



Indian Union Budget – 2019

An Analysis of Income Tax Proposals



Analysis by
CA. Tejas K. Andharia
B. COM, F.C.A., D.I.S.A.(ICAI), D.I.R.M.(ICAI)
Bhavnagar, Gujarat
Email: tejasinvites@gmail.com

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About the Author:

- ✚ CA. Tejas K. Andharia is Practicing Chartered Accountant from last 12 years.
- ✚ Education Qualification: B. Com., F.C.A., Diploma in Information System Audit (I.C.A.I.), Diploma in Insurance and Risk Management (I.C.A.I.)
- ✚ Honorary visiting lecturer at some educational institutions to impart knowledge to B. Com, MBA and CA students for last 10 years.
- ✚ He has delivered CPE lectures on various subjects at Bhavnagar, Ahmedabad, Rajkot and Surat.
- ✚ Empanelled Peer Reviewer of ICAI.
- ✚ Was working as an editor-in-chief of e-newsletter of Bhavnagar Branch of WIRC of Institute of Chartered Accountants of India.
- ✚ Was writing the column “Technology Aspirant” in e-newsletter of Bhavnagar Branch of WIRC of Institute of Chartered Accountants of India.
- ✚ Was an elected managing committee member of Bhavnagar Branch of WIRC of Institute of Chartered Accountants of India.
- ✚ Former President of Bhavnagar Chartered Accountants’ Association (for last two consecutive terms).
- ✚ Writing articles on the national level websites like www.taxguru.in, www.caclubindia.com etc. and **have channel on Youtube (Videos on diversified topics) with more than 50,000 subscribers all over the world.**
- ✚ Developed many utilities in MS Excel and VBA of general and special use.
- ✚ Wrote and published “Shayarana” (The Gujarati Ghazals)
- ✚ Links of Articles of Author
 - ❖ Taxguru.in : <https://goo.gl/4Lvhb6>
 - ❖ Caclubindia.com : <https://goo.gl/CUVt97>
- ✚ Other Links about Author
 - ❖ Youtube Channel: <https://goo.gl/sbkJVt>
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1. There is not any change in slabs of tax rates, but there are following changes in surcharge rates for Individual, Hindu undivided family, association of persons, body of individuals, artificial juridical person **w.e.f AY 2020-21.**

Slab	Total Income (TI) (Rs.)	Rate of Surcharge	Total Effective Rate of Tax
1	50 Lakhs < TI ≤ 1 Crore	10%	34.32%
2	1 Crore < TI ≤ 2 Crores	15%	35.88%
3	2 Crores < TI ≤ 5 Crores	25%	39.00%
4	5 Crores < TI	37%	42.74%

Thus, the **maximum marginal rate** is also now increased.

2. **Turnover limit is increased for 25% corporate tax:** Rate of income tax for domestic companies, where its total turnover or the gross receipt in the previous year 2017-18 does not exceed Rs. 400 crores will be 25% for **A.Y. 2020-21.** (**More than 99% companies are covered by this provision**)

History: It was 29% for A.Y. 2017-18, where its total turnover or the gross receipt in the previous year 2014-15 did not exceed Rs. 5 crores. And It was 25% for A.Y. 2018-19, where its total turnover or the gross receipt in the previous year 2015-16 did not exceed Rs. 50 crores. And It was 25% for A.Y. 2019-20, where its total turnover or the gross receipt in the previous year 2016-17 did not exceed Rs. 250 crores.

3. Pre-filled tax returns will be made available to taxpayers which will contain details of salary income, capital gains from securities, bank interests, and dividends etc. and tax deductions. Information regarding these incomes will be collected from the concerned sources such as Banks, Stock exchanges, mutual funds, EPFO, State Registration Departments etc. This will not only significantly reduce the time taken to file a tax return, but will also ensure accuracy of reporting of income and taxes.
4. It is proposed to insert a **new section 194M** in the Act to provide for levy of TDS at the rate of 5% on the sum, or the aggregate of sums, paid or credited in a year on account of contractual work or professional fees by an individual or a Hindu undivided family, not required to deduct tax at source under section 194C and 194J of the Act, if such sum, or aggregate of such sums, exceeds Rs. 50 lakhs in a year. However, in order to reduce the compliance burden, it is proposed that such individuals or HUFs shall be able to deposit the tax deducted using their Permanent Account Number (PAN) and shall not be required to obtain Tax deduction Account Number (TAN). So, no need to file regular TDS return in such cases. [**Applicable w.e.f. 01/09/2019**]
5. In Section 194IA, the term “Consideration for Immovable Property” is proposed to be defined as to include all charges of the nature of club membership fee, car parking fee, electricity or water facility fee, maintenance fee, advance fee or any other

charges of similar nature, which are incidental to transfer of the immovable property. So, matter is very clear now whether separate agreement is made for such facilities or not. **[Applicable w.e.f. 01/09/2019]**

6. With a view to encourage the cashless economy, it is proposed to insert a **new section 194N** in the Act to provide for levy of TDS at the rate of 2% on cash payments **in excess of** Rs. 1 crore in aggregate made during the year, **by a banking company or co-operative bank or post office**, to any person from an account maintained by the recipient. **Exemption from this provision would be granted to** certain recipients such as the Government, banking company, cooperative society engaged in carrying on the business of banking, post office, banking correspondents and white label ATM operators, who are involved in the handling of substantial amounts of cash as a part of their business operation. Central government would be empowered to grant such exemption to more recipients by the way of Gazette Notification. **[Applicable w.e.f. 01/09/2019]**
7. In section 194DA, it is proposed to make amendment in such a way that TDS liability would be based on **income** comprised in payment amount **instead of entire payment amount**, by increased rate of 5% instead of present rate of 1%. It is to be noted that proviso to this section is not changed, so still the threshold limit for the purpose of TDS applicability is based on **“amount of such payment”** and not **“income component”** only. At present threshold is **less than** Rs. 1 Lakhs. **[Applicable w.e.f. 01/09/2019]**
8. Application to determine amount chargeable to tax u/s. 195(2) and 195(7) would now be made online. **[Applicable w.e.f. 01/11/2019]**
9. New clause (viii) is proposed to be inserted to section 9(1), whereby income of the nature referred to in section 2(24)(xviii), arising from **any sum of money paid, or any property situated in India transferred, on or after the 5th day of July, 2019** by a person **resident in** India to a person **outside** India shall be deemed to accrue or arise in India. However, the existing provision for exempting gifts as provided in proviso to section 56(2)(x) will continue to apply for such gifts deemed to accrue or arise in India. In a treaty situation, the relevant article of applicable DTAA shall continue to apply for such gifts as well. **[Applicable w.e.f. AY 2020-21]**
10. Certain changes are proposed in section 139 so as to make certain types of persons required to file the return as under. **[Applicable w.e.f. AY 2020-21]**

In 6th proviso to section 139(1), phrase is proposed to be inserted as “or section 54 or section 54B or section 54D or section 54EC or section 54F or section 54G or section 54GA or section 54GB”. So, **for example**, if a person makes a long term capital gain of Rs. 5 lakhs and makes eligible investment u/s. 54 of Rs. 5 lakhs, his income chargeable to tax will be NIL, but he will be required to file a return of income.

7th proviso is proposed to be added whereby the person who is not required to file a return of income due to his income being below the maximum amount not chargeable

to tax, but fulfills any one of the following conditions will be required to file a return of income.

- I.) has deposited an amount or aggregate of the amounts exceeding Rs. 1 Crore in one or more current accounts maintained with a banking company or a co-operative bank.
 - II.) has incurred expenditure of an amount or aggregate of the amounts exceeding Rs. 2 lakhs for himself or any other person for travel to a foreign country
 - III.) has incurred expenditure of an amount or aggregate of the amounts exceeding Rs. 1 lakh towards consumption of electricity
 - IV.) fulfils such other conditions as may be prescribed
- Remember that section 234F regarding late filing fees will be applicable in these cases, as the person is **required** to file a return of income.

11. In order to provide for inter-changeability of PAN with the Aadhaar number, provisions of section 139A are proposed to be amended so as to provide that

- I.) every person who is required to furnish or intimate or quote his PAN under the Act, and who, has not been allotted a PAN but possesses the Aadhaar number, may furnish or intimate or quote his Aadhaar number in lieu of PAN, and such person shall be allotted a PAN in the prescribed manner;
- II.) every person who has been allotted a PAN, and who has linked his Aadhaar number under section 139AA, may furnish or intimate or quote his Aadhaar number in lieu of a PAN.

[Applicable w.e.f. 01/09/2019]

12. In section 13A, section 35AD, section 40A, Section 43(1), section 43CA, section 50C, section 56(2)(x)(2), section 44AD and section 80JJAA, the words "or through such other electronic mode as may be prescribed" are proposed to be added.
[Applicable w.e.f. AY 2020-21]

Partially, this point and next point were in my suggestion list to Direct Tax Committee of ICAI, but it was not in pre-budget memorandum of ICAI.

13. In section 269SS, section 269ST and section 269T, the words "or through such other electronic mode as may be prescribed" are proposed to be added.
[Applicable w.e.f. 01/09/2019]

14. To promote the cashless digital economy, new section 269SU is proposed to be inserted whereby every person, carrying on business, shall provide facility for accepting payment through prescribed electronic modes, in addition to the facility for other electronic modes, of payment, if any, being provided by such person, **if** his total sales, turnover or gross receipts, as the case may be, in business exceeds Rs. 50 crore during the immediately preceding previous year.

Further section 271DB is proposed to be inserted whereby "If a person who is required to provide facility for accepting payment through the prescribed electronic modes of payment referred to in section 269SU, fails to provide such

facility, he shall be liable to pay, by way of penalty, a sum of Rs. 5,000/-, for every day during which such failure continues".

Further, it is proposed to make a consequential amendment in the Payment and Settlement Systems Act, 2007 so as to provide that no bank or system provider shall impose any charge upon anyone, either directly or indirectly, for using the modes of electronic payment prescribed under section 269SU of the Income-tax Act. **[Applicable w.e.f. 01/11/2019]**

15. To extend the benefit of recognizing interest income on receipt basis instead of accrual basis to NBFCs also, section 43D is proposed to be amended accordingly so as to include deposit taking non-banking financial company and a systemically important non-deposit taking non-banking financial company.

"Deposit taking non-banking financial company" means a non-banking financial company which is accepting or holding public deposits and is registered with the Reserve Bank of India under the provisions of the Reserve Bank of India Act, 1934;

*"Systemically important non-deposit taking non-banking financial company" means a non-banking financial company which is not accepting or holding public deposits **and** having total assets of not less than Rs 500 crore as per the last audited balance sheet and is registered with the Reserve Bank of India under the provisions of the Reserve Bank of India Act, 1934.*

As per matching principle in taxation, it is proposed to amend section 43B also in this regard. **[Applicable w.e.f. AY 2020-21]**

16. With a view to improve environment and to reduce vehicular pollution, it is proposed to insert a new section 80EEB in the Act so as to provide for a deduction in respect of interest on loan taken for purchase of an electric vehicle from any financial institution up to Rs. 1,50,000/- subject to the following conditions:
 - I.) the loan has been sanctioned by a financial institution including a non-banking financial company during the period beginning on the 1st April, 2019 to 31st March, 2023;
 - II.) the assessee does not own any other electric vehicle on the date of sanction of loan. **(This condition is not mentioned in Finance Bill, but in memorandum only)**
 - III.) It is also proposed that where a deduction under this section is allowed for any interest, deduction shall not be allowed in respect of such interest under any other provisions of the Act for the same or any other assessment year. **[Applicable w.e.f. AY 2020-21]**
17. To incentivize the affordable housing, it is proposed to insert a new section 80EEA in the Act so as to provide a deduction to individual in respect of interest up to Rs. 1,50,000/- on loan taken for residential house property from any financial institution subject to the following conditions:
 - I.) loan has been sanctioned by a financial institution during the period beginning on the 1st April, 2019 to 31st March 2020.

- II.) the stamp duty value of house property does not exceed Rs. 45 lakh;
- III.) assessee does not own any residential house property on the date of sanction of loan.
- IV.) Such individual is not eligible to claim deduction under section 80EE

N.B. : One can make tax planning by first availing benefit of deduction under section 24 of Rs. 2,00,000/-, and thereafter claiming remaining interest under this section which may be up to Rs. 1,50,000/-. It means total deduction up to Rs. 3,50,000/-
[Applicable w.e.f. AY 2020-21]

18. With a view to align the definition of "affordable housing" under section 80-IBA with the definition under GST Act, it is proposed to amend the said section so as to modify certain conditions regarding the housing project approved **on or after 1st day of September, 2019.**
19. **National Pension Scheme:** Payment from the NPS Trust to an assessee on closure of his account or on his opting out of the pension scheme is proposed to be made exempt to the extent of 60% of the total amount payable to the person at the time of closure or his opting out of the scheme instead of present limit of 40%.

Section 80CCD(2) is proposed to be amended in a way that **central government employees** can now get deduction upto 14% of employer's contribution instead of present limit of 10%.

To enable the Central Government employees to have more options of tax saving investments under National Pension System, it is proposed to amend the section 80C so as to provide that any amount paid or deposited by a Central Government employee for a fixed period of not less than three years as a contribution to his Tier-II account of the pension scheme shall be eligible for deduction under the said section. **[Applicable w.e.f. AY 2020-21]**

20. In section 56(2)(x), one of the matter is regarding **receipt** of unquoted shares. Section 50CA says about **transfer** of unquoted shares. Both sections says about fair market value also. Currently, the provisions of section 56(2)(x) are not applicable to certain specified transactions like receipt from relative, receipt on the occasion of the marriage of the individual, receipt under a will or by way of inheritance, receipt in contemplation of death of the payer or donor, as the case may be, receipt from an individual by a trust created or established solely for the benefit of relative of the individual etc. However, such exemption is not available under section 50CA.

Determination of fair market value based on the prescribed rules may result into genuine hardship in certain cases where the consideration for transfer of shares is approved by certain authorities and the person transferring the share has no control over such determination. In order to provide relief to such types of transactions from the applicability of sections 56(2)(x) and 50CA, it is proposed to amend these sections to empower the Board to prescribe transactions undertaken by certain class of persons to which the provisions of section 56(2)(x) and 50CA shall not be applicable. **[Applicable w.e.f. AY 2020-21]**

21. At present, tax on distributed income of domestic companies in form of buyback of **unlisted** shares is 23.296%. Such income is exempt u/s. 10(34A) in hands of shareholders. But no tax is there on buyback of listed share. So, many listed companies are making buybacks instead of distribution of dividend, as the tax is there on distribution of dividend @ 20.555%. So, in order to curb such tax avoidance practice adopted by the listed companies, the existing anti abuse provision under Section 115QA of the Act, pertaining to buy-back of shares from shareholders by companies not listed on a recognised stock exchange, is proposed to be extended to all companies including companies listed on recognised stock exchange. Thus, any buy back of shares from a shareholder by a company listed on recognised stock exchange, **on or after 5th July 2019**, shall also be covered by the provision of section 115QA of the Act. Consequential change is also proposed to extend exemption under section 10(34A) of the Act to shareholders of the listed company on account of buy-back of shares on which additional income -tax has been paid by the company u/s. 115QA.

22. In order to ensure that the trust or institution do not deviate from their objects, it is proposed to amend section 12AA of the Income-tax Act, so as to provide that,-

- I.) at the time of granting the registration to a trust or institution, the Principal Commissioner or the Commissioner shall, inter alia, also satisfy himself about the compliance of the trust or institution to requirements of any other law which is material for the purpose of achieving its objects;
- II.) where a trust or an institution has been granted registration under clause (b) of sub-section (1) or has obtained registration at any time under section 12A and subsequently it is noticed that the trust or institution has violated requirements of any other law which was material for the purpose of achieving its objects, and the order, direction or decree, by whatever name called, holding that such violation has occurred, has either not been disputed or has attained finality, the Principal Commissioner or Commissioner may, by an order in writing, cancel the registration of such trust or institution after affording a reasonable opportunity of being heard.

[Applicable w.e.f. 01/09/2019]

23. At present, benefit of proviso to section 201(1) [regarding Form no. 26A from CA] is available only when payee is resident. Now, it is proposed to be amended it whereby similar benefit would be given in case where payee is even non-resident. Consequential change is also proposed in section 40(a) whereby no disallowance would be made if conditions of proviso to section 201(1) are satisfied.

[Section 201(1) w.e.f. 01/09/2019] & [Section 40(a) w.e.f. AY 2020-21]

Actually, section 201(1) should also be amended w.e.f. 1st April, 2020 i.e. AY 2020-21.

24. Concessional rate of tax on STCG u/s 111A to CPSE ETF is discussed in memorandum, but no mention of it has been made in finance bill 2019. Same way, in para 101 of budget speech, it has been said to extend 80C benefits to CPSE ETF investment, but no mention of it has been made in finance bill 2019.
25. The existing provisions of section 140A, section 143, section 234A, section 234B and section 234C are proposed to be amended **retrospectively w.e.f. AY 2007-08** to include relief u/s. 89 there. This is of clarificatory nature only.
26. Section 56(2)(viib) [regarding share premium to be considered as income in certain cases] is proposed to be amended whereby certain notified entities to whom exemption was given from provisions of this section, if do not fulfill conditions of that notification, such excess amount collected (issue price – FMV) shall be taxable in the previous year in which such failure happens. **[Applicable w.e.f. AY 2020-21]**
27. The existing provisions of the section 56 of the Income-tax Act, inter alia, provide that income by way of interest received on compensation or on enhanced compensation referred to in section 145A(b) shall be chargeable to tax. The Finance Act, 2018 substituted the provisions of section 145A with sections 145A and section 145B. However, no consequential amendment is made in section 56. It is proposed to amend section 56 of the Act to provide the correct reference of section 145B(1) in section 56, in place of the existing reference of section 145A(b).

[Applicable w.e.f. AY 2017-18]

This point was in my suggestion list to Direct Tax Committee of ICAI and was part of pre-budget memorandum of ICAI also.

28. Clarificatory nature of amendment is proposed in section 270A whereby the situation of filing of return of income for first time u/s 148 is considered equivalent to situation where no return of income is filed. **[w.e.f. AY 2017-18]**
29. Sub-clause (ii) to proviso of Section 276CC(ii) is proposed to be amended whereby limit of tax is increased from Rs. 3000/- to Rs. 10,000/- and credits of TCS and self-assessment tax are also included in addition to present mention of credits of TDS and advance tax. **[Applicable w.e.f. AY 2020-21]**
30. **Rationalisation of the Income Declaration Scheme, 2016!!!** It is proposed to amend section 187 and section 191 of Finance Act, 2016 whereby Central Government may notify the class of persons who may make the payment of tax, surcharge and penalty in respect of the undisclosed income on or before a notified date, along with the interest on such amount, at the rate of one per cent of every month or part of a month, comprised in the period, commencing on the date immediately following the due date and ending on the date of such payment. In order to address **genuine** concern of the declarants, it is proposed to amend the said section so as to provide that the Central Government may notify the class of persons to whom the amount of tax, surcharge and penalty, paid in excess of the amount payable under the Scheme shall be refundable. **[retrospectively from 1st June, 2016]**

31. Rationalisation of provisions relating to STT!!! In order to rationalise the levy of STT where the option is exercised, it is proposed to amend the said section so as to provide that value of taxable securities transaction in respect of sale of an option in securities, where option is exercised, shall be the difference between the strike price and the settlement price instead of settlement price at present.

It's surprising that transaction tax is on difference of two values instead of transaction value.

[Applicable w.e.f. 01/09/2019]

32. In addition to above mentioned matters, proposals has been put in finance bill affecting Start ups, AIFs, IFSC etc.