



## Union Budget 2020 Technology, Media, and Telecommunications



### Technology

The Hon'ble Finance Minister in her budget speech has acknowledged that innovations have disrupted established and conventional business models. The budget inter-alia aims to focus on three important aspects: ease of living, ease of doing business, and ease of transactions. Several policy measures are proposed for harnessing the potential of disruptive technologies such as Artificial intelligence, Internet of things (IOT), 3D printing, drones, etc.

- **Policy for advancement of quantum technology** – To advance the development of commercial applications through quantum technology, outlay of INR 80,000 million proposed over a period of five years for the National Mission on Quantum Technologies and Applications.



- **Measures towards intellectual property protection** – Several measures proposed towards Intellectual property creation and protection; Knowledge Translation Clusters proposed to be set up across different technology sectors including new and emerging areas for such IPRs.
- **Setting up of data centre parks** – Policy proposed to enable private sector to build data centre parks throughout the country to promote analytics, fintech, and IOT. This initiative is expected to enable firms to skilfully incorporate data for decision making in every step of their value chains.
- **Support for smart metering** – To improve energy efficiency and consumer experience; vision to replace conventional energy meters by prepaid smart meters in the next three years.
- **Encouraging electronic manufacturing sector** – For mobile phones, electronic equipment, and semi-conductor packaging; with suitable modifications, the scheme expected to promote manufacturing of medical devices too
- **Introduction of digital refund scheme for exporters** – To promote exports, digital refund scheme for exporters proposed to be launched this year for refund of central and state duties and taxes (such as electricity duties and VAT on fuel currently are neither exempt nor refunded)

### **Promotion of start-ups**

- To create more opportunities for start-ups and develop a conducive environment, an Investment Clearance Cell (ICC) is proposed to be set up. The ICC would provide “end-to-end” facilitation and support, including pre-investment advisory, information and facilitate government clearances.
- Proposal to provide early life funding to start-ups by the Government, including a seed fund to support ideation and develop early stage start-ups
- To encourage intellectual property creation and protection, measures such as digital platform to facilitate seamless application and setting up an Institute of Excellence to work on complexity and innovation proposed.



## Telecommunication

Fibre to the Home (FTTH) connections through Bharatnet programme to link 100,000 gram panchayats this year. This will enable digital connectivity to all public institutions at Gram Panchayat level. INR 60,000 million proposed to be provided for this purpose.



## Tax updates

- **No extension of the SEZ sunset clause** – There was significant push from the industry for the extension of the tax holiday sunset clause for SEZ units and while there seemed to be a ray of hope with the recent announcements on multisector SEZs and lower area requirements for IT /ITES SEZs, the Government has not acceded to the idea for the extension. Given this, the sunset clause for SEZ units continues to be 31 March 2020.
- **Deferral of SEP** – The Government has not prescribed thresholds for Significant Economic Presence (SEP), pending the G20-OECD reports that is expected in December 2020. Accordingly, the applicability of SEP has been deferred to FY 2021-22. However, the scope of SEP has been expanded to cover systematic and continuous soliciting of business or engaging with such number of users as may be prescribed. The reference to 'digital means' in the current provision has been deleted.
- **Scope of income attributable to business connection in India expanded** – It is proposed that income from business connection shall include the income from advertisement that targets Indian customers or income from sale of data collected from India or income from sale of goods and services using such data collected from India.

- **Removal of the existing exclusion of cinematography films from the definition of royalty** – To align the definition of 'royalty' with the Tax treaties, it is proposed to include 'consideration for the sale, distribution or exhibition of cinematographic films' in the definition of royalty under the domestic law.
- **Removal of Dividend Distribution Tax (DDT)** – Based on various representation and with a view to provide impetus to the investment climate in India, it is proposed to abolish DDT in the hands of the domestic companies/ mutual fund and to tax such dividend income in the hands of the recipients. The additional tax on dividend income in the hands of individual shareholders (tax on dividend in excess of INR one million) is also proposed to be deleted.

Corresponding provisions providing exemptions in the hands of the recipients are proposed to be withdrawn and dividend payments are proposed to be subject to withholding tax for residents at 10 percent [section 194 of the Income-tax Act, 1961 (Act)] and non-residents at applicable rates in force (section 195 of the Act).

Further to remove the cascading effect, it is proposed to re-introduce section 80M in the Act with a change that set-off will be allowed only for dividend distributed by the company one month prior to the due date of filing of return. The benefit of Section 80M can also be availed by companies opting for concessional tax rates under Section 115BAA and 115BAB of the Act.

- **Withholding tax rate reduction for Fees for Technical Services ('FTS') for domestic payments** – Withholding tax rate under section 194J of the Act for payments in the nature of FTS (other than professional services) is proposed to be reduced to 2 percent from the existing rate of 10 percent.
- **Return filing requirement for non-residents** – To reduce compliances for non-residents, it is proposed that where such taxpayers earn income (dividend, interest, royalty and technical service fees) provided in section 115A of the Act, there would be no requirement to file a return of income in India, provided such income has been subjected to withholding at the rates prescribed under section 115A of the Act. By implication, the concession on return filing requirement may not be available to non-residents availing beneficial rates under the Tax Treaties.

- **Startups** - To extend the benefit of the tax holiday to larger/ matured startups, it is proposed to increase the turnover limit from the existing INR 250 million to INR 1,000 million and also extend the period of eligibility for claim of deduction from the existing three out of seven years to three out of 10 years.

Further, to attract and retain highly talented employees in eligible startups, it is proposed to defer the point of taxation for Employee Stock Option Plan (ESOP) from the time of exercise (as per the current law) to earlier of (i) 48 months from the relevant assessment year, (ii) date when the employee leaves the company, (iii) date of sale of shares by the employee.

- **Permanent Establishment (PE) attribution** - Determination of profits attributable to a PE extended to the following:
  - Safe Harbour with effect from assessment year 2020-21 – detailed rules to be notified
  - Advance pricing agreement (APA) - though this has been already clarified by FAQs on APA, a taxpayer has an option to file for an APA, for the purpose of determination of profits attributable to a PE. This would apply for APAs entered into on or after 1 April 2020
- This amendment of allowing a PE to opt for Safe Harbour/ APA would help in dispute prevention/ avoidance in light of the debate/ challenges on the digitisation of the economy. For companies operating in this space, majority of whom have complex business models, it would be worthwhile to look at Safe Harbour/APA.
- **Due date for filing Form No. 3CEB** - Due date for filing Form No. 3CEB and maintaining prescribed transfer pricing documentation (local file) has been modified to 31 October of the relevant assessment year. This would apply from assessment year 2020-21.
- **First appeal proceedings to be faceless** - In line with faceless tax assessments, it is proposed to implement faceless tax appeals for the disposal of appeal by the Commissioner (Appeals). The related directions/ scheme would be announced in due course.
- **Vivad Se Vishwas Scheme** - Similar to dispute resolution scheme introduced in last year's budget for legacy issues in indirect taxes, a scheme for a one-time settlement of direct tax disputes would be introduced. Taxpayers who opt for such scheme on or before 31 March 2020 would be eligible for complete interest and penalty waiver on payment of tax only and who opt for the scheme between 31 March 2020 and 30 June 2020 would get partial relief from interest and penalty. The details of the scheme are yet to be released.

- **Digitisation/e-invoicing under GST** – The Finance Minister highlighted the need for electronic invoices, as a leap towards digitisation of GST and curb the fake invoices and fraudulent input tax credits and refunds. E-invoicing will be implemented in a phased manner starting 1 February 2020 on optional basis to facilitate compliance and new return filing.

### **Make in India initiative – Increase in Customs Duty rates to incentivise domestic manufacturers**

- To provide an impetus to electronic domestic manufacturers as part of the Prime Minister’s ‘Make In India’ initiative, the Basic Customs Duty (BCD) rates have been increased on various items. All the rate changes discussed below are effective immediately.
- Changes in electronic products include increase in BCD rates are as below:

Description of goods	Old rate	New rate
Printed Circuit Board Assembly of cellular mobile phones	10 percent	20 percent
Charger /power adapter not covered under the Information Technology Agreement – I	Nil/10/15 percent	20 percent
All headphones and earphones	10 percent	15 percent
Catalytic converter	10 percent	15 percent

- In line with the Phased Manufacturing Policy (PMP) designed to gradually phase out customs exemptions on imports, BCD on the parts of the cellular mobile phones Display assembly, touch panel, etc., is increased from Nil to 10 percent from prescribed effective dates as per implementation schedule of PMP.
- Similarly BCD exemption withdrawn on optical disk drives, fingerprint readers/ scanners for use in the manufacture of cellular mobile phones, colour television picture tube for use in manufacture of cathode ray television to attract BCD at 10 percent.
- Exemption from levy of ‘Social Welfare Surcharge’ (SWS) at the rate of 10 percent withdrawn on all items covered under ‘Electrical Machinery and equipment and parts thereof; television image and sound recorders and reproducers, and parts and accessories of such articles and ‘Optical, Photographic, Cinematographic instruments, parts and accessories thereof’.

- **Restriction on service providers to opt for composition scheme** – Proposal to restrict service providers under composition scheme to make inter-state supplies or supplies through e-commerce operators, from a date of enactment of the Finance Bill; the amendment will have substantial impact on restaurants supplying services through online aggregators.
- **No clarification on ambit of intermediary** – While the industry expected clarification on export qualification of information technology-enabled services under GST to resolve the existing litigations around intermediary services, no clarification seems to have been made in the current budget.