

# Budget

2020

2021

2022

2023

2024



## Policy and tax reforms impacting Start-up sector



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The Hon'ble Finance Minister as part of the Budget speech announcing the reforms towards start-ups recognised the catapulted growth of the Indian start-up ecosystem ranking as the third largest globally indicating the vitality of entrepreneurship to our country's economic growth. The budget amply reflects and reciprocates the Government's thinking towards start-ups by proposing multiple reliefs and significant policy announcements.

Some of the key proposals such as extending the date of incorporation for income tax benefits to start-ups from 31 March 2023 to 31 March 2024 and the proposal to extend the benefit of carry forward of losses on change of shareholding of start-ups from seven years of incorporation to ten years will definitely go on to boost the growth of start-ups. On the other hand, it is important for the stakeholders in the start-up ecosystem to also take note of proposed changes in the online gaming sector, widening of angel tax provisions etc., which could have an impact from a 'compliance/ cost of doing business' perspective.

We look forward to seeing how the results of the new policies will unfold as India navigates towards its vision for the Amrit Kaal.

# How does the budget impact Start-up sector?

## Key amendments - for start-up entities

- ▶ **Proposal to extend the period of incorporation for start-ups to 1 April 2024**
  - ▶ Section 80-IAC provides for 100% deduction on profits and gains generated by an eligible start-up for three consecutive assessment years out of ten years beginning from the year of incorporation.
  - ▶ Currently, the conditions for qualifying as eligible start-up inter-alia provide that such start-ups should be incorporated before 1 April 2023.
  - ▶ In order to further boost the start-up eco-system in India and to provide them with competitive advantage, the period of incorporation for the purpose of qualifying as eligible start-ups is proposed to be extended from 1 April 2023 to 1 April 2024 i.e., to include start-ups incorporated before 1 April 2024.
  - ▶ This amendment also means that the eligible start-ups which are incorporated before 1 April 2024 also stand to enjoy other beneficial tax measures which are currently available such as deferral of ESOP taxation under Section 192(1C), relaxation on carry-forward and set-off of losses under Section 79, angel tax exemption.
- ▶ **Rationalization of carry-forward and set-off of losses relief available to start-ups**
  - ▶ Section 79 restricts carry-forward and set-off of losses in case of closely held companies in the event of change in shareholding and beneficial ownership beyond 51%.
  - ▶ However, a relaxation is available in case of start-ups which provides that business losses can be carried forward and set off on satisfaction of either of the following conditions:
    - ▶ Continuity of 51% beneficial shareholding or voting power
    - ▶ Continuity of 100% of original shareholders
  - ▶ The above relaxation is currently available only for losses for the first seven years from the year of incorporation.
  - ▶ However, in order to align with the profit linked deduction which is available to start-up for three years out a window of the first ten years of incorporation, the relaxation with respect to carry-forward and set-off of losses is also proposed to be increased from a period of seven years to ten years.
- ▶ **Changes to withholding on winnings from games**
  - ▶ The de-minimis threshold of INR 10,000 for every game which is currently available under Section 194B for winnings from lottery or crossword puzzle or card game and other games is proposed to be amended to INR 10,000 per financial year.
  - ▶ The budget also proposes to amend Section 194B to specifically include within its scope "gambling or betting of any form or nature whatsoever" as part of the scope of Section 194B.
  - ▶ A separate section is proposed to be introduced for taxation of winnings from online games, providing for taxation at 30% on the net winnings from the same. Further a separate section is proposed to be introduced to undertake withholding on the net winnings by the online gaming platforms at the rates in force, which shall be effective from 1 July 2023.

## Highlights



Start-up tax benefits

31 ..... 31  
March ..... March  
2023 ..... 2024



Carry forward and set-off of business loss



Withholding on net winnings from online games

- ▶ **Increase in Tax Collected at Source ('TCS') rate for amounts remitted under Liberalised Remittance Scheme ('LRS')**
  - ▶ Section 206(1G) levies liability on authorised dealer or seller of overseas tour package to collect tax at source for the purposes mentioned below:
    - ▶ Loan obtained from any financial institution as defined in section 80E exceeding seven lakh rupees
    - ▶ For the purpose of education exceeding seven lakh rupees
    - ▶ For the purpose of medical treatment exceeding seven lakh rupees
    - ▶ Overseas tour package without any threshold limit
    - ▶ Any other case exceeding seven lakh rupees
  - ▶ While there are no changes with respect to remittances towards education and medical treatment, the following amendments have been proposed:
    - ▶ Increase in the rate of TCS has been proposed from 5% to 20% for all cases other than the above
    - ▶ De-minimis threshold of INR 7,00,000 is proposed to be removed in all cases other than the above.
- ▶ **Amendment to the definition of 'cost of acquisition' of intangible assets in certain cases**
  - ▶ Currently due to lack of specific prescription around cost of acquisition of certain assets for which no consideration is paid on acquisition, there has been many legal disputes with respect to computation of capital gains arising in such cases.
  - ▶ In order to put to rest such controversies in future, it is proposed to define the 'cost of improvement' or 'cost of acquisition' of a capital asset being any intangible asset or any other right as 'Nil'.

## Key amendments - for start-up founders/investors

- ▶ **Widening of the scope of angel tax to include non-resident investors**
  - ▶ Section 56(2)(viib) provides for levy of angel tax in the hands of private companies where consideration for issue of shares is higher than fair market value.
  - ▶ The scope of this angel taxation as per the said section specifically included only residents thus far.
  - ▶ However, the budget proposes to omit 'resident' from the said section with effect from 01 April 2024 thereby widening the ambit of taxation in the hands of startups to include investment received from non-residents.
- ▶ **Capital gains tax exemption (Section 54 and Section 54F) on investment in residential houses available to individuals, is now subject to a cap of INR 10 crores**
  - ▶ Section 54 and section 54F allow deduction on capital gain arising from sale of residential property and any other long-term capital asset respectively, for individuals and Hindu undivided family when the sale consideration is reinvested in purchase or construction of another residential house in India within the specified period.
  - ▶ The intent of the provision was to encourage people to own houses and to amplify growth of housing sector.
  - ▶ Therefore, in order to provide a more targeted exemption the budget has proposed to limit the maximum deduction under the said sections to INR 10 crores with effect from 01 April 2024.
  - ▶ Consequently, amendment has been proposed to limit the deposit in the Capital Gains Account Scheme to ten crore rupees.

## Highlights



*TCS on LRS in certain cases*

**5% to 20%**



*Angel tax extended to investments from non-residents*



*Cap on capital gains investment to INR 10 crores*

## Key amendments - on personal tax rates

- ▶ Higher Surcharge rate for individuals reduced from 37% to 25% in the new tax regime. Therefore, ETR on highest slab rate for individuals under new tax regime is 39% (earlier 42.74%).
- ▶ New slab rates under new personal tax regime:

| Total Income (in INR) | Tax rate |
|-----------------------|----------|
| 0 - 3 lakhs           | Nil      |
| 3 lakhs - 6 lakhs     | 5%       |
| 6 lakhs - 9 lakhs     | 10%      |
| 9 lakhs - 12 lakhs    | 15%      |
| 12 lakhs - 15 lakhs   | 20%      |
| Above 15 lakhs        | 30%      |

## Highlights



Reduction in  
maximum surcharge

**37% to 25%**

## Key policy announcements - relating to start-ups

- ▶ An Agriculture Accelerator Fund will be set-up to encourage agri-startups by young entrepreneurs in rural areas. The Fund will aim at bringing innovative and affordable solutions for challenges faced by farmers. It will also bring in modern technologies to transform agricultural practices, increase productivity and profitability.

## Impact analysis

Since inception, the start-up India initiative has rolled out several programs with the objective of supporting entrepreneurs, creation of jobs and building a robust start-up ecosystem. The Indian start-up sector has been very vocal about its expectations from the Budget 2023. The budget wish-list included an elaborate set of requirements including introduction of single window mechanism for claiming tax and regulatory incentives, exemption from long term capital gain on sale of shares in start-ups by investors.

Budget 2023 has been encouraging for start-ups in several aspects such as extending the sunset clause for start-up tax exemption and increasing the number of years for carry forward and set-off loss. Further introduction of measures such as introduced Permanent Account Number as Common Business Identifier, promise of more selective tax scrutiny will be crucial towards enabling ease of doing business.

From the long-term perspective, the Government needs to bring more changes in line with tax incentives offered/practices adopted by other tax jurisdictions to ensure that start-ups with exponential growth potential do not shift to other jurisdictions which provide simple tax system, easier tax compliances etc.

## Glossary

APA - Advance Pricing Agreement

GST - Goods and Services Tax



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