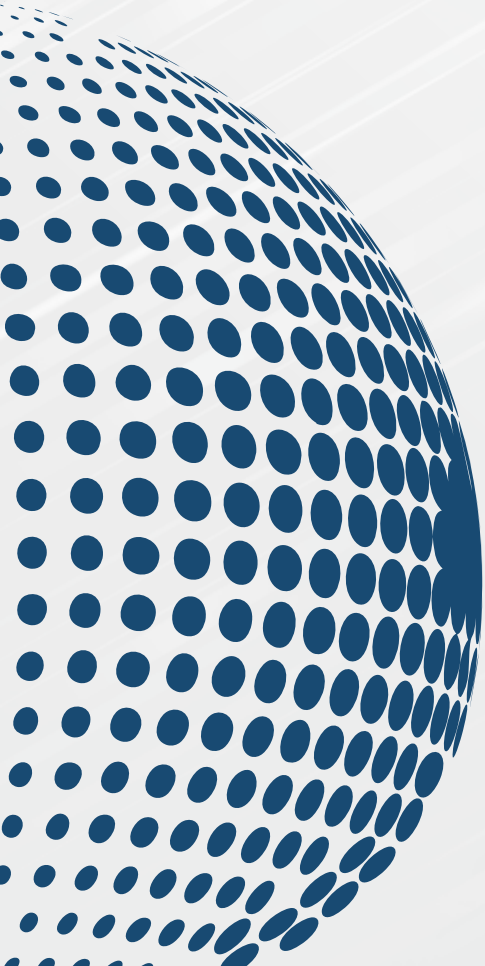
K C Mehta & Co LLP
Chartered Accountants



INDIA BUDGET 2023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The provisions contained in the Finance Bill, 2023 ("the Bill") are proposals and are likely to undergo amendments while passing through Houses of Parliament before being enacted.

INDIA BUDGET 20₹3

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ECONOMIC SURVEY 2022-23

ECONOMIC SURVEY

Background

Economic Survey, one of the most important documents presented by the Ministry of Finance, reflects on the performance of the Government in the year gone by and provides insight into the actions / programs committed by them for the coming years. With the gradual dissembling of trade barriers and increased global trade, economies across the world have become largely interdependent. Upheavals and disruptions in one part of the world have the propensity to destabilize and affect countries across the globe. Commonly known as the "butterfly effect", no singular country is isolated from the events occurring globally and being impacted. In this context, the Economic Survey 2022-23 brings to the fore the probable shocks to the Indian Economy from external factors and the actions taken and proposed by the Government to wade past the troubled times. Global events are now being closely monitored and regular course corrections are taken by countries around the world.

In this context, the International Monetary Fund (IMF), in its World Economic Outlook Update of January 2023 has stated that the global growth of 3.4% in 2022 is expected to come down to 2.9% in 2023 before rising again to 3.1% in 2024. A snapshot of the GDP of the leading economies is provided in the Table below.

Countries	2020E	2021E	2022P	2023P
United States	-3.40%	5.60%	4%	2.60%
Euro Area	-6.40%	5.20%	3.90%	2.50%
Japan	-4.50%	1.60%	3.30%	1.80%
United Kingdom	-9.40%	7.20%	4.70%	2.36%
China	2.30%	8.10%	4.80%	5.20%
India	-7.30%	9%	9%	7.10%
Russia	-2.70%	4.50%	2.80%	2.10%
Brazil	-3.90%	4.70%	0.30%	1.60%

IMF in its January 2023 report has given certain factors which can have either positive or negative outcomes and impact the world economies going forward.

Positives:

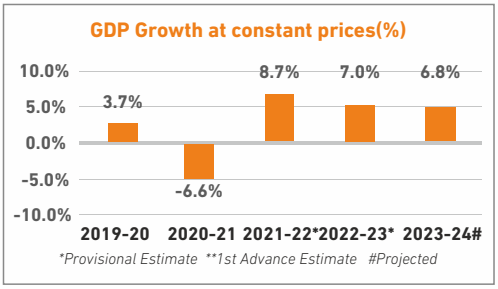
- Pent-up demand: Excess savings during the COVID – 19 are likely to lead to a boost in demand primarily on account of services, especially tourism.
- Faster disinflation: On account of reduced labour market pressures, advanced economies are expected to see a lower wage inflation, which in turn will lead to higher consumption and growth.

Negatives:

- China impact: China has still not recovered fully from the COVID – 19 effects and the normalization of its economy is likely to still be impacted. Further pressures are being added by the weak real estate sector which has spill-over effect into the financial sector.
- Russia-Ukraine War: Escalation of Ukraine war can drag major European countries into its fold. Wheat shortages and oil & gas disruptions are likely to put inflationary pressures. Geo-political tensions are rising with the possibility of Cold War era rearing its ugly head again.
- Debt Distress: Many weaker economies are facing severe financial crunch with as many as 45% of low-income countries being at a high risk of debt distress. About 25% of emerging economies are also at high risk.

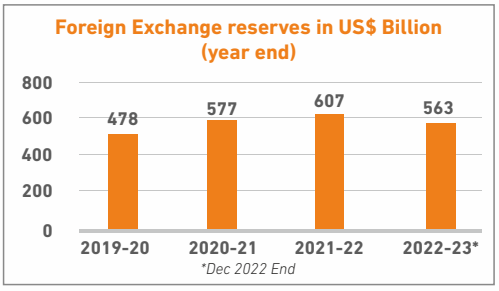
Key Highlights of the Economy in FY 2022-23

- All sectors have shown a broad-based recovery post pandemic and are expected to show considerable growth going forward.
- The Gross Domestic Product (GDP) at nominal terms is expected to be in the range of 6-6.8% in the FY 2023-24 which is by far the best amongst the global economies.



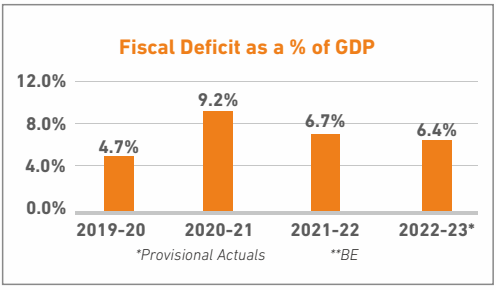
Source: Press Release by PIB Delhi dated January 31, 2023

- Indian economy is seen as a beacon of hope in the largely tepid global economic scenario. Continuous Foreign Direct Investment (FDI) and Foreign Institutional Investment (FII) inflows have managed to keep the foreign exchange reserves well above the USD 500 billion mark for a third consecutive year.



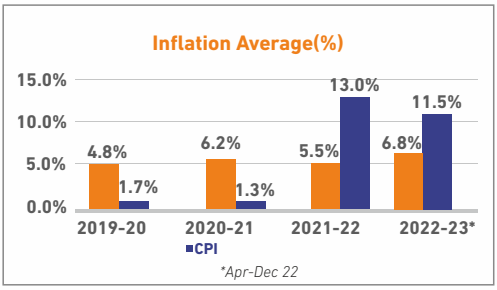
Source: Press Release by PIB Delhi dated January 31, 2023

- Fiscal Deficit target of 6.4% for the current year is likely to be met with a declining trend seen since reaching 9.2% during FY 2020-21.



Source: Press Release by PIB Delhi dated January 31, 2023

- Consumer Price Inflation (CPI) which peaked in April 2022 at 7.8% has declined over the period to ~5.7% in December 2022. Wholesale Price Inflation (WPI) has also seen a slide from its peak of 16.6% in May 2022 to 5.0% in December 2022.

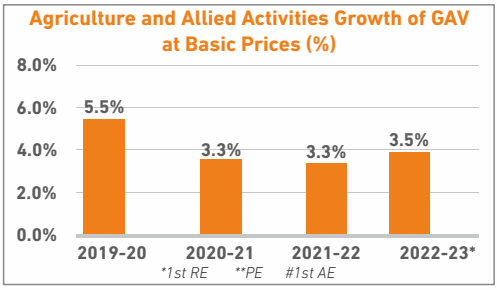


Source: Press Release by PIB Delhi dated January 31, 2023

- Reserve Bank of India (RBI) has raised the policy rates (Repo and Reverse Repo) by a cumulative 225 basis points during May – December 2022.
- Approximately 67% of the total outlay of Rs. 7.5

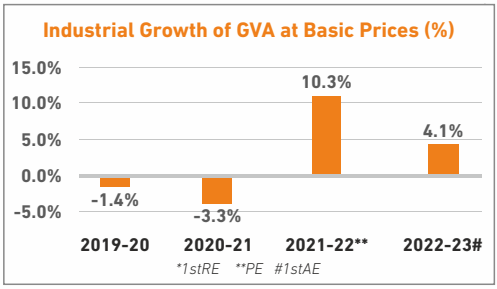
lakh crores towards capital expenditure in FY 2022-23 (an increase of 35.4% over the PY) has already been spent during April-December 2022.

- India's overall Exports during the period April-December 2022 showed a positive growth of 16% in Dollar terms over the same period last year.
- A 15.5% YoY growth has been seen in the Gross Tax Revenue collections during April to November 2022.
- Rs. 13.4 lakh crores of GST Revenue collected in the first 3 quarters of FY 2022-23 with a doubling of GST taxpayers from 70 lakhs to 140 lakhs.
- India's agriculture sector has seen healthy growth with a compounded annual growth rate (CAGR) of 4.6% during the last six years.



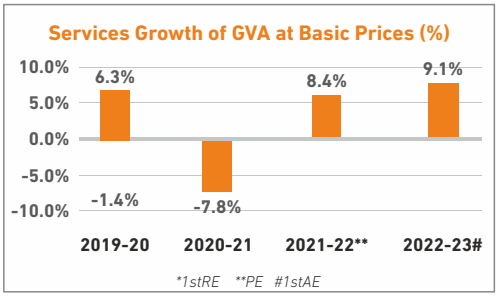
Source: Press Release by PIB Delhi dated January 31, 2023

- India emerged as a net exporter of agricultural products, with exports in FY 2021-22 touching a record USD 50.2 billion.
- India's foodgrains had a record production of 315.7 million tonnes (MT) in FY 2021-22 and a record production of 342.3 MT of Horticulture Products during FY 2021-22.
- Industrial sector Gross Value Added (GVA) rose by 3.7% in the first half of FY 2022-23.



Source: Press Release by PIB Delhi dated January 31, 2023

- Indian manufacturing sector has seen a tremendous uptick, with the country becoming the second-largest mobile phone manufacturer globally and the third highest in terms of automobile sales, surpassing Japan and Germany in December 2022.
- Service Sector grew at 8.4% (YOY) in FY 2022-23 and is expected to grow at 9.1% in FY 2022-23.



Source: Press Release by PIB Delhi dated January 31, 2023

- Gross Non-Performing Assets (GNPA) of Scheduled Commercial Banks (SCBs) reached a 7-year low of 5%.
- The unemployment rate has fallen from 5.8% in FY 2018-19 to 4.2% in FY 2020-21, a trend seen in both urban and rural areas.
- Under National COVID-19 Vaccination Programme ~220 Crore COVID Vaccine Doses have been administered till January 6, 2023, resulting in 97% of eligible beneficiaries receiving one dose and 90% receiving both doses.

State of the Indian Economy

Economic Survey 2022-23 tabled by Hon'ble Finance Minister Smt. Nirmala Sitharaman in the Parliament, has highlighted that economic shocks have always affected global economies but generally are spaced over a period of time. This is a unique decade where the world economies have been buffeted by a series of severe shocks in a very compact span of time. The shocks which came one after the other can all be categorized as gale-force storms with the potential to create widespread economic distress across the globe. As economies were slowly recovering from the COVID-19 effects, the Russia-Ukraine war broke out. One of the crucial effects of the war was severe inflationary pressure globally which led to Central Banks, including US FED Reserve and the RBI resorting to periodic rates to curb the adverse impact.

The drastic monetary policy actions taken by Central Banks have directly led to the widening of the Current Account Deficits (CAD) and increased inflationary pressures especially for the net importing economies such as India. The persistent rates hikes have led to a revision in the global growth forecasts by the IMF for 2022 and 2023. The fear of stagflation led the economies coming up with measure to protect their domestic businesses leading to a sharp decline in global trade. China's hardline zero COVID-19 policy took further toll on the economies which resulted in a considerable economic slowdown due to travel and trade restrictions.

Given this backdrop, India being largely a domestic growth-driven economy has sustained these multiple economic shocks much better and

India's total transaction value is expected to show an annual growth rate (CAGR 2023-2027) of 14.16% resulting in a projected total amount of US$272.80bn by 2027.

come out relatively unscathed. The initial two pandemic waves and the resultant shutdowns had led to a drastic contraction in GDP for FY 2020-21. However, the hugely successful vaccination program and the gradual phasing of the shutdowns resulted in a V-shape recovery with FY 2021-22 output being well above the previous year's figures.

Some of the salient features and the macro economic and growth challenges likely to impact growth for the Indian Economy are

- FY 2022-23 began on the premise that the pandemic was well behind and India could once again resume on the path of fast-paced economic growth.
- However, the Ukraine war led to high input costs with severe inflationary pressures.

This led to retail inflation being well above the RBI tolerance level of 6%. Rising international commodity prices and adverse weather conditions kept food prices high. To curb inflation, the Government had to cut excise and customs duties while restricting certain exports. Reserve Bank of India too had to raise policy rates to suck the excess liquidity.

- In addition, monetary tightening by the US FED led to the USD appreciating considerably against currencies globally. The depreciation in the Rupee along with hardening global commodity prices led to a widening in the Current Account Deficit (CAD).

- Though the FY 2022-23 started well for India with a demand-led growth, especially till the H1 of the year, global headwinds on account of geopolitical tensions and inflationary pressures are going to slow down the international trade in the second half of the year. Though the external trade has come for a hit on account of global issues, the baton for growth has been picked up by manufacturing and investment activities.

- Furthermore, private consumption as a percentage of GDP stood at 58.4% in Q2 of FY 2022-23, which is the highest among the Q2 since FY 2013-14.

- The pandemic-induced suppression of consumption has led to release of "pent-up" demand. The growth in "personal loans" along with a pick-up in housing loans are a reflection of this build up.

- In addition to the housing sector, the overall construction activity has picked up in FY 2022-23. The sustained efforts of the Government to increase capital expenditure initially to fill infrastructure gaps and shore up the slow private investments has played a vital role. This thrust has led to "crowding-in" of private investment which can be seen in the robust direct tax and GST collections.

- As highlighted by Axis Bank Business and Economic Research, capex by the industry has increased to Rs. 3.3 lakh crores in H1 of FY 2022-23, led by investments in electricity, steel, chemicals, auto and pharmaceuticals sectors.

- The credit growth to the MSMEs by the banking sector has been ~30.5% on average during January-November 2022 which further confirms the improved financial health of the corporate sector and the propensity to avail credit.

- RBI during the last fiscal had projected a headline inflation of 6.8%, which was above the tolerance limits. The moderation of inflation by December 2022 is likely to result in a lower interest cost on domestic credit in the near term, leading to increased demand by both corporate and retail borrowers.

- India's inclusive growth can be seen from the Periodic Labour Force Survey (PLFS) which shows a decline in the urban unemployment rate from 9.8% in the quarter ending September 2021 to 7.2% for quarter ending September 2022.

- The Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA) has been playing an important role in creating more assets in respect of "Works on individual's land", which rose to 60% in FY 2021-22. This has helped them in diversifying their existing incomes and generating supplementary incomes.

The Indian Economy has weathered the economic shocks over the past three years quite commendably, as can be seen from the fiscal and monetary parameters presented in the Economic Survey 2022-23. The thrust for sustainable growth can be achieved not only through enhanced production of goods and services but keeping in sight the delicate ecological balance and the adverse impact of climate change.

The Government is going for a multi-pronged approach for ensuring socially inclusive growth on a sustainable basis. The outcomes of these changes, reforms and policies are going to be observed over a longer time span because of the lagging effect of the structural upheavals on the economic parameters and indicators. The healthy financial parameters presented in the Survey augur well for India both in medium and long term.

- **Fiscal Developments:** Economic Survey has highlighted that a slew of fiscal measures during the pandemic crisis and the geopolitical situation has led to a faster recovery in economic activity. To curb the decrease in economic activity during pandemic, Government had introduced a mix of fiscal policy measures such as increasing food & fertilizer subsidies, reduction in taxes of fuels and duties on certain major imported goods. Despite these fiscal measures, the Government is expecting to achieve the fiscal deficit target for FY2022-23 of 6%, which will be achieved by higher tax revenue collections and increased private capex cycle.

- **Monetary Management and Financial Intermediation:** Reserve Bank of India (RBI) has been hiking policy rates at a regular interval to curb the rising inflation but at the same time providing support to growth by ensuring adequate liquidity in financial markets. As per the Survey, the growth in credit offtake is expected to sustain and combined with a pick-up in private capex, is expected to create a "virtuous investment cycle".

- **Prices and Inflation:** Prompt action by the RBI in controlling inflation through a series of policy rate hikes has ensured that the inflation is within the tolerance limits of 6%, while most of the major economies are still suffering the inflationary effects. However, the survey highlights that inflationary pressures are going to continue in the coming year and monetary and fiscal policies shall play an important role in controlling the spiralling effect of inflation.

- **External Sector:** The Balance of Payments (BoP) situation has been under pressure primarily on account of the sharp rise in oil prices, policy tightening by the US Federal Reserve leading to the strengthening of the US dollar and the resultant Foreign Portfolio Investment (FPI) outflows. However, given the robust growth seen during the year and the cooling of crude prices combined with net service exports, India is expected to keep the CAD under limits and continue with a healthy balance of forex reserves, which stood at USD 562.72 billion as of December 2022.

- **Physical and Digital Infrastructure:** Infrastructure is the backbone for the growth and development of any economy. In the current scenario of digitalization, the development of digital infrastructure becomes equally, if not more important than physical infrastructure. The Government in addition to focus on physical infrastructure, has kept a keen eye on developing the digital infrastructure. The digital era which started with introduction of Aadhaar has been reinforced with the introduction of UPI, which has strengthened the digital payment infrastructure and other initiatives like Co-WIN, e-RUPI, TReDS, Account Aggregators, ONDC are bound to play an important role going forward. The synergy between the physical and digital infrastructure shall play a pivotal role to propel the economy to greater heights in the medium term.

- **Social Infrastructure and Employment:** India is moving towards the attainment of the UN Sustainable Development Goals (SDGs) which is reflected in the introduction of a slew of inclusive social policies and higher financial outlays to weaker sections. Enhanced technology usage with dedicated thrust on digital infrastructure has ensured benefits of Government schemes reaching the targeted citizens. Initiatives including digital and teaching interventions in schools, upgrading the role of community workers in healthcare and giving impetus to Self Help Groups (SHGs) have ensured that development is sustainable and touches every segment of the society.

- **Climate Change and Environment:** Climate change brought about primarily from high cumulative emissions from the developed nations has the potential to derail any economic growth worldwide due to severe droughts, floods with fast depleting polar ice caps and rising sea levels. Though India, not being a major contributor to the Green House Gases (GHG), is already ahead of the curve, having initiated climate action goals in the form of increasing solar power capacities, higher energy saving targeting notified in

Perform, Achieve and Trade (PAT) Scheme Cycle-VII under National Action Plan on Climate Change (NAPCC), improved green cover facilitated by Green India Mission to name a few.

- **Agriculture & Food Management:** Performance of the agriculture sector continues to be critical to growth and employment for India. Government has ensured that investments are encouraged in the sector and also intervened through initiatives such as PM Kisan to provide income support, Pradhan Mantri Fasal Bima Yojana (PMFBY) to strengthen institutional finance and insurance issuing Kisan Credit Cards for easier access to machines and tools. Horticulture has been identified as a focus area and dedicated efforts are being made to ensure proper supply chain to reduce wastage and faster movement.
- **Industry:** Industry is another major contributor to the GDP and the sustained growth in the sector is of primary importance. The thrust on initiatives such as "Make in India" further underline the Government's focus on creating industrial sector as the major contributor to GDP growth. Higher bank credit to support industrial activity and introduction of Emergency Credit Linked Guarantee Scheme (ECLGS) to MSMEs have ensured that future industrial growth is sustained. The Production Linked Incentive (PLI) schemes to 14 thrust sectors has also ensured enhanced capex and bring in higher employment.
- **Services:** India, being among the top 10 service exporting country has increased its share in commercial services export from 3% in FY 2014-15 to 4% in FY 2020-21. The services exports have remained robust during the COVID period and even during the ongoing geopolitical uncertainties. This has been primarily been on account of higher demand for digital support, cloud services, and catering of infrastructure modernisation. A sharp improvement in the performance of sectors like hotel industry, tourism, real estate, e-commerce domestically has also proved that growth has indeed renewed, once hit hard by COVID.

India has 822.038 kms of operational metro lines (and more than 900 kms in pipeline) and 16 rapid transit (popularly known as 'metro') systems in 15 cities across India

BUDGET HIGHLIGHTS

INDIA BUDGET 20₹3

Direct Tax

Tax Rates

- No change in tax rates for companies
- Alternative 'New' Tax Regime introduced by Finance Act 2020, now made the default tax regime for individuals. Taxpayers may opt out of the default tax regime to apply the old tax regime
- No change in taxation as per old tax regime for individuals
- Alternate tax regime made more attractive for individuals
  - ✓Basic exemption limit increased from Rs. 2.5 lakhs to Rs. 3 lakhs
  - ✓Benefit of standard deduction for salaried individuals, now available for Rs. 50,000. Deduction in respect of family pension shall also be permitted.
  - ✓Highest tax surcharge (applicable for the tax bracket of more than Rs. 5 Crores) reduced from 37% to 25%, reducing the highest net tax rate for individuals from approx. 43% to approx. 39%
  - ✓Owing to increased rebate available, effectively no tax payable for income earners upto Rs. 7 lakhs
- Association of persons (AOP) and Body of Individuals (BOI) included within new tax regime, to be taxed at a maximum of 30% plus surcharge & cess
  - ✓Surcharge to be capped at 15% if all members are companies (in place of 25% for all other cases)

Personal Tax

- Maturity proceeds including bonus (except in cases of death of the insured) for life insurance policies (other than ULIP) shall be taxed as 'income from other sources' if the aggregate annual premium for such policies exceed Rs. 500,000.
- Rules for computation of value of rent-free accommodation and accommodation at concessional rates to be notified – if value of accommodation as per notified rules exceed rent recoverable, it shall be considered as accommodation provided at concessional rates.
- Deeming fiction created by Finance Act 2019 to tax gifts received by non-residents from residents extended to gifts received by not-ordinarily residents from residents – to be taxed in India.
- Net winnings from online gaming to be taxed as 'income from other sources', tax to be withheld at 30% - manner of computing net winnings to be notified
- Contribution to Agniveer Corpus Fund to follow E-E-E model – deduction to be allowed at the time of making contribution, any payment received from the fund (including interest) to be exempt

Startups

- Sunset date for incorporation of startups to claim 80-IAC deduction extended from March 31, 2023 to March 31, 2024
- Relaxation in requirement of 51% shareholding for set off of losses offered to startups now available for losses for 10 years from the date of incorporation (as compared to 7 years earlier), subject to certain conditions

Income from business or profession

- Taxability of benefits / perks received by taxpayers in kind from business / profession, extended to include benefits / perks received in cash, or partly in cash and partly in kind – provider of benefit / perks shall be liable to deduct tax at source (or ensure deposit of tax) before providing the benefit / perks
- Requirement of getting feasibility report, project report, market survey, etc. only from a CBDT approved service provider in order to claim 35D deduction removed – taxpayer to furnish details of service received in prescribed form to claim deduction
- Deduction of expenditure in case of payments to micro and small enterprises to be available only on payment basis

- Thresholds for presumptive taxation of small businesses and professions increased, subject to at least 95% non-cash receipts

Capital Gains

- Deduction u/s.54 & u/s.54F shall be restricted to investment in house property up to Rs.10 crores.
- Cost of acquisition and cost of improvement of Self-Generated Intangible Asset or any other rights shall be treated as Nil
- Cost of acquisition of house property excludes interest paid on acquisition of such property claimed as deduction u/s.24(b)
- Conversion of Gold into Electronic Gold Receipt and vice-a- versa not regarded as transfer- not taxable
- Capital gain on sale of Market Linked Debentures shall be taxable as short-term capital gain

Income from other sources

- Issuance of shares to non-resident including foreign companies in excess of fair value shall be subject to tax as income from other sources in the hands of company in which public are not substantially interested
- Any sum distributed by a Business Trust (other than by way of interest, dividend and rental income) is taxable in the hands of unit holders as income from other sources. Amount distributed by way of redemption of unit (net of cost of acquisition of such unit) shall be taxable under the head 'income from other sources' and not under the head 'capital gains'

Business Reorganisation

- Successor entity enabled to file Modified Return consequent upon the order of Court or Tribunal in respect of Business Reorganisation (merger or demerger) even in cases where original return was filed by the predecessor. Tax Department also required to modify / conclude completed / pending tax assessment proceedings considering such modified return and the order of Court or Tribunal relating to business reorganisations
- Benefit of carry forward and set-off of losses u/s.72A/72AA also available in case of certain public sector companies

IFSC Taxation

- Income distributed on the offshore derivative instruments entered into with an offshore banking unit of an IFSC exempt subject to conditions
- Existing time limit (March 31, 2023) for relocation of fund to IFSC in respect of fund located outside India (having underlying asset in India) for availing Tax Exemptions and deduction extended to March 31, 2025

Co-operative Society

- Concessional tax regime @15% for co-operative societies formed and registered on or after April 1, 2023 commencing manufacture / production on or before March 31, 2024
- Threshold for non-deduction of tax on withdrawal of cash by co-operative societies increased to Rs. 3 crores
- Threshold for acceptance / repayment of loan u/s 269SS / 269T for members of certain categories of co-operative societies increased to Rs. 200,000 per member

Trust and Charitable organisation

- Form 9A/10 for claiming the accumulation as deemed application to be filed two months prior to return filing
- Regular donations to other charitable organisations (claiming exemption under the Act) shall be regarded as an application to the extent of 85% of the amount
- Recoupment of corpus fund utilized prior to April 1, 2021 not regarded as an application of income
- Recoupment of corpus fund / repayment of loan to be regarded as application if recouped / repaid within 5 years from the end of the year in which funds were utilized from corpus / loan, subject to conditions
- Trust / entity not applying for re-registration within specified time limit to be deemed to be converted into non-charitable organisation, tax payable on accreted income within 14 days from the end of the previous year

Tax Deduction at source (TDS)/ Tax Collection atsource (TCS)

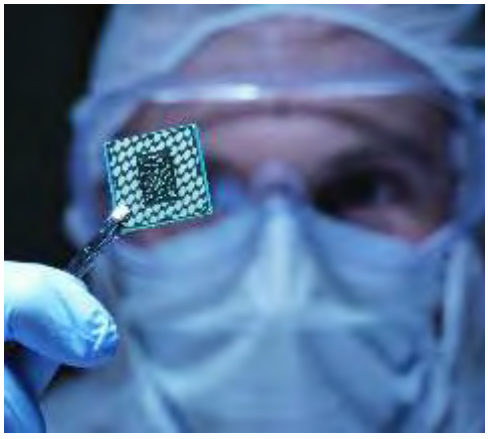
- TCS on Overseas Tour Package increased to 20%
- Threshold of Rs.7,00,000 for non-collection of tax at source on amount remitted under LRS Scheme (for purpose other than education or medical) removed
- Interest payable to a resident on any listed securities in India (held in dematerialized from) by a company subject to TDS
- Higher withholding of tax at MMR not applicable on taxable amount of payment made to employee under EPF Scheme u/s.192A
- Net winnings from online gaming subject to TDS @30%
- Threshold of Rs.10,000 for deduction of tax at source on winning from lottery or crossword puzzle to be computed on aggregate annual basis
- Tax Treaty benefit extended on income distributed to non-resident and foreign company by Mutual Funds specified u/s.10(23D) or income from the specified company u/s.10(35)
- Application for lower/nil deduction of tax at source can be made where tax is required to be deducted u/s.194LBA on certain income from units of a business trust
- Mechanism provided for claiming credit of TDS deducted by payer in year subsequent to the year in which income is offered to tax

Return, Refunds, Assessment & Appeals

- Time limit for filing return of income in response to notice u/s.148 of the Act specified as 3 months from the end of the month in which the notice is received
- AO's power to withhold any refund extended to include all refunds - no additional interest (3%) on refund withheld and subsequently released
- Time limit for completion of regular assessment for AY 2022-23 onwards increased to 12 months from the end of the relevant AY Time limit for completion of assessment in case of updated return increased to 12 months from the end of the FY in which such updated return of income is filed
- Time limit for completion of pending assessment in cases of search further increased by 12 months
- 100 new JCITs to be appointed to hear appellate matters at CIT(A) level, subject to conditions
- Power given to tax authority to carry out inventory valuation from an approved cost accountant during assessment proceedings
- Tax department provided with access to approved service provider in respect of various services e.g. data forensic, digitization, cloud storage, archive expert etc. in case of search
- Time limit for submission of Transfer Pricing Documentation (in form of Local File and Master File) to Assessing Officer reduced to 10 days from 30 days

Penalty and Prosecution

- Penalty and prosecution provisions extended to cases where payer is unable to ensure payment of necessary tax as required to be deducted in cases pertaining to benefit / perks / payment in kind before releasing benefit / perks / payment



From Foxconn to Micron, semiconductor giants are betting big on India!

Goods & Services Tax

[All proposals shall be effective from a date to be notified post President's assent to the Finance Bill – except wherever expressly provided]

- Second proviso to section 16(2) of the CGST Act is proposed to be amended to prescribe the reversal of ITC by making payment instead of adding to the output tax liability along with the interest under section 50 in case of non-payment of taxable value along with tax to the suppliers within 180 days from the date of an invoice.
- Explanation to section 17(3) of the CGST Act is proposed to be amended to provide that transaction as specified under clause 8(a) of Schedule III i.e., Supply of warehoused goods to any person before clearance for home consumption, will be considered as exempt supply and accordingly, ITC on the same shall be restricted.
- ITC in respect of CSR expenditure incurred in compliance with the mandate of section 135 of the Companies Act, 2013 is proposed to be included under restricted category.
- Taxpayers engaged in supplying goods through electronic commerce operators would be allowed to opt for Composition Levy under Section 10.
- Section 23 of the CGST Act (which provides that registration shall not be required by certain persons in certain cases) is proposed to amended to have an overriding effect over section 22(1) (which provides monetary limit for obtaining registration) and section 24 (which provides for compulsory registration in certain cases). Thus, in case of conflict between section 23 and section 22(1) or section 24, section 23 shall prevail, and registration shall not be required .
- Amendments have been proposed to Sections 37, 39 44 and 52 to provide that the respective returns under these sections shall not be allowed to be filed after the expiry of three years from the due date of furnishing the return.
- Section 56 of the CGST Act is proposed to be amended to give powers to the government to prescribe conditions and restrictions in case of interest to be paid for grant of refund beyond a delay of 60 days.
- Sub-section (1B) is proposed to be inserted to section 122 of the CGST Act to provide for penalties on Electronic Commerce Operators in case of following contraventions:
  - ✓an unregistered person who has not been specifically exempted from registration is allowed to supply of goods or services or both through it;
  - ✓inter-State supply of goods or services or both is allowed to a person who is not eligible to make such inter-State supply;
  - ✓fails to furnish the correct details of supplies made through it.
- Section 132(1) of the CGST Act is being amended to decriminalize following offences by a person who:
  - ✓obstructs or prevents any officer in the discharge of his duties under this Act [Clause (g)];
  - ✓tampers with or destroys any material evidence or documents[Clause (j)];
  - ✓fails to supply any information which he is required to supply under this Act or the rules made thereunder or (unless with a reasonable belief, the burden of proving which shall be upon him, that the information supplied by him is true) supplies false information [Clause (k)];

  Further, the monetary threshold for launching prosecution for the offences is increased from rupees one crore to rupees two crores, except for the offences related to issuance of invoices without supply of goods or services or both.
- Section 138 is proposed to be amended to allow compounding of offences liable to prosecution by paying an amount in the range of minimum 25 % (present 50%) to maximum 100% (present 150%) of tax involved. Also, the proviso (b) and (e) of said section are proposed to be omitted.

- Section 158A of the CGST Act is proposed to be inserted to enable the GSTN to provide the following data to other systems as may be prescribed:
  - ✓particulars furnished in the registration application or in GSTR 3B or GSTR 9, after taking the consent of the supplier;
  - ✓particulars submitted for generation of invoice, details of outward supply and details provided for preparation of E-way bill after taking the consent of both, the supplier and the recipient;
  - ✓any other details, as may be prescribed after taking the consent of the supplier and the recipient where the details include identity of the recipient.
- Schedule III of the CGST Act is being amended to give retrospective applicability w.e.f. 1 July 2017 to Para 7, 8 (a) and 8 (b) of Schedule III. It has been specifically provided that no refund shall be made of tax which has already been collected prior to this amendment.
- The definition of 'non-taxable online recipient' under section 2(16) of IGST Act has been substituted and simplified. It is also provided that persons who have obtained registration only for the purpose of TDS compliance shall be treated as 'unregistered person'.
- The definition of 'online information and database access or retrieval services' under section 2(17) of IGST Act is proposed to be amended to omit the words 'essentially automated and involving minimal human intervention and' so as to avoid issues of interpretation.
- The proviso to section 12(8) of IGST Act which provided that the place of supply of services of transportation of goods shall be the location where goods are delivered, has been omitted. Accordingly, in such cases, the place of supply shall be the location of recipient.

Customs Law

[All amendments (except changes in rates) to be made effective upon receipt of President's assent to the Finance Bill except where specifically mentioned]

- Section 25 of the Customs Act, (Power to grant exemption from duty), has been amended by inserting new proviso to sub-section (4A), to provide that the validity of 2 years will not be applicable to exemption notifications of certain categories (i.e., exemptions granted in relation to -
  - multilateral & bilateral trade agreement,
  - obligations under international agreements, treaties, conventions; UN agencies, diplomats, international organisations;
  - privileges of constitutional authorities;
  - schemes under FTP;
  - other Central Govt. schemes with validity of 2 years;
  - re-imports, temporary imports, goods imported as gifts or personal baggage;
  - IGST leviable under Customs Tariff Act, other than duties under Section 12 of the Customs Act.)
- Sub-section (8A) has been proposed to be inserted under section 127C of the Customs Act (Procedure on receipt of an application for settlement of cases), to specify the time limit of 9 months for disposal of an application filed before the settlement commission. It also specifies that if no order has been passed within the said period of 9 months, it shall be treated as if no application under the said section had been made and the case will be reverted back to the adjudicating authority.
- Amendments to sections 9, 9A and 9C of the Customs Tariff Act have been proposed to omit certain words therein and to clarify that the determination or review of safeguard duty or of countervailing duty or of anti-dumping duty, are to be done by an authority in such manner as may be specified in the rules made under section 8B, 9, 9A and 9B of the Customs Tariff Act.

Amendments in Custom Duty Rates

- The First Schedule to the Customs Tariff Act, 1975 is also being amended to modify the tariff rates on certain tariff items as part of rationalization of customs duty rate structure. Wherever there are increase in duty rates, they

would come into effect from midnight of 1 February (i.e., from 2 February 2023) and the others would come into effect from the date of assent of the Bill.

- The changes in Customs Tariff Act proposed through Finance Bill shall have effect from 1 May 2023.
- Out of 196 exemptions, 146 exemptions are being extended for a period of one year i.e., up to 31 March 2024, for the purpose of undertaking review. Of the remaining, a few are being extended for 2/5 years, while some exemption entries are being discontinued with effect from 31 March 2023.

Central Sales Tax Act, 1956

- Section 19 of the Central Sales Tax Act has been amended to provide that now the CESTAT constituted under section 129 of the Customs Act, 1962 will be the authority under the Central Sales Tax Act to settle inter-state disputes.
- Further, sub-section (3) has been inserted to section 25, to provide for filing of new appeals under section 20 of the CST Act, as well as transfer of the existing appeals pending before the erstwhile Authority for Advance Rulings, to CESTAT.

Central Excise Tax Act, 1944

- [All amendments shall come into force from 2nd February 23]
- The fourth schedule of the Excise Tariff Act is being amended for the excise rate of tariff item 2711 21 00 – Compressed Natural Gas (CNG).
- GST paid on Biogas or Compressed Bio Gas shall be reduced from the total excise duty payable on the manufacture of blended CNG subject to applicable conditions.

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INDIA BUDGET 20₹3

DIRECT TAX

Personal Tax

Overhauling the New Tax Regime

The Finance Act, 2020 introduced a new tax regime for individuals and HUFs through section 115BAC in the Income-tax Act, 1961 ("the Act"). This new tax regime has provided lower tax rates as compared to the regular slab rates. However, in such tax regime, the taxpayer is required to forego certain important exemptions and deductions which were otherwise available if such regime is not opted.

To encourage that more taxpayers are covered within such new tax regime, the Bill has proposed to expand its scope, increase basic exemption limit, increase various slab amounts, and enable taxpayers to claim certain deductions which were earlier not available under such regime. Further, such new tax regime shall be regarded as "default" regime i.e., tax shall be computed as per new tax regime unless a taxpayer has opted not to compute its tax liability under section 115BAC . Such changes are summarized below:

- In addition to individuals and HUFs, provisions of section 115BAC are now applicable to Association of Persons (other than co-operative societies), Body of Individuals, whether incorporated or not and artificial juridical persons

Up to AY 2023-24		From AY 2024-25 onwards	
Total Income (INR)	**Rate of tax**	**Total Income (INR)**	**Rate of tax**
Up to 2,50,000	Nil	Up to 3,00,000	NIL
2,50,001 to 5,00,000	5%	3,00,001 to 6,00,000	5%
5,00,001 to 7,50,000	10%	6,00,001 to 9,00,000	10%
7,50,001 to 10,00,000	15%	9,00,001 to 12,00,000	15%
10,00,001 to 12,50,000	20%	12,00,001 to 15,00,000	20%
12,50,001 to 15,00,000	25%	Above Rs.15,00,000	30%
Above 15,00,000	30%		

- Reduction in the number of slabs and increase in the basic exemption limit to Rs.3,00,000 as opposed to Rs. 2,50,000 at present. The old and new slab rates in the new tax regime of section 115BAC are as under:
- While computing Total Income, certain deductions & exemptions which are required to be foregone under the earlier provisions are same, except the following:

  I. Standard deduction of Rs. 50,000 u/s. 16 for salary income shall be available now.

  ii. Deduction u/s. 57(iia) against family pension shall be available now.

  iii. Deduction u/s. 80CCH(2) relating to contribution in Agnipath scheme shall be available.
- Limit of Total Income for availing Rebate u/s. 87A has been increased from Rs.5,00,000 to Rs.7,00,000 resulting into no tax on total income up to Rs.7,00,000 under the new "default" tax regime.
- Maximum Surcharge is restricted to 25% resulting into reduction in Maximum Marginal Rate from ~43% to ~39%.
- In case of AOP where all members are companies, maximum surcharge is restricted to 15%.
- New tax regime' under section 115BAC is regarded as the default tax regime. However, a taxpayer has an option to choose the old tax regime by making a specific election for the same on or before the due date of / along with furnishing the return of income. If such election for old tax regime is not made, the taxpayer would be taxed as per the new "default" regime of section 115BAC.

- Alternative Minimum Tax (AMT) under section 115JC shall not apply to the entities which are governed by or have opted for the provisions of section 115BAC.
- Considering the above changes, tax at certain level of Total Income is computed as under:

Total Income	Tax Liability (including surcharge & cess)			Effective Tax Rate under Revised New Tax Regime 115BAC (AY 2024-25 onwards)
	Normal Tax Regime	New Tax Regime 115BAC (up to AY 2023-24)	Revised New Tax Regime 115BAC (AY 2024-25 onwards)	
5,00,000	Nil	Nil	Nil	0%
6,00,000	33,800	23,400	Nil	0%
7,00,000	54,600	33,800	Nil	0%
10,00,000	1,17,000	78,000	62,400	6.24%
15,00,000	2,73,000	1,95,000	1,56,000	10.4%
30,00,000	7,41,000	6,63,000	6,24,000	20.80%
1,10,00,000	37,20,550	36,32,850	35,88,000	32.61%
2,10,00,000	79,46,250	78,48,750	78,00,000	37.14%
5,10,00,000	2,15,32,290	2,14,25,430	1,95,00,000	38.23%

The amendment shall be applicable with effect from April 1, 2024.

- For a person earning business income, once the option to opt out of the new regime has been exercised, he can withdraw such option (i.e., opt into the new regime) only once, after which such person shall not be permitted to go back to the old scheme unless he ceases to earn business income in which case he shall have the option to go back to the old regime.

Increase in claim of Rebate u/s. 87A

As per existing section 87A of the Act, a resident individual having total income up to Rs. 5 lakhs can claim rebate from income tax for an amount of income tax or Rs. 12,500, whichever is less. The said benefit is provided to the individuals opting for existing tax scheme as well as new tax scheme.

The Bill proposes to insert a proviso to section 87A for extending the benefit of rebate from income tax to the resident Individuals or HUF or AOP or BOI or AJP opting for tax regime u/s 115BAC(1A) of the Act. It is proposed that resident Individual or HUF or AOP or BOI or AJP opting tax regime u/s 115BAC(1A) and having total income up to Rs. 7 lakhs can claim rebate from income tax for an amount of income tax or Rs. 25,000, whichever is less. In other words, there will be no tax liability for the person having income up to Rs. 7 lakhs who opts for default tax scheme u/s 115BAC(1A) of the Act.

The amendments are proposed to be effective with effect from April 1, 2024 and will accordingly apply from AY 2024-25 onwards.

Specified sum or bonus received under life insurance policy to be taxed as "Income from other sources"

Maturity proceeds including bonus received under life insurance policies (other than policies carrying an annual premium in excess of 10% of the sum insured) are exempt in the hands of the insured, under section 10(10D) of the Act. The only exception to the exemption is for sum received under a Unit Linked Insurance Policy with an annual premium of more than INR 250,000. No such monetary limit was thus far provided for other life insurance policies. To enact similar provisions for other types of life insurance policies aimed at restricting high net worth individuals from investing large sums of money in such policies as a mode of investment (rather than for insuring life), the Bill proposes to tax maturity proceeds of life insurance policies with annual premium of more than Rs. 500,000.

Sum received from such policies shall not be exempt u/s 10(10D) and such sum received in excess of the aggregate premium paid is proposed to be taxed as income from other sources u/s. 56(2)(xiii) of the Act. There were instances in the past wherein sums received from policies were offered to tax under the head "Capital Gains". Considering that a specific provision has been introduced to tax the same as "Income from other sources", it would now not be possible to offer the same under the head "Capital Gains".

The proposed amendment shall be applicable for policies issued on or after April 1, 2023.

Valuation of residential accommodation provided by employer to employee

Section 17(2) of the Act defines perquisites. As per the existing provisions of section 17(2) of Act, rent free accommodation or accommodation at concessional rate provided by the employer (Government or non-Government) to his employee is taxable as perquisite at the value specified in the section 17(2) of the Act read with Rule 3 of the Rules. As per the current provisions, the employer can decide the value of residential accommodation by applying the method prescribed in Rule 3 and explanation to clause (ii) of section 17(2). The Bill proposes to notify rule(s) prescribing the method for computation of value of rent-free accommodation and accommodation at concessional rate.

Further, the existing clause (ii) of section 17(2) provides for different methodologies to decide whether the accommodation provided by the employer (Government and non-Government) is at concessional rate or not. The Bill proposes to substitute the existing clause (ii) by clarifying that if the value of accommodation computed as per prescribed method exceeds the rent recoverable or payable by the employee than it will be treated as accommodation provided at concessional rate.

The amendments are proposed to be effective from AY 2024-25 onwards.

Gift by residents to not ordinarily residents now taxable

Finance (No. 2) Act, 2019 had introduced a deeming fiction under Section 9(1)(viii) of the Act, to cover any sum of money received by non-residents from Indian residents without consideration within its purview and taxable by virtue of Section 56(2)(x) of the Act with effect from July 5, 2019.

There were instances post the amendment made by Finance (No. 2) Act, 2019 whereby residents gifted huge sums of money to known people (other than relatives) who were not ordinarily residents and such gifts remained outside the purview of taxation. This created an anomaly in the sense that gifts to non-residents and residents were taxable in India but gifts to not ordinarily residents remained out of the purview of taxation. With the proposed amendment, the Government intends to plug the loophole.

The source rule and deeming fiction has now been proposed to be extended to not ordinarily residents for amounts so received on or after April 1, 2023.

Taxation of income from Online Gaming

At present, income earned by way of winnings from lotteries, crossword puzzles, races including horse races, card games and other games of any sort or gambling or betting of any form is taxable at the rate of 30% u/s. 115BB of the Act.

The Bill proposes to introduce a separate section 115BBJ for taxation of net winnings from online gaming. An online game is a game which is offered on the internet and is accessed through a computer resource including any telecommunication device. It is proposed that the winnings from online gaming activities shall be taxable at a flat rate of 30%. Net winning from online gaming is to be computed in the manner specified by CBDT.

This amendment will take effect from April 1, 2024 and will accordingly apply from AY 2024-25 onwards.

Deduction in respect of deposit and/or contribution to Agniveer Corpus Fund

The Government of India has notified 'Agnipath Scheme 2022' (Scheme 2022) vide Ministry of Defence letter No.1(23)2022/D(Pay/Services), dated December 29, 2022 to encourage enrolment in Indian Armed Forces. In pursuance of said scheme, 'Agniveer Corpus Fund' (the Fund)

was created with effect from November 1, 2022.

As per said scheme, the person enrolled under Scheme 2022 (Agniveer) has to contribute 30% of his monthly customized Agniveer Package to the Agniveer Corpus Fund. The Central Government will also contribute equal amount to the said fund. The contribution is required to be made upto the engagement period of four years and on completion of this period, the Agniveer or his nominee will receive the amount accumulated in the Fund (contribution and interest thereon). To incentivise the Scheme 2022, the Bill proposes to provide tax benefits to Agniveer or his nominee by inserting new section 10(12C) and section 80CCH.

It is proposed to insert section 80CCH providing deduction while computing taxable income of the Agniveer. The Bill proposes that amount of deposit by Agniveer will be allowed as deduction u/s 80CCH from total income of the Agniveer. In respect of contribution by the Central Government to the account of Agniveer to the Fund, it is proposed that amount of contribution by the Central Government will be treated as salary of the Agniveer as per section 17(1) and same amount will also be allowed as deduction u/s 80CCH to the Agniveer while computing his taxable income. The Bill further proposes that deduction u/s 80CCH in respect of contribution by Central Government would be allowable to the Agniveer under new tax regime u/s 115BAC of the Act.

Further, it has also been provided that any payment received (contribution and interest) from the fund by the Agniveer or his nominee shall be exempted from tax by inserting a new provision, section 10(12C).

Further the term 'Agnipath Scheme 2022' and 'Agniveer Corpus Fund' are defined in section 80CCH of the Act.

The amendments are proposed to be effective from AY 2023-24 onwards.

The PLI scheme for large-scale electronics manufacturing (LSEM) attracted huge investments made production of mobile phones went up from about six crore in 2014-15 to around 31 crore in 2021-22

Startups

Extension in time-limit for incorporation of eligible startup

As per existing provisions of section 80-IAC of the Act for claiming tax holiday, an eligible start-up is to be incorporated on or after April 1, 2016 but before April 1, 2023.

The Bill proposes to extend the abovementioned time-limit for incorporation of a new company up to March 31, 2024 to promote the development of startup companies in India.

This amendment is proposed to take effect from April 1, 2023.

Carry forward and set-off of losses

As per Section 79 of the Act, companies other than companies in which public are substantially interested can set off carried forward losses in subsequent years only if shareholders holding 51% or more of the voting power on the last day of the year in which loss is to be set-off were beneficial shareholders holding shares carrying 51% or more of the voting power in the year of loss.

However, the aforesaid condition of continuity of at least 51% shareholding is not applicable to startups which are eligible to claim deduction under section 80-IAC of the Act ('eligible start-up'), provided -

- all the shareholders of the eligible start-up as on the last day of the year in which the loss was incurred, continue to hold those shares on the last day of the previous year in which the loss is set off; and
- the loss has been incurred during the period of seven years beginning from the year in which such eligible start-up (being a company) is incorporated.

Current provisions of section 80-IAC allow a tax holiday in terms of deduction of 100% of profits for three consecutive years out of ten years from incorporation in case of a startup. In order to align the benefit of carry forward of loss with provisions of section 80-IAC, the Bill proposes to extend the tenure of seven years to ten years from the date of incorporation. It is important to note that the provisions of section 72 will continue to apply and business loss will be allowed to be carried forward for 8 assessment years.

This amendment is proposed to be made effective from April 1, 2023 and accordingly will apply from AY 2023-24 onwards.

Hitting the century of unicorns and becoming the 3rd largest home to almost seventy thousand startups, it has been a long and eventful journey for the Indian startup ecosystem

Benefits or perquisites from business / profession, in the form of money, now taxable and exigible to TDS

Under section 28(iv) of the Act, the value of any benefit or perquisite, whether convertible into money or not, arising from business or the exercise of profession, is chargeable to tax under the head 'Profits and gains of business or profession'. Vide Finance Act 2022, section 194R was introduced to provide for withholding of tax on benefit or perquisite provided to resident, arising from business or exercise of profession, whether convertible into money or not. Though section 28(iv) is not directly referred, the provisions of section 194R are *pari materia* to provisions of section 28(iv) of the Act. Also, the Memorandum explaining provisions of Finance Bill 2022 mentioned that section 194R was introduced since benefit/perquisite taxable u/s 28(iv) are not usually reported in return of income by such recipients.

In the past, the Apex Court in case of Mahindra & Mahindra Ltd [93 taxmann.com 32], in case involving waiver of loan, while interpreting the expression 'whether convertible into money or not' u/s 28(iv), held that, to invoke provision of section 28(iv) of the Act, benefit which is received, should be in some other form rather than in shape of money. In view of such decision of Apex Court, any benefit or perquisite received in cash, are not treated as taxable u/s 28(iv) of the Act. However, CBDT, in guidelines issued u/s.194R for removal of difficulties, vide Circular no. 12 of 2022 dated June 16, 2022, clarified that tax is required to be deducted u/s 194R irrespective of whether benefit or perquisite is in cash or kind or partly in cash or partly in kind.

In view of similar language in section 28(iv) and section 194R, there were divergent views that provisions of section 194R may not be attracted to benefit or perquisite received in form of money based on the SC decision (supra).

The Bill now proposes to amend both, section 28(iv) as well as section 194R of the Act, to clarify that provisions of these sections shall also apply to cases where benefit or perquisite provided is in cash or is in kind or is partly in cash and partly in kind. Accordingly, the decision of Apex Court shall be overruled by such amendment. Now, all cash benefit and prerequisite arising from business or the exercise of profession shall be taxable and payer is also required to deduct tax at source u/s.194R of the Act.

Application of this amendment could lead to illogical results, for instance, whether "fee" paid to a professional would be termed as a "benefit or perquisite" in cash and be held as liable to TDS under section 194R? This would result in overlap between 28(i) and 28(iv). It is important to note that after introduction of section 56, there remains no room for a taxpayer to argue non-taxability of gifts in money and hence, the proposed amendment in section 28(iv) may not serve any purpose except for giving a right to Government to ask for TDS under section 194R with the amendments proposed in the Bill.

The amendments are proposed to be applicable from AY 2024-25 onwards.

Amortization of certain preliminary expenditure

Section 35D of the Act provides for amortization of preliminary expenditure which are incurred prior to commencement of business or after commencement, in connection with extension of undertaking or setting up of new unit.

This includes expenditure in connection with preparation of feasibility report, project report, conducting market survey or any other survey necessary for the business and engineering services related to business of the taxpayer. However, this deduction is subject to proviso that work in connection with preparation of aforesaid reports or conducting survey or engineering services shall be carried out by taxpayer himself or by any concern which is approved by CBDT. It is noted that very few concerns are approved by CBDT under proviso to section 35D(2)(a) of the Act and no approval is granted post 2007 in this respect.

In order to ease the process of claiming amortization of preliminary expenses, the above requirement has been removed and it has been provided that a taxpayer shall be required to furnish a statement containing the particulars of

expenditure within prescribed period to income tax authority in prescribed form and manner.

This amendment is proposed to be applicable from AY 2024-25 onwards.

Deduction for Payments to Micro and Small Enterprises allowable on payment basis

Section 43B allows deduction of certain expenditure (which are otherwise allowable under the Act) on payment basis. In order to promote timely payments to micro and small enterprises, it is proposed to include payments made to such enterprises u/s. 43B of the Act.

A new clause (h) is proposed to be inserted u/s 43B of the Act to provide that any sum payable by a taxpayer to micro or small enterprise beyond the time limit specified in section 15 of the Micro, Small and Medium Enterprises Development Act, 2006 ('MSMED Act') shall be allowed as deduction only in the year in which payment has been made. However if the time limit specified under section 15 of MSME Act is falling in year 2, the deduction shall be available in year 1 (in which such amount is debited to profit and loss account) provide payment to such entity is made on or before such due date falling in year 2.

The time limit u/s 15 of MSME Act is as below:

- Where there is agreement in writing, date agreed or 45 days from day of acceptance, whichever is earlier
- Where there is no agreement, 15 days from day of acceptance

Day of acceptance, in absence of any objection, is day of actual delivery of goods or rendering of services. Where there is any objection in writing regarding acceptance of goods or services within 15 days from day of delivery of goods or rendering of services, day of acceptance is day on which objection is removed.

It is also proposed that the term 'micro enterprise' and 'small enterprise' shall have meaning assigned to it in clause (h) and (m) respectively of section 2 of the MSME Act, which in turn refers to section 7(1) of the MSME Act. The criteria for determining an enterprise as Micro, Small or Medium under section 7(1) of the MSME Act read with Notification (CG-DL-E-01062020-219680) dated June 01, 2020 is as below:

Enterprise	Turnover threshold	Investment in Plant & Machinery
Micro	≤ 5 crores	≤ 1 crore
Small	> 5 crores but < 50 crores	> 1 crore but < 10 crores

This amendment is proposed to be applicable from AY 2024-25 onwards.

Presumptive taxation u/s. 44BB and 44BBB - Bar on set off of b/f loss and depreciation

Section 44BB provides for presumptive taxation at 10% of amounts paid/payable to non-resident taxpayer on account of provision of services and facilities in connection with or supplying plant and machinery on hire for use in prospecting for, or extraction or production of mineral oils. Similarly, Section 44BBB provides for presumptive taxation at 10% of amount paid/payable to non-resident taxpayer engaged in business of civil construction or erection of plant or machinery or testing or commissioning in connection with turnkey power project approved by the Government.

Both sections provide that taxpayer may offer lower profits than specified as per respective section if books of accounts are maintained and audited.

Certain taxpayers used to opt in the scheme in order to avail benefit in year of profits and opt out in year of losses by maintaining books of accounts and getting audited. In year when scheme is opted for, losses of previous year are set off against profits, resulting into further lowering of profits. To avoid such misuse of scheme, the Bill proposes to provide that notwithstanding anything contained in section 32(2) and 72(1), where taxpayer opts for taxation u/s 44BB and 44BBB, no set off of unabsorbed depreciation and brought forward loss shall be allowed to taxpayer for such previous year.

This amendment is proposed to be applicable from AY 2024-25 onwards.

Presumptive taxation u/s. 44AD & 44ADA - Increase in threshold

Over the years, various measures towards easing compliances for small businesses and professionals have been witnessed, including increase in threshold for applicability of tax

audits for business / professionals that largely deal in non-cash transactions. The provisions of section 44AD and 44ADA are provisions benefitting small businesses / professionals that allow for offering income to tax on a presumptive basis in case of small businesses and professionals respectively.

In case of small business, the scheme applies (section 44AD) to certain resident taxpayers (i.e., an individual, HUF or a partnership firm other than LLP) carrying on eligible business and having a turnover or gross receipt of two crore rupees or less. Under this scheme, a sum equal to 8% or 6% of the turnover or gross receipts is deemed to be the profits and gains from business subject to certain conditions. Similarly, scheme (section 44ADA) also applies to certain resident taxpayers (i.e., an individual, partnership firm other than LLP) who are engaged in any profession referred to in subsection (1) of section 44AA, and whose total gross receipts do not exceed fifty lakh rupees in a previous year. Under this scheme, a sum equal to 50% of the gross receipts is deemed to be the profits and gains from business. As can be seen from the above, the thresholds for opting for presumptive taxation have comparatively remained low.

The Government wishes to continue its push towards non-cash transactions (transactions otherwise than in the nature of cash and through cheque or bank draft that is not account payee) and to further promote the same & also to support small businesses and professionals, it is proposed to increase the threshold limits for presumptive scheme in section 44AD and section 44ADA of the Act on fulfilment of following conditions:

- For eligible business, where the amount or aggregate of the amounts received during the previous year, in cash, does not exceed five per cent of the total turnover or gross receipts, a threshold limit of three crore rupees will apply, for the purpose of section 44AD of the Act as against the current limit of two crore rupees.
- For professions referred to in section 44ADA of the Act, where the amount or aggregate of the amounts received during the previous year, in cash, does not exceed five per cent of the total gross receipts, a threshold limit of seventy-five lakh rupees will apply, for the purpose of section 44ADA of the Act as against the current limit of fifty lakh rupees.

It is also proposed to substitute the existing proviso to section 44AB (dealing with tax audit) so as to exclude persons declaring profits under the presumptive schemes of section 44AD and 44ADA from the purview of tax audit.

The above amendments will take effect from April 01, 2024 and will accordingly apply from AY 2024-25 onwards.

Tax holiday for SEZ units – conditions introduced

Section 10AA of the Act provides for 15 years' tax benefit to a unit established in SEZ which begins to manufacture or produce articles or things or provide any services on or after April 01, 2005 but before September 30, 2020. The current provisions of section 10AA do not contain couple of conditions which are present in similar provisions (for example, in section 10A), the conditions being:

- Receiving the sale proceeds or bringing in the sale proceeds into India in convertible foreign exchange, within a period of six months from the end of the previous year or within such time as the authority may allow;
- Filing of tax return on or before the due date specified in section 139(1)

In absence of these conditions, taxpayers had been claiming deduction under section 10AA though the sale proceeds were not received in India in foreign exchange or even extended such claims to "deemed exports" though there was always a requirement of exporting goods out of India. There were contrary rulings in this regard where some Benches (including Ahmedabad Bench) have held in favour of the taxpayer while others (including Chennai Bench) had ruled against the taxpayers.

The Bill proposes to impose restriction with respect to timely filing of tax returns within due dates specified under Section 139(1) of the Act for claiming benefit under the said section. Similarly, the condition of realization of export proceeds and receipt of consideration in convertible foreign exchange within 6 months from end of previous year or such further time period as may be allowed by RBI or other competent authority in this behalf is also proposed.

Capital Gains

Cost of acquisition and cost of improvement for intangible assets and rights

For the purpose of computing capital gains under the Act, the cost of acquisition and cost of improvement of the assets have been defined under section 55 of the Act. However, there are few cases wherein the cost of acquisition / improvement of assets is not defined under the Act and thus it becomes difficult to ascertain the cost and subsequently compute capital gain. In case cost of acquisition of asset is not ascertainable, it is generally contended before Courts that transfer of such assets is not chargeable to tax as there is no definite cost ascertainable to the assets and computation mechanism fails in such cases. In various cases, Courts have held in favor of the taxpayer stating that in absence of cost of acquisition, the provisions of capital gains tax cannot be applied.

Some of such assets which were matter of litigations in Courts were for the cost of acquisition or cost of improvement of intangible assets (excluding goodwill) and any sort of rights for which no consideration was paid at the time of acquisition. Thus, at times it was a contention of taxpayers that when such intangible assets or rights are transferred, no capital gains arose.

Accordingly, the Bill proposes to amend the existing provision of section 55 to provide that cost of improvement of intangible assets (other than those already covered) and any sort of rights (these intangible assets could cover cases like customer lists, contract lists, etc.) shall be deemed to be taken as Nil. Further, cost of acquisition of such intangible assets (if acquired) would be the cost that is actually paid and in case of self-generated intangible assets or for which no cost is paid, the cost of acquisition shall be taken as Nil.

This amendment is proposed to be applicable from AY 2024-25 onwards.

Interest on Housing Loan - Cost of Acquisition of Assets or Improvement

The existing provisions of section 48 prescribe for mode of computation of capital gains in the hands of the taxpayer wherein the taxpayers are allowed to deduct the cost of acquisition and the cost of any improvement of the asset from the full value of the consideration so received. Further, section 24(b) dealing with Income from House Property allows the taxpayers to claim deduction of interest paid on Housing loan. Similarly, the provisions of section 80EE allow deduction in respect of interest on housing loans fulfilling specific conditions.

Since section 48 and section 24 deal with different heads of income, there were some instances wherein the taxpayers claimed interest deduction for property under construction under the head "Income from House Property" as per the provisions of section 24. Subsequently, in the year of sale of the property, the interest cost was also included as a part of cost of acquisition of assets to claim lower Capital Gains. This practice led to double deduction of the interest costs under "Income from House Property" / 80EE and under "Capital Gains" resulting in litigation.

The Government has now clarified that the intention was never to provide double deduction for the same cost. Hence, the Bill proposes to introduce a proviso to section 48 stating that deduction of interest on loan claimed under the head Income from House Property or Chapter VI-A shall not form part of cost of acquisition of the asset or the cost of improvement thereto. A possible inference from this restrictive amendment is that it could benefit taxpayers who have not been able to claim deduction under section 24 (for under construction property) or 80EE for whatever reason/s by allowing them to claim the said interest as a part of the cost of acquisition for computing capital gains, thereby not suffering a double loss.

This amendment is proposed to be applicable from AY 2024-25 onwards.

Limit on exemption under section 54 and 54F for investment in residential house

For facilitating housing for more persons and to encourage house construction activity, the existing provisions of section 54 provides a relief to Individuals and HUFs having long-term capital gains arising from sale of a long-term capital assets being land or building and residential house provided the consideration so received on

sale of such assets is invested in purchase or construction of a new residential house within the specified time limit. Similarly, section 54F provides exemption on long term capital gains to Individuals and HUFs arising from sale of long-term assets provided the consideration from sale of assets is utilized for purchase or construction of one residential house within the prescribed time frame.

However, the Government is of the view that the very intent of these provisions is being defeated as high-net worth taxpayers claim huge deductions under these sections by purchasing expensive residential houses. Accordingly, it has been proposed by the Bill to put a maximum cap of Rs. 10 crores on the long-term capital exemption. The Bill proposes to provide that any investment in new residential house property over and above Rs. 10 crores shall not be considered for the purpose of exemption i.e. in case the cost of the new residential property exceeds Rs. 10 crores then the cost of the property shall be deemed to be Rs. 10 crores. Consequential amendment is also proposed with respect to deposits in the Capital Gains Account Scheme.

The amendment is proposed to be applicable from AY 2024-25 onwards.

Conversion of Gold into Electronic Gold Receipt or vice-versa not taxable

In several previous budgets, the Government has announced its intent to establish a system of regulated gold exchanges in the country for enabling efficient and transparent price discovery of the yellow metal. SEBI was authorized as the Regulatory body for trading of gold in dematerialized form which is termed as Electronic Gold Receipt ('EGR'). The investors are allowed to convert their physical gold into EGR by depositing it at the designated delivery centre of the Stock Exchange.

However, there was a possible risk of conversion of physical gold into EGR or vice versa triggering capital gain taxation considering it as transfer of capital assets. In order to promote investors to shift their investment from physical gold to Electronic Gold Receipt, it has been proposed in the Bill to consider the transaction of conversion of gold to EGR or vice-versa as exempt from the capital gain taxation regime. The said amendment shall be given effect by inserting a new sub-section to section 47 which deals with transactions that are not considered as Transfer from a Capital Gains' tax perspective.

In line with the above amendment, the Bill further proposes to clarify that the cost of acquisition of EGR being converted from Gold shall be considered as the cost of acquisition of gold and vice-versa. Further, for the purpose of reckoning the holding period of EGR or gold, the period for which the gold / EGR was held by the taxpayers before conversion shall be taken into account.

The aforesaid amendments would make the conversions tax neutral and are proposed to be applicable from AY 2024-25 onwards.

Market Linked Debentures [MLD] to attract higher capital gain tax

MLDs are listed on recognized stock exchange/s and derive their value from other debt securities or market indices. As per the existing provisions of the Act, any securities listed on a recognized stock exchange are considered as long-term capital assets if held for more than twelve months. Accordingly, it is currently believed that MLDs, being listed on stock exchanges, are long-term term capital assets if held for more than 12 months and thus taxed at the rate of 10% without indexation as per section 112 of the Act.

It is pertinent to note that generally the securities in the nature of equity shares or units or equity-oriented fund are only taxed at a lower rate of 10% provided securities transaction tax has been paid on its acquisition and transfer.

MLDs derive their underlying value from other securities and in that sense, partake the characteristics of derivatives which are otherwise taxed at normal rates and not at a lower rate of 10%. Thus, the taxpayers wishing to invest in such derivatives, route the investment through MLDs instead of directly investing into such debt securities. Through this approach, the taxpayers earn similar return as they would have earned if invested directly into such debt securities, however, enjoy the benefit of reduced rate of long-term capital gain tax of 10%. In order to ensure that any security that has the underlying principal component in the form of an "debt" security is not eligible for a reduced rate of tax, the Government

has proposed to define MLD as any security by whatever name called, which has as underlying principal component in the form of a debt security and where returns are linked to the market returns on other underlying securities or indices. Further, the definition also includes securities regulated as MLDs by SEBI.

As per the proposed amendment, such gains shall be deemed to be "short-term capital gain arising from transfer of a short-term capital asset" irrespective of the period of holding. It is worth noting that the amendment has not been brough in section 2(42A) but has been brought in by way of a completely new section. It is interesting to note that there are certain other provisions in the Act that deal with deeming a gain as short-term or long-term gain of a short term capital asset or a long term capital asset, for instance, section 50 (dealing with depreciable assets) and section 50B (dealing with slump sale taxation). In the context of section 50, there were judicial precedents (including Supreme Court ruling in the case of CIT v. V.S. Dempo Company Limited [(2016) 74 taxmann.com 15 (SC)] that had held that the "deeming" fiction was only limited to the provisions applicable to computation (viz. section 48 and 49) and do not have an impact on the rate or for any other provision of the Act. For instance, gains from transfer of a residential property may be classified as "short term" under the provisions of section 50 but the same would still be considered as "long term" for the purpose of tax rates of for determining exemption under section 54. However, looking at the different language employed in the proposed section 50AA (as compared to section 50), it would not be possible to draw a corollary from the erstwhile judgments to take a view that while the capital gains would be short term, the rate would continue to be 10%.

The said amendment is proposed to be given effect by inserting a new section 50AA in the Act with effect from AY 2024-25 onwards.

The overall infrastructure capex is estimated to grow at a CAGR of 11.4% over FY21-26 driven by spending on water supply, transport and urban infrastructure

Income from Other Sources (IFOS)

Scope of Angel Tax expanded to cover investments from non-resident investors

In order to curb money laundering practices, the Government vide Union Budget 2012 introduced the concept of Angel Taxation through section 56(2)(viib) wherein unlisted companies issuing shares to resident investors at a price higher than the Fair Market Value of the shares are taxed on the surplus capital as Income from other sources. Although the provisions were introduced to discourage malpractices of routing funds, the provision was under criticism since its introduction for being harsh and startup unfriendly.

The Bill proposes to further expand the horizon of angel taxation by bringing in investments from non-residents also under the tax bracket. It has been proposed in the Bill to amend the existing provisions of section 56(2)(viib) to tax consideration received for issue of shares in excess of its fair market value from residents as well as non-residents investors. Now, the only exemption to angel tax is investment from specified categories of Alternative Investment Funds (AIFs).

This proposed amendment shall have far-reaching implications for the Indian startup ecosystem as in the current scenario new startups are eyeing for overseas investors, whose investments shall now be subject to Angel Tax. This move by the Government may affect fundraising by the unlisted companies and may force many startups and new ventures to redomicile their business overseas. It would also be important to note that the approach towards valuation will have to be cautions now as it could have impact from an exchange control, income-tax and transfer pricing perspective.

This amendment is proposed to be effective from April 1, 2024 and shall accordingly apply from AY 2024-25 onwards.

Special Tax for income received by Unit holders from Business Trust

The Bill proposes to tax the income distribution from Business Trust to its unit holders, camouflaged in the nature of repayment of debt, which otherwise was not getting taxed in the hands of Unit holder or Business Trust. Business Trust means a trust registered with SEBI as an Infrastructure Investment Trust (InVIT) or a Real Estate Investment Trust (REIT). These Business Trusts raise funds from its unit holders and subsequently invest in Special Purpose Vehicle in Real Estate & Infrastructure businesses.

As per the special taxation regime u/s 115UA of the Act, the income distributed by a Business Trust to its unit holders is deemed to be of the same nature and in the same proportion in the hands of the unit holders, as it had been received by, or accrued to the business trust. Subject to the provision of section 111A and 112, the total income of a business trust is charged to tax at the maximum marginal rate. Further, income distributed in the form of interest, dividend and rental income have been accorded a pass-through status at the level of the business trust and such income is taxable in the hands of the unit holder. Certain exemptions are provided in the provisions of section 10(23FC) and 10(23FCA).

However, it is observed by the Government that there are instances wherein the Business Trust distributes sums to their unit holders as "repayment of debt" or "amortization of debt" in addition to interest, dividend and rental income. In such cases, Business Trust used to take a view that on account of the pass-through status, the income distributed to unit holders would partake the character of the main transaction of repayment of debt by SPV to the business trust and there is no tax liability on such distribution of income in the hands of unit holders or the Business Trust, though there would be no redemption of units of the unit holders.

For restricting these practices, it is proposed to insert a new clause (xii) to section 56(2) which

provides for taxation of any income received by unit holder not being interest, dividends or rents, as Income from Other Sources. The proposed provision may also cover a situation when the sum received by the unit holder represents redemption of unit held by them. Thus, it has been clarified that in case the sum so received by the unit holder is for redemption of units held by them, then such sum shall be reduced by the cost of acquisition of the unit. Earlier, the taxpayers took a view that redemption of units would be taxable under "Capital Gains". However, the proposed amendment makes it amply clear that the income would be taxable as "Income from Other Sources".

Consequential amendment has also been proposed in section 115UA to provide that income which may be chargeable to tax as other income u/s 56(2)(xii) shall be out of the purview of section 115UA.

This amendment is proposed to be applicable from AY 2024-25 onwards.

The Statue of Unity, the world's tallest statue at 182 metres, records a foot fall of fours lakh visitors in the last week of December 2022

Modified tax return in case of business reorganisation

As per existing provisions of section 170A, in case of a business reorganisation, where a return of income has been filed by a successor entity prior to the date of Court or Tribunal order for effecting the business reorganisation, the successor entity shall furnish a modified return within 6 months from the end of the month in which the order was issued.

The Bill now provides that modified return can be filed by the successor company even in cases where the predecessor company had filed the tax return. Earlier, the provisions only covered cases where the successor company had filed the return. The Bill further provides that in case assessment in respect of assessment year to which the order of such business reorganisation has already been completed or pending on the date of filing of modified return u/s.170A of the Act, the AO shall pass an order for assessing or reassessing total income after considering the order relating to business reorganisation and modified return.

Business reorganisation is defined to include amalgamation and demerger of one or more persons. Successor is defined to mean all resulting companies in a business reorganisation.

This amendment will take effect from April 1, 2023.

Carry forward and set-off of losses in cases of disinvestment and amalgamation of banking companies

The current provisions of section 72A of the Act allow for carry forward and setoff of losses in cases of "strategic disinvestment". Currently, strategic disinvestment is defined as sale of shareholding by the Central Government or any State Government in a public sector company, which results in:

- reduction of its shareholding to below 51% and
- transfer of control to the buyer;

The Bill proposes to amend and expand the definition of 'strategic disinvestment' in Section 72A to also cover cases of sale of shareholding by a public sector company (apart from Central Government or State Government). Further, while the current provisions cover only cases of sale in a public sector company, the proposed definition shall also cover cases of sale of shareholding in a company (other than a public sector company).

It has been further proposed that the condition of reduction of shareholding below 51% shall apply only if the shareholding of either the Central Government or of the State Government or of the public sector undertaking was above 51% prior to sale of shareholding; and

It is also proposed that the requirement of transfer of control may be carried out by the Central Government or the State Government or the public sector company or any two of them or all of them.

The Bill also proposes to amend Section 72AA to allow carry forward of accumulated losses and unabsorbed depreciation allowance in the case of amalgamation of one or more banking company with any other banking institution or a company subsequent to a strategic disinvestment, if such amalgamation takes place within 5 years of strategic disinvestment.

As announced by the Honourable Finance Minister, one of the reasons behind introduction of this provision is allowing carry forward of losses on strategic disinvestment of IDBI Bank.

This amendment shall be effective from April 1, 2023 and shall apply from AY 2023-24 onwards.

Supporting the Global EV30@30campaign, India aims for at least 30% of vehicle sales to be electric by 2030

IFSC Taxation

India broke into the top three largest car markets in the world in 2022 and continues to grow!

Reference to International Financial Services Centres Authority (Fund management) Regulations, 2022

It is proposed to amend definition of "specified fund" in the Explanation to Section 10(4D) to give reference of the International Financial Services Centres Authority (Fund Management) Regulations, 2022. The said section provides exemption on transfer of securities on recognized stock exchanges in IFSC by AIF Category III Funds.

This amendment shall be effective from April 1, 2023 and shall apply from AY 2023-24 onwards.

Exemption to income distributed on offshore derivative instruments

Income of non-residents on transfer of Offshore Derivative Instruments (ODI) entered into with IFSC Banking unit is exempt under section 10 (4E) of the Act. Under the ODI contract, the IFSC Banking Unit (IBU) makes the investments in permissible Indian Securities. Income earned by the IBU on such investments is taxed as capital gains, interest, dividend under section 115AD of the Act. After the payment of tax, the IBU passes such income to the ODI holders. Presently, exemption is provided only on the transfer of ODIs and not on the distribution of income to the non-resident ODI holders, hence this distributed income is taxed twice in India i.e. first when received by the IBU and second, when the same income is distributed to non-resident ODI holders.

Therefore, in order to remove the double taxation, it is proposed to amend clause (4E) of section 10 of the Act, to also provide exemption to any income distributed on the offshore derivative instruments, entered into with an offshore banking unit of an IFSC as referred to in sub-section (1A) of section 80LA, which fulfils such conditions as may be prescribed. It has also been provided that such exempted income shall include only that amount which has been charged to tax in the hands of the IFSC Banking Unit under section 115AD.

This amendment shall be effective from April 1, 2024 and shall apply from AY 2024-25 onwards.

Relocation to IFSCs - Extension till March 31, 2025

The Government, with the object of making IFSCs (currently GIFT City) a global hub of financial services, have provided several tax concessions in past to units located in IFSCs. In order to continue with such incentive programs, it was earlier proposed to exempt income on transfer of a fund located outside India (having underlying assets in India) to IFSC provided such relocation happened up to March 31, 2023. It has been proposed to extend the tax benefit period for relocation to a resultant fund in GIFT IFSC to March 31, 2025.

This amendment shall be effective from April 1, 2023 and shall apply from AY 2023-24 onwards.

TDS on payment of accumulated balance due to an employee

Section 192A of the Act provides for deduction of tax at the rate of 10% of taxable component of the lumpsum payment made to the employee under the Employees' Provident Fund ('EPF') Scheme, 1952, provided the amount of payment to be made is fifty thousand rupees or more. Further, tax is required to be deducted at the maximum marginal rate, in case any person entitled to receive the aforesaid amount fails to furnish his PAN.

In order to address the difficulties that may be faced by low-income employees that do not have PAN, the Bill proposes to amend section 192A of the Act to provide that in case of failure of furnishing of PAN by any person, tax will be deducted at the rate of 20% in line with provisions contained in section 206AA of the Act, and not at maximum marginal rate.

The above amendment will be effective from April 1, 2023.

TDS on interest on listed debentures

Currently, an exemption is provided vide a proviso to section 193 from deduction of tax in respect of transaction of payment of interest on any security issued by a company, where such security is in dematerialized form and is listed on a recognized stock exchange in India in accordance with the Securities Contracts (Regulation) Act, 1956.

The Bill proposes the omission of the aforesaid exemption from deduction of tax in order to counter the practice of under reporting of interest income by the recipients.

The above amendment will be effective from April 1, 2023.

TDS on winnings from lottery, crossword puzzle, horse races , etc.

As per provisions contained in existing section 194B of the Act, the person responsible for paying any income by way of winnings from any lottery or crossword puzzle or card game and other game of any sort in an amount exceeding ten thousand rupees is, at the time of payment thereof, required to deduct income-tax at the rates in force. Similarly, existing section 194BB of the Act provides for provisions for deduction of tax at source for horse racing in any race course or for arranging for wagering or betting in any race course.

However, it was noticed that deduction of tax can be avoided under both aforesaid sections by merely splitting the winning amount into multiple transactions with each transaction value being less than ten thousand.

In order to plug the loophole, the Bill proposes to amend section 194B and 194BB of the Act to provide that deduction of tax under above sections shall be on the amount or aggregate of the amounts exceeding ten thousand rupees during the financial year.

Additionally, the Bill also proposes to widen the scope of section 194B of the Act by including the "winnings from gambling or betting of any form or nature whatsoever", which was hitherto not specifically covered.

The above amendment will be effective from April 1, 2023.

Lastly, a proviso is proposed to be inserted to exclude the winnings from any online game on or after the 1st day of July 2023 as the said receipt is proposed to be subject to TDS under newly inserted section 194BA of the Act.

TDS on winnings from online games

In recent times, there has been a significant rise in the users of online games and it was felt that there is a need to bring in specific provisions regarding deduction of tax at source and taxability of online games due to its different nature, being easily accessible vide the Internet and computer resources with a variety of playing options and payment options.

Accordingly, the Bill has proposed to insert two new sections in the Act. Section 194BA to be inserted to provide for deduction of tax at source and Section 115BBJ with regard to tax on winnings from online games.

Provisions contained in proposed section 194BA read with section 115BBJ are summarized below:

- Person responsible for paying any income by way of winnings from any online game is required to deduct tax at source on the net winnings in the user account (to be computed

in the manner to be prescribed) at the end of the financial year.

- In case there is withdrawal from user account during the financial year, the income-tax shall be deducted at the time of such withdrawal on the net winnings comprised in such withdrawal (to be computed in the manner as may be prescribed).
- The tax shall be deducted at the rates in force i.e. at the rate of 30% as prescribed under proposed section 115BBJ
- Explanations to proposed sections 115BBJ and 194BA of the Act defines certain important terms such as "internet", "online game", "online gaming intermediary", "user", "user account" and "computer resource", as under:
  - ✓"online game" means a game that is offered on the internet and is accessible by a user through a computer resource including any telecommunication device.
  - ✓"user" means any person who accesses or avails any computer resource of an online gaming intermediary.
  - ✓"user account" means account of a user registered with an online gaming intermediary.
  - ✓"internet" means the combination of computer facilities and electromagnetic transmission media, and related equipment and software, comprising the interconnected worldwide network of computer networks that transmits information based on a protocol for controlling such transmission;
  - ✓"computer resource" shall have the same meaning as assigned to it in clause (e) of the Explanation to section 144B.
- Similar to provisions contained in existing section 194B of the Act, the proposed section 194BA also provides that where the net winnings are wholly in kind or partly in cash and partly in kind but the part in cash is not sufficient to meet the liability of deduction of tax in respect of whole of the net winnings, the person responsible for paying shall, before releasing the winnings, ensure that tax has been paid in respect of the net winnings.
- Lastly, the Central Board of Direct Taxes ('Board') has been authorized to issue the guidelines for the purpose of removing difficulties, with the prior approval of Central Government. The guidelines issued by the Board shall be laid before each House of Parliament and shall be binding on the income tax authorities as well as on the person liable to deduct income tax.

The proposed section 194BA of the Act will take effect from July 1, 2023 whereas the proposed section 115BBJ in the Act will take effect from April 1, 2024 and will accordingly be applicable for the assessment year 2024-25 onwards.

Tax treaty relief under section 196A of the Act

Section 196A of the Act provides for deduction of tax on the following sums payable to a non-resident (not being a company) or to a foreign company, at the rate of 20% --

- Any income from units of a mutual fund specified under section 10(23D) of the Act;
- Any income from the specified company referred to in the explanation to section 10(35) of the Act

The Bill proposes to insert a proviso to 196A(1) of the Act to provide that the deduction of tax would be at the rate which is lower of the rate of 20% and the rate or rates provided in DTAA referred to in section 90(1) or section 90A(1) of the Act, provided the payee furnishes the tax residency certificate.

It may be noted that so far as taxation of income earned by non-residents tax payers is concerned, provisions contained in the Act are already subject to beneficial provisions contained in DTAA entered into by India with respective countries. There has been litigation in the past on whether in absence of a direct or indirect reference to DTAA provisions in the relevant section pertaining to withholding of tax, a recourse could be had to DTAA Rates. Considering that the provisions of section 196A do not contain a language similar to section 195 (that refers to rate in force), application of DTAA is not automatic in case of withholding of tax in such situations. This position has also been upheld by Supreme Court in the case of PILCOM [(2020] 425 ITR 312 (SC)], albeit, in the context of a different section. The proposed amendment clarifies the Government's position that for withholding tax, recourse could be had to provisions of DTAA only in cases where the relevant provisions provide for

the same.

The above amendment will be effective from April 1, 2023.

Scope for applying for a lower / Nil TDS certificate expanded

Section 194LBA of the Act, inter-alia, provides that business trust shall deduct and deposit tax at the rate of 5% on interest income of non-resident unit holders. However, in some cases, the aforesaid income itself is exempt. For example, exemption under section 10(23FE) of the Act is allowed to Notified Sovereign Wealth Funds and Pension Funds etc.

Presently, section 197 of the Act provides the mechanism for filing of application with Assessing Officer for deduction of taxes at lower or nil rate in certain specific situations. However, this facility of applying for a lower / Nil TDS certificate is not available in respect of payment specified under section 194LBA of the Act.

Accordingly, to remove the above difficulty, the Bill has proposed an amendment in section 197(1) of the Act, thereby now permitting the recipient of aforesaid income to apply for and obtain a lower / Nil TDS certificate under section 197 of the Act.

The above amendment will be effective from April 1, 2023.

Relief from special provision for higher rate of TDS/TCS for non-filers of income-tax returns

Existing sections 206AB and 206CCA of the Act provide for higher rate of deduction of tax or collection of tax at source, in case of payments to non-filers of income-tax returns (referred to as 'specified persons'). The 'specified person' means a person who has not furnished the return of income for the assessment year relevant to the previous year immediately preceding the financial year in which tax is required to be deducted or collected at source, for which (i) the time limit for furnishing the return of income under section 139(1) of the Act has expired; and (ii) the aggregate amount of tax deducted at source and tax collected at source in his case is rupees fifty thousand or more in the said previous year.

Further, at present, only a non-resident who does not have permanent establishment in India, is excluded from the definition of specified person. However, no exclusion has been provided for a person who is not required to file the return of income and accordingly, payments to such persons may be subjected to higher rate of TDS / TCS under section 206AB / 206CCA of the Act.

In order to extend the relief, it is proposed in the Bill to exclude a person who is not required to furnish the return of income for the relevant assessment year and is notified by the Central Government in the Official Gazette.

The above amendment will be effective from April 1, 2023.

Increase in TCS rates for certain foreign remittances

Section 206C(1G) provides for collection of tax on foreign remittance through Liberalised Remittance Scheme ('LRS') and on sale of overseas tour package at the rate of 5%.

The Bill proposes to increase the rate of collection of tax source from existing 5% to 20% on certain foreign remittances and on sale of overseas tour packages as under:

Sr. No.	Nature of Remittance	Present Rate	Proposed Rate
(I)	Remittance is a loan obtained from any financial institution as defined in section 80E of the Act for the purpose of pursuing any education	0.5% of the amount or the aggregate of the amounts, in excess of Rs. 7 lakhs	No change
(ii)	Remittance is made for the purposes of • feducation (other than loan referred to above) or • medical treatment	5% of the amount or the aggregate of the amounts, in excess of Rs. 7 lakhs (no separate provision, currently clubbed with (iv) below)	No change (separate provision inserted to continue the present rate for these two items)
(iii)	Overseas tour package	5% without any threshold limit	20% without any threshold limit
(iv)	Any other case	5% of the amount or the aggregate of the amounts in excess of Rs. 7 lakh	20% without any threshold limit

The above amendments will take effect from July 1, 2023.

Returns & Refund

Time limit for filing of return u/s. 148

At present, a taxpayer is required to file return of income in response to notice u/s. 148 within the time mentioned in the notice. The Bill proposes to provide a fixed period of 3 months from the end of the month in which notice is issued, for filing such return of income. The period may be extended on application by the taxpayer and at the discretion of the AO.

The Bill further proposes that where the return of income is filed beyond the period of 3 months from the end of the month in which notice is issued or an extended period as allowed by the AO, such return of income shall not be deemed to be a return under section 139. This means that the AO will have no obligation to issue notice u/s. 143(2) of the Act. There may be certain other implications of the return not being deemed to be a return under section 139 which may have to be evaluated on a case to case basis.

This amendment will take effect from April 1, 2023.

Interest for default in payment of advance tax in updated return

Newly inserted section 140B of the Act provides for payment of tax on updated return. As per section 140B, tax liability on updated return shall be computed after considering advance tax, TDS, TCS, FTC, tax relief u/s 89 and tax credit available as per section 115JAA or 115JD. Section 140B(3) further levies additional income tax at the rate of 25% or 50% if such return is furnished within twelve months or twenty-four months respectively. It also provides for payment of interest u/s 234B for default in payment of advance tax.

Section 234B provides for payment of interest at the rate of 1% per month, if payment of advance tax is less than 90% of total tax liability. As per existing provisions of section 140B, interest u/s 234B shall be computed on shortfall of advance tax as compared to tax payable on total income declared in updated return after considering all the eligible credits. Further, for computing short-fall in advance tax on updated return, the Act also provides for granting credit of advance tax paid and claimed in earlier return.

In order to remove double effect of advance tax credit wherein on one hand it provides for payment of interest on difference of advance tax and tax liability on total income and secondly again by granting credit of advance tax paid in the original return, the Bill proposes to amend section 140B of the Act with retrospective effect from April 1, 2022 so as to compute interest u/s 234B on tax payable on total income declared in updated return.

The India lithium-ion battery market of batteries is expected to grow at a CAGR of 28% from 2023 to 2031

Assessment & Appeals

Time limit for completion of assessment, reassessment and re-computation

As per the existing provisions, for AY 2021-22 and subsequent assessment years, the scrutiny assessment is required to be completed within a period of 9 months from the end of relevant assessment years. The Bill proposes to alter the period for completion of scrutiny assessment for AY 2022-23 and subsequent assessment years to 12 months. Hence, as per the proposal, the scrutiny assessment of return of income of AY 2022-23 shall be completed on March 31, 2024.

Similarly in case of an updated return of income, the period to complete the scrutiny assessment has been extended from 9 months to 12 months from the end of the financial year in which such updated return of income is filed by the taxpayer. Further, in case reference to transfer pricing officer has been made, time limit for passing an assessment order for such updated return has been further increased by 12 months.

Further, the Bill proposes to provide that that where any assessment or reassessment is pending on date of initiation of search, period for completing assessment shall be extended by 12 months for the following cases of taxpayers:

- a taxpayer in whose case search is conducted
- a taxpayer to whom the article/material seized from a third person belongs
- a taxpayer to whom the books of accounts or documents seized or information contained therein relates to

This amendment will take effect from April 1, 2023.

Direction for making an Inventory Valuation from Cost Accountant

Under existing provisions of Section 142(2A), AO can direct the taxpayer to get its accounts audited by an auditor appointed by the Income Tax Department. He has limited power of directing the said special audit under section 142(2A).

The Bill proposes to extend the power of the AO under section 142(2A). The Bill proposes to allow the AO to get the inventory of the Taxpayer valued from a Cost Accountant. The Cost Accountant shall be appointed by the Income Tax Department. The said inventory valuation shall be directed only after providing the taxpayer an opportunity of being heard. The objective behind this amendment seems to be to keep a check on compliance with ICDS relating to Inventory Valuation.

This amendment will take effect from April 1, 2023

Extension in time for issuance notice u/s 148 in search in certain situations

Provisions of reassessment u/s.148 are made applicable to search cases in respect of search initiated on or after April 1, 2021. Provision of section 149 provides various time-limits for issuance of notice u/s.148 of the Act.

In case search has been initiated in the month of March, it is practically difficult for the AO to issue notice u/s.148 of the Act for a particular assessment year which is otherwise time barred as per existing time limit by March 31 of the year of search. The Bill therefore proposes to allow an extension of 15 days to the AO in cases where the time to issue notice u/s 148 is expiring on March 31 of a financial year and said notice is to be issued pursuant to a search action conducted after March 15 of such financial year. Similar provision has been proposed in respect of issuance of notice u/s.148 of the Act in view of survey consequent upon such search cases.

This amendment will take effect from April 1, 2023

Sanction for issue of reassessment notice

The Bill proposes to allow Chief Commissioner and Director General to sanction notice u/s 151 in cases where more than 3 years have elapsed from the end of the relevant assessment year. The Bill also proposes to clarify that the period of 3 years shall not include the time period excluded for computing the limitation period in section 149.

Reduced timelines for submission of Transfer Pricing Documentation

Transfer pricing documentation (in form of Local file and Master file) as required to be maintained under Section 92D of the Act is currently required to be submitted in the course of tax proceedings within 30 days of receipt of notice from Assessing officer or Commissioner (Appeals) as per section 92D(3). The said time limit is now proposed to be reduced to 10 days.

It is important to note that pursuant to proviso to section 92D(3), Assessing officer or Commissioner (Appeals) can extend the time period for submission of transfer pricing documentation by a further period of 30 days upon an application made by taxpayer. No amendment has been proposed in the said proviso and the period of 30 days continue to apply in cases where the specified authorities have been granted a right to provide an extension.

This amendment will take effect from April 1, 2023.

Rectification of order for revision of deduction u/s.10AA

Section 155(11A) of the Act provides that where deduction under section 10A/10B/10BA is disallowed on the grounds that the income has not been received in India in convertible foreign exchange or it has been received but has not yet been brought into India (with approval of relevant forex regulatory authorities like RBI) and subsequently such income (or part thereof) is received or brought into India, as the case maybe, then the AO shall amend the assessment order so as to allow such deduction and the time limit of 4 years under the provisions of section 154 shall be reckoned from the end of previous year in which such income is so received or brought into India.

As discussed earlier, the Bill has amended the provision of section 10AA to provide that to claim such deduction, it is necessary that the proceeds of sale of goods and services shall be received in convertible foreign exchange within specified time limit. In view of the same, the above provision is also made applicable to deduction u/s.10AA as well.

This amendment will take effect from April 1, 2024.

Rectification of order for claim of TDS credit for tax deducted in subsequent year

As per section 199 of the Act, credit in respect of tax deduction at source is required to be claimed in the year in which the respective income on which such tax is deducted, is offered to tax. There is a practical difficulty to claim the credit in such case where income is offered in year 1 whereas tax on such income has been deducted by payer in year 2 since TDS certificate relates to year 2 whereas income was offered to tax in year 1.

To remove such difficulty, a new sub-section (20) has been inserted in section 155 of the Act to provide that a taxpayer can file application for rectification to claim the credit of tax deducted at source in subsequent year within two years from the end of the year in which such tax has been deducted so as to claim credit of such taxes in the year in which relevant income has been offered to tax. The period of limitation u/s 154 shall be reckoned from the end of the year in which such tax was deducted.

This amendment will take effect from October 1, 2023

Withholding of refund & restriction on interest payable thereon

Under the existing provision of section 241A of the Act, where any refund is arising to the taxpayer on processing of return of income u/s.143(1) of the Act, the AO is empowered to withhold such refund if return of such year has been subject matter of assessment u/s.143(2) of the Act. For doing so, the AO is required to record the reason in writing forming opinion that issuance of such refund is likely to adversely affect the revenue and necessary prior approval from PCIT is obtained by him.

The Bill proposes to harmonize separate provisions of the law dealing with the powers of the Income Tax Authorities in dealing with the matter of withholding the refunds due to the Taxpayers. Section 245 of the Act is therefore proposed to be replaced to integrate the existing provision of section 241A and 245 of the Act.

However, while harmonizing such provision, the Bill has enlarged the scope of withholding of refund. Now the AO is empowered to withhold any refund (whether arising u/s.143(1) or under any provision of the Act) if any proceedings for any assessment or reassessment is pending in the case of the taxpayer. Now, it is therefore not necessary that refund withheld pertains to the same year for which the proceedings is pending. For doing so, the AO is required to record the reason in writing forming opinion that issuance of such refund is likely to adversely affect the revenue and necessary prior approval from PCIT is obtained by him.

Further, as per the existing provision of section 244A(1A) of the Act, interest @ 3% p.a. shall be

given on refund arising to a taxpayer consequent upon the order giving effect of appellant authorities. The Bill proposed to provide that such interest shall not be given on refund in respect of period starting from the date on which it was withheld by the AO and ending on the date of passing of assessment order. However normal interest u/s.244A(1) @6% p.a. shall continue to be payable release of such refund withheld.

The above amendments are effective from April 1, 2023.

Various faceless schemes and e-proceedings

As provided under the applicable provisions under the Act, the Central Government has issued various directions to implement e-verification scheme, e-dispute resolution scheme, e-advance ruling scheme, Faceless Appeals and Penalty Schemes. u/s.135A, 245MA, 245R, 250 & 275 of the Act. However, there is no specific power provided under these sections to amend any such directions issued. Accordingly, the Bill has now empowered the Central Government to make necessary amendment in such direction, if required.

Search and Seizure – Help from experts

As per section 132 of the Act, an authorized officer is empowered to enter and conduct the search or seizure operation in accordance with the law prescribed thereunder. To accomplish the objective of undertaking search or seizure operation in effective manner, the authorized officer can take help of police officer or Central Government officer or valuation officer. With changing times of digitalization and extensive use of technology to maintain and store documents / data, the authorized officer may require help of experts to decode such documents, details, data or information. In order to aid the officer in conducting the search or seizure operation efficiently, the Bill proposes to expand the scope of authorities whose services can be availed by the officer conducting search or seizure.

Sub-section 2 enables the authorized officer to avail services of any police officer or Central Government officer or of both. It is now proposed to permit the authorized officer to take services of any person or entity approved by Principal Chief Commissioner or Chief Commissioner or Principal Director General or Director General in addition to the services of police officer or Central Government officer or both to assist him in conducting search or seizure.

Further, sub-section (9D) authorizes the officer to make reference to valuation officer during the course of search or seizure or within a period of sixty days from last date on which search was executed for computing fair market value of the property. The Bill proposes to amend sub-section (9D) whereby in addition to making reference to the valuation officer, the officer conducting search or seizure operation can now avail the services of any person or entity or registered valuer approved by Principal Chief Commissioner or Chief Commissioner or Principal Director General or Director General for estimating the fair market value of the property.

The amendment will be effective from April 1, 2023.

Extension of Period of limitation for rectifying Income Tax Settlement Commission's order

The Finance Act, 2021 has already abolished the "Settlement Commission" with effect from February 1, 2021, and all the matters pending with the Income Tax Settlement Commissions (ITSC) have been dealt with by the Interim Board. The Finance Act, 2021 has also suitably amended the scheme of Chapter XIX-A of the Act whereby the Interim Board (IB) has been vested with all the powers of the ITSC for disposing of the pending matter.

It is provided that in cases where the period of limitation for rectifying an order of ITSC expired after February 1, 2021, for the purpose of deciding the period of limitation, period starting from February 1, 2021 till the date on which the IB has been constituted by the Board shall be excluded and if the remaining period available with IB for disposing the application is less than 60 days then period of limitation for passing rectification order shall be extended by 60 days.

The Bill has now proposed to extend the time limit for rectifying all orders of ITSC for which period of limitation is expired on or after February 1, 2021 but before February 1, 2022 to September 30, 2023.

Trusts & Charitable Organizations

Under the existing provisions, Income of any fund or institution or trust or any university or educational institution or hospital or medical institution is exempt under either of two regimes:

- Regime for any fund or institution or trust or any university or educational institution or hospital or medical institution referred to in subclause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of section 10 of the Act ('first regime')
- Regime for trusts registered u/s 12AA/12AB of the Act ('second regime')

Over the recent years, there were various amendments made vide Finance Acts in respect of provisions related to registration and taxability of trusts. In order to allow proper implementation of said amendments, the Bill proposes to make various changes in respect of such provisions. The important changes are discussed below:

Applicability of section 115TD on non-renewal of 10(23C)/12A approval

As per section 115TD, an exit tax at maximum marginal rate is imposed when a charitable organization is converted into a non-charitable organization or gets merged with a non-charitable organization or does not transfer the assets to another charitable organization on its dissolution.

At present, a charitable organization is said to be converted into non-charitable organization if:

- its approval under section 12AA/12AB/10(23C) is revoked or
- it makes modifications to its objectives which are not in conformance with the condition on which of approval is granted and has not applied for fresh approval under section 12AA/12AB/10(23C) after such modification or
- it has applied for fresh approval but the said application has been rejected.

The Bill proposes to extend the applicability of section 115TD to cases where the institution fails to renew its approval under section 10(23C) and section 12A within the time applicable. It is proposed that where the charitable institution fails to renew the approval within the prescribed time, it would be treated as converted into an entity which is not eligible to be granted registration under section 12AA and 12AB and fair value of the net assets shall be taxable at maximum marginal rate.

This amendment will take effect from April 1, 2023.

Recoupment of corpus utilised prior to April 1, 2021 is not regarded as application of income

Under the existing provisions, corpus donations received by trusts and institutions under both regimes are exempt from tax. Further with effect from April 1, 2021 such exemption is subject to condition that such corpus are invested or deposited in one or more modes specified u/s 11(5) of the Act maintained specifically for such corpus. Further, amount utilized from the corpus shall not be considered as application for charitable or religious purposes. However, when any amount is deposited or invested back in such corpus in modes specified u/s 11(5), such amount deposited in corpus is treated as application of income.

While implementing the said provisions inserted vide Finance Act 2021, it was observed that application from such corpus or loan or borrowings, could have already been claimed as application prior to April 1, 2021. Hence, allowing such amount as application again on investment or reposting as corpus or repayment of loan or borrowing will amount to double deduction.

In view of the same, the Bill has proposed that in case any amount was utilized out of corpus held up to March 31, 2021, recoupment of such amount in corpus shall not be regarded as application of income. This is irrespective of the fact as to whether such amount utilized out of corpus prior to March 31, 2021 is claimed as application or not.

The above amendment is applicable from AY 2023-24 onwards.

Recoupment of corpus/ repayment of loan is regarded as application of income subject to further conditions

As explained above any amount invested back in corpus of the fund is treated as application of income with effect from April 1, 2021 since funds utilised out of corpus is not treated as application of income. Further with effect from April 1, 2021, amount utilised from loan shall be regarded as application of income only in the year in which loan is repaid.

The Bill provides that to claim such recoupment/ repayment of loan as application of income, a taxpayer is required to comply with following further conditions.

- Amount utilised out of corpus shall be redeposited into corpus within five years from the end of the year in which such amount is utilised from corpus.
- The loan repayment (to the extent funds utilised from it) shall be made within 5 years from the end of the year in which loan is utilised.
- Further amount utilised out of such corpus/borrowing meet following criteria.
  - ✓It should not be in form of corpus donation to other trust.
  - ✓TDS, if applicable, should be deducted on such amount
  - ✓Application where payment made to person in a day exceeds Rs. 10,000 in other than specified modes (such as cash) is not allowed
  - ✓Carry forward and set off of excess application is not allowed
  - ✓Utilisation amount is allowed in year in which it is actually paid
  - ✓Utilisation amount should not directly or indirectly benefit any person referred to in section 13(1) of the Act

Donations to other trusts to be allowed as application to extent of 85%

Currently, income of trusts and institutions under both regimes is exempt subject to condition that at least 85% of its income is applied during the year for charitable or religious purposes. The said 85% application can be made either themselves or by donations (excluding corpus donation) to other trusts with similar objectives. The balance 15% can be accumulated by such trusts.

Instances have been noticed that certain trusts are trying to defeat the intention of Legislature by forming multiple trusts and accumulating 15% at each layer, resulting to actual application towards charitable and religious activities lower than minimum requirement of 85%.

In order to ensure intended application towards charitable and religious purposes, it is proposed that eligible donations made by one trust to another trust shall be treated as application only to extent of 85% of such amount.

The above amendments are applicable from AY 2024-25 onwards.

Chapter XII-EB to apply to Trusts or Institutions failing to apply for registration/approval as required

Under the amended provisions for registration, existing trusts and institutions under first and second regime are required to apply for re-registration/approval on or before November 25, 2022 as extended by CBDT Circular no. 22 of 2022. Such re-registration/approval is valid for period of 5 years. Further, new trusts or institutions under both regimes as well as under 80G regime need to apply for provisional registration at least 1 month prior to commencement of previous year for which approval is sought, which is valid for period of 3 years.

Provisionally registered trusts will again need to apply for regular registration at least 6 months prior to expiry of period of provisional registration or within 6 months of commencement of activities, whichever is earlier. Trust and institutions under both regimes and 80G regime will also need to apply at least 6 months prior to expiry of regular registration/approval.

It has been noticed that certain trusts and institutions under first and second regime have not applied for regular registration after taking provisional registration. Further, some trusts have not applied for re-registration/approval as required. There may also be possible instances where trusts/institutions do not apply for re-

registration after expiry of 5 years/3 years.

The existing provisions u/s 115TD, 115TE and 115TF under Chapter XII-EB seek to impose levy in nature of exit tax which is attracted when organization is converted into non-charitable organization or gets merged with non-charitable organization or charitable organization with dissimilar objects or does not transfer assets to another charitable organization. Vide Finance Act 2022, these provisions were also made applicable to any trust or institution under the first regime as well.

It is proposed to amend said provisions to provide that the provisions of Chapter XII-EB shall be applicable if any trust or institution fails to make an application for registration as required u/s 10(23C) or u/s 12A of the Act. Upon violation of these provisions for registration, it shall be deemed to have been converted into any form not eligible for registration in previous year in which such period is expired.

It is further proposed to provide that principal officer or trustee of specified person, as the case may be, and the specified person shall also be liable to pay tax on accreted income to credit of Central Government within 14 days from end of previous year in accordance with provision of section 115TD.

The above amendments will take effect from April 1, 2023 and will apply from AY 2023-24 onwards.

Combining provisional and regular registration in some cases

Under the existing provisions, new trusts or institutions under both regimes as well as under 80G regime need to apply for provisional registration at least one month prior to commencement of previous year for which approval is sought. Provisionally registered trusts will again need to apply for regular registration at least 6 months prior to expiry of period of provisional registration or within 6 months of commencement of activities, whichever is earlier. Trust and institutions under both regimes and 80G regime will also need to apply at least 6 months prior to expiry of regular registration/approval.

It is noticed that trusts/institutions formed during the previous year are not able to get exemption for that year in which they are formed since they need to apply 1 month prior to previous year for which exemption is sought. Further, trusts and institutions where activities are already commenced, are required to apply for provisional and regular registration simultaneously.

In order to rationalize these provisions, it is proposed to allow for direct final registration or approval in such cases. The amendments proposed are as below:

- Trusts and Institutions under first regime, second regime and 80G regime are allowed to make application for provisional approval only before commencement of activities
- Trusts and Institutions under first regime, second regime and 80G regime, which have already commenced their activities, shall make application only for regular approval
- Such application shall be examined by PCIT/CIT as per specified procedure and where PCIT/CIT is satisfied about the objects and genuineness of activities, registration shall be granted for 5 years
- PCIT/CIT shall pass an order granting or rejecting such application within 6 months calculated from the end of month in which such application is received.

These amendments shall be applicable from October 1, 2023.

Specified Violation would include cases where application in Form 10A is incomplete or contains incorrect information

As per amended provisions for registration, the new as well as existing trusts and institutions under both regimes are required to furnish application for provisional registration and re-registration/approval respectively in Form 10A. The provisional approval/registrations for new trusts and re-registrations/approval for existing trusts is granted in an automated manner through the e-filing portal.

It was noticed that in some cases, form furnished by trusts for provisional approval and for re-registration/approval are defective and since process is automated, registration has been granted by CPC. At present, the provisional approval/registration of trusts can be cancelled

by PCIT/CIT for certain specified violations.

In order to rationalize these provisions, it is proposed to provide that 'specified violation' for purpose of section 10(23C) and section 12AB shall include case where application is not complete or it contains false or incorrect information.

The above amendments are applicable from April 1, 2023.

Alignment of time limit for furnishing form for accumulation of income and tax audit report

The trusts and institutions under the first and second regime are required to get their accounts audited as per provisions of section 10(23C) and section 12A of the Act respectively. The said audit report in Form 10B/10BB is required to be furnished at least one month before the due date for furnishing the return of income.

Where trust or institution, under first or second regime, has accumulated or set apart its income, it is required to furnish Form 10 on or before due date specified u/s 139(1) of the Act for furnishing return of income for the previous year. Similarly, where trust or institution under second regime, deems certain income to be applied under clause 2 of Explanation 1 to section 11(1), it is required to furnish Form 9A on or before due date specified u/s 139(1) of the Act for furnishing return of income for the previous year.

The due date to furnish Form 9A and Form 10 is same as due date for furnishing return of income but due date to file audit report in Form 10B/Form 10BB is one month prior to due date for furnishing return of income. The details of Form 9A and Form 10 are required to be reported in audit report, which create difficulties for auditors.

In order to rationalise these provisions, it is proposed to provide for filing of Form 9A/Form 10 at least two months prior to due date specified u/s 139(1) of the Act for furnishing return of income for the previous year.

The above amendments will take effect from April 1, 2023 and will apply to AY 2023-24 onwards.

Denial of exemption where return of income is updated return

As per provisions u/s 10(23C) and 12A of the Act, exemption is not available if return of income is not furnished within the time u/s 139 of the Act.

Section 139 of the Act was amended by Finance Act 2022 providing for an option to taxpayers to furnish updated return of income up to 2 years from end of relevant assessment year. This resulted in unintended consequences of allowing exemption u/s 10(23C) and 11, 12 of the Act to trusts when they furnish updated return of income. Accordingly, it is proposed to clarify that exemption u/s 11,12 and 10(23C) will be available only if return of income is furnished within time allowed u/s 139(1) or 139(4) of the Act.

The above amendments will take effect from April 1, 2023 and will apply to AY 2023-24 onwards.

Tourism industry contributes ~ 6% of India's GDP and provides more than 32 million jobs

Co-operatives

Concessional tax rate for new manufacturing co-operative society

Recently, the Government introduced section 115BAB which provides for concessional tax rate of 15% to new manufacturing companies which are set up on or after October 1, 2019 and which commence production by March 31, 2024. In order to provide a level-playing field to the new manufacturing co-operative societies, this Bill proposes to introduce section 115BAE for providing concessional tax rate to new manufacturing co-operative societies. A new manufacturing co-operative society may opt to pay tax at the rate of 15% on its income derived from/incidental to manufacturing. In order to avail such benefit, multiple conditions are required to be fulfilled. A broad overview of such conditions is as under –

- The cooperative society has been set-up and registered on or after April 1, 2023.
- Such co-operative society has commenced manufacturing or production of an article or thing on or before March 31, 2024.
- The co-operative society is not engaged in any business other than the business of manufacturing and research in relation to the manufactured product or distribution of such manufactured product.
- The business is not formed by splitting up, or the reconstruction, of a business already in existence
- The business does not use any machinery or plant previously used for any purpose. However, certain exceptions are allowed for imported machinery and other used machinery.
- Certain specified exemptions, deductions, additional depreciation (like specified u/s.115BAB) shall not be available to a co-operative society opting for the concessional tax rate under section 115BAE.
- Brought forward loss/depreciation attributable to the deductions referred above shall not be available for set off to such co-operative society.
- The option to be covered under this section is exercised on or before due date of the first income tax return filed by such new manufacturing co-operative society. Once the option is exercised, it cannot be withdrawn subsequently.

Transactions (specified domestic transactions) involving such new manufacturing co-operative society shall be covered by the transfer pricing provisions under the Act in view of the possibility of the taxpayers exploiting such tax arbitrage.

It is proposed that Alternative Minimum Tax (AMT) under section 115JC shall not apply to the entities which are governed by or have opted for the provisions of section 115BAE.

In case the co-operative society fails to fulfil any of the aforementioned conditions, the benefits available under section 115BAE shall be withdrawn.

Following are the tax rates applicable to various sources of incomes as per section 115BAE –

India has administered over 2.19 billion doses of Covid-19 Vaccine overall, amongst the largest in the world

#	Income	Tax rates
(1)	Income derived from/incidental to the business of manufacturing	15%
(2)	Short term capital gains derived from transfer of capital asset on which depreciation is not allowed	22%
(3)	Income included in the total income of the co-operative society by virtue of transfer pricing adjustments	30%
(4)	Incomes other than those mentioned in (1) to (3) above - for which special rates are prescribed under the Act (eg., LTCG under section 112A)	At such special rates prescribed
(5)	Incomes other than those mentioned above - for which no special rates are prescribed under the Act	22%

Considering the requirement of set-up and registration of a cooperative society and commencement of manufacturing business in same financial year i.e. 2023-24, it would be a difficult task to claim the benefit of such concessional tax regime.

This amendment shall be effective from April 1, 2024 and shall accordingly, apply from AY 2024-25 onwards.

Increase in threshold for deduction of tax at source upon withdrawal of cash by Co-operative Society

Section 194N of the Act provides that a banking company or a co-operative society engaged in carrying on the business of banking or a post office, which is responsible for paying any sum to any person ('the recipient') shall, at the time of payment of such sum in cash, deduct an amount equal to two per cent of such sum, as income-tax, provided the amount or aggregate amount of payments made during the year, in cash, exceeds Rs. 1 crore.

However, in case of a recipient who has not filed any income tax return for three previous years immediately preceding the previous year in which such payment is received, tax is to be deducted as under:

- at the rate of 2% on any sum exceeding Rs. 20 lakhs but not exceeding Rs. 1 crore
- at the higher rate of 5% on sum exceeding Rs. 1 crore

The Bill proposes to enhance the aforesaid threshold of Rs. 1 crore prescribed under section 194N of the Act to Rs. 3 crores in case where the recipient is a co-operative society. In respect of persons other than cooperative society, the old threshold of Rs. 1 crore shall continue.

The above amendment will be effective from April 1, 2023.

Extended monetary limit for acceptance or repayment of certain loans or deposits

Section 269SS prohibits any person to accept or take any loans, deposits or money in relation to transfer of an immovable property in excess of Rs. 20,000 otherwise than by an account payee cheque, account payee bank draft or by electronic mode. As per existing provisions, the limit shall not apply in case loans or deposits or specified sums are accepted by Government, banking company, post office savings bank, co-operative bank, corporations, Government company and persons undertaking transactions having agricultural income only.

Section 269SS was inserted to with an objective to prevent unaccounted cash or deposits and debar movement of such unaccounted money. Existing provisions excluded transactions entered by the Government and banks including co-operative banks to avoid hinderance caused in doing business. With a view to provide relief to the small borrowers in rural areas, the Bill proposes to exclude acceptance of deposits from members by primary agriculture credit society and primary co-operative agricultural and rural development bank and taking of loans by members from these societies and banks to the extent of Rs. 2,00,000.

Similarly, section 269T of the Act restricts repayment of loans or deposits in cash in excess of Rs. 20,000. The Bill proposes to amend section

269T to exclude payment of deposits to members by primary agriculture credit society and primary co-operative agricultural and rural development bank and repayment of loans by members to the society / banks if the amount of loan or deposit does not exceed Rs. 2,00,000.

The Bill further proposes to amend section 269SS and 269T to define co-operative bank and primary agriculture credit society as defined in Part V of Banking Regulation Act, 1949 and primary co-operative agricultural and rural development bank as a society having its area of operation confined to taluka with principal object of providing long-term credit for agricultural and rural development activities.

The amendment will be effective from April 01, 2023.

Rectification of order for claim of expenditure for purchase of sugarcane

The Bill proposes to allow a co-operative society, engaged in the manufacture of sugar, to claim deduction of expenditure incurred for purchase of sugar cane.

Sugar factories operating in the co-operative sectors in certain States of India pay to sugarcane growers a final amount, often referred to as Final Cane Price (FCP) which is over and above the Statutory Minimum Price (SMP) fixed by the Central Government under the Sugarcane Control Order, 1996. FCP is decided on the basis of the particular factory's working results which take into account all the revenues and expenditure incurred by the factory. The payment of FCP by the co-operative sugar factories over and above the SMP for purchase of sugarcane had resulted into tax litigation. The co-operative sugar factories were claiming this excess payment as business expenditure whereas the same has been disallowed in the assessment on the ground that the excess price paid for purchase of sugar cane over and above SMP is in the nature of appropriation/distribution of profit and hence not allowable as deduction.

A new clause (xvii) was inserted to amend sub-section (1) of section 36 of the Act to provide that the amount paid for purchase of sugarcane by the co-operative societies engaged in the manufacture of sugar at a price which is equal to or less than the price fixed by or fixed with the approval of the Government shall be allowed as deduction for computing business income of the sugar co-operative factories. The said amendment came into force through the Finance Act 2015 on April 1, 2016 and was applicable from Assessment Year 2016-17 onwards. Pending demands and litigation still persisted in respect of AYs prior to 2016-17.

Therefore, to conclude the matter logically and to extend the benefit of the abovementioned relief to all the applicable years, it is proposed to amend section 155 of the Act to insert a new sub-section (19). It provides that in the case of a sugar mill cooperative, where any deduction in respect of any expenditure incurred for the purchase of sugarcane has been claimed by a taxpayer and such deduction has been disallowed wholly or partly, the Assessing Officer shall, on the basis of an application made by such taxpayer in this regard, recompute the total income of such taxpayer for such previous year. The Assessing Officer shall allow such deduction to the extent such expenditure is incurred at a price which is equal to or less than the price fixed or approved by the Government for that previous year. Also, the provision of section 154 shall, so far as may be, apply thereto, and the period of four years specified in sub-section (7) of section 154 shall be reckoned from the end of previous year commencing on April 1, 2022.

This amendment will take effect from April 1, 2023.

Penalty & Prosecution

Extending Penalty Provisions for furnishing inaccurate self-certifications received for Reportable Accounts

The provisions of section 285BA read with Rule 114H requires every prescribed reporting financial institution to provide annual information as to reportable account (such as name of account holder, account number, TIN number issued by country of tax residence, date, and place of birth etc.) identified pursuant to due diligence procedure in Form 61B for every calendar year on or before May 31st of year following that year. If any inaccurate information is furnished in such annual statement, the existing provisions of section 271FAA provides that the income tax authority can levy of penalty of Rs. 50,000 where such inaccurate information furnished is attributable to such reporting financial institution.

It has been noticed that the information which is furnished in Form 61B is generally received by such financial institution in form of self-certifications from account holders (i.e. in form of FATCA declarations obtained by banks). To ensure accuracy & correctness of information furnished in such self-certifications received from account holders, the Bill has proposed to expand the penal provisions of section 271FAA to levy further penalty of Rs. 5,000 on the financial institution for every default for submission of inaccurate information by such account holders. It is further provided that such financial institution shall be entitled to recover said penalty amount from funds lying in account of such account holders.

This amendment shall be effective from April 1, 2023.

Penalty & Prosecution on failure to deduct or pay tax at source in respect of certain payments in kind

Finance Act 2022 has introduced provision for deduction of tax at source on providing any benefit or perquisites under section 194R and on transfer of virtual digital asset (VDA) under section 194S which are attracted even when such payments or part thereof are in nature of kind. In such case, the payer is required to ensure that the tax required to be deducted has been paid before releasing benefit / perquisite or consideration for VDA as the case may be.

The existing provisions of section 271C dealing with levy of penalty for failure to deduct or pay tax at source does not specifically provide for levy of penalty in case there is failure on the part of payer to ensure that applicable tax has been deducted at source. Accordingly, the Bill has proposed amendment in such provision to cover such failures. Similar amendment has been proposed in provisions of section 276C dealing with prosecution to cover such failure.

This amendment shall be effective from April 1, 2023.

Further, the Bill has introduced new section 194BA for deduction of tax source on net winnings from online games where payments are wholly in kind or party in cash and partly in kind. To bring clarity as to levy of penalty / launch of prosecution where payer fails to ensure taxes are paid by recipient on payment made in kind before releasing the winnings from online games, necessary amendments has been made in section 271C and 276B to cover such failure within ambit of such provisions.

This amendment shall be effective from July 1, 2023.

No prosecution for failure of compliance by company liquidator

The existing provisions of section 276A provides that if liquidator of a company fails to comply with provisions of section 178 of the Act i.e (i) fails to give notice of his appointment as liquidator within period of 30 days to Assessing Officer (ii) fails to set apart amounts as notified by income tax authority or (iii) parting away with any of the assets of the company without permission of relevant income tax authority, the same is considered as offence subject to prosecution and punishable with rigorous imprisonment which may extend up to 2 years. The Bill has proposed to do away with said prosecution provisions u/s 276A considering fact that Insolvency and Bankruptcy Code 2016 already contains necessary provisions to deal with such situation.

Other Amendments

Removal of name-based funds from section 80G

Section 80G provides for deduction in respect of payment of donation to certain funds, institution listed in sub-section 2 of section 80G of the Act. The Finance Bill proposes to remove three funds namely the Jawaharlal Nehru Memorial Fund, Indira Gandhi Memorial Fund and Rajiv Gandhi Foundation from the list of funds as specified in section 80G (2) of Act. Accordingly as per amended section 80G (2) of the Act donation to such fund will not be allowable as deduction.

This amendment shall be made effective from April 1, 2024 and accordingly apply from AY 2024-25 onwards.

NBFCs excluded from limitation on interest deductions

Deductibility of interest expenses under thin capitalization rules under Section 94B of the Act is currently applicable in case of payments to non-resident associated enterprises other than banks and insurance companies. The Finance Bill proposes to also exempt non-banking finance companies from provisions of the said limitation on deductibility of interest expenses.

This amendment shall be made effective from April 1, 2024 and accordingly apply from AY 2024-25 onwards.

Incomes of specified news agencies now taxable

Incomes of notified news agencies set up in India solely for collection and distribution of news are currently exempt from tax under Section 10(22B) of the Act for a period of 3 years. The exemption is proposed to be withdrawn with effect from AY 2024-25.

Exemption to certain development authorities

Section 10(46) of the Act inter-alia provides for exemption to any specified income arising to body or authority or board or trust or commission or class thereof, which

- has been established or constituted under the Central, State or Provincial Act or by Central Government or State Government with an object of regulating or administering any activity for the benefit of public;
- is not engaged in any commercial activity; and
- is notified by Central Government in the official gazette of India

Recently, Hon'ble Supreme Court in case of ACIT v. Ahmedabad Urban Development Authority has held that sums charged by these authorities for the public services are to be excluded from the taxable income as their object are essential for advancement of public purpose / functions. In view of this decision, section 10(46A) is proposed to be introduced which provides for exemption to any income arising to body or authority or Board or Trust or commission, not being a company, which has been stablished with one or more following objectives:

- Dealing with and satisfying the need for housing accommodation;
- Planning, development and improvement of cities, town and villages;
- Regulating or regulating and developing any activity for the benefit of the general public;
- Regulating any matter, for the benefit of the general public, arising out of the object for which it is created

Consequential amendment has also been made in section 10(23C) and section 11 of the Act.

This amendment has been made effective from April 1, 2024 and shall accordingly apply from AY 2024-25 onwards.

GOODS & SERVICES TAX

INDIA BUDGET 20₹3

Goods & Services Tax

The following amendments have been proposed in the Bill for the Central Goods and Services Tax (CGST) Act, 2017 and Integrated Goods and Services Tax (IGST) Act, 2017.

These changes would come into effect from a date to be notified except wherever it is expressly specified.

Liberalisation of the Composition Scheme

Section 10 of the CGST Act provides that any registered person engaged in supplying goods or services through an electronic commerce operator ('ECO') shall not be eligible to opt for a composition levy.

It has now been proposed to amend Section 10 so as to allow such taxpayers who are undertaking the supply of goods through ECO to opt for the composition scheme. Thus, taxpayers engaged in supplying goods through ECO will now be eligible to opt for the composition scheme.

The above-proposed amendment is in line with the decision taken by the GST Council at its 47th meeting to allow the taxpayers making supplies through ECO to opt for a composition scheme. However, the taxpayers engaged in the supply of services through ECO would continue to be restricted to opt for a composition scheme.

Eligibility of input tax credit on non-payment to supplier

The second proviso to section 16(2) of the CGST Act hitherto provided that where the recipient fails to pay the amount towards the value of supply along with tax within a period of 180 from the date of issue of invoice by the supplier, the said amount will be added to his output tax liability along with interest.

The said proviso is proposed to be amended to provide that the taxpayer will be required to pay the amount of ITC availed along with interest on failure to make payment within the prescribed time instead of the addition of such amount in the outward tax liability.

The said amendment is in line with the present scheme of filing GST returns wherein the taxpayer can make the payment of the amount of ITC to be reversed which was also followed by the trade at large.

Further, the third proviso of the said section is also proposed to be amended to include that the recipient will be entitled to avail ITC on payment by him to the supplier.

It is a normal trade practice adopted by the taxpayers wherein the amount payable to the supplier is paid to any third party such as tax authorities under recovery proceedings or the insolvency professional under insolvency proceedings, etc. on behalf of the supplier. However, the proposed amendment creates an interpretational issue of whether the discharge of liability to any other person on behalf of the supplier will be construed as payment made by the recipient for the purpose of availing ITC.

Computation of exempted supply

Section 17(3) of the CGST Act consists of the provisions for determining the value of exempted supply. The explanation to the said section provides that the value of activities or transactions specified in Schedule III, except those specified in paragraph 5 of the said Schedule shall not be included for the purpose of determining the value of exempt supply.

The explanation to said section is proposed to be amended to provide that transaction as specified under paragraph 8(a) of Schedule III i.e., Supply of warehoused goods to any person before clearance for home consumption, shall also not be excluded for the purpose of calculation of the value of exempted supply. Accordingly, the value of said supply will be added to the turnover of exempted supply leading to a reversal of ITC directly related to this transaction as well as leading to an increase in a reversal of common ITC. There were certain decisions of the Hon'ble High Court wherein it was held that ITC shall be available on such supplies. For instance, the Bombay High Court in the case of Sandeep Patil v. UOI [2019 (31) GSTL 398] held that the supply of warehoused goods before clearance for home consumption would not disentitle the supplier of ITC even if no GST is paid on such supplies.

It is interesting to note that only transactions specified in paragraph 8(a) of Schedule III are excluded and transactions specified in paragraph 8(b) of the said Schedule i.e., transactions made on high seas sales basis that are similar transaction have not been excluded.

Restriction of ITC on CSR expenditure

Section 17(5) which provides for restriction on

availing of ITC has been amended by the insertion of clause (fa) to restrict ITC in respect of corporate social responsibility ('CSR') expenditure incurred in compliance with the mandate of section 135 of the Companies Act, 2013.

There have been quite a few advance rulings holding both views on whether or not ITC of CSR expenses is available to the taxpayer. For instance, the advance ruling authority in the case of M/s. Bambino Pasta & Dwarikesh Sugar [TSAAR Order No.52/2022 dated 20/10/2022] held that ITC will be eligible to the applicant on CSR expenditure as the same is incurred in the course or furtherance of business. The proposed amendment seeks to provide that no ITC of CSR expenditure shall be available. Considering the aforesaid amendment since the ITC on expenditure incurred under CSR will not be available, the companies would now consider the GST paid on CSR expenditure as part of the cost which would ultimately result in a reduction of the amount attributable to CSR to the extent of tax.

Further, while it has not been specified whether the said amendment will be made applicable retrospectively, a view can be taken that ITC prior to such amendment will be allowed.

Registration

Section 22(1) of the CGST Act provides for the monetary threshold for obtaining registration. Section 24 of the CGST Act provides that in certain cases where registration will be mandatorily required. And Section 24 has an overriding effect over section 22, meaning thereby that where a person is covered under section 24 then such a person would be mandatorily required to obtain registration even if the threshold limit has not been crossed.

Section 23 of the CGST Act specifies the category of persons that would not be required to obtain registration which includes the persons engaged exclusively in the business of supplying goods or services or both that are not liable to tax or wholly exempt from tax. However, the said section did not have an overriding effect which led to confusion in cases of conflict between section 23 and section 22 or section 24.

Hence, it is proposed to amend section 23 of the CGST Act w.e.f. 1 July 2017 to give it an overriding effect over section 22 and section 24. Therefore, taxpayers covered under section 23 will not be required to obtain registration even if they are covered under section 22 and section 24. This is a welcome change providing a much-needed clarification specifically to the taxpayers exclusively engaged in making exempted supplies.

Time Limit for filing of return/statement

Section 37 (GSTR 1), section 39 (GSTR 3B), section 44 (GSTR 9) and section 52 (GSTR 8) are proposed to be amended to provide that respective returns under these sections shall not be allowed to be filed after the expiry of three years from the due date of furnishing the said return.

Section 29 provides that where a taxpayer has not filed a return for a specified tax period, then the registration of such taxpayer is liable to be cancelled. Once the registration is cancelled, the taxpayer is not allowed to file the returns for the tax period subsequent to such cancellation. In the case where the taxpayer goes into litigation for restoration of registration and the cancellation is not revoked within a period of three years, considering this amendment, filing of returns would become a hindrance. The proposed amendment also contains the proviso where the Government may allow the taxpayer to file the return after the expiry of three years.

Refund of ITC

Section 54(6) provides for a refund of ITC of ninety per cent of the total amount on a provisional basis, excluding the amount of input tax credit provisionally accepted in case of zero-rated supply of goods or services or both made by the registered persons. It has been proposed to remove the reference to the provisionally accepted input tax credit.

Section 41(1) of CGST Act was amended vide Finance Act 2022 dated 30 March 2022 by substituting to the said section. Prior to such amendment, the registered person was entitled to avail ITC in the return and such amount was considered to be credited on a provisional basis to his electronic credit ledger. Pursuant to the amendment vide Finance Act 2022, the reference of provisional ITC has been removed thereby aligning the same with section 16(2)(aa) of the said Act.

Hence, the amendment in section 54(6) of the CGST Act can be considered in alignment with the present scheme of availing of the self-assessed input tax credit as per section 41(1) and section 16(2)(aa) of the said Act.

Manner of computation of interest of delay in grant of refund

Section 56 of the CGST Act provides that if any tax ordered to be refunded is not refunded within 60 days from the date of receipt of an application, interest at such rate not exceeding six per cent shall be payable in respect of such refund from the date immediately after the expiry of 60 days from the date of receipt of the application under the said sub-section till the date of refund of such tax.

It has been proposed to amend the said section to prescribe the manner and conditions in which the interest shall be computed in case of delay in the grant of a refund beyond 60 days.

Penalties for the E-commerce operator for certain offences

Section 122 of the CGST Act contains penalty provisions for certain offences. It has been proposed to insert the sub-section (1B) to the aforesaid section to provide for penalties on Electronic Commerce Operators ('ECO') in case of the following contraventions:

- an unregistered person who has not been specifically exempted from registration is allowed to supply goods or services or both through it;
- inter-State supply of goods or services or both is allowed to a person who is not eligible to make such inter-State supply;
- fails to furnish the correct details of supplies made through it.

The penalty shall be higher of ten thousand rupees or tax involved (to be computed at normal rates and not at rates applicable for composition dealer).

With the above-proposed amendment, the onus of verification of the person who is supplying the goods or service or both through ECO is shifted to the ECO thereby ensuring that the supplies made by any person through ECO are in accordance with the provisions of the CGST Act.

Punishment of certain offences and changes in the monetary limit for launching prosecution

Section 132 of the CGST Act provides for punishment for various offences. The said section is being amended to decriminalize the following offences by a person who:

- obstructs or prevents any officer in the discharge of his duties under this Act;
- tampers with or destroys any material evidence or documents;
- fails to supply any information which he is required to supply under this Act or the rules made thereunder or (unless with a reasonable belief, the burden of proving which shall be upon him, that the information supplied by him is true) supplies false information;

Further, the monetary threshold for launching prosecution for the offences is increased from rupees one crore to rupees two crores, except for the offences related to the issuance of invoices without the supply of goods or services or both.

Compounding of offences

Section 138 of the CGST Act provides for the compounding of an offense.

Hitherto clause (a) of Section 138(1) of CGST Act, 2017 provided for exclusion for the benefit of compounding offences that are committed more than once for the offences covered under clauses (a) to (f) of Section 132(1) of CGST Act. It has now been proposed to amend the said clause to include the offence covered under clauses (h)(i) and (l) of Section 132(1) of the CGST Act.

Further, it has been proposed to omit clause (b) of Section 138(1) of the CGST Act. Accordingly, all offences other than those covered under clause (a) of sub-section (1) of 138 of the CGST Act are eligible for compounding without any monetary limit. Earlier, there was a monetary limit of Rs. one crore for the compounding of offences under this clause.

Clause (c) of Section 138(1) of the CGST Act, 2017 provided for the denial of compounding of an offence which is committed under the CGST Act, which is also an offence under any other law for the time being in force. It has been now proposed to substitute the said clause to allow availing of the benefit of compounding even in those cases where an offence under GST Law is also an offence under any other law, except for an offence under Section 132(1)b) which deals with an offence related to issues of any invoice or bill without supply of goods or services or both.

Section 138(2) has been amended to rationalize the amount of compounding of offences to a minimum of 25% of the tax involved and a maximum of 100% of the tax involved which are 50% & 150% respectively.

Sharing of information by GST portal with other systems

Section 158A of the CGST Act is proposed to be inserted to enable the GSTN to provide the following data to other systems as may be prescribed:

- particulars furnished in the registration application or in GSTR 3B or GSTR 9, after taking the consent of the supplier;
- particulars submitted for generation of the invoice, details of outward supply and details provided for preparation of E-way bill after taking the consent of both, the supplier and the recipient;
- any other details, as may be prescribed, after taking the consent of the supplier and the recipient where the details include the identity of the recipient.

It has also been provided that neither the Government nor the common portal shall be responsible for any liability that might arise on account of sharing of information to the system.

Retrospective amendment to Schedule III of CGST Act, 2017

Schedule III of the CGST Act provides for certain activities or transactions which shall be treated neither as a supply of goods nor a supply of services.

The said schedule is proposed to be amended to give retrospective applicability i.e., w.e.f. July 1, 2017 to Para 7, 8 (a) and 8 (b) of the said Schedule which was earlier made applicable from February 1, 2019.

It has also been provided that no refund shall be allowed of tax which has already been paid in respect of such transactions during the period from July 1, 2017 to January 31, 2019.

Changes in the definition of a non-taxable online recipient and online information and database access or retrieval services

The definition of 'non-taxable online recipient' under section 2(16) of the IGST Act has been substituted to provide that any unregistered person receiving online information and database access or retrieval services for any purpose shall be covered under the said definition.

Further, the explanation has also been provided to clarify the term 'unregistered person' which shall include a person registered solely in terms of clause (vi) of section 24 of the CGST Act i.e. person registered for TDS.

The definition of 'online information and database access or retrieval services' ('OIDAR') under section 2(17) of the IGST Act is proposed to be amended to omit the words 'essentially automated and involving minimal human intervention and' so as to eliminate interpretational issues. As a result, services which are not essentially automated or which may even involve human intervention would get covered under the ambit of OIDAR services. Position as per ruling given by the Karnataka State Appellate Authority for Advance Ruling in the case of NCS Pearsons Inc. would hence be no longer relevant.

Changes in the place of supply for the transportation of goods

Section 12(8) of the IGST Act provides the place of supply of services by way of transportation of goods as below:

- if a person is a registered person – the place of supply shall be the location of such person.
- if a person other than a registered person - the place of supply shall be the location at which such goods are handed over for their transportation

The said section was amended by inserting the proviso by way of the IGST (Amendment) Act, 2018 w.e.f. February 1, 2019, to provide that in case of transportation of goods is to a place outside India, the place of supply shall be the place of destination of goods. As a result, even in cases where the supplier and recipient are located within India, the place of supply was treated as the place where the goods are transported i.e., outside India and this resulted in the loss of ITC in the hands of the recipients.

It has been proposed to omit the said proviso and specify the place of supply as the location of the recipient.

The CBIC issued Circular No. 184/16/2022 - GST dated December 27, 2022, clarifying that the taxpayer will be eligible for ITC despite the place of supply being outside India since amendment to the GST Act would take time.

INDIA BUDGET 20₹3

CUSTOMS ACT

Customs Act

Exemptions under Customs

Section 25 of the Customs Act (Power to grant exemption from duty), provides for the powers to grant either absolute exemptions or conditional exemptions. In this regard, sub-section (4A) of the section specifies the time limit of 2 years in case of conditional exemptions. Given the blanket validity of 2 years to all the conditional exemptions, it appeared that the customs exemptions under any bilateral trade agreements or international trade agreements would not be valid after 2 years of applicability. A similar interpretation was observed in the case of exemptions from customs duty in case of schemes defined under Foreign Trade Policy, like Advance Authorization, EPCG, etc. Though it was never the intention of customs law to restrict the customs exemptions through such agreements or schemes after 2 years, the section specified otherwise. Hence, in order to reconcile the intention of law with the provisions, exceptions are proposed to be carved out from the said sub-section (4A) of section 25, for the below mentioned categories of conditional exemptions:

- multilateral & bilateral trade agreement,
- obligations under international agreements, treaties, conventions; UN agencies, diplomats, international organisations;
- privileges of constitutional authorities;
- schemes under FTP;
- other Central Govt. schemes with validity of 2 years;
- re-imports, temporary imports, goods imported as gifts or personal baggage;
- IGST leviable under Customs Tariff Act, other than duties under Section 12 of the Customs Act.)

The proposed amendment is clarificatory in nature which would benefit the importers due to the removal of ambiguity and also mitigate the probable chances of any litigation.

Applications before the Settlement Commission of Customs

Provisions related to Settlement Commissions were introduced under the Customs law in the year 1998. The said Settlement Commission provides an alternate dispute resolution mechanism for taxpayers who wish to resolve tax disputes in a spirit of conciliation rather than time-consuming litigation.

Accordingly, where any proceedings related to levy, assessment and collection of customs duty were pending before the adjudicating authority, the taxpayer had the option to make an application before the Settlement Commission under section 127B of the Customs Act. Further, section 127C of the Customs Act provided for the procedure to be followed on receipt of an application for settlement under section 127B. As a procedure, the section provides for the following timelines:

- to issue notice to the applicant to explain the reasons for allowing the application to be proceeded with;
- to accept / reject the application filed;
- to call for the report along with relevant records from the Principal Commissioner and Commissioner;
- to furnish a report by the Commissioner on receipt of communication from the settlement commission;
- to make further enquiry or investigation and furnish a report by the Commissioner (Investigation); and
- to amend the order to rectify any error apparent on the face of record either suo moto by the settlement commission or when such error is brought to its notice by the jurisdictional principal commissioner or commissioner of customs.

However, the timeline to pass the order by the Settlement Commission was not provided. Considering the objective of setting up of the

Settlement Commission to resolve the tax dispute in a spirit of conciliation by avoiding a costly and time-consuming litigation process, there was a need to provide for the timeline to pass the order by the settlement commission.

Hence, sub-section (8A) has been proposed to be inserted into section 127C providing the time limit of 9 months to dispose of the application filed before the Settlement Commission.

It further specifies that if no order has been passed within the said period of 9 months, it shall be treated as if no application under the said section had been made and the case will be reverted back to the adjudicating authority. Also, for the proceedings which are pending before the Settlement Commission as on today, the said period of 9 months will be counted from the date on which this Bill receives the assent of the President. The Settlement Commission has the power to extend the time limit by a further period not exceeding 3 months.

Customs Tariff changes

Amendment to General Rule for interpretation of the First Schedule (Import Tariff of the CTA)

The Finance Bill proposes to amend the General Rules for interpretation of the First Schedule (Import Tariff of the CTA) as under:

Paragraph 1 of the General Explanatory Notes is proposed to be amended to the effect that where the description of an article or group of articles is preceded by "----", the said article or group of articles shall also be taken to be a sub-classification of the immediately preceding description of the article or group of articles which has "---".

The list of abbreviations has been proposed to be substituted with a new list to align with Harmonized System Nomenclature 2022 Edition (HS22).

This amendment is proposed to come into effect from 1 May 2023.

The proposed amendment aims to bring consistency in the classification and mitigate the probable chances of litigation.

Customs rate changes

The First Schedule to the Customs Tariff Act, 1975 is also being amended to modify the tariff rates on certain tariff items as part of the rationalization of the customs duty rate structure. Wherever there are increases in duty rates, they would come into effect from midnight of February 1 (i.e., from February 2, 2023) and the others would come into effect from the date of assent of the Bill.

Sr.no	Product	Proposed change
1	Naphtha	BCD increased from 1% to 2.5%
2	Gems & jewelry	BCD increased for specified tariffs
3	Compounded Rubber	BCD increased to 25% from 10%
4	Electric kitchen chimney	BCD increased to 15% from 7.5%
5	Specified parts for manufacture of open cell of TV panel	BCD reduced from 5% to 2.5%

The changes in Customs Tariff Act proposed through Finance Bill shall have effect from May 1, 2023.

Review of Exemptions

Out of total 196 exemptions, 146 exemptions are being extended for a period of one year i.e., up to March 31, 2024, for the purpose of undertaking a review. Of the remaining, a few are being extended for 2/5 years, while some exemption entries are being discontinued with effect from March 31, 2023.

The details of exemption entries/notifications extended for 2/5 years are as follows:

S. no.	S.No. in Notification No 50/2017	Commodity
Extended upto March 31, 2028		
1.	S. No 609 of 50/2017-Customs	Used bonafide personal and household effects of a deceased person
2.	33/2017 – Customs	Exemption to import/reimport of challenge cups and trophies won by a unit of Defence Force or its members
3.	41/2017 – Customs	Exemption to import of cups, trophies to be awarded to winning teams in international tournament /world cup to be held in India
4.	146/94 – Customs	Exemption to import of specified sports goods imported by National Sports Federation or by a Sports person of outstanding eminence for training
5.	90/2009 – Customs	Exemption to imports from Antarctica of goods used for or related to Indian Antarctic Expedition or Indian Polar Science Programme
Extended upto March 31, 2025		
1.	168	Specific inputs and sub-parts for use in manufacture of telecommunication grade optical fibre or optical fibre cables
2.	341	Preform of silica for use in the manufacture of telecommunication grade optical fibres or optical fibre cables
3.	341A	Inputs for manufacture of Preform of silica
4.	405, 406	Raw materials and parts for manufacture of Wind operated electricity generators, including permanent magnets for manufacture of PM synchronous generators above 500KW for use in wind operated electricity operators
5.	559	Raw material and parts (including Dredger) for use in the manufacture of ships/vessels
6.	166	Specified Drugs, medicines, diagnostics kits
7.	167	Lifesaving drugs, etc.
Extended upto March 31, 2024		
1.	368	Ferrous waste and scrap
2.	374, 375	Raw materials for use in manufacture of CRGO steel
3.	527A	Lithium-ion cell for use in the manufacture of battery or battery pack of cellular mobile phone
4.	527B	Lithium-ion cell for use in the manufacture of battery or battery pack of electrically operated vehicle (EVs) or hybrid motor vehicle
5.	237	Specified inputs for use in the manufacture of EVA sheet or back sheets which are used in the manufacture of solar cell or modules
6.	340	Solar tempered glass for use in the manufacture of solar cell or solar module

The descriptions in the above table are indicative. It is advisable to refer to the respective notifications for complete descriptions.

The exemption entries in notification no. 50/2017 – Customs being discontinued with effect from 31.3.2023 are as follows:

S.no.	Entry. No. of Notfn No. 50/2017	Description of goods
1.	132	Goods for manufacture of specified refractory products
2.	289	Wood in chips or particles for manufacture paper and paperboard; newsprint
3.	397	Specified goods for use in high voltage power transmission project
4.	399	Specified goods and their parts for use in manmade or synthetic fibre or yarn industry
5.	400	Specified goods and its parts for use in textiles industry
6.	403	Parts and raw materials for manufacture of goods of off- shore oil exploration or exploitation
7.	407	Goods required for substitution of ozone depleting substances (ODS) and setting up of new capacity with non-ODS technology
8.	408	Machinery, instruments, apparatus and appliances or raw material for renovation or modernization of a fertilizer plant fertilizer plants and spare parts, consumable stores, essentials for maintenance of that plant stores,
9.	430	Goods for use in pharmaceutical and biotechnology sector for R &D
10.	432	Specified goods for use in the textile industry
11.	434	Specified machinery and capital goods for use in the silk textile industry
12.	436	Spares, supplied with outboard motors for maintenance of such outboard motors
13.	448	Specified advance capital goods/machinery used in agriculture
14.	460	Shuttle less looms and parts/components for its manufacturing
15.	513	Parts or components for use in manufacture of populated printed circuit board of DVR, NVR, CCTV camera
16.	393	Machinery/Capital goods for manufacturing sports goods
17.	394	Bacteria removing clarifier
18.	395	Machinery/ Capital goods used in Fisheries sector
19.	409	Goods required for setting up crude petroleum refinery
20.	439	Specified machinery/capital goods in leather / footwear industry
21.	440	Fogging Machines imported by Municipal Committee, District Board to combat Malaria etc
22.	444	Geothermal ground source heat pumps
23.	445	Machinery/Capital goods for making Gems & Jewellery
24.	455	Goods specified under 8422 3000, 8422 4000 or 8422 9090 in packaging Industry
25.	458	Machineries under 8438 used in food processing industry
26.	461	Specified textile Machinery specified under 8444,8445,8446,8447,8448 (except 84483100), 8449

S.no.	Entry. No. of Notfn No. 50/2017	Description of goods
27.	469	Atmospheric Water Generator
28.	470	Presses for manufacturing of particle board or fibre building board of wood or other ligneous material and other machinery for treating wood or cork
29.	594	Snow Ski and other snow ski equipment; water-skis, surfboards, sailboards and other water sports equipment
30.	16	Human Embryo
31.	325	Monofilament yarn

The descriptions in the above table are indicative. It is advisable to refer to the notification for complete descriptions.

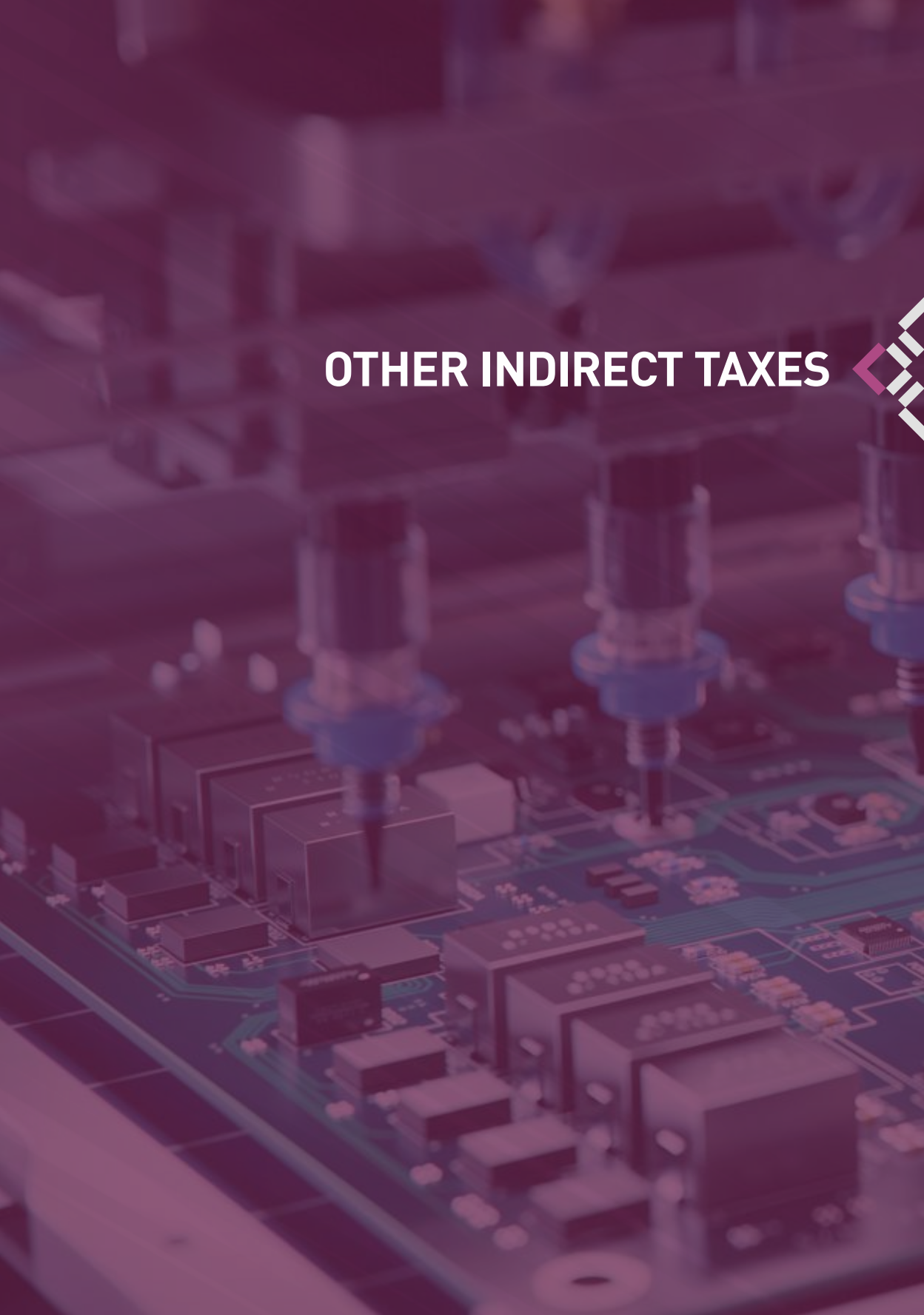
Anti-Dumping duty, Safeguard duty, Countervailing duty

In the case of Jubilant Ingreiva Limited vs Union of India & others, Anti-dumping Appeal no. 50461 of 2021, an appeal was filed being aggrieved by the failure of the Government to levy anti-dumping duty despite the findings of the designated authority (i.e., DGTR). It was contended that the appeal is not maintainable under section 9C of the CTA in absence of an "order of determination". The CESTAT held that there is an office memorandum which states that the Central Government has decided not to impose anti-dumping duty and this amounts to an "order of determination" and is hence appealable.

Section 125 of the Finance Bill now proposes to amend section 9C of the CTA, which is the governing provision for appeals before Hon'ble CESTAT. It appears that the amendment intends to ensure that appeals can only be preferred against the DGTR's determination of dumping or injury, which has been rendered under the relevant rules prescribed under sections 8B, 9, 9A and 9B of the CTA. The other proposed amendment to sections 9 & 9A of the CTA have been made to clarify that the Central Government makes no determination of dumping or injury.

From scrambling to meet demand surge amid virus outbreaks, India surpassed in face mask production and pushed exports

OTHER INDIRECT TAXES



Excise

Excise duty on Compressed Natural Gas (CNG) has been exempted, when blended with Biogas or Compressed Biogas (CBG), to the extent of GST paid on Biogas or CBG, vide notification no. 05/2023 – Central Excise effective from February 2, 2023. The said exemption is subject to the following conditions

Manufacturers of such blended CNG shall:

- maintain detailed records regarding the quantum of Biogas or CBG blended with CNG, along with the value thereof, at the registered premise;
- submit a reconciliation statement on a quarterly basis, certified by the statutory auditor to the jurisdictional Commissioner of Central Excise by the 10th of the month following every quarter; and
- pay a differential duty of excise along with applicable interest after such reconciliation.
- The said amendment shall help mitigate the cascading effect of GST paid on Biogas or Compressed Biogas used by the manufacturer of blended CNG and promote manufacturing of the green gases.

Central Sales Tax Act, 1962

Originally the Central Sales Tax Appellate Authority had the jurisdiction over any disputes relating to the inter-state sale of goods vide section 19 of the Central Sales Tax Act. Further, as per section 24 of the Central Sales tax Act, the Authority for Advance Rulings constituted under the Income Tax Act shall be considered as the Central sales tax appellate authority.

The said section 19 has been proposed to be substituted and as per the new provision, CESTAT will have the jurisdiction to adjudicate any dispute relating to inter-state sales. Further, section 24 dealing with the constitution of the Central Sales Tax Appellate Authority has been proposed to be omitted and accordingly, it will no longer be functional as per the proposed amendment.

Also, vide insertion of sub-section (3) to section 25, it has been proposed to transfer all the pending proceedings before the Central Sales Tax Appellate Authority to CESTAT.

This amendment provides much required clarity in relation to appeals pending before the CST Appellate Authority as the CST Appellate Authority has been non-functional since quite sometime.

REFERENCES

Tax Rates* for AY 2024-25

Default Tax regime for all Individual, HUF, AOP, BOI - Section 115BAC)

Taxable Income	All Individual, HUF, AOP, BOI
Upto Rs. 3,00,000	Nil
Rs. 3,00,001 to Rs. 6,00,000	5%
Rs. 6,00,001 to Rs. 9,00,000	10%
Rs. 9,00,001 to Rs. 12,00,000	15%
Rs. 12,00,001 to Rs. 15,00,000	20%
Rs. 15,00,001 and above	30%

This tax regime shall be exercised without claiming specified exemption or deductions except standard deduction u/s 16(ia) and deduction u/s 57(iia).

Optional Tax regime for Individual, HUF, AOP & BOI

Taxable Income	All Individual, HUF, AOP & BOI	Resident Individual of 60 years or more age	Resident Individual of 80 years or more age
Upto Rs. 2,50,000	Nil	Nil	Nil
Rs. 2,50,001 to Rs. 3,00,000	5%	Nil	Nil
Rs. 3,00,001 to Rs. 5,00,000	5%	5%	Nil
Rs. 5,00,001 to Rs. 10,00,000	20%	20%	20%
Rs. 10,00,001 and above	30%	30%	30%

This tax regime shall be adopted by exercising the option prescribed u/s 115BAC(6).

Partnership Firm & Foreign Company

Particulars	General Tax Rate
Partnership Firm & LLP	30%
Foreign Company	40%

***[To be increased by applicable surcharge and health & education cess (see Notes)]**

Domestic Company

Particulars	General Tax Rate
Domestic Company with Turnover / Gross Receipts up to Rs. 400 Crores in FY 2021-22	25%
Domestic Company opted for taxation under section 115BA	25%
Domestic Company opted for taxation under Section 115BAA	22%
Domestic Manufacturing Company incorporated on or after 1st October 2019 opted for taxation under Section 115BAB	
-Income derived from Manufacturing or Production	15%
-Other income for which no specific rate of tax is specified	22%
-Short-term capital gain of a non-depreciable capital asset	22%
Domestic Company not covered above	30%

Optional tax regime u/s. 115BAA or 115BAB shall be exercised by Company without claiming any exemption or deductions as provided in respective section and filing prescribed Form as per relevant rule.

Co-operative Society

Total Income	General Tax Rate
Upto Rs. 10,000	10%
Rs. 10,001 to 20,000	20%
Rs. 20,001 and above	30%

Resident Co-operative Society (Section 115BAD)

Particulars	General Tax Rate
Co-operative Society opted for taxation u/s 115BAD	22%

This optional u/s 115BAD tax regime shall be exercised by co-operative society without claiming any exemption or deductions as provided in the Act and filing prescribed Form as per relevant rule.

Resident Manufacturing Co-operative Society (Section 115BAE)

Particulars	General Tax Rate
Resident Manufacturing Co-operative Society	15%

Special Rates of Tax

Nature of Income	Rate of Tax
Minimum Alternate Tax (Section 115JB) excluding company opted under section 115BAA and 115BAB.	15%
Alternate Minimum Tax (Section 115JC) excluding person opted for tax regime under section 115BAC, 115BAD and 115BAE. (1) If Co-operative society	15%
(2) Other than Co-operative society	18.5%
STCG on listed securities (Section 111A)	15%
LTCG on listed equity share, units equity oriented mutual funds, business trust or unit linked insurance plan exceeding Rs. 1,00,000 (Section 112A)	10%
LTCG on unlisted securities or shares of a company in which the public are not substantially interested derived by Non-Resident (Section 112)	10%
LTCG on assets other than listed securities and zero-coupon bonds (Section 112)	20%
Royalty & Fees for Technical Services derived by Non-Resident (Section 115A)	10%
Dividend derived by non-resident subject to tax treaty benefit	20%
Tax payable by any Company (other than Foreign) on Buy-back of Shares (Section 115QA)	20%
Income by way of Royalty in respect of a patent developed and registered in India derived by Resident (Section 115BBF)	10%
Tax on Virtual Digital Assets (Section 115BBH)	30%
Tax on Specified Income of Trusts and certain Institutions (Section 115BBI)	30%
Tax on winnings from Online games (Section 115BBJ) (Introduced in Bill 2023)	30%

Note 1:

Rate of Surcharge on Income Tax

Total Income	Upto Rs. 50 Lacs	Rs.50 Lacs to Rs. 1 Cr.	Rs.1 Cr. to Rs. 2 Cr.	Rs.2 Cr. to Rs. 5 Cr.	Rs. 5 Cr.to Rs.10 Cr.	Above Rs. 10 Cr.
Individual / HUF/ AOP/ BOI - tax regime u/s 115BAC	Nil	10%	15%	25%**	25%**	25%**
Individual / HUF/ AOP/ BOI	Nil	10%	15%	25%**	37%**	37%**
Co-operative Society	Nil	Nil	7%	7%	7%	12%
Co-operative Society opted for tax regime u/s 115BAD & 115BAE	10%	10%	10%	10%	10%	10%
Partnership Firm /						
LLP	Nil	Nil	12%	12%	12%	12%
Foreign Company	Nil	Nil	2%	2%	2%	5%
Domestic Company						
Domestic Company (not opting for lower taxation u/s 115BAA & 115BAB)	Nil	Nil	7%	7%	7%	12%
Domestic Manufacturing Companies u/s 115BAA & 115BAB	10%	10%	10%	10%	10%	10%

** In case of AOP, the applicable surcharge would be 15% in case all the members of AOP are companies. Further the above rate of increased surcharge shall not be applicable on tax payable on dividend and capital gains arising from transfer of certain securities u/s. 111A, 112, 112A for all classes of taxpayers.

Note 2: Health & Education Cess @ 4% will be charged to all assessee on the amount of Income Tax & Surcharge.

Note 3: In case where person is opting for taxation u. s. 115BAA/ 115BAB/ 115BAC /115BAD or 115BAE, tax payable on capital gains arising will be at the rate specified in section 111A, 112 & 112A in respect of capital asset covered within the scope of these sections.

Note 4: A non-resident including foreign company can also avail lower rate of tax, if any, specified under applicable tax treaty subject to compliance with treaty access provision as provided under the Act.

TDS Rates for FY 2023-24

Rates of Tax Deduction at Source (See Notes)

Section	Nature of Payment	Threshold Limit (Rs.)	Rate
192	Salary	As per Slab	As per Slab
192A	Provident Fund amount which is not exempt from tax	50,000	10%
193	Interest on Securities		
	(1) Interest on Debentures (Listed/Unlisted debentures issued by company in which public are substantially interested)	5,000**	10%
	(2) Interest on 7.75% Savings (Taxable) Bonds, 2018	10,000	10%
	(3) Any Other Interest on Securities (Unlisted)	0	10%
194	Dividend (including deemed dividend) to Resident	5,000*	10%
194A	(1) Interest paid by Banking Company, Co-operative Society/Banks engaged in banking business, Post Office under a deposit scheme framed by Central Government	40,000***	10%
	(2) Interest other than Interest on Securities (Other than above)	5,000	10%
194B	Winning from Lotteries (Excluding Online Games)	10,000	30%
194BA	Net Winning from any Online Games (w.e.f. 01-07-2023)	0	30%
194BB	Winnings from Horse Races	10,000	30%
194C	Payments to Contractors		
	(1) Payment to Transporter covered by Section 44AE [2]	NA	NIL
	(2) Payment to Individual / HUF (other than above)	30,000[3]	1%
	(3) Payment to Others (other than above)	30,000[3]	2%
194D	Insurance Commission	15,000	5%
194DA	Income component received from LIC (including ULIP) which are not covered u/s 10(10D)	1,00,000	5%
194E	Non-Resident Sportsman /Sports Association / Entertainer	0	20%[1]
194EE	Payment of deposits under NSS to Resident / Non-Resident	2,500	10%[1]
194F	Repurchase of units of Mutual Fund /UTI from Resident/ Non-Resident	0	20%[1]
194G	Commission on Sale of lottery tickets to Resident / Non- Resident	15,000	5%[1]

Rates of Tax Deduction at Source (See Notes)

Section	Nature of Payment	Threshold Limit (Rs.)	Rate
194H	Commission or Brokerage to Resident	15,000	5%
194I	Rent to Resident		
	(a) Rent for machinery / plant / equipment	2,40,000	2%
	(b) Rent for other than in (a)	2,40,000	10%
194-IA	Payment on transfer on certain immovable properties (Other than agricultural land)	50,00,000	1%
194-IB	Payment of Rent by certain Individuals or HUF (other than those who are covered u/s 194I) to a resident	50,000 p.m.	5%[4]
194-IC	Payment under specified agreement (in case of joint development agreement excluding payment in kind)	0	10%
194J	Payment to resident taxpayer for professional services, royalty, sum referred u/s 28(va) excluding fees for technical services	30,000	10%
	Payment to resident assessee for fees for technical services or payment to assessee engaged in the business of call centre	30,000	2%
	Remuneration, fees, commission paid to Director (other than those on which tax is required to be deducted u/s 192) which is not in the nature of Salary	0	10%
194K	Income/ Dividend in respect of Units of Mutual Fund registered u/s 10(23D) payable to resident	5000	10%
194LA	Compensation to a resident on acquisition of immovable property (excluding compensation received under RFCTLAAR Act, 2013)	2,50,000	10%
194LB	Interest paid to a Non-Resident by the Notified Infrastructure Debt Fund	0	5%[1]
194LBA	Payment to a resident Unit Holder specified in Section 115UA (in respect of dividend if SPV opted for 115BAA)	0	10%
	Payment of Interest to a non- resident Unit Holder specified in Section 115UA	0	5%[1]
	Payment of Dividend to a non- resident Unit Holder specified in Section 115UA if SPV opted for 115BAA	0	10%[1]
194LBB	Income in respect of units of investment fund under Section 115UB		
	(1) In case of Payee being Resident	0	10%
	(2) In case of Payee being Non-Resident	0	Rate in Force [1]

Rates of Tax Deduction at Source (See Notes)

Section	Nature of Payment	Threshold Limit (Rs.)	Rate
194LBC	Income distribution to an investor by Securitisation Trust in respect of Section 115TCA		
	(1) In case of Payee being Resident Ind/HUF	NA	25%
	(2) In case of Payee being Resident any other person	NA	30%
	(3) In case of Payee being Non-Resident	NA	Rate in Force[1]
194LC	Interest paid by Specified Company to a Non-Resident on ECB	0	5%[1]
	Interest paid by Specified Company to a Non-Resident on Long term Bond or Rupee Denominated Bonds listed on recognized stock exchange in any IFSC	0	4%[1]
194LD	Interest payments to FII and QFI's on their Investment in Govt. Securities and RDB of an Indian Company, Municipal debt securities	0	5%[1]
194M	Payment by Individual/HUF for carrying out any work pursuant to contract, commission & fees for profession services (not covered by 194C, 194D & 194J)	Rs. 50 Lacs	5%
194N	TDS on cash withdrawal		
	- Person who did not filed ITR for preceding three AYs & time limit to file original ITR is expired and said person withdrawing cash not exceeding Rs. 1 Crore	Rs. 20 lacs	2%
	- Person who did not filed ITR for preceding three AYs & time limit to file original ITR is expired and said person withdrawing cash exceeding Rs. 1 Crore (Rs.3 Cr. In case of Co-Operative Society)	On amount exceeding Rs. 1 Cr./ Rs.3 Cr.	5%
	- Any other person (Except Co-Operative Society) - Co- Operative Society	Rs. 1 Cr. Rs. 3 Cr.	2% 2%
194O	Payment by e-commerce operator to e-commerce participant in respect of sale of goods or services	Rs. 5 lacs[5]	1%
194P	TDS in case of resident senior citizen having age of 75 year or more and receiving only pension in the bank and interest income from the same bank.	As per Slab[6]	As per Slab[6]
194Q	TDS on payment for purchase of goods by specified buyer	50,00,000	0.1%
194R	TDS on benefits or perquisites in respect of business or profession to a resident assessee	20,000	10%

Rates of Tax Deduction at Source (See Notes)

Section	Nature of Payment	Threshold Limit (Rs.)	Rate
194S	TDS on payment for transfer of Virtual Digital Assets to a resident assessee (1) Specified person [8]	50,000	1%
	(2) Other than Specified person	10,000	1%
195	Payment of other sums to Non-Resident (Other than those specified in Section 194LB)	Rates specified under Part II of First Schedule of Bill, including applicable surcharge and health and education cess subject to rate specified under applicable DTAA	
196A	Income to non-residents in respect of units of MF as specified u/s 10(23D) or of specified company as specified u/s explanation of 10(35)[7]	0	20%[1]
196B	Income from units (including long term capital gain on transfer of such units) to an offshore fund	0	10%[1]
196C	Income from foreign currency bonds or GDR of Indian Company	0	10%[1]
196D	Income of FII from securities not being long term and short-term capital gain	0	20%[1]

(* in case of Resident Individual only)
(** in case of Resident Individual / HUF only)
(*** Rs. 50,000 in case of Resident Senior Citizen)

[1] All rates of TDS for Non-Resident Assessee shall be increased by applicable Surcharge, Health & Education Cess

[2] Transporter means persons engaged in plying, hiring and leasing of Goods Carriages having Income u/s. 44AE and not owning more than 10 goods carriage. Nil rates will be applicable if the transporter quotes his PAN and furnishes prescribed declaration.

[3] This limit is for individual transaction. However, if aggregate payment to contractors during the year exceeds Rs.1,00,000 then tax will have required to be deducted even where individual transaction is less than the threshold limit of Rs. 30,000

[4] In case TDS is to be made as per section 206AA, TDS amount shall not exceed rent payable for the last month of financial year or last month of tenancy.

[5] This limit is provided to only e-commerce participant being resident individual or HUF whose gross amount from sale of services and goods does not exceed Rs. 5 lacs and provided PAN or Aadhar card.

[6] Specified senior citizen need to submit declaration in the prescribed Form and manner to the Specified Bank. Accordingly, such specified senior citizen is not required to file ITR for the year in which TDS is deducted.

[7] No TDS will be withheld, in case where units have been acquired from UTI out of Non-Resident External account maintained in India or remittance of Funds in foreign currency as per FEMA regulations.

[8] Individuals or HUF whose Total Sales or Gross Receipts or Turnover does not exceed Rs. 1 Crore in case of Business or Rs. 50 lacs in case of Profession during the financial year immediately preceding the financial year in which such asset is transferred.

Note 1: A non-resident including foreign company is subject to lower withholding tax, if any, specified under applicable tax treaty subject to compliance with treaty access provision as provided under the Act.

Note 2: In order to strengthen the PAN /Aadhar Mechanism, as per section 206AA of the Act any person whose receipts are subject to TDS i.e. the deductee, shall furnish his PAN / Aadhar to the deductor failing which the deductor shall deduct tax at source at higher of the following rates:

(i) prescribed in the Act;

(ii) at the rate in force i.e. the rate mentioned in the Finance Act; or

(iii) 20%

However, in the case TDS is required to be deducted u/s 194O and 194Q, the maximum TDS rate will be 5% instead of 20%. Further, in case of TDS deductible u/s. 192A where PAN in not furnished, TDS shall be deducted at 20%.

In addition to above, 206AB of the Act provides higher rate of TDS in case where deductee who is non-filer of income-tax return (in respect of latest assessment year for which time limit for filing of tax return is already expired) excluding a non-resident not having PE in India.

Accordingly, except in case of TDS falling under section 192, 192A, 194B,194BB, 194LBC, 194N, 194IA, 194IB and 194M and TDS by specified person u/s.194S; if deductee has not filed income tax return for immediately preceding AY for which time limit to file original return has expired and aggregate of TDS deducted and TCS collected in such AY is Rs. 50,000 or more, the deductor is required to deduct TDS at higher of the following rates;

(i) Twice of the rate prescribed in the Act;

(ii) at twice the rate in force i.e. the rate mentioned in the Finance Act; or

(iii) 5%

TCS Rates for FY 2023-24

Rates of Tax Collection at Source

Section	Nature of Payment	Threshold Limit (Rs.)	Rate
206C	Sale of alcoholic Liquor for human consumption & Indian made foreign Liquor	0	1%
206C	Sale of Timber obtained by any mode and any other forest produce	0	2.5%
206C	Sale of scrap	0	1%
206C	Parking Lot/ Toll plaza/Mining and Quarrying	0	2%
206C	Sale of tendu Leaves	0	5%
206C	Minerals, being coal or lignite or iron ore	0	1%

Section	Nature of Payment	Threshold Limit (Rs.)	Rate
206C(1F)	Sale of Motor Car	10,00,000	1%
206C(1G)	Remittance out of India under the LRS for purpose other than educational, medical and overseas tour package (w.e.f. 01-07-2023)	0	20%***
206C(1G)	Remittance out of India – Education Loan (Loan is taken from financial institution as defined u/s80E) (w.e.f. 01-07-2023)	7,00,000	0.5%
206C(1G)	Remittance out of India – Medical treatment or Educational Purpose other than above (w.e.f 01-07-2023)	7,00,000	5%
206C(1G)	Sale of overseas Tour Package (w.e.f 01-07-2023)	0	20%***
206C(1H)	Sale of goods (not covered under any of the above provision) excluding the case where the buyer of goods is liable to deduct tax at source on such goods under any other provision and has deducted such TDS)	50,00,000 [1]	0.1%

**TCS will not be applicable in cases where the buyer being deductor has already deducted TDS from the consideration as per the provision of Chapter XVII-B.

*** Please refer provision of section 206C for tax rate applicable upto 30-06-2023.

[1] The provisions of section 206C(1H) is applicable to seller whose turnover exceeded Rs. 10 crore during the immediately preceding financial year. Further, certain specified buyer such as central or state government, local authority or any other person as specified are excluded from the provision of the said section.

Note I: In order to strengthen the PAN/Aadhar Mechanism, as per section 206CC of the Act, any person who makes above nature of payment which is subject to TCS shall furnish his PAN/ Aadhar to the seller failing which the seller shall collect tax at source at higher of the following rates:

(i) at twice the rate specified in the section, or
(ii) at the rate of 5%

Further, in a case where TCS need to be collected u/s 206C(1H) and buyer has not provided PAN or Aadhar Card, TCS will be collected at the rate of 1%.

In addition to above, section 206CCA provides higher rate of TCS in case where buyer being non-filer of income-tax return excluding non-resident not having PE in India.

Accordingly, if buyer has not filed income tax return for immediately preceding AY for which time limit to file original return is expired and aggregate of TDS deducted and TCS collected in such AY is Rs. 50,000 or more, seller is required to collect TCS at twice the rate prescribed in the Act or 5%, whichever is higher.

Other Rates

Rates of Equalisation Levy

Section	Nature of Payment	Threshold Limit (Rs.)	Rate
165	Equalisation Levy in respect of Specified Services (e.g. online advertisement) provided by non-resident excluding case where services are not for business or profession.	1,00,000	6%
165A	Equalisation Levy in respect of e-commerce supply or services made by Non-Resident e-commerce operator	2 Crore	2%

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