

Finance Act 2019: An Analysis of Changes from Direct Taxes Perspective



The highly anticipated Finance Bill, 2019 was presented on 1st February 2019 and it became an Act following Presidential assent on 21st February 2019. From direct tax perspective, the Act mainly focuses on common man. Though the issues like corporate taxation, change in accounting year etc. were the issues common to everyone's interest, the Government refrained from making any sweeping changes to the existing provisions and has rightly left the same to be dealt in full budget to follow. The Act bears an indelible stamp of a Chartered Accountant: precise and taking into account interests of all concerned. Read on...

In the words of the celebrated jurist, late Shri Nani Palkhivala, “An enterprise casts its accounts and takes stock at the end of its financial year. A democracy must do stocktaking at the time of elections when a new batch of lawmakers is to be out in power.”



CA. Chaitee Londhe

The author is a member of the ICAI. She can be reached at chaitilondhe@gmail.com or eboard@icai.in

In the backdrop of the upcoming Elections, Budget 2019 was highly anticipated, being considered as the performance indicator of the present government. An interim Finance Minister, Shri Piyush Goyal, who himself is a chartered accountant, presented the interim budget on 1st February, 2019. This budget is claimed to be only a preview of the “Dream Budget” by the Modi government to be. This being an interim budget, no major policy changes could have been announced. However, remaining within the four corners of the code of conduct, it seems that the government has gone to great lengths to please the common man and the farmers.

From the direct tax perspective, there are some significant reliefs granted to the common man.

Changes in Direct Taxes- An Analysis

This being the pre-election Budget, there were expectations of change in tax slabs, which have not turned out to be true. In Budget 2015, Hon'ble Finance Minister had assured that the basic rate of Corporate tax would be reduced from 30% to 25% over the next five years. Once again, the corporate sector has been let down, as the Corporate tax rates also remain unchanged. This puts Indian domestic industries in an uncompetitive position as compared to the other major Asian economies.

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(A) Relief to the common man

➤ Amendment to section 87A

Though there is no change in slab rates, a rebate under section 87A of the Act in respect of entire tax has been granted to the individual taxpayers, having taxable income up to ₹ 5 lakhs, after deductions. This means effectively, an individual having gross income of ₹ 6.5 lakhs or even more, may be eligible for the full rebate of tax, with effective tax planning. This gross income can be even higher in case of individuals paying interest on housing loan taken for acquisition/construction of house property. Therefore, a substantial relief has been granted by way of a tax rebate, to individuals falling within the income range of ₹ 2.5 lakhs to ₹ 5 lakhs per annum.

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However, it is to be noted that the rebate under section 87A has been restricted to ₹ 12,500 or the amount of tax on income whichever is lower. To illustrate, if the entire income of ₹ 5 lakhs consists of short-term capital gains taxable at the rate of 15%, the gross tax payable will be ₹ 37,500 and the rebate will be restricted to ₹ 12,500/- only.

The intention behind giving such rebate, instead of increasing the minimum threshold limit of income chargeable to tax, is to restrict the benefit only to the middle class and, therefore, the individuals earning taxable income of more than ₹ 5 lakhs would not get any benefit, even in form of reduction in tax. Another intention behind not increasing the threshold limit is that the government does not wish to grant any relaxation from requirement of filing returns. Therefore, even if there is no tax payable by virtue of rebate u/s 87A, a person will still have to file return of income where total income exceeds the basic threshold limit of income chargeable to tax.

➤ No provision for marginal relief

A point to be noted here is that, there is no provision for marginal relief where the taxable income exceeds the limit of ₹ 5 lakhs even by a small amount. For instance, in case of surcharge which is leviable at prescribed rates if the taxable income exceeds prescribed limit, there is a provision for marginal relief whereby, the surcharge is to be restricted to the amount by which, income exceeds the prescribed limit. However, we may note that a similar provision does not exist for granting relief from levy of tax, where taxable income is slightly higher than ₹ 5 lakhs. Admittedly, while there was no provision for marginal relief prior to the proposed amendment as well, the rebate itself was smaller. Now, with the rebate being as high as ₹ 12,500/-, the pinch will be felt.

As a result, it may so happen that a person

earning taxable income of ₹ 5,00,000/- would not be required to pay any income tax on the same, whereas, a person earning taxable income of say ₹ 5,01,000/- would be required to pay tax of ₹ 12,600/-. Accordingly, net disposable income, after paying taxes, in his hands would only be ₹ 4,87,400/-. Consequently, by earning incremental income of ₹ 1,000/-, he is actually put in a worse off position as compared to a person earning ₹ 5 lakhs.

The above example may be tabulated as under:

	Mr. X	Mr. Y
Net taxable income (not being chargeable at special rates)	₹ 5,00,000	₹ 5,01,000/-
Tax payable	NIL by virtue of rebate u/s 87A	₹ 12,500/-
Post-tax net disposable income	₹ 5,00,000	₹ 4,87,400/-

➤ Amendment to Section 16

Another handout to salaried individuals has been granted by way of an amendment to Section 16 of the Act, whereby, the standard deduction available while computing income under the head Salaries has been increased from ₹ 40,000/- to ₹ 50,000/-

➤ Higher tax relief in respect of Gratuity

As we may recall, as per the recommendation of the Seventh Pay Commission, the ceiling limit on gratuity payable to government employees was revised from ₹ 10 lakhs to ₹ 20 lakhs in 2016. Further, on similar lines, Payment of Gratuity (Amendment) Act, 2018 was also brought in force on 29th March, 2018 whereby, maximum limit of gratuity payable to other than government employees has been brought at par with the government employees, i.e. ₹ 20 lakhs. It may be noted that this amendment to Payment of Gratuity Act will also have impact on the income tax, and will provide higher tax relief to those employees who become entitled to receive higher

gratuity under the Payment of Gratuity Act.

➤ Increase in threshold limit for deduction of TDS under section 194A and Section 194I

The revised thresholds for TDS, as per the amendment to Section 194A in respect of interest (other than interest on securities) and to Section 194I in respect of rent, are as under:

	Earlier threshold limit	Threshold limit as per Finance Act, 2019
Interest under section 194A from bank deposits / post office deposits	₹ 10,000	₹ 40,000
Rent under section 194I	₹ 1,80,000	₹ 2,40,000

(B) Provisions relating to Real Estate

There are some significant amendments in the Finance Act, having a great potential impact on real estate transactions.

➤ Amendment to Section 54

By way of an amendment to Section 54 of the Act, the Finance Act, 2019 increases the number of properties eligible for investment under the said Section from one to two residential house properties, provided the quantum of capital gains does not exceed ₹ 2 crore. As we are aware, many taxpayers were facing a practical difficulty that where one residential house is sold in order to acquire another, it is not always possible to find another single residential house which is suitable to serve the needs of entire family. In such cases, even though on account of genuine difficulty, if the taxpayer invests in two residential houses, earlier, he was not able to avail the benefit of Section 54 in respect of investment in the second residential house. The amendment will definitely address the practical difficulty being faced by the taxpayers where they

may desire to invest the capital gains in two houses for a variety of reasons.

However, it is important to note that this option of investing in two residential house properties would be available only once in a life time. Once this option is exercised, the benefit of the same cannot be availed again for same or any other assessment year, and subsequently any computation of capital gains would be governed by the existing provisions, allowing deduction in respect of investment in only one property.

➤ **Amendment to Section 23(4) and Section 24**

In line with the amendment to Section 54, the Finance Act, 2019 amends Section 23(4) and Section 24 of the Income-tax Act, 1961 in order to extend the benefit of 'zero notional rent' in respect of Self Occupied Property (SOP) to two properties instead of one.

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Doubts are being expressed in this regard by taxpayers, that where the assessee owns two house properties, whether it will be mandatory to treat the second house property as Self Occupied Property, or is it possible to voluntarily treat one property as deemed let out in order to claim higher deduction of interest under section 24(b). The issue, however, is not free from doubt. From the perusal of Section 23, it appears that if the properties fall under either clause (a) or clause (b) of sub-section (2), then the annual value has to be taken as nil; and the option, to select which property/properties should be treated as SOP and which property/properties should be treated as deemed let out, would come into picture only where there are more than two Self Occupied Properties as per the proposed provisions. There certainly exists

an ambiguity on this issue and different interpretations of the section may also be possible. In this connection, it may be relevant here to note that, with effect from 1-4-2018, set-off of losses from house property against any other head of income is restricted to ₹ 2 lakhs.

➤ **Amendment to Section 23(5)**

The next change as per the Finance Act, 2019 relating to real estate transactions is in Section 23(5) of the Income-tax Act, 1961 wherein, it has been decided to extend the period of exemption from levy of notional rent in respect of unsold house properties held as inventory, from one year to two years from the end of the financial year in which the construction is completed.

Taxability of deemed rent on unsold flats which are held as stock in trade, has always been one of the highly litigated issues. By virtue of Finance Act, 2017, sub-section (5) was introduced in Section 23 to provide that for a period of one year from the end of the financial year in which construction is completed, no deemed rent would be chargeable to tax. The said amendment made by Finance Act, 2017 appears to indicate the legislative intent that beyond one year deemed rent would be taxable, even in respect of the property held as stock-in-trade. Even though in respect of earlier years the controversy



still continues, from AY 2018-19 onwards, it appears that beyond one year from the end of the financial year in which construction is completed, deemed rent on unsold properties would be taxable even in hands of builders/developers. Now the amendment further extends this period of one year to two years, taking into consideration that there may be practical difficulties in selling off properties within a year of construction.

On account of various developments that took place in recent past including demonetisation, introduction of RERA and GST etc. presently, the real estate sector is facing a difficulty whereby builders/developers are not able to dispose of the constructed properties within a year from completion of construction, and the same is resulting in unsold flats being subjected to tax in respect of notional rent thereon. Considering this position, it is definitely a welcome move which will provide a major relief to builders/developers.

Needless to say, all the three amendments as mentioned above, will certainly give a boost to the real estate sector, which however, would also mean that prices of the real estate are likely to move upward. In this context, while one may say that this may cause some concern for the common man especially in metro cities, it will bring cheer to the depressed real estate sector.

➤ Amendment to Section 80IBA

In light of the concern of real estate prices going up as mentioned above, when the affordable housing projects are going to be more important to the urban middle class than ever before, the extension of one year for approval of an affordable housing project under section 80-IBA feels inadequate and it is felt that the same should have been extended even further.

(C) E-governance

In pursuance of government's motto of promoting e-governance, it has been

assured in the budget speech that, the government is committed to transform the Income Tax Department into a more assessee-friendly one, through a path breaking, technology intensive project. Further, it has also been promised that all returns will now be processed within twenty-four hours and refunds will be issued simultaneously. Also, within next two years, the assessments are proposed to be conducted electronically through anonymised back office without any personal interface between the taxpayer and the tax officer.

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Though the concept of complete electronic governance is a welcome idea, the ground reality is that, due to various technical glitches, even today, the taxpayers are facing extreme difficulties in proceedings with e-assessments. Even while filing online rectifications or replies to intimations etc., taxpayers are experiencing various technological limitations.

Keeping the same in view, instead of taking such steps all at once, the agenda of introducing fully electronic assessments should be implemented in phased manner, by first eliminating the issues presently being experienced by the taxpayers.

Conclusion

To sum up, an overall review of the direct tax changes in the Finance Act, 2019 would suggest that the same are highly focused on the middle class individual taxpayers, and with effective tax planning, would substantially help to reduce the tax burden on them. ■