Lalit Vanjani & Co.

India Union Budget 2019

Highlights of tax proposals

Contents

Personal tax

Personal tax

- No changes proposed in the tax slabs. **Surcharge** of **25%** and **37%** applicable on individuals earning taxable income of **INR2 Cr. up to INR5 Cr.** and **above INR5 Cr.**, respectively.

Taxable income (INR)	Proposed MMR	Existing MMR
Up to INR 5,000,000	**31.20%**	31.20%
> INR 5M but < INR 10M	**34.32%**	34.32%
> INR 10M but < INR 20M	**35.88%**	35.88%
> INR 20M but < INR 50M	**39.00%**	35.88%
INR 50M and above	**42.74%**	35.88%

- **New category of taxpayers mandatorily required to file tax returns**, if during the previous year:
  - Expenditure of more than INR2 lakh for foreign travel
  - Electricity expenditure exceeding INR1 lakh
  - Current account deposits exceeding INR1 Cr.
  - Satisfying other prescribed conditions

- **Prefilled tax returns forms** with details of salary, bank interest, capital gain from securities and dividends, etc., to be made available for taxpayers.

- **Additional deduction of up to INR1.5 lakh** will be available for interest paid on loans taken by individuals from financial institution **for purchase of electric vehicles** between 1 April 2019 and 31 March 2023.

- **Additional deduction of up to INR1.5 lakh** individuals purchasing **first residential property** to get an, if loan has been sanctioned by financial institution between 1 April 2019 and 31 March 2020, and the stamp duty value of the property does not exceed INR45 lakh.

- **Exemption of capital gains** arising from the sale of residential house for **investment in start-ups up** extended to 31 March 2021 and certain relaxations provided in conditions related to this exemption.

- **Exemption limit for withdrawal from NPS** at the time of closure/opting-out **increased to 60%**.

- **Individuals/HUFs to withhold tax at the rate of 5%** on contractual/professional payments to a resident exceeding INR50 lakhs during a year, **even if individual/HUF is not liable to tax audit.** PAN, instead of TAN, will facilitate tax deduction.

Corporate tax

Corporate tax

- Domestic companies having **turnover of up to INR400 Cr.** to be taxed at base **tax rate of 25%**. Earlier the threshold was INR250 Cr. Increased threshold covers 99.30% of domestic companies.

- For a domestic companies having total turnover up to INR 400 Cr. in the FY 2017-18:

Particulars	Taxable income up to INR 10m	INR 10m < taxable income <= INR 100m	Taxable income > INR 100m
Corporate tax	25.00%	25.00%	25.00%
Surcharge	-	7.00%	12.00%
Health and Education cess	4.00%	4.00%	4.00%
Effective tax rate	**26.00%**	**27.82%**	**29.12%**

- For other domestic companies:

Particulars	Taxable income up to INR 10m	INR 10m < taxable income <= INR 100m	Taxable income > INR 100m
Corporate tax	30.00%	30.00%	30.00%
Surcharge	-	7.00%	12.00%
Health and Education cess	4.00%	4.00%	4.00%
Effective tax rate	**31.20%**	**33.38%**	**34.94%**

- **Buy-back tax of 20%** will now also be applicable on **listed companies**. Shareholder will be exempted from capital gain tax on buy-back of shares.

- Definition of **affordable housing** for the purposes of section 80-IBA to be **relaxed** to align it with the GST Act.

- **Demerger provisions relaxed** to exempt **IndAS compliant resulting company** from recording value of assets and liabilities of demerged company on book value.

- **Investment-linked deduction under section 35AD** to be extended to **mega-manufacturing plants** set up in sunrise and advanced technology areas producing semi-conductor fabrication (FAB), solar photo voltaic cells, lithium storage batteries, solar electric charging infrastructure, computer servers, laptops.

- Deposit taking NBFCs and a systemically important non-deposit taking **NBFCs to be treated at par with banks for taxability of certain interest income** on actual realization basis instead of accrual basis (as per RBI norms).

Corporate tax

- For computing book profits for **Minimum Alternate Tax (MAT)**, deduction of aggregate of unabsorbed depreciation and brought forward losses shall be allowed, in respect of following companies, its subsidiaries and step-down subsidiaries:
  - Companies wherein NLCT has appointed new directors (as nominated by Central Govt.) in the said company
  - Companies where change in shareholding is pursuant to a resolution plan approved by NCLT Companies mentioned above also permitted to carry forward the losses even if there is a change in their shareholding

  Companies mentioned above will also be permitted to carry forward the losses even if there is a change in their shareholding.

- Scope of **Statement of Financial Transactions** (SFT) under section 285BA is proposed to be extended in order to facilitate pre-filling of tax returns. The **threshold of INR50,000** (in aggregate) for transactions to be reported in SFT **has been done away with**.

  Further, if any defect in the SFT is not rectified within the specified time limit, the provisions of the Act will apply as if such person had furnished inaccurate information in the SFT.

- Following **additional direct tax incentives** to be provided to **International Financial Services Center (IFSC)**:
  - 100 percent profit-linked deduction under section 80-LA in any 10-year block within a 15-year period
  - Exemption from dividend distribution tax from current and accumulated income to companies and mutual funds
  - Exemptions on capital gain to category III AIF
  - Interest payment on loan taken by IFSC from non-residents to be exempt from tax
  - Capital gains exemption to be granted to certain securities if traded on a recognized stock exchange by specified persons

- Levy of **Securities Transaction Tax** (STT) will be restricted only to the difference between settlement and strike price in case of exercise of options.

Corporate tax

- **Gift of any sum of money or property situated in India**, by a person resident in India to a person outside India (not being a gift otherwise exempt), on or after 5 July 2019, shall be **deemed to accrue or arise in India**.

- Process of **application under section 195** by a person making a payment to a non-resident seeking determination of tax deducted at source to be me made **online**.

- Business establishments having business turnover exceeding INR50 Cr. mandatorily required to provide facility for accepting payment through the prescribed electronic modes. Bank or system provider not to impose any charge for using the prescribed modes.

- Tax to be withheld at the rate of 5% on income component (after deducting insurance premium) at the time of life insurance payouts as against withholding tax at the rate of 1% on gross amount of payouts.

- Banks to withhold tax at the rate of **2%** if aggregate **cash withdrawals from a bank account exceed INR1 Cr.** in a financial year.

- Conditions of special taxation regime for offshore funds to be relaxed:
  - The cutoff date for determining monthly average of corpus of fund (i.e., INR100 Cr.) would be either (i) six months from end of month of its establishment, or (ii) at the end of such financial year, whichever is later.
  - The remuneration paid by fund to an eligible fund manager would not be less than the amount calculated in the prescribed manner replacing the requirement to have arm's length remuneration.

Startups

Startups

- **Relaxation in conditions to claim exemption** from long term capital gain on transfer of residential property **by investing in eligible startup**:
  - **Sunset date** for investment in eligible start up extended from 31 March 2019 to **31 March 2021**
  - **Minimum limit of shareholding**/voting rights in eligible startup reduced from 50% to **25%**
  - Period to **transfer new computer or computer software** purchased by eligible startup **reduced** from five years **to three years**

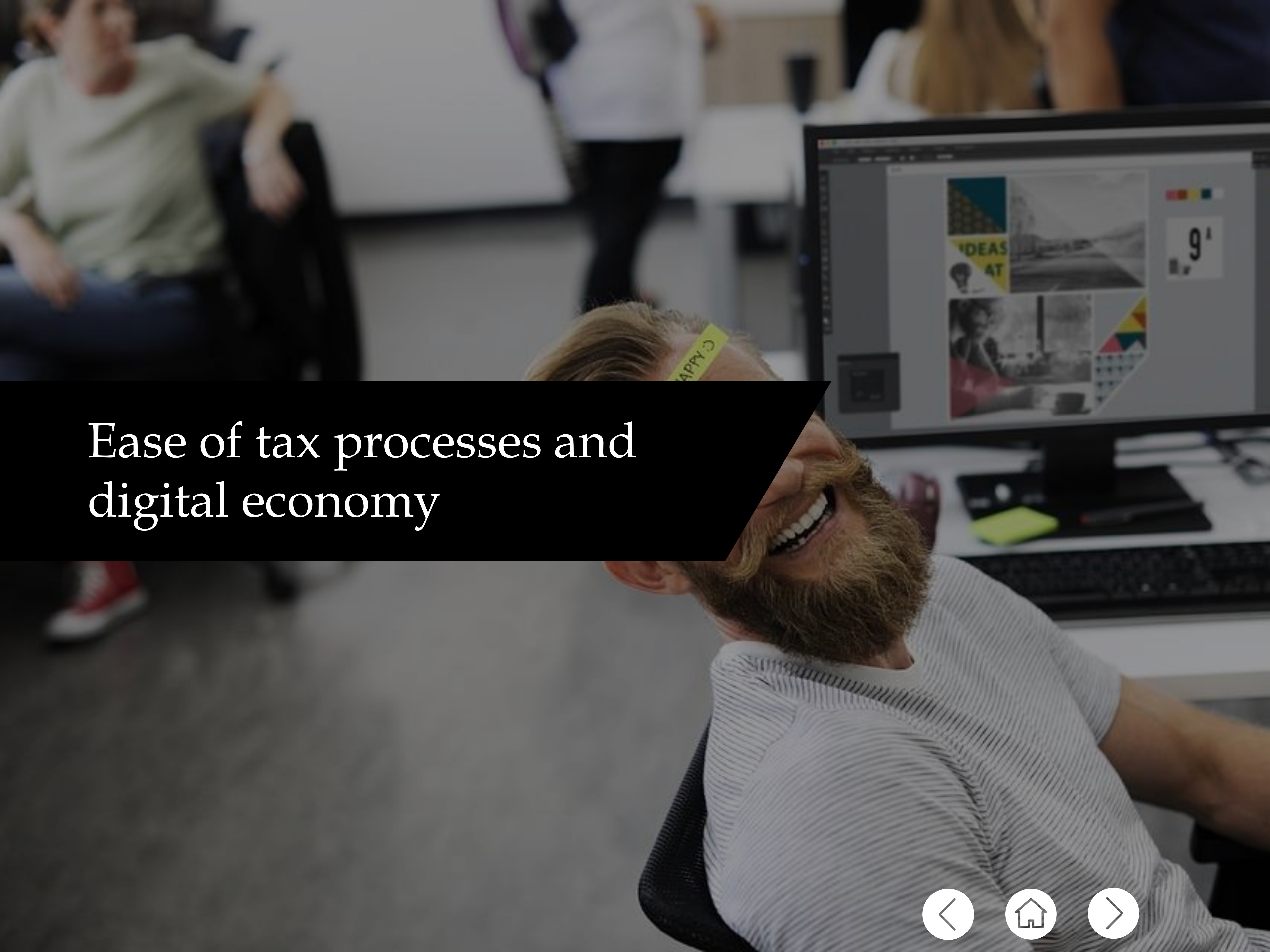
- **Investment** received by 'venture capital undertaking' **from Category II Alternative Investment Funds (AIF) will be exempt** from the rigors of section 56(2)(viib) [angel tax].

- **Conditions for carry forward and setoff of losses for startups** eligible to claim deduction under section 80-IAC have been **relaxed**. Loss will now be allowed to be carried forward even where shareholders continue to beneficially hold 51% voting power. Earlier, loss was allowed to be carried forward and set-off only if all the shareholders held their respective shares in the startup.

- If a startup fails to comply with the conditions specified in the notification issued for providing exemption from section 56(2)(viib) [angel tax], then any **excess over the face value shall be deemed to be income** of the startup in the year in which such failure takes place.

- Some **significant policy announcements** made by the Finance Minister:

  - **No scrutiny of eligible startups in respect of valuation of shares** [angel tax], if the startup and their investors file requisite declarations, and provide information in their income tax returns
  - An **e-verification** mechanism will be put in place to verify the identity of the **investor and source of his funds**.
  - **Special administrative arrangements** will be introduced by CBDT for pending assessments of eligible start up and redressal of grievances. Any inquiry in such cases will be done by tax officer only after approval of supervisory officer.
  - **Exclusive TV channel** will be launched to promote start ups, and discuss issues affecting their growth, matchmaking with venture capitalist, funding and tax planning.



Ease of tax processes and digital economy

Ease of tax processes & digital economy

- **PAN and Aadhaar to be used interchangeably.** Those who do not have PAN will be allowed to file income tax returns on the basis of Aadhaar number. Aadhaar can be quoted wherever PAN is required.

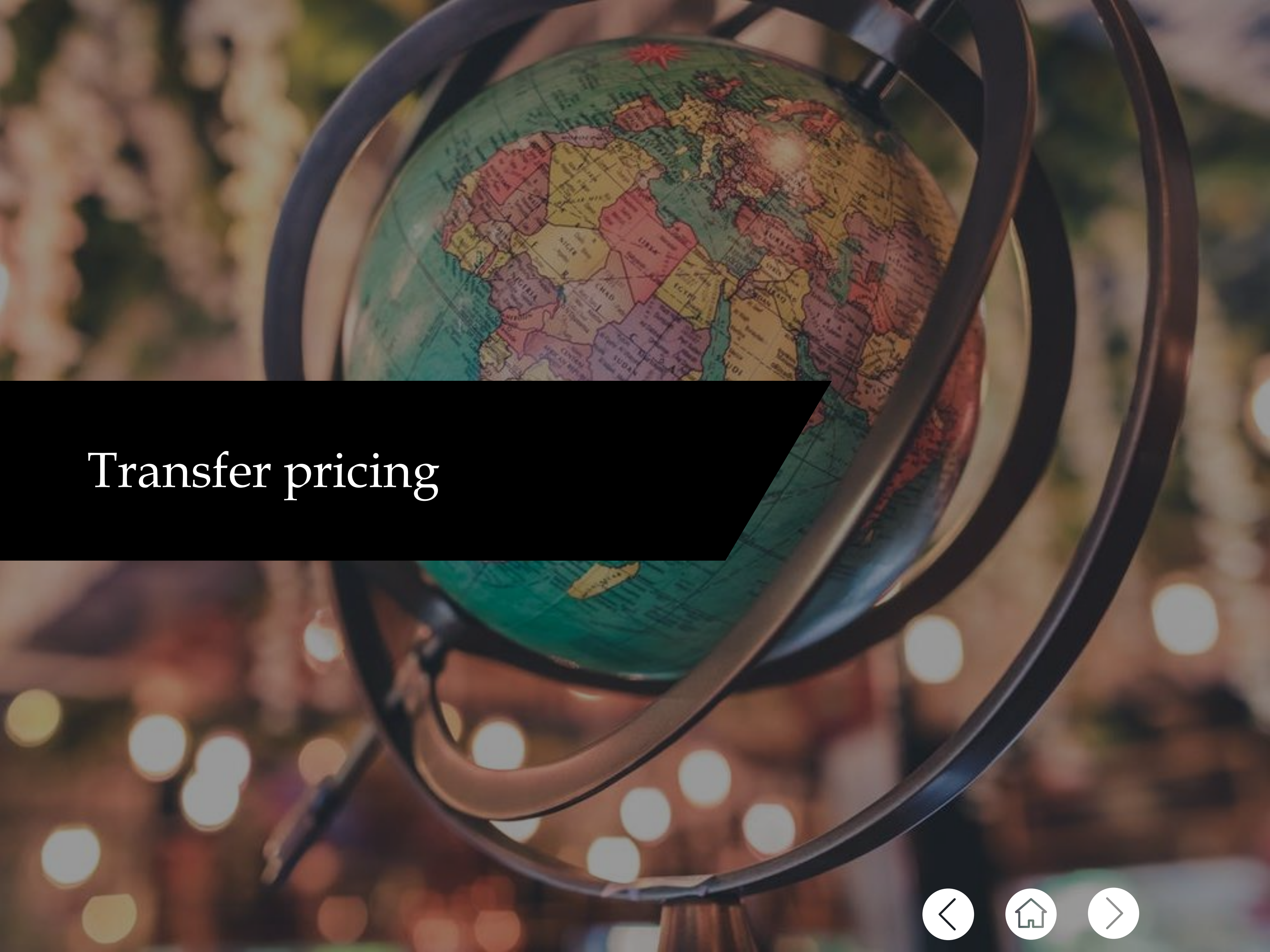
- **Pre-filled tax returns** will be made available to tax payers that will contain details of salary income, capital gains from securities, bank interests, dividends, etc., and tax deductions.

- Information regarding pre-filled incomes will be collected from the concerned sources such as banks, stock exchanges, mutual funds, EPFO, and state registration departments.

- A scheme of **faceless assessment** in electronic mode involving no human interface will be launched this year in a phased manner.
  - Cases selected for scrutiny shall be allocated to assessment units in a random manner.
  - Notices shall be issued electronically by a Central Cell, without disclosing the name, designation or location of the Tax Officer.
  - The Central Cell shall be the single point of contact between the taxpayer and the Department.

- Business establishments with annual turnover of INR50 Cr. mandated to offer **low cost digital mode of payments** to customers, and **no charges** or merchant discount rates to be imposed on customers and merchants.

Online payment services, e-wallets, UPI money transfers, etc. would benefit significantly from Govt.'s push towards less cash economy

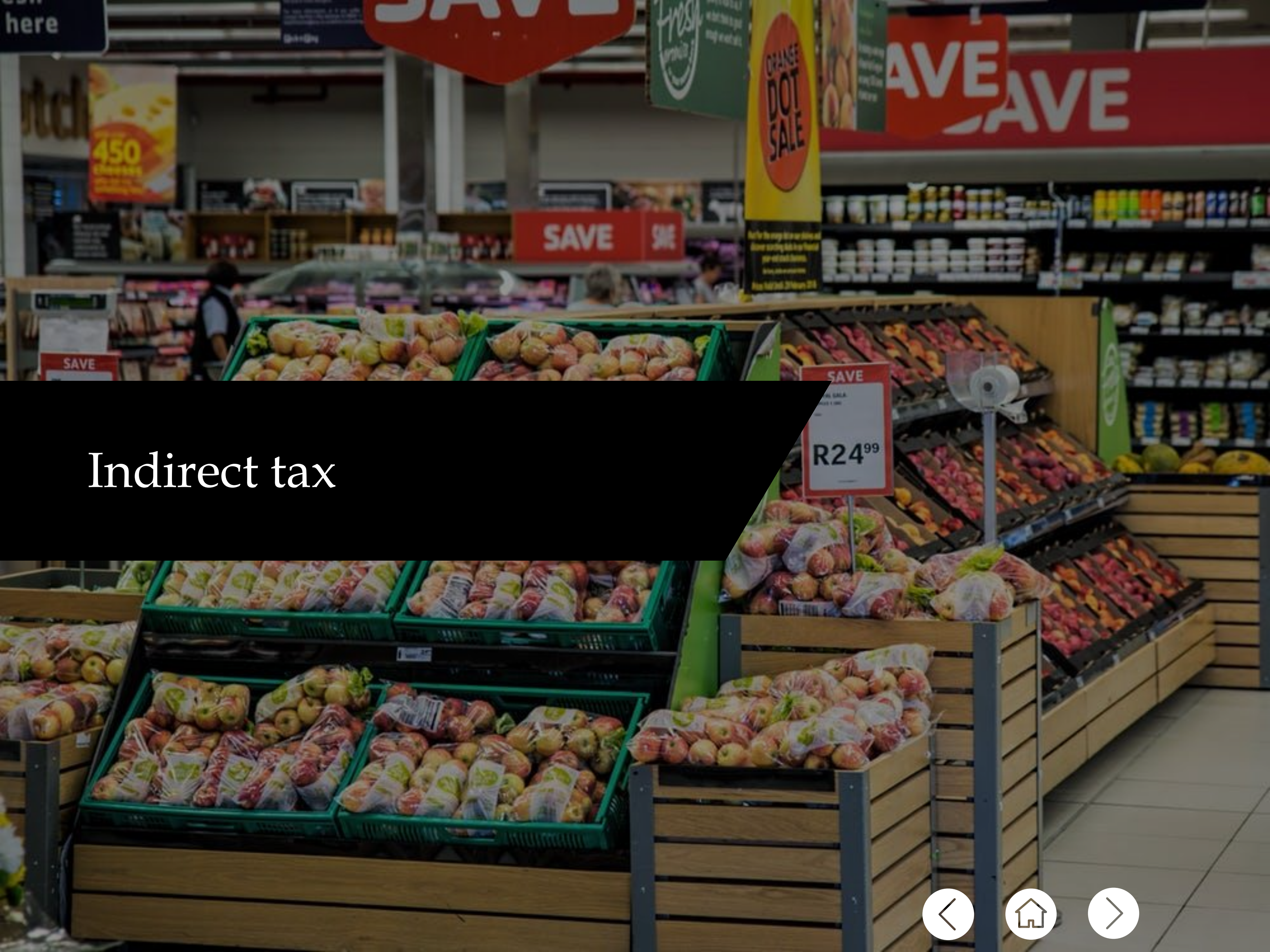


Transfer pricing

Transfer pricing

- **Clarifications have been provided in respect of secondary adjustment.**
  - It is clarified that condition of threshold of INR1 Cr. and of primary adjustment made up to assessment year 2016–17 are alternate conditions, for non-applicability of secondary adjustment.
  - Option given to the taxpayer to make onetime payment of additional income-tax if the excess money or part thereof is not repatriated on time into India. This amendment will be effective from 1 September 2019.
    - Taxes will be paid at the rate of 18% plus 12% surcharge on excess money or part thereof in addition to payment of interest till date of payment of additional tax. The tax so paid is final payment of tax and no corresponding tax credit will be allowed.
    - There is no deduction under any other provision of the Income-tax Act, 1961, in respect of amount on which such additional tax is paid.
  - The **excess money may be repatriated from any of the associated enterprises** of the taxpayer which is not resident in India. This amendment will take effect retrospectively from FY 2017–18.
  - The **secondary adjustment provisions will apply only to advance pricing agreements (APAs) signed on or after 1 April 2017**. This amendment will take effect retrospectively from FY 2017–18. However, there will be no refund of taxes already paid on this account.
- Assessing officer's power curtailed to only modification of total income post modified return filed in pursuance of an APA.
- Master file compliance required even if no transfer pricing documentation is required to be maintained.
- For country-by-country reporting, the accounting year in case of an alternate reporting entity of the multinational group (where the parent entity is outside India) will be the reporting accounting year of such parent entity; this amendment will take effect retrospectively from FY 2016–17.

Indirect tax



Customs

- **Scope of prosecution** under Customs **enlarged**, empowering the officer to arrest a person committing offence outside India or Indian customs waters.

- **General penalty** for any contravention of customs provisions **increased** from INR1 lakh to **INR4 lakh**.

- Following **offences** under Customs have been made cognizable/**non bailable**:
  - Fraudulently availing drawback or any exemption from duty for amount exceeding INR50 lakhs.
  - Fraudulently obtaining and utilizing FTP benefits, such as scrips and authorizations, where amount exceeds INR50 lakhs.

- The maximum limit of penalty for violation of any provision of rules or regulations will be increased from INR50,000 to INR200,000.

- **Customs duty to be increased** on products, such as tiles, vinyl floorings, CC TV cameras, auto parts, stainless steel & other alloy steel, optical fiber cables, electronic goods, and other goods in order to provide level playing field to domestic manufacturers and encourage 'Make in India'.

- **Customs duty rationalization/exemption** for certain products, primarily raw materials, including parts of electric vehicles, defense equipment, medical devices, renewable energy devices, which are generally not manufactured in India.

Goods and Services Tax

- **Composition** scheme of GST **extended to suppliers** of services or mixed suppliers of goods and services with an **annual turnover of up to INR 50 lakhs** in the previous financial year.

- **Composition** taxpayers to be allowed to furnish **return** on an **annual basis** along with quarterly payment of taxes

- Government may prescribe a class of registered persons who shall be mandatorily required to give an option to make payments through specified electronic modes.

- **Aadhaar authentication** made **mandatory** for all taxpayers except specified states or class of tax payers.

- **Interest** shall be levied only **on the net tax liability** (i.e., net of input tax credit) in respect of supplies declared in the return where such return is filed after the due date. Such relaxation shall not apply where returns are filed subsequent to initiation of any proceedings.

- Facility has been introduced to allow the registered person to **transfer any amount** of tax, interest, penalty, fee, **from one head to another head in the electronic cash ledger**.

- **National Appellate Authority for Advance Ruling** will be constituted for hearing appeals against conflicting advance rulings pronounced on the same question by the Appellate Authorities of two or more states.

- **Penalty of 10%** to be imposed on profiteered amount not deposited within 30 days from the date of order passed by Antiprofiteering Authority.

- **Central Government** will be empowered to grant refund also in respect of state taxes as a **single disbursement authority**.

- Amendments brought in to give legal force to notifications and orders already issued earlier, as per GST Council decisions.

Other proposals

- A dispute resolution cum amnesty scheme, '**Sabka Vishwas Legacy Dispute Resolution Scheme, 2019**', introduced for resolution and settlement of legacy cases of central excise, service tax, and certain other central levies/duties/taxes/cesses. The proposed scheme provides relief in the following ways:
  - Relief from 40-70% of tax dues, and waiver of interest and penalty for cases other than voluntary disclosure ones
  - Waiver of interest and penalty on payment of full tax dues disclosed for voluntary disclosure cases
  - No prosecution for the person discharged under the scheme

- **Retrospective exemption from Service Tax** granted to the following services for the respective periods:
  - Taxable services provided by the state government for grant of liquor licence during the period 1 April 2016 to 30 June 2017
  - Services provided by state government industrial development corporations or undertakings or entities with 50 percent or more ownership by Government (either directly or indirectly) by way of granting developers a long-term lease of 30 years or more for plots for developing infrastructure for financial business during the period 1 October 2013 to 30 June 2017 (only to the extent of upfront amount received)
  - Services provided by Indian Institutes of Management to their students for specified educational programs (except executive development program) during the period 1 July 2003 to 31 March 2016

- The application for refund (for taxes collected/paid in the past) in the above-mentioned cases will need to be submitted within six months from the date of enactment of the Finance Bill (No 2.) 2019.

Contact us

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