

FINANCE (NO.2) BILL, 2019

[As introduced in Lok Sabha]

Notice of Amendments

S.No.	Name of Member and text of Amendment	Clause No.
SMT. NIRMALA SITHARAMAN:		
7.	Page 6, for lines 47 to 49, substitute— “(viii) income arising outside India, being any sum of money referred to in sub-clause (xviii) 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.”	4
8.	Page 7, after line 5, insert— “(IA) after clause (4C) as so inserted, the following shall be inserted with effect from 1st day of April, 2020, namely:— “(4D) any income accrued or arisen to, or received by a specified fund as a result of transfer of capital asset referred to in clause (viiab) of section 47, on a recognised stock exchange located in any International Financial Services 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.	6
	<i>Explanation.</i> —For the purposes of this clause, the expression—	
42 of 1999.	(a) “convertible foreign exchange” means foreign exchange which is for the time being treated by the Reserve Bank of India as convertible foreign exchange for the purposes of the Foreign Exchange Management Act, 1999 and the rules made thereunder;	
15 of 1992.	(b) “manager” shall have the meaning assigned to it in clause (q) of sub-regulation (1) of regulation 2 of the Securities and Exchange Board of India (Alternative Investment Fund) Regulations, 2012, made under the Securities and Exchange Board of India Act, 1992;	
	(c) “specified fund” means a fund established or incorporated in India in the form of a trust or a company or a limited liability partnership or a body corporate,—	
15 of 1992.	(i) which has been granted a certificate of registration as a Category III Alternative Investment Fund and is regulated under the Securities and Exchange Board of India (Alternative Investment Fund) Regulations, 2012, made under the Securities and Exchange Board of India Act, 1992;	

*The President has in pursuance of clauses (1) and (3) of article 117 and clause (1) of article 274 of the Constitution recommended to Lok Sabha the moving of the amendments.

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	(ii) which is located in any International Financial Services Centre;	
	(iii) of which all the units are held by non-residents other than units held by a sponsor or manager;	
15 of 1992.	(d) "sponsor" shall have the meaning assigned to it in clause (w) of sub-regulation (1) of regulation 2 of the Securities and Exchange Board of India (Alternative Investment Fund) Regulations, 2012, made under the Securities and Exchange Board of India Act, 1992;	
2 of 1882.	(e) "trust" means a trust established under the Indian Trusts Act, 1882 or under any other law for the time being in force;	
	(f) "unit" means beneficial interest of an investor in the fund and shall include shares or partnership interests;.	
§ 9.	Page 7, after line 16, insert —	6
	“(IIA) in clause (23C), with effect from the 1st day of September, 2019,—	
	(a) in the second proviso, for the words “and the prescribed authority”, the words “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,” shall be substituted;	
	(b) in the fifteenth proviso, for the portion beginning with “(ii) the activities of such fund” and ending with “was notified or approved,”, the following shall be substituted, namely: —	
	“(ii) the activities of such fund or institution or trust or any university or other educational institution or any hospital or other medical institution—	
	(A) are not genuine; or	
	(B) are not being carried out in accordance with all or any of the conditions subject to which it was notified or approved; or	
	(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 occurred, has either not been disputed or has	

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	attained finality.”.	
8 10.	Page 9, <i>omit</i> lines 13 and 14.	17
9 11.	Page 9, <i>omit</i> lines 18 to 32.	17
10 12.	Page 10, <i>for</i> lines 7 to 9, <i>substitute</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.”.’.	21
11 13.	Page 10, in line 13, <i>for</i> “Category II”, <i>substitute</i> “Category I or a Category II”.	21
12 14.	Page 15, <i>for</i> line 36, <i>substitute</i> ‘International Financial Services Centre and where the consideration for such transaction is paid or payable in convertible foreign exchange.”.’.	37
13 15.	Page 15, <i>omit</i> line 50.	37
14 16.	Page 16, line 1, <i>for</i> “(c)”, <i>substitute</i> “(b)”.	37
15 17.	Page 18, line 13, <i>for</i> “consideration for immovable property”, <i>substitute</i> “consideration for transfer of any immovable property”.	45
16 18.	Page 18, <i>for</i> lines 19 to 24, <i>substitute</i> —	46
	“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 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.”.	
17 19.	Page 18, <i>for</i> lines 33 to 36, <i>substitute</i> —	46
	‘(b) “commission or brokerage” shall have the meaning assigned to it in clause (i) of the <i>Explanation</i> to section 194H;	
	(c) “professional services” shall have the meaning assigned to it in clause (a) of the <i>Explanation</i> to section 194J;	

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	(d) "work" shall have the meaning assigned to it in clause (iv) of the <i>Explanation</i> to section 194C.'	
18 20.	Page 18, line 44, for "from an account", substitute "from one or more accounts".	46
19 21.	Page 19, after line 15, insert—	New clause 48A.
'Amendment of section 198.	48A. In section 198 of the Income-tax Act, after the first proviso, the following proviso shall be inserted with effect from the 1st day of September, 2019, namely:—	
	"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."'	
16 22.	Page 51, after line 7, insert—	New clauses 174A, 174B and 174C.
'Amendment of section 30	174A. 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.	
Amendment of section 46.	174B. In section 46 of the principal Act, with effect from the 1st day of September, 2019, —	
	(a) after sub-section(1), the following sub-section shall be inserted, namely: —	
	"(1A) Any person aggrieved by an order passed by the authority under section 54A may prefer an appeal in such form alongwith 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.";	
	(b) 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.	
Amendment of section 47.	174C. 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:—	
	"(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	

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	of one year from the end of the month in which such order was passed.”.			
22 23.	Page 53, after line 13, insert—	New clause 186A.		
“Commencement of this Part.	186A. Clause (iii) of section 187, sections 187A, 190A, 190B, 190C and 190D shall come into force from the 1st day of August, 2019.”.			
23 24.	Page 53, after line 19, insert—	187		
25.	<p>“(iii) in clause (u), the following <i>Explanation</i> shall be inserted, namely:—</p> <p>‘<i>Explanation.</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 relatable to the scheduled offence;’.</p> <p>Page 53, after line 19, insert—</p> <table><tr><td>Amendment of section 3.</td><td><p>187A. In section 3 of the principal Act, the following <i>Explanation</i> shall be inserted, namely:—</p><p>“<i>Explanation.</i>— For the removal of doubts, it is hereby clarified that,—</p><p>(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:—</p><p>(a) concealment; or</p><p>(b) possession; or</p><p>(c) acquisition; or</p><p>(d) use; or</p><p>(e) projecting as untainted property; or</p><p>(f) claiming as untainted property,</p><p>in any manner whatsoever;</p><p>(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.”.</p></td></tr></table>	Amendment of section 3.	<p>187A. In section 3 of the principal Act, the following <i>Explanation</i> shall be inserted, namely:—</p> <p>“<i>Explanation.</i>— For the removal of doubts, it is hereby clarified that,—</p> <p>(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:—</p> <p>(a) concealment; or</p> <p>(b) possession; or</p> <p>(c) acquisition; or</p> <p>(d) use; or</p> <p>(e) projecting as untainted property; or</p> <p>(f) claiming as untainted property,</p> <p>in any manner whatsoever;</p> <p>(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.”.</p>	New clause 187A.
	Amendment of section 3.	<p>187A. In section 3 of the principal Act, the following <i>Explanation</i> shall be inserted, namely:—</p> <p>“<i>Explanation.</i>— For the removal of doubts, it is hereby clarified that,—</p> <p>(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:—</p> <p>(a) concealment; or</p> <p>(b) possession; or</p> <p>(c) acquisition; or</p> <p>(d) use; or</p> <p>(e) projecting as untainted property; or</p> <p>(f) claiming as untainted property,</p> <p>in any manner whatsoever;</p> <p>(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.”.</p>		
24 26.	Page 53, for lines 25 and 26, substitute —	189		

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18 of 2016.	“(a) verify the identity of the clients undertaking such specified transaction by authentication 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:							
	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.”.							
26. 27.	Page 53, for lines 37 to 42, substitute—	189						
	‘(4) The information obtained while applying the enhanced due diligence measures under sub-section (1) shall be maintained for a period of five years from the date of transaction between a client and the reporting entity.							
	<i>Explanation.</i> —For the purposes of this section, “specified transaction” means—							
	(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.’.							
27. 28.	Page 53, after line 45, insert—	New clauses 190A, 190B, 190C and 190D.						
	<table><tr><td>Amendment of section 17.</td><td>190A. In section 17 of the principal Act, in sub-section (1), the proviso shall be omitted.</td></tr><tr><td>Amendment of section 18.</td><td>190B. In section 18 of the principal Act, in sub-section (1), the proviso shall be omitted.</td></tr><tr><td>Amendment of section 44.</td><td>190C. In section 44 of the principal Act, in sub-section (1),</td></tr></table>	Amendment of section 17.	190A. In section 17 of the principal Act, in sub-section (1), the proviso shall be omitted.	Amendment of section 18.	190B. In section 18 of the principal Act, in sub-section (1), the proviso shall be omitted.	Amendment of section 44.	190C. In section 44 of the principal Act, in sub-section (1),	
Amendment of section 17.	190A. In section 17 of the principal Act, in sub-section (1), the proviso shall be omitted.							
Amendment of section 18.	190B. In section 18 of the principal Act, in sub-section (1), the proviso shall be omitted.							
Amendment of section 44.	190C. In section 44 of the principal Act, in sub-section (1),							

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	<p>(i) after clause (b), the following proviso shall be inserted, namely:—</p> <p>“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; or”;</p> <p>(ii) after clause (d), the following <i>Explanation</i> shall be inserted, namely:—</p> <p>“<i>Explanation.</i>— For the removal of doubts, it is clarified that,—</p> <p>(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;</p> <p>(ii) the complaint shall be deemed to include any subsequent complaint in respect of further investigation that may be 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.”.</p>	
	<p>Amendment of section 45.</p> <p>2 of 1974.</p> <p>190D. In section 45 of the principal Act, after sub-section (2), the following <i>Explanation</i> shall be inserted, namely:—</p> <p>‘<i>Explanation.</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.”’.</p>	
<p>22. 23 29.</p>	<p>Page 54, lines 35 and 36, for “shall impose any charge upon anyone, either directly or indirectly, for”, substitute “shall impose, whether directly or indirectly, any charge upon a person making or receiving a payment by”.</p>	<p>194</p>