

GMS Flash Alert



2020-163 | April 9, 2020

India - Changes to Residency and Taxation in Amended Finance Bill, 2020

On 23 March 2020, the Lok Sabha, the lower house of India's bi-cameral legislature, passed the Finance Bill, 2020 (the amended Bill) with certain amendments.¹ Further, the amended Bill was passed in Rajya Sabha, the upper house, and it received presidential assent on 27 March 2020. The amended Bill's measures took effect on 1 April 2020.

The key amendments made during legislative deliberations on the amended Bill that impact individuals are summarised below.

For the full report, see "[Proposed Amendments to the Finance Bill, 2020](#)," in *Tax Flash News* (24 March 2020), a publication of the KPMG International member firm in India.

WHY THIS MATTERS

The Finance Bill will impact international assignments policies, including tax equalisation/tax protection policies. It will also impact international assignment cost projections.

Highlights of Amendments on Residential Status

The Finance Bill 2020 had proposed to change/amend the criteria for determining the residency status of an individual. Subsequently, provisions in the amended Bill were introduced that will alter certain aspects of the residency rules as follows:

- Under current law (India Income Tax Act), for an Indian Citizen or a Person of Indian Origin (PIO) residing outside India and visiting India, under certain conditions, residency triggers at 182 days of stay in India during the relevant financial year (FY). In case an Indian Citizen or a PIO, upon satisfaction of certain conditions, stays in India for less than 182 days, he/she would qualify to be a nonresident.

The Amended Bill 2020 had proposed to reduce the time Indian Citizens or PIOs needed to spend in India to qualify as Indian tax resident, from 182 days to 120 days in the relevant FY. However, under the new rules agreed, such 120-day rule will apply only if that person's total India-sourced income, other than income from foreign sources, exceeds INR 1,500,000 in the relevant FY.

- Currently, a resident individual qualifies as "Not Ordinarily Resident (NOR)" in India in a fiscal year (FY)² if he is nonresident in nine out of ten preceding FYs or if he has stayed in India for up to 729 days in the preceding seven FYs. The original Finance Bill, 2020 had proposed that an individual would qualify as NOR if he is nonresident in seven (reduced from nine FYs) out of the ten preceding FYs.

During the deliberations on the amended Bill it was proposed that the condition of 729 days stay in India in the seven preceding FYs be deleted. However, the amended Bill retains the current provisions pertaining to nine FYs and 729 days. Further, the amended Bill provides that an Indian Citizen or PIO having total income, other than income from foreign sources, exceeding INR 1.5 million, and staying in India for 120 days or more but less than 182 days, would also qualify to be NOR in India for such FY.

- The original Finance Bill, 2020 had also proposed that an Indian Citizen would be deemed to be resident in India if such individual is not liable to tax in any other country or territory by reason of residence or domicile (or any other prescribed criteria of similar nature) in that country.

The amended Bill now provides that an Indian Citizen would be deemed to be resident in India if such individual is not liable to tax in any other country or territory on account of residency or domicile (or any other criteria of similar nature) in that country, provided her total income, other than income from foreign sources, exceeds INR 1.5 million in the relevant FY. Further, the Amended Bill provides the deemed resident individual would qualify to be NOR in India for such FY.

- The Amended Bill explains that "income from foreign sources" for the purpose of ascertaining residency status would mean income which accrues or arises outside India (except income derived from a business controlled in or a profession set up in India).

FOOTNOTES:

1 See the Bill as passed by the Lok Sabha at: http://164.100.47.4/BillsTexts/LSBillTexts/PassedLoksabha/26-C_2020_LS_Eng.pdf .

For the budget speech and related budget documents, see the Ministry of Finance Web site at: <https://www.indiabudget.gov.in/> . For related coverage of the Union Budget, see "India: Tax proposals in Union Budget 2020," in *TaxNewsFlash-Asia/Pacific* (February 3, 2020), a publication of the KPMG International member firm in the United States.

2 "Fiscal Year" and "Financial Year" are equivalent, and used interchangeably, both using the acronym "FY" in this article.

* * * *

Contact us

For additional information or assistance, please contact your local GMS or People Services professional or the following professional with the KPMG International member firm in India:



Parizad Sirwalla

Tel. + 91 (22) 3090 2010

psirwalla@kpmg.com

The information contained in this newsletter was submitted by the KPMG International member firm in India.

© 2020 KPMG, an Indian registered partnership and a member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative ("KPMG International"), a Swiss entity. All rights reserved.

www.kpmg.com

kpmg.com/socialmedia



© 2020 KPMG LLP, a Delaware limited liability partnership and the U.S. member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative ("KPMG International"), a Swiss entity. All rights reserved. Printed in the U.S.A. NDPPS 530159

The KPMG name and logo are registered trademarks or trademarks of KPMG International.

The KPMG logo and name are trademarks of KPMG International. KPMG International is a Swiss cooperative that serves as a coordinating entity for a network of independent member firms. KPMG International provides no audit or other client services. Such services are provided solely by member firms in their respective geographic areas. KPMG International and its member firms are legally distinct and separate entities. They are not and nothing contained herein shall be construed to place these entities in the relationship of parents, subsidiaries, agents, partners, or joint venturers. No member firm has any authority (actual, apparent, implied or otherwise) to obligate or bind KPMG International or any member firm in any manner whatsoever. The information contained in herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavor to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.

Flash Alert is a GMS publication of KPMG LLP's Washington National Tax practice. To view this publication or recent prior issues online, please click [here](#). To learn more about our GMS practice, please visit us on the Internet: click [here](#) or go to <http://www.kpmg.com>.