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Marching towards India @ 100

Budget Analysis 2023



Foreword:



Kamlesh Vikamsey

Senior Partner

Dear Esteemed Readers,

We (“Team KKC”) are pleased to place before you the analysis of Finance Bill 2023, presented by the Hon'ble Finance Minister Mrs. Nirmala Sitharaman (‘FM’), today along with Union Budget for 2023-24 in the Lok-Sabha. The Budget is expected to provide much needed impetus to our growing economy, being recognised by the world as a Bright Star.

Being the fifth largest economy, focus of the world’s developed nations towards India as land of many opportunities is obvious. Our nation today shares vision of laying strong foundation for tech-savvy, knowledge-based, cultured and well-governed robust economy.

It is difficult to disagree with “Saptarishi” – the seven priorities set in the Budget, which are (1) Inclusive Development (2) Reaching the last mile (3) Infrastructure and Investments (4) Unleashing the high potential (5) Green growth (6) Youth power (7) strong financial sector.

Leveraging India’s demographic advantage, digital competencies, vaccine and pharma knowledgebase, export potentials and huge market is the need of hour to walk through the path of all-round growth. The buoyancy in tax collections accords the financial planners the space needed for chalking out gutsy ambitions. Huge capital investment outlay of Rs 10 lakh crores, therefore, does not appear to be very difficult target. Review by an expert committee of Harmonized master list of Infrastructure coupled with setting up of Infrastructure finance secretariate and ‘Dekho Apna Desh’ initiative (tourism) are steps in right direction.

Foreword:



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The revised estimate of fiscal deficit for 2022-23 at 6.4% of GDP reveals good fiscal discipline. Plan to bring it down to 5.9% in 2023-24 and further down to 4.5% in 2025-26 aims at avowed fiscal consolidation.

FM has delivered a pragmatic, part-populist yet growth-oriented budget, giving a special big push for capital expenditure and warming the hearts of middle-class income taxpayers with tax slab overhaul ahead of the 2024 general elections.

The analysis contains Budget proposals in details. I congratulate Team KKC for completing this useful summary of numerous changes proposed within shortest possible time. Needless to add, if any question and/or doubt about the changes/proposals are there, we shall be happy to discuss the same. Please do not hesitate to connect us at communication@kkcllp.in

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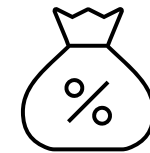
Part I – Economic Survey
2023



Part II– Key Policies
(Saptarishi)



Part III – Tax Proposals
(A) Direct tax



Part III – Tax Proposals
(B) Indirect tax

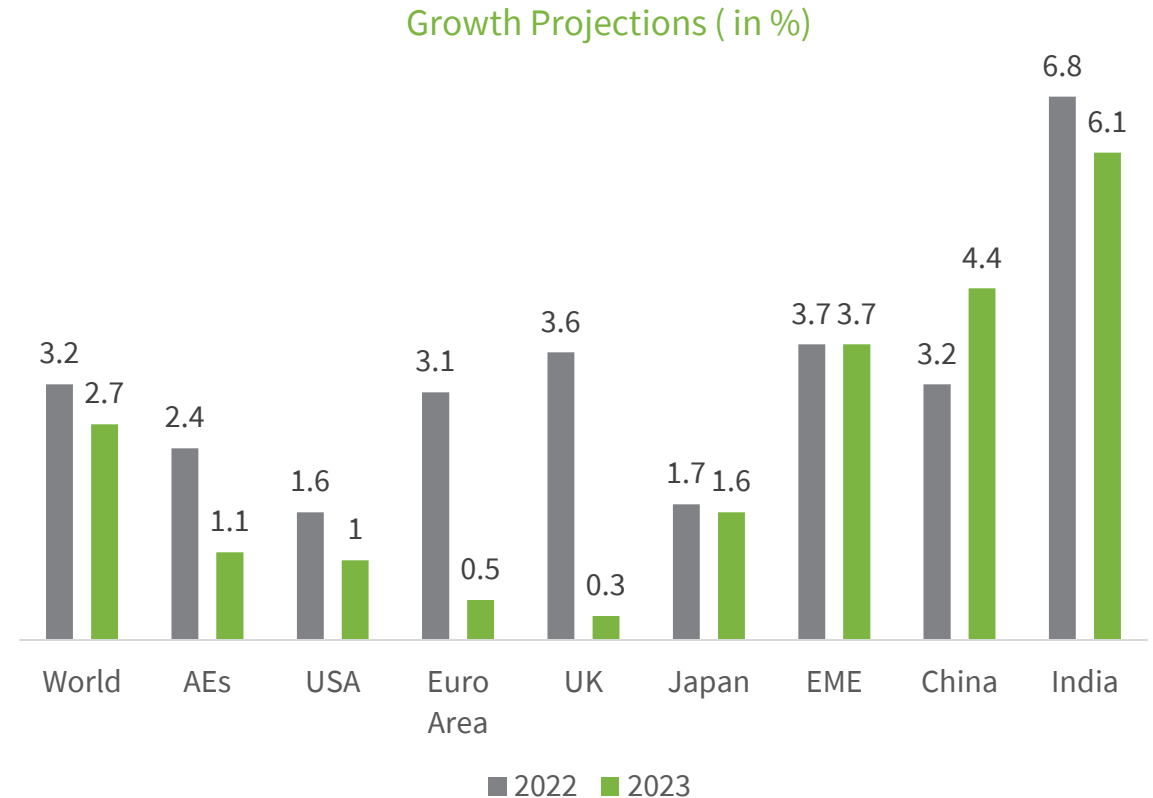


ECONOMIC SURVEY

Part I - Economy Survey 2023

Global Growth Forecast – Downward Revision

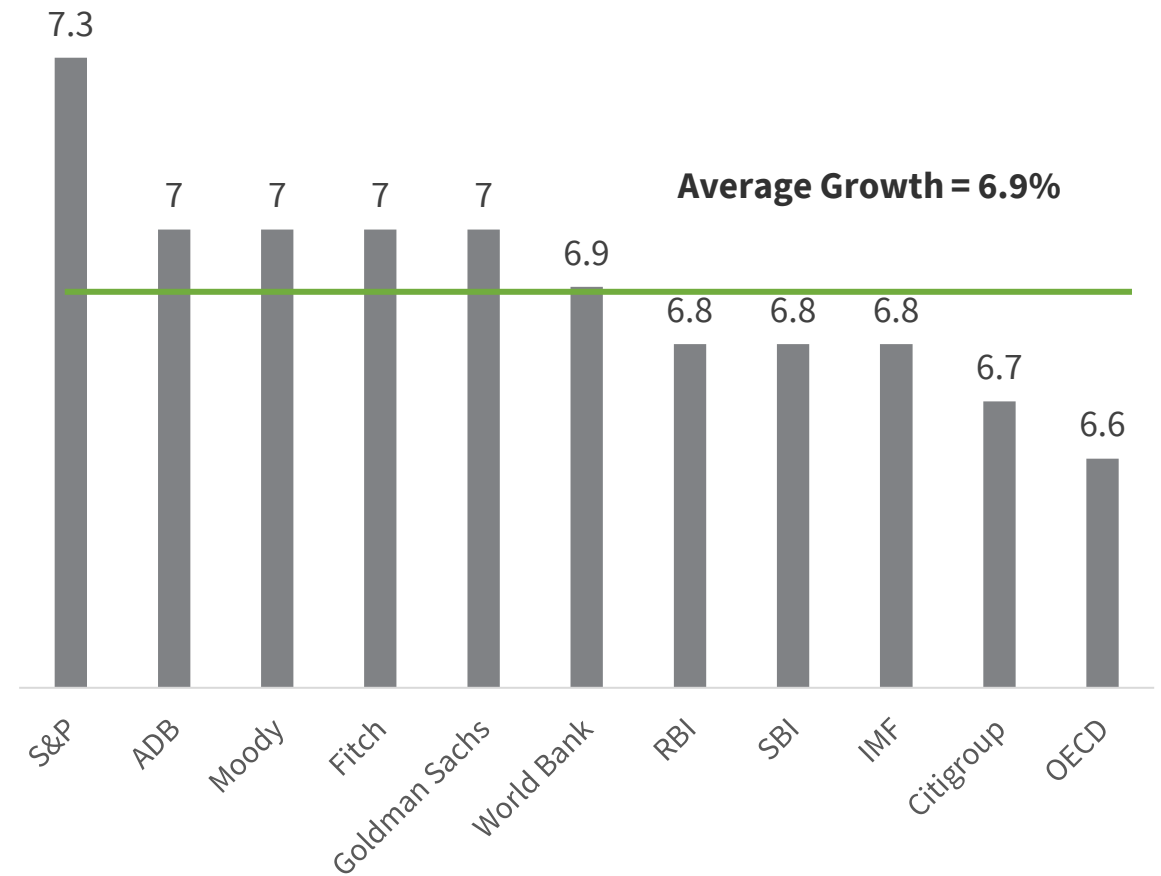
- ◆ Rising inflation and monetary tightening leading to slowdown in global output
- ◆ Global PMI composite index in Contractionary Zone (Since August 2022)
- ◆ Significant decline in growth rate of global trade, retail sales & industrial production (second half of 2022)
- ◆ Expected increase in the borrowing costs leading to dampening of the global economic outlook
- ◆ India projects 6% + growth rate despite the revision



- AEs: Advance Economies, EME: Emerging Market Economies
- Source : Economic Survey 2022-23

Resilience & Growth Drivers

- ◆ Revision in growth of the Indian economy by many agencies due to monetary tightening by the RBI, the widening of the CAD, plateauing growth of exports
- ◆ Despite downward revision, the growth estimates for FY 23 is higher than for almost major economies
- ◆ IMF estimates India to be one of the top two fast-growing significant economies in 2022
- ◆ Despite strong global headwinds and tighter domestic monetary policy – India to grow 6.5% - 7%
- ◆ Relatively quick recovery from pandemic
- ◆ Growth supported by domestic demand and pick-up in capital investments
- ◆ Substantial Increase in capital expenditure by Government



Source : Economic Survey 2022-23

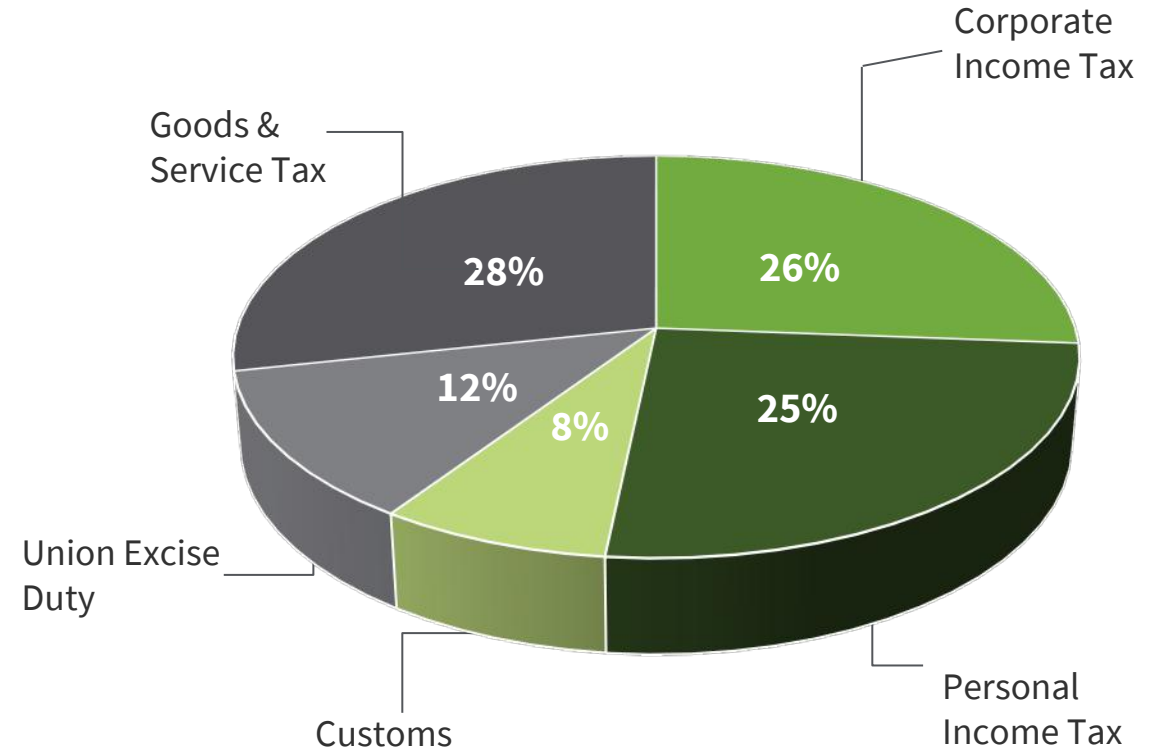
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Tax Profile of Union Government

- ◆ Direct Taxes (Corporate & Personal Income Tax) propelling the growth in Gross Tax Revenue : YoY Growth of 26% *
- ◆ Excise duty reduced by 20.9% on YoY basis vis-à-vis expected reduction of 15% *
- ◆ High Imports led to increased customs duty to 12.4% YoY basis *
- ◆ Growth of 24.8% in GST Collection ,taking Gross GST Collection to ₹ 13.40 Lakh crore #
- ◆ Increased Number of GST Taxpayers from 70 lakhs to 1.4 Crores

*April to November 2022 # April to December 2022



Composition of Tax Profile

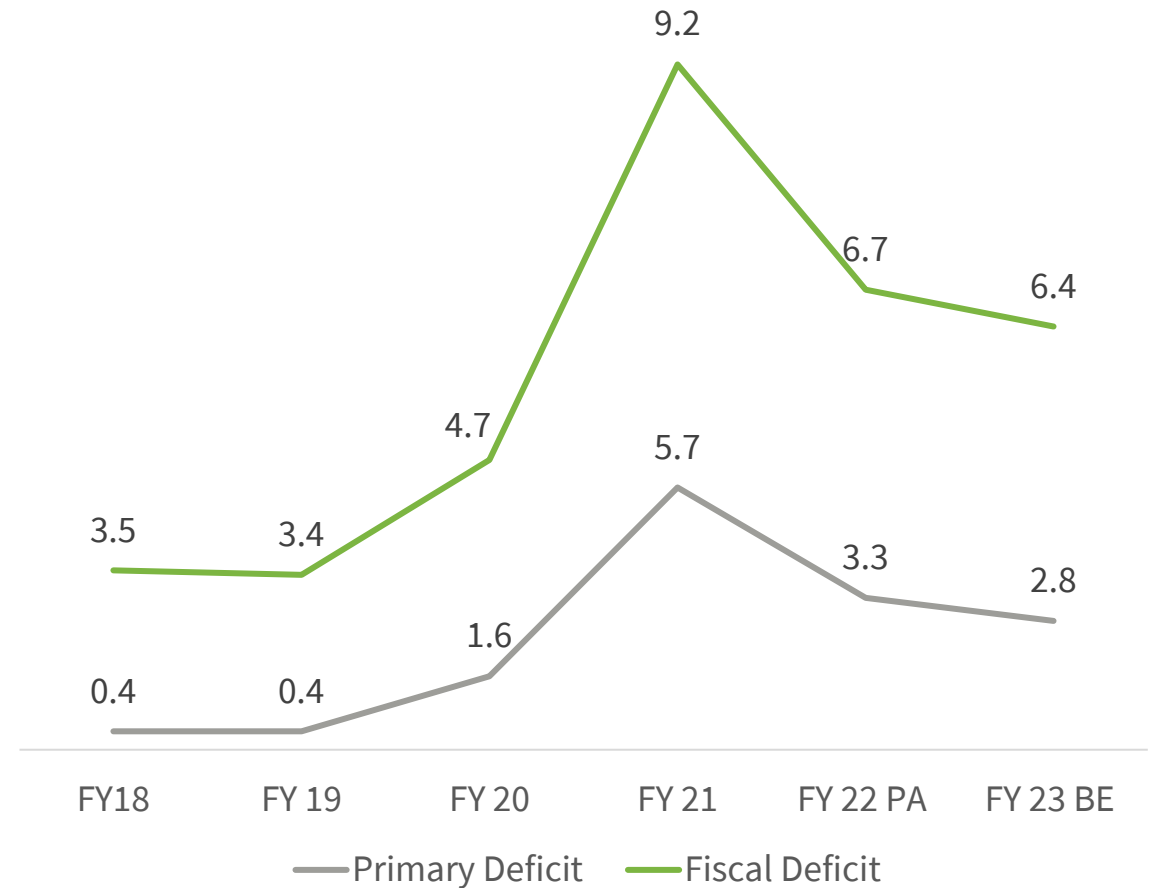
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Fiscal Position

- ◆ Fiscal policy response necessitated additional spending on food & fertilizer subsidies, specific duty cuts
- ◆ Fiscal deficit of Union Government stood at 58.9% of the BE, lower than five year moving average of 104.6% of the BE during the same
- ◆ Fiscal management coupled with buoyant revenue collection over the last two years has led to gradual decline in the Union Government's fiscal deficit as a per cent of GDP
- ◆ Combined GFD of the states at 2.8% down from 4.1% in pandemic affected years.
- ◆ Budgeted Consolidated GFD-GDP ratio for states : FY 23 at 3.4%

Fiscal Deficit as a per cent of GDP

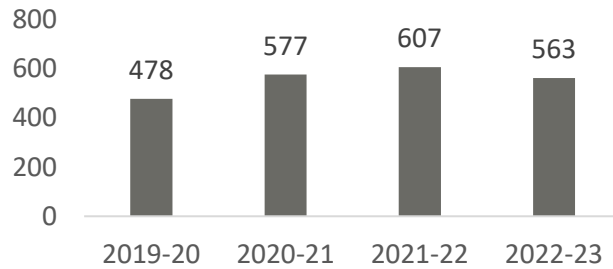


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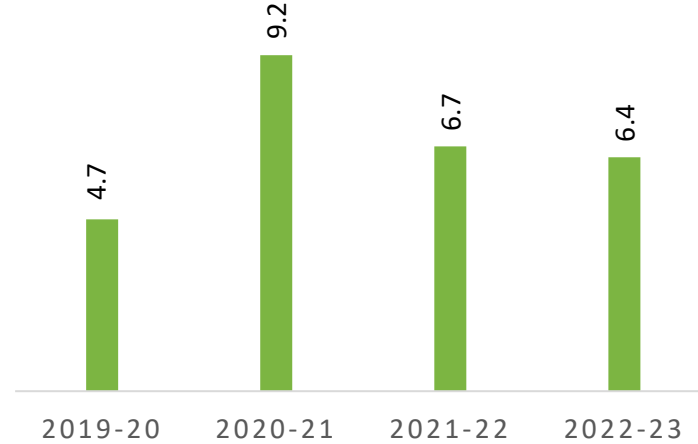
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Indian Economy Snapshot

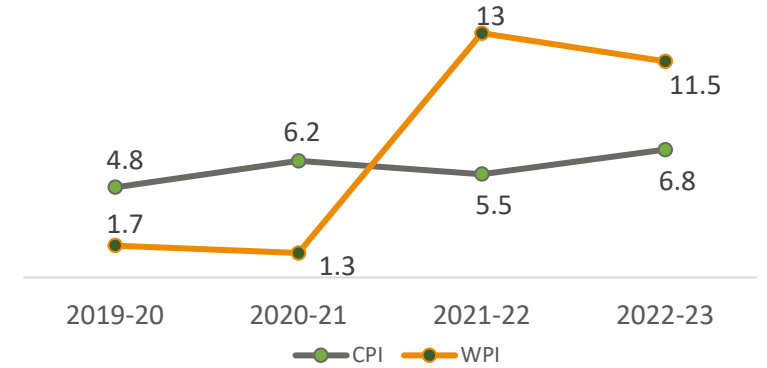
Foreign exchange reserves
\$ Billion



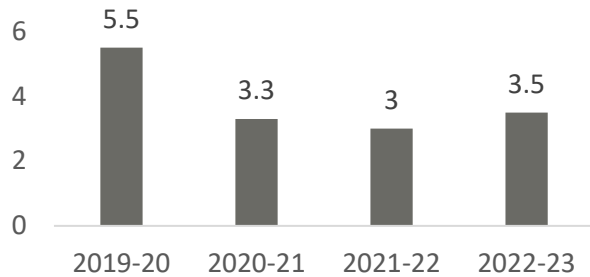
Fiscal deficit
% Of GDP



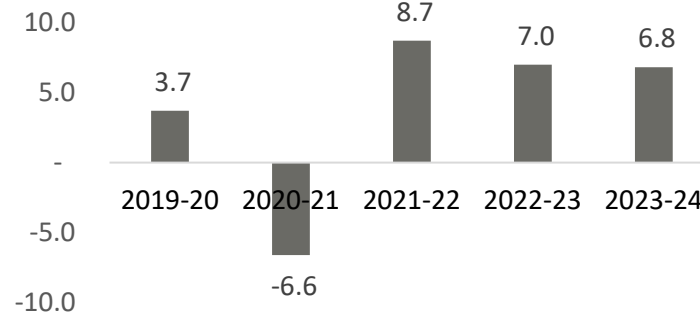
Inflation
Average, in %



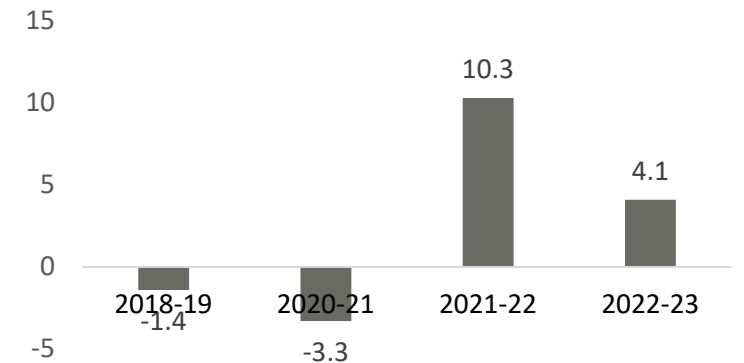
Agriculture and allied activities
Growth rate of GVA at basic prices in %



GDP growth
Growth rate at constant prices in %



Industrial growth
Growth rate of GVA at basic prices in %





Part II – Key Policies (Saptarishi)

Guidance from Saptarishi

Strong Financial Sector



Inclusive Development

Reaching the Last Mile

Infrastructure & Investment

Youth Power

Unleashing the Potential

Green Growth

Govardhan

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Snapshot for Amrit Kaal



Inclusive development

- Agriculture Accelerator Fund
- Promote Medical Research & Innovation
- Set Up of National Digital Library



Reaching the Last Mile

- Aspirational Districts & Blocks Programme
- PM PVTG Development Mission
- Eklavya Model Residential Schools



Infrastructure & investment

- Increased Capital investment outlay to ₹ 10 lakhs crore (3.3% of GDP)
- Almost half of that for Railways and Road infra



Green Growth

- Net Zero carbon emission by 2070
- PM - PRANAM



Unleashing the potential

- Make AI in India & Make AI work for India
- National Data Governance Policy
- Extending use of DigiLocker service
- PAN as Common Business Identifier
- 100 labs for 5G applications
- Encourage LGD to reduce import dependency



Youth Power

- Pradhan Mantri Kaushal Vikas Yojana – Industry 4.0
- Unified Skill India Digital Platform



Strong Financial Sector

- Amenment in SEZ Act to IFSCA to avoid dual regulation
- Set up of Data Embassies in GIFT IFSC

Saptarishi

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Source: IBEF and investindia



Part III – Key Tax Proposals

(A) Direct Taxes

Income Tax Rate Slabs

Tax Rates for Individuals for AY 2023-24 and AY 2024-25

There were no changes in the Old Tax Regime

Sr No	Income	Individual (Age less than 60 Years)	Senior Citizen (Age above 60 Years, below	Super Senior Citizen (Age above 80 Years)
1	Up to Rs. 2,50,000	Nil	Nil	Nil
2	Rs. 2,50,000 to Rs. 3,00,000	5%	Nil	Nil
3	Rs. 3,00,000 to Rs. 5,00,000	5%	5%	Nil
4	Rs. 5,00,000 to Rs. 10,00,000	20%	20%	20%
5	Above Rs. 10,00,000	30%	30%	30%

*The below option can only be availed with the waiver of some specific deduction/exemptions as explained u/s 115BAC(2)

Taxable Income Slab (*)	Optional Tax Rates u/s. 115BAC Existing upto A.Y.2023-24	Default Tax Rates u/s. 115BAC Proposed from A.Y.2024-25
Rs.0 - Rs.2.5 Lakh	Exempt	Exempt
Rs.2.5 – Rs.3 Lakh	5%	Exempt
Rs.3 - Rs.5 Lakh	5%	5%
Rs.5 - Rs.6 Lakh	10%	5%
Rs.6 - Rs.7.5 Lakh	10%	10%
Rs.7.5 - Rs.9 Lakh	15%	10%
Rs.9 - Rs.10 Lakh	15%	15%
Rs.10 - Rs.12 Lakh	20%	15%
Rs.12 - Rs.12.5 Lakh	20%	20%
Rs.12.5 - Rs.15 Lakh	25%	20%
Rs.15 Lakh and above	30%	30%

- ◆ Rebate increased from Rs.12,500 to Rs.25,000 to make annual income upto Rs. 7 lakh not taxable in New tax Regime.
- ◆ Taxes rates for other entities – Companies / Firm / LLP / Co-operative societies remains unchanged.

Income Tax Rate Slabs

Deductions & Surcharge Rates

Deductions available under new tax regime (u/s 115 BAC):

- ◆ Employer contribution on account of employee in notified pension scheme [u/s 80CCD(2)]
- ◆ For new employment creation (u/s 80JJAA)
- ◆ Standard deduction upto Rs. 50,000
- ◆ Contribution to Agniveer fund (u/s 80CCH)

Surcharge Rates

For taxation of Individuals/HUF AOP/BOI/Trust/AJP u/s 115BAC

Particulars	Rates
Rs. 50 Lacs to Rs. 1 Crore	10%
Rs. 1 Crore to Rs. 2 Crores	15%
Rs. 2 Crore to Rs. 5 Crores	25%
Rs. 5 Crore to Rs. 10 Crores	25%
Exceeding Rs. 10 Crores	25%

- ◆ For Individuals/HUF/AOP/BOI/Trust/ AJP having income excluding dividend and capital gains u/s 112A, 111A and 115BAD opting old tax regime, surcharge @ 37% for Income > 5 Crores.

Promoting timely payments to Micro and Small Enterprises[MSEs] [Sec. 43B]

- ◆ Presently the Sec. 43B does not cover amount payable MSEs covered under the MSMED Act.
- ◆ It is proposed that payment made to MSEs beyond the time limit mentioned in sec 15 of the MSMED Act be allowed only actual payment within the prescribed timeline under the said Act.

Ease in claiming deduction on amortization of preliminary expenditure [Sec.35D(2)(a)]

- ◆ Sec. 35D of the Act provides for amortization of certain preliminary expenses
- ◆ To ease the process of claiming the preliminary expenditure incurred with respect to preparation of feasibility report, project report, conducting of market survey or of any other survey and engineering services it is proposed to allow the assessee to furnish a statement containing details of the expenditure in the prescribed form and manner to the prescribed authority.

[w.e.f. AY 2024-25]

Business & Profession

Increasing threshold limits for presumptive taxation schemes

Sec. 44AD (for business)

Existing Provision	Proposed Provision
Turnover or Gross Receipts PY: Rs. 2 Crores or less	Turnover or Gross Receipts in the PY: Rs. 3 Crores or less (where the total amount received in cash \leq 5% of the total turnover or gross receipts)

Sec. 44ADA (for specified professions)

Existing Provision	Proposed Provision
Total Gross Receipts in PY: \leq Rs.50 lakhs	Total Gross Receipts in PY: \leq Rs.75 lakhs (where the total amount received in cash \leq 5% of the gross receipts)

- ◆ The receipt by a cheque drawn on a bank or by a bank draft, which is not account payee, shall be deemed to be the receipt in cash.
- ◆ Sec. 44AB of the Act shall not apply to the person, who declares profits and gains for the previous year in accordance with the presumptive taxation.

[w.e.f. AY 2024-25]

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Business & Profession

Excluding NBFC from thin capitalization norms [Sec. 94B]

Existing	Proposed
<ul style="list-style-type: none">◆ Sec. 94B of the Act provides restrictions on deduction of interest expense in respect of any debt issued by non-resident associated enterprise Borrower.	<p>On the basis of industry representations and in order to bring parity with Banks, it has been proposed that the thin capitalization norms will not be applicable to NBFCs.</p>
<ul style="list-style-type: none">◆ If interest payment to AE exceeds Rs. 1 cr. then the deduction is restricted to 30% of its earnings before EBITDA.	
<ul style="list-style-type: none">◆ The aforesaid restrictions are not applicable to banks and insurance companies.	
<ul style="list-style-type: none">◆ However, the NBFCs are still subject to thin capitalization norms even though they undertake core business of financing like Banks. Further, NBFCs are now subject to similar regulations and compliances as applicable to Banks.	

[w.e.f. AY 2024-25]

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Business & Profession

NBFC Categorization as per RBI regulations

Existing	Proposed
<ul style="list-style-type: none">◆ Sec. 43B of the Act provides that deduction for interest payment on any loan / borrowing from a Deposit taking NBFC or Systemically Important- non-deposit taking NBFC ('NBFC-ND-SI') is allowed only on payment basis.	<ul style="list-style-type: none">◆ RBI has broadly changed the aforesaid classifications of NBFCs to Base Layer- NBFC, Middle Layer NBFC, Upper Layer NBFC and Top Layer NBFC.◆ Accordingly, it has been proposed to amend Sec. 43B and 43D to include NBFCs as may be notified by the Central Government.
<ul style="list-style-type: none">◆ Sec. 43D provides for taxation of interest on NPA on receipt or credited to P&L account which ever is earlier. This sec also applies to Deposit taking NBFC and NBFC-ND-SI.	
<ul style="list-style-type: none">◆ The aforesaid secs do not cover NBFC which are Non-systematically-non-deposit taking NBFC (i.e. total assets size less than Rs. 500 crores).	

[w.e.f. AY 2024-25]

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Business & Profession

Providing clarity on benefits and perquisites in cash [Sec. 28(iv) and 194R]

Existing	Proposed
Courts have interpreted that if the benefit or perquisite are in cash, it is not covered within the scope of clause (iv) of Sec. 28 of the Act.	<ul style="list-style-type: none">◆ Clarifying that provisions of the said clause also applies to cases where benefit or perquisite provided is in cash or in kind or partly in cash and partly in kind.◆ Further it is clarified that TDS u/s 194R @10% is applicable on benefits or perquisites provided in cash or in kind or partly in cash and partly in kind.

[w.e.f. AY 2024-25]

Capital Gains

Exemption on Conversion of physical form of gold into Electronic Gold Receipt [EGR] and vice versa (Sec. 47)

- ◆ Electronic Gold Receipts (EGR) are depository gold receipts that can be traded on the stock exchanges.
- ◆ Conversion of physical form of gold into EGR and vice versa, by a SEBI registered Vault Manager, is to be excluded from the purview of ‘**transfer**’ u/s 47(viid) for the purposes of Capital gains.
- ◆ **For the purpose of Computing Capital Gains:**
Cost of acquisition of the EGR/ Gold prior to the conversion shall be deemed to be the cost post conversion and the period of holding of the asset shall include the period prior to the conversion.

Prevention of Double Deduction claimed on Interest on Property Loan [Sec. 48]

In order to prevent double deduction of interest on borrowed fund used for acquiring, renewal or reconstruction of property, it is proposed to insert a proviso after clause (ii) of the Sec. 48 so as to provide that the cost of acquisition or the cost of improvement shall not include the amount of interest claimed under Sec. 24 or Chapter VIA with effect from assessment year 2024-25.

[w.e.f. AY 2024-25]

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Capital Gains

Existing

Proposed

Exemption in respect of capital gains arising on transfer of capital asset [Sec. 54]

There is no limit of exemption u/s 54 & Sec. 54F through reinvesting of capital gain or consideration in a residential house and deposit in Capital Gains Account Scheme.

It is proposed to impose a limit on the maximum deduction that can be claimed by the assessee under Sec. 54 and 54F upto rupees ten crores by way of reinvestment of capital gain or consideration as the case may be, in new residential property or through deposit in Capital Gain Account Scheme.

Cost of acquisition in case of Intangible assets [Sec.55]

Cost of acquisition of such assets is not clearly defined in current provisions of the Act, leading to various legal disputes.

To clarify the same, the term 'Cost of acquisition' and 'Cost of improvement' of such assets is defined as **'Nil'**.

Special Provision for taxation of capital gains in case of Market Linked Debentures[MLD][Sec.50AA]

MLD being listed securities are currently taxed as Long-term Capital Asset if held for 12 months by virtue of sec.2(42A) and taxed @10% without indexation.

To provide that irrespective of the holding period such MLD shall be considered as **"Short-term capital assets"** and gain from transfer/ redemption/ maturity shall be taxed at normal rates.

[w.e.f. AY 2024-25]

Tax Incentives to International Financial Services Centres (IFSC)

Existing	Proposed
Relocation of Fund – extension of outer limit	
<ul style="list-style-type: none">◆ Tax exemption for transfer of offshore derivative instruments ('ODI') or over the counter derivatives entered by non-resident with an offshore IFSC banking unit ('IBU') in IFSC [Sec. 10(4E)].	<ul style="list-style-type: none">◆ In order to remove the double taxation, it is proposed that exemption to be provided to non-resident on any income distributed on ODI, subject to certain conditions. [w.e.f. AY 2023-24]
<ul style="list-style-type: none">◆ IBU makes the investments in permissible Indian Securities. Income earned by the IBU on such investments is taxed as capital gains, interest, dividend under Sec. 115AD of the Act. After the payment of tax, the IBU passes such income to the ODI holders.	
<ul style="list-style-type: none">◆ This distribution of income is taxed in the hands of non-resident ODI holders. Hence, the same income is doubly taxed in this case.	
Exemption on income distributed on ODI by IBU	
<ul style="list-style-type: none">◆ The Finance Act, 2021 had amended several provisions of the Act to facilitate the relocation of offshore funds to the IFSC in a tax-neutral manner both for the offshore fund as well as investors.	<ul style="list-style-type: none">◆ The outer limit for transfer of assets of original fund / its wholly owned SPV to a resultant fund is extended to 31 March 2025. [w.e.f. AY 2024-25]
<ul style="list-style-type: none">◆ Such provisions are applicable where the assets of the original fund are relocated to a resultant fund in IFSC on or before 31 March 2023.	

Assessments & Appeals

Rationalisation of Appeals to the Appellate Tribunal [Sec. 253]

- ◆ Following orders are now proposed to be included in Sec. 253 of the Act, enabling an aggrieved assessee to file an appeal before the Appellate Tribunal:
 - i. Penalty order passed by Commissioner (Appeals) u/s 271AAB, 271AAC and 271AAD.
 - ii. An order passed by a Joint Commissioner (Appeals) under Sec. 154, Sec. 250, Sec. 270A, Sec. 271, Sec. 271A, Sec. 271AAC, Sec. 271AAD or Sec. 271J.
 - iii. Revisionary order passed u/s 263 by Principal Chief Commissioner and Chief Commissioner or an order passed u/s 154 of the Act rectifying such order.
- ◆ Also, it is proposed to amend sub-sec(4) of Sec. 253 enabling respondent to file memorandum of cross - objection against **all orders** appealable before the Appellate Tribunal.

Introduction of the authority of Joint Commissioner (Appeals) [Sec. 246]

- ◆ Considering the pendency of appeals before CIT(A), it is proposed to substitute sec 246 of the Act with relevant amendments in the respective provisions to provide for appeals to be filed before Joint Commissioner (Appeals). Sub-sec (1) of the proposed sec seeks to provide that any assessee aggrieved by the orders of an Assessing Officer (below the rank of Joint Commissioner) may appeal to the Joint Commissioner (Appeals).

[w.e.f. AY 2023-24]

Assessments & Appeals

Preventing permanent deferral of taxes through undervaluation of inventory [Sec. 142]

In order to ensure that inventory is valued as per various provisions of the Act, the following amendments are proposed relating to Inquiry before assessment:

- a) The AO can direct the assessee to get the inventory verified by a cost accountant & furnish the duly signed report.
- b) The expenses of such valuation (including the remuneration of the cost accountant) to be paid by the Central Government.
- c) The assessee will be given an opportunity of being heard in respect of any material gathered for inventory valuation which is proposed to be utilized for assessment.

Amendment in provisions relating to reassessment proceedings [Sec. 148]

It is proposed to prescribe time limit for furnishing of return in response to notice u/s 148 to three months from the end of the month in which such notice is issued, or within such further time as may be allowed by the Assessing Officer.

However, any return which is furnished beyond the prescribed period or extended period shall not be deemed to be a return under Sec. 139 of the Act. As a result, the consequential requirements viz. notice under sub-sec (2) of Sec. 143 etc. would not be mandatory for such returns.

[w.e.f. AY 2023-24]

Assessments & Appeals

Provisions Related to Business Reorganisation [Sec. 170A]

Existing

- ◆ Last year several amendments were introduced for giving effect to orders of business reorganisation issued by tribunal or court or an Adjudicating Authority under the Insolvency and Bankruptcy Code, 2016.

Proposed

- ◆ Clarifications that successor can file modified return where original return was filed by predecessor before the order to enable modification of return filed by the predecessor.
- ◆ No procedure was laid to be followed by the AO after the modified return was filed. It is therefore, provided that:-
 - If proceedings of assessment or reassessment for the relevant assessment year have been completed or pending on the date of furnishing of modified return, the AO shall pass an order modifying the total income in accordance with the order of the business reorganization and considering the modified return so furnished.

[w.e.f. AY 2023-24]

Assessments & Appeals

Set off and withholding of refunds in certain cases [Sec. 241A, 245, 244A]

Existing	Proposed
<ul style="list-style-type: none">◆ As per Sec. 241A of the Act, to protect the interest of the revenue, the Assessing Officer has the right to withhold the amount of refund determined u/s 143(1) till the time the scrutiny proceedings are completed.	<ul style="list-style-type: none">◆ Sec. 241A of the Act shall not apply from 1st April 2023. The provisions contained u/s 241A shall integrate with sec 245. As per the provisions of Sec. 245:<ul style="list-style-type: none">■ After giving intimation in writing, the officer may set-off the amount of refund due to the assessee for the year under consideration against any sum remaining payable for previous year/s.■ After such adjustment, the Assessing Officer has the right to withhold the amount of refund, till the date on which assessment/reassessment is made, with the approval of specified authorities.◆ Further, for the period such refund is withheld, the assessee shall not be eligible to additional interest u/s 244A(1A) for the period beginning from the date on which such refund is withheld till the date on which the pending assessment/reassessment is made

[w.e.f. AY 2023-24]

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Assessments & Appeals

Enhancement in time limit for assessment completion [Sec. 153]

Existing	Proposed
<ul style="list-style-type: none">◆ The time available for completion of assessment u/s 143 or 144 is nine months from the end of the assessment year in which the income was first assessable and also nine months from the end of the financial year in which updated return is furnished.	<ul style="list-style-type: none">◆ Timeline for completing assessment u/s 143 or 144, is proposed to be increased to twelve months from the end of the assessment year in which the income was first assessable.◆ In the case of an updated return also timeline for completion of assessment is proposed to be increased to 12 months from the end of the financial year in which such return is furnished.◆ It is proposed to insert a new sub-sec (3A) in sec 153 of the Act to give extension by 12 months in search cases.

[w.e.f. AY 2023-24]

Assessments & Appeals

Other Proposed Amendments

◆ **Penalty for furnishing inaccurate statement of financial transaction or reportable account [Sec. 271FAA]**

- It is proposed that, if there is any inaccuracy in the statement of financial transactions [SFT] and such inaccuracy is due to false or inaccurate information submitted by the account holder, prescribed penalty shall be imposable.

[w.e.f. AY 2023-24]

◆ **Penalty for failure to deduct tax at source [Sec. 271C & 276B]**

- To amend the provisions relating to penalty u/s 271C or prosecution u/s 276B so as to include breaches u/s 194R and 194S

[w.e.f. AY 2023-24]

◆ **Interest payable u/s 234B(2) on assessed tax u/s 139(8A) in Updated Return**

- The interest u/s 234B payable on the assessed tax calculated on short fall of Advance Tax payable on the differential amount of assessed tax computed as per provision of Sec.139(8A) after reducing Advance Tax paid and credit claimed in earlier tax return filed.

[w.e.f. AY 2022-23]

◆ **Reducing the time provided for furnishing TP report [Sec. 92D (3)]**

- The time period for furnishing the requested information or document to TPO is proposed to be reduced from thirty days to ten days.

[w.e.f. AY 2023-24]

Withholding Taxes/ TDS

TDS and Taxability on net winnings from Online Games [Sec. 194B, 194BA, and 194BB]

Existing	Proposed
<ul style="list-style-type: none">◆ TDS is deductible on winnings from any lottery or racecourse at prescribed rates if amount exceeds Rs.10,000 per transaction.	<ul style="list-style-type: none">◆ TDS to be deducted if amount or aggregate of the amounts exceeds Rs. 10,000 during the year [w.e.f. 1 April 2023]◆ It is proposed to introduce a new sec 194BA for TDS on winnings from online games. TDS @ 30% to be deducted at the time of withdrawal from user account on net winnings calculated in prescribed manner.◆ Also, TDS on remaining amount of net winnings in the user account to be deducted at the end of the year. [w.e.f. 1 July 2023]

Withholding Taxes/ TDS

Existing

Proposed

Facilitating TDS credit for income already disclosed in the return of income of past year [Sec. 155(20)]

- ◆ In many instances, assessee disclose income in their return in one year whereas the TDS is deducted by the deductor in subsequent year resulting in TDS mismatch This results in difficulty to the assessee in claiming credit of TDS.
- ◆ In order to remove this difficulty, the assessee can make application in the prescribed form to the AO within 2 years from end of the year in which such TDS was deducted.
- ◆ The AO will amend assessment order or any intimation allowing such TDS credit in relevant year in which income offered.
- ◆ Interest on refund arising out of above rectification to apply from the date of application to the date on which the refund is granted

[w.e.f. 1 October 2023]

Relief from higher rate of TDS/TCS for certain non-filers of income-tax returns [Sec. 206AB & 206CCA]

- ◆ Higher TDS / TCS rates apply to payments being made to non- filers of Income –tax returns.
- ◆ To exclude a person who is not required to furnish the income- tax return for the relevant year as referred in that sec and who is notified by the Central Government in the Official Gazette in this behalf.

[w.e.f. AY 2024-25]

Tax treaty relief at the time of TDS [Sec. 196A]

- ◆ Income earned from units of mutual funds by non-residents / foreign companies is subject to TDS @ 20% without considering benefit under any Double Tax Avoidance Agreement (DTAA) /arrangement.
- ◆ TDS would be deductible at lower of 20% or the rate provided in DTAA / arrangement provided-
 - The DTAA applies to the payee and;
 - payee provides Tax Residency Certificate (TRC) issued by the country of residence.

[w.e.f. AY 2023-24]

Withholding Taxes/ TDS

Existing

Proposed

Removal of exemption from TDS on payment of interest on listed debentures to a resident [Sec.193]

- | | |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none">◆ Interest payable to residents on any security issued by a company, where such security is in dematerialized form & is listed on a recognized stock exchange in India is not subject to TDS u/s 193. | <ul style="list-style-type: none">◆ To withdraw such exemption from TDS, interest payable on listed debentures will be subjected to TDS at prescribed rate i.e. 10%. |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Extending the scope for deduction of TDS to lower / nil rate [Sec. 194LBA]

- ◆ Sums on which TDS is required to be deducted u/s 194LBA is now eligible for certificate for deduction at lower / nil rate u/s 197.

[w.e.f. AY 2023-24]

Withholding Taxes/ TDS

Increase in rate of TCS on certain remittances under Liberalised Remittance Scheme

Nature of Remittance	Existing Rate	Proposed Rate
◆ TCS on overseas tour package	5% of such amount without threshold limit	20% without threshold limit
◆ Any other cases (excluding remittance towards education and medical purposes)	5% of the amount or the aggregate of the amount in excess of Rs. 7 Lakh as income-tax	20% without threshold limit

[w.e.f. 1 July 2023]

Direct Tax Proposals – Start-Ups

Relief to eligible start-up

Special Provision in respect of Specified Business [Sec. 80 IAC]

The period of incorporation of eligible start-ups is proposed to be extended to 1 April 2024 for claiming deduction u/s 80-IAC.

Carry Forward and Set-off of losses in Companies [Sec .79]

Existing

Presently, eligible start-ups are allowed to carry forward and set-off losses incurred within 7 years from date of incorporation provided all the shareholders of the year in which the loss was incurred, continue to be shareholders in the year in which setoff is claimed, notwithstanding their aggregate shareholding is less than 51%

Proposed

It is proposed to increase the period from 7 years to 10 years from the date of incorporation

[w.e.f. AY 2023-24]



Direct Tax Proposals - Others

Others

Existing

Proposed

Extending deeming provision of gift to not-ordinarily resident [Sec. 9]

- ◆ As per sec 9(1)(viii) of the Act any gift (which is taxable as per sec 56(2)(x) of the Act), exceeding Rs.50,000, received by a non-resident without consideration from a person resident in India, shall be income deemed to accrue or arise in India.
 - ◆ The existing provisions do not cover 'resident but not ordinarily resident' and hence, they were not paying taxes on such gifts.
- ◆ Now the 'resident but not ordinarily resident' will also be covered under the deeming provisions of sec 9(1)(viii).

Extending the provisions of Sec. 56(2)(viib) to Non-Resident Investors

- ◆ sec 56(2)(viib) of the Act provides for taxation of amount received over and above FMV of the shares from resident investors / shareholders.
 - ◆ This sub-sec was introduced to prevent generation and circulation of unaccounted money through share premium received from resident investors in a closely held company in excess of its FMV.
 - ◆ However, the said sec is not applicable to Non-Resident Investors.
- ◆ In order to bring parity between Resident and Non-Resident Investors it is proposed that the provisions of sec 56(2)(viib) to be applicable to Non-Resident Investors as well.

[w.e.f. AY 2024-25]

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Others

Tax avoidance through distribution by business trusts to its unit holders [Sec. 115UA]

Existing	Proposed
<ul style="list-style-type: none">◆ Business Trusts distribute sums under the name “Repayment of debt” to its unit holders which does not suffer taxation either in the hands of business trusts nor unit holder.	<ul style="list-style-type: none">◆ Where any sum received by unit holder from a business trust which is not in the nature of Rental income from REIT or Interest & Dividend received by business trust & is not chargeable to tax in the hands of business trust shall be chargeable to income tax under the head “Income from other source” (IFOS) in the hands of unitholder u/s 56(2)(xii)◆ Where the payout is through redemption of units, then the cost of unit/s so redeemed is allowed as a deduction.

[w.e.f. AY 2024-25]

Others

Clarifications / conditions for SEZ tax holiday [Sec. 10AA]

Existing	Proposed
<ul style="list-style-type: none">◆ 15-year tax benefit is available to unit established in a SEZ which begins to manufacture/produce articles/things/ provide any services between 01.04.2005 & 31.03.2021 subject to certain conditions. However,<ul style="list-style-type: none">▪ the condition to file tax return before due date is not provided &▪ no time limit is prescribed for timely remittance of export proceeds by SEZ units.	<ul style="list-style-type: none">◆ No deduction to be allowed:-<ul style="list-style-type: none">▪ If the assessee does not furnish tax return within the due date, or▪ If export proceeds is not remitted into India in convertible foreign exchange within 6 months from the end of the year. Note : Export proceeds deemed to have been received in India where such proceeds are credited to a separate account maintained with any bank outside India with RBI approval.

[w.e.f. AY 2024-25]

Others

Rationalisation of Exempt income under life insurance policies [Sec. 10(10D)]

- ◆ In case of investment in insurance policy issued on or after 01st April,2023 (other than ULIP) exemption u/s 10(10D) will only be available if the aggregate premium payable does not exceed Rs.5,00,000/- in a year (barring the sum received on death of a person)
- ◆ Taxable income from the Life insurance policies (other than ULIP) shall be chargeable to tax under the head income from other sources.
- ◆ Premium paid during the policy period has been claimed as deduction in any provisions cannot be claimed as set off/expense/cost from the sum received.

Value of Rent-Free accommodation or any accommodation provided to employees by the employer at a concessional rate

- ◆ To rationalise the value of perquisites for rent free accommodation and concession on rented premise, it is proposed to delete the existing provision and to prescribe a uniform method for the provision.

[w.e.f. AY 2024-25]



Charitable Trusts

Charitable Trusts

Combining provisional and regular registration in some cases

Existing	Proposed
<p>New trusts need to apply for provisional registration at least one month prior to commencement of PY relevant to AY for which the registration is sought. This provisional registration is valid for a period of 3 years.</p> <p>Further, provisionally registered trusts 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. Regular registration is valid for a period of 5 years.</p>	<p>It is proposed that new trusts shall be allowed to make application for provisional registration before the commencement of activities and shall apply for regular registration within the prescribed time limit, as specified in sec 12AB and 10(23C).</p> <p>Further, it is proposed that trusts which have already commenced their activities shall directly make application for regular approval without making an application for provisional registration, as specified in sec 12AB and 10(23C).</p>

[w.e.f. 1 October 2023]

Charitable Trusts

Specified violation for incorrect or false information submitted during Application of Registration

In cases of trusts which have obtained registration under new regime and subsequently if it is found that the same is obtained by submitting incorrect or false information, the PCIT/CIT can cancel the registration and the same will be covered under “Specified Violation”.

[w.e.f. AY 2023-24]

Treatment of Donation to Other trusts

Existing

Currently, the entire amount of non corpus donation made by one trust to another is allowable as application of income for the donor trust.

Proposed

It is proposed that only 85% of the non corpus donation made by the trust to another trust shall be allowable as application of income for the donor trust.

Corresponding relevant amendments have been made in secs 11 and 10(23C) to give effect to the above provision.

[w.e.f. AY 2024-25]

Charitable Trusts

Depositing Back of Corpus and Repayment of Loans and Borrowings

Existing	Proposed
<ul style="list-style-type: none">◆ Finance Act 2021 introduced amendments relating to application of income with regard to repayment of loans, and reinvestment of amount back into corpus funds.◆ Accordingly, Application of Income from Corpus funds is allowable as a deduction only in the year in which the amount is reinvested back into the corpus fund. Similarly, Application of income from loans borrowed is allowable as a deduction in the year in which the loans are repaid.	<ul style="list-style-type: none">◆ Is proposed that only those investments in corpus/ repayment of loan would be allowable as a deduction which are made within a period of 5 years of application of income from corpus/ loans borrowed.◆ It is also provided that application of income out of corpus/ loans borrowed before 1st April 2021 shall not be allowable as a deduction when such amount is deposited back to corpus or loan is repaid. Corresponding relevant amendments have been made in secs 11 and 10(23C) to give effect to the above provision.

[w.e.f. AY 2023-24]

Charitable Trusts

Existing

Proposed

Form 9A/Form 10 to be filed 2 months before due date of filing return of income

- ◆ Form 9A/Form 10 can be filed anytime before the due date of filing return of income. However, the audit report in Form 10B is to be filed 1 month before the due date of filing Return of Income
- ◆ It is proposed that Form 9A/Form 10 is to be filed 2 months before the due date of filing Return of Income. However, there is no change in the due date for filing audit report i.e., 1 month before due date of filing ROI.

Benefit of sec 11 and 12 will be available only if Return of Income has been filed prior to filing of Updated Return of Income

- ◆ In case of updated returns filed u/s 139(8A), the benefits u/s 11 and 12 are available to the trust irrespective of whether it has filed original return or not.
- ◆ It is proposed that exemption u/s 11 and 12 in case where updated return is filed, will be available to the trust only if it has filed original return u/s 139(1) or belated return u/s 139(4).

[w.e.f. A.Y. 23-24]

INDIRECT TAX

Part III – Tax Proposals B) Indirect Taxes

Major GST Proposals

Amendments related to Input Tax Credit (ITC) and GST Returns

Restriction on availment of ITC on CSR expenditure

GST paid on goods or services received by a taxable person to be used for activities relating to the obligation under corporate social responsibility referred to in section 135 of the Companies Act, 2013 will be considered blocked ITC.

Apportionment of ITC in respect of the supply of warehoused goods before clearance for home consumption

Supply of warehoused goods before clearance for home consumption will attract ITC reversal. The value of such supplies will be included in the value of exempt supply for the purpose of apportionment of ITC in terms of section 17 of the CGST Act, 2017

Outer time limit specified for the belated filing of GST returns

Furnishing of GST returns, namely GSTR-1, GSTR-3B, GSTR-8 (TCS return), and GSTR-9 (Annual return), beyond three years from the due date of filing such returns shall be restricted

Major GST Proposals

Amendments related to Composition Scheme and GST Registration

Benefits of the composition scheme can be availed by registered persons engaged in supplying goods through E-commerce operators

A registered person who had opted for the composition scheme was restricted from supplying goods through an e-commerce operation. Now, registered persons engaged in the supply of goods through an e-commerce operator can opt to pay tax under the composition scheme.

Provisions related to mandatory registration shall not apply to persons exempt from obtaining GST registration

Currently, the following class of persons are not required to obtain GST registration –

- ◆ Any person exclusively engaged in the supply of goods or services which are wholly exempt or not liable to tax
- ◆ An agriculturist, to the extent of supply of produce out of cultivation of land
- ◆ Notified category of persons based on recommendations of the GST Council

It is proposed that the exemption to such a person from obtaining GST registration will apply even in cases where it is mandatory to obtain GST registration in terms of section 24 of the CGST Act, 2017 (transactions attracting GST under Reverse charge mechanism, etc.)

Major GST Proposals

Amendments related to GST Refund & Schedule III Transactions

Government to pay interest from date of filing refund application in case of delay beyond 60 days

Currently, interest on delayed refund is calculated from the date immediately after the expiry of sixty days from the date of receipt of refund application till the date of disbursement of refund. It is now proposed that interest for delayed refund will be paid from the date of receipt of the refund application till the date of disbursement of refund in case the refund is delayed beyond 60 days.

High Sea Sales, Sale in Bonded Warehouse, and International Merchant Trading transactions considered as neither supply of goods nor supply of services since the inception of GST

Para 7 and 8 of Schedule III to the CGST Act, 2017, which considered the below-mentioned activities as neither supply of goods nor supply of services proposed to be made applicable retrospectively with effect from 01.07.2017 –

- ◆ Supply of goods from a place in the non-taxable territory to another place in the non-taxable territory without such goods entering into India
- ◆ Supply of warehoused goods to any person before clearance for home consumption
- ◆ Supply of goods by the consignee to any other person, by endorsement of documents of title to the goods, after the goods have been dispatched from the port of origin located outside India but before clearance for home consumption

Note: No refund shall be available if tax has already been paid on such activities/transactions

Major GST Proposals

Amendments related to Place of Supply and OIDAR Services

Place of supply of services by way of transportation of goods to a place outside India where both supplier and recipient are in India

Currently, the place of supply of services by way of transportation of goods to a place outside India where both supplier and recipient are in India was the destination of goods. Now, the place of supply of such services will be determined as follows –

- ◆ Recipient is a registered person – the location of the registered person
- ◆ Recipient is not registered under GST - the location at which such goods are handed over for their transportation

Definition of a “Non-Taxable Online Recipient” and “Online Information And Database Access Or Retrieval Services (OIDAR)” amended

The scope for OIDAR services has been widened to make it applicable to all unregistered persons, irrespective of whether the same is being used for commerce, industry, or any other business. Additionally, the words ‘automated and involving minimal human intervention’ have been deleted from the definition of OIDAR services with the aim to reduce avenues for litigation due to interpretation issues.

Major GST Proposals

Amendments related to Penalties and Offences

Decriminalization of certain offences

Following offences specified under Section 132 of the CGST Act, 2017 are proposed to be decriminalized –

- ◆ Obstruction or preventing any officer in discharge of his duties
- ◆ Deliberate tempering of material evidence
- ◆ Failure to supply the information

Penalty for offences committed by Electronic Commerce Operators (ECO)

It is proposed that ECO will be penalized Rs.10,000 or an amount equivalent to the amount of tax involved, whichever is higher in the following cases -

- ◆ ECO allows the supply of goods or services or both through it by an unregistered person other than a person exempted from registration by a notification issued under this Act to make such supply
- ◆ ECO allows the inter-state supply of goods or services or both through it by a person who is not eligible to make such inter-State supply
- ◆ ECO fails to furnish the correct details in the statement to be furnished under section 52(4) of any outward supply of goods effected through it by a person exempted from obtaining GST registration

Major GST Proposals

Amendments related to Penalties ,Offences & Miscellaneous Provisions

Higher Limit for launching prosecution proceedings

Currently, the threshold limit of tax amount for launching prosecution proceedings when specified offences are committed is Rs. 1 crore. It is proposed to raise this minimum threshold of tax amount to Rs. 2 crores except in case of offences related to fake / bogus invoicing i.e., supply of goods or services without the issuance of an invoice.

Reduction in compounding amount for specified offences

It is proposed to reduce the compounding amount for any offence committed under GST law from the present range of 50% to 150% of the tax amount to the range of 25% to 100% of the tax involved. Further, persons involved in offences relating to the issuance of invoices without the supply of goods or services or both shall not be allowed to compound offences.

Consent-based sharing of taxpayer information on the GST portal with other notified systems

Information furnished by taxpayers at the time of registration, filing of GST Returns details, generation of e-invoice, e-way bill etc., can be shared with other systems notified by the Government. For data sharing, consent of the supplier and recipient will be required. Further, the Government or the GST Portal shall not be responsible for liability arising consequent to sharing of information.

Major Customs Proposals

- ◆ Number of basic customs duty (BCD) rates on goods, other than textiles and agriculture, is proposed to be reduced from 21 to 13, simplifying the overall customs duty rate structure in the country.
- ◆ Application filed before the settlement commission to be disposed of within 9 months from the date of application. If no order is passed within the said period, the settlement proceeding shall abate, and the case shall go back to the adjudicating authority.
- ◆ Sunset period of 2 years on conditional exemptions under Customs laws shall not apply to schemes under Foreign Trade Policy, Multilateral & Bilateral Trade Agreements, re-imports, temporary imports, goods imported as gifts or personal baggage, etc.
- ◆ Key Customs Duty Exemptions proposed on import of the following goods -
 - Seeds used in the manufacture of rough lab-grown diamonds
 - Camera lens for the camera module and input/sub-parts for the lens of the camera module of mobile phone
 - Specified capital goods and machinery required for manufacture of lithium-ion cells for use in battery of electric vehicles
 - Denatured ethyl alcohol for use in the manufacture of industrial chemicals

Decoding the Union Budget

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