



Amendments to the Finance Bill, 2019 as passed by the Lok Sabha

The Finance Bill, 2019 (the Bill) as presented before the Lok Sabha has been passed with amendments on July 18, 2019. Key highlights of the amendments vis-à-vis the Bill are summarized hereunder:

Amendments to the Income Tax Act, 1961

| Proposals in the Original Bill | Amendments proposed | VKC Insight |
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| Section 9 : Income arising outside India | | |
| The bill proposed to provide that income of the nature referred to in sub-clause (xviiia) of clause (24) of section 2, arising from any sum of money paid, or any property situated in India transferred, on or after July 5, 2019 by a person resident in India to a person outside India shall be deemed to accrue or arise in India. | Substituted for: <i>"(viii) income arising outside India, being any sum of money referred to in sub-clause (xviiia) of clause (24) of section 2, paid on or after the 5th day of July, 2019 by a person resident in India to a non-resident, not being a company, or to a foreign company."</i> | Coverage restricted to gifts that are made by a person resident in India to a non-resident, not being a company, or to a foreign company (in place of earlier term used "person outside India"). Omission of the words 'property situated in India' has no effect since section 2(24)(xviiia) covers both money and property referred to in section 56(2)(x). |
| Section 10: Incomes not included in total income | | |
| No proposal in the Bill | A new clause, 4D to section 10 has been inserted w.e.f. 1st day of April, 2020 which proposes: <i>"Any income accrued or arisen to, or received by a specified fund as a result of transfer of capital asset referred to in clause (viib) of section 47, on a recognised stock exchange located in any International Financial Services</i> | Amendment is consequential to provisions introduced for IFSCs in the Bill. |

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| | <p><i>Centre and where the consideration for such transaction is paid or payable in convertible foreign exchange, to the extent such income accrued or arisen to, or is received in respect of units held by a non-resident”</i></p> <p>Convertible foreign exchange, Manager, Specified Fund, Sponsor, Trust and Unit have been defined separately in the proposal.</p> | |
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Section 10(23C)

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| <p>No proposal in the Bill</p> | <p>A new clause sub-clause (IIA) to clause (23C) has been inserted which propose: in the second proviso, for the words <i>“and the prescribed authority”</i>, the words <i>“and the compliance of such requirements under any other law for the time being in force by such fund or trust or institution or any university or other educational institution or any hospital or other medical institution, as the case may be, as are material for the purpose of achieving its objects and the prescribed authority,”</i> shall be substituted; In the fifteenth proviso, for the portion beginning with: <i>“the activities of such fund”</i> and ending with <i>“was notified or approved,”</i>, the following shall be substituted, namely:- <i>“(ii) the activities of such fund or institution or trust or any university or other educational institution or any hospital or other medical institution-</i> <i>(A) are not genuine ; or</i> <i>(B) are not being carried out in accordance with all or any of the conditions subject to which it was notified or approved; or</i> <i>(iii) such fund or institution or trust or any university or other educational institution or any hospital or other medical institution has not complied with the requirement of any other law for the time being in force, and the order, direction or decree, by whatever name called, holding that such non- compliance has</i></p> | <p>Amendments similar to cancellation of trust registration as proposed to section 12AA have been brought in section 10(23C).</p> |
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| | <i>occurred, has either not been disputed or has attained finality,”</i> | |
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Section 47

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| <p>The Bill amended section 47, to include transfer of capital asset made by a specified fund exchange located in any IFSC within ambit of transactions not regarded as ‘transfer’:</p> <p><i>In the long line, after the words “made by a non-resident”, the words “or a specified fund” shall be inserted.</i></p> <p>Also, definitions of specified fund, trust, unit, and convertible foreign exchange were included in the section.</p> | <p>This amendment to the Act contained in the bill, including the added definitions, have now been omitted.</p> | <p>Amendment is consequential to insertion of the new clause (4D) in section 10.</p> |
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Section 56

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| <p>The provisions of section 56(2)(viib) of the Act provides for charging of the consideration received for issue of shares by certain companies, where such consideration exceeds the fair market value of such shares. With a view to ensure compliance to the conditions specified in the notification, the Bill proposed to provide that in case of failure to comply with the conditions, the consideration received for issue of shares which exceeds the face value of such shares shall be deemed to be the income of the company chargeable to income-tax for the previous year in which the failure to comply with any of the said conditions has taken place.</p> <p>In the explanation, specified fund was defined as a fund established or incorporated in India in the form of a</p> | <p>Now the same has been amended to</p> <p><i>“consideration received for issue of share that exceeds the fair market value of such share shall be deemed to be the income of that company chargeable to income-tax for the previous year in which such failure has taken place and, it shall also be deemed that the company has underreported the said income in consequence of the misreporting referred to in sub-section (8) and sub-section (9) of section 270A for the said previous year.”</i></p> <p>Further, definition of “specified fund” has been expanded to include (apart from Category I Alternative Investment Fund), Category II Alternative Investment Fund as well.</p> | <p>Companies failing to comply with conditions of exemption provided in section 56(2)(viib) will not only be liable to pay tax on the consideration received in excess of the FMV of shares, but will also face penal consequences of underreporting of income under section 270A of the Act. Pertinent to note that the penalty prescribed in such cases would be 200% of the tax payable on under-reported income.</p> |
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| <p>trust or a company or a limited liability partnership or a body corporate which has been granted a certificate of registration as a Category II Alternative Investment Fund.</p> | | |
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Section 115R

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| <p>In order to incentivize relocation of Mutual Fund in IFSC, the Bill proposed to amend the said section via second proviso before Explanation so as to provide that no additional income-tax shall be chargeable in respect of any amount of income distributed, on or after the September 1, 2019, by a Mutual Fund of which all the unit holders are non-residents and which fulfills certain other specified conditions.</p> <p>A “specified Mutual Fund” was defined as specified under clause (23D) of section 10—</p> <p><i>(a) located in any International Financial Services Centre;</i></p> <p><i>(b) deriving income solely in convertible foreign exchange;</i></p> <p><i>(c) of which all the units are held by non-residents;</i></p> | <p>The proviso has been amended to restrict to cases where the consideration for such transaction is paid or payable in convertible foreign exchange.</p> <p>The sub-clause of ‘deriving income solely in convertible foreign exchange’ in the definition of a “Specified Mutual Fund”, has been omitted.</p> | <p>Amendment is consequential to provisions introduced for IFSCs in the Bill.</p> |
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Section 194M

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| <p>The Bill inserted a new section 194M to provide for levy of TDS at the rate of 5% on the sum, or the aggregate of sums, paid or credited in a year on account of contractual work or professional fees by an individual or a Hindu undivided family, not required to deduct tax at source under section 194C and 194J of the Act, if such sum, or aggregate of such sums, exceeds INR 50 lac (INR 5 Million) in a year</p> | <p>The clause containing the amendment is substituted by:</p> <p><i>“required to deduct income-tax as per the provisions of section 194C, section 194H or section 194J) responsible for paying any sum to any resident for carrying out any work (including supply of labour for carrying out any work) in pursuance of a contract, by way of commission (not being insurance commission referred to in section 194D) or brokerage or by way of fees for professional services during the financial year, shall, at the time of credit of</i></p> | <p>Scope of section 194M has been expanded to commission (where not covered in 194-H).</p> |
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| | <p><i>such sum or at the time of payment of such sum in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct an amount equal to five per cent. of such sum as income -tax thereon:"</i></p> <p>Further, "commission or brokerage" shall have the meaning assigned to it in clause (i) of the Explanation to section 194H.</p> | |
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Section 194N

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| <p>In order to further discourage cash transactions and move towards less cash economy, the Bill proposed to insert a new section 194N in the Act to provide for levy of TDS at the rate of 2% on cash withdrawal in excess of INR 1 crore (INR 10 Million) in aggregate made during the year, from a banking company or cooperative bank or post office, to any person from an account maintained by the recipient.</p> | <p>The word "from an account" has been substituted with "from one or more accounts"</p> <p>Further, section 198 is amended to include a second proviso as under:</p> <p><i>"Provided further that the sum deducted in accordance with the provisions of section 194N for the purpose of computing the income of an assessee, shall not be deemed to be income received"</i></p> | <p>Aggregating transactions in all accounts maintained by the assessee in one bank for the purpose of tax deduction under section 194N introduced.</p> |
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Amendments to the Prohibition of Benami Property Transactions Act, 1988

| Proposals in the Original Bill | Amendments proposed | VKC Insight |
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| Section 30 | | |
| <p>No proposal in the Bill</p> | <p>In section 30 of the principal Act, for the words "the Adjudicating Authority", the words "any authority" shall be substituted with effect from the 1st day of September, 2019.</p> | <p>Section 30 of the Act provides powers of the CG to establish an Appellate Tribunal to hear appeals against the orders of the Adjudicating Authority under this Act. Substitution to 'any authority' widens the scope of proceedings of the Tribunal.</p> |
| Section 46 | | |
| <p>Sub-section (1) of the proposed new section 54A provides that the person shall pay a penalty of INR. 25,000 for each failure to comply with summons</p> | <p>In section 46 of the principal Act, with effect from the 1st day of September, 2019, after sub-section (1), the following sub-section shall be inserted:</p> | <p>Section 46 of the Act provides for cases where appeals may be preferred to the Tribunal. The Bill proposed section 54A,</p> |

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| <p>under sub-section (1) of section 19; or to furnish information which he was required to furnish under section 21. Sub-section (2) of the said section provides for the authority who shall impose penalty and sub-section (3) of provides that no penalty shall be imposed without affording an opportunity of being heard to the person in respect of whom penalty is sought to be imposed. The proviso to the said sub-section provides that no penalty shall be imposed if such person proves that there were good and sufficient reasons for the contravention.</p> | <p>(1A) Any person aggrieved by an order passed by the authority under section 54A may prefer an appeal in such form along with such fees, as may be prescribed, to the Appellate Tribunal against the said order within a period of forty-five days from the date of that order.</p> <p>In sub-section (3), after the word, brackets and figure "sub- section (1)", the words, brackets, figure and letter "or sub-section (1A)" shall be inserted.</p> | <p>and the amendmend seeks to make the order passed under this section, an appealable order.</p> |
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Section 47

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| | <p>In section 47 of the principal Act, for sub-section (1), the following sub-section shall be substituted with effect from the 1st day of September, 2019, namely:</p> <p><i>“(1) The Appellate Tribunal or any authority may, in order to rectify any mistake apparent on the face of the record, amend any order passed by it under the provisions of this Act, within a period of one year from the end of the month in which such order was passed.”</i></p> | <p>The Appellate Tribunal or the Adjudicating Authority may, in order to rectify any mistake apparent on the face of the record, amend any order made by it under section 26 and section 46 respectively, within a period of one year from the end of the month in which the order was passed.</p> <p>Amendment seeks to rationalize provisions w.r.t. new clauses inserted.</p> |
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Amendments to the Prevention of Money Laundering Act, 2002

| Proposals in the Original Bill | Amendments proposed | VKC Insight |
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| - | <p>Clause (iii) of section 187, sections 187A, 190A, 190B, 190C and 190D shall come into force from the 1st day of August, 2019."</p> | <p>The amendment provides for these sections to become operative from August 01, 2019.</p> |

Section 2

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| No proposal in the Bill | <p>A new clause (iii) to clause (u) of section 2 has been inserted which states as under:</p> <p><i>“For the removal of doubts, it is hereby clarified that "proceeds of crime" include property not only derived or obtained from the scheduled offence but also any property which may directly or indirectly be derived or obtained as a result of any criminal activity relating to the scheduled offence”</i></p> | - |
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Section 3

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| No proposal in the Bill | <p>In section 3 of the principal Act, the following Explanation shall be inserted, namely:</p> <p><i>“For the removal of doubts, it is hereby clarified that,-</i></p> <p><i>i) a person shall be guilty of offence of money-laundering if such person is found to have directly or indirectly attempted to indulge or knowingly assisted or knowingly is a party or is actually involved in one or more of the following processes or activities connected with proceeds of crime, namely:-</i></p> <p><i>a. concealment; or</i></p> <p><i>b. possession; or</i></p> <p><i>c. acquisition; or</i></p> <p><i>d. use; or</i></p> <p><i>e. projecting as untainted property; or</i></p> <p><i>f. claiming as untainted property, in any manner whatsoever.</i></p> <p><i>ii) The process or activity connected with proceeds of crime is a continuing activity and continues till such time a person is directly or indirectly enjoying the proceeds of crime by its concealment or possession or acquisition or use or projecting it as untainted property or claiming it as untainted property in any manner whatsoever”.</i></p> | The amendment provides clarity on ‘offences’ for identification of a person guilty of money-laundering. |
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Section 12AA: Enhanced due diligence

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| The Bill proposed to insert a section 12AA so as to provide for the provisions for enhance due diligence, | <p>Clause (a) stands amended as under:</p> <p><i>“verify the identity of the clients undertaking such specified transaction by authentication</i></p> | Verification of identity of persons via Aadhaar (earlier provided separately by an |
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| <p>which, inter-alia, provided for:</p> <ul style="list-style-type: none"> ● Clause (a) to sub-section (1) Authentication of the identity of the clients undertaking such specified transaction in such manner as prescribed ● Sub-section (4) The information obtained while applying the enhanced due diligence measures to be maintained for a period of five years from the date of transaction between a client and the reporting entity. | <p><i>under the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016 in such manner and subject to such conditions, as may be prescribed".</i> <i>Provided that where verification requires authentication of a person who is not entitled to obtain an Aadhaar number under the provisions of the said Act, verification to authenticate the identity of the client undertaking such specified transaction shall be carried out by such other process or mode, as may be prescribed.</i></p> <p>An explanation has been inserted in sub section 4 defining “specified transactions” as:</p> <p>(a) any withdrawal or deposit in cash, exceeding such amount. (b) any transaction in foreign exchange exceeding such amount. (c) any transaction in any high value imports or remittances; (d) such other transaction or class of transactions, in the interest of revenue or where there is a high risk of money laundering or terrorist financing, as may be prescribed.</p> | <p>explanation proposed by the bill) has been brought in the main provision. Further, for persons exempt from obtaining an Aadhaar, modes of identity verification would be as prescribed.</p> <p>Specified transactions have been defined to include transactions beyond a specified limit as prescribed, pertaining to, cash withdrawal or deposit, foreign exchange, high value imports or remittances or where the interest of revenue or where there is a high risk of money laundering or terrorist financing.</p> |
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Section 17

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| <p>No proposal in the Bill</p> | <p>Proviso to sub-section (1) omitted.</p> | <p>Section 17 provides for authorization for search and seizure under the PMLA Act. The proviso to sub-section (1) restricted any search to be conducted unless (in relation to scheduled offence) a report has been forwarded to a Magistrate (CrPC), a complaine filed before the Magistrate or Court by person authorized to investigate the offence or similar information has been received by an officer not below the rank of</p> |
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| | | <p>Addl. Secretary to GOI, Officer of Ministry or officer authorized by CG.</p> <p>With the proviso deleted, powers to conduct search and survey have been widened for the department.</p> |
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Section 18

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| No proposal in the Bill | Proviso to sub-section (1) omitted. | <p>Proviso to Section 18, (governing 'search of persons' under the PMLA Act), provided for provisions similar to the proviso to section 17 explained above, which now omitted, widens the powers of conducting search without any such restrictions for the department.</p> |
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Section 44

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| No proposal in the Bill | <p>In sub-section (1), after clause (b), following proviso inserted:</p> <p><i>“Provided that after conclusion of investigation, if no offence of money laundering is made out requiring filing of such complaint, the said authority shall submit a closure report before the Special Court.”</i></p> <p>In clause (d), following Explanation to be inserted:</p> <p><i>“For the removal of doubts, the undermentioned explanation has been inserted to the said sections:</i></p> <p><i>(i) the jurisdiction of the Special Court while dealing with the offence under this Act, during investigation, enquiry or trial under this Act, shall not be dependent upon any orders passed in respect of the scheduled offence, and the trial of both sets of offences by the same court shall not be construed as joint trial;</i></p> <p><i>(ii) the complaint shall be deemed to include any subsequent complaint in respect of further investigation that may be</i></p> | <p>Section 44 of the Act provides for offences triable by Special Courts. After taking cognizance of offence under section 3 or 4 of the Act, if no offence is made out, the proposed amendment provides for submission of a closure report before the Special Court.</p> <p>Clause (d) of the Act provides for jurisdiction of the Special Court, to hold trial in accordance with the provisions of the Code of Criminal Procedure, 1973 (2 of 1974), as it applies to a trial before a Court of Session. The Explanation further widens the jurisdictional powers, for joint offences and fresh evidences against the accused</p> |
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| | <i>conducted to bring any further evidence, oral or documentary, against any accused person involved in respect of the offence, for which complaint has already been filed, whether named in the original complaint or not."</i> | person. |
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Section 45

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| No proposal in the Bill | <p>After sub-section (2), the following Explanation shall be inserted:</p> <p><i>"For the removal of doubts, it is clarified that the expression "Offences to be cognizable and non bailable" shall mean and shall be deemed to have always meant that all offences under this Act shall be cognizable offences and non bailable offences notwithstanding anything to the contrary contained in the Code of Criminal Procedure, 1973, and accordingly the officers authorised under this Act are empowered to arrest an accused without warrant, subject to the fulfilment of conditions under section 19 and subject to the conditions enshrined under this section."</i></p> | Section 45 of the Act provides for limitation on granting of bail for offences cognizable and non-bailable in addition to the limitations under the Code of Criminal Procedure, 1973. The amendment seeks to clarify that all offences under the Act fall within section 45. |
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Amendments to the Payment and Settlement System Act, 2007

| Proposals in the Original Bill | Amendments proposed | VKC Insight |
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| Section 10A - Bank, etc., not to impose charge for using electronic modes of payment | | |
| <p>The Bill proposed that no bank or system provider shall impose any charge upon anyone, either directly or indirectly, for using the modes of electronic payment prescribed under section 269SU of the Income-tax Act. Section 10A was inserted:</p> <p><i>"Notwithstanding anything contained in this Act, no bank or system provider shall impose any charge upon anyone, either directly or indirectly, for using the electronic modes of payment prescribed under section 269SU of the Income-tax Act, 1961"</i></p> | <p>In the section, words:</p> <p><i>"shall impose any charge upon anyone, either directly or indirectly"</i></p> <p>have been substituted with:</p> <p><i>"shall impose, whether directly or indirectly, any charge upon a person making or receiving a payment by"</i></p> | <p>The amendment seeks to provide for no charge on both payer as well as recipient using the electronic modes to be prescribed under section 269SU of the Income-tax Act, 1961.</p> |

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