“What’s New?”

February 2, 2022

India Budget 2022 – Key Direct and Indirect Tax Proposals

Indian Finance Minister, Ms. Nirmala Sitharaman on February 1, 2022 presented the Union Budget before the Parliament for the Financial Year 2022-23.

This Budget has brought in several important changes in the taxation laws.

In this alert we have discussed the key direct and indirect proposals of the Union Budget 2022.

Direct Tax Proposals

Individual tax rates

No changes in income tax slabs, surcharge and cess for individual and HUF.
Basic tax rates for FY 2022-23 are as follows:

In case of Individual and HUF	Option I	Option II
Upto 0.25 Million ("Mn")	Nil	Nil
>0.25 Mn to 0.5 Mn	5%	5%
>0.5 Mn to 0.75 Mn	20%	10%
>0.75 Mn to 1 Mn	20%	15%
>1 Mn to 1.25 Mn	30%	20%
>1.25 Mn to 1.5 Mn	30%	25%
>1.5 Mn	30%	30%

Surcharge in case of Individual and HUF	
Upto 5 Mn	Nil
> 5 Mn to 10 Mn	10%
> 10 Mn to 20 Mn	15%
> 20 Mn to 50 Mn	25%
> 50 Mn	37%

Surcharge on long term capital gains is proposed to be capped at 15% irrespective of level of income.
Health and education cess is same as 4%.

Corporate tax rates

No Change in Corporate tax rate, MAT, surcharge and cess.
Tax rates for FY 2022-23 are as below:

Particulars	**Under Section 115BAB and 115BAA**		**Under First Schedule to Finance Act**	
Tax Rate	(A) 15%*	(B) 22%	(C) 25%	(D) 30%
Surcharge	Flat rate of 10%		▪ Nil, if income is up to INR 10 Mn ▪ 7%, if income is more than INR 10 Mn but up to INR 100 Mn ▪ 12%, if income exceeds INR 100 Mn	
Health and Education Cess	4%	4%	4%	4%
Subject to conditions	Where total income of the company is computed without claiming specified deductions, incentives, exemptions and additional depreciation available under the Act.		Where its total turnover or the gross receipts in the previous year 2020-21 does not exceed INR 4000 Mn	Where conditions referred to under (C) are not met

* For claiming reduced tax rate of 15% the company should be registered on or after October 1, 2019 and start manufacturing before March 31, 2024. Earlier it was March 31, 2023.

Promoting voluntary compliance

- **Updated tax return**
  - A new section is introduced for filing revised/updated return within 24 months after the end of relevant assessment year. Currently, the timeline to revise the income tax return is 1 month for taxpayer who enters into international transactions, 2 months for company/auditable case and 5 months for non-auditable / individual taxpayers from the respective due date of return.
  - Updated return could be filed upon payment of additional tax of 25% or 50% depending on timing of filing of such return.
  - Updated return can not be filed in case of loss return, decreasing the tax liability, increasing the refund amount, search and survey cases.

- **Tax Deduction at Source (TDS)**
  - TDS is required to be deducted @1% on transfer of immovable property on sale consideration or stamp value duty whichever is higher. Earlier it was required to be deducted on sale consideration only.
  - A new section is introduced to levy TDS @10% on benefits or perquisites allowed to a resident in the course of his business or profession. This does not apply if value of benefit or perquisite is upto INR 20,000.

- **Penalty provisions**
  - Presently a penalty of INR 100 per day is levied under section 272A(2) of the Act for failure to answer questions, sign statements, furnish information, returns or statements, etc. It is proposed to increase the amount of penalty for such failures to INR 500 per day.

Anti-evasion measures

- **No deduction of expenses for exempt income**
  - Currently, expenses incurred for earning exempt income are not allowed for tax deduction. It is now clarified that such expenses will be disallowed even if no exempt income is earned during the year.

- **Restriction on general business expenditure**
  - It is clarified that no tax deduction will be allowed for following sums:
    - Expenditure incurred which is prohibited by any law in India or outside India;
    - Provision of any benefit or perquisite, acceptance of which by the recipient is violation of any law; and
    - Compounding of any offence under any law in India or outside India.

- **Unexplained cash credits**
  - Any sum credited to books for which nature and source is unexplained is treated as income. It is now proposed to bring loans and borrowing within the purview of this provision and the same shall be treated as explained only if the nature and source of such sum is explained in the hands of the lender or creditor besides the borrower.

Incentives

- **Annuity to disabled person**
  - Section 80DD allows deduction of expenses incurred on the medical treatment etc. of disabled dependent or contribution to a scheme for maintenance of disabled dependent. It is now proposed that section 80DD deduction will be allowed even if policy allows payment to disabled dependent on attaining 60 years of age of the policy holder. Earlier this benefit was limited to schemes which allows payment in the event of death of policy holder.

- **Exemption for COVID-19 expenses/receipts**
  - Amount received by an individual or his family member from employer or any other person for the medical treatment of COVID-19 will not be taxable.
  - Amount received by family member of a deceased person from the employer of deceased (without any limit) or from any other person (up to INR 1 Million) within 12 months of his death will not be taxable.

- **Boost to Start-ups**
  - Start-ups are eligible for 100% tax holiday for 3 out of 10 years from incorporation. To promote start-ups last date for incorporation extended by one year from March 31, 2022 to March 31, 2023.

- **Refund of TDS on non-resident payments**
  - Currently, the process to claim refund of the tax deducted from payments to non-residents and paid by a person, where it was not deductible is cumbersome. To remove this hardship, it is proposed to introduce a new provision to provide that deductor may file an application to the tax authorities for refund of such tax deducted. Earlier, in such cases, appeal to Commissioner Appeal was the only recourse to the deductors.

Tax on Crypto currencies

- **Tax on transfer of Virtual Digital Assets (VDA)**
  - Income from transfer of VDA is proposed to be taxed at 30%, and except cost of acquisition no deduction of expenditure will be allowed.
  - VDA includes crypto currencies and Non-fungible tokens (NFTs).
  - No set off of losses or carry forward of losses will be allowed.
  - TDS @ 1% is required to be deducted on payment.
  - Where transaction is wholly in kind or in exchange of another VDA, partly in cash or in kind and the cash is not sufficient to deduct TDS on such transfer, the transferee should ensure that the tax has been paid before making the payment.
  - Gift of VDA of value exceeding INR 50,000 will be taxable in the hands of recipient.

Miscellaneous

- **Withdrawal of concessional rate of tax on foreign dividend**
  - Concessional rate of tax of 15% on dividend received by an Indian company from foreign company in which it holds more than 26% equity shares is withdrawn from April 1, 2022.

- **Revision of transfer pricing orders**
  - It is proposed to empower the Principal Chief Commissioner or the Chief Commissioner or the Principal Commissioner or Commissioner having jurisdiction over the Transfer Pricing Officer (TPO) to revise orders of TPO. Earlier there was no clarity as who can revise the orders of TPO which are erroneous and prejudicial to the interests of the Revenue.

- **Faceless Scheme under the Act**
  - Income-tax assessment proceedings have already been made faceless. However, it is proposed to postpone introduction of faceless proceeding before the TPO, Dispute Resolution Panel and tax Tribunals till April 1, 2024.

Indirect Tax Proposals

Goods and Services Tax (GST)

- Time limit for availing of Input Tax Credit (ITC) under GST in respect of any invoice and debit note pertaining to a year has been extended by two months to 30th November of succeeding year.
- ITC with respect to inward supply can be availed only to the extent of amount mentioned in auto generated report (Form GSTR-2B).
- The registration of a person is liable for cancellation, where -
  - Composite dealer has not furnished the return for a year beyond three months from the due date of furnishing of the said return;
  - In case of other dealer, who has not furnished returns for such continuous tax period as may be prescribed.
- Extended time for issuance of credit notes and making changes in outward return up to 30th November of subsequent year.
- Non-resident taxable person shall furnish return for a month by 13th day of the following month.
- The provisions in respect of provisional Input tax credit is to be dispensed off.
- Levy of late fee for delay in filing of return for TCS in Form GSTR-8.
- Allowing transfer of amount available in electronic cash ledger under the CGST Act of a registered person to the electronic cash ledger under the CGST Act or the IGST Act of different GSTIN of a same taxpayer.
- Retrospective amendment is proposed, with effect from the July 1, 2017, so as to provide for levy of interest @18% on ITC wrongly availed and utilized.
- Enabling provisions are introduced in GST law which restrict utilization of ITC and discharges output tax liability through Electronic cash ledger, withholding all type of refund against pending demand and block the credit in specified cases.
- Buyer to reverse ITC along with Interest @18% if supplier fails to deposit output tax within the prescribed time period.

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