UNION BUDGET
2020-21

DEWAN P.N. CHOPRA & CO.
Chartered Accountants

FOREWORD

With India entering its 8th decade as a republic last week, celebrating 70 years of its constitution, governing the worlds largest and most vibrant democracy, our Finance Minister, Ms Nirmala Sitharaman, presented the Union Budget for FY 2020-21 on 1st February, 2020.

This budget was presented at a precarious time as our government was elected in May 2019 with complete majority at the centre, positioned to drive unparalleled growth through reforms to capitalise on the fastest growing economy in the world, whereas, to the contrary, the past year has seen political uncertainty, social unrest and economic stress across the nation.

The Economic Survey for FY 19-20 recorded Real GDP growth at a low of 5% while Fiscal Deficit breached the limits laid out by FRMB of 3% and budgeted target of 3.3% to record a deficit of 3.8 % of GDP.

This deficit is largely on account of Revenue Receipts falling short of budgeted estimates. Disinvestments missed target with a significant gap, while direct taxes recorded a shortfall of 12.36% and indirect taxes recorded a shortfall of 11.79%. However, this shortfall was adjusted by a higher than budgeted dividend from RBI (INR 1.99 Lakh Cr. against a budgeted amount of INR 1.63 Lakh Cr.) among certain other Miscellaneous capital receipts.

Inflation has been on the rise since April 2019 recording a high of 7.4% in December 2019 as against 3.7% for FY 18-19.

Amidst rising inflation and declining growth, the big concern among citizens was rising unemployment at 8.5% in October 2019 as against 6.7% in November 2018 and declining domestic investments due to unutlized installed capacities which in turn is impacting both consumption and savings, all of which would bring to a halt the engines of a predominantly service and consumption driven economy. This decline in economic performance has been pegged as an aftermath of significant structural reforms including demonetisation and implementation of the GST regime.

By and large, the citizens of India would be open to any structural reform which could streamline resources to build an ecosystem of inclusive development and sustainable growth, driven by transparent governance and enabled by requisite digitisation. However, the unexpected introduction of these reforms coupled with the lack of infrastructure and knowledge among all stakeholders to implement the same is said to have triggered a shift in sentiment among the corporate community, creating a risk averse and subdued business environment.

Accordingly, this Union Budget was presented on the back of despair and in the light of hope to try and optimise the opportunity that lies before the fifth largest economy in the world.

Further, the task before the Finance Minister was not simple, as on one hand she was expected to allocate significant capital towards sectors driving engines of growth and job creation including Infrastructure, Real Estate, Energy, Banking, Telecom, whereas, on the other she had limited fiscal leeway due to pressures of adhering to the path of fiscal consolidation.

What emerged during the budget speech was the right intent built over three specific themes:
1. Aspirational India;
2. Economic Development;
3. Caring Society (Ease of Living)

In concept, these themes addressed relevant aspects of the financial ecosystem including development of the agri and rural sector, focus on skill development for the youth, investments in infrastructure, housing for all, enhancing liquidity through support to banks and NBFCs, impetus to trade and commerce including SMEs and MMEs, promoting entrepreneurship, sustainable growth, ease of living; ease of doing business; streamlining tax compliances, reducing harassment of citizens including through introduction of a tax charter, widening the tax net etc. being maxims to be adopted and implemented. Combined with principles of minimum Government, Maximum Governance and developing a strong Financial Sector, this budget attempts to continue on the path to a USD 5 trillion economy in 2025 from the current USD 2.9 trillion.

Having created the framework for the year ahead, all eyes are now on implementation of this plan within a prescribed timeline to help revive a sluggish and weary sentiment.

It may be meaningful here to quote Nanabhoy Palkhiwala an Indian jurist, an economist and one of the most revered tax experts in our history -

"We keep on breezily tackling fifty-year problems with five-year plans, staffed by two-year officials, working with one-year appropriations, fondly hoping that somehow the laws of economics will be suspended because we are Indians."

In essence, the process of economic change is slow but needs clarity, consistency and continuity for us to reap benefits over the long run.

This budget estimates GDP growth for FY 20-21 in Nominal terms at 10% (Real Growth will be subject to Inflation) and Fiscal Deficit at 3.5%. To achieve this target it has estimated the following key revenue receipts:

1. Direct Taxes at INR 13.19 Lakh Cr. being an increase of 12.74% from the estimate for FY 19-20.
2. Indirect Taxes at INR 11.04 Lakh Cr. being an increase of 11.13% from the estimate for FY 19-20.
3. Dividend and other Non-Tax Revenues of INR 3.85 Lakh Cr being an increase of 11.43% from the estimate for FY 19-20.
4. Disinvestment income of INR 2.10 Lakh Cr. being an increase of 223% from the estimate for FY 19-20. This would include the proposed IPO of LIC, potentially the largest IPO in Indian history.

"In our obsession with the Gross National Product, we have forgotten Gross National Happiness. Growth is concerned with the former, development with the latter. Growth is quantitative, development is qualitative. Quantitative growth counts, but qualitative development matters" *— Nani Palkhiwala*

This budget aptly recognises the need for both growth and development. Let us hope clarity, consistency and continuity in implementation of this budget overshadows any obstacles and impediments that may cause unnecessary delays in realising the true potential of this dynamic nation, one that is awaiting to be unleashed far too long.

Dhruv Chopra
Joint Managing Partner,
Dewan P.N. Chopra & Co.

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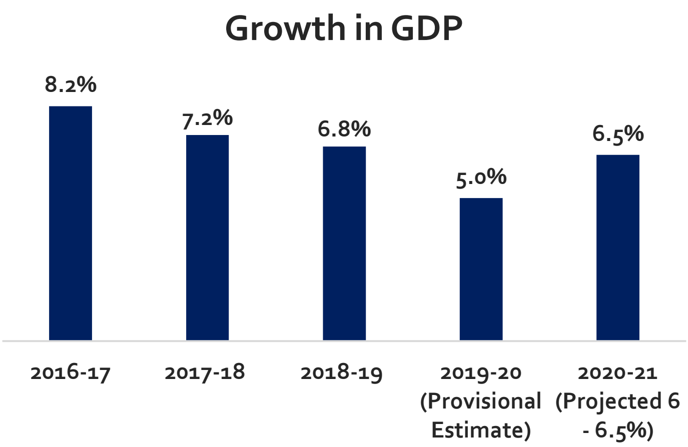
Economic Performance 2019-20

"The Economic Survey 2019-20 makes a humble attempt to craft a framework of policies to foster #WealthCreation in India. The survey argues that our rich tradition has always regarded ethical wealth creation as a noble human pursuit."

- K. Subramanian

(Chief Economic Advisor)

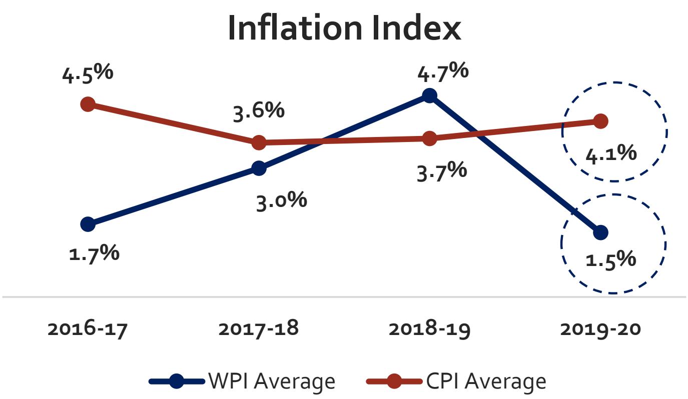
Gross Domestic Product



Source: Economic Survey 2019-20

- As per First Advance Estimates, growth in real GDP during 2019-20 is estimated at 5.0 per cent, as compared to the growth rate of 6.8 per cent in 2018-19.
- GDP growth is pegged at 6-6.5% in 2020-21.
- The World Economic outlook estimates India's economy to become the fifth largest in the world, as measured using GDP at current US$ prices, moving past United Kingdom and France. The size of the economy is estimated at US$ 2.9 trillion in 2019.

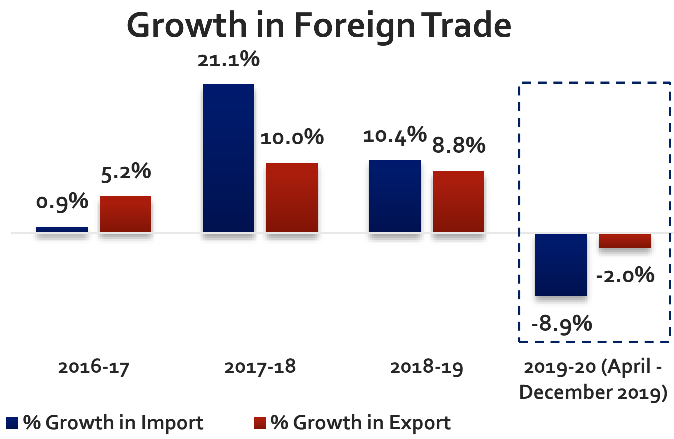
Inflation



Source: Economic Survey 2019-20

- Consumer Price Index-Combined (CPI-C) inflation increased to 4.1 per cent in 2019-20 (April to December, 2019) as compared to 3.7 per cent in 2018-19 (April to December, 2018). Though, Wholesale Price Index (WPI) inflation has seen an increase between 2015-16 and 2018-19, it fell from 4.7 per cent in 2018-19 (April to December, 2018) to 1.5 per cent during 2019-20 (April to December, 2019).

Imports and Exports



Source: Economic Survey 2019-20

- Percentage of growth rate of Import & Export decline by 8.9% and 2% respectively attributable to the slower growth of world output & trade, accompanied with lower domestic GDP growth in 2019-2020, among other factors.
- In 2019-20, Centre's fiscal deficit was budgeted at INR 7.04 lakh crore (3.3 per cent of GDP) as compared to INR 6.49 lakh crore (3.4 per cent of GDP) in 2018. In the first eight months of 2019-20, fiscal deficit stood at 114.8 per cent of the budgeted level.
- Almost synchronous with the acceleration in GDP growth to 7.5 per cent in 2014-19, the Balance of Payments (BoP) position of India improved from accumulated foreign reserves of US$ 304.2 billion at end of 2013-14 to US$ 412.9 billion at end of 2018-19.
- The BoP has improved from US$ 412.9 billion of forex reserves in end March, 2019 to US$ 433.7 billion in end September, 2019 and further to US$ 461.2 billion as on 10th January, 2020.
- The Current Account Deficit, which was 2.1 per cent of GDP in 2018-19, has improved to 1.5 per cent in first half of 2019-20 on the back of significant reduction in trade deficit.

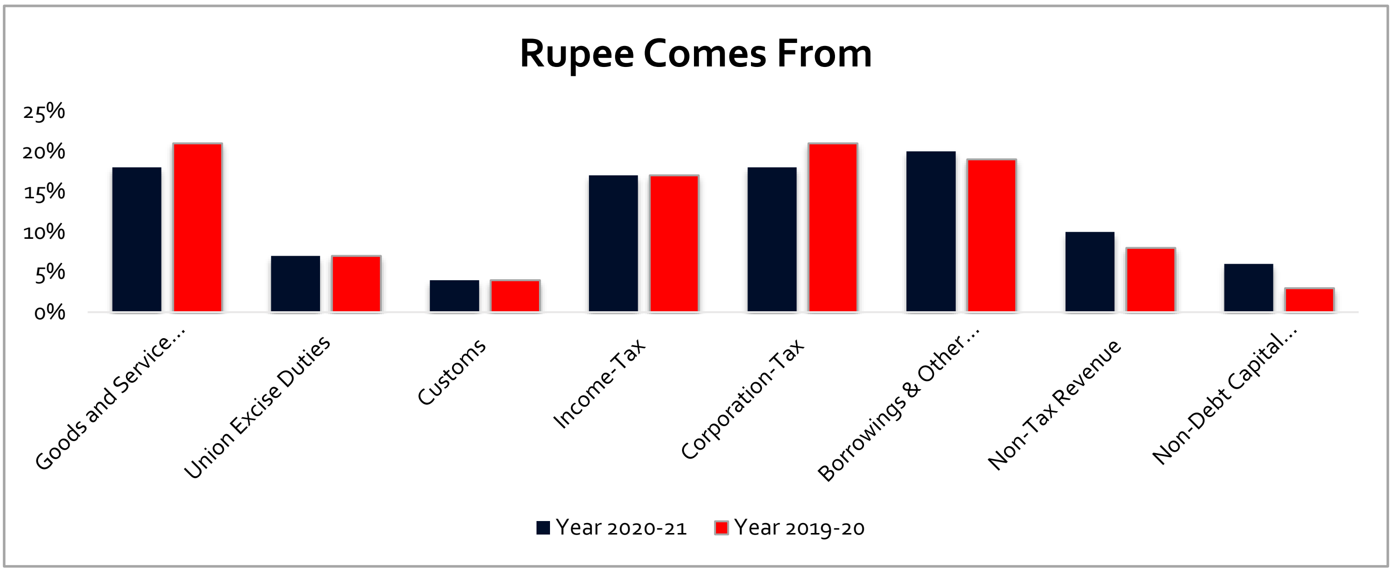
"This is a " Laghe Raho" Budget as there were no quick fixes or grandiose plans but lots and lots of initiatives which will all help keep the economy on course for the 10% realistic Nominal GDP growth planned. Big spend push through National Infra Pipeline, Transport sector and 16 initiatives on Farm growth should help rural economy and growth"

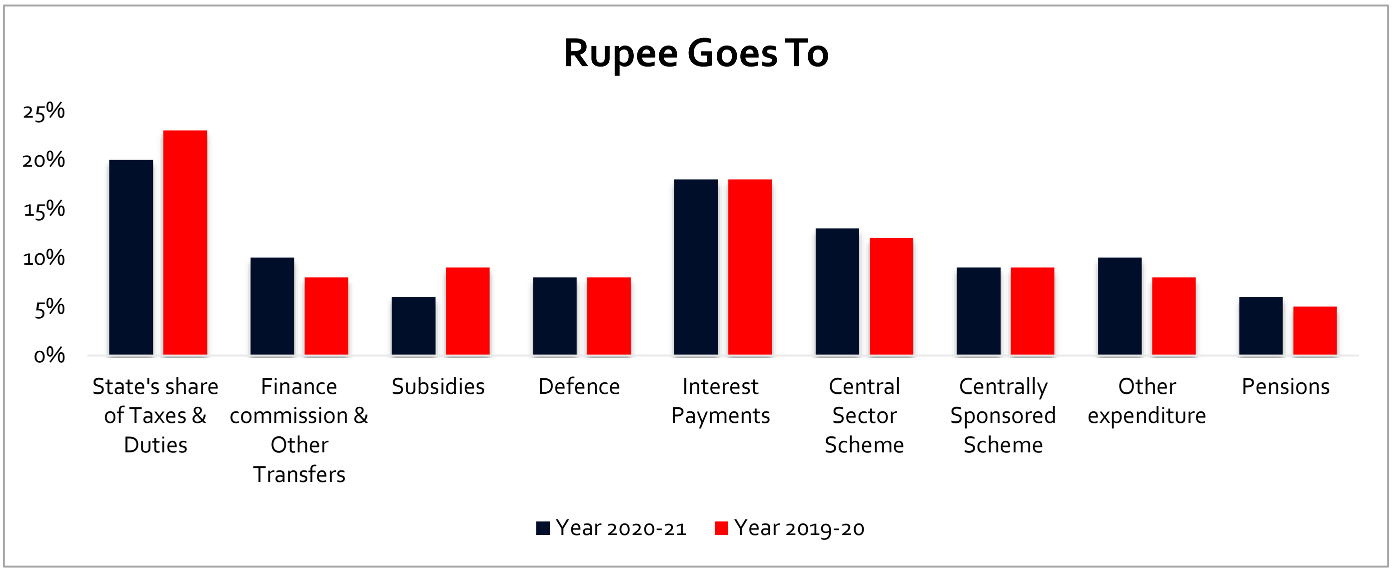
~Mahesh Balasubramanian, MD & CEO, Kotak Mahindra General Insurance Co. Ltd.

Budget Allocation and Fiscal Summary 2020-21

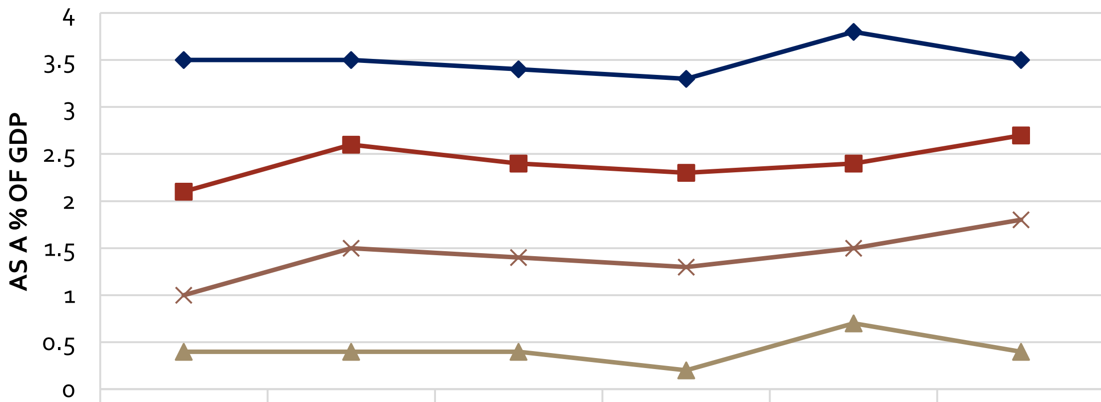
"The Budget provides credible numbers in terms of the fiscal math, recognizing the revenue shortfall faced this year. It uses up the 50bps point leeway that the FRBM act provides for both this and the next year which is a welcome step."

~Abheek Barua, Chief Economist, HDFC Bank





DEFICIT TRENDS



	2016-17	2017-18	2018-19	2019-20(BE)	2019-20(RE)	2020-21 (BE)
Fiscal Deficit	3.5	3.5	3.4	3.3	3.8	3.5
Revenue Deficit	2.1	2.6	2.4	2.3	2.4	2.7
Primary Deficit	0.4	0.4	0.4	0.2	0.7	0.4
Effective Revenue Defecit	1	1.5	1.4	1.3	1.5	1.8

Budget Theme and Allocation 2020-21

"The new reforms which have been announced in the budget will bring pace to the economy, strengthen every citizen financially and solidify the foundation of the country's economy"

~ Prime Minister Narendra Modi

Three Prominent Themes of Budget

Hon'ble Finance Minister (FM) has listed three(3) themes of the Union Budget :

1. Aspirational India;
2. Economic Development;
3. Caring Society (Ease of Living)

Further, the FM suggested 2 key pillars to support these three themes :

1. Transparent and Efficient Governance and
2. A strong Financial Sector;

"This budget, seeks to strengthen grassroots of the economy with its positive push towards creation of a strong agriculture infrastructure, which will give a big push to India's rural sector"

~Krish Iyer, President & CEO at Walmart India

1. Aspirational India

A. Agricultural Irrigation and Rural Development

- Budget Allocation for Year 2020-21 for said sector is Rs. 2.83 lakhs crores (PY Rs. 2.63 lakhs crores) divided as under:
  - For Agricultural, Irrigation & Allied activities – Rs. 1.60 lakh crores (PY 1.2 lakhs crores);
  - For Rural development & Panchayati Raj – Rs. 1.23 lakh crores (PY Rs. 1.43 lakhs crores)
- 16 action points mentioned by Hon'ble Finance Minister which are focus of Government;
- Viability gap funding for creation of efficient warehouses on PPP mode;
- NABARD will undertake an exercise to map and geo-tag agri-warehousing, cold storage etc.;
- Indian railways will set up "Kisan Rail" under PPP arrangement for seamless national cold supply chain of perishable commodities. There shall be refrigerated coaches in Express and Freight trains as well;
- KrishiUdaan will be launched by Ministry of Civil Aviation on international and national routes. This will help improve value realization especially in North East and tribal district;
- Agriculture credit target for the Year 2020-21 has been set at Rs. 15 lakh crore. All eligible beneficiaries of PM-KISAN will be covered under the KCC Scheme;

B. Wellness, Water and Sanitation

- Budget Allocation for Health Sector is Rs. 64,000 crore (PY Rs. 63,830 crores) inclusive of Rs. 6,400 crores for PM Jan Arogya Yojana (PMJAY);
- Budget Allocation for Swachh Bharat Mission of Rs. 12,300 crore (PY 9,600 crores);
- Budget allocation of Rs. 11,500 crores provided for Jal Jeevan Mission (PY 10,000 crores);
- Presently, under PMJAY, there are more than 20,000 empanelled hospitals. More such hospitals needed in Tier-2 and Tier-3 cities for poorer people under this Scheme;
- Viability gap funding window proposed for setting up hospitals in PPP Mode. In first phase, those Aspirational Districts will be covered, where presently no Ayushman empanelled Hospitals;
- "TB Harega Desh Jeetega" campaign launched to end TB by Year 2025;

C. Education and Skills

- Budget Allocation of Rs. 99,300 crores for education sector (PY 94,850 crores) and Rs. 3,000 crores (PY 2,670 crores) for skill development;
- By Year 2030, India is set to have largest working age population in the world;
- Steps would be taken to enable sourcing ECBs and FDIs so as to be able to deliver higher quality education;
- Proposed to start a programme whereby urban local bodies across the country would provide internship opportunities to fresh engineers for a period upto one year;

- About 150 higher education institutions will start apprenticeship embedded courses;
- Under "Study in India" programme, Ind-SAT is proposed to be held in Asia and Africa. It shall be used for benchmarking foreign candidates who receive scholarships for studying in Indian higher education centres;
- National Police University and National Forensic Science University are being proposed in domain of policing science, forensic science, cyber-forensic etc.;

2. Economic Development

A. Industry, Commerce and Investment

- Budget Allocation of Rs. 27,300 crores (PY 28,600 crores) for development and promotion of Industry and Commerce;
- Setting up of Investment clearance Cell to provide end to end facilitation and support including pre-investment advisory, information related to land banks and facilitate clearances at Centre and State level;
- To develop Five(5) new smart cities in collaboration with states in PPP mode. Already 99 cities have been chosen for development as smart cities;
- Scheme to encourage manufacturing of mobile phones, electronic equipment and semi-conductor packaging. Details of the scheme will be announced later. This scheme can be adapted for manufacture of medical devices too with suitable modifications;
- To achieve higher export credit disbursement, NIRVIK is being launched to provide for higher insurance coverage, reduction in premium of small exporters and simplified procedure for claim settlements;
- National Technical Textiles Mission is proposed for a four(4) year implementation period from Year 2020-21 to Year 2023-24 at an estimated outlay of Rs. 1,480 crores. This is aimed at reducing imports of significant quantity of technical textiles and to position India as a global leader in technical textiles ; or MSMEs
- Proposed to digitally refund to exporters, duties and taxes levied at Central, State and Local levels such as electricity duties and VAT on fuel used for transportation, which are not getting exempted or refunded under any other existing mechanism. This scheme is proposed to be launched this year;
- GeM is moving ahead for creating a Unified procurement system in country for providing single platform for procurement of goods, services and works. 3.24 lakh vendors are already on this platform and it offers a great opportunity for MSMEs;

B. Infrastructure

- Rs. 103 lakh crores for National Infrastructure Pipeline projects launched on 31.12.2019 which consists of more than 6500 projects across sectors and are classified as per their and stage of development with a vision to improve the ease of living for each individual citizen in country;
- Budget allocation under the infrastructure sector is as under:
  - For Transport infrastructure – Rs. 1.70 lakh crore (PY 1.6 lakh crores);
  - For power and renewable energy Sector – Rs. 22,000 crore;
- National Logistics Policy to be launched soon creating a single window e-logistics market and focus on generation of employment, skills and making MSMEs competitive;

"The Union Budget is a forward-looking budget and the government's commitment to boost income, increase purchasing power and towards accelerated development of highways is a welcome step for the automotive industry. I am pleased with the thrust on sustainability, an area dear to Bridgestone, the focus on climate change and Rs 4,400 crore allocation for clean air"

~Mr Parag Satpute. Managing Director at Bridgestone India Private Limited.

Accelerated development of Highways will be undertaken including development of access control highways, economic corridors, coastal and land port roads and strategic highways;

- Four station re-Development projects and operations of 150 passenger trains to be carried through PPP mode;
- More Tejas type trains for iconic tourist destinations;
- Corporatizing at least one major port and subsequent listing on stock exchanges;
- Jal Vikas Marg on National Waterway-1 will be completed and 890km Dhubri-Sadiya connecticity will be done by Year 2022;
- 100 more airports to be developed by Year 2024 to support Udaan Scheme. Air fleet number is expected to go up from present 600 to 1200 during the period Year 2020 to Year 2024;
- Intends to promote "smart" metering and urged all States and Union territories to replace conventional energy meters by prepaid smart meters in next 3 years. This would give consumers freedom to choose supplier and rate as per their requirements;
- Expand national Gas grid to 27,000 km from present 16,200 km;

C. New Economy

- Budget allocation for Bharatnet programme is Rs. 6,000 crore (PY 3,000 crores). Vision that all "public institutions" at Gram Panchayat level such as Anganwadis, health and wellness centre govt. schools, post offices, police stations will be provided digital connectivity wherein Fibre to the Home (FTTH) connections through Bharatnet will link 100,000 gram panchayats this year;

> *"By making Fibre to the home (FTTH) accessible to 100,000 Gram Panchayats via BharatNet, which will go a long way in bridging the digital divide"*
>
> *~CP Gurnani, MD & CEO, Tech Mahindra*

- National Mission on Quantum Technologies and applications with an outlay of Rs. 8,000 crore proposed over a Five(5) year period. Quantum technology is opening up new frontiers in computing, communications, cyber security with wide spread applications;
- Digital platform would be promoted that would facilitate seamless application and capture of Intellectual Property Rights (IPR) and in Institution of Excellence, Centre would be established that would work on complexity and innovation in field of Intellectual Property

3. Caring Society (Ease of Living)

A. Environment & Climate Change

- In large cities having population above one(1) million, clean air is a matter of concern. Government proposes to encourage such states that are formulating and implementing plans for ensuring cleaner air in cities above one(1) million by allocation of Rs. 4,400 crore in the budget;
- Parameters for incentives would be notified by Ministry of Environment, Forests and Climate Change;
- Thermal power plants that are old and carbon emission levels are high are proposed to be closed, if their emission is above pre set norms. The land so vacated can be put to alternate use;

B. Culture and Tourism

- Budget Allocation of Rs. 3,150 crores for Ministry of Culture;
- Rs. 2,500 crore for Tourism Promotion;
- Proposal to establish Indian Institute of Heritage and conservation which shall have status of a deemed university;
- Five(5) Archaeological sites to be developed as iconic sites in Haryana, Uttar Pradesh, Assam, Gujarat and Tamil Nadu;
- India has moved up from Rank 65 in 2014 to 34 in 2019 in Travel and Tourism Competitive Index;
- Foreign Exchange earnings grew 7.4% to Rs. 1.88 lakh crores for the period Jan-Nov 2019 from Rs. 1.75 lakh crores;

C. Women & Child, Social Welfare

- Budget Allocation under the head Women & Child, Social Welfare are as under:
    - A task force to be appointed to recommend regarding lowering MMR and improving nutritional levels and Rs. 35,600 crore is being allocated for nutrition related programmes for Year 2020-21;
    - Government has allocated Rs. 28,600 crore for programmes that are specific to women continuing with its commitment to the welfare of women;
    - Rs. 85,000 crore for Welfare and Development of Scheduled Caste and Other Backward classes;
    - Rs. 53,700 crores for Welfare and development of Schedule Tribes;
    - Government being mindful of concerns of senior citizens and Divyang has proposed an enhanced allocation of Rs. 9,500 crores;

- Prime Minister launched "Poshan Abhiyan" in Year 2017-18 under which more than six(6) lakh anganwadi workers are equipped with smart phones to upload to upload nutritional status of more than 10 crore households;

The above themes shall be implemented in two pillars

1. Governance

- Proposal to evolve a robust mechanism for appointment to various Tribunals and specialized bodies for speedy disposal of commercial and other disputes;

- Committed to support all round development of newly formed Union Territories of J&K and Ladakh;

- Amount of Rs. 30,757 crores provided for Union Territory of J&K and Rs. 5,958 crores for Union Territory of Ladakh;

2. Financial Sector

- Deposit Insurance and Credit Guarantee Corporation (DICGC) has been permitted to increase Deposit coverage Insurance from Rs. 1 lakh to Rs. 5 lakhs;

- Eligibility limit for NBFCs for debt recovery under SARFAESI Act proposed to be reduced to asset size of Rs. 100 crore from Rs. 500 crore or loan size of Rs. 50 lakhs from Rs. 1 crore

- Proposal to sell balance holding of Government in IDBI Bank to private, retails and institutional investors through stock exchange;

- Appropriate measures will be taken to bring transparency and greater professionalism in Public Sector Banks;

- Separation of NPS Trust for employees from PFRDAI;

- Proposal to sell a part of holding in LIC by way of IPO;

- Proposal for safeguarding MSMEs
    - Amendments made to Factor Regulation Act, 2011 to enable NBFCs to extend invoice financing to the MSMEs through TReDS;
    - To introduce scheme to provide subordinate debt for entrepreneurs of MSMEs. This subordinate debt to be provided by banks would count as quasi-equity and would be fully guaranteed through CGTMSE whose corpus is augmented by Government;
    - More than Five(5) lakh MSMEs benefitted from restructuring of debt permitted by RBI in last year. Government has asked RBI to consider extending restructuring window from 31.03.2020 to 31.03.2021;
    - App based invoice financing loans product will be launched;
    - Proposal to extend handholding support to mid-sized companies in selected sectors such as pharmaceuticals, auto components and others for technology upgradations, R&D, business strategy etc. For this, a scheme of Rs. 1,000 crore will be anchored by EXIM Bank together with SIDBI wherein both the institutions will contribute Rs. 50 crore each;

- Proposal for development of Financial Markets
    - Certain specified categories of Government securities would be opened fully for non-resident investors;
    - Limit for FPI in corporate bonds increased to 15% of outstanding stock from existing 9%;
    - Proposal to formulate a legislation soon for laying down mechanism for netting of financial contracts;
    - To float a new Debt-ETF consisting primarily of Government Securities;

"Given the constraints that the Finance Minister was facing, this has been a comprehensive statement. The government has done a commendable job and the various measures announced will strengthen India, individuals and industry. By invoking the deviation clause in FRBM Act and relaxing the fiscal deficit to 3.8 per cent in the current year and targeting 3.5 per cent in the next year, the government has underscored its resolve to support the economy at a time when it needs a fiscal boost"

~Sangita Reddy, President, FICCI

Direct Taxation

“Overall, Budget 2020 is a thoughtful weaving together of specific proposals to tackle varied issues. Measures to improve access to finance for MSMEs and reduced taxation for the middle-income segment are welcome steps. Boosting physical infrastructure, expanding digital connectivity and growing use of technology in government functioning are important building blocks for the long-term growth of the Indian economy”

~Kunal Bahl, CEO & Co-founder of Snapdeal

Personal Taxation

Incentives to Individual and HUF (New Section 115BAC)

A new Section 115BAC has been proposed to be inserted under Income Tax Act,1961 (Act) to provide an option to Individuals and HUFs to pay tax at lower rates without claiming certain exemptions and deductions (around 70) under the new simplified income tax regime. Tax Rates as per the Old and New Regime are as follows:

Tax Slab as per New Regime	New Tax Rate
Upto Rs 2.5 Lakhs	Exempt
Rs 2.5- Rs 5 Lakhs	5%
Rs 5- Rs 7.5 Lakhs	10%
Rs 7.5 -Rs 10 Lakhs	15%
Rs 10 - Rs 12.5 Lakhs	20%
Rs 12.5 - Rs 15 Lakhs	25%
Above Rs 15 Lakhs	30%

Tax Slab as per Old Regime	Old Tax Rate
Upto Rs 2.5 Lakhs	Exempt
Rs 2.5- Rs 5 Lakhs	5%
Rs 5- Rs 10 Lakhs	20%
Above Rs 10 Lakhs	30%

- Rebate u/s 87A of upto Rs. 12,500/- will be available under both old and new tax regime for the Individual/HUF having income upto Rs. 5,00,000/-
  - The above option is to be exercised each year by individual or HUF **having no business income**
  - In other cases **(having business income)** the option once exercised for a previous year shall be valid for that previous year and all subsequent years.

- Individuals/HUF opting for the New Tax Regime will not be entitled to some exemptions/ deductions. The key exemptions and deductions are as follows**:**
  - Leave travel concession as contained in clause (5) of section 10;
  - House rent allowance as contained in clause (13A) of section 10;
  - Standard deduction of Rs. 50,000/- , deduction for entertainment allowance and employment/professional tax as contained in section 16;
  - Interest under section 24 in respect of self-occupied or vacant property referred to in sub-section (2) of section 23 of Rs. 2,00,000/-
  - Any deduction under chapter VIA (like section 80C of Rs 1,50,000/-, 80D of Rs. 50,000/-, 80GG of Rs 60,000/-, etc). However, deduction under sub-section (2) of section 80CCD (employer contribution on account of employee in notified pension scheme) and u/s 80JJAA (for new employment) can be claimed.
  - Deduction u/s 10AA, 32AD, 35AD etc.

This amendment is proposed to be effective from A.Y. 2021-22 onwards.

Changes in Residency provisions for Individuals/HUFs:

- In clause (b) of Explanation 1, reference to 120 days shall be substituted in place of 182 days for a person being a citizen of India, or a person of Indian origin who, being outside India, comes on a visit to India in any previous year;

- Further Indian citizen who is not taxable in any other country by reason of domicile, residence etc. would be deemed to be a resident of India;

- An individual or an HUF shall be said to be "not ordinarily resident" in India in a previous year, if the individual or the manager of the HUF has been a non-resident in India in seven out of ten previous years preceding that year.

Note: As per latest Press Release issued by CBDT on 2 February 2020, it has been clarified that in case of an Indian citizen who becomes deemed resident of India under proposed amendment to section 6, income earned outside India by him shall not be taxed in India unless it is derived from an Indian business or profession.

Accordingly, the proposed amendment in section 6 is not intended to include in tax net those Indian Citizens who are bonafide workers in other countries including Middle East who are not liable to be taxed in these countries on income earned there.

This amendment is proposed to be effective from A.Y. 2021-22 onwards

Dividend Taxability

Due to abolition of Dividend Distribution Tax, dividend will be taxable in the hands of taxpayers at their applicable tax rates.

Deferring Tax Payments in respect of income pertaining to ESOPs of Start-Ups

To ease the burden of payment of taxes on ESOPs allotted by eligible Start-Ups, it is proposed to tax such income within 14 days:

- After the expiry of 48 months from the end of relevant AY; or
- From the date of sale of such specified security or sweat equity share by the assessee; or
- From the date on which the assessee ceases to be the employee of such Start-up;

whichever is the earliest on the basis of rates in force of the FY in which the said specified security or sweat equity share is allotted or transferred.

This amendment is proposed to be effective from A.Y. 2021-22 onwards

Corporate Taxation

Abolition of Dividend Distribution Tax ('DDT')

The existing provisions for taxation of dividend are considered regressive. Accordingly, change in taxation system for dividend has been proposed whereby dividend or income from mutual fund units (received on or after 1 April 2020) shall be taxable in the hands of the shareholders or unitholders at the applicable rate instead of present system of taxation in the hands of domestic company or mutual funds distributing dividends.

To remove cascading effect, it has been proposed to insert section 80M which provides that where total income of a domestic company in any year includes any income by way of dividends from any other domestic company, then a deduction shall be allowed of an amount equal to the amount of dividend distributed by the first mentioned domestic company upto one month prior to due date of filing ITR.

It is also proposed to amend section 57 to provide that no deduction shall be allowed from dividend income other than deduction on account of interest expense and such deduction shall not exceed 20% of the dividend income.

It is proposed to amend section 194 to include dividend for tax deduction at the rate of 10% where dividend amount exceeds Rs. 5,000/-.

Section 194LBA proposed to be amended to provide for tax deduction by business trust on dividend income paid to unit holder at the rate of 10% for both resident and for non-resident.

New section 194K is proposed to be inserted to provide for tax deduction at the rate of 10% in respect of income in excess of Rs. 5000 from mutual fund specified under section 10(23D).

These amendments are proposed to be effective from A.Y. 2021-22 onwards

"Although my immediate response to the budget was satisfactory, now that I've read the fine print I must say I'm less optimistic about strong economic revival. In fact removal of exemptions on Dividend Distribution Tax (DDT) will hurt individual tax payer and affect consumer spending. Why no export incentives?"

~Kiran Mazumdar-Shaw, CMD of Biocon

Rationalization of Deduction under section 35AD

Section 35AD(4) provides that no deduction is allowable under any other section in respect of the capital expenditure referred to in sub-section 35AD(1). At present, an assessee does not have an option of not availing the incentive under said section.

To avoid legal interpretation that a domestic company opting for concessional tax rate u/s 115BAA or section 115BAB (which cannot claim deduction under section 35AD), would also be denied normal depreciation u/s 32, it is proposed to amend section 35AD to now make the deduction optional for the assessee.

This amendment is proposed to be effective from A.Y. 2020-21 onwards

Extension of concessional rate of 15% to electricity generation companies

It is proposed to amend section 115BAB to provide benefit of concessional rate of tax @ 15% to new electricity generation companies. Such section 115BAB currently applies only to companies engaged in the business of manufacturing or production of articles or goods.

This amendment is proposed to be effective from A.Y. 2020-21 onwards

Allowing deduction for amount disallowed u/s 43B to insurance companies on payment basis.

Taxation of Insurance business is governed by the provisions of section 44 of the Act read with Rule 5 contained in the First Schedule to the Act which provides for computation of profits and gains of other insurance business. There was no specific provision in this Rule to allow deduction for any payment of certain expenses specified in section 43B if they are paid in subsequent previous year. Thus there is a possibility that such sum may not be allowed as deduction in the previous year in which the payment is made. This not being the intention of the legislature, it is proposed to amend the said Rule 5 to provide that any sum payable by the assessee which is added back under section 43B shall be allowed as deduction in computing the income under the Rule in the previous year in which such sum is actually paid.

This amendment is proposed to be effective from A.Y. 2020-21 onwards

Amendment in Section 115BAA and 115BAB

- The Taxation Laws (Amendment) Act, 2019 inserted section 115BAA and section 115BAB to provide domestic companies with an option to pay tax at the concessional tax rates of 22% and 15% respectively provided they do not avail specified deductions and incentives. Some of the deductions prohibited were deductions under any provisions of Chapter VI-A under the heading "C. Deduction in respect of certain incomes" other than the provisions of Section 80JJA.
- It is proposed that, companies opting for the concessional rates under these sections shall not be allowed a deduction under any provisions of Chapter VI-A other than section 80JJAA or section 80M (relating to cascading effect of dividend income). Thus such companies can take benefit of section 80M

This amendment is proposed to be effective from A.Y. 2020-21 onwards

Exemption in respect of certain income of Indian Strategic Petroleum Reserves Limited (ISPRL)

It is now proposed to insert clause (48C) in section 10 to provide exemption to any income arising to ISPRL as a result of an arrangement for replenishment of crude oil stored in its storage facility in pursuance to directions of the Central Government in this behalf subject to the condition that the crude oil is replenished in the storage facility within 3 years from the end of the FY in which the crude oil was removed from the storage facility for the first time.

This amendment is proposed to be effective from A.Y. 2020-21 onwards

Amendment in provisions relating to the verification of return

Section 140 is proposed to be amended to include any other person as may be prescribed by the CBDT to verify the return of income in the cases of a company and a limited liability partnership

Insolvency professional empowered to act as authorized representative

Amendment In section 288 is proposed to empower insolvency professional in case of a company under going IBC proceedings to appear before income tax authority or appellate tribunal on behalf of an assessee as its authorised representative.

This amendment is proposed to be effective from A.Y. 2021-22 onwards

Transfer Pricing and International Tax

Transfer pricing

Due date of furnishing Form 3CEB

Amendment is proposed in section 92F to provide for furnishing of Form 3CEB/transfer pricing report one month before the due date of filing the return of income i.e. by 31 October.

This amendment is proposed to be effective from A.Y. 2020-21 onwards

Amendment for providing attribution of profit to PE in Safe Harbour Rules (SHR) u/s 92CB and in Advance Pricing Agreement (APA) u/s 92CC:

The provisions of SHR u/s 92CB and APA u/s 92CC which as of now only covers determination of Arm's length price for transfer pricing purposes has helped in reduction of disputes and in providing certainty in the field of transfer pricing.

Representation were received that attribution of profits to the PE of a non-resident u/s 9(1)(i) in accordance with Rule 10 also results in avoidable disputes in a number of cases. In order to provide certainty, the attribution of income in case of a non-resident person to the PE is also required to be clearly covered under the provisions of the SHR and the APA. Thus, it is proposed to amend section 92CB and section 92CC to cover determination of attribution to PE within the scope of SHR and APA.

This amendment is proposed to be effective from A.Y. 2020-21 onwards

Amendment in Dispute Resolution Panel (DRP)

Reference to the words "in the income or loss returned" in section 144C(1) is proposed to be omitted and the definition of eligible assessee u/s 144C(15) proposed to be amended to include "a non resident not being a company" also.

Thus, AO passing any prejudicial order against a foreign company or a non-resident (not being a company) has to follow the procedure laid down under section 144C and such foreign company or non resident (not being a company) shall have choice to dispute such order before DRP. This means opening of DRP route for non residents other than foreign company also.

Moreover, the non-residents can also take the DRP route for any order of assessment (Penalty, TDS order etc) apart from order of assessment proposing variation in income or loss.

This amendment is proposed to be effective from A.Y. 2020-21 onwards

Excluding interest paid or payable to Permanent Establishment (PE) of a non-resident Bank for disallowance of interest u/s 94B.

Section 94B provides certain limitation as to deductibility of interest paid/payable by an Indian Company or by PE of a foreign company to its Associated Enterprise (AE). The definition of AE in section 92A, inter alia, deems two enterprises to be AE, if during the year a loan advanced by one enterprise to the other enterprise is at 50 % or more of the book value of the total assets of the other enterprise.

Thus, the interest paid or payable in respect of loan from the branch of a foreign bank may attract provisions of interest limitation provided for under this section as the said branch is deemed to be AE of entity taking the loan. It is, therefore, proposed to amend section 94B to provide that provisions of interest limitation would not apply to interest paid in respect of a debt issued by a lender which is a PE of a non-resident, being a person engaged in the business of banking, in India.

This amendment is proposed to be effective from A.Y. 2020-21 onwards

International Tax

Exemption from filing return of income for non-resident in certain cases

As per existing provisions of section 115A, a non-resident is exempted from filing return of income where the total income consists of only Dividend or Interest income on which tax has been deducted

It is proposed to extend this benefit to non-residents where their total income consists of only Royalty or Fees for Technical Services ('FTS') and tax has been deducted on such income.

It is further proposed that exemption from filing return of income shall only be given where tax deducted is not lower than the prescribed rates as per section 115A for both Dividend/ Interest income or Royalty/FTS income.

This amendment is proposed to be effective from A.Y. 2020-21 onwards

Exemption of income to wholly owned subsidiary (WOS) of Abu Dhabi Investment Authority (ADIA) and Sovereign Wealth Fund (SWF)

Exemption from tax provided to WOS of ADIA or SWF on income in the form of dividend, interest or long-term capital gains arising from an investment made by it in India in a company or enterprise carrying on the business of developing, or operating and maintaining, or developing, operating or maintaining any infrastructure facility as defined in Explanation to clause (i) of section 80-IA(4) or such other business as may be notified by the Central Government in this behalf. Investment is required to be made on or before 31st March, 2024 and is required to be held for at least three years.

This amendment is proposed to be effective from A.Y. 2021-22 onwards

Modification in conditions for offshore funds' exemption from "business connection".

Based on various representations received it is proposed to amend section 9A to relax certain conditions stated therein subject to which the offshore funds are said to be not creating any business connection in India

i. for the purpose of calculation of the aggregate participation or investment in the fund, directly or indirectly, by Indian resident, contribution of the eligible fund manager during first three years up to twenty-five crore rupees shall not be accounted for; and

ii. If the fund has been established or incorporated in the previous year, the condition of monthly average of the corpus of the fund to be at one hundred crore rupees shall be fulfilled within twelve months from the last day of the month of its establishment or incorporation.

This amendments is proposed to be effective from A.Y. 2020-21 onwards

Concessional TDS rates on interest payable to certain Non Residents:

Amendment in section 194LC proposed to extend the period of concessional rate of withholding tax of 5% on interest paid to non residents to 1st July, 2023 from 1st July, 2020. Also concessional rate of TDS of 4% proposed on interest payable to non residents on bonds issued on or after 1st April, 2020 but before 1st July, 2023 and which is listed only on a recognised stock exchange located in any IFSC.

This amendments is proposed to be effective from A.Y. 2020-21 onwards

Amendment in section 194LD proposed to extend the period of concessional rate of withholding tax of 5% on interest payable to FII and QFIs on their investment in Government securities and Rupee denominated bonds to 1st July, 2023 from 1st July, 2020. Also it is provided that the concessional rate of TDS of 5% shall also apply on the interest payable, on or after 1st April, 2020 but before 1st July, 2023, to a FII or QFI in respect of the investment made in municipal debt security.

This amendments is proposed to be effective from A.Y. 2020-21 onwards

Aligning purpose of entering into Double Taxation Avoidance Agreements (DTAA) with Multilateral Instrument (MLI).

To make the DTAAs in line with MLI, it is proposed to amend section 90 and section 90A to align the purposes of entering into DTAA with the preamble of MLI which includes avoidance of double taxation without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance (including through treaty-shopping arrangements aimed at obtaining reliefs provided in this agreement for the indirect benefit of residents of any other country or territory).

This amendment is proposed to be effective from A.Y. 2021-22 onwards

Deferral of Significant Economic Presence (SEP) provisions

It is proposed to defer SEP provisions by one year in light of the discussions pending under the G20-OECD BEPS project.

Accordingly, SEP provisions (with certain amendments) shall take effect from FY 2021-22 (AY 2022-23).

Extension of source-based taxation under section 9

It is proposed to amend section 9 by inserting Explanation 3A which provide that income attributable to the operations carried out in India, as referred to in Explanation 1, shall include income from:

- advertisement which targets a customer who resides in India or a customer who accesses the advertisement through internet protocol address located in India;
- sale of data collected from a person who resides in India or from a person who uses internet protocol address located in India; and
- sale of goods or services using data collected from a person who resides in India or from a person who uses internet protocol address located in India.

These amendments are proposed to be effective from A.Y. 2021-22 onwards

Expansion of Royalty definition under section 9(1)(vi)

As per existing provisions, the definition of Royalty under section 9(1)(vi) specifically excludes sale, distribution or exhibition of cinematographic films. Due to such exclusion, such royalty is not taxable in India even if the tax treaties give India the right to tax such royalty. Such a situation is discriminatory against Indian residents, since India is foregoing its right to tax royalty in case of a non-resident from another country without that other country offering similar concession to Indian resident.

Accordingly, it is proposed to amend Explanation 2 to section 9(1)(vi) to include sale, distribution or exhibition of cinematographic films under the definition of Royalty.

This amendment is proposed to be effective from A.Y. 2021-22 onwards

Indirect transfers provisions amended as per latest SEBI provisions

As per existing provisions, indirect transfer provisions are not applicable to an asset or capital asset held by a non-resident by way of investment, directly or indirectly, in Category 1 or Category II foreign portfolio investor under SEBI (Foreign Portfolio Investors) Regulations, 2014. At present, SEBI has notified SEBI FPI Regulations, 2019 and repealed SEBI Regulations, 2014. SEBI FPI Regulations, 2019 has done away with the broad basing criteria for the purposes of categorization of portfolios and reduced the categories from three to two.

Accordingly, it is proposed to amend section 9 to update the provisions with SEBI (Foreign Portfolio Investors) Regulations, 2019 instead of the repealed SEBI (FPI) Regulations, 2014 and also grandfather erstwhile Category I and Category II FPIs under SEBI FPI Regulations 2014.

This amendment is proposed to be effective from A.Y. 2021-22 onwards

Expansion of Power of the CBDT to make Rules

It is proposed to amend section 295 to empower the CBDT to make rules for the manner in which and the procedure by which the income shall be arrived in the case of:

- Operations carried out in India by a non-resident;
- Transaction or activities of a non-resident.

as referred in section 9(i)

This amendment is proposed to be effective from A.Y. 2021-22 onwards

Rationalization & Simplification

Rationalisation of provisions relating to tax audit in certain cases

i. To reduce compliance burden on SMEs, it is proposed to increase the threshold limit of total sales or turnover or gross receipts in business from 1 crore to 5 crore for the applicability of Tax Audit Report (TAR) u/s 44AB provided the following conditions are fulfilled:

   a) Aggregate of cash receipts during the year does not exceed 5% of total receipts; and

   b) Aggregate of cash payments during the year does not exceed 5% of total payments

   No change in the threshold limit of gross receipts for person carrying on a profession.

ii. Distinction between a working and a non-working partner of a firm is proposed to be removed with respect to the due date for filing of ITR where firm is subjected to tax Audit.

iii. Also to provide facility of pre-filling of ITRs it is proposed to keep one-month gap between filing of TAR and ITR. Accordingly, it is proposed that:

   a) Return of income has to be filed by 31 October in the case of Company, Person audited u/s 44AB, Partner of a firm audited u/s 44AB (Current due date is 30th Sept)

   b) Tax audit report has to be filed by 30 September

   Audit report u/s 10, 10A, 12A, 32AB, 33AB, 33ABA, 35D, 35E, 44DA, 50B, 80-IA, 80IB, 80JJA, 92F, 115JB, 115JC and 115VW etc also to be filed by 30 Sept.

These amendments are proposed to be effective from A.Y. 2021-22 onwards

Reduced tax rate for resident Co-operative Societies

A new Section 115BAD is proposed to be inserted to provide that a co-operative society resident in India shall have the option to pay tax@25.17% (Tax@22% + Surcharge@10% + Cess@4%) from A.Y. 2021-22 onwards in respect of its total income, if the total income is computed:

- Without any deductions under Chapter VI-A, Section 10AA, Section 32(1)(iia), Section 32AD, Section 33AB, Section 33ABA, Section 35(1)(ii)/(iia)/(iii), Section 35(2AA), Section 35AD, Section 35CCC;

- Without set off of any loss carried forward or depreciation from any earlier AYs, if such loss or depreciation is attributable to any of the deductions referred to in (a) above;

- By claiming depreciation, if any, under Section 32 except additional depreciation u/s 32(iia);

The option so exercised cannot be withdrawn.

It is further proposed that following provisions shall not apply to such co-operative society:

- Provisions relating to Alternate Minimum Tax (AMT);

- Provisions relating to carry forward and set off of AMT credit;

This amendment is proposed to be effective from A.Y. 2021-22 onwards.

Rationalizing the process of registration of trusts, institutions, funds university etc.

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

Deduction of cash donation under section 80GGA shall be restricted to Rs 2,000/- only (akin to section 80G of the Act)

This amendment is proposed to be effective from 1 June 2020

Rationalization of provisions of start-ups.

To further rationalize the provisions of startups, it is proposed to amend section 80IAC to provide that deduction u/s the said section shall be available for a period of 3 consecutive assessment years out of 10 years as against 7 years at present. Moreover, turnover limit for claim of such deduction is proposed to be increased to Rs 100 Cr as against Rs 25 Cr under prevailing laws.

This amendment is proposed to be effective from A.Y 2021-22

"NASSCOM: The apex body for information technology industry sees the Budget as a huge win for India's start-up ecosystem. It said that the government has taken a positive step towards enhancing the start-up ecosystem by allowing 100 per cent profit deduction for 3 years out of 10 years for start-ups with turnover up to Rs 100 crore."

Filing of statement of donation by donee to cross-check claim of donation by donor

A reporting obligation is proposed on the exempt entity receiving donation from a donor. In this regard, the entity receiving donation will be required to furnish a Statement and also issue certificate to the donor/payer so that the claim for deduction in the hands of donor/payer can be cross checked for allowance.

In order to ensure proper filing of the statement, levy of fee of u/s 234G @200 per day and penalty u/s 271K is also provided in cases where there is failure to furnish the statement

The proposed amendment shall be effective from 1 June 2020.

Rationalization of provisions to compute cost of acquisition

As per existing provisions of section 55 the cost of acquisition of an capital asset acquired before 1.04.2001 is the actual cost or FMV as on 01.04.2001 at the option of the assessee. It is now proposed to amend the section 55 to provide that FMV as on 1.04.2001 of capital asset being land or building or both shall not exceed the stamp duty value as on 1.04.2001 where such stamp duty value is available.

This amendment is proposed to be effective from 1 June 2020

Modification of e-assessment scheme

It is proposed to expand the scope of faceless assessment to cover assessment cases u/s 144 of the Act. It is also proposed that the Central Government may issue directions to give effect to such scheme upto 31.03.2022.

This amendment is proposed to be effective from A.Y 2021-22

Faceless appeals before CIT(A)

Amendment is proposed in section 250 empowering Central Government (C.G) to introduce e-appeal scheme with dynamic jurisdiction in which appeal shall be disposed of by one or more CIT(Appeals), involving minimum interface between the Appellant and CIT(Appeals), and optimizing utilization of resources. It is also proposed that the C.G may issue directions to give effect to such scheme upto 31.03.2022

This amendment is proposed to be effective from A.Y 2021-22

Faceless penalty proceedings

Amendment is proposed in section 274 empowering C.G to introduce a mechanism for imposing of penalty with dynamic jurisdiction in which penalty shall be disposed of by one or more income-tax authorities, involving minimum interface between the assessee and assessing officer and optimizing utilization of resources. It is also proposed that the C.G may issue directions to give effect to such scheme up to 31.03.2022.

This amendment is proposed to be effective from A.Y 2021-22

Rationalization of tax treatment of employer contribution to Recognized Provident Fund, superannuation fund and NPS

Amendment is proposed in section 17 providing for a combined upper limit of Rs. 750,000 in respect of employer's contribution in a year to NPS, superannuation fund and recognized provident fund and any excess contribution is proposed to taxable. It is also proposed that any annual accretion to such excess employer's contribution may be treated as perquisites.

This amendment is proposed to be effective from A.Y 2021-22

Increase in safe harbour limit from 5% to 10% in respect of transfer of immovable property

It is proposed to amend section 43CA, section 50C and section 56(2)(x) which relates to deemed income on transfer of immovable property, being land or building or both, to provide for safe harbour of 10% instead of existing 5%.

This amendment is proposed to be effective from A.Y 2021-22

Extending time limit for approval of affordable housing project for availing deduction u/s 80-IBA of the Act.

The existing provisions of section 80-IBA provide that where the gross total income of an assessee includes any profits and gains derived from the business of developing and building affordable housing projects shall be allowed a deduction of an amount equal to 100% of the profits and gains derived from such business subject to certain conditions in the said section. One of the condition prescribed in the section that the project is approved by the competent authority during the period from 1st June, 2016 to 31st March, 2020.

In order to incentivize affordable housing to boost the supply of such houses, the period of approval of the project by the competent authority is proposed to be extended to 31.03.2021 from 31.03.2020.

This amendment is proposed to be effective from A.Y 2021-22

"Extension of time period till March 2021 is a welcome step taken by Government in the affordable housing space benefitting both individuals and developers"

~Siddhartha Mohanty, MD & CEO – LIC Housing finance

Extending time limit for sanctioning of loan for affordable housing for availing deduction of interest u/s 80EEA of the Act.

The existing provisions of section 80EEA provide for a deduction in respect of interest on loan taken from any financial institution for acquisition of an affordable residential house property. The deduction allowed is up to Rs 1.5 lakhs and is subject to certain conditions. One of the conditions is that loan has been sanctioned by the financial institution during the period from 1.04.2019 to 31.03.2020. In order to continue promoting purchase of affordable housing, the period of sanctioning of loan by the financial institution is proposed to be extended to 31.03.2021 from 31.03.2020.

This amendment is proposed to be effective from A.Y 2021-22

Providing check on survey operations under section 133A of the Act.

Approval procedure for doing survey u/s 133A is further strengthened to provide that where the information has been received from such authority, as may be prescribed, no action u/s 133A(1) shall be taken by income-tax authority below the rank of Joint Director or Joint Commissioner without prior approval of the Joint Director or the Joint Commissioner, as the case may be. In any other case (where no such information is received) no action u/s 133A(1) shall be taken by income-tax authority below rank of Commissioner or Director without prior approval of the Commissioner or the Director, as the case may be.

This amendment is proposed to be effective from A.Y 2021-22

Taxpayer's charter in the Act

It is proposed to insert new section 119A in the Act to empower the CBDT to adopt and declare a Taxpayer's Charter and issue such orders, instructions, directions or guidelines to other income-tax authorities as it may deem fit for the administration of the Charter.

No dispute but trust scheme – 'Vivad Se Vishwas' Scheme

Under the proposed scheme, a taxpayer would be required to pay only the amount of disputed tax and will get complete waiver of interest and penalty provided that he pays tax by 31.03.2020. Those who avail this scheme after 31st March, 2020 will have to pay some additional amount. The scheme will remain open till 30th June, 2020. Taxpayers in whose cases appeals are pending at any level can benefit from this scheme.

Clarity on stay by the Income-tax Appellate Tribunal (ITAT)

- It is proposed to amend section 254 to provide that ITAT may grant stay subject to the condition that the assessee deposits not less than 20% of the amount of tax, interest, fee, penalty, or any other sum payable under the provisions of the Act, or furnish security of equal amount in respect thereof.

This amendment is proposed to be effective from A.Y 2021-22

Penalty for fake invoice

- With a view to curb the practice of issuing fake invoices (like invoices issued to claim input tax credit fraudulently under GST), it has been proposed to levy penalty u/s 271AAD on a person where it is found in the books of account maintained by him there is:
    - False entry (including forged or falsified documents such as a false invoice, invoice without actual supply/service, invoice from non existent person) or
    - An omission of any entry which is relevant for computation of total income of such person, to evade tax liability,
- Penalty amount shall be equal to the aggregate amount of such false or omitted entry.
- Penalty is also proposed to be levied on any person who causes (helps / assists) in making such false entry or omission of entry.
- This amendment is proposed to be effective from A.Y 2021-22

Modification of the definition of "business trust"

Section 115UA of the Act provides for a taxation regime applicable to business trusts. The definition of "business trust" u/s 2(13A) as of now only includes listed InvIT and REITs. Representations were received stating that private unlisted InvITs should also be given status of business trust for application of similar taxation provisions u/s 115UA especially considering that SEBI regulations were amended which done away with listing requirements for InvITs. Therefore, amended is proposed to modify the definition of "business trust" so as to do away with the requirement of the units of business trust to be listed on a recognised stock exchange.

This amendment is proposed to be effective from A.Y 2021-22

Withholding Tax

Amendment in the definition of 'work' in section 194C (payment to contractors)

In the erstwhile section, the definition of 'work' only included manufacturing or supplying a product according to the requirement or specification of a customer by using material purchased from such customer. Some assessees were using the escape clause of the section by getting the contract manufacturer to procure the raw material supplied through its related parties and thus avoiding tax deduction.

Accordingly, to prevent the leakage of tax revenue, it is proposed to amend the definition of 'work' under section 194C to include 'manufacturing or supplying a product according to the requirement or specification of a customer by using material purchased from such customer or its associate'.

This amendment is proposed to be effective from A.Y 2021-22

TDS on fees for technical services

To avoid dispute & litigation as to whether TDS on technical services are to be deducted u/s 194J @ 10% or u/s 194C @ 2%, it is proposed to amend section 194J to provide that TDS on fees for technical services (other than professional services) shall be deducted @ 2% as against the existing rate of 10%.

This amendment is proposed to be effective from A.Y 2021-22

TDS on e-commerce transactions

New section 194-O is proposed to be inserted providing for deduction of TDS @ 1% by e-commerce operators, i.e. the person who owns or manages electronic commerce platform, on the gross amount of sales or services payable to e-commerce participants i.e. person resident in India using such e-commerce platform for sale of goods or services. No TDS is required to be deducted if the transactions with the economic participant being an individual or HUF is less than INR 500,000 and PAN/Aadhar has been furnished to e-commerce operators.

This amendment is proposed to be effective from A.Y 2021-22

TCS on Liberalised Remittance Scheme (LRS), selling of overseas tour package, sale of goods.

i. An authorised dealer receiving an amount or an aggregate of amounts of Rs 7 lakh or more in a financial year for remittance out of India under the LRS of RBI, shall be liable to collect TCS at rate of 5%. In non- PAN/Aadhaar cases the rate shall be 10%.

ii. A seller of an overseas tour program package who receives any amount from any buyer, being a person who purchases such package, shall be liable to collect TCS @ 5%. In non-PAN/ Aadhaar cases the rate shall be 10%.

iii. A seller of goods is liable to collect TCS at the rate of 0.1 % on consideration received from a buyer in a previous year in excess of 50 lacs. In non-PAN/ Aadhaar cases the rate shall be 1%. Only those seller whose total sales, gross receipts or turnover from the business carried on by it exceed 10 Cr during the financial year immediately preceding the financial year, shall be liable to collect such TCS.

The above TCS provision shall not apply if,-

a) The buyer is liable to deduct tax at source under any other provision of the Act and he has deducted such amount.

b) If the seller of goods is liable to collect TCS under other provision of section 206C

Indirect Taxation

“We welcome the budget announcements to lift the overall consumer sentiment and bring the economy back into the growth trajectory. The tax reforms being undertaken to boost income levels and the steps taken towards Make in India are also encouraging. Furthermore, we also applaud the proposal to encourage and incentivize states that are formulating plans for ensuring cleaner air. However, we feel that the customs duty hike on EVs assembled in India from 10% to 15% is a bit harsh, as this may impact the nascent category which was beginning to expand off late.”

~Mr. Rajeev Chaba, President, MG Motor India

Amendment in The Central Goods and Services Tax Act, 2017

- Definition of Union Territory (UT) has been amended to include Ladakh as UT
- A taxable person cannot opt for composition scheme if he is engaged in making:-
  a. Supply of exempt services.
  b. Inter-state outward supply of services.
  c. Outward supply of services through an e-commerce operator collecting TDS.
- Sec 16(4) has been amended to delink the date of issuance of debit note from the date of issuance of underlying invoice for the purpose of availing input tax credit.
- Sec. 29(1)(C) has been amended to provide for cancellation of GST registration if the taxable person intends to opt out from voluntarily registration u/s 25(3)
- Time limit for applying for revocation of cancellation of GST registration may be extended by 30 days by Additional Commissioner, and further 30 days by Commissioner, on sufficient cause being shown.
- Proviso to Sec 31(2) has been amended empowering Government to specify the categories of services or supplies where a tax invoice or any other documents shall be issued and prescribes the time and manner of such issuance
- Payment of late fee in case of failure of issuance of TDS certificate by the deductor has been waived.
- Section 109(6) relating to constitution of Appellate Tribunal and Benches has been amended to extend the provision for Appellate Tribunal under the CGST Act to the Union territory of Jammu and Kashmir and Ladakh
- A new sub section inserted in Section 122 to extend the penalty provisions on the beneficiary of the transactions of passing on or availing fraudulent Input Tax Credit similar to the penalty leviable on the person who commits such specified offences.
- Offence of fraudulent availment of ITC without an invoice or bill has been made a cognizable and non-bailable offence and any person who commits, or causes the commission, or retains the benefit of transactions arising out of specified offences liable for punishment
- Sec 140 of CGST Act has been amended with retrospective effect (from 1st July 2017) to prescribe the manner and time limit for taking transitional credit. This have been carried out to overcome the decision of the High Court wherein the High Court observed that Rules alone could not abridge the constitutional right to property
- Time limit for issuance of removal of difficulties order has been extended for another 2 years, in effect ROD can be issued till 5 years from the date of commencement of the GST Act

  Similar amendments made under IGST, UTGST and GST (Compensation to States) Act
- Entries at 4(a) and 4(b) in Schedule II of the CGST Act have been amended w.e.f. July 1, 2017 to omit the words “whether or not for consideration” having effect that transfer of business assets for consideration alone will be liable to GST. Hence aligning the same with Sec 7(1) and Schedule I of the CGST Act, 2017

Retrospective amendments of GST rate notifications

- Supply of fishmeal from 01.07.17 to 30.09.19 is exempted. However GST, if already paid would not be eligible for refund
- CGST/UTGST @ 6% (IGST @ 12%) is levied on supply of pulley, wheels or other parts used as part of agricultural machinery from 01.07.17 to 31.12.19. However GST, if already paid would not be eligible for refund
- The refund of accumulated credit of compensation cess on tobacco products arising out of inverted duty structure in compensation cess is not allowed w.e.f 01.07.17

Amendments under Customs Laws

- Pre – show cause notice consultation u/s 28 is not required for the notices issued before 29.03.2018, notwithstanding anything to the contrary in any judgment of any Court/Tribunal.
- Customs duty paid by utilizing instruments which are issued under any law (apart from instruments issued under FT(D&R) Act) can also be recovered, where such instruments have been obtained by way of fraud.
- Stringent procedures are introduced which needs to be complied with by importers to establish origin of goods so as to avail preferential rate of duty benefits under Trade Agreement.
- A new Sec 51B has been introduced wherein duty remission benefits arising on account of exports will be credited to "Electronic Credit Ledger". ECL shall be maintained online by Customs System.
- Social Welfare Surcharge (SWS) is being exempted on certain items falling under Chapter 84. 85 and 90 w.e.f. April 01, 2020.
- Imposition of safeguard duty or application of a Tariff rate Quota to prevent injury to domestic industry
- Provisions have been made in the countervailing Duty Rules to enable investigation into the case of circumvention of countervailing duties for enabling imposition of such duty.

Changes in rate of duty under Central Excise

- Refer **Annexure-A1**

Changes in rate of duty under Customs

- Refer **Annexure- A2**

Imposition of Health Cess

- Health Cess shall be applicable at 5% ad valorem on import value on Medical devices (except which are exempt from BCD) falling under Chapter tariff 9018 to 9022 of Customs Tariff Act, 1975 imported into India.
- This Health Cess shall be a duty of Customs. Any Export Promotion scrips shall not be used for payment of said Cess.

Annexure A1

Commodity	From	To
Other than filter cigarettes, of length not exceeding 65 millimeters	Rs. 90 per thousand	Rs. 200 per thousand
Other than filter cigarettes, of length exceeding 65 millimeters but not exceeding 70 millimeters	Rs. 145 per thousand	Rs. 250 per thousand
Filter cigarettes of length (including the length of the filter, the length of filter being 11 millimeters or its actual length, whichever is more) not exceeding 65 millimeters	Rs. 90 per thousand	Rs. 440 per thousand
Filter cigarettes of length (including the length of the filter, the length of filter being 11 millimeters or its actual length, whichever is more) exceeding 65 millimeters but not exceeding 70 millimeters	Rs. 90 per thousand	Rs. 440 per thousand
Filter cigarettes of length (including the length of the filter, the length of filter being 11 millimeters or its actual length, whichever is more) exceeding 70 millimeters but not exceeding 75 millimeters	Rs. 145 per thousand	Rs. 545 per thousand
Other (Cigarettes containing tobacco)	Rs. 235 per thousand	Rs. 735 per thousand
Cigarettes of tobacco substitutes	Rs. 150 per thousand	Rs. 600 per thousand
Hookah or gudaku tobacco	10%	25%
Smoking mixtures for pipes and cigarettes	45%	60%
Other smoking tobacco	10%	25%
“Homogenised” or “reconstituted” tobacco	10%	25%
Chewing tobacco	10%	25%
Preparations containing chewing tobacco	10%	25%
Jarda scented tobacco	10%	25%
Snuff	10%	25%
Preparations containing snuff	10%	25%
Tobacco Extracts and essence	10%	25%
Other (manufactured tobacco and substitutes)	10%	25%

Annexure A2

Commodity with chapter heading	From (%)	To (%)
Walnuts, shelled (0802 32 00)	30	100
Footwear (6401 to 6405)	25	35
Parts of Footwear (6406)	15	20
Artificial flowers, etc. (6702)	10	20
Glassware of a kind used for table, kitchen, toilet, office, indoor decoration or similar purposes (7013)	10	20
Glass Beads (7018 10 20)	10	20
Coins (7118)	10	12.5
Table, Kitchen or other household articles and parts thereof, wool; pot scourers and scouring or polishing pads, gloves and the like, of iron or steel (7323)	10	20
Table, kitchen or other household articles and parts thereof, Pot scourers and scouring or polishing pads, gloves and the like, of Copper (7418 10)	10	20
Table, kitchen or other household articles and parts thereof, Pot scourers and scouring or polishing pads, gloves and the like, of Aluminum (7615 10)	10	20
Filing, cabinets, card-index cabinets, paper trays, paper rests, pen trays, office-stamp stands and similar office or desk equipment, of base metal, other than office furniture of heading 9403 (8304)	10	20
Following items of base metal: Padlocks and locks (except for locks of a kind used for motor vehicles) (8301); Fittings for Loose-leaf binders or files (8305); Bells, gongs and the like, non-electric (8306); Sign-plates, name-plates, address-plates, etc. (8310)	10	20
Certain capital goods/machinery/equipment and parts thereof falling (84)	7.5/10/15	12.5/15/20
Certain Electrical equipment and part thereof (85)	7.5/10/15	10/15/20
Seats whether or not convertible into beds or parts thereof (except aircraft seats) (9401)	20	25
Furniture or part thereof, Mattress Supports, Lamps and Lighting fittings, etc. (9403 to 9405)	20	25
Tricycles, scooters, pedal cars, etc. (9503)	20	60
Brooms, brushes, hand sieves, hand riddles, combs, hair-slides, vacuum flasks and other vacuum vessels, etc. (9603, 9615 and 9617)	10	20
PCBA of Cellular mobile phones (w.e.f 1.04.2020) (8517 70 10)	10	20

Companies Act/Foreign Exchange Management Act (FEMA)

“Budget 2019 has proposed to bring in a Model Tenancy Law. This will be finalised and circulated to the states. Archaic rental laws in the country so far have proved disadvantageous for both, tenants and landlords. The new rental act will bring the required institutional framework in the country and make it more organised and fair for landlords and tenants.”

~Ramesh Nair, CEO & Country Head, JLL India

Key Points under Companies Act, 2013 & FEMA, 1999, presented through Budget 2020-21 on 01/02/2020 by Finance Minister

Companies Act, 2013

- Under Companies Act, certain amendments are proposed to be made to drop criminal Liability. A move to correct certain provisions under Companies Act to decriminalize many non-compliances, which are civil in nature.

FEMA, 1999

- India's foreign direct investment got elevated to the level of US$ 284 billion during 2014-19 from US$ 190 billion that came in during the years 2009-14.
- India moving up by 14 positions to 63rd rank in 2019 World Bank's Ease of Doing Business 2020 Report, has among others, contributed to the increase in global confidence in Indian economy.
- Certain specified categories of Government securities would be opened fully for non-resident investors, apart from being available to domestic investors as well.
- The limit for FPI in corporate bonds, currently at 9% of outstanding stock, is proposed to be increased to 15% of the outstanding stock of corporate bonds.
- Steps would be taken to enable sourcing External Commercial Borrowings and FDI so as to able to deliver higher quality education. This move will strengthen our education system with greater inflow of finance to attract talented teachers, innovate and build better labs.

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