

CNK & Associates LLP

Newsflash: The Taxation & Other Laws (Relaxation & Amendment of Certain Provisions) Bill, 2020

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Summary:

The Taxation & Other Laws (Relaxation & Amendment of Certain Provisions) Bill, 2020 [“The Bill”] has been passed in both the houses of the Parliament and awaits Presidential assent. The Bill seeks to incorporate the Taxation & Other Laws (Relaxation of Certain Provisions) Ordinance, 2020 (issued on 31st March 2020 and subsequent extension of due dates by notifications dated 24th June 2020 and 29th July 2020) into law. Amongst others, the Bill proposes to amend the Income-tax Act, 1961 to incorporate the newly introduced Faceless Assessment Scheme for income-tax.

Extension of Due Dates:

The Taxation & Other Laws (Relaxation of Certain Provisions) Ordinance, 2020 introduced on 31st March 2020, provided for relaxation of certain due-dates of compliances under Income-tax Act, 1961 (“the Act”) and other specified Acts. The due dates were further relaxed / extended through a notification dated 24th June 2020. The Bill presented in the Lok Sabha on the 18th September 2020 essentially incorporates the provisions of the Ordinance and reiterates the extensions already provided for by the March 2020 Ordinance, notification dated 24th June 2020 & 29th July 2020.

It is important to note that the Bill does not provide for any fresh extension for the due- dates of filing Income-Tax Returns (ITR) or Tax Audit Report to the dates already notified by notification dated 29th July 2020.

In brief:

- The due-date for filing belated or revised ITR for Assessment Year (AY) 2019-20 continues to be 30th September 2020
- The due-date for filing original ITR for AY 2020-21 continues to be 30th November 2020
- The Government is however empowered to extend the due dates further.

The due-date for furnishing Tax-Audit Report and Transfer-Pricing Report for AY 2020-21 continues to be 31st October 2020. The due-date for filing the related reports / certificates for AY 2020-21 in relation to Minimum Alternate Tax (MAT), Alternate Minimum Tax (AMT), deduction for additional employment created (section 80JJAA), various income linked deductions under Chapter VI, etc. also continues to be 31st October 2020.

Further, the due-dates for completion of assessment proceedings for AY 2018-19 continues to be 31st March 2021. Importantly, the due date for issue of notice for tax scrutiny of AY 2019-20, which was otherwise 30th September 2020, also continues to be extended to 31st March 2021. (A snapshot of the due dates for various compliances is attached in [Annexure 1](#))

CNK Comments:

The due date for filing of the Master File by constituent entities of an international group is linked with the due date of filing the ITR. Since the due date for filing ITR for AY 2020-21 continues to be 30th November 2020, the Master File will also be required to be filed by 30th November 2020.

Compliance related to Country-by-Country Reporting (CbCR) filing & intimation of CbCR is not linked to filing of ITRs. Since there is no specific reference to CbCR compliance in the Bill, (as also was the case in the

Ordinance), one may take a view that in cases where CbCR Intimation & Filing are due up to 31st December 2020, the due date for CbCR compliance will stand extended to 31st March 2021.

Proposed Amendments: Income-tax Act, 1961

Provisions related to Residential Status:

With effect from 1st April 2020, an Indian citizen, having total income (other than the income from foreign sources) exceeding INR 15 lakhs during the previous year and not liable to tax in any other country or territory by reason of his domicile or residence or other similar criteria, is deemed to be resident in India i.e. irrespective of period of stay in India.

The Bill proposes to clarify that the above criteria will not apply where the individual is resident in accordance with the existing provisions based on period of stay in India.

Currently, the term “income from foreign sources” used in determination of residency of an individual means income which accrues or arises outside India (except income derived from a business controlled in or a profession set up in India). The Bill clarifies that the said term refers to income which is not deemed to accrue or arise in India.

Faceless Assessment Procedure:

The Bill proposes amendments to the Income-tax Act, 1961 by inserting new sections incorporating the Faceless Assessment Scheme with effect from 1st April 2021. The Faceless Assessment & Faceless Appeal procedure was earlier announced by the Government on 13th August 2020, as a part of the Transparent Taxation platform. While Faceless Assessments were made applicable with immediate effect, the procedure for Faceless Appeal has become applicable from 25th September 2020. These new provisions coupled with amendments to certain existing provisions will facilitate the implementation of the Faceless Assessment Scheme. Till 31st March 2021, Faceless Assessment would be governed by the notified Scheme, and thereafter by the newly inserted provisions of the Act.

The proposed amendments also enable schemes to be announced for the following functions, besides assessments, to be faceless:

- Collection of Information
- Inquiry / Valuation
- Proceedings before Dispute Resolution Panel (DRP)
- Proceedings before Transfer Pricing Officer (TPO)
- Cases of Income escaping assessment
- Rectification / amendments / issuance of notice or intimation
- Collection & Recovery of Tax
- Revision of Orders
- Giving Effect to Appellate Orders
- Approvals and Registrations under various sections
- Taking decision on whether to file appeals to Income Tax Appellate Tribunal (ITAT) by the Tax Department

Prosecution & Compounding of Offence

The proposed amendments provide for setting up of National & Regional Faceless Assessment Centres and other units (Assessment Unit, Technical Unit, Verification Unit and Review Unit) and state the Income Tax authorities governing these Units.

Other Amendments

Tax Deduction / Collection at Source (TDS/TCS):

The rates for TDS & TCS under certain sections were reduced by 25% w.e.f 14th May 2020 as a part of Covid-19 related relief measures announced for benefit of tax-payers. This was announced vide a Press Release. It is proposed to amend provisions relating to TDS & TCS to authorise the reduction in rates, with effect from the above date. It may be noted that while the press release under Section 194D covered lowering of TDS rates applicable to non-corporate recipients of insurance commission, (from 5% to 3.75%) the Bill proposes to cover insurance commission pay-outs to domestic companies as well. Accordingly, TDS rate in these cases is sought to be reduced from 10% to 7.5% upto 31st March 2021.

Further, in line with the amendments to facilitate faceless procedures, it is proposed that the Central Government may make a scheme for faceless issuance of certificate for lower/NIL deduction or collection of tax at source.

Expenditure on Scientific Research:

As per Finance Act, 2020, approval granted to certain research associations / university / colleges & Indian companies for activities in the field of scientific research were considered to be withdrawn unless these entities made fresh intimation in the prescribed manner to the prescribed authority within 3 months from 1st June 2020. The Bill proposes to defer this compliance requirement to be now applicable from 1st April 2021.

The taxpayer contributing to an Indian company engaged in scientific research, was eligible to claim deduction, even though subsequent to his payment, the approval granted to the Indian company withdrawn. These provisions were to take effect from 1st June 2020, and they have also been deferred and are to be made applicable from 1st April 2021.

Provisions related to Charitable Trusts:

The Finance Act 2020 made significant changes to the Income-tax Act, 1961 requiring fresh registration of Trusts / Institutions / Funds referred to in Sections 10(23C), 12AA, 35 and 80G of the Income Tax Act, from 1st June 2020. The CBDT had deferred the requirement of re-registration to apply from 1st October 2020, thereby providing the time limit for making fresh application up to 31st December 2020.

As per the proposed amendment in the Bill, this procedure of applying for re-registration has been further deferred, and is now to take effect from 1st April, 2021.

Similarly, the requirement of furnishing list of donations by scientific research associations and charitable institutions has been deferred to 1st April 2021 from 1st June 2020.

Consequential Amendment

The penalty provisions for non-furnishing of statements by scientific research institutions and charitable institutions approved under section 80G are proposed to be deferred to 1st April 2021, as a consequential amendment.

Annexure 1:

Sr. No.	Due Date pertaining to	Due Date (as Extended by Notification Dated 24 th June 2020)	Due Date :Taxation and Other Laws (Relaxation and Amendment of certain Provisions Bill, 2020)
1	Furnishing of Returns for the AY 2019-2020 (either belated or revised)	31 st July 2020	30 th September 2020
2	Furnishing of Returns for the AY 2020-2021	30 th November 2020	30 th November 2020
3	For making any investment, deposit payment, purchase, acquisition or construction in order to claim exemption from Capital Gains under the provisions of Section 54 to 54G for AY 2020-21	30 th September 2020	30 th September 2020
4	For making any investment, deposit, payment under the provisions of Chapter VI-A (Part B - Deduction in respect of certain payments) for AY 2020-21	31 st July 2020	31 st July 2020
5	Furnishing of return for AY 2020-21 in respect of assessee's where the self-assessment tax payable is in excess of INR 1 Lakh (after considering any advance tax / TDS / relief in respect of taxes paid outside India / Relief u/s 89)	30 th November 2020 (No extension for payment of self-assessment tax, and the whole of the self-assessment tax shall be payable by the due dates specified in the IT Act)	
6	Furnishing of return for AY 2020-21 in respect of assessee's where the self-assessment tax payable is less than or equal to INR 1 Lakh (after considering any advance tax / TDS / relief in respect of taxes paid outside India / Relief under section 89)	30 th November 2020 (Date for payment of self-assessment tax in these cases also extended to 30 th November 2020)	
7	Furnishing of Tax Audit Report for AY Year 2020-21	31 st October 2020	31 st October 2020
8	Furnishing of Statement of Tax Deduction at source and/or Collection of Tax at Source for the month of February or March 2020 or for the quarter ended 31 st March 2020	31 st July 2020	31 st July 2020
9	Certificate for Deduction of Tax at source in respect of payments in the nature of Salary for the Financial Year 2019-20	15 th August 2020	15 th August 2020
10	Payment under Vivad se Vishwas Act, 2020 (without additional tax or interest)	31 st December 2020	31 st December 2020
11	Due Date for PAN - AADHAR linkage	30 th June 2020	31 st March 2021
12	Completion of Assessments for the AY 2018-19	31 st March 2021	31 st March 2021

Sr. No.	Due Date pertaining to	Due Date (as Extended by Notification Dated 24 th June 2020)	Due Date :Taxation and Other Laws (Relaxation and Amendment of certain Provisions Bill, 2020)
13	Completion of any proceeding or passing of any order or issuance of any notice, intimation, sanction or approval or such other action by whatever name called, by any authority, commission or tribunal, by whatever name called, under the provisions of the specified Act; or filing of any appeal, reply or application or furnishing any report, document, return, statement or such other record, by whatever name called, under the provisions of the specified Act	31 st March 2021	31 st March 2021

Specified Acts: (i) The Wealth Tax Act (ii) The Income Tax Act (iii) The Prohibition of Benami Property Transaction Act, 1988 (iv) The Black Money (Undisclosed Foreign Income & Assets) and Imposition of Tax, 2015 (v) The Direct Tax Vivad se Vishwas Act, 2020 (vi) Chapter VII of the Finance Act (No.2), 2004 (vii) Chapter VII of the Finance Act, 2013 (viii) Chapter VIII of the Finance Act, 2016

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Our Offices in India

Mumbai

Mistry Bhavan, 3rd Floor,
Dinshaw Vachha Road, Churchgate
Mumbai 400020
Tel No. +91 22 6623 0600

Mumbai (Suburban Office)

501/502, Narain Chambers,
M.G. Road, Vile Parle (East)
Mumbai 400 057
Tel No:+91 22 6457 7600/01/02

Ahmedabad

'Hrishikesh',
2nd Floor, Vasantbaug Society,
Opp Water Tank, Gulbai Tekra
Ahmedabad 380 006
Tel. No. +91 79 2630 6530

Bengaluru

96, 7th Cross,
Domlur,
Bengaluru 560 071
Tel. No.+91 80 2535 1353

Chennai

Kochu Bhavan
Ground Floor, Old No 62/1, New No 57,
McNichols Road, Chetpet
Chennai 600 031
Tel No. +91 44 4384 9695

New Delhi

Suite 1101,
KLJ Towers,NSP
New Delhi 110 034
Tel No.+91 11 2735 7350

Vadodara

C-201/202, Shree Siddhi Vinayak Complex,
Faramji Road, Alkapuri,
Vadodara 390 005
Tel. No. +91 265 234 3483

Our Overseas Office

Dubai

Suite#17.06 Dubai World Trade Centre
Shaikh Zayed Road, Dubai, P.O.Box.454442
Tel. No. +971 04 355 9533