



President  
Vipul K. Choksi

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Vice President  
Anish M. Thacker

Treasurer  
Parag S. Ved

Imm. Past President  
Hinesh R. Doshi

Date: 23<sup>rd</sup> January, 2020

Honourable Shri Narendra Modiji,  
Prime Minister's Office  
South Block, Raisina Hill  
New Delhi-110011

**Sub: Suggestions for Finance Bill, 2020.**

**Intention - to boost economic growth**

Various news reports suggest that your Honour is giving a significant amount of time for the Finance Bill, 2020 to boost the economic growth.

Chamber of Tax Consultant is a non profit organization based in Mumbai. One of the areas of expertise of our members is dealing with the nuances of the Income Tax Act.

We feel that we have prepared the enclosed representation in line with your objective of **ease of doing business, attracting foreign investment and improving the infrastructure of the country.**

We are giving three suggestions in the enclosed representation. Though the suggestions are linked to Income Tax Act we strongly feel that the suggestions will carry a strong positive message not only across India Inc. but globally.

We are sorry for sending the representation at the last juncture. We have made detailed representation before CBDT on 5<sup>th</sup> December, 2019. Here is the small representation focusing on ease of doing business. We are hopeful that it will meet your approval.

Thanking you,

Sincerely yours,

For THE CHAMBER OF TAX CONSULTANTS

Sd/-

VIPUL K. CHOKSI  
PRESIDENT

Sd/-

MAHENDRA SANGHVI  
CHAIRMAN  
LAW & REPRESENTATION COMMITTEE

Sd/-

APURVA SHAH  
CO-CHAIRMAN

## Representation on Finance Bill 2020

### - TDS single rate regime for non-salaried resident

- Presently, we have more than ten different rates for TDS on different transactions for the non-salaried resident.
- The primary purpose of TDS on non-salaried resident is to build a reporting mechanism pursuant to which a transaction which has potential of generating taxable income is reported to the tax department.
- TDS is not a tax collection mechanism. For tax collection, we have advance tax. Advance tax provisions have a very low tax threshold of Rs. 10,000 i.e. any person liable to pay income tax of more than Rs. 10,000 has to pay advance tax – almost every three months. Further, there is also adequate penal interest on delayed/non-payment of advance tax.
- Issue – Significant litigation has arisen on whether TDS has to be deducted or not and if TDS has to be deducted at what rate TDS should be deducted. Also, significant administrative burden to issue low/no withholding tax certificate in case deductee has lower/nil taxable income.
- **Suggestion**
  - Single rate of TDS for everyone who has PAN. Rate of TDS can be as low as 0.5% or 1%.
  - TDS should be made applicable on any payment for supply of services instead of getting into the definition of the scope of TDS provisions with a threshold that aggregate payment to the payee during the year is more than Rs. 1 lac.
- **Benefits**
  - Simplification of Income Tax
  - Reduction in administrative burden and litigation
  - The overall TDS collection may increase due to the increase in the scope of TDS. However, the simplification would avoid clogging up of working capital as TDS, which is otherwise claimed as a refund at the time of filing the income tax return.



- **Adopt international best practices to boost Infra & real-estate sector**

- Many regulations, especially in the infrastructure and financial sector, requires the formulation of SPV for each project/nature of service. Generally, even in Real Estate due to the inherent risk associated with the sector, generally, a separate SPV is created for each project.
- In infra projects and real estate project only on the completion of the project, it can be ascertained whether the SPV has made a profit from the project or not. However, income tax *inter alia* recognises percentage completion method for charging income tax i.e. based on work done by SPV during the year income tax is paid on the expected profit attributable to the work done during the year.
- Due to changing business scenarios and regulatory hurdles a company expected to make profits at the end of the contract ends up having a loss. However, the SPV pays taxes on estimated profits in the initial years and after that incurs a loss. SPV may not have any future profit to set-off the losses.
- **Suggestions**
  - Permit carry back of losses as permitted by many nations worldwide.
  - Permit group taxation policy i.e. single tax assessment of holding company and wholly-owned subsidiary.
- **Benefits**
  - Confidence booster for real-estate and infra sector and would increase risk-taking appetite of India Inc.
  - Improves confidence of foreign investors and gives infra sector the required boost.

- **Use of Limited Liability Partnership to its full potential**

- The primary benefit of an LLP over a company is ease of administration and also, single incidence of income tax on profit (LLP 30%, Company 22%) and no subsequent tax on distribution of profits to the partners whereas dividend distribution tax has to be paid by the company (Company 18.5%, Shareholder 10%).
- LLP is a new regime and the majority of India Inc. is operating through the company structure. The LLP Act permits the conversion of the Company into LLP. Taxation on conversion of company into LLP is a grey area and the statutory exemption under the Income Tax is only provided for small companies i.e. companies with turnover of less than Rs. 60 lacs and asset of less than Rs. 5 crores.



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○ **Suggestion**

- The conversion of Company into LLP not satisfying the stipulated conditions (turnover & asset thresholds), should be taxed at a concessional rate of 10%.
- Tax exemption for re-organisation (merger & de-merger) of LLP on the same lines as that of a company.

○ **Benefit**

- New source of revenue for the tax department.
- Improves tax efficiency for the small and medium-sized enterprises.
- Companies not desirous of listing but desirous of attracting foreign investors can fetch better valuation if the company is converted into an LLP from a company.

CC to:

**Smt. Nirmala Sitharaman**

Union Minister of Finance,  
Government of India  
134, North Block,  
New Delhi – 110 001

**Mr. Pramod Chandra Mody**

The Chairman,  
Central Board of Direct Taxes  
Ministry of Finance,  
North Block, Parliament Street,  
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