

## Highlights for Non-Residents

As proposed in The Finance Bill, 2020 introduced by Finance Minister of India on 1st February 2020. The Finance Minister in her Budget proposal has sought to introduce measures which are focused on continued growth and ensuring India stays globally competitive and a favored destination for investment.

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### TAX AMENDMENTS

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#### A. MODIFICATION OF RESIDENCY PROVISIONS IN INDIA

##### ➤ New Provisions for Residence in India

It is proposed as an Anti-Tax Abuse measure that an Indian Citizen who is “not liable to tax” in any country or territory by reason on his domicile or residence or any other criteria of similar nature, to hold that individual Indian Citizen as deemed to be “Resident” in India in the relevant year, irrespective of number of days of stay in India.

The Government of India has issued a press release dated 2nd February 2020 to clarify that this provision is not intended to include in tax net those Indian citizens who are bonafide workers in other countries, including Middle East and Merchant Navy, who are not liable to tax in these countries on income earned there. The press release further clarifies that in case of an Indian Citizen who becomes a deemed resident of India, then income earned outside India shall not be taxed in India, unless it is derived from an Indian business or profession.

##### ➤ Changes to Determine Residence for Non-Resident on Visit To India

Presently, an individual being Citizen of India or a PIO, who being outside India was considered as Non-resident of India, if he/she comes on a visit to India for a period of less than 182 days in a year.

It is now proposed to reduce the aforesaid stay in India for such individuals for a period of less than 120 days in a year to be regarded as Non -resident of India.

In other words, such individual would be regarded as Resident in India, if his/ her stay in India is

- 120 days or more in the relevant year; and
- 365 days or more in the four years preceding the relevant year
- Further, it is pointed out that Indian Citizen leaving India for employment or as crew member of an India ship outside India, the period of stay shall continue to remain 182 days in a year for determining Residence in India.



## B. TAX ON DIVIDEND, INTEREST, ROYALTY AND FEES FOR TECHNICAL SERVICES RECEIVED BY NRI

The Special Rates of Tax has been prescribed for following nature of income earned by non-residents:

Nature of Income	Basic Rate of Tax
Dividend income from shares and mutual funds	20%
Interest income from Government or Indian concern in foreign currency	20%
Interest income from Infrastructure Debut fund, Rupee denominated bonds of Indian Company, etc	5%
Royalty	10%
Fees for Technical Services	10%

It is proposed that if the Non-resident's total income subject to tax in India consists of only the aforesaid sources of income and the tax has been withheld in India on the said income at the rate not less than the rates of taxes as tabulated in above, then it shall not be necessary for the said Non-resident assesses to file their return of income in India.

## C. NRI NOW PERMITTED TO FILE OBJECTIONS TO DISPUTE RESOLUTION PANEL

Dispute Resolution Panel is an alternative dispute resolution panel comprising of Collegium of Three Principal Commissioner or Commissioners of Income tax ['Senior Income-tax Officer'] providing for speedy disposal of litigations to only eligible assesses.

It is now proposed to expand the scope of the above provision by including Non-resident in the definition of eligible assessee as well as cover any variation in the return on income, which is prejudicial to the interest of the assessee.

The above amendment shall be effective from 1st April 2020, thus, if the AO proposes to make any variation after this date, which is prejudicial to the eligible assessee, and then the above provision shall be applicable.

### ➤ TCS ON OVERSEAS REMITTANCE UNDER LRS:

Authorized Dealers when remitting funds under LRS shall be liable to collect TCS at the rate of 5%, if the amount of remittance per Financial Year exceeds Rs. 7 lakh. If PAN/Aadhaar is not available of the remitter, then the rate shall be 10%.

## D. ALIGNING PURPOSE OF ENTERING INTO DTAA WITH MULTILATERAL INSTRUMENT (MLI)

India has recently signed the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (commonly referred to as MLI) along with many countries and its provisions will be applicable on India's DTAA's from FY 2020 -21 onwards which shall act as a deterrent to tax planning strategies and curb revenue loss through treaty abuse and base erosion and profit shifting strategies.

Therefore in light of above it is proposed to amend the Act so as to clarify intent of the Indian Government to that effect.

## E. DUE DATE FOR FILING RETURN OF INCOME

At present the due date for filing return of income in case of a company or person whose accounts are required to be audited under any law or working partner of a firm whose accounts are required to be audited under any law is 30<sup>th</sup> September of the Assessment year.

It is now proposed to extend the due date for filing return of income from 30<sup>th</sup> September to **31st October of the assessment year** from AY 2020-21.

Further, it is also proposed that said benefit of extended due date for filing return i.e. 31st October of assessment year, shall be available to all the partners of the firm whose accounts are required to be audited under any law.

## *Rates of Tax*

### FOR NON-RESIDENT INDIVIDUALS

(a) The following tax rates are applicable as per the current provisions:	
Financial Year (April-2019 to March-2020)	
Individual's Total Income	Rate
Up to ₹ 2,50,000	Nil (Refer Note 3)
₹ 2,50,001 to ₹ 5,00,000	5% of the amount by which the total income exceeds ₹ 2,50,000
₹ 5,00,001 to ₹ 10,00,000	₹ 12,500 plus 20% of the amount by which the total income exceeds ₹ 5,00,000
Exceeds ₹ 10,00,000	₹ 1,12,500 plus 30% of the amount by which income exceeds ₹ 10,00,000

(b) New income-tax regime has been introduced under the newly inserted section 115BAC of the Act, which is optional for the tax payers. The new regime provides reduced slab rates (as mentioned below) that are applicable without certain exemptions and deductions:

**Financial Year (April-2020 to March-2021)**

Individual's Total Income	Rate
Up to ₹ 2,50,000	Nil (Refer Note 3)
₹ 2,50,001 to ₹ 5,00,000	5% of the amount by which the total income exceeds ₹ 2,50,000
₹ 5,00,001 to ₹ 7,50,000	₹ 12,500 plus 10% of the amount by which the total income exceeds ₹ 5,00,000
₹ 7,50,001 to ₹ 10,00,000	₹ 37,500 plus 15% of the amount by which the total income exceeds ₹ 7,50,000
₹ 10,00,001 to ₹ 12,50,000	₹ 75,000 plus 20% of the amount by which the total income exceeds ₹ 10,00,000
₹ 12,50,001 to ₹ 15,00,000	₹ 1,25,000 plus 25% of the amount by which the total income exceeds ₹ 12,50,000
Exceeds ₹ 15,00,000	₹ 1,87,500 plus 30% of the amount by which income exceeds ₹ 15,00,000 (Refer Note 1)

Note 1: The amount shall be increased by a surcharge as follows -

Income	Rate of Surcharge	Effective tax rate after surcharges and cess
₹ 50 lacs to ₹ 1 crore (incl. income under sections 111A and 112A)	10%	34.32%
₹ 1 crore to ₹ 2 crores (incl. income under sections 111A and 112A)	15%	35.88%
₹ 2 crores to ₹ 5 crores (incl. income under sections 111A and 112A not covered below)	15%	35.88%
₹ 2 crores to ₹ 5 crores (excl. income under sections 111A and 112A)	25%	39%
Above ₹ 5 crores (excl. income under sections 111A and 112A)	37%	42.744%

Provided that in case where the total income includes any income chargeable under section 111A and section 112A of the Act (*being an equity share or an equity oriented mutual fund unit and unit of business trust*), the rate of surcharge on the amount of Income-tax computed in respect of that part of income shall not exceed 15%.  
 Note 2: Health and Education cess shall be levied at the rate of 4% payable on income-tax and surcharge.  
 Note 3: If NRI is having only Capital Gains (including Long term and Short term), there is no benefit of basic exemption slab available.

## RATES OF TAX DEDUCTED AT SOURCE (TDS)

The basic TDS Rates as applicable in case of non-resident, subject to the DTAA relief, if any are as follows:

Particulars	Rate of TDS	Surcharge	Health and Education cess @ 4%	Effective Tax Rate
<b>1. Capital Gains on Equity Oriented Mutual Fund Units and Equity Shares sold on Recognized Stock Exchange and STT paid thereon:</b>				
i) Short Term	15%	2.25%*	0.690%	<b>17.94%*</b>
ii) Long Term	10%	1.50%*	0.460%	<b>11.96%*</b>
<b>2. Capital Gain on Debt Mutual Fund &amp; listed securities other than (1)</b>				
i) Short Term	30%	11.10%**	1.644%	<b>42.744%**</b>
ii) Long Term	20%	7.40%**	1.096%	<b>28.496%**</b>
<b>3. Capital gain on Other Assets</b>				
i) Short Term	30%	11.10%**	1.644%	<b>42.744%**</b>
ii) Long Term	20%	7.40%**	1.096%	<b>28.496%**</b>
<b>4. Interest on Bank Deposits(NRO A/c)</b>	30%	11.10%**	1.644%	<b>42.744%**</b>
<b>5. Income From Rent</b>	30%	11.10%**	1.644%	<b>42.744%**</b>
<b>6. Royalty &amp; Fees for Technical Service (FTS)</b>	10%	3.70%**	0.548%	<b>14.248%**</b>
<b>7. Dividend on shares</b>	30%	11.10%**	1.644%	<b>42.744%**</b>
<b>8. Dividend on units of mutual funds</b>	<b>20%</b>	<b>7.40%**</b>	<b>1.096%</b>	<b>28.496%**</b>

\*Considering the surcharge as 15%. \*\*Considering the surcharge as per the highest rate of 37%.