# BUDGET PANORAMA 2023

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# Content

Advith Consulting is a business consulting firm with almost 40 years of experience on its resume. We provide a myriad of business consulting services in the fields of Direct tax, Indirect tax, Outsourcing (CFO services, Accounts, Payroll & Compliance Management), Corporate law & Advisory among others.

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Budget Panorama is an annual edition e-released by Advith Consulting LLP soon after the budget is presented by the Finance Minister of India. This e-release gives a panoramic view of the recently announced budget with the objective of educating the audience. The study is pragmatic and provides a brief overview of the budget. Every attempt is made to make the content lucid so that a layman can easily comprehend the substance.

# Foreword

The Hon'ble Finance Minister of India (FM), Mrs. Nirmala Sitharaman, presented the Budget 2023 on February 1, 2023. In India, Budget is no less than a festival. The excitement that budget day gathers from all sections of society, shows the importance that it carries. In the Budget for the year 2022, FM had set the vision for India@100. The new budget is on the same track. The Indian economy has been a bright star, and the world has already recognized this. With the highest growth rate amongst all the major economies, India seems to be at the forefront in the economic action at the moment.

The FM presented her Budget revolving around the theme 'Saptarishi'. Since the last few years, a thematic budget presentation has almost become routine every year. It is very interesting to notice that this year the focus is more inwards into India, with aspects like Millets, Co-operatives, regional connectivity etc., finding their place in the Budget speech. This is in sync with the Atmanirbhar Bharat vision set out by the Prime Minister in 2020. The thrust on technology to deliver various government schemes can also be clearly noticed, starting from the Budgetary presentation and continuing through the announcements made in the Budget.

The tax collection has seen steady growth in 2022-23, a large credit for this should be given to various tech-enabled tax administration steps that have been taken in the last few years. The FM reaffirmed that India continues on the path of fiscal consolidation and will reach a fiscal deficit below 4.5% by 2025-26. This is a delightful announcement and none of the announcements in the budget seemed fiscally imprudent, giving a hope that reaching the fiscal deficit target seems achievable.

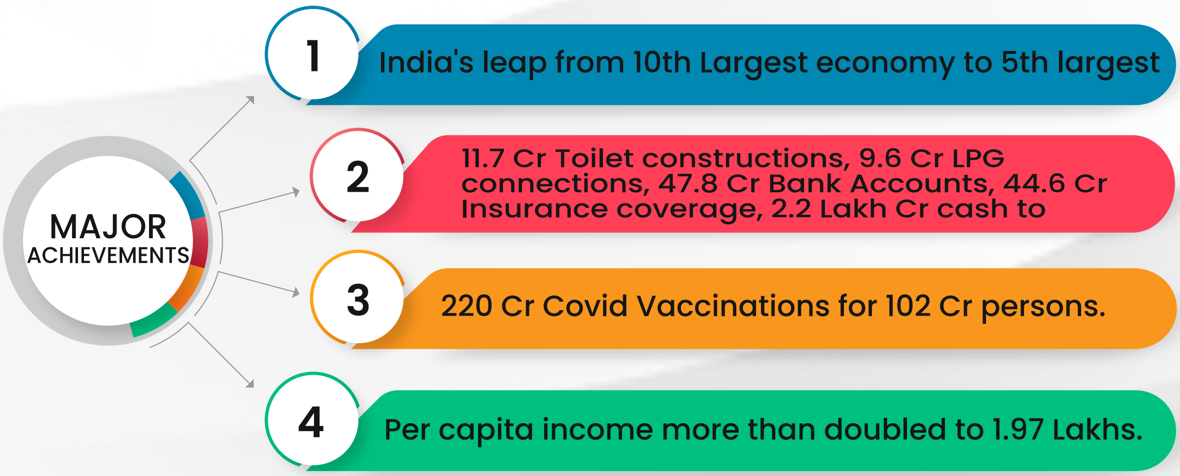
In terms of tax proposals, this is the second year in a row that the number of amendments proposed is on the low side. Thus, it brings a lot of certainty and clarity to taxpayers in general, which is a welcome decision. The working middle class, which forms a significant part of India's population, had reasons to cheer, with tax slabs increasing and tax rates coming down under the new income tax regime. The noose around Trusts and NGOs is being tightened further and that is clearly visible from the last few years. While on one hand, this is important as a significant amount of tax leakage does happen in this sector, it also makes it difficult for genuine small to medium trusts to comply with stricter norms. Efforts to de-clutter the Income tax appellate process by adding another set of appellate officers is a welcome step.

To summarize, the Budget 2023 was less fanfare, less on steep promises and seemed more practical, which is the need of the hour.

**Krishna Upadhya S**
Lead, Direct Tax Services

## Macro Economic View

By opening the tablet in a red pouch, honourable minister prescribed Indian economy is is in its right track. She continued to describe it as 'Bright Star' with an estimated economic growth of 7% that is heading towards bright future. From showcasing resilience amidst multiple crisis, reiterating the opportunities in steering global agenda of the G20 presidency, she went on to compliment major achievements since 2014 factually. Major of them being:




Vision for Amrit Kaal – being empowered and Inclusive economy was set to create opportunities for citizens focusing more on youth, to have growth in job creations and to build strong and stable microeconomics. To Achieve this, Economic empowerment of women, PM VIKAS, Tourism and Green growth has been considered the sheer opportunities.

The Union Budget 2023-24 was set with the prime motto of "Amrit Kaal" with seven priorities as metaphors for Saptarshi who were known to guide the growth of the destined vision and to complement each other. They are mainly:

# Macro Economic View

## 1. Inclusive Development

### a) Agriculture and Cooperation

I) Agricultural activities are given boost by having funds allocated with the intention of Digital Public Infrastructure for Agriculture.

II) Agricultural Accelerator funds have been allocated, Cotton is bought under PPP and Horticulture productivity enhanced with 2200 crore allocation and PM Matysa Sampada Yojana for Fishers at 6,000 Crores.

III) India being largest producer of Shri Anna – several types of Millets will have Centre for excellence in Hyderabad.

### b) Health, Education and Skilling

I) Along with 2.1% GDP Allocation for health sector, a Proposal for 147 new medical nursing colleges , Target to eliminate Sickle Cell Anaemia by 2047 Collaborative research and innovation to be facilitated with private sector.

II) Along with 2.9% Allocation to Education and skill development, teachers' training has been given prime emphasis at district level. National Digital library and PMKVY 4.0 launch are the other proposals under this segment.

## 2. Reaching The Last Mile

With the intention that no one shall be left behind, focus has been given to uplift the backward and vulnerable groups along with naturally affected areas.

a) Aspirational districts and blocks programme is launched for saturation of essential govt. programmes.

b) PM Particularly Vulnerable Tribal Groups mission will be launched to take care of basic essentials including accommodation of PVTG Families. 15,000 crores allotted for this.

c) Finance assistance of 5,300 crore sanctioned for sustainable micro irrigation in drought prone areas of Karnataka.

d) Free food grains for Antyodaya and priority households under PMKY, 38,800 teachers, 740 Ekalavya model school and a sanction of 79,000 Crores for PM Awas Yojana are the other proposals.

e) Bharath SHRI is proposed for digitisation of the ancient inscriptions.

## Macro Economic View

### 3. Infrastructure and Investment

a) Considering the multiplier impact of capex on growth and employment, it has been substantially increased by 33.34% to 10 Lakh crores which tantamount to 3.3% of GDP.

b) Further, to support the States in capex, 50 year interest free loan has been continued.

c) Capital outlay of 2.4Lakh crores has been sanctioned to Railways, which is highest ever.

d) 50 Additional airports, heliports, water aerodromes and advance landing grounds planned to revive for improved regional Air Connectivity.

e) Urban Infrastructure Development Fund (UIDF) shall be established to improve the urban Infrastructure in Tier I and Tier II cities. 10,000 crores are earmarked for this.


### 4. Unleashing the Potential

a) With the intent of achieving ease of doing business, more than 39,000 compliances have been reduced and more than 3,400 legal provisions have been decriminalized.

b) "Make A-I in India and Make A-I work for India" to achieve this vision, three AI centre of excellence shall be set up in prominent educational institutions.

c) Entity Digilockers have been proposed to be set up for use by MSMEs, Large businesses and Trusts for easy document exchange between them and authorities, banks and regulators.

d) 100 Labs has been proposed to develop 5G technology along with smart classrooms, precision farming, intelligent transport systems, and health care applications.

e) E-courts Phase III, Vivad se Vishwas I and II shall get implemented. To achieve the better allocation of scare resources, Input based to Result based financing has been proposed.

## Macro Economic View

### 5. Green Growth

a) To achieve net zero carbon nation by 2070 and reduce dependence on fossil fuel imports National Green Hydrogen Mission is laid down with Rs 19,700 Crores.

b) It is proposed to coin LiFE – Lifestyle for Environment, for encouraging environmental conscious lifestyle. Also, Rs 35,000 Crore has been earmarked for capex on energy transition.

c) To achieve sustainable economy, Battery Energy Storage Systems with capacity of 4,000 MWH shall be supported.

d) Green Credit Programme, PM-PRANAM shall be introduced to incentives the sustainable actions.

e) 500 new 'Waste to Wealth' plants GOBARdhan scheme, MISHTI a mangrove plantation plans along coastaline, Amrit Dharohar for the optimal use of Dry lands has been proposed under this priority.

f) To support the natural farming, over 1 crore farmers shall be facilitated with 10,000 Bio Input Resource Centres under Bhartiya Prakritik Kheti Bio-Input Resource Centres.

### 6. Youth Power

To empower youth via, 'Amrit peedhi' following highlighted aspects are bought in

a) Teaching aids and techniques are proposed to the New Educational Policy (NEP).

b) To Support 47 Lakh youth in 3 years, Direct Benefit transfer under National Apprenticeship Promotion Scheme gets rolled out.

c) Unity Mall shall be set up to be a marketplace for promotion and sale of ODOPs (one district, one product), GI products and other handicraft products.

d) 50 Destinations will be selected for boosting tourism to attract domestic and foreign tourists.

e) Skill India and Digital Platform, Pradhan Mantri Kaushal Vikas Yojana 4.0 shall be rooted to upskill the youth over various skills like demand based formal skilling, AI, Robotics, On Job training, Industry partnership etc.

# Macro Economic View

## 7. Financial Sector

a) Further infusion of 9,000 crore is proposed under CGTMSE to enable additional collateral free guaranteed credit of Rs 2 Lakh crore. Also, cost of credit is targeted to reduce by 1%.

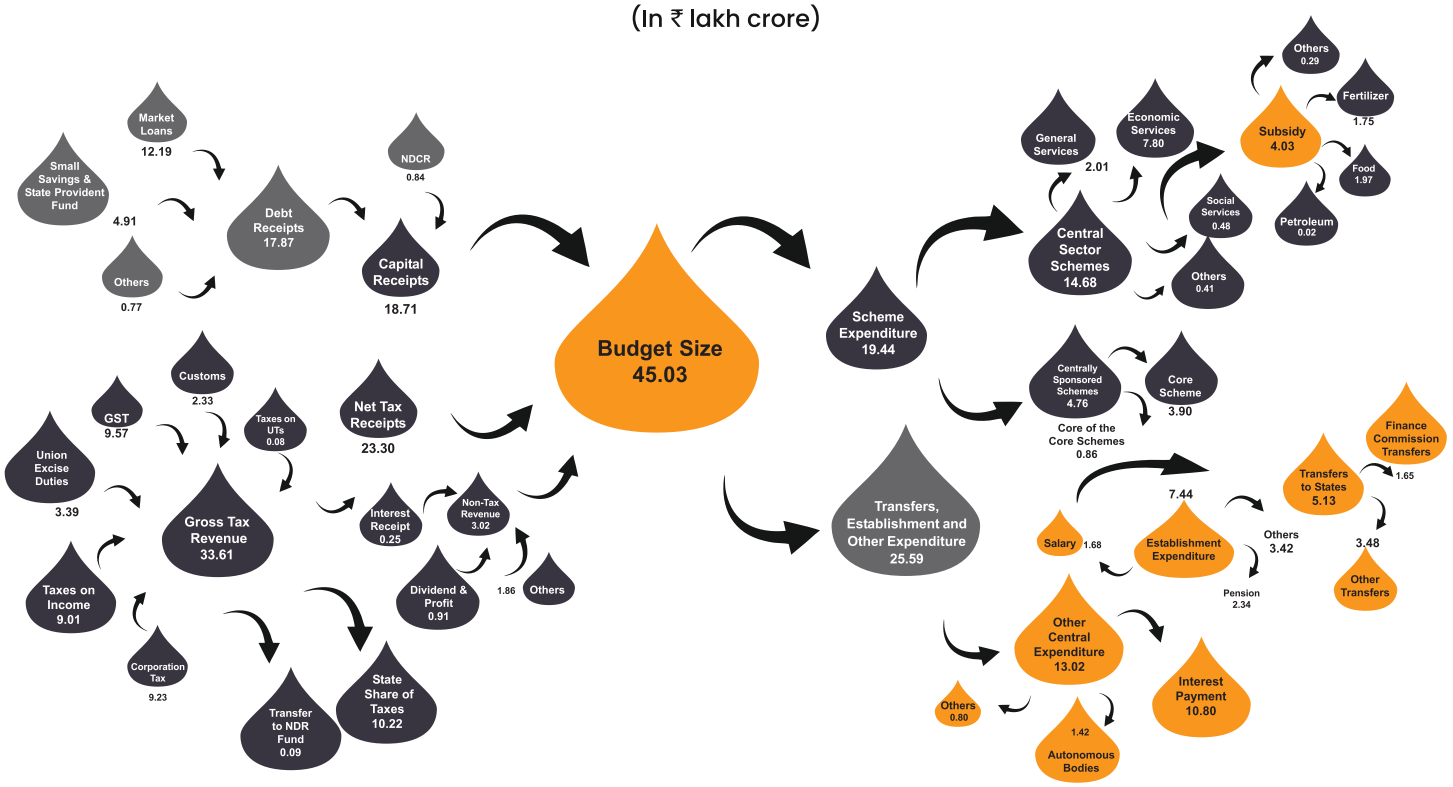
b) To facilitate efficient credit flow, financial inclusions and faster financial stability, National Financial Information Registry is set up.

c) Central Data Processing Centres are set up to handle administrative aspects under Companies Act.

d) One-time new small saving scheme for 2-year period with 7.5% interest for women and limit under Senior Citizen Saving Scheme is doubled to 30 Lakhs. For monthly Income Account scheme amounts are increase from 4.5 Lakhs to 9 Lakhs and from 9 Lakhs to 15 Lakhs for Joint Account.

### "Rupee comes from >> Rupee goes to"

(In ₹ lakh crore)



## Direct Tax Related Proposals

All the proposals are applicable from AY 2024-25, unless specifically specified.

### 1. Proposals relating to New Tax Regime

- **Section 115BAC: New Tax Regime for Individual HUF, AOP BOI etc**
  - 115BAC provides for an alternate income tax computation regime. This regime in general has done away with a lot of deductions, reduced tax rates and contains multiple thresholds for those tax rates. This regime is currently applicable for Individuals and HUF only.
  - It is proposed to extend the benefit of the new tax regime also to associations of persons (other than a co-operative society), or body of individuals, whether incorporated or not, or an artificial juridical person referred to in subclause (vii) of clause (31) of Section 2.
  - It is also proposed to revise the tax slab and rates as follows:

| Sl. No. | Total Income | Rate of Tax |
|---|---|---|
| 1. | Up to Rs.3,00,000 | Nil |
| 2. | From Rs.3,00,001 to Rs.6,00,000 | 5 % |
| 3. | From Rs.6,00,001 to Rs.9,00,000 | 10 % |
| 4. | From Rs.9,00,001 to Rs.12,00,000 | 15 % |
| 5. | From Rs.12,00,001 to Rs.15,00,000 | 20 % |
| 6. | Above Rs.15,00,000 | 30 % |

## Direct Tax Related Proposals

- It is also proposed to amend subsection (2) to provide standard deduction on salary to the extent of Rs. 50,000 and a deduction in respect of a contribution made to the Agniveer Corpus Fund.
- From the AY 2024-25, new tax regime is default option and in case taxpayer wants to opt out of the provisions of section 115BAC he should exercise the option before the due date of filing the returns.
- New tax regime is flexible for the Assessee who does not have income from business or profession and they can opt for the new tax regime or old tax regime whichever is more beneficial on year-to-year basis.
- In case assessee having income under business or profession they can withdraw the option to tax under new regime only once and thereafter he can opt for new tax regime if he ceases to have business income.
- Section 87A provides for rebate from Income tax for those persons having taxable income up to Rs.500,000. It is proposed to enhance this limit up to Rs.700,000 for those opting for taxation under new regime of taxation u/s 115BAC.

### ▶ New Section 115BAE: A new Tax Regime for Manufacturing Co-operative Societies

- The proposed section is applicable to resident co-operative societies that are engaged in manufacturing or production of an article or thing other than those specifically excluded under 115BAE.
- The section 115BAE is proposed to state that, if manufacturing co-operative society opts for computation of its income as per provisions of section 115BAE, total income of manufacturing co-operative society shall be taxed at the rate of 15%. A manufacturing co-operative society shall exercise such an option before the due date of filing and an option once exercised cannot be withdrawn in any year.

# Direct Tax Related Proposals

## 2. Proposals relating to Income from Salary

### Proposals specifically relating Agnipath Scheme 2022

- It is proposed to insert new clause (ix) to Section 17, which state that, contribution made by the central government to Agniveer corpus Fund Account will be treated as Salary.
- It is also proposed to insert new section 80CCH that, any amount paid or deposited by an individual who is enrolled in Agnipath Scheme, the whole such amount is allowed as deduction while computing his total income. This deduction is in addition to limit of Rs.150,000 as prescribed in Section 80CCE.
- A new clause 10(12C) is proposed to be added to provide for exemption of amounts paid out of the Agnipath Scheme to the person enrolled under such a scheme or his nominee.

### Amendment relating to Rent-Free Accommodation

- Section 17(2) defines the term Perquisite, which forms part of Income from Salary. Currently, Rent free accommodation or Accommodation provided at concessional rent are also part of the term perquisite. No method to compute this perquisite existed so far.
- Currently, an amendment has been proposed to enable provision to notify a method of computing the rent for the purpose of this section. This amendment is expected to be applicable from AY 2024-25 onwards.

## 3. Proposals relating to Business Income

### Charging Section – Benefit or perquisite

- Section 28 is the charging section under “Income from Business or Profession”. Section 28(iv) provides that value of any benefit or perquisite whether convertible into money or not is also covered hereunder.
- It is now proposed to substitute 28(iv) to state that, value of a benefit or perquisite arising from business or profession covers a benefit or perquisite convertible into money or received in cash or in kind or partly in cash or in kind.

# Direct Tax Related Proposals

### Preliminary Expenses

- Section 35D provides for amortization of preliminary expenses incurred while computing Income from Business or profession.
- An amendment has been proposed to replace an existing proviso with a new one, that states that, in case taxpayer is amortizing the preliminary expenses provided in the section 35D, taxpayer should furnish a statement (to be notified) to such an income tax authority within the prescribed time.

### Payment to MSME

- Section 43B provides for a list of expenses which that are allowed in computing the Income from Business or profession only on actual payment and not otherwise.
- A new item to that list is proposed to be added specifying that payments to micro or small enterprise as defined in section 15 of Micro, Small and Medium Enterprises Development Act, 2006 will also be allowed only on actual payment. It is also pertinent to note that, while in general, section 43B allows the expenditure if the payment is made before the due date of filing ITR as prescribed u/s 139(1). Such extended timeline is not available for the payments to be made to the above units.

### Presumptive income for small businesses and Audit

- Section 44AD provides for flexibility to opt for presumptive income estimation for Income from Business. Further, section 44AB provides for audit to be carried out if 44AD is either not applicable or is beyond certain thresholds.
- It is proposed to amend 44AB to state that, Section 44AB shall not apply if the income is declared as per section 44AD or 44ADA.
- Further, it is proposed to increase the threshold for applicability of presumptive taxation for business income (section 44AD) from total turnover or gross receipts of Rs.2 crore to Rs.3 crore in case eligible taxpayers not having cash receipts of more than five percent of total turnover or gross receipts.
- Further amendment is also proposed to insert new proviso do clarify that cheque or bank draft which is not account payee shall be deemed to be received in cash.

### Presumptive Income for Professionals

- Section 44ADA provides for opting for presumptive income based income estimation for eligible professionals. The current threshold under this section is Rs. 50 lakhs in a financial year.

## Direct Tax Related Proposals

- It is proposed to increase this threshold to  Rs. 75 lakhs in case of aggregate gross receipt received in cash does not exceed 5% of the total gross receipts.
- Further amendment is also proposed to insert new proviso to clarify that cheque or bank draft which is not account payee shall be deemed to be received in cash

### Amendment to Section 44BB

- It is proposed to include that, if the non-resident declares profit or gains from business of exploration etc from mineral oil in accordance with section 44BB, he/she shall not be allowed to claim set off of unabsorbed depreciation and brought forward loss of previous years.

### Amendment to Section 44BBB

- It is proposed to include that, if the non-resident declares profit or gains from Turnkey power project in accordance with section 44BBB, he/she shall not be allowed to claim set off of unabsorbed depreciation and brought forward losses from previous years.

### Co-operative societies engaged in Manufacture of Sugar

- It is proposed to amend insert 155(19) to provide relief to co-operative society engaged in the business of manufacture of sugar. On or before the 1st day of April 2014, any expenditure incurred on purchase of sugar case is disallowed on the basis of price approved or fixed by the Government, it is proposed to allow such co-operative societies to file application within four years from end of previous year on the 1st day of April, 2022 before the Assessing Officer to recomputes their total income for allowing such excess expenditure.

## 4. Proposals relating to Capital gains taxation

### Amendment to Section 45 (5A)

- Section 45(5A) provides for taxation of Capital gains in the hands of the landowner when an immovable property is subjected to a specified agreement for development of such immovable property. The consideration in such a transaction would be the value of the built-up area/developed land received plus amount received in cash, if any.

## Direct Tax Related Proposals

- It is proposed to substitute words from "the consideration received in cash, if any,", to the words "any consideration received in cash or by a cheque or draft or by any other mode", with effect from AY 2024-25.

### Amendment to Section 48

- Section 48 provides the mode of computation of capital gains. It is proposed to insert proviso to section 48 to state that, in case any deduction has been claimed on account of interest on housing loan or repayment of loan under chapter VI-A, such deduction is not allowed as cost of acquisition or cost of improvements while computing the capital gains.

### Market Linked Debenture

- It is proposed to insert new section 50AA to tax Market Linked Debentures as Short Term Capital Gain. While computing the capital gain from Market Linked Debentures Cost of acquisition and the expenditure incurred wholly and exclusively in connection with such transfer or redemption or maturity can be claimed against the consideration received or accruing as a result of redemption or transfer of market linked debentures.
- Further, Market Linked Debenture is defined to mean 'a security by whatever name called, which has an underlying principal component in the form of debt security and where the returns are linked to the market returns on other underlying securities or indices, and includes any security classified or regulated as a market linked debenture by the Securities and Exchange Board of India.

# Direct Tax Related Proposals

## Capital Gain Exemption under Section 54

- In case capital gain arises on sale of residential house property, Individual or HUF can claim exemption by investing capital gain in another residential house in India. It is now proposed to insert new proviso to section 54 to restrict exemption from capital gain by limiting the amount of investment to new asset to Rs. 10 crores. If investment in new asset is more than 10 crore, the investment in excess of 10 crores is not eligible for claiming exemption against the capital gain arising from sale of residential house property.

## Capital Gain Exemption under Section 54F

- In case capital gain on sale of long term capital asset (other than residential house), Individual or HUF can claim exemption by investing capital gain in residential house in India.
- Now it is proposed to insert new proviso to state that, in case investment in new asset is more than 10 crores, amount exceeding 10 crores is not eligible for computing the capital gain exemption.

## Proposals relating to Electronic Gold Receipt (EGR)

- Section 47 of the Act provides for certain transfer of Capital asset not be treated as transfer for the purpose of Capital gains.
- New sub-clause is proposed to be added to section 47, whereby the conversion of gold into Electronic Gold Receipt issued by a Vault Manager, or conversion of Electronic Gold Receipt into gold is not treated as transfer.
- Furthermore, consequential amendments are proposed in section 2(42A) on period of holding and section 49 – Cost in the event of such conversions. A tabulation of the same is as under:

| Conversion | Cost of Acquisition | Period of Holding |
|---|---|---|
| On conversion of Gold into EGR | Cost of gold in the hands of person of in whose name EGR is issued | Period for which gold was held prior to conversion |
| On Conversion of EGR into Gold | Cost of EGR in the hands of person who receives the Gold | Period for which EGR was held prior to conversion |

# Direct Tax Related Proposals

## 5. Proposals relating to Units in SEZ

- Section 10AA provides for deduction from taxable income, for units operating in Special Economic Zone (SEZ) subject to certain conditions.
- It is proposed to insert new proviso which states that, no deduction under section 10AA will be allowed unless return of income is furnished before the due date specified under section 139(1).
- It is also proposed to insert new section (4A) to state that, this section applies to SEZ unit only if proceeds from sale of goods or provision of service is received in or brought into India in convertible foreign exchange within six months from the end of the previous year or within such period as may be allowed by competent authority.
- It is proposed to amend subsection 155(11A) to provide deduction under section 10AA to file rectification application in case convertible foreign exchange received in India or brought into India received after the due date of filing the return.

## 6. Proposals relating relating to start-ups

### Amendment to Section 79

- Section 79 provides that in case of company (other than company in which public are substantially interested), loss incurred in any year shall be carried forward and allowed to be setoff only if shares carrying 51% or more are held by the same persons who held 51% in the year in which losses occurred. For an eligible start-up this condition is relaxed and it is sufficient if all the shareholders hold shares both in the year of incurring the losses and in the year of set-off. This is provided if the losses are incurred within 7 years from the date of incorporation of such eligible start-up.
- It is now proposed to increase the time limit for the relaxation from 7 years to 10 years.

## Direct Tax Related Proposals

### Section 80IAC

- 80IAC provides for exemption of the profits of eligible start-ups from tax for a period of 3 consecutive years out of 10 years, provided they are incorporated before 1st April, 2013.
- It is now proposed to extend the date of incorporation up to 1st April, 2024.

### Section 56(2)(viib)

- Section 56(2)(viib) provides that when a company issues shares at premium, such premium should not exceed the Fair market Value determined as provided in this section. If it does, the differential will be considered as income in the hands of the company issuing the shares
- These provisions were not applicable for eligible start-ups, investment received from non-residents, Venture Capitalists etc.
- It is now proposed that the benefit of non-applicability is no longer available for investment received from non-residents.

## 7. Proposals relating to deduction and collection of tax at source

### Section 192A: Payment of accumulated balance due to an employee

- On termination of the employment if an employee withdraws accumulated balance in the PF within 5 years of his employment, then on such withdrawal TDS shall be deducted at the rate of 10% if the withdrawal balance is more than 50,000 Rupees. If there is a non-submission of PAN then tax shall be deducted at Maximum Marginal Rate.
- It is proposed to omit to deduction of tax at MMR on non-submission of the PAN at the time of withdrawal of Accumulated balance, there by tax shall be deducted in accordance with the provisions of Section 206AA
- This provision is expected to be applicable from 1st April 2023.

### Section 193: TDS on Interest on securities

- Section 193 provides the exemption on any interest payable on any security issued by a company which are in dematerialized form and is listed on recognised stock exchange in India. Now it is proposed to omit the above provision and tax shall be deducted at source on such interest.

## Direct Tax Related Proposals

**194B: TDS on Winnings from lottery or crossword puzzle, etc**

- It is proposed to include person responsible for paying to any person any income from gambling or betting of any form or nature whatsoever within the ambit of tax deduction in this section.
- TDS should be deducted where amount or the aggregate of amounts during the financial year exceed Rs.10,000, at rates in force, which currently is 30%.
- It is proposed to insert new proviso to exclude winnings from online games from the ambit of this section from 1st July 2023.

**Section 115BBJ and Section 194BA: winnings from online games**

- A new taxation regime is proposed to be introduced for taxation of winnings from online games.
- Section 115BBJ is proposed to be introduced w.e.f AY 2024-25
- It is applicable when the total income of a taxpayer includes winnings from online games
- Income tax payable shall be aggregate of:
  - o Income tax on net winnings (to be calculated in a manner to be prescribed) at 30%
  - o Other income – normal provisions


- Consequently, a new Section 194BA is also proposed which states that, tax is to be deducted on the winnings from online games.
- Such deduction is to be effect at the end of the financial year at rates in force, on the net winnings in a user's account.
- In case user is withdrawing winnings from user account, tax is to be deducted on such net winnings in such withdrawal at the time of withdrawal and on the balance amount on net winnings, tax to be deducted at the end of the financial year.
- If net winnings are wholly in kind or partly in cash and partly in kind, person responsible for deducting tax should ensure that before releasing the net winnings, entire tax on such net winnings has been paid.
- It is proposed to insert proviso to section 115BB to exclude winnings from any online game.
- TDS provisions are proposed to be effective from 1st July 2023.

## Direct Tax Related Proposals

### ▶ Section 194BB: TDS on winnings from horse race.

- TDS is deductible on winning from horse race or for arranging for wagering or betting in horse race under 194BB.
- An amendment has been proposed whereby threshold of Rs.10,000 is replaced with the term 'amount or the aggregate of the amounts exceeding ten thousand rupees during the financial year'

### ▶ Section 194N: TDS on Cash withdrawals

- Every banking company, co-operative society or post office responsible for paying any amount or aggregate of amount in excess of Rs.1 crore is required to deduct tax at source at 2%.
- It is proposed to enhance the limit of applicability of tax deduction for co-operative society withdrawing cash to Rs.3 crores in a financial year.

### ▶ Section 194R: TDS on benefit or perquisite in respect of business or profession

- It is proposed to clarify that, TDS will be applicable when any benefit or perquisite whether it is paid in cash or kind or partly cash and partly in kind.

### ▶ Section 197: Certificate for deduction at lower rate

- It is proposed to amend section 197 to include persons covered under section '194LBA – TDS on distributed income from Business Trust to its Units holders', can also apply to tax officer seeking grant of lower tax deduction certificate.

### ▶ Section 206AB: Special provisions for deduction of tax at source for non-filers of income tax returns

- If a person has not filed income tax returns for the assessment year immediately preceding previous year, for which due date for such filing does not fall in the present previous year then in such cases tax shall be subjected to tax deduction at the rate higher of

a. Twice the rate specified in the relevant provisions of the act

b. Twice the rate or rates in force

c. At the rate of 5%

## Direct Tax Related Proposals

- Now it is proposed to exclude,
  a. Non-residents who do not have any permanent establishment in India.
  b. Person who is not required to furnish the return of income for the assessment year relevant to the previous year, as to be notified by Central Government from the rigorous of higher tax deduction.
- Similar exclusion is also proposed to be introduced in section 206CCA - Special provisions for collection of tax at source for non-filers of income tax returns

### ▶ Section 206C(1G): TCS on Foreign remittance (1st July 2023)

- Section 206C provides for TCS to be collected in various circumstances
- 206C(1G) provides for TCS to be collected by an authorized dealer of foreign currency to be affected on remittances to be made outside India under Liberalised Remittance Scheme (LRS) or for overseas tour program package
- There are certain amendments proposed on which, which are tabulated as under:

| Sl. | Type of remittance | Present rate | Proposed rate |
|---|---|---|---|
| 1. | For the purpose of any education, if the amount being remitted out is a loan obtained from any financial institution as defined in section 80E. | 0.5% of the amount or the aggregate of the amounts in excess of Rs. 7 lakhs. | No change |
| 2. | For the purpose of education, other than (i) or for the purpose of medical treatment | 5% of the amount or the aggregate of the amounts in excess of Rs. 7 lakhs. | No change |
| 3. | Overseas Tour package | 5% without threshold limit | 20% without threshold |
| 4. | Any other case | 5% of the amount or the aggregate of the amounts in excess of Rs. 7 lakhs. | 20% without threshold |

## Direct Tax Related Proposals

### Section 241A and 254

- Section 241A provides powers to AO to withhold refund which becomes dues in intimation u/s 143(1), if for the same AY notice u/s 143(2) has been issued. This power is to be exercised when AO is of the opinion that providing the refund will adversely affect the revenue. Reason to be recorded in writing and approval of CIT/PCIT to be obtained
- Section 245 provides power to AO to set-off refunds due with demands outstanding from the same assessee, after giving an intimation of the same in writing
- 241A is proposed to be made inapplicable from 1st April, 2023
- Section 245 is replaced with a new provision to combine the existing 241A also into 245 itself
- With the proposed amendment, AO can withhold the refunds for cause of adversely affecting the revenue or adjust the demand and refund (by giving intimation for the same) as per provision of new section 245 itself
- The proposed amendment is to take effect from 1st April, 2023

### Section 155 and Section 244A

- 244A provides for the interest to be paid on refund granted.
- Section 155(20) proposes to cover a situation where income is included in the ITR by a taxpayer in a particular AY and the TDS on such income is deducted & paid to the credit of the taxpayer in a subsequent AY
- Application can be made by the taxpayer in a form (to be prescribed) within 2 years from end of the FY in which such TDS was deducted
- AO to amend the order or intimation allowing the credit of such TDS in the relevant AY. Such TDS credit shall not be allowed in any other AY
- Interest u/s 244A in such cases will be calculated at 1.5% per month from the date of application u/s 155(20) till the date of refund
- The proposed amendment is to take effect from 1st October, 2023

# Direct Tax Related Proposals

## 8. Proposals relating to Transfer Pricing

### Section 92D

- Section 92D prescribes maintenance and furnishing Transfer Pricing documentation. Currently, once the tax officer directs furnishing of such documentation, the law allows 30 days to comply with the same.
- It is proposed to reduce the time limit from thirty days to ten days.

### Section 94B

- 94B provides for disallowing Interest expenditure from debt borrowed by an Indian company or Permanent Establishment of a Foreign company from its Associates Enterprises. Such disallowance would occur on non-satisfaction of certain conditions which are laid down in section 94B. These provisions are not applicable for such companies which are engaged in Banking business or insurance business.
- It is proposed to amend the section to include such class of Non-Banking Financial Company (NBFC) as notified by Central Government

## 9. Proposals relating to assessment and Appeal provisions

### Section 142 – Inventory Valuation

- Section 142(2A) empowers tax officer(after seeking suitable approval) to direct special audit to be conducted on a particular taxpayer during the course of assessment from a Chartered Accountant.
- It is now proposed to enhance the power of the Assessing Officer to direct the taxpayer to get inventory valuation by the cost accountant nominated by the PCCIT or CCIT or PCIT or CIT.

### Section 148

- Section 148 enables the re-opening an assessment by a tax officer and directs the taxpayer to file a ITR in response to such reopening notice. The time limit for furnishing the ITR currently is to be spelt out in the notice itself.
- It is proposed to amend section 148 to provide three months from the end of the month in which such notice is issued or further period as allowed by the AO on application made by the taxpayer for furnishing the ITR.
- It is also proposed to state that return filed beyond the timeline provided u/s 148 shall not be treated as return filed under section 139.

## Direct Tax Related Proposals

### Section 153

- It is proposed to insert proviso to state that, order of assessment under section 143 / 144 for the assessment year commencing on or after 1st April 2022 shall be made within 12 months from end of the assessment year in which the income was first assessable.
- It is proposed to amend sub-section (1A) to state that, in case of updated return[filed u/s 139(8A)], order of assessment under section 143 /144 may be made 12 months from the end of the financial year in which such return was furnished.

### Section 170A

- It is proposed to substitute the entire section to state that, in case of the business reorganization return, of income is filed by the entity prior to the date of order of a High Court or tribunal or an Adjudicating Authority (under Insolvency and Bankruptcy Code), successor company shall file modified return in accordance with or limited to the said order within six months from the end of the month in which the order was issued.
- It is proposed to substitute subsection (2) to state that, in case of assessment or reassessment proceedings for the assessment year to which such business reorganization applies,

  (a) In case assessment or reassessment have been completed on the date of furnishing of the modified return, tax officer shall pass order modifying the total income by considering the modified return

  (b) In case assessment or reassessment is pending tax officer shall pass an order assessing or reassessing the total income by considering the modified return

### Amendment relating to First level appeals

- Currently, once an order of assessment is passed by the tax officer, if the taxpayer is not satisfied with such order, usually, the appeal is to be filed before Commissioner Income tax (Appeals). The provisions relating to the same are available in section 246A.
- It is now proposed to replace an old section 246 to establish another appellate authority Joint Commissioner (Appeals) to handle certain appeals. It is also proposed that the CBDT may transfer the appeal pending before the CIT(Appeals) to Joint Commissioner (Appeals) and JCIT(A) can proceed with such appeal from the stage of transfer and appellant shall be given an opportunity of being reheard.
- Numerous amendments in various sections have been made where the reference to CIT(A) was present, to add JCIT(A).

# Direct Tax Related Proposals

## 10. Proposal relating to exempt incomes

### Income from Life Insurance policy

- Income received from Life Insurance policy is an exempt income as per Section 10(10D)
- It is now proposed to remove the exemption for amounts received from certain types of insurance policies, which are as under:
  - Provisions of clause (10D) shall not apply to any life insurance policy other than a unit linked insurance policy, issued on or after the 1st day of April, 2023 if the premium amount exceeds 5 lakh rupees in any of the previous year
  - Additionally, it is also proposed that if premium is payable by the person for more than one life insurance policy other than a unit linked insurance policy, issued on or after the 1st day of April, 2023, provisions of 10(10D) will apply only in respect of those life insurance policies where aggregate amount of premium does not exceed 5 lakh.
  - The amounts received on death of a person continues to remain exempt, even in the above instances

### Income of New Agencies

- Exemption hitherto available to certain news agencies u/s 10(22B) is proposed to be removed.

## Direct Tax Related Proposals

▶ **Income of Certain bodies**

- It is proposed to insert 10(46A) which states that, any income arising to body or authority or Board or Trust or Commission, not being a company established or constituted by or under a Central Act or State Act and notified by the Central Government in the Official Gazette for any of the following purposes
  - o Dealing with and satisfying the need for housing accommodation;
  - o Planning, development or improvement of cities, towns and villages;
  - o Regulating, or regulating and developing, any activity for the benefit of The general public;
  - o Regulating any matter, for the benefit of the general public, arising out of the object for which it has been created;

  shall be exempt.

## 11. Proposals relating to Trusts

▶ **Registration for exemption u/s 10(23C)/12AB/80G**

- In the case of seeking a registration for a Trust u/s 10(23C) or 12AB, an amendment to bring in the following has been proposed:
  - o The application for registration has to be made:
    - » Where the trust has not commenced, at least one month prior to the commencement of the previous year relevant to the assessment year from which said approval is sought
    - » Where it has commenced operations, at any time after the commencement of such activities

▶ **On application of income and exemption**:

- Amount spent out of corpus or loans & borrowings was not treated as application of income so far. However, on its replenishing or repayment, it will be treated as application of income. There was no time threshold for the same.
- Now a time threshold of 5 years for replenishing the corpus or repayment of loan/borrowing to claim it as application is proposed to be inserted.
- This is proposed to be effective from 1st April, 2022.

## Direct Tax Related Proposals

► On donation to other trusts/institutions and its treatment as application of income: only 85% of the donations made from one trust to another trust/institution is proposed to be allowed as application of income in the donor trust.

► In case of shortfall of application below 85%, a trust/institution is allowed to accumulate the shortfall for future application. It is now proposed to file the intimation for such accumulation 2 months prior to the due date of filing of ITR by such trust/institution.

► On filing the return on income: It is proposed to clarify that return of income to be filed in accordance with the provisions of section 139(4A ) can be within due date provided under section 139(1) or can be filed belatedly under section 139(4)

### 12. Other Key amendments

► **Substitution in Section 9**

- Section 9(1)(viii) provides that gift from a resident to a non-resident is deemed to accrue or arise in India and therefore taxable in India.
- Now an amendment is proposed to 9(1)(viii) to include with effect from 1st April, 2023 that such gifts from resident to not ordinarily resident is also deemed to accrue or arise in India.

► **Section 269SS: Mode of taking or accepting certain loans, deposits and certain sums**

- 269SS of the Act provides that no person shall accept loans or deposits or any specified sum from any other person, otherwise than by way of account payee cheque/bank draft or through electronic modes. Such acceptance in prohibited if the amount exceeds Rs. 20,000.
- It is proposed to increase the limit of Rs. 20,000 to Rs. 2,00,000 if deposit is accepted and loan is taken by primary agricultural credit society or primary co-operative agricultural and rural development bank from/by its members.

► **Section 269T: Mode of repayment of loans, deposits and certain sums**

- Similarly, loans or deposits cannot be repaid as per section 269T if it is in excess of Rs. 20,000 in modes as mentioned above in 269SS.
- It is proposed to increase the limit of Rs. 20,000 to Rs. 2,00,000 if deposit is paid and loan is repaid by primary agricultural credit society or primary co-operative agricultural and rural development bank to/by its members.

► **Section 271FAA: Penalty for furnishing inaccurate statement of financial transactions or reportable account.**

- It is proposed to insert subsection to state that, in case reportable financial institution furnishes inaccurate statement based on the false and inaccurate statement provided by the account holder, prescribed income-tax authority shall direct reportable financial institution to pay additional penalty of five thousand rupees.

# In-Direct Tax Related Proposals

## Central Goods and Services Tax Act :

[Note : effective date for amendments under Indirect taxes varies depending on the nature of amendment]

- **Section 10: Supplier of goods permitted to sell through eCommerce.**
  - Section 10 proposed to be amended so as to remove the restriction imposed on registered persons engaged in supplying goods through electronic commerce operators from opting to pay tax under the composition levy.
  - This is in line with past discussions of the GST council meetings.
  - Supplier of services who have opted for composition scheme continue to be restricted from supplying through eCommerce operators.

- **Section 17: restrict availment of input tax credit in respect of certain transactions.**
  - Exempt supplies for the purpose of ITC reversal u/s 17 proposed to include the value of such activities or transactions as may be prescribed in respect of supply of warehoused goods before customs clearance (para 8 (a) of schedule III).
  - Blocked ITC under section 17(5) – input tax credit shall not be available in respect of goods or services or both received by a taxable person that are used or intended to be used for activities relating to his obligations under corporate social responsibility referred to in section 135 of the Companies Act, 2013.

- **Section 37, 39, 44, 54: Time limit of 3 years to file certain returns.**
  - Section 37 (GSTR1 related), section 39 (GSTR3B related), section 44 (GSTR9 related) and section 52 (GSTR8) proposed to be amended so as to provide a time limit of three years up to which the return for a tax period can be furnished by a registered person.
  - It further seeks to empower the Government, on the recommendation of the council, to extend by notification, the said time limit for a registered person or a class of registered persons, subject to certain conditions and restrictions.
  - In effect, any unfiled returns for past periods cannot be filed beyond 3 years from relevant due date.

- **Section 132, 138: Relaxation of prosecution and compounding provisions.**
  - Proposal to increase the monetary threshold from INR 1 crore to INR 2 crores for launching prosecution for the offences under the GST Act, except for the offences related to issuance of invoices without supply (fake invoices).

## In-Direct Tax Related Proposals

- Section 138(1) to exclude the persons involved in offences relating to issuance of invoices without supply of goods or services or both from the option of compounding the offences under the said Act. Further, it is proposed to reduce the amount for compounding various offences.

**IGST Act: Enlarging the scope of non-resident B2C OIDAR services.**

- Changes to definition of OIDAR services are proposed to remove the condition of "essentially automated" and "involving minimal human intervention" from the said definition. This would enlarge the scope and ambit of OIDAR services and impact B2C OIDAR services provided by non-residents to end customers in India.


**Customs law:**

- Mode of determination or review of safeguard duty or of countervailing duty or anti-dumping duty under customs is revamped retrospectively in light of certain judicial pronouncements.
- Sunset provisions for several exemptions are further notified, in line with announcements in the past budgets.
- Customs duty rates and HSN are further rationalised for certain products to promote make-in-India, and ease of doing business (by harmonising the different slabs of rates).

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