



Union Budget 2021-22

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Major Highlights



Digital rupee to be issued using blockchain and other technologies; to be issued by RBI starting 2022-23

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E-passports using embedded chips and futuristic tech will be rolled out



Digital university to be set up on hub-and-spoke model

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PM GATISHAKTI- Roadways, Railways, Ropeways, Logistics park



One Class One TV Channel Programme of PM E-vidhya – 200 TV Channels

5



75 digital banking units in 75 districts by scheduled commercial banks

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7

In boost to EV sector, battery swapping policy to be introduced



Agriculture- Chemical free Natural Farming, Kisan Drones, Ken Betwa Project

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9

Har Ghar, Nal Se Jal: 3.8 crore households to be covered in 2022-23



PM Awas Yojana: 80 lakh houses to be completed in 2022-23

10



Direct Taxes

Direct Taxes

No change in corporate and personal income tax rates

- The Budget has not proposed any change in corporate and personal income tax rates.

Reduction in surcharge on long-term capital gains

- Under the existing regime, long-term capital gains arising on transfer of assets other than listed equity shares, units, etc., are subject to a graded surcharge as high as 37%.
- It is proposed to cap the surcharge on long-term capital gains arising on the transfer of any asset at the rate of **15%**.

Rationalization of surcharge for Association of Persons (AOP)

- Under the existing regime, the members of an AOP suffer a graded surcharge of up to 37%.
- Considering the members of the consortium are mainly companies, it is proposed that for AOPs consisting of only companies as its members, the rate of surcharge will be capped at **15%**.

Direct Taxes

Reduction in Alternate Minimum Tax in case of co-operative societies

- In order to provide parity between co-operative societies and companies, it is proposed to reduce the rate of Alternate Minimum Tax from 18.5% to **15%**.

Surcharge and Education Cess

- Recently, various courts have held that surcharge and education cess paid by the taxpayers is an allowable deduction while computing income under the head profits and gains from business and profession.
- In the Finance Bill, it is clarified that surcharge and cess are akin to tax, and accordingly, **not allowable as a deduction in the hands of the taxpayers.**
- **This amendment is proposed to take effect retrospectively from FY 2004-05.**



Tax Deducted at Source (TDS) u/s 194I on Purchase of Property

- Section 194-IA of the Act provides for deduction of tax @ 1% on payment on transfer of certain immovable property other than agricultural land.
- As per the provisions of the said Section, TDS is to be deducted on the amount of consideration paid by the transferee to the transferor. This Section does not take into account the stamp duty value of the immovable property.
- In budget it is provide that in case of transfer of an immovable property (other than agricultural land), **TDS is to be deducted at the rate of one per cent. of such sum paid or credited to the resident or the stamp duty value of such property, whichever is higher**
- This amendment will take effect from 1st April, 2022

Direct Taxes

Rationalisation of TDS/ TCS provisions on payments to non-filers of income tax returns

- Finance Act 2021 introduced higher rates of TDS/ TCS for payments to persons who have not filed tax returns for last 2 years
- The 2 year requirement has now been **reduced to 1 year** i.e. higher TDS/ TCS rates shall apply only in case of persons who have not filed tax return in the immediately preceding year
- **This amendment will take effect from 1st April 2022**

Clarification on the disallowance of expenditure incurred for earning exempt income

- Various courts have held that expenditure incurred for earning exempt income is not to be disallowed if the taxpayer has not earned exempt income during the year.
- In order to clarify the legislative intent, it is proposed that any expenditure incurred for earning exempt income will not be allowed as a deduction irrespective of whether the assessee has actually earned the exempt income during the previous year.
- **This amendment is proposed to take effect from FY 2021-22.**

Direct Taxes

Exemption of amount received on account of COVID-19

- Any sum received from employer or any other person towards medical treatment of self or family member will not be considered as a taxable perquisite or income from other sources. Entire ex-gratia received from employer is tax exempt.
- **Amount up to INR 10 lakh received from any person other than employer would be tax exempt where death was due to COVID-19 or related illness.**
- Tax exemption is subject to receiving amount within 12 months of death and fulfillment of other conditions as may be notified.
- **These amendments will take effect retrospectively from 1st April, 2020 and will accordingly apply in relation to the assessment year 2020-21 and subsequent assessment years.**



Taxability of Virtual Digital Assets

- Virtual digital assets have gained tremendous popularity in recent times and the volumes of trading in such digital assets has increased substantially.
- **Virtual Assets will now be taxed at 30% without allowing any expenses to set off against this (Cost of Acquisition can be reduced). TDS at 1% introduced for virtual digital assets transactions.**
- **Gift of virtual Assets is taxable in hands of recipient**
- Considering the rapidly growing trading market for virtual digital assets, clarification on the taxability of such transactions was one of the most awaited agendas in the Budget. While the government has provided for the mechanism of taxing the income arising on account of such transactions, there are still a few open areas on which clarifications may be sought.
- **This amendment will take effect from 1st April, 2022.**



Extension of date of incorporation for eligible start-ups for exemption

- Under the existing regime, 100% deduction is allowed by an eligible start-up for 3 consecutive years out of 10 years at the option of the assessee. This is subject to the satisfaction of conditions laid down, which inter-alia includes being incorporated before 1st April 2022.
- In order to promote eligible start-ups, **it is proposed to extend the requirement of the deadline date of incorporation to 1st April 2023.**



Extension of the last date for commencement of manufacturing or production

- Concessional tax rate of 15% for domestic manufacturing companies commencing manufacturing or production by 31st March 2023 **extended to 31st March 2024.**
- This amendment will be effective from AY 2022-23

Direct Taxes

New tax relief in respect of disabled persons

- Under the existing regime, a deduction is allowed in respect of expenditure for medical treatment of a dependent with disability or amount paid to LIC for maintenance of dependent on the death of the taxpayer, subject to prescribed conditions.
- In order to remove genuine hardship, it is proposed to now allow the deduction on payment of the annuity or lump sum amount even in the event of the taxpayer attaining the age of 60 years. Furthermore, the amount of annuity or lump sum received by the dependent before the taxpayer's death is not considered as the taxpayer's income.
- This amendment is proposed to be effective from FY 2022-23.

National Pension Scheme

- Central government contributes 14% to NPS and this is allowable as deduction while computing the total income of employee.
- But the State government employee was only allowed 10% as deduction. **Budget has now increased the rate to 14%.**
- All Government employees can now take whole Employer contribution as deduction.
- This amendment will take effect retrospectively from 1st April, 2020 and will accordingly apply in relation to the assessment year 2020-21 and subsequent assessment years; so as to ensure no additional tax liability arises on any contribution made in excess of 10% during such time.

Direct Taxes

Deduction on conversion of interest payable into financial instruments

- Section 43B of the Act provides for certain deductions to be allowed only on actual payment.
- However, certain taxpayers are claiming deduction under Section 43B on account of conversion of interest payable on an existing loan into a debenture on the ground that such conversion is a constructive discharge of interest liability and, therefore, amounted to actual payment which has been upheld by several Courts.
- Now it provided that conversion of interest payable to financial institutions/NBFCs/scheduled bank or a cooperative bank, into debenture or any other financial instruments by which liability to pay is deferred shall not be regarded as actual payment and hence no deduction shall be allowed on such conversion
- This amendment will take effect from 1st April, 2023 and will accordingly apply in relation to the assessment year 2023-24 and subsequent assessment years.

Direct Taxes

Widening scope of cash credit u/s 68 of IT Act 1961

- Under the current regime, in case certain sums are found to be credited to the taxpayer's account, it is the taxpayer's onus to explain the source of funds and genuineness of the transaction.
- However, in case of loan or borrowing, the judicial decisions have held that only identity and creditworthiness of creditor and genuineness of transactions for explaining the credit in the books of account is sufficient, and the onus does not extend to explaining the source of funds in the hands of the creditor.
- It is now proposed to amend the law to provide that nature and source of all sums received/credited to the account, including loans or borrowings or any such amounts received by the taxpayer in order to treat the transactions as genuine.
- Therefore, **it has now become mandatory to explain the source of the source also in order to establish the identity, creditworthiness and genuineness parameters under Section 68 of the Income Tax Act.**
- **This amendment will take effect from 1st April, 2023 and will accordingly apply in relation to the assessment year 2023-24 and subsequent assessment years.**



Provision for filing of updated Return of Income

- The budget proposes to allow the taxpayer to file an updated tax return within two years from the end of relevant AY where any income has been under reported on payment of additional tax at:
 - **25% of aggregate tax and interest if the updated return is filed within 12 months**
 - **50% of aggregate tax and interest, if updated return is filed beyond 12 months**
- Updated return cannot be filed in following cases:
 - If updated return already filed for the same AY
 - If assessment is pending or has been completed for the same AY
 - Where search / survey has been initiated
 - Prosecution proceedings have been initiated prior to filing of updated return
 - Information is available with AO regarding DTAA / specified laws
- **This amendment will take effect from FY 2021-22**

Direct Taxes

Amendment in Faceless Assessment u/s 144B under the Act:

- In order to reduce the disputes arising due to the use of information technology, it is proposed to omit the provision that renders assessment proceedings as void in case the specified procedure is not followed. This amendment is proposed to be retrospective in effect from 1st April 2021 onwards.
- Prior approval not required for personal hearing through video conferencing/video telephony.
- Power to initiate special audit granted.

Reducing multiplicity of appeals before the High Court and Tribunal

- Revenue authorities can now defer filing an appeal before the High Court and Tribunal if an identical question of law is pending before the jurisdictional High Court or the Supreme Court including in case of another taxpayer.
- Application for deferral to be filed only on receipt of acceptance from the taxpayer.
- This amendment is applicable from 1st April 2022

Direct Taxes

No set-off of loss against undisclosed income discovered during search

- Under the current regime, many taxpayers claim set-off of brought forward losses or unabsorbed depreciation against undisclosed income detected under search cases in the absence of any restriction prescribed.
- In order to curb this practice and ensure that undisclosed income is dealt with strictly, it is now proposed to restrict the set-off of losses or unabsorbed depreciation against the undisclosed income detected in search or survey.
- This amendment will take effect from 1st April, 2022 and will accordingly apply in relation to the assessment year 2022-23 and subsequent assessment years.

INDIRECT TAX



Indirect Taxes

Indirect Taxes

Due date in the following Sections has been changed to 30th November of the succeeding financial year or date of filing of Annual return whichever is earlier

1

Section 16(4)

Eligibility and conditions for claiming Input Tax Credit

4

Section 39(9)

Payment of taxes in Form GSTR 3B of the relevant financial year

2

Section 34(2)

Adjustment of Debit and Credit Notes of the relevant financial year

5

Section 52(6)

Amendments in TCS return

3

Section 37(3)

Amendments in outward supply of the relevant financial year

Earlier the due date was 30th September of succeeding financial year or the date of filing of Annual Return whichever is earlier

Indirect Taxes

Transfer of tax, interest, penalty, other to another GSTIN having same PAN– Section 49(10):

- With this amendment, now one can **transfer the cash ledger balance of one GSTIN to another GSTIN having same PAN**. For example, a person having GSTIN in Gujarat and Maharashtra wants to transfer IGST cash ledger balance of Maharashtra GSTIN to the CGST cash ledger balance of Gujarat GSTIN, he can easily do it now.
- Only condition – PAN should be same of both the distinct person

Interest on delayed payment of tax – Section 50(3)

- If the input tax credit has been **wrongly availed and utilised**, the registered person shall pay interest on such input tax credit wrongly availed and utilised, at such rate not exceeding twenty-four per cent.
- Earlier, interest was levied if wrong ITC has been availed. With the amendment, interest will be levied only when wrong ITC is availed as well as utilised. Hence no interest will be levied if wrong ITC is availed but not utilised.

Indirect Taxes

Claim of input tax credit and provisional acceptance thereof – Section 41:

- A clarificatory Section in the budget, where the assessee can claim the input tax credit only when the supplier has filed it in the return and paid taxes on it. If taxes are not paid, then the assessee will have to reverse the ITC along with the interest.
- Assessee may re-avail the credit when the supplier pays the taxes on it

Restriction on filing of GSTR 3B – Section 39(10)

- If previous period GSTR-3B and current period GSTR – 1 is not filed then current period GSTR 3B cannot be filed.
- Earlier, it was allowed to file the current period GSTR-3B even if current period GSTR-1 is not filed.

Levy of Late fees – Section 47(1)

- Now Late Fees will be levied on failing of furnishing details of tax collected (TCS) under Section 52 within due date.

Indirect Taxes

Eligibility and conditions for claiming input tax credit – Section 16(2)(ba):

- A new clause is being inserted to provide that input tax credit with respect to a supply can be availed only if such credit has not been restricted in the details communicated to the taxpayer u/s 38.

Furnishing details of Inward Supplies – Section 38

- A new Section has been inserted, prescribing the manner as well as conditions and restrictions for communication of details of inward supplies and input tax credit to the recipient by means of an autogenerated statement (GSTR 2B). Also, it does away with two-way communication process in return filing.

GST Registration



Cancellation or suspension of registration

- Composition Taxpayer's Registration can be cancelled suo-moto if they have not filed their GSTR-4 return beyond 3 months from the due date.
- Earlier this suo moto clause was applicable when the returns were not filed for three consecutive tax periods. Hence the period of suo-moto cancellation has been reduced.
- Any other registered person's registration can be cancelled if he has not furnished return for such continuous period as may be prescribed in the Rules.
- Earlier the registration for regular persons could be suo- moto be cancelled after a period of 6 months. This clause has been now modified to "as may be prescribed"

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