

Critical issues in Union Budget 2020 & Section 115BBE



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Shared at

Bhatinda Branch of NIRC of ICAI

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BUDGET 2020

- ❖ **2 hours 40 mins speech**
- ❖ **104 amendments in Direct Tax**
- ❖ **Benefits / Compliances !!!!**

INDIVIDUAL / HUF NEW RATES

Total Income (Rs.)	New Rate	Old Rate
Up to 2,50,000	Nil	Nil
From 2,50,001 to 5,00,000	5%	5%
From 5,00,001 to 7,50,000	10 %	20 %
From 7,50,001 to 10,00,000	15 %	20 %
From 10,00,001 to 12,50,000	20 %	30 %
From 12,50,001 to 15,00,000	25 %	30 %
Above 15,00,000	30%	30%

CONDITIONS

❖ Following deductions not allowed:

- Deductions from salaries (including Entertainment Allowance, standard deduction of Rs. 50,000 etc.) u/s 16.
- HRA-Section 10(13A).,
- Special allowance u/s 10(14),
- Allowances to MPs u/s. 10(17),
- s. 1,500 granted to parent for clubbing income of minor u/s Sec.10(32),
- Travel concessions u/s 10(5).
- Deduction of Interest on Borrowed Capital on SOP House property u/s 24(b).

CONDITIONS

- Standard Deduction in relation to family pension u/s 57 (iia)
- Any other deductions under Chapter VI-A except u/s 80JJAA and 80CCD (2)
- S. 10AA - SEZ units
- S. 32 (1)(iia) - Additional Depreciation
- S. 32 AD –Plt. Mch. in backward area
- S. 33 AB - Tea/Coffee/Rubber
- S. 33 ABA - Site restoration Fund
- S. 35 (1)(ii)/(iia)/(iii), 35(2AA), 35(2AB) -scientific research
- S. 35 AD – Specified Business
- S. 35CCC – Agriculture Extension project

CONDITIONS

- ❖ C/f loss / unabsorbed dep. from any earlier AY if such loss is attributable to any of above - not allowed. Loss would exhaust
- ❖ Loss under the head HP not to be set off against any other head
- ❖ Depreciation u/s 32 claimed except additional depreciation
- ❖ Unabsorbed additional depreciation not to be carried forward but to be adjusted in block of assets as on 1.4.2020
- ❖ No exemption or deduction for allowances or perquisite allowed by whatever name called provided under any other law for the time being in force
In case it has unit in IFSC – deduction u/s 80LA allowed

OPTIONS

- ❖ For person having income other than business – from year to year
- ❖ For person having income from business – any year – once opted cannot go out.... One time opting out allowed .. If opts out.. Cannot avail again
- ❖ If no business income then – option available year-wise
- ❖ Employee / Employer!!!!

RATES WITH 1.50 L DEDUCTION

Total Income (Rs.)	Old Regime Tax	New Regime Tax	Savings
7.50 Lacs	33800	39000	-5200
10 Lacs	85800	78000	7800
15 Lacs	226200	195000	31200
20 Lacs	382200	351000	31200
25 Lacs	53800	507000	31200
30 Lacs	694200	663000	31200

RATES WITH 3 L DEDUCTION

Total Income (Rs.)	Old Regime Tax	New Regime Tax	Savings
7.50 Lacs	0	39000	-39000
10 Lacs	54600	78000	-23400
15 Lacs	179400	195000	-15600
20 Lacs	335400	351000	-15600
25 Lacs	491400	507000	-15600
30 Lacs	647400	663000	-15600

DEPARTMENT'S DATA

- ❖ 5.8 Cr people filed ITR in 2018-19
- ❖ 5.3 Cr People claimed less than Rs. 2 lakh deduction
- ❖ Around 48 Lakh or 9% claimed deduction more than Rs. 2 L
- ❖ 3.77 L who claimed deduction exceeding Rs. 4 L

DEPARTMENT'S DATA

Total Income (Rs.)	No. of tax Payers	% growth over 2018
Upto 5 L	4.45 Cr	4% filed return but no tax
5 – 10 L	1.01 Cr	0.3%
10 – 20 L	32.11 L	11.1%
20 – 50 L	12.31 L	13.6%
50 – 1 Cr	2.25 L	14.5%
Above 1 Cr	1.08 L	12.3%
Total above 5 L	1.49 Cr	4%

DEPARTMENT'S DATA

- ❖ 8600 Individuals – income above 5 Cr
- ❖ 3.2 L Individuals – above 50 L
- ❖ Average tax by salaried person – Rs. 76306/- vs. non-salary Rs. 25753/-

DDT

- ❖ 115-O not applicable from 1.4.2020
- ❖ S. 10(34) / (35)- Omitted
- ❖ S. 194 / 194 K - TDS
- ❖ S.195
- ❖ S.2(22)(e) – back to square 1
- ❖ S. 57 – interest exp. 20%
- ❖ S. 80 M reintroduced
- S. 14A !!!!

SALARY

- ❖ A combined upper limit of Rs. 7.50 lakh per employee in respect of Employer's Contribution in a year to NPS, Superannuation Fund and Recognised Provident fund.
- ❖ Consequently any annual accretion in form of interest, dividend or any other amount of similar nature on such taxable Employer's Contribution during PY shall also be treated as perquisite
- ❖ ESOPs (S. 17)(vi) in case of eligible start-ups taxable at earliest of:
 - ❖ After expiry of 48 months from the end of relevant AY
 - ❖ From date of sale of such specified security or sweat equity share by the assessee
 - ❖ From date of assessee ceasing to be employee of employer who allotted or transferred him such ESOPs

44AB

- ❖ Limit 1 Cr to 5 Cr !!
- ❖ Limit of 5 Cr Only if:
 - ❖ Total receipts in cash do not exceed 5%; and
 - ❖ Total Payments in cash do not exceed 5%

44AB

❖ Receipts:

- ❖ Partner introduces – 2 Lacs in cash
- ❖ Loans – 10 Lacs by NEFT
- ❖ 4 Crs sales out of which 15 Lacs in Cash
- ❖ Cash from Debtors Rs. 10 Lacs
- ❖ Is tax audit u/s 44AB required?
 - ❖ Yes as total receipts - 422 L ; cash – 27L
- ❖ Is it mandatory or optional??

❖ Mandatory

S. 139

- ❖ Partner / Working Partner
- ❖ ITR date changed for 30th September ones to 31st October

DUE DATES OF AR

❖ One Month prior to due date of filing of ITR u/s 139(1) – 30th September

- Report in Form 10B u/s 12A
- Report u/s 44AB (Tax Audit)
- Report u/s 10A in Free Trade Zone, etc
- Report u/s 44DA (2) which is applicable to Every NR or Foreign Company.
- Report referred to in Section 50B in case of slump sale.
- Form 29B (MAT) u/s 115JB, Form 29C (AMT) u/s 115JC,
- U/s. 115VW (Tonnage Tax)
- U/s 32AB (Investment Deposit A/c), U/s 33AB (Tea, Coffee Development A/c)
- U/s 33ABA (Site Restoration Fund), U/s 35D (Preliminary Expenses)
- U/s 35E (Expenditure on prospecting etc. for Certain Minerals)
- U/s 80-IA / 80-IB / 80JJAA

Report u/s 92F (TP Report) to be filed by 31st October

TDS

❖ Limits for Individual / HUF

❖ 194A

❖ 194C + contract manufacturing

❖ 194H

❖ 194-I

❖ 194J + FTS 2%

TDS – 194 - O

- ❖ Payment of certain sums by e-commerce operator to e-commerce participant
 - ❖ TDS @ 1% on sale or service or both
 - ❖ Individual / HUF no TDS if total sale / service do not exceed 5 L and furnish PAN / Aaddhar
 - ❖ If no PAN – 5%
 - ❖ Exemption for amount received or receivable by an e-com operator for hosting advertisements or providing any other service as w.r.t sale or services or both
- S. 197 benefit made available

TCS

Particulars	Seller	Time of Deduction	Amt	TCS Rate
Remittance given out of India under LRS of RBI	Authorized Dealer of Foreign Exchange	Debit in books of a/cs or receipt of payment, whichever is earlier	7 L	5%
Buyer of Overseas Tour Package	Seller	Debit in books of a/cs or receipt of payment, whichever is earlier	-	5%
Sale of any goods to buyer	Seller (Turnover > 10 Crs)	At the receipt of Payment	50 L	0.1%

FMV OF IMMOVABLE PROPERTY

- ❖ S. 55 – cost of acquisition – FMV as on 1.4.2001
 - ❖ Not to exceed Stamp duty value, if any as on 1.4.2001
- ❖ Sale consideration cushion increased from 5% to 10% in:
 - ❖ S. 43CA
 - ❖ S. 50C
 - ❖ S. 56(2)

CHARITY

- ❖ 5 year registration / renewal
- ❖ Amendments in:
 - ❖ S. 12A / 12AA
 - ❖ New Section 12AB
 - ❖ S. 10(23C)
 - ❖ S. 10(46)
 - ❖ S. 35
 - ❖ S. 80G

CHARITY

Sub-Cl.	Particulars	Time Limit for making application	Time for Granting Registration
(i)	Where trust or institution is registered u/s 12AA (As on date)	Within 3 months from the date on which this clause has come into force	3 months from end of month when application was received
(ii)	Where trust or institution is registered u/s 12AB	At least 6 months prior to expiry of the said period;	6 months from the end of month in which application was received
(iii)	Where the trust or institution has been provisionally registered u/s 12AB	<ul style="list-style-type: none"> • 6 months prior to expiry of period of provisional registration or. • within 6 months of commencement of its activities, whichever is earlier; 	
(iv)	Where registration of trust or institution has become inoperative due to first proviso to section 11(7)	At least 6 mnths prior to commencement of AY from which said registration is sought to be made operative;	
(v)	Where trust or institution has adopted or undertaken modifications of objects	Within a period of 30 days from the date of the said adoption or modification	
(vi)	In any other case	At least 1 month prior to commencement of PY relevant to AY from which said registration is sought	1 month from the end of month in which application was received

S. 80G

- ❖ Institution or fund already approved u/s 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 5 years at one time
- ❖ Institution or fund has to furnish to the donor, a certificate specifying the amount of donation and such other particulars as may be prescribed
- ❖ Deduction u/s 80G/ 80GGA to a donor shall be allowed only if a statement is furnished by the donee who shall be required to furnish a statement in respect of donations received and in the event of failure to do so, fee shall be levied of Rs. 200 p.d u/s u/s 234G & non or inaccurate filing penalty of Rs.10K minimum and Rs. 1 L maximum u/s 271K

PENALTY – FAKE ENTRY

- ❖ S. 271A AD introduced for:
 - ❖ False entry, or
 - ❖ Omitting any entry, etc
- ❖ in books of accounts being 100% on:
 - ❖ Person making entry in his books
 - ❖ Person causing such entry in the books

FAKE ENTRY???

❖ Includes:

- ❖ Forged or false documents such as a false invoice or, in general, a false piece of documentary evidence; or
- ❖ Invoice in respect of supply or receipt of goods or services or both issued by the person or any other person without actual supply or receipt of such goods or services or both; or
- ❖ Invoice in respect of supply or receipt of goods or services or both to or from a person who does not exist.

MISCELLANEOUS

- ❖ S. 285BB – Annual Information Statement – S. 203AA deleted
- ❖ S. 119A – CBDT to adopt and declare 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 such Charter

S. 115BBE - TAXATION LAWS (2ND AMENDMENT) ACT 2016



TAX u/s 115BBE

- **S. 115BBE substituted w.e.f. 1.4.2017**
- **Applicable if Income assessed u/s 68 / 69 / 69A / 69B / 69C / 69D even if reflected in IT Return**
- **Tax Rate increased from 30% to 60%.**
- **Plus surcharge u/Chapter II of Finance Act @ 25% i.e. 75% plus... cesses i.e. 77.25%**
- **Other cases of share capital, loans, !!!**

115BBE – Sections – No Source

68

- Cash Credits in books

69

- Unexplained Investments

69A

- Unexplained Money, Jewellery, bullion, etc

69B

- Investments, etc not fully disclosed in books

69C

- Unexplained Expenditure

69D

- Amount borrowed or repaid in Hundi

Penalty u/s 271AAC

- If tax u/s 115BBE paid within relevant previous year – no penalty otherwise penalty @ 10% of tax
- Procedure u/s 274 / 275 to be followed for imposing penalty
- No penalty u/s 270A
- In case of search penalty u/s 271AAB to be levied not u/s 271AAC



demonetization



3.jpg



AY 2017-18 additions

- Cash sales / Bogus sales
 - Stocks
 - Purchases
 - Trend past and future
 - VAT
 - Agreeing to net profit declared
- Rejection of books

Cash sales

- AO held - amount of Rs.59 Crs is hereby disallowed u/s 68 & added back to the total income of the assessee company.
- Para 8 – It seems that AO has probably not understood scope of S. 68. S. 68 is not for purpose of allowability or disallowability of any deduction & moreover, question of disallowance may arise in respect of any expenditure or allowance claimed by assessee. In respect of a sale consideration, there cannot be any question of any disallowance.

*Singhal Exim P. Ltd. Vs. ITO – ITA No. 6520/Del/2018
dt. 12.4.2019*

Cash sales

- Only margin can be added
 - *ITO vs. Pavan Kumar Bhagatram Sharma – ITA No. 1652/Ahd/2011 dt. 11/4/2016*
 - *ITO vs. Pankaj Agarwal ITA No. 7091/Del/2014 dt 16.5.18*
- Sales can be in cash and it is hardly necessary for the seller to bother about the name & address of the purchaser -
R.B.Jessaram Fatehchand (Sugar Deptt) VS. CIT (1970) 75 ITR 33 (Bom)

Cash sales

- It is but natural that if a customer makes cash purchase & lifts the goods, there is no duty cast upon seller to insist for address of the purchaser. In light of the fact that stock record was available with assessee, which evidenced making of sale, we fail to appreciate as to how any addition can be made by treating cash sales as bogus.

Kishore Jeram Bhai Khaniya, Prop. M/s Poonam Enterprises vs. ITO - ITA No. 1220/Del/2011 dt. 13.5.2014

Deposit after withdrawal

- Time gap!
- Merely because there was a time gap between withdrawal of cash & deposits explanation of assessee could not be rejected & addition on could not be made particularly when there was no finding recorded by AO or CIT(A) that apart from depositing this cash into bank as explained by assessee, there was any other purposes it is used by the assessee of these amounts
 - ACIT vs Baldev Raj Charla 121 TTJ 366 (Delhi)
 - Neeta Bareja v. ITO – ITA No. 524/Del/2017 dt 25.11.19

others

- Sales made in SBN itself
- Books rejected u/s 145
 - AO is not satisfied about
 - Correctness or
 - Completeness of a/cs, or
 - Where ICDS not followed
- Orders u/s 144
- Additions u/s 68 / 69A
- Penalties u/s 270A / 271AAC

Take care

- It is not an isolation case... but mass...
- Each case is different ..and should be handled differently and carefully
- Tax u/s 115BBE !!
- Stay of Demand !!

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Question added **1 hour** ago **Goods and Services Tax (GST)** By **Kaustubh Ram Karandikar**, Other Professional, Thane

1

answer

Q. Eligibility of input tax credit of CESS on Coal

Answered By **CA Raman Khatuwala**

8 views

Question added **1 hour** ago **Income Tax** By **Vijay Kumar**, CA, New delhi

0

answers

Q. How I file income tax return

11 views

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THANKS



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