tax in respect of sale** of an option on securities, where option is exercised, is proposed to be levied on the difference between the strike price and the settlement price.

This amendment will take effect from 1st September 2019.

17. **Under Section 43D of** the Act, it is proposed that **NBFCs can now pay tax in the year** they receive interest for certain bad or doubtful debts.

Applicable from AY 2020-21 and subsequent assessment years.