INCOME TAX BILL 2025

India has modernized its six-decade-old income-tax law. The Income-tax Act, 2025 (ITA 2025), effective April 1, 2026, preserves core tax policies i.e., rates, residence rules, incentives, etc., but makes the law clearer, leaner, and easier to navigate.

Few notable features of ITA 2025 are highlighted below:

- No policy/ tax framework changes, only language and structural simplification
- Existing delegated legislations i.e., directions, instructions, notifications, etc., remains valid
- Ongoing tax proceedings and litigation continue without disruption
- Pending refunds/arrears/ recoveries of tax remain enforceable
- Law moves to one 'tax year' (Apr 1–Mar 31) instead of dual concepts of 'previous year' / 'assessment year' as existed earlier.

ITA 2025 brings some key modifications that Non-resident taxpayers should be mindful of. A summary is provided:

Scope of Royalty Taxation Enhanced

The change - Royalty now clearly covers both transfer and 'grant' of rights (patents, trademarks, know-how, software licences, franchises). Indian Courts had already treated 'grant' as a form of transfer, but the explicit language reduces future disputes.

What it means - Any licence, permission, or franchise arrangement with Indian partners is largely covered within India's royalty tax net. Treaty benefits with narrower definitions may still apply, but contracts and invoicing must be aligned to preserve them.

Business actions - Review existing/ proposed IP, software, and franchise contracts, end user license agreements, test withholding tax positions and treaty eligibility at an early stage and ensure that pricing and supporting documentation accurately reflect the clarified scope of royalty taxation.

Presumptive Taxation - Tax Audit Relaxation

The change - Non-residents providing services or technology to Indian electronic-manufacturing companies no longer need a tax audit under presumptive taxation. However, there is no specific waiver on the requirement of maintenance of books of accounts by Non-residents.

What it means - Compliance burden drops, but businesses must still maintain basic books, invoices, and delivery records to defend their positions and avoid unintended litigation/ re-characterisation of income.

Business actions - Maintain core documentation to substantiate income declarations and to ensure presumptive taxation treatment remains protected.

Indirect Transfers - Wider Net, Unclear Mechanics

The change - Offshore transfers of Indian capital assets now extend to any Indian property, source of income, or business connection. However, valuation methods remain defined only for capital assets, creating uncertainty on how the broader language will be applied. This appears to be an oversight, however, clarification required from tax administration.

What it means - M&A deals, restructurings, or holding-company exits involving Indian businesses (and not just capital assets), tax risk could arise even when assets are held offshore. Early diligence and structuring become critical.

Business actions - Map Indian value drivers in cross-border deals, prepare valuation aligned with Indian related businesses, until further clarifications are issued.

Associated Enterprise (AE) - Broader Transfer Pricing (TP) reach

The change - Under the extant regime, an AE relationship was determined using a two-limb test – (1) a general limb based on participation in management, control, or capital; and (2) a specific limb with objective criteria such as 26% shareholding, board control, substantial loans, guarantees, or business dependence. Both limbs were read together, with a timing condition of 'at any time during the year' applying across the specific criteria. ITA 2025 now merges these into a single list and applies the timing condition only to the shareholding test, not to other factors such as loans, guarantees, or dependence. This effectively makes general influence or control an independent trigger, broadening AE definition and potentially expanding TP scope.

What it means - Even brief or informal control may create an AE relationship, requiring India TP compliance and documentation.

Business actions - Identify potential AE triggers and maintain TP documentation even for short-term or one-off transactions.

Baker Tilly ASA Perspective

ITA 2025 represents a significant step toward a clearer, more modern tax framework - one that is easier to navigate but still demands careful attention from businesses. As the landscape evolves, organizations should take this opportunity to review their arrangements, strengthen documentation, and ensure their structures and processes are aligned with the new law. India's tax regime is now speaking more directly to business. However, the moot question is whether the businesses are ready to embrace the change with equal clarity and substance?

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