

## Tax Alert | Delivering clarity

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### Glimpses of “The Taxation and Other Laws (Relaxation of Certain Provisions) Ordinance, 2020”

Key highlights of “The Taxation and Other Laws (Relaxation of Certain Provisions) Ordinance, 2020”

#### Background:

The Ministry of Finance vide press release<sup>1</sup> dated 24 March 2020, had announced various relief measures taken by the government on statutory and regulatory compliance matters in view of the outbreak of COVID-19. Deloitte alert of 25<sup>th</sup> March 2020 on the same can be accessed from the link given: <https://www2.deloitte.com/in/en/pages/tax/articles/global-business-tax-alert.html>.

Since the Parliament is not in session, the President of India has promulgated The Taxation and Other Laws (Relaxation of Certain Provisions) Ordinance, 2020 (Ordinance 2020)<sup>2</sup> which has been published in the Gazette of India on 31 March 2020.

The Ordinance 2020 provides for relaxations in the provisions of the following “Specified Act”:

- Wealth Tax Act, 1957;
- Income Tax Act, 1961;
- Prohibition of Benami Property Transactions Act, 1988;
- Chapter VII of the Finance (No. 2) Act, 2004 relating to securities transaction tax;
- Chapter VII of the Finance Act, 2013 relating to commodities transaction tax;
- Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015;
- Chapter VIII of the Finance Act, 2016 relating to equalisation levy;
- Direct Tax Vivad se Vishwas Act, 2020;

The Ordinance 2020 also provides relaxations in the following indirect tax laws:

- Central Excise Act, 1944
- Customs Act, 1962;
- Customs Tariff Act, 1975;
- Chapter V of the Finance Act, 1994 relating to service tax;
- Finance (No. 2) Act, 2019 relating to Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019; and
- Central Goods and Services Tax Act, 2017

<sup>1</sup> <https://pib.gov.in/PressReleaseDetail.aspx?PRID=1607942>

<sup>2</sup> <http://egazette.nic.in/WriteReadData/2020/218979.pdf>

## Coming into force:

The Ordinance 2020 shall come into force at once, unless specified otherwise.

The key amendments with respect to various timelines and compliance matters are summarised hereunder:

### Direct Tax

- Where any time limit has been specified in or prescribed or notified under the Specified Act, which falls during the period 20 March 2020 to 29 June 2020, or such other date as the Central Government may notify for completion or compliance of the following action as:
  - Completion of any proceedings or passing of any order or issuance of any notice, intimation, notification, sanction or approval, or such other actions by whatever named called by any authority, commission or Tribunal by whatever name called under the provisions of the specified Acts;
  - Filing of any appeal, reply or application, or furnishing of any report, document, return, statement, or such other record under the provisions of the Specified Acts.
- The press release generally provided that the time limit expiring between 20 March 2020 to 29 June 2020 for making investments in saving instruments or investments for roll over benefit of capital gains shall be extended to 30 June 2020. The Ordinance 2020, provides that the time limits expiring between 20th March 2020 to 29th June 2020 for making investments, deposit, payment, acquisition, purchase, construction or such other action in order to claim deduction, exemption or allowance under sections 54 to 54GB or under any provisions of Chapter VI-A under the heading "B – Deductions in respect of certain payments" of the Income-tax Act, shall be extended to 30 June 2020.
- The time limit to begin to manufacture or produce articles or things or provide any services during the previous year ended 31 March 2020 by the SEZ units for the purpose of claiming deduction under section 10AA of the Income-tax Act, 1961, has been extended to 30 June 2020, only for those units which have been issued the letter of approval as per the provisions of Special Economic Zones Act, 2005 by 31 March 2020.
- The Central Government may specify different dates for completion or compliance of different actions.
- The above relaxation / extension of time limit for compliance of the provisions of Specified Act shall not include payment of any amount of tax/levy as discussed hereunder.
- Where any due date has been specified in or prescribed or notified under the Specified Act for payment of any amount of tax or levy by whatever name called which falls for payment during the period 20th March 2020 to 29th June 2020 or such other date after 29 June 2020 as the Central Government may notify, and such amount has not been paid within such date and has been paid by 30 June 2020 or a date to be notified by the Central Government, then the rate of interest payable if any in respect of such amount for the period of delay shall not exceed 3/4<sup>th</sup> percent for every month or part thereof.
- Further no penalty shall be levied and prosecution shall not be sanctioned for the delay in making aforesaid payments.
- Income received by Prime Minister Citizen Assistance and Relief in Emergency Situation Fund (PM CARES Fund) is exempt from income-tax under section 10(23C)(i) of the Act.

- Section 80G of the Income-tax Act has been amended for including PM CARES Fund in sub-clause (iiia) to clause (a) of section 80G(2) of the Income-tax Act. Accordingly, donation made to the PM CARES Fund should be eligible for 100 percent deduction under section 80G of the Income-tax Act, 1961. Further, the limit on deduction of 10 percent of gross total income should also not be applicable for donation made to PM CARES Fund. However as per section 80G(5D) no deduction shall be allowed under this section in respect of donation of any sum exceeding INR 2000 unless such sum is paid by any mode other than cash.
- Section 3 of the Direct Tax Vivad se Vishwas Act, 2020 has been amended. Under the Vivad se Vishwas Act, if a taxpayer opts under the Act for withdrawal of appeals, the taxpayer is required to pay 100 percent of the disputed tax if paid by 31 March 2020, and if paid after 31 March 2020, 110 percent of the disputed tax is payable. Under the Ordinance 2020, it is provided that additional 10 percent amount shall not be payable if the amount is paid by 30 June 2020.

### Indirect Tax

- Time limit of certain compliances under customs, central excise and service tax laws has been extended in the following manner:
  - Any time limit, falling between 20 March 2020 to 29 June 2020, for completion of any proceedings or issuance of any order, notice, intimation, notification or sanction or approval, by any authority, commission or tribunal has been extended to 30 June 2020 or any later date to be notified by the government in this regard.
  - Any time limit, falling between 20 March 2020 to 29 June 2020, for filing of appeal, reply or application or furnishing of any report, document, return or statement has been extended to 30 June 2020 or any later date to be notified by the government in this regard.
- With respect to Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 (the Scheme), time limit for issuance of statement by the designated committee has been extended in the following manner:
  - Where the amount declared by the declarant equals the amount estimated by the designated committee, statement shall be issued till 31 May 2020
  - Where the amount estimated by the designated committee is more than the amount declared by the declarant, statement shall be issued till 1 May 2020
  - Statement indicating the final amount payable by the declarant shall be issued till 31 May 2020
- Time limit for payment by the declarant under the Scheme has been extended till 30 June 2020.
- A new provision has been inserted in the Central Goods and Services Tax Act, 2017 (CGST Act) giving powers to the government, on recommendations of the GST Council, to extend the time limit in respect of actions which cannot be complied / completed due to *force majeure* by way of suitable notifications. The term "*force majeure*" means a case of war, epidemic, flood, draught, fire, cyclone, earthquake or any other calamity caused by nature affecting the implementation of the CGST Act.

### Observations:

- The Ordinance 2020 gives effect to the announcements made by the Finance Minister recently due to the outbreak of COVID-19. The extensions provide some relief, both to the Revenue as well as taxpayers, in complying with the provisions of various legislations.

- The Ordinance 2020 has provided powers to the Central Government to extend the timelines post 29 June 2020 so further changes should not require amendments to the law and can be done through notifications.
- The Ordinance 2020 has extended the time limit to file original as well as revised income-tax returns for the FY 2018-19 (AY 2019-20) to 30<sup>th</sup> June, 2020, as also extension of Aadhaar-PAN linking date to 30<sup>th</sup> June, 2020.
- The extension of time limit provided to the SEZ units to begin manufacture or produce or provide services for claiming deduction under section 10AA of the Income-tax Act, is a welcome move and would certainly help to address some of the issues faced by SEZ units.
- The Ordinance 2020 allows for time to make investments until 30 June 2020 for claiming deductions *inter alia* under section 80C (PF, PPF, LIC Premium, etc], 80CCD (contribution to NPS], 80D (medical insurance premium, etc), 80G (Donation) etc under Chapter VI-A of the Income-tax Act, 1961 from total income for the financial year 2019-20.
- The Ordinance 2020 provides for time to make investments in specified securities / purchase or construct property until 30 June 2020 for the purpose of claiming deduction under section 54 to 54GB from long-term capital gains arising on transfer of specified capital asset during the FY 2019-20.
- The date for payment of donations has been extended up to 30 June 2020 for claiming deduction under section 80G of the Act, the donation made up to that date should also be eligible for deduction from the income of the financial year 2019-20. Hence, any person, including corporates, paying concessional tax rate on income of FY 2020-21 under new regime can make donation to PM CARES Fund up to 30 June 2020 and can claim deduction u/s 80G against income of FY 2019-20 and shall also not lose eligibility to pay tax in concessional taxation regime for income of FY 2020-21.
- The government has not extended the timeline for making payment of taxes but has reduced the rate of interest leviable if payment of taxes are made by 30 June 2020, for the delay period and also condone the penalty and prosecution for the delay in payment of taxes and levies for the delayed period.
- Announcements on extensions around GST compliances, which are expected as notifications, need to be looked out for next.



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