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# Union Budget 2022

Tax Alert - Oil and Gas sector

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## Transforming Fuels to Cleaner Energy



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As India embarks upon its journey to achieving carbon neutral target by 2070, the Union Budget 2022 aims to take steps in reducing emissions and promoting use of cleaner fuels and energy saving measures.

Some key highlights in the Union Budget 2022 are as under:

- ▶ 5-7% biomass pellets to be co-fired in thermal power plants resulting into CO<sub>2</sub> saving of 38 MMT annually.
- ▶ Facilitate domestic manufacture of solar components to achieve 280 GW of installed solar capacity through PLI scheme by 2030.
- ▶ Promote energy efficiency and saving measures through energy service company business model in large commercial buildings.
- ▶ Battery swapping policy to be introduced to plug challenges in implementing use of EVs.
- ▶ Promote the use of public transport in urban areas complemented by clean technology, special mobility zones, use of EVs, etc.
- ▶ Four pilot projects to be introduced for coal gasification and conversion of coal into chemicals.

Apart from the above announcements, several measures to rationalize taxes are also proposed to be introduced.

# How does the budget impact the Oil and Gas sector?

## Key amendments

### Direct Tax

While no sector specific amendment announced in the Union Budget 2022, some key amendments likely to impact the sector in general are as under:

#### Tax Rates

- ▶ No changes in basic tax rates for individuals and corporates.
- ▶ Surcharge leviable to AOP comprising companies to be capped to 15%.
- ▶ Surcharge on all long-term capital gains for individuals, AOP, HUF and BOI to be capped at 15%.

#### Tax Incentives

- ▶ Sunset date for commencement of manufacture or production extended to 31 March 2024 for new manufacturing companies to avail concessional tax rate of 15%.
- ▶ Sunset date for incorporating start-ups extended from 31 March 2022 to 31 March 2023 to claim tax holiday.

#### Withdrawal of concessional tax on dividends from foreign company

- ▶ Concessional rate of 15% on dividend earned by an Indian company having shareholding of 26% or more in a foreign company has been removed, to bring parity in taxation of dividend earned from domestic companies.
- ▶ The above provisions shall apply from 1 April 2022.

#### Introduction of updated tax returns

- ▶ In certain cases, taxpayers will be allowed to file updated returns to correct errors in the original tax return. Such return can be filed within 24 months from end of relevant AY.

#### Litigation

- ▶ Tax litigation by tax authorities proposed to be deferred where an identical question of law in the case of any taxpayer is pending in appeal before jurisdictional HC or SC till the same is decided.

#### Other amendments

- ▶ It is clarified that health and education cess cannot be allowed as business expenditure.

### Indirect Tax

#### Customs duty

- ▶ Several changes to customs duty rates aligned to "Make-in-India" and "Atmanirbhar Bharat" policy.
- ▶ Exemption from BCD for imports for petroleum operations restricted to specified list of goods. Procedural conditions simplified removing the requirement of producing a certificate from Directorate General of Hydrocarbons.
- ▶ Exemption from BCD for raw material imports for manufacture of goods required for offshore operations to be withdrawn with effect from 1 April 2023 and will attract applicable BCD rate.

## Highlights



Basic excise duty per litre on petrol and diesel

Roadmap for shift from traditional to alternate fuels



Sunset for start-ups and manufacturing companies extended to 31 March 2023 and 31 March 2024

**AOP surcharge reduced from 37% to 15%**



- ▶ BCD rates for goods required for setting up crude petroleum refinery and LNG re-gasification plant to increase.
- ▶ Under project import scheme, for projects registered till 30 September 2022 - lower BCD rate of 5% to continue till 30 September 2023. New projects registered after 30 September 2022 to attract BCD rate of 7.5%.

#### **Excise duty**

- ▶ To promote blending of ethanol, methanol and bio-diesel, an additional basic excise duty of INR 2 per litre on petrol and diesel will be levied with effect from 1 October 2022 on unblended petrol and diesel.
- ▶ Two new tariff items under Chapter 27 relating to E12 and E15 fuel blends and conforming to the new prescribed BIS specification inserted in the Fourth Schedule of Central Excise Tariff.

#### **GST**

- ▶ Additional restrictions introduced for availing ITC in case of continued default in payment of tax by vendor, difference between tax filing and tax payment amounts of vendor, availment of excess ITC by vendors. Amendment also proposed triggering reversal of ITC along with interest where tax is not paid by the supplier.
- ▶ Other ITC related amendments include extension of period for availing ITC to 30 November of subsequent year and retrospective reduction in interest rate to 18% for wrong availment and utilization of ITC.
- ▶ Legislative changes include requirement of sequential filing of returns, payment of taxes and time limit extended to 30 November in case of issuance of credit notes and rectifications of errors or omission in returns.
- ▶ Transfer of amount available in electronic cash ledger under CGST or IGST of a 'distinct person' (GST registrations within the same PAN) allowed.
- ▶ Other changes include GST registration liable to be cancelled if the returns have not been filed for continuous period prescribed [earlier 6 months]. Further power to restrict maximum proportion of output tax liability which may be discharged through the electronic credit ledger enabled.

## **Impact analysis**

In light of India's commitment to COP26 Glasgow summit, the Union Budget has focused on promoting use of cleaner energy alternatives. Though, there are no specific changes from direct tax perspective for oil and gas sector, various rationalization measures have been proposed with respect to customs duty rates. Further, procedures relating to claiming current customs benefit is proposed to be simplified.

## Glossary

AOP - Association of Persons

AY - Assessment Year

BCD - Basic Customs Duty

EV - Electric Vehicles

GST - Goods and Service Tax

GW - Gigawatt

HC - High Court

HS Code - Harmonized System Code

HUF - Hindu Undivided Family

ITC - Input tax credit

LNG - Liquefied Natural Gas

MMT - Metric Million Tonnes

PLI - Production Linked Incentive

SC - Supreme Court



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