The Union Budget 2020-21 has introduced a host of direct tax proposals on the personal taxation and corporate taxation front. Concessional rates of personal taxation can be opted for subject to forgoing exemptions and deductions, in line with the special provisions for availing beneficial corporate tax rates as introduced by the Taxation (Laws) Amendment Act, 2019. Incentives to eligible start-ups, removal of dividend distribution tax, introduction of E-appeals, E-penalty, insertion of Taxpayer’s Charter are some of the beneficial proposals in the Finance Bill, 2020.

The significant direct tax proposals are detailed hereunder:

### Tax Rates

**Concessional slab rates for individuals and HUFs**

New section 115BAC to be inserted to provide an option to an individual or HUF to pay tax in respect of their total income at following rates if they do not avail certain exemptions/deductions like LTC, standard deduction under the head “Salaries”, interest on housing loan, deductions under Chapter VI-A (other than 80CCD(2) or section 80JJAA) etc. –

<table>
<thead>
<tr>
<th>Total Income (Rs.)</th>
<th>Tax Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Upto Rs.2,50,000</td>
<td>Nil</td>
</tr>
<tr>
<td>Rs.2,50,001 – Rs.5,00,000</td>
<td>5%</td>
</tr>
<tr>
<td>Rs.5,00,001 – Rs.7,50,000</td>
<td>10%</td>
</tr>
<tr>
<td>Rs.7,50,001 – Rs.10,00,000</td>
<td>15%</td>
</tr>
<tr>
<td>Rs.10,00,001 – Rs.12,50,000</td>
<td>20%</td>
</tr>
<tr>
<td>Rs.12,50,001 – Rs.15,00,000</td>
<td>25%</td>
</tr>
<tr>
<td>Above Rs.15,00,000</td>
<td>30%</td>
</tr>
</tbody>
</table>

The option has to be exercised for every previous year where the individual or HUF has no business income. However, where the total income of an individual/HUF includes business income, the option once exercised would apply for that year and every subsequent year.

Existing tax rates would continue for individuals and HUFs not opting for provisions of section 115BAC. In respect of such individuals and HUFs, there is no change in the tax rates.

**Concessional tax rate for co-operative society**

New section 115BAD to be inserted to provide an option to co-operative society, resident in India, to pay tax@22% (*plus* applicable surcharge, if any, and HEC@4%) in respect of its total income.
subject to certain conditions. Such cooperative society opting for section 115BAD will not be liable to pay alternate minimum tax under section 115JC.

**Concessional rate of tax for power generating companies**

It is proposed to amend section 115BAB to include generation of electricity within the scope of manufacturing or production of an article or thing, so that electricity generation companies can opt to pay tax @15% in respect of their total income subject to certain conditions specified therein.

<table>
<thead>
<tr>
<th>Personal taxation</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Period upto which loan can be sanctioned for availing deduction under section 80EEA extended</strong></td>
</tr>
<tr>
<td>Section 80EEA provides an additional deduction up to Rs.1,50,000 for interest paid on loans sanctioned between 1.4.2019 to 31.3.2020 for purchase of an affordable house. The period upto which loan can be sanctioned for availing such benefit to be extended from 31.3.2020 to 31.3.2021.</td>
</tr>
</tbody>
</table>

**Increase in permissible variation between actual consideration and stamp duty value for transfer of immovable property, being land or building or both**

Sections 50C, 43CA and 56 provide that no adjustments shall be made in respect of transfer of immovable property, being land or building or both, in a case where the variation between stamp duty value and the actual sale consideration is not more than 5% of the actual sale consideration. The permissible variation is proposed to be increased from 5% to 10%.

**Conditions for residency modified:**

- Upto A.Y.2020-21, an Indian citizen or a person of Indian origin who comes on a visit to India would become resident in India only if he stays in India for a period of 182 days or more during the relevant previous year. Such minimum period of stay in India proposed to be reduced from 182 days to 120 days w.e.f. A.Y.2021-22.
- The condition for “resident but not ordinarily resident” is proposed to be amended to provide that a resident would be resident but not ordinarily resident, if he has been non-resident in seven out of ten previous years.
- An Indian citizen who is not liable to pay tax in any other country, on account of his domicile, or residency or any other criteria of similar nature, would be deemed to be resident in India. In such case, the income derived from business or profession in India would only be taxable, and hence income accrues or arises outside India would not be taxable.
Incentives to Start-ups: At present, an eligible Start-up having turnover up to Rs. 25 crores is allowed deduction under section 80-IAC of 100% of its the profits for three consecutive assessment years out of seven years, if its total turnover does not exceed Rs. 25 crore.

The scope of section 80-IAC is proposed to be expanded by increasing the threshold turnover limit from existing Rs. 25 crore to Rs. 100 crores. Moreover, the period for claiming deduction is proposed to be increased from 3 out of 7 years to 3 out of 10 years.

Defeerment of tax liability on ESOP provided by eligible start-ups

ESOPs are taxed as perquisite in the hands of employees at the time of exercising such option. Tax liability on ESOPs granted by an eligible start-up under section 80-IAC to its employees is proposed to be deferred by 48 months from the end of the relevant assessment year or till the employee ceases to be the employee of the person or when the said employee sells such specified security or sweat equity shares, whichever is earliest. Consequently, tax needs to be deducted or paid by the eligible start-up within 14 days from the above specified date on the basis of rates in force for the financial year in which such specified security or sweat equity shares is allotted or transferred. This is a positive measure facilitating eligible start-ups to attract talent, without huge cash outgo in the initial year(s).

Time limit for approval of affordable housing project extended: In order to incentivise building affordable housing to boost the supply of such houses, the period of approval of the project by the competent authority to be extended by one more year i.e., from 31st March 2020 to 31st March, 2021 for availing deduction under section 80-IBA.

Tax Audit under section 44AB: At present, every person carrying on business is required to get his accounts audited, if his total sales, turnover or gross receipts, in business exceeds Rs. 1 crore in any previous year.

It is proposed to increase the turnover threshold for compulsory tax audit from existing Rs. 1 crore to Rs. 5 crore in a case where cash receipt is not more than 5% of total receipt and cash payment is not more than 5% of total payment.

Further, it is also proposed to provide that tax audit report to be filed a month before the due date of filing income-tax return. Accordingly, the said due date for filing of income-tax returns is proposed to be extended from 30th September to 31st October of the relevant assessment year so that there is no change in the date of filing tax audit report.

No dividend distribution tax (DDT) on dividend distributed by domestic company and on income distributed by mutual funds: At present, domestic companies are liable to pay dividend distribution tax on the amount of dividend distributed. Consequently, such dividend is exempt in the hands of shareholders. Likewise, specified companies and Mutual Funds are also liable to pay additional income-tax on any amount of income distributed by them to its unit holders. Such income is then exempt in the hands of unit holders.
It is now proposed that a domestic company or specified company or mutual fund would not be required to pay any DDT or additional income-tax on the amount of dividend or income distributed. Consequently, such dividend or income would be taxable in the hands of shareholders or unit holders, as the case may be.

**Claim of deduction under section 35AD to be optional**

Under section 35AD(1), an assessee **shall** be allowed a deduction in respect of the capital expenditure incurred in respect of specified business. As per section 35AD(4), no deduction is allowable under any other section in respect of capital expenditure, which has been fully allowed as deduction under section 35AD(1). The use of the word “shall” in section 35AD(1) conveys the intent that deduction under this section is mandatory where capital expenditure has been incurred in respect of specified business, and in such a case, no depreciation would be allowable by virtue of section 35AD(4).

In case a domestic company opts for concessional tax rate under section 115BAA or section 115BAB, deduction under section 35AD is not allowable. In such cases, even though no deduction is allowed under section 35AD, section 35AD(4) has been interpreted to also disallow normal depreciation under section 32 in respect of such capital expenditure, which does not reflect the correct legislative intent.

To clarify the true legislative intent, it is proposed to make deduction under section 35AD in respect of such capital expenditure optional. Consequently, section 35AD(4) is also proposed to be amended so that a domestic company opting for concessional rate of tax under section 115BAA or section 115BAB can claim normal depreciation.

**Scope of benefit of carry forward and set-off of accumulated losses and unabsorbed depreciation under section 72AA expanded:** In order to address the issue faced by the amalgamated public sector banks and public sector General Insurance Companies, it is proposed to extend the benefit of carry forward and set-off of accumulated losses and unabsorbed depreciation under section 72AA to amalgamation of,-

(i) one or more corresponding new bank or banks with any other corresponding new bank under a scheme brought into force by the Central Government under section 9 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 or under section 9 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980, or both, as the case may be;

(ii) one or more Government company or companies with any other Government company under a scheme sanctioned and brought into force by the Central Government under section 16 of the General Insurance Business (Nationalisation) Act, 1972.

**Charitable Trusts & Institutions**

- The process of approval and registration of trusts, institutions, funds, university, hospital etc. proposed to be rationalised with effect from 1.6.2020. Now, the approval or registration or
notification for exemption will be valid for a period not exceeding five years at one time; and the trust/institution etc. has to apply again before the concerned authorities for new registration before expiry of the period of exemption. **This will be applicable for both existing and newly exempt entities u/s 10(23C)/12AA/35.**

- An entity approved, registered or notified under section 10(23C), section 12AA or section 35, as the case may be, shall be required to apply for approval or registration or intimate regarding it being approved, as the case may be, and on doing so, the approval, registration or notification in respect of the entity shall be valid for a period not exceeding five previous years at one time.

- An entity already approved under section 80G shall also be required to apply for approval and on doing so, the approval, registration or notification in respect of the entity shall be valid for a period not exceeding five years at one time.

- An entity making fresh application for approval under section 10(23C), for registration under section 12AB or for approval under section 80G shall be provisionally approved or registered for three years on the basis of application without detailed enquiry even in the cases where activities of the entity are yet to begin; and then, it has to apply again for approval or registration which, if granted, shall be valid from the date of such provisional registration.

- Such exempt entities would now be required to furnish a statement of donation received and issue a certificate to the donor so that the deduction claimed by the donor in its tax return can be pre-filled.

- Deduction under section 80G/80GGA to a donor shall be allowed only if a statement is furnished by the donee. **A fee of Rs.200 per day** shall be levied in case of failure subject to maximum of amount in respect of which the failure occurred.

- **Permissible cash donation** to scientific research or rural development for claiming deduction under section 80GGA is proposed to be reduced from Rs.10,000 to Rs.2,000.

### Tax Deduction at Source & Tax Collection at Source

**Tax to be deducted at source by co-operative society on interest paid under section 194A**

The scope of section 194A is proposed to be expanded by requiring tax to be deducted at source by a co-operative society whose -

(a) the total sales, gross receipts or turnover exceeds Rs.50 crores during the financial year immediately preceding the financial year in which the interest is credited or paid; and

(b) the amount of interest credited or paid during the financial year is more than
(i) Rs. 50,000 in case of payee being a senior citizen and
(ii) Rs. 40,000, in any other case.

Such co-operative society is required to deduct tax under section 194A on interest credited or paid by it -
- to its member or to any other co-operative society; or
- in respect of deposits with a primary agricultural credit society or a primary credit society or a co-operative land mortgage bank or a co-operative land development bank or
- in respect of deposits with a co-operative bank other than a co-operative society or bank engaged in carrying on the business of banking

**Definition of “Work” under section 194C expanded**

The scope of definition of “work” for the purpose of tax deduction under section 194C to be expanded to include manufacturing or supplying a product according to the requirement or specification of a customer by using material purchased from such customer or its associate. “Associate” means a person related to the customer in such manner as defined under section 40A(2)(b), as if the customer is an assessee for the purpose of that section.

**TDS on E-commerce transactions:** New section 194-O to be inserted to provide that E-commerce operator is required to deduct tax at source at the time of credit of amount of sale or service or both to the account of e-commerce participant or at the time of payment to such participant, whichever is earlier. Tax is required to be deducted @1%. However, where PAN/Aadhar is not furnished, tax @5% is required to be deducted at source.

Moreover, no tax would be deducted at source in case of an e-commerce participant (being an individual or HUF) whose gross amount of sales or services or both does not exceed Rs. 5 lakh and furnishes PAN/Aadhaar.

**Reduced rate of TDS on fees for technical services:** Rate of TDS under section 194J in case of fees for technical services other than professional services is proposed to be reduced from 10% to 2%.

**TCS on overseas remittance, sale of overseas tour package and on sale of goods above certain limit:**

- Section 206C to be amended to require an authorised dealer to collect tax at source @5% on the amount or aggregate of amounts received by him under the Liberalised Remittance Scheme of the RBI for overseas remittance from a buyer, being a person remitting such amount out of India, if such amount or aggregate of amounts is Rs.7,00,000 or more during the financial year. However, where PAN/Aadhar is not furnished, tax @10% is required to be collected at source.

- The **seller of an overseas tour package** is also required to collect tax at source @5% on the amount received from the buyer who purchases the package. In case PAN/Aadhar is not furnished, tax @10% is required to be collected at source.
Note - In both such cases, covered under sub-section (1G) of section 206C, tax is required to be collected at the time of debiting the amount payable by the buyer or at the time of receipt of such amount, whichever is earlier.

- TCS is also proposed to be levied on sale of goods [not covered under sub-sections (1)/(1F)/(1G)] in excess of Rs.50 lakhs in a year by a seller whose turnover is more than Rs.10 crore during the financial year immediately preceding such financial year in which sale has taken place. Tax is to be collected at source @0.1% of the sale consideration exceeding Rs.50 lakhs, at the time of receipt. In case of non-furnishing of PAN/Aadhar, tax @1% is required to be collected at source.

Penalties

Penalty for fake entry in books of account: New section 271AAD proposed to be inserted to provide for levy of penalty on a person if during any proceeding it is found that in the books of accounts there is a false entry or any entry relevant for computation of total income of such person has been omitted to evade tax liability, of sum equal to the aggregate amount of such false or omitted entry.

It is also proposed to levy penalty of a sum equal to the aggregate amount of such false or omitted entry on any other person, who causes the person referred above in any manner to make a false entry or omits or causes to omit any entry.

E-penalty Scheme: Central Government to be empowered to notify an e-scheme for the purpose of imposing penalty so as to impart greater efficiency, transparency and accountability by -

(a) eliminating the interface between the Assessing Officer and the assessee in the course of proceedings to the extent technologically feasible;

(b) optimising utilisation of the resources through economies of scale and functional specialisation;

(c) introducing a mechanism for imposing of penalty with dynamic jurisdiction in which penalty shall be imposed by one or more income-tax authorities.

Appeals and Revision

ITAT to order stay of demand only on payment of 20% of the tax payable including interest, penalty etc. by the assessee: The Income Tax Appellate Tribunal (ITAT) may, after considering the merits of the application made by the assessee, pass an order of stay for a period not exceeding 180 days in any proceedings against the order of the Commissioner of Income-tax (Appeals). It is proposed to provide that stay may be granted by the ITAT, subject to the condition that the assessee deposits not less than 20% of the amount of tax, interest, fee, penalty, or any other sum payable under the provisions of this Act, or furnish security of equal amount in respect thereof.

Further, it is also clarified that no extension of stay shall be granted by the ITAT, where such appeal is not so disposed within the said period of stay (not exceeding 180 days) as specified in the order of stay. However, on an application made by the assessee, a further stay can be granted, if the delay in disposing of the appeal is not attributable to the assessee and the assessee has deposited not less than 20% of the amount
of tax, interest, fee, penalty, or any other sum payable under the provisions of this Act, or has furnished security of equal amount in respect thereof. The total stay granted by ITAT, however, cannot exceed 365 days.

**Faceless appeal:** Central Government empowered to notify an e-appeal scheme for disposal of appeal in order to impart greater efficiency, transparency and accountability. It would eliminate the interface between the Commissioner (Appeals) and the appellant in the course of appellate proceedings to the extent technologically feasible.

### Other Significant Proposals

**Transparency in survey**

Section 133A proposed to be amended to provide that, in a case where the information has been received from the prescribed authority, an income-tax authority below the rank of Joint Director or Joint Commissioner shall conduct any survey under this section only with the prior approval of the Joint Director or the Joint Commissioner.

If the survey is not based on information provided by the prescribed authority, then prior approval of Director or Commissioner of Income-tax is required for conducting survey.

**Taxpayer's Charter:** New section 119A proposed to be inserted to empower the CBDT to adopt and declare a Taxpayer's Charter and issue necessary orders, instructions, directions or guidelines for the implementation of the Charter.