

Direct Tax relief measures announced on 13th May, 2020

On 12th May, 2020, the Hon'ble Prime Minister, Sh. Narendra Modi ji, announced a mega economic relief package worth Rs 20 lakh crore to make India a self-reliant nation amid the coronavirus-led crisis. Thereafter, the Hon'ble Finance Minister, Smt. Nirmala Sitharaman ji hosted a media conference on 13th May, 2020 at 4PM to give details of the relief package. During the media conference, it was announced that the relief package details will be revealed over a period of 3-4 days starting on 13th May, 2020. In the first tranche, a series of announcements were made to give boost to the economy. This included several relief measures for the MSME sector, liquidity support for employees and employers by making contribution to provident funds scheme, liquidity measures for NBFC's/ HFC's/MFI's, liquidity injection for DISCOMs, relief to contractors and RERA and direct tax measures. The announcements pertaining to the direct tax relief measures are discussed hereunder:

1. Reduction of TDS rates by 25%

It has been proposed that the rates of Tax Deduction at Source (TDS) for non-salaried specified payments made to residents shall be reduced by 25% of the existing rates. Accordingly, TDS shall be required to be deducted at the rate of 75% of the TDS rates provided under the Act as against the normal TDS rate.

It is to be noted that TDS rate has not been reduced in respect of payments to be made to non-residents. Accordingly, the payments to be made to non-residents for which TDS is generally deductible under section 195 shall continue to be deducted as per Rates in Force as prescribed in the Finance Act for the year or the rates prescribed under the DTAA as the case may be. Further, payments made to non-residents which are deductible under other provisions say under section 194E (payment to non-resident sportsmen or sports associations), 196D (Income of foreign institutional investor), etc. shall also continue to be deductible as per the rates prescribed in the relevant provisions.

Further, it is to be noted that TDS rate in respect of payments in the nature of salary shall continue to be the same i.e. the average rate of income tax computed based on slab rates

prescribed in the Finance Act, or the tax rate prescribed under section 115BAC, as the case may be and there will be no reduction in TDS rate in respect of such payments irrespective of the fact whether the salaried individual is a resident or a non-resident.

This reduction of TDS rate shall be applicable with effect from 14.05.2020 and shall continue to be applicable till 31st March, 2021. It is to be noted that the revised TDS rate shall be applicable in respect of such transactions upon which the liability to deduct TDS arises on or after 14.05.2020. Under many provisions under the Act such as under section 194C (payment to contractors), 194J (payment for professional fees), etc., TDS is required to be deducted at the time of credit or payment, whichever is earlier. In such cases, the revised TDS rates shall be applicable only if the date of credit as well the date of payment falls on or after 14.05.2020. If the credit took place prior to 14.05.2020 whereas the payment is yet to be made, since the requirement to deduct TDS arose prior to 14.05.2020, the deductor shall be liable to deduct and deposit TDS at the normal rate prescribed in the Act as against the concessional rate of 75%.

CBDT has released as press release on 13.05.2020 to provide a list of provisions in respect of which the TDS rate has been reduced by 25% as a relief measure. The list released by CBDT capturing the existing TDS rates and the revised TDS rates applicable with effect from 14.05.2020 reads as under:

Section	Nature of payment	Existing Rate of TDS (SC : Nil, HEC : Nil)	Revised TDS rates from 14.05.2020 to 31.03.2020 (SC : Nil, HEC : Nil)
193	Interest on securities	10	7.5
194	Dividend income	10	7.5
194A	Interest other than interest on securities	10	7.5

194C	Payment or credit to a resident contractor/sub-contractor—		
	– payment/credit to an individual or a Hindu undivided family	1	0.75
	– payment/credit to any person other than an individual or a Hindu undivided family	2	1.5
194D	Insurance commission—		
	– if recipient is a resident (other than a company)	5	3.75
194DA	Payment in respect of life insurance policy [when exemption is not available under section 10(10D)] <i>[TDS to be deductible in respect of the amount of income comprised in the payment]</i>	5	3.75
194EE	Payment in respect of deposits under National Savings Scheme, 1987	10	7.5
194F	Payment on account of repurchase of units of Mutual Funds or Units Trust of India	20	15
194G	Commission on sale of lottery tickets	5	3.75
194H	Commission or brokerage	5	3.75
194I	Rent:-		
	– in respect of plant and machinery	1	0.75
	– in respect of land or building or furniture or fitting	2	1.5
194IA	Payment/credit for acquisition of immovable property (other than rural agricultural land)	1	0.75
194IB	Payment/credit of rent by an individual/HUF who is not subject to tax audit under section 44AB in the immediately preceding financial year if the amount of rent payable exceeds Rs. 50,000 per month	5	3.75
194IC	Payment under joint development agreement to a resident individual/HUF (who transfers land/building)	10	7.5

194J	Fees for professional services, fees for technical services, royalty or remuneration to a director – <ul style="list-style-type: none"> – If payee is engaged only in the business of operation of call centre – Fees for Technical services (not being professional services) – Royalty in respect of sale, distribution or exhibition of cinematographic films – Any other payment/credit 	2 2 2 10	1.5 1.5 1.5 7.5
194K	Payment of dividend by Mutual Funds	10	7.5
194LA	Payment of compensation on acquisition of certain immovable property	10	7.5
194LBA(1)	Payment of the income by business trust to resident unit holders	10	7.5
194LBB(i)	Payment of income by investment fund	10	7.5
194LBC(1)	Income by securitisation trust <ul style="list-style-type: none"> – if recipient is an individual or a Hindu undivided family – if recipient is any other person 	25 30	18.75 22.5
194M	Payment/credit by individual/HUF (<i>other than those who are required to deduct income-tax as per the provisions of section 194C, section 194H or section 194J</i>) to a resident contractor or resident professional or payment/credit by way of commission/brokerage if the aggregate payment during the year exceeds Rs. 50 lakhs	5	3.75
194O	<u>Provision applicable from 01.10.2020</u> Payment by e-commerce operator to e-commerce participant where sale of goods or provision of services is	1 (w.e.f 01.10.2020)	0.75

	facilitated by the e-commerce operator through its digital or electronic facility or platform		
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It may be relevant to highlight here that as per the list of provisions in respect of which TDS rates has been reduced as captured in the CBDT press release, it is apparent that TDS rate has not been reduced in respect of section 193B (winnings from lottery or crossword puzzle or card game or other game of any sort), 194BB (winnings from horse races) and 194N (withdrawal from banks/post offices/ Cooperative societies). Further, while as per the list, TDS rate has been reduced in respect of section 194D when the payee is a resident (other than a company) from 5 per cent to 3.75 per cent, however, TDS rate has not been reduced when the payee is a company. Accordingly, in such a case, apparently, the TDS may be required to be continued to be deducted at the rate of 10 per cent. There should be more clarity on the same once the fine print of the legislative amendments is released.

While the above payments does form part of the list, commons payments such as payment for contracts liable for TDS deduction under section 194C, payment for professional fees liable for deduction under section 194J, payment of interest liable for deduction under section 194A, payment of rent liable for deduction under section 194I, payment of dividend liable for deduction under section 194/194K, payment of commission or brokerage liable for deduction under section 194H shall all be eligible for this reduced rate of TDS.

It may be relevant to point out that if PAN/Aadhar of the deductee is not intimated to the deductor, tax is normally deducted at source by virtue of section 206AA either at the rate given in the table for TDS above (as applicable prior to 14.05.2020) or at the rate of 20 per cent (subject to lower rate in few circumstances), whichever is higher. It has been clarified in the press release that there shall be no reduction in rates of TDS where the tax is required to be deducted at higher rate due to non-furnishing of the PAN/Aadhar. Accordingly, the TDS in such cases shall be deductible as per normal TDS rates as

prescribed in the Act without considering the reduction of 25%, or the rate of 20% (subject to lower rate wherever prescribed), whichever is higher.

2. Reduction of TCS rates by 25%

Similar to the reduction of rates for TDS, it has been announced that the rates of Tax Collection at Source (TCS) for the specified receipts shall also be reduced by 25% of the existing rates. Accordingly, TCS shall also be required to be collected at the rate of 75% of the normal TCS rate provided under the Act.

This reduction of TCS rate shall be applicable with effect from 14.05.2020 and shall continue to be applicable till 31st March, 2021. It is to be noted that the revised TCS rate shall be applicable in respect of such transactions upon which the liability to collect TCS arises on or after 14.05.2020. Under some of the provisions under the Act, TCS is required to be collected at the time of debit or receipt payment, whichever is earlier. For example, TCS in respect of sale of scrap under section 206C(1) is required to be collected at the time of debit or at the time of receipt of payment, whichever is earlier. In such cases, the revised TDS rates shall be applicable only if the date of debit as well the date of receipt falls on or after 14.05.2020. If the debit took place prior to 14.05.2020 whereas the consideration is yet to be received, since the requirement to collect TCS arose prior to 14.05.2020, the collector shall be liable to collect TCS at the normal rate as against the concessional rate of 75%.

The press release dated 13.05.2020 released by the CBDT also provides a list of provisions in respect of which the TCS rate has been reduced by 25% as a relief measure.

This list reads as under:

Section	Nature of transaction	Existing Rate of TCS	Revised TCS rates from 14.05.2020 to 31.03.2020
		(SC : Nil,	(SC : Nil,

		HEC : Nil)	HEC : Nil)
206C(1)	Sale of the following goods - <ul style="list-style-type: none"> – Tendu leaves – Timber obtained under a forest lease – Timber obtained by any mode other than a forest lease – Any other forest produce (not being timber/tendu leaves) – Scrap – Minerals, being coal or lignite or iron ore 	5 2.5 2.5 2.5 1 1	3.75 1.875 1.875 1.875 0.75 0.75
206C(1C)	Grant of lease/license, etc of Parking lot, toll plaza, mining and quarrying	2	1.5
206C(1F)	Sale of motor vehicle of the value exceeding Rs. 10 lakh	1	0.75
206C(1H)	<u>Provision applicable from 01.10.2020</u> Sale of any other goods, excluding export and import transactions, if the aggregate value of consideration exceeds Rs. 50 lakhs during the year	0.1 (w.e.f. 01.10.2020)	0.075

From a perusal of the list of provisions in respect of which TCS rates has been reduced as captured in the CBDT press release, it is apparent that TCS rate has not been reduced in respect of sale of alcoholic liquor for human consumption for which TCS is collectible under section 206C(1) and in respect of the TCS collectible in respect of foreign remittances under the Liberalized Remittance Scheme of RBI and on sale of overseas tour program package under the new provision 206C(1G) which is applicable from 01.10.2020. All other TCS provision seems to have been covered in the list and are thus eligible for the reduced rate of TCS.

If the PAN/Aadhar is not furnished to the collector of TCS, then the TCS is required to be collected at the rate of rate prescribed in the Act or the rate of 5 per cent (subject to lower rate in few circumstances) as per section 206CC of the Act. Similar to the clarification provided in respect of TDS provision in this regard, it has been clarified in the press release that there shall be no reduction in rates of TCS where the tax is required to be collected at higher rate due to non-furnishing of the PAN/Aadhar. Accordingly, the TCS in such cases shall be collectible as per normal TCS rates as prescribed in the Act without considering the reduction of 25%, or the rate of 5% (subject to lower rates wherever prescribed), whichever is higher.

3. Last date to make the payment under Vivad se Vishwas Scheme without any additional liability extended from 30.06.2020 to 31.12.2020

Under the Vivad se Vishwas Scheme, disputed tax at the rate of 100% was required to be paid in case the payment is made on or before 31.03.2020. Similarly, penalty or fee at the rate of 25% was required to be paid before 31.03.2020. However, in case payment was not made by 31.03.2020, then, tax at the rate of 110% and penalty at the rate of 30% was required to be paid. The Taxation and other Laws (Relaxation of Certain Provisions) Ordinance, 2020 extended this date of 31.03.2020 to 30th June, 2020 with the result that payment could be made till 30.06.2020 at normal rates. It has now been proposed to further extend this date to 31.12.2020. Accordingly, the taxpayers will now be able to settle the dispute till 31.12.2020 at normal rates without incurring any additional tax or penalty, as the case may be.

4. Due date of filing of income tax return for FY 2019-20 extended to 30.11.2020

It has been announced that the due date of filing the income tax return for FY 2019-20 shall stand extended to 30.11.2020. Accordingly, salaried class and other taxpayers who were required to file their return of income by 31.07.2020 shall now be eligible to file their return of income by 30.11.2020. Similarly, companies, partner of firm whose accounts are required to be audited and other taxpayers who were required to file their return of income by 30.10.2020 shall now be eligible to file their return of income by 30.11.2020.

The Finance Act, 2020 amended section 44AB to provide that the Audit Report has to be filed one month before the due date of filing the return. Keeping in view such amendment and the gap of 1 month provided between due date of filing tax audit report with the due date of filing income tax return provided under the Act, it has been announced that the due date of filing tax audit report shall stand extended to 31.10.2020 i.e. one month prior to the revised due date of filing the return of 31.11.2020.

It is to be noted that due date of filing return where transfer pricing provisions are applicable has not been extended and the same continues to be 30.11.2020. Further, the transfer pricing audit report has to be filed one month before the due date of filing the return, accordingly, the audit report under Section 92E in respect of transfer pricing shall be continued to be required to be filed by 31.10.2020.

5. Extension of period of limitation of assessment due expiring on 30.09.2020 and 31.03.2021 to 31.12.2020 and 30.09.2021 respectively

It has been announced that the date of assessments getting barred on 30th September, 2020 shall stand extended to 31st December, 2020 and those getting barred on 31st March, 2021 will be extended to 30th September, 2021. In view of such announcement, the due date for the following category of cases shall get affected:

Assessment	Due date for completion of assessment	Revised due date for completion of assessment
Assessment under section 143(3) for AY 2018-19	30.09.2020	31.12.2020
Assessment under section 143(3) for AY 2019-20	31.03.2021	30.09.2021
Assessment under section 147 in case notice for reopening is issued between 01.01.2020 to 31.03.2020	31.03.2021	30.09.2021
Cases where assessment is to be framed under section 153A where the last of the authorisations for search under section 132 or for requisition	30.09.2020	31.12.2020

under section 132A was executed during FY 2018-19		
Cases where assessment is to be framed under section 153A where the last of the authorisations for search under section 132 or for requisition under section 132A was executed during FY 2019-20	31.03.2021	30.09.2021

6. Pending refunds to non-corporate assessee's to be released immediately

It has been announced that all pending refunds to charitable trusts and non-corporate businesses and professions including proprietorship, partnership, LLP and Co-operatives shall be issued immediately.