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Amendments proposed in the Finance Bill 2020 passed by Lok Sabha

The Finance Bill, 2020 was introduced in the lower house of the Parliament on 1st February, 2020 wherein various/ significant changes in the Income Tax Act, 1961 ('the Act') were proposed by the Hon'ble Finance Minister.

Recently, on 23rd March 2020, the lower house of the Parliament has passed the aforesaid Bill with certain amendments to the proposed changes in the Finance Bill.

To understand the amendments better and for the sake of convenience, we have tabulated the existing provisions, the proposed amendment in the Finance Bill introduced on 1st February 2020 and the effect of recent amendments hereunder:

S. No of Amend-ment	Section amended	Existing provisions of the Income-tax Act, 1961	Amendment proposed in Finance Bill 2020	Amendment finally passed by Lok Sabha	Remarks, if any
1	2(15A)	Section 2(15A) of the Act defines "Chief Commissioner" to mean a person appointed to be a Chief Commissioner of Income-tax or a Principal Chief Commissioner of Income-tax under sub-section (1) of section 117.	-	It is proposed to insert "Principal Director General of Income-tax" and "Director General of Income-tax" within the definition of Chief Commissioner.	The scope of Chief Commissioner has been widened to include Pr. DGIT and DGIT.
2-4	6	Section 6(1) of the Act provides parameters for	The Finance Bill reduced the number of days for	In clause (b) to Explanation 1, it is proposed to include an additional criteria that an Indian citizen or person of	As a consequence of the amendment, 120 days criteria shall only apply to an Indian citizen or

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		treating an individual as Indian resident in a previous year. Clause (c) to section 6(1) thereof provides that an individual will be an Indian Resident if he: - has been in India for overall period of 365 days or more within 4 years preceding that year; and - is in India for overall period of 60 days or more in that year. Further, Explanation 1(b) to said sub-section provides that an Indian citizen or a person of Indian origin shall be Indian resident if he is in India for 182 days instead of 60 days in that year.	visiting India **to 120 days** from existing 182 days.	Indian origin, having total income other than income from foreign sources*, exceeding Rs.15 lakhs during previous year shall be considered as resident of India subject to the person being in India for 120 days (instead of 60 days) in that year * Explanation to section 6 defines 'Income from foreign source' to mean income which accrues/ arises outside India (except income derived from business controlled in or profession set up in India)	person of Indian origin whose total income (other than income from foreign sources*) exceeds Rs.15 lakhs during the year.

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		-	Sub-section (1A) was proposed to be inserted providing that "an Indian citizen shall be deemed to be resident in India in any previous year, if he is not liable to tax in any other country or territory by reason of his domicile or residence or any other criteria of similar nature."	The sub-section has been passed with below modification: "An Indian citizen <u>having total income, other than income from foreign sources*, exceeding Rs.15 lakhs</u>, shall be deemed to be resident in India in any previous year, if he is not liable to tax in any other country or territory by reason of his domicile or residence or any other criteria of similar nature."	The provision, therefore, now applies only to those Indian citizens whose total income exceeds Rs.15 lakhs (excluding income from foreign sources*) during the previous year. -
		Clause (a) to section 6(6) of the Act provides that a person shall be "not ordinarily resident" in a previous year if the person is an individual who: - has been non-resident in nine out of the ten previous years preceding that year,	The Finance Bill proposed that a person shall be "not ordinarily resident" in a previous year if the person is an individual/ manager of HUF who has been non-resident in <u>seven</u> out of the ten previous years preceding that year.	Following situations have been included under "not ordinarily residents' by inserting clause (c) and (d) to section 6(6) of the Act: <u>*Clause (c)*</u> 'A citizen of India, or person of Indian origin, having total income, other than income from foreign sources*, exceeding Rs.15 lakhs, during the previous year as referred in clause (b) to Explanation 1 of section 6(1), who has been in India for period amounting to 120 days	The provisions of Act prevailing before introduction of the Finance Bill, continue to remain in force. Further, definition of 'not ordinarily resident' has been extended to include following situations: (a) An Indian citizen or person of Indian origin, whose total income (excluding income from foreign source*) exceeds Rs.15 lakhs during the previous year and if the person has been in India for more than 120 days but less than 182

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		or - has during the seven previous years preceding that year been in India for an overall period of 729 days or less. Clause (b) to section 6(6) of the Act contains similar provision for the HUF.		or more but less than 182 days' *Clause (d)* 'a citizen of India who is deemed to be resident in India under clause (1A).'	days; (b) An Indian citizen deemed as resident under sub-section (1A) earning total income (excluding income from foreign source*) in excess of Rs.15 lakhs and such person is not liable to tax in any country or jurisdiction during a year. For stateless persons who were proposed to be brought within the Indian tax framework, a clarification was issued by CBDT on 02-02-2020 that in case an Indian citizen becomes deemed resident of India under this proposed provision, the income earned outside India by him shall not be taxed in India unless it is derived from an Indian business or profession. It was thus, clarified that this amendment would not affect Indian bona fide workers in other countries such as Middle East and such individuals will only be liable to tax only on income sourced in India. (c) Accordingly in order to give effect to the clarification, Indian citizen and person of Indian origin who is in India for more than 120 days but less than 182 days and stateless

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					person, have now been classified as 'Resident but Not Ordinarily Resident', and consequently they would be taxable in India only on their Indian sourced income and worldwide income that is derived from a business controlled in or a profession set up in India. By categorisation of such persons as RNOR, it can be said that such persons will not be taxed on global income unless the income is derived from a business controlled in or a profession set up in India.
5-7	10(23C)	-	No amendment proposed initially	New Explanation inserted after third proviso to section 10(23C) to provide*: "For the removal of doubts, it is hereby clarified that for the purposes of this proviso, the income of the fund or trust or institution or any university or other educational institution or any hospital or other medical institution, shall not include income in the form of voluntary contributions made with a specific direction that they shall form part of the corpus of such fund or trust or institution or any university or other educational institution or any hospital or other medical institution:"*	The said Explanation clarifies that corpus donations shall not be regarded as income of the institutions availing exemption under section 10(23C). This amendment is intended to bring institutions registered under section 10(23C) at par with trusts or institutions registered under section 12A/ 12AA/ 12AB.
8 & 17	10(23C)	Vide Finance Act, 2018,	No amendment proposed	The twelfth proviso to section 10(23C) has now been	The corpus donation by institutions registered under

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	& 11	provisions of section 10(23C) of the Act was amended by way of insertion of twelfth proviso thereto, to provide that any amount paid by an institution registered under section 10(23C) to any trust or institution registered under section 12AA as 'corpus donation', shall not be treated as application of income of such institution.	initially	amended, to provide that any amount paid by an institution registered under section 10(23C) to other similar institutions registered under the said section [i.e., u/s 10(23C)] as 'corpus donation', shall not be treated as application of income of such institution. Similar amendment has been made in section 11 of the Act also, by amending Explanation 2 to the said section, to provide that any amount paid by a trust/ institution registered under section 12AA to other institution registered under section 10(23C) of the Act as 'corpus donation', shall not be treated as application of income of such institution.	section 10(23C) to another such entity shall not be considered as application of income. Similarly, corpus donations by trust/institution registered under section 12AA to institutions registered under section 10(23C) of the Act shall also not be allowed as application of income. However, voluntary contributions (not in the nature of corpus contribution) will continue to be allowed as application. The amendment nullifies various decisions holding that even corpus donations tantamount to application of income. [Refer: CIT vs. Shri Ram Memorial Foundation: 269 ITR 35 (Del.) and CIT v. Sarladevi Sarabhai Trust (No. 2): 172 ITR 698 (Guj.)]
9	10(23FD)	Existing provisions of section 10(23FD) provides exemption in respect of any distributed income (in terms of section 115UA) received by a unit holder from a business trust. However,	No amendment proposed initially	Section 10(23FD) has now been amended to provide that no exemption shall be allowed under the said section, in respect of 'dividend' income [in terms of section 115-O(7) - in case where the SPV has not exercised the option u/s 115BAA], as provided in clause (b) of section 10(23FC) of the Act.	The amendment now provides that no exemption shall available to a unit holder of business trust in respect of dividend income received from SPV, if such SPV has not exercised the option of section 115BAA of the Act.

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		specific exclusion was provided in respect of income in the nature of 'interest' received/ receivable from a special purpose vehicle (SPV) as provided in clause (a) of section 10(23FC) of the Act.			
10-13	10(23FE)	-	New clause (23FE) inserted in Finance Bill, 2020 in section 10, to exempt from tax any income of a "**specified person**", in the nature of dividend, interest, or long term capital gains arising from investment made in India.	The Finance Bill, 2020 (as passed by the Lok Sabha), has expanded the scope of section 10(23FE), to include within its ambit, 'Alternative Investment Funds' and Pension fund created or established under the law of a foreign country.	The definition of 'specified person' as provided in section 10(23FE) has been expanded, to provide that exemption under the said section shall be available even if investment in infrastructure companies is made through Alternative Investment Funds (AIFs). Further, exemption under section 10(23FE) has also been made available to Pension fund created or established under the law of a foreign country. The amended provision also provides that investment should be made during the period between 01-04-2020 to 31-03-2024, to clarify that no exemption shall be available in respect of income arising from investment made before 01-04-

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					2020. A proviso has been inserted to withdraw the exemption if specified persons subsequently fails to satisfy the conditions on basis of which exemption was claimed in earlier years.
14	10(34)	-	"Provided further that nothing contained in this clause shall apply to any income by way of dividend received on or after 1st day of April, 2020"	"Provided further that nothing contained in this clause shall apply to any income by way of dividend received on or after 1st day of April, 2020 other than the dividend on which tax under section 115-O and section 115BBDA, wherever applicable has been paid;"	The amendment takes care of anomaly and clarifies that dividend received on or after 01-04-2020 shall continue to be exempt if tax has already been paid on such dividend under section 115-O or section 115BBDA, as the case may be.
19-20	92CB	Safe Harbour provisions contained in section 92CB of the Act were hitherto applicable only for determination of arm's length price of international transactions.	Sub-section (1) of section 92CB of the Act was proposed to be amended to expand its scope to the determination of income deemed to accrue or arise in the hands of a non-resident from business connection in India in terms of clause (i) of subsection (1) of section 9	In line with the proposed amendment in the Finance Bill, the definition of "Safe Harbour" contained in explanation to sub-section (2) of section 92CB of the Act is amended to mean "circumstances in which the income-tax authorities shall accept the transfer price or income, deemed to accrue or arise under clause (i) of sub section (1) of section 9, as the case may be, declared by the assessee".	Amendment to modify the definition of the term "Safe Harbour" to provide that income deemed to accrue or arise under section 9(1)(i) declared under the Safe Harbour Rules shall be accepted by the income tax authorities.

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			of the Act. The rates prescribed under the Safe Harbour regulations were proposed to be made applicable for determination of income deemed to accrue or arise in the hands of the non-resident		
21	115A	Clause (BA) in sub-section (1) to section 115A of the Act provides that interest incomes received by a non-resident person, prescribed in section 10(47), 194LC, 194LD and 194LBA(2) of the Act shall be taxable at the rate of 5%	-	It is now proposed to exclude the income referred in section 194LC, 194LD and 194LBA(2) of the Act from the purview of taxation @5%. Interest income referred in above sections shall now be taxable at the rate provided in the respective provisions.	The TDS rate prescribed under sections 194LC and 194LD is presently 5% which is applicable on the interest payable on the money borrowed or investment made before 01-07-2020 (extended to 01-07-2023 vide Finance Bill, 2020). In certain cases, the rate of TDS is reduced to 4% for new borrowings which are made after the sunset date. Likewise, as per sub-section (3) of section 194LBA of the Act, tax is levied at rates in force. To avoid any conflict, section 115A is being amended to align rate of TDS with the rates prescribed in the specific provisions.
22	115BAA	The Taxation Law (Amendment) Act, 2019	The Finance Bill, 2020 had proposed to allow	The present amendment seeks to provide the date of applicability of provisions with effect from 01-04-2021,	Since dividend is taxable from assessment year 2021-22, to remove any ambiguity, the date of

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		had inserted section 115BAA and 115BAB to provide domestic companies with an option to be taxed at concessional tax rates with effect from 01-04-2020. One of the conditions to be fulfilled for opting for lower tax rate was non-availability of deductions under Chapter-VIA, other than under section 80JJAA or section 80LA of the Act.	deduction, to the domestic companies opting for the concessional rates, under newly inserted section 80M of the Act as well, which provides deduction in case of inter-corporate dividends.	i.e. assessment year 2021-22 onwards.	applicability of amendment allowing deduction under section 80M has now been clarified.
23	115BAB	Refer comments in S. No. 22			
24-25	115BAC	Section is a new insertion by Finance Bill, 2020. Under the existing scheme, taxation was based on regular slab rates.	Section 115BAC inserted w.e.f. AY 2021-22 provided option to individuals/ HUFs to pay tax concessional rates subject to satisfaction of certain conditions.	Vide the recent amendment to the Bill, the persons having income from profession has been placed at par with persons having business income.	Persons having income from business or profession have one-time option to opt for concessional rate. The said option can only be withdrawn once in subsequent year(s).

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			Concessional rate was proposed to be not applicable unless option is exercised in the form and manner as prescribed: - Person having **business income**: one-time option to be exercised before due date u/s 139(1); - Person not having **business income**: can opt for option with return u/s 139(1) for each year. Benefit of concessional taxation can be **withdrawn by person having business income** only once and such person shall never be eligible to exercise such option unless he ceases to have		

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			business income.		
26-27	194A	Section 194A(3)(iii)(f) provides that no tax shall be deducted from interest income credited to institutions, AOP or association/ bodies as notified by CG.	-	The proposed amendment seeks to prohibit issuance of any notification under clause (f) of section 194A(3)(iii) after 1.2.2020. However, a new subsection (5) has been inserted authorizing CG to notify persons, payment to whom payment of interest other than securities would not subjected to deduction of tax at source or would require deduction at lower rate.	CG may notify entities payment to whom would require lower/ no deduction of tax at source u/s 194A.
28	194J	Section 194C provides for deduction of withholding tax at the rate of 2% on payments made to a resident for carrying out any 'work'. Section 194J provides for deduction of withholding tax at the rate of 10% on payments made to a resident towards, inter alia, "fees for technical services".	To avoid controversy as to the nature of service would fall under section 194C or 194J, proposed amendment to latter section provided that the payment made by way of 'fees for technical services' shall be subjected to withholding tax @ 2%, which is *pari-materia* to the rate of TDS contained u/s 194C.	The proposed TDS rate of 2% under section 194J is proposed to be extended to royalty being consideration for sale, distribution, or exhibition of cinematographic films.	Beneficial lower rate of 2% TDS is extended to royalty relating to sale, distribution and exhibition of cinematographic films.

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29	194K	-	Finance Bill introduced new section 194K providing for tax deduction at source @10% qua income received by a resident in respect of, *inter alia*, units of a mutual fund, if the same exceeds or is likely to exceed Rs.5,000.	It is proposed to provide that the said section is also not applicable in cases where income paid is in the nature of capital gains.	Capital gains income from units of mutual funds shall not be subjected to TDS u/s 194K. The proposed amendment shall remove hardship of deduction of tax on capital gains arising from redemption of units, which would have been difficult for the deductor to calculate.
30	194LBA	Said section provides for deduction of tax on interest payable by business trust to its unit holders.	Amendment was proposed in section 194LBA to provide for tax deduction @10% by business trust on dividend income received from special purpose vehicles (SPV), paid to unit holder.	Provides no tax shall be deducted by business trust on dividend income received from SPV, paid to unit holder, if the SPV referred to in the said clause has not exercised the option of concessional tax rate u/s 115BAA	-
31	194N	Levy of TDS @ 2% on cash payments made during the year, of sum exceeding Rs.1 crore from an account maintained	-	The existing section is substituted to additionally provide that in case where recipient of cash has not filed the return of income until due date u/s 139(1), for preceding three years, the provision of section 194N would apply so that tax would be deducted:	- Widens the scope of section 194N to promote cashless economy. - Stringent provisions putting burden on non-compliant deductees.

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		with a banking company, or a co-operative society carrying on banking business, or a post office.		- @ 2% for sum exceeding Rs.20 lakh upto Rs.1 crore; - @ 5% on amounts exceeding Rs.1 crore. The CG may notify the recipients in whose case the aforesaid rates may not apply or reduced rates be applicable.	- Would increase compliance burden on banking companies as they would be required to check return compliance by the deductees on cash withdrawal. Would also be applicable if return for preceding three years filed by deductees belatedly u/s 139(4)
32-33	194O	New insertion by the Finance Bill, 2020.	Section 194-O inserted w.e.f. AY 2021-22 provided for deduction of tax from the payment made by an e-commerce operator to e-commerce participant for the sale of goods or provision of services through a digital or electronic facility or platform facilitated by it.	It is proposed to remove the words "and is responsible for paying to e-commerce participant" from the definition of e-commerce operator. Simultaneously, sub-section (6) has been inserted to clarify that for the purpose of this section e-commerce operator shall be deemed to be responsible for paying to e-commerce participant. Further, it has been proposed to empower the CBDT to issue guidelines for removing the difficulties arising in giving effect to the provisions of section 194-O. Each such guideline shall be laid before each House of Parliament and would be binding on the Income-tax authorities and the e-commerce operator.	Presently, as per the definition of 'e-commerce operator', the scope of the proposed section was limited to cases wherein the operator is a person, responsible to make payment to the participants. On the other hand, the Explanation appeared to have expanded the scope of the main section by bringing to tax net such transactions wherein the purchaser makes payment to the supplier thereof directly, in respect of sale of goods/services facilitated by the operator. The amendment seeks to remove any ambiguity and reinforces applicability of TCS provisions on direct payments made by a customer to the e-commerce participant.
34	197A	Section 197A(1F) provides that no tax shall be deducted from	-	The proposed amendment seeks to empower the CG to notify the specified payments even for 'deduction of tax	Section 197A(1F) provides that no tax shall be deducted from specified payments credited to institutions, AOP or association/ bodies as notified

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		specified payments credited to institutions, AOP or association/ bodies as notified by CG.		at lower rates'. The provision also enlarges the class of persons, which may be notified by the CG.	by CG.
35-41	206C	**Applicability of TCS provisions [S.No. 35]** It is proposed to defer the applicability of amendments in section 206C of the Act from 01-04-2020 to 01-10-2020. This amendment is intended to allow enough time to the assessees for ensuring preparedness of compliances under the newly inserted provisions. **TCS on LRS [S.No. 36-37]** Presently, the proposed amendment mandated an authorised dealer to collect the tax from a person remitting amount out of India under LRS arise only when the amount or aggregate of such amount remitted during the year is Rs. 7 lakh or more. However, it was not specified in the proposed sub-section (1G) whether authorized dealer shall be required to collect tax on the entire amount or only on the amount in excess of Rs. 7 lakh. In this respect, a new proviso is inserted in sub-section (1G) to provide that tax shall be collected only on the amount in excess of Rs. 7 lakh except where the remittance has been made for overseas tour program package. **TCS on currency remitted for overseas tour package [S.No. 37]** In terms of the proposed amendment, in case of an overseas tour program package, the seller of such package was required to collect tax from the buyer at the rate of 5% irrespective of the amount he receives from the buyer for such package. No threshold limit has been proposed where a buyer directly makes payment to the seller of the overseas tour program package. As overseas travel is also covered under LRS. Consequently, a buyer may make payment to the seller indirectly through an authorized dealer, where TCS provision apply only when the amount to be remitted out of India is Rs. 7 lakh or more, thereby avoiding TCS provisions upto payment of Rs.7 lakh. To remove the window of advantage available to buyers making payment for overseas travel to a seller through an authorized dealer, sub-section (1G) is further amended to provide that an authorised dealer shall be required to collect tax from the buyer of overseas tour program package irrespective of the amount to be remitted			

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		out of India for that purpose. Therefore, the authorised dealer shall be required to collect tax even if the amount or aggregate the amounts being remitted by the buyer for the overseas tour package in a financial year is less than Rs. 7 lakh. As per the aforesaid provision, a situation may arise where a buyer of an overseas tour program package makes payment to the seller through an authorized dealer and accordingly both seller and the authorized dealer may collect tax from the buyer on the same amount which results in the double collection of tax. To remove this ambiguity, a proviso has been inserted under sub-section (1G) to provide that the authorised dealer shall not collect the tax on an amount in respect of which the tax has already been collected by the seller. **TCS on remittance of education loan [S.No. 37]** Sub-section (1G) has been further amended to provide a rate of 0.5% for collection of tax by an authorised dealer where the amount being remitted out of India is a loan, which is obtained from a banking company (including any bank or banking institution) or any other financial institution notified by the Central Government for section 80E of the Act, for the purpose of pursuing any education. In such cases, TCS provisions would apply on the amount exceeding Rs. 7 lakh. **TCS on sale of goods [S.No. 38-40]** Sub-section (1H) of section 206C has been amended to provide that no tax shall be required to be collected in respect of goods exported out of India and goods imported into India. **Insertion of sub-section (1I) and (1J) [S.No. 41]** It is proposed to empower the CBDT to issue guidelines for removing the difficulties arising in giving effect to the provisions of section 206C of the Act. Each such guideline shall be laid before each House of Parliament and would be binding on the Income-tax authorities and on the person liable to collect TCS.			
42	FA 2002	This amendment relates to provisions of the Finance Act, 2001 dealing with Additional Excise Duty.			
43	DDT	Section 115-O of the Act provides for additional income-tax chargeable @	In the Finance Bill, 2020, it was proposed that any dividend income/ income	Section 195 of the Act provides that tax on any amount paid to non-resident shall be deducted at 'rates in force' provided in the Part-II of the First Schedule.	The amendment brought by the Lok Sabha in Finance Bill, 2020, takes out 'dividends paid to non-resident persons and foreign company' from

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		15% (plus surcharge and cess) on dividends declared, distributed or paid by domestic companies, commonly known as Dividend Distribution Tax ("DDT").	from units, shall be taxable in the hands of recipients of such income and that DDT shall be abolished. Simultaneous amendment was proposed in sections 10(34) & 10(35) of the Act to abolish the exemption in the hands of recipients of aforementioned distributed income received on or after 01.04.2020. Similarly, section 115BBDA providing for taxation of dividend income in excess of Rs.10 lakhs in the hands of specified assessee was proposed to be amended to apply only to profits distributed by a domestic	In the First Schedule, 'dividends paid to non-resident persons and foreign company' falls under the 'residuary' clause, thereby providing for withholding rate of 30%/ 40%. However, dividend received by a non-resident person or a foreign company is taxable at the special rate of 20% as provided under section 115A of the Act. Even under the DTAAs entered into with different countries, the tax rate varies from 5% to 15%. Since no amendment was proposed in Finance Bill, 2020 providing for a specific rate of TDS in respect of payment of dividend to non-residents, in the amended Finance Bill, 2020 passed by Lok Sabha, it is provided to include specific rate of 20% in Part-II of the First Schedule for tax deduction at source on dividends paid to any non-resident person or a foreign company. The abovementioned TDS rate of 20% shall be further increased by surcharge and cess, as applicable. Accordingly, rate of TDS from payment of dividend to non-resident or a foreign company provided under the IT Act, including applicable surcharge plus cess, is tabulated as under: (I) Any person other than a foreign company:	the 'residuary' clause under Part-II of the First Schedule, wherein tax would have been required to be withheld at the higher rate of 30%/ 40% by specifically providing for TDS @ 20%, thereby, reducing the hardship that may have been caused to non-residents who otherwise are liable to pay tax on dividend income at the rate of 20% or where benefit of DTAA is available, at lower rates of 5%/ 10%/ 15% as provided in the respective DTAAs.

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			company on or before 31.03.2020. It was also proposed to amend section 194 of the Act to provide that tax at the rate of 10% has to be deducted on dividend paid to a resident. The Finance Bill, 2020 amended the provisions of sections 115-O, 10(34) and 115BBDA, such that any dividend received by a shareholder on or after 01.04.2020 would be taxable in his hands and that the Company would not be liable to pay DDT on amount of dividend declared, distributed or paid on or after 01.04.2020.	• If amount of dividend does not exceed INR 50 Lakhs- 20.80% • If amount of dividend exceeds INR 50 Lakhs but does not exceed INR 1 Crore- 22.88% • If amount of dividend exceeds INR 1 Crore- 23.92% (II) Foreign company: • If amount of dividend does not exceed INR 1 Crore- 20.80% • If amount of dividend exceeds INR 1 Crore but does not exceed INR 10 Crore- 21.216% • If amount of dividend exceeds INR 10 Crore- 21.84%	
18	80M	The provision was	Finance Bill, 2020	To address the concerns of the taxpayers and investor	The provision was omitted by the Finance Act,

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		omitted by the Finance Act, 2003 w.e.f. 01.04.2004 and does not form part of Income-tax Act, 1961 at present.	proposed paradigm shift in the taxation of dividend income/ income from units by abolishing DDT and imposing liability on the shareholders to pay tax on such dividend income by removing consequent exemption provided in the hands of recipients of such income. Finance Bill, 2020, further, proposed to introduce new section 80M providing for removal of cascading effect by allowing deduction in respect of amount of dividend received by a domestic company from another domestic company, not exceeding dividend distributed by first mentioned company on or	community, as a rationalization measure, further amendment has been proposed to allow deduction under section 80M to a domestic company in respect of dividend received from a foreign company or a business trust, in addition to dividend received from a domestic company, provided it distributes dividend to its shareholders before the due date.	2003 w.e.f. 01.04.2004 and does not form part of Income-tax Act, 1961 at present.

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			before the due date. For the purposes of newly inserted section 80M, due date has been defined to mean the date one month prior to the date for furnishing return of income under section 139(1) of the Act.		
44	FA 2018	This amendment relates to declaration under Provisional Collection of Taxes Act, 1931			
45-59	Eq. Levy	Equalization Levy was introduced by the Finance Act, 2016 w.e.f. 01.06.2016. Presently, Equalization Levy is required to be deducted @ 6% of the consideration for online advertisement received or receivable by a non-resident from: • a person resident in India and carrying on	No amendment proposed in Finance Bill, 2020.	The scope of Equalization Levy is proposed to be extended to cover, in addition to consideration for online advertisement, <u>consideration received or receivable for e-commerce supply or services made or provided or facilitated by an e-commerce operator on or after 01.04.2020</u> to the following persons: (a) A person who is resident in India; (b) A person who buys such goods or services or both using IP address located in India; c) A non-resident person in the following circumstances:	The proposed amendment expanding the reach and scope of Equalization Levy to supply of goods and services appears contrary to the Government's stated position, that the levy was only a temporary measure and will have a direct impact on number of offshore business models providing goods and services digitally or electronically. Since the burden to pay the Equalization Levy is now on the non-resident e-commerce operators, unlike Equalization Levy on online advertisements on which the levy was required to be deposited by

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		business or profession; or • non-resident having Permanent Establishment ('PE') in India.		• Sale of advertisement which targets a customer who is resident in India or a customer who accesses the advertisement through internet protocol address located in India; and • Sale of data collected from a person who is resident in India or from a person who uses internet protocol address located in India. In respect of aforesaid consideration received or receivable by an e-commerce operator, Equalization Levy has been introduced @ 2%. E-commerce operator is defined to mean a non-resident who owns, operates or manages digital or electronic facility or platform for online sale of goods or online provision of services or both. E-commerce supply or services is defined as under: a) Online sale of goods owned by the e-commerce operator; b) Online provision of services provided by the e-commerce operator; c) Online sale of goods or provision of services or both facilitated by the e-commerce operator; or d) Any combination of above activities.	the resident payer by way of withholding, it will be a challenge for the Indian tax authorities to ensure that such non-resident e-commerce operators pay the Equalization Levy on a quarterly basis and that statements are furnished and all compliances are adhered with. Further, for the e-commerce operators as well, doing business in India would certainly become higher and more burdensome. The proposed amendment, as presently worded, is subjective and open to varying interpretations. Absence of the meaning of 'person resident in India', whether resident for tax purposes or otherwise, for the purposes of bringing the transaction within the ambit of Equalization Levy and absence of conditions to test whether an advertisement 'targets' a customer who is resident in India is likely to lead to unnecessary litigation. The expansion of scope of Equalization Levy, further, is likely to increase the tax burden for the non-resident e-commerce operators as the eligibility of such levy for credit against taxes paid by the non-resident e-commerce operator in the home jurisdiction is uncertain, leading to risk of double

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				It is, further, provided that Equalization Levy shall not be levied on an e-commerce operator in the following three situations: 1. Where the e-commerce operator has a PE in India and the e-commerce supply or service is effectively connected with such PE; 2. Where the e-commerce operator is liable to Equalization Levy in respect of online advertisement; 3. Where the sale, turnover or gross receipts of the e-commerce operator from e-commerce supply or services made or provided or facilitated to the persons mentioned above is less than Rs. 2 crore on an aggregate basis, during the previous year. The obligation to deposit the Equalization Levy in the case of e-commerce supply or services rests on the e-commerce operator. Unlike the case of Equalization Levy for online advertisements, the obligation does not lie on the payer to deduct at source. In terms of section 166A inserted by the Lok Sabha by way of amendment in Finance Act, 2016, the e-commerce operator is required to deposit Equalization Levy to the credit of the Central Government quarterly.	taxation. For example, Article 2 of the Indo-US Tax Treaty provides that taxes paid in India include *"the income-tax including any surcharge thereon,……, imposed under the Income-tax Act and surtax"……"The Convention shall apply also to any identical or substantially similar taxes which are imposed after the date of signature of the Convention in addition to, or in place of, the existing taxes"*. Under the said Treaty, issue may arise as to whether the phrase "identical or substantially similar taxes" includes Equalization Levy? With rate of taxation of the non-resident taxpayers @ 40%, the Equalization Levy @ 2% of the sale amount presupposes a profit margin of 5% from such supply or sale of services by the e-commerce operator.

<table>
<tr><th>S. No of Amend-ment</th><th>Section amended</th><th>Existing provisions of the Income-tax Act, 1961</th><th>Amendment proposed in Finance Bill 2020</th><th>Amendment finally passed by Lok Sabha</th><th>Remarks, if any</th></tr>
<tr><td></td><td></td><td></td><td></td><td>The due dates for deposit are specified as under:
<table>
<tr><th>Date of ending of quarter of FY</th><th>Due date</th></tr>
<tr><td>30th June</td><td>7th July</td></tr>
<tr><td>30th September</td><td>7th October</td></tr>
<tr><td>31st December</td><td>7th January</td></tr>
<tr><td>31st March</td><td>31st March</td></tr>
</table>
Amendments are further proposed in the relevant sections of Finance Act, 2016 to provide for the following:
• Levy of simple interest @ 1% for every month or part of month in case e-commerce operator fails to deposit Equalization Levy to the credit of the Central Government by the due date;
• Levy of penalty of an amount equal to the amount of Equalization Levy that the e-commerce operator failed to pay where he fails to pay whole or any part of the Equalization Levy required to be paid by him;</td><td></td></tr>
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S. No of Amend-ment	Section amended	Existing provisions of the Income-tax Act, 1961	Amendment proposed in Finance Bill 2020	Amendment finally passed by Lok Sabha	Remarks, if any
				• Statement of Equalization Levy to be prepared and filed with the assessing officer or with any other authority or agency authorized by the Board in this behalf, on or before 30th June of the financial year immediately following the financial year in which Equalization Levy is chargeable; • Belated or revised statement can be filed at any time before the expiry of 2 years from the end of the financial year in which e-commerce supply or services were made or facilitated. Consequential amendments have also been introduced to maintain parity between provisions relating to Equalization Levy in respect of online advertisements and e-commerce supply or services.	
16	10(50)	Section 10(50) of the Income-tax Act, 1961, as it presently stands, provides that income in respect of which Equalization Levy has been charged in terms of Chapter VIII of Finance Act, 2016 shall be exempt	No amendment proposed in Finance Bill, 2020.	By virtue of the amendment scope of Equalization Levy is now proposed to be extended to include consideration received or receivable for e-commerce supply or services made or provided or facilitated by an e-commerce operator on or after 01.04.2020 to specified persons. Consequent amendment has been proposed in section 10(50) of the Act to exempt income received by an e-commerce operator from e-commerce supply or services	Since charge of Equalization Levy on e-commerce operators has been introduced w.e.f. 01.04.2020, the exemption under section 10(50) of the Act should also have been provided w.e.f. 01.04.2020 and not 01.04.2021. There appears to be a typographical error to this effect.

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		from income-tax in the hands of the recipient of income.		made or provided or facilitated on or after 01.04.2021, on which Equalization Levy has been charged.	

For any details and clarifications, please feel free to write to:

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