

Government notifies Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020

7 October 2020



Summary

The Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 (the Amendment Act) was enacted on 29 September 2020. The Amendment Act replaces the Taxation and Other Laws (Relaxation of Certain Provisions) Ordinance, 2020 (the Ordinance). It shall be deemed to come into force on **31 March 2020**.

Some of the key provisions are:

Due dates for various compliances

All the due dates that fall during the period 20 March 2020 to 31 December 2020 under certain specified acts¹ for

- completion of proceedings;
- passing of orders;
- filling of appeals;

- issuance of notices intimations, notifications, sanctions or approvals; and
- furnishing of reports, documents, returns, etc.

have been extended to **31 March 2021** subject to following exceptions.

Particulars

Due date

Income tax return for Assessment Year 2019-20 (AY20)	30 November 2020 ²
Income tax return for AY21	30 November 2020
Tax audit report for AY21	31 October 2020
Payment of self-assessment tax where tax liability is up to INR 1 lakh	30 November 2020
Vivad se Vishwas Scheme	31 December 2020 or any subsequent date which may be notified by the government.
<ul style="list-style-type: none">• Making application in Form 1• For making payment	
Investment, deposit, payment, acquisition, purchase, construction or such other action, by whatever name called, for the purposes of claiming capital gain exemption ³	30 September 2020

¹ The Wealth-tax Act, 1957, The Income-tax Act, 1961 (IT Act), The Prohibition of Benami Property Transactions Act, 1988, Chapter VII of the Finance (No. 2) Act, 2004, Chapter VII of the Finance Act, 2013, The Black Money (Undisclosed Foreign Income and Assets) and Imposition

of Tax Act, 2015, Chapter VIII of the Finance Act, 2016, The Direct Tax Vivad se Vishwas Act, 2020

² The Ordinance extended the date till 30 September 2020. However, this was further extended by Order F. No 225/150/2020-ITA-II dated 30 September 2020.

³ under Sections 54 to 54GB of the IT Act

Investment/payment under Chapter-VIA-B ⁴	31 July 2020
Date for commencement of operation for the special economic zone (SEZ) units (which have received necessary approval by 31 March 2020)	30 September 2020
Tax deduction at source (TDS) or tax collection at source (TCS)	
• Furnishing of statements by government offices	15 July 2020
• Furnishing of statements by any other person	31 July 2020
• Furnishing of Form 16	15 August 2020
Time limit for completion or compliance of action under indirect tax laws⁵	30 September 2020 or any subsequent date which may be notified by the government.
The time limit for completion or compliance of action such as:	
• completion of any proceeding or issuance of any order, notice, intimation, notification or sanction or approval, by whatever name called, by any authority, commission, tribunal; or	
• filing of any appeal, reply or application or furnishing of any report, document, return or statement	
falling during the period 20 March 2020 to 29 September 2020 and has not been made within such time.	

Changes in the tax residency rules

As per erstwhile provisions⁶ of the IT Act, an individual taxpayer is treated as a 'resident' in India in a year, if the taxpayer is in India for an aggregate period of 60 days or more **and** has been in India for an aggregate period of 365 days or more within four years immediately preceding that year.

The condition of 60 days was read as 180 days in a year for a citizen of India or a person of Indian origin (PIO) visiting India.

Changes made by Finance Act 2020

- Finance Act, 2020 substituted the requirement of 180 days with 120 days for individuals who are Indian citizen or person of Indian origin if their total income (other than income from foreign sources) exceeded INR 15 lakhs during the year.

⁴ including 80C, 80D, 80G of the IT Act

⁵ the Central Excise Act, 1944, the Customs Act, 1962, the Customs Tariff Act, 1975 and the Service Tax Act, 1994

⁶ Section 6(1)(c) of the IT Act

- The Finance Act 2020 also amended the residency rule to provide that an Indian citizen shall be **deemed** to be ‘resident’ in India if his total income (excluding income from foreign sources) exceeded INR 15 lakhs and he is not liable to tax in any other country or territory.

Changes made by the Amendment Act

- It has been clarified that the individual for whom the period of 120 days applies, is a person who is an Indian citizen or PIO and **who being outside India, comes to visit India** and has India sourced income exceeding INR 15 lakhs.
- It has also been clarified that the deemed residency clause would not apply to individuals who qualifies as ‘resident and ordinarily resident’ under the normal provisions of the IT Act.
- ‘Income from foreign sources’ would exclude income which is deemed to accrue or arise in India.

Tax incentive for Category-III AIF

- **Exemption to Category-III Alternative Investment Fund (AIF)**

To encourage the relocation of foreign funds to the International Financial Services Centre (IFSC), the Amendment Act provides

tax exemption for Category-III AIF located in the IFSC from the following incomes:

1. Transfer of securities (other than shares in a company resident in India)
2. Any income from securities issued by non-residents (not being a permanent establishment of a non-resident in India), if such income otherwise does not accrue or arise in India
3. Any income from a securitisation trust which is taxable as business income.

The exemption would be available only in respect of income attributable to units of such funds held by a non-resident.

- **Exemption to the unitholders of a Category-III AIF in IFSC**

Any income accruing or arising to or received by unit holders from Category-III IFSC AIF or on transfer of units in Category-III IFSC AIFs has been exempted from tax.

- **Tax rates for Category III-AIFs in IFSC**

Tax on income (dividend / interest⁷) received by a Category-III AIF in respect of securities has been reduced to 10%. The reduced tax rate is applicable only in case of units held by non-residents. Consequential amendment made in for withholding of taxes as well. Thus, any person responsible for paying any income (other than capital

⁷ other than interest under section 194LD

gains) to a Category III AIF in IFSC shall withhold tax at the rate of 10% at the time of payment or credit whichever is earlier⁸.

Faceless assessment scheme

The Amendment Act codifies the 'Faceless Assessment Scheme' notified on 13 August 2020 by the Central Board of Direct Taxes⁹. Now, the National e-assessment Centre has been re-designated as the National Faceless Assessment Centre (NFAC) and the Regional e-assessment Centre has been re-designated as the Regional Faceless Assessment Centre (RFAC). Procedure for making reference to the Dispute Resolution Panel (DRP) proceedings has also been prescribed.

It has also been specified that personal hearings, will not be automatic or at the choice of the taxpayer. The Chief Commissioner or the Director General in charge of the RFAC, may approve the request of a personal hearing in respect of circumstances in which personal hearing is permitted.

The Amendment Act has introduced enabling provisions for the extension of the faceless scheme in several cases. Some key ones being:

- Re-assessment¹⁰ and revision proceedings¹¹
- Transfer Pricing assessment proceedings¹²
- Approvals and registrations¹³
- Rectification proceedings¹⁴
- Order giving effect to orders passed by the Commissioner of Income-tax (Appeals), Income-tax Appellate Tribunal, High Court, Supreme Court and revision orders passed by the Commissioner of Income-tax¹⁵
- Prosecution and compounding proceedings¹⁶
- Stay and tax recovery proceedings¹⁷
- Special Audit and valuation by valuation officer¹⁸

Other amendments

Surcharge rate applicable on Foreign Portfolio Investors (FPIs)

- The surcharge rate on dividend income of FPIs has been capped at 15%.

Donations

- The Prime Minister's Citizen Assistance and Relief in Emergency situations Fund (PM CARES Fund) has been included within the

⁸ Section 196D of the IT Act

⁹ Notification No 61 and 62 of 2019 published in the Gazette of India on 12 September 2019

¹⁰ Under section 147 of the IT Act

¹¹ Under section 263 and 264 of the IT Act

¹² Under section 92CA of the IT Act

¹³ Under section 293D of the IT Act

¹⁴ Under section 154 of the IT Act

¹⁵ Under section 264B of the IT Act

¹⁶ Under section 279 of the IT Act

¹⁷ Under section 231 of the IT Act

¹⁸ Under section 142B of the IT Act

list of donations eligible for 100% tax deduction with retrospective effect from 1 April, 2020¹⁹. Additionally, the income received by the PM CARES Fund has also been exempted²⁰.

Reduction of TDS/TCS rates

- Reduction of TDS/TCS rates by 25% which was announced earlier²¹ has been codified in the IT Act²². Such reduction is applicable to all payments made (other than salary) to residents for the period 14 May 2020 to 31 March 2021.

Charitable institutions, trust

- The Finance Act, 2020 proposed that an electronic registration process will be introduced for charitable institutions, specified funds, trusts, institutions, universities, educational institutions, hospitals and medical institutions. All charitable institutions which are already registered were required to re-apply for such electronic registration within 3 months from 1 June 2020.
- This date was earlier extended to 1 October 2020. Now, the Amendment Act further extends the effective date of this provision to 1 April 2021²³.

Sovereign wealth funds

- Exemption from dividend, interest and capital gains income earned by wholly owned subsidiaries of Abu Dhabi Investment Authority has now been restricted to funds owned by Abu Dhabi instead of United Arab Emirates²⁴.

Advance tax

It has been clarified that self-assessment taxes paid within the due date (before extension) shall be treated as 'advance tax' in case of resident individual:

- Not having any income chargeable under the head 'Profits and gains of business or profession'; and
- Is of the age of sixty years or more at any time during the year.

Interest and penalty

Where the due date for payment of any tax or levy falls during 20 March 2020 to 29 June 2020 and if such amount has not been paid within such due date but paid on or before 30 June 2020 then:

- The rate of interest payable on such amount for delay shall not exceed 0.75% for every month or part of month

¹⁹ Under section 80G of the IT Act

²⁰ Under section 10(23C) of the IT Act

²¹ CBDT Press Release dated 13 May 2020

²² Under section 197B of the IT Act

²³ Under section 12AA and 12AB of the IT Act

²⁴ Under section 10(23FE) of the IT Act

- There shall be no penalty or prosecution in respect of such amount for delay.

Indirect tax

Power to extend time limit in special circumstances²⁵:

- The government has been granted powers to extend the time limit specified in, or prescribed or notified under, the GST law in respect of actions which cannot be completed or complied with due to force majeure on the recommendations of the GST Council.
- The power to issue notification shall include the power to give retrospective effect to such notification from a date not earlier than the date of commencement of the GST Act.
- The expression 'force majeure' has been defined to mean a case of war, epidemic, flood, drought, fire, cyclone, earthquake or any other calamity caused by nature or otherwise affecting the implementation of any of the provisions of the GST Act.

²⁵ Section 168A of the Central Goods and Service Tax (CGST) Act, 2017

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