


Tax Bulletin

Update publication for our clients



With highlights
of the Interim
Budget 2019

February, 2019



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FOREWORD

The Interim Budget 2019 presented on February 1, 2019 saw Finance Minister announcing key relaxations and increase in thresholds under the Direct Tax regime. The proposed changes are set to provide much needed relief to the middle class and the agricultural sector.

Under Indirect Taxation, limited scope was left for any major announcements in the GST regime with the GST Council driving the final decisions on all aspects. Importantly, effective date of amendments proposed in the GST Acts that received presidential assent in August 2018 coincided with the date of Interim Budget and is likely to impact the procedural aspects under GST and the quantum of GST that is being discharged as of now.

In this backdrop, we have compiled the **9th Edition of the Tax bulletin** in relation to Direct Tax (i.e. Income Tax) and Indirect Tax (i.e. GST, Customs law and FTP) with the relevant highlights of the Interim Union Budget 2019.

Warm Regards,

Team VK&S

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- 1 Income Tax
- 2 Goods & Services Tax ['GST']
- 3 Customs
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Income Tax updates

➤ Union Budget Proposals 2019

Union Budget Proposals 2019



Key Budget Highlights

- ❖ No change in tax rates for individual and corporate tax payers
- ❖ No significant changes proposed in corporate tax
- ❖ Major proposals are for small taxpayers specifically small traders, salary earners, pensioners & senior citizens
- ❖ Incentive to real estate sectors by way of many friendly proposals
- ❖ Direct Tax Collection doubles to Rs 12 Lacs Crore in last five years
- ❖ Focus on delivering tax friendly services with use of technology
- ❖ Tax proposals will be presented in full budget proposed after general elections.



Personal Taxation



- ❖ All the proposals will be effective from FY 2019-2020 unless otherwise specified
- ❖ **Enhance Rebate for Income upto Rs 5,00,000/-:** For taxpayer with income less than Rs 5,00,000/-, there will be tax rebate U/s 87A of Rs 12,500/-. Effectively income upto Rs 5,00,000/- will be exempt.
- ❖ **Non taxability of Notional Rent of Second Self Occupied Property (SOP)** : Currently, tax payer owning two or more SOP, needs to offer notional rent of one SOP for taxation. Now, it is proposed that notional rent taxation will not be applicable for upto two SOP's. However there is no change in deduction of interest on such SOPs which will be restricted to Rs 2,00,000/-
- ❖ **Capital Gain on residential house:** Relaxation is given U/s 54 for reinvestment of sale proceeds from sale of essential house in two residential houses as compared to current condition of one house. This is one time exemption, hence needs to be availed cautiously. This exemption will be applicable only when capital gain does not exceed Rs 2 Crore.

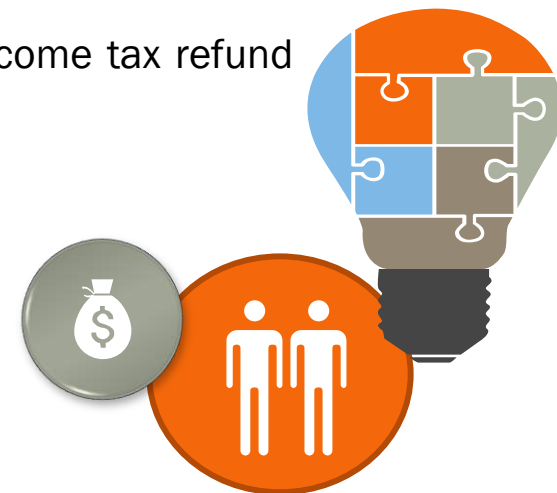
Proposals will be very beneficial to small taxpayers



Personal Taxation



- ❖ **Enhanced Standard Deduction:** Salaried person will be entitled for enhanced standard deduction of Rs 50,000/- as compared to earlier Rs 40,000/-
- ❖ **Increase in threshold for TDS on Interest on Deposit :**Threshold for deduction of TDS U/s 194A for interest on deposits by Banks and Other Financial Institutions has increased from Rs 10,000/- to Rs 40,000/-
- ❖ **Increase in threshold for TDS on Rent:** Threshold limit U/s 194I proposed to increase from Rs 1,80,000 to Rs 2,40,000/- for rent of immovable property, plant and machinery, furniture of fittings etc.
- ❖ **Easy Processing of Income Tax Refunds:** It is proposed to process the income tax refund within 24 hours.



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GST updates

- Amendment in Acts
- Notifications and Circulars
- Legal Snippets
- GST Advance Rulings

Changes in CGST Act

CGST Amendment Act, 2018 received the President's Assent on August 29, 2018.



Some provisions given retrospective effect i.e. applicable from July 1, 2017

- Changes to the definition and scope of "supply" under Section 7
- Amendment to transitional arrangements for ITC

Other provisions were to come in to effect from a notified date

February 1, 2019
notified as effective date for most provisions

Multiple GST registrations in one State permitted

Amendments in list of blocked ITC

Order of utilization of ITC changed – IGST to be exhausted first

Provision added to increase Composition threshold to 1.5 Crore (Yet to be notified)

RCM on URD supply to be paid only by notified persons

Detailed list of provisions effective from 1-2-2019 appended as **Annexure A**



Changes in IGST Act

Changes effective from February 1, 2019

Definition of 'export of service' amended:
Condition of receipt of consideration in foreign exchange relaxed - remittances can be in Indian rupees in cases wherever permitted by RBI

Definition of Governmental Authority - Function entrusted to Panchayat under article 243G also included in the definition

Place of Supply (Transportation of Goods)
When destination of goods is outside India and supplier + recipient both are in India, POS to be destination of goods (earlier it was location of recipient)

Place of Supply (Treatment of / process on Goods)
Place of performance shall not be place of supply in case where goods are imported for repair/treatment / process and exported thereafter. Earlier this exclusion was limited to import for repair work

Procedure for apportionment of IGST in respect of B2B supplies wherein ITC taken by the recipients amended



Notifications / Circulars / Orders



Job workers involved in inter-state supply of services in relation to Jewellery, goldsmiths' and silversmiths' to remain exempt from obtaining GST registration



TRAN 1 for specified persons to be filed by March 31, 2019

Wrongly availed transitional credit cannot be reversed in GSTR-3B – Reversal to be done through DRC-03



Restrictions imposed on proper officer for revalidation of refund order

Due date for filing TDS return in form GSTR-7 extended up to February 28, 2017



Previous circulars amended to be in line with provisions of CGST Amendment Act

Other Changes / Clarifications / updates

Supply against advance authorization

- Supply against advance authorization would be treated as deemed export even when exports have been made after availment of ITC, subject to following condition:
 - i. Inputs are used in manufacture or supply of taxable goods;
 - ii. CA Certificate needs to be submitted to officer.
- Removal of pre-import condition for availing benefit

Clarification: Transitional Credit

Cenvat Credit of Service tax can be carried forward ;
Transitional credit of Cess and Additional Duties of Excise (Textile and Textiles article) would be not available

GST Appellate Tribunal

- GST Council has approved the following:
- Constitution of GST Appellate Tribunal;
 - National Bench at New Delhi and
 - Three regional benches at Mumbai, Chennai and Kolkata;
 - GST Appellate Tribunal (Appointment and Conditions of Service of President and Members) Rules, 2018



Decisions taken by GST Council

To be
implemented
from April 1,
2019

Higher exemption threshold limit

- There would be two threshold limits for exemption from GST registration and payment for the supplier of goods i.e. Rs.40 lakhs and Rs.20 lakhs.
- States would have an option to decide about one of the limits within a weeks' time;



Composition scheme

- Threshold to be increased to Rs.1.5 Crore for availing composition scheme for Goods;
- Composition scheme with GST rate @ 6% shall be made available to service providers as well as supplier of goods and services having annual turnover in the preceding financial year upto Rs.50 lakhs;
- They would need to file one annual return but taxes would be paid quarterly along with a simple declaration.

Other decision

- Free accounting and billing software shall be provided to small taxpayers by GSTN;
- Approved levy of Cess at a rate not exceeding 1% on intra-state supply of goods and services within state of Kerala for a period not exceeding 2 years;
- Seven Group of Ministers shall be constituted to examine the proposal of giving a Composition Scheme to Boost the Residential Segment of the Real Estate Sector;
- A Group of Ministers shall be constituted to examine the GST Rate Structure on Lotteries.

Terms of Reference for Group of Ministers

Terms of Reference for GOM on Real Estate Sector

- Analysis of GST tax rate;
- Examine and suggest ways for composition scheme or any other scheme to boost real estate sector;
- Suggestion of valuation mechanism and examination of legality of inclusion/ exclusion of land;
- Examine various aspect of levy of GST on Transfer of Development Rights (TDR)



TOR for GOM on Lottery

- Comments on continuity of disparity in tax structure or apply uniform rate on same product;
- Whether private persons authorized by states are misusing lower rate and suggestion of measure to curb it;
- Examine other issues to prevent evasion of tax



GST Legal Snippets – From the High Courts

GST is leviable on supply of goods at domestic airport to transit passenger

A – 1 Cuisines Pvt Ltd Vs UOI [Mum HC]

Issue: Petitioner filed writ petition for claiming exemption from charging of applicable taxes and refund of input tax on sale to International passenger.

Ruling: Shop is located at a domestic airport or domestic security hold area, which are before even the immigration clearance, thus transaction cannot be said to have taken place in any area beyond the customs frontier of India or outside India. The petition is dismissed.

Audit under Service tax can continue post GST

Gitanjali Vacationville Pvt Ltd Vs UOI [Koi HC]

Issue: Petitioner challenges an act of authorities who are proposing conduct of Service Tax Audit , on the ground it is issued without jurisdiction of CGST Act.

Ruling: An enquiry or an investigation or even a legal proceeding under Finance Act 1994 is permissible. Since authorities are proposing to undertake an audit for the period when the Finance act was applicable, the authorities are entitled to do so.

Strikes down Para 4 of Circular 34/8/2018



Torrent Power Ltd Vs UOI [Ahmedabad HC]

Issue: Petitioner seeks Validity of circular which states that other ancilliary services provided for transmission and distribution of electricity are taxable.

Ruling: Other ancilliary services provided along with transmission and distribution of electricity are in nature of composite supply . Consequently principal supply of transmission and distribution is exempt from levy of GST, the tax liability of other services shall be determined accordingly. Paragraph of circular is strike down being ultra virus of Act.

GST – Advance Rulings



As per Section 97(1) of the Central Goods and Services Tax Act, 2017 ('CGST Act'), an applicant desirous of obtaining an advance ruling may make an application to the Authority for Advance Ruling ('AAR')

The broad objective for setting up a mechanism of Advance Ruling is to provide certainty in tax liability in advance, in relation to an activity proposed to be undertaken by the applicant and reduce litigation. Under GST, advance ruling can be obtained for a proposed transaction as well as a transaction already undertaken by the applicant

It may be clarified that an Advance ruling is binding only on the applicant who has sought the advance ruling and on the concerned officer or the jurisdictional officer in respect of the applicant

However, the Rulings help us to ascertain the mind-set and interpretation that may be adopted by the Department. Accordingly, we have discussed a few Advance rulings issued in the past months in the subsequent slides

Ruling of Authority for Advance Ruling

GGL Hotel and Resort Company (Karnataka)

Issue: Whether ITC is available for lease rent paid during pre-operative period for leasehold land on which resort is constructed for the furtherance of business, when same is capitalised

Ruling – Applicant is engaged in hospitality and real estate business. The resort is being constructed for furtherance of business. Construction of the hotel is impossible unless they enjoy right to use land. Construction of immovable property is dependent on the supply of the leasing services. *Leasing services is therefore a supply for construction of the immovable property. ITC is therefore not admissible on lease rental under section 17(5) of CGST Act.*

Madhya Pradesh Poorv Kshetra Vidyut Vitaran Company Ltd (Madhya Pradesh)

Issue: Whether applicant is eligible to avail exemption from the levy of GST on delay payment charges recovered for delay in payment of electricity bill.

Ruling: Applicant is engaged in distribution and supply of electricity. They recovers some non-tariff charges which includes delay payment charges along with energy charges and distribution charges. Delay payment charges are components of value of supply, Thus it cannot be treated as separate services . Delay payment surcharge attributable to exempt supply shall be exempted and portion of it attributable to taxable supply shall be taxable.






Custom updates

- Notifications and Circulars

Customs – Tariff Notifications



Notification No.	Implications
1/2019	Seeks to remove pre-import condition and include specified deemed export supplies for exemption from IGST and Compensation cess for materials imported against Advance Authorizations and Advance Authorizations for Annual Requirement
2/2019	Prescribes effective BCD rate on: <ul style="list-style-type: none">• parts of power bank of Lithium ion and• Battery pack of cellular mobile phones
3/2019	Prescribe effective BCD rate on: <ul style="list-style-type: none">• Electric Vehicle (EV) and• their specified part and• raw material for manufacture of Lithium ion cells.

Customs – Non-tariff and Anti Dumping Notifications

Non-tariff Notifications

Barhni added to the list of Land Custom Station from which export under claim of Duty Drawback can be made to Nepal.



Anti-dumping Notifications

1/2019	Imposes anti-dumping duty on imports of "Methylene Chloride" originating in or exported from European Union and United States of America
2/2019	Specific Notifications for exports from Janata Jute Mills Ltd., M/s. Aman Jute Fibrous Ltd. (Producer) and M/s IB Jute Corporation
3/2019	
4/2019	Rescinds old notification imposing Anti-dumping duty on Meta Phenylene Diamine (MPDA), originating in, or exported from, People's Republic of China
5/2019	Imposes anti-dumping duty on "Metaphenylene Diamine" and Fluoroelastomers (FKM) originating in or exported from China PR.
6/2019	



Customs – Clarifications

IGST Refund related clarifications

Late filing of EGM –

- Custodians to file EGM online of cargo related to past cases up to 31-01-2019 to avoid penal consequences.
- EGM filed after such date will attract penalty

Mismatch in local EGM and gateway EGM –

- Measures prescribed to avoid mismatch
- Agents of Shipping lines / freight forwarders/ consolidators may be approached for correct information

Guidelines issued to Commissioners for Customs Post Clearance Audit ('PCA')

- PCA allows Customs to reduce border controls by shifting compliance checks from the clearance stage to the post clearance stage
- Under the new scheme, Transaction based audit (TBA) and Premises based audit (PBA) have been prescribed



4 FTP updates

- Notifications, Public Notices, Circulars & Trade Notices.

FTP Public Notices and Circulars

Subject	Implications
Rationalization of procedures in handling redemption requests under Advance-EPCG Authorizations	ANF-4F (Application for redemption of Advance Authorization) & ANF-5B (Application for redemption of EPCG Authorization) will indicate the number of EDI and Non-EDI shipping bills used by the applicant for redemption.
Directives for processing of application for MEIS claims under Foreign Trade Policy 2015-20	The MEIS applications for 64 HSN codes as listed in Public Notice 68/2015-20 dated 09.01.2019, will be processed in manual mode, while the rest of the HSN Codes MEIS will be approved automatically by the system.
Clarification in respect of “not permitting” the import of the capital goods required for “distribution of electrical energy (power)” under the EPCG Scheme.	It is clarified that the transmission of electricity and the distribution of electricity is nothing but the same process of “supplying of electricity” from one point to the other. Therefore, Sr. No. 12 in the Appendix 5F of the FTP 2015-20 did not permit the import of any kind of capital goods for generation, transmission and distribution of power under EPCG Scheme.



FTP Trade Notices

Subject	Implications
<p>Mandatory recording of information on DGFT website about transfer of MEIS/SEIS Scrips issued from 14.1.2019 onwards (for EDI ports only)</p>	<p>In order to improve ease of doing business, DGFT has planned to discontinue issue of MEIS/SEIS Scripts in physical form. For this purpose, it is important to have information about the current owner of the scripts online so that the current owner only can be allowed to utilise it.</p> <p>Therefore, a facility has been created on DGFT website to record the information about transfer of scrip. It is mandatory to update the details of transfer of MEIS/SEIS scripts which have been issued on or after 14.01.2019.</p> <p>Applicants will continue to apply for MEIS/SEIS as per current procedure and Regional Authorities will continue to issue the MEIS/SEIS scripts on security paper till it is decided to discontinue the issue in physical form.</p> <p>No simultaneous transfer of scrips to more than one firm will be allowed.</p>
<p>Application in ANF-2D submitted for seeking policy-procedure relaxation in terms of Para 2.58 of the FTP - reg.</p>	<p>ANF-2D is submitted for seeking policy / procedure relaxation. However it has been observed that in large number of applications, Column No. 15 of ANF - 2D i.e. Reasons / justification for seeking relaxation is left blank.</p> <p>Henceforth, all the applicants seeking relaxation must fill up column no. 15 of ANF-2D while making online application. This is mandatory and applications received without this column duly filled will be treated as incomplete applications and will be rejected.</p>



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Contact us



ANY QUESTIONS?

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Annexure A - Changes in CGST Act

Heads	Implication of Amendment
<i>Changes in Definitions</i>	
Adjudicating Authority	Anti – Profiteering Authority shall not be considered as “Adjudicating Authority”.
Business	<ul style="list-style-type: none"> • All activities (goods and services) related to race club are covered under scope of business; • Activities of a licensed book maker in race club also included.
Business Vertical	Definition is removed as it is redundant.
Local Authority	Development Board under Article 371J has been included as ‘local authority’ on request of State of Karnataka as special status has been granted to 6 backward districts of Karnataka and Hyderabad region
Services	Services to include facilitating or arranging transactions in securities
<i>Scope of supply</i>	
<ul style="list-style-type: none"> • Schedule II earlier mentioned in inclusion part of the definition and post amendment now it is finds place as sub-section 1A; • Import of services even by unregistered person from outside India, in the furtherance of business are to be treated as supply if made without consideration; • Out and out transaction outside India, supply from bonded warehouse and high sea sales neither treated as supply of goods nor supply of services 	

Heads	Implication of Amendment
<i>Input Tax Credit</i>	
ITC - 'Bill to ship to' concept for services introduced	<ul style="list-style-type: none"> ITC will be allowed to a person on whose direction and account, 3rd person receives the services
Apportionment of ITC	Value of "exempt supply" required for apportionment of credit will not include Schedule III items but <u>will include</u> sale of land and building. This will result in lowers reversals.
Blocked Credit	<ul style="list-style-type: none"> Blocked ITC is restricted to Motor vehicles of approved seating capacity of not more than 13 persons (including the driver) and vessels and aircraft unless used for specified purposes; ITC is blocked of General insurance, servicing, repair and maintenance, leasing, renting or hiring services related to motor vehicle, vessels and aircrafts whose ITC is not available; ITC of following is not blocked where it is obligatory for an employer to provide the same to its employees under any law for the time being in force : <ul style="list-style-type: none"> i. Food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery, leasing, renting or hiring of motor vehicle, vessels or aircraft, life insurance and health insurance; ii. Membership of club, health and fitness centre; iii. Travel benefits extended to employees on vacation
Changes in order of utilization of ITC	<ul style="list-style-type: none"> IGST to be utilized first for making all payments of GST and to be fully exhausted Then, ITC of CGST / SGST to be utilized for respective payments. Also, SGST and UTGST can be utilized for payment of IGST only when ITC of CGST is not available

Heads	Implication of Amendment
Registration related changes	
Special Category States	<ul style="list-style-type: none"> • Current limit for GST registration of 10 Lakh may be increased up to 20 Lakh on request of States • List of special category states amended now to include fewer states
Electronic Commerce Operator	<ul style="list-style-type: none"> • Compulsory registration applicable only to Electronic Commerce Operator who is required to collect TCS
Multiple registration in one State	<ul style="list-style-type: none"> • A person having multiple places of business in a State or Union territory may be granted a separate registration for each such place of business- • Specific conditions & format prescribed; • Procedure for transfer of ITC to newly registered place of business provided. (Form ITC-02A)
Other Registration related changes	<ul style="list-style-type: none"> • Express provision included for separate registration requirement for SEZ unit or developer; • Provision for suspension of registration are inserted –applicable when application for cancellation is under process. During suspension, returns not to be filed
Levy of GST under RCM for purchases from unregistered persons	GST needs to be paid under RCM only by specified class of registered person – List of notified persons note published yet
Composition levy	<ul style="list-style-type: none"> • Upper limit for Composition levy to be enhanced to Rs.1.5 crore from Rs.1 crore; • Registered supplier providing goods and service may also opt for Composition Scheme, provided his value of services does not exceed 10% of turnover of preceding FY in a State or Rs.5 lakhs (whichever is higher)
Time of Supply	<ul style="list-style-type: none"> • To rationalize anomaly in time of supply, reference to particular sub-section removed
Turnover definition for ISD	The Turnover required for distribution of ITC by Input service distributor shall not include duty or taxes levied on sale or purchase of goods in the course of inter-state trade.
Credit /Debit Note	<ul style="list-style-type: none"> • Periodic debit/credit notes can now be issued for multiple invoices

Heads	Implication of Amendment
Audit	GST Audit not applicable for Government companies which are subjected to Audit by CAG.
GST Practitioner	<p>Sales tax practitioner or tax return preparer with 5 year experience under the previous law, may remain enrolled up to 30 months from July 1, 2017 i.e. up to December 31, 2019 without passing the GST Practitioner exam</p> <p>GST Practitioner can perform other function such as:</p> <ul style="list-style-type: none"> E-way bill generation Filing of ITC-04 Intimation to pay tax under Composition Scheme
E-commerce Operator ('ECO')	Details declared by ECO to be matched with corresponding details of outward supplies furnished by supplier in GSTR-3B
Refund	<ul style="list-style-type: none"> • The relevant date for calculation of time period for refund of unutilised ITC in case of inverted duty structure shall be due date for furnishing GSTR-3B for the period in which claim arises; • The principal of unjust enrichment will apply in case of refund claim arising out of supplies of goods or services made to SEZ developer/unit;
Recovery of tax	Recovery of tax can be made from distinct person in different states in respect of default be any person with same PAN.
Ceiling Limit for pre-deposit filing of appeal	<ul style="list-style-type: none"> • Ceiling limit of Rs.50 crore for pre-deposit for filing an appeal before the appellate authority has been specified; • Setting a ceiling limit of Rs.100 crore for filing an appeal before the appellate tribunal.
Time limit for payment of tax and penalty	Time limit for payment of tax and penalty in case of detention of goods in transit is extended to 14 days after which confiscation proceeding could be initiated.
Job Work	Period for returning input / CG may be extended by 1 and 2 years respectively by the Commissioner