

India enacts 2020-21 Union Budget

EY Tax News Update: Global Edition

EY's Tax News Update: Global Edition is a free, personalized email subscription service that allows you to receive EY Global Tax Alerts, newsletters, events, and thought leadership published across all areas of tax. Access more information about the tool and registration [here](#).

Also available is our [EY Global Tax Alert Library](#) on ey.com.

Executive summary

On 27 March 2020, India's *Finance Act 2020* was enacted when the President of India approved the Union Budget for tax year 2020-21 (Budget 2020).¹ During the Budget 2020 approval process, amendments were made which: (i) addressed ambiguities in certain proposals; (ii) deferred the introduction of new tax withholding provisions; and (iii) extended the Equalization Levy to e-commerce transactions conducted by nonresident e-commerce operators.

This Alert summarizes the key amendments made to the *Finance Act 2020*.

Detailed discussion

- ▶ Budget 2020 abolished the dividend distribution tax (DDT). Nonresident shareholders are now subject to tax at 20%^{2,3} on dividend income under domestic law.
 - Dividends declared on or before 31 March 2020 but received by shareholders after this date are exempt from the 20% tax (under both normal and Minimum Alternate Tax provisions for companies, if applicable) if DDT has been paid by the company.

- Ambiguity regarding the application of higher withholding tax (WHT) rates for dividends paid to nonresident shareholders (other than companies) and foreign companies has been removed; the final tax rate on such dividends is 20%⁴ under domestic law.
- Rules to mitigate a multiplying WHT impact by allowing the set-off of dividends distributed within multi-tiered structures is expanded to include dividends received from foreign companies and business trusts.⁵
- ▶ Dividend income received by unit holders from distributions of a Real Estate Investment Trust (REIT) or an Infrastructure Investment Trust (InvIT) is exempt from taxation, subject to conditions including that any special purpose vehicle⁶ distributing dividend income to the REIT or InvIT has not elected to be subject to the lower 22% corporate tax rate.
- ▶ The scope of the Equalization Levy is extended to include consideration received or receivable by an e-commerce operator from an e-commerce supply or services to “specified payers,” subject to conditions:
 - “Specified payers” include: (i) an Indian resident; (ii) a nonresident (NR) selling an advertisement targeted at a customer resident in India or accessing such an advertisement through an Indian internet protocol (IP) address; (iii) an NR selling data collected from an Indian resident or from a person who uses an Indian IP address; and (iv) a person who buys goods or services or both using an IP address located in India.
- ▶ An exemption provided in the Budget 2020 to sovereign wealth funds satisfying specified conditions for income earned from debt or equity investments made between 1 April 2020 and 31 March 2024 in eligible infrastructure or other notified business entities is extended to certain foreign pension funds. Eligible investments have been expanded to include investments in debt, share capital or units in: (i) an InvIT; and (ii) a Category I or Category II Alternate Investment Fund having 100% of its investments in eligible infrastructure or other notified business entities.
- ▶ WHT at a rate of 1% applicable to payments made by an “e-commerce operator”⁷ to e-commerce participants for the sale of goods or provision of services facilitated through the operator’s digital or electronic facility or platform is deferred to 1 October 2020.
 - The definition of an “e-commerce operator” is modified to exclude the requirement for the e-commerce operator to be responsible for making payments to an e-commerce participant.
- ▶ The WHT rate for royalties paid to Indian residents in consideration for the sale, distribution or exhibition of cinematographic films to Indian residents is proposed to be reduced from 10% to 2%.⁸

Endnotes

1. See EY Global Tax Alert, [India releases the 2020-21 Union Budget](#), dated 4 February 2020.
2. This rate may be reduced by a tax treaty.
3. Additional surcharge and cess are generally applicable to all rates mentioned in this Alert.
4. This rate may be reduced by a tax treaty.
5. Real Estate Investment Trusts (REITs) and Infrastructure Investment Trusts (InvITs).
6. A “special purpose vehicle” is an Indian company in which the REIT or InvIT holds a controlling interest and meets specified shareholding percentage requirements at the time of registration of the business trust.
7. Additional guidelines to be issued.
8. To align this royalty WHT rate with the amended WHT rate applicable to payments made for the provision of technical services.

For additional information with respect to this Alert, please contact the following:

Ernst & Young LLP (India), National Leader, International Tax and Transaction Services, Mumbai

- ▶ Pranav Sayta pranav.sayta@in.ey.com

Ernst & Young LLP (India), National Leader, International Corporate Tax Advisory, Bangalore

- ▶ Rajendra Nayak rajendra.nayak@in.ey.com

Ernst & Young LLP (United States), Indian Tax Desk, New York

- ▶ Roshan Samuel roshan.samuel1@ey.com
- ▶ Chintan Gala chintan.gala@ey.com
- ▶ Arpita Khubani arpita.khubani@ey.com

Ernst & Young LLP (United States), Indian Tax Desk, San Jose

- ▶ Archit Shah archit.shah@ey.com

Ernst & Young Solutions, Indian Tax Desk, Singapore

- ▶ Gagan Malik gagan.malik@sg.ey.com

Ernst & Young LLP (United Kingdom), Indian Tax Desk, London

- ▶ Amit B Jain amit.b.jain1@uk.ey.com
- ▶ Ronak Sethi ronak.sethi@uk.ey.com

Ernst & Young LLP (United States), Asia Pacific Business Group, New York

- ▶ Chris Finnerty chris.finnerty1@ey.com
- ▶ Bee Khun Yap bee-khun.yap@ey.com

About EY

EY is a global leader in assurance, tax, transaction and advisory services. The insights and quality services we deliver help build trust and confidence in the capital markets and in economies the world over. We develop outstanding leaders who team to deliver on our promises to all of our stakeholders. In so doing, we play a critical role in building a better working world for our people, for our clients and for our communities.

EY refers to the global organization, and may refer to one or more, of the member firms of Ernst & Young Global Limited, each of which is a separate legal entity. Ernst & Young Global Limited, a UK company limited by guarantee, does not provide services to clients. For more information about our organization, please visit ey.com.

© 2020 EYGM Limited.
All Rights Reserved.

EYG no. 001926-20Gbl

1508-1600216 NY
ED None

This material has been prepared for general informational purposes only and is not intended to be relied upon as accounting, tax, or other professional advice. Please refer to your advisors for specific advice.

ey.com