

# Budget

2020

2021

2022

2023

2024

## Macro-fiscal developments

Budget 2023 strongly supports domestic demand

### Key takeaways

#### Conservative growth projections

- ▶ The Economic Survey projected a real GDP growth of 6.5% as per its baseline case. Its overall assessment gives a broader range of 6% to 6.8% real GDP growth in FY24.
- ▶ The Union Budget has assumed a nominal GDP growth of 10.5%. Considering the estimates of the RBI's Professional Forecaster's Survey for CPI inflation at 5.2% and WPI inflation at 4.8%, the IPD-based inflation may be estimated at 5%. This implies a real growth of only 5.2%.

#### Thrust on capital expenditure

- ▶ Govt's total expenditure growth is budgeted at 7.5% in FY24 (BE). Within this, capital expenditure is budgeted to show a strong growth of 37.4% in FY24.
- ▶ Effective capital expenditure (direct capital expenditure of Govt plus grants to states for creation of capital assets) relative to GDP is budgeted to increase to 4.5% in FY24 from 3.9% FY23 (RE).
- ▶ The Govt has extended grants amounting to 1.2% of GDP for capital asset creation to the state governments. Further, an interest-free loan for 50 years is extended to the state governments for capital expenditures in FY24.
- ▶ On the other hand, revenue expenditure growth is estimated at only 1.2%. This is largely due to a budgeted fall in major subsidies (food, fertilizer and petroleum) as the global crude and commodity prices moderate.

### Highlights

Nominal  
GDP Growth  
for FY24  
**10.5%**



Capital  
expenditure  
growth  
**37.4%**



FY24 Fiscal  
Deficit  
**5.9% of  
GDP**

Growth  
in Govt's  
gross tax  
revenues  
**10.4%**



### **Stimulating private consumption expenditure**

- ▶ Private final consumption expenditure is supported by an increase in disposable incomes, especially of the lower middle-income groups through tax slab adjustments.
- ▶ Lower global crude prices would also translate into lowering of energy costs for households, releasing incomes for augmenting expenditure on non-energy products.

### **Tax revenues remain buoyant**

- ▶ In FY23 (RE), union government's gross tax revenues are estimated to grow by 12.3% reflecting a buoyancy of 0.8.
- ▶ Gov's GTR are budgeted to grow by 10.4% in FY24 (BE) indicating a higher buoyancy of 1.0 relative to the FY23 level.
- ▶ FY24 is expected to witness an improvement in the growth and buoyancy of union excise duty collections and customs duties.

### **Steep reduction ahead in the fiscal consolidation path**

- ▶ Reaching a level of fiscal deficit of 4.5% of GDP by FY26 from the budgeted level of 5.9% in FY24 would call for a reduction of 0.7% points each in the next two years of FY25 and FY26.
- ▶ The Union Budget 2023 has not indicated the timeline for reaching back the FRBM level of 3.0% of GDP.

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## Simplifying compliance burden and ensuring stability of corporate tax regime

Finance Bill 2023 proposals aim to maintain stability of taxation, simplify various provisions to reduce compliance burden, promote entrepreneurial spirit and provide relief to taxpayers

### Key takeaways

#### Direct tax

- ▶ No changes to corporate tax rate
- ▶ Cash perquisites received in the course of business/profession taxable
- ▶ Deduction of payments made to MSMEs beyond statutory timeline to be allowed only on actual payment basis
- ▶ No set off of unabsorbed depreciation and brought forward business loss for certain NRs taxable under presumptive taxation regime
- ▶ Sunset date for incorporation of start-ups to be eligible for tax holiday extended from 31 March 2023 till 31 March 2024
- ▶ Gains from transfer of market linked debentures to be taxed as short-term capital gain irrespective of the period for which they are held
- ▶ Tax treaty benefits to be available at the time of withholding taxes on income from specified units of Mutual Funds or specified company paid to a non-resident
- ▶ Withdrawal of exemption from withholding tax on payment of interest on listed debentures paid to resident
- ▶ New provision proposed for taxation of net winnings from online games and related withholding obligation
- ▶ De-minimis limit of INR10,000 for trigger of withholding obligation on payment of winnings from games (other than online game) to be determined basis aggregate payments made during relevant financial year and not per transaction
- ▶ New mechanism provided for claim of withholding tax credit in respect of income offered to tax in past year but corresponding tax is withheld by payer in subsequent year
- ▶ Decriminalization of certain tax compliance defaults by liquidator

### Highlights



**Start-ups**  
31 March 2024



New tax for Online Gaming

TCS

5% → 20%



Penalty



Market linked debentures = Short term Capital asset



Tax  
Sale of intangible assets or any other rights

Interest on Listed debentures



TDS

## Corporate tax

### ► Corporate tax rates

Description.	Existing rate * (%)	Proposed rate * (%)	Difference + - =
<b>A) Domestic company</b>			
<b>Regular tax</b>			
Companies having turnover not exceeding INR400 crore in financial year 2021-22 (2020-21 for tax year 2022-23):			
► Total income <= INR1 crore	26 <sup>1</sup>	26 <sup>1</sup>	No change
► Total income more than INR1 crore to INR10 crore	27.82 <sup>2</sup>	27.82 <sup>2</sup>	
► Total income > INR10 crore	29.12 <sup>3</sup>	29.12 <sup>3</sup>	
Companies having turnover > INR400 crore in financial year 2021-22 (2020-21 for tax year 2022-23):			
► Total income <= INR1 crore	31.2 <sup>4</sup>	31.2 <sup>4</sup>	No change
► Total income more than INR1 crore to INR10 crore	33.38 <sup>5</sup>	33.38 <sup>5</sup>	
► Total income > INR10 crore	34.94 <sup>6</sup>	34.94 <sup>6</sup>	
New manufacturing companies set up and registered on or after 1 October 2019 not availing incentives (optional regime)	17.16 <sup>7</sup>	17.16 <sup>7</sup>	No change
Other domestic companies not availing incentives (optional regime)	25.17 <sup>8</sup>	25.17 <sup>8</sup>	No change
<b>B) Minimum Alternate Tax (Refer Note 1)</b>			
<b>Regular</b>			
► Total income <= INR1 crore	15.6 <sup>9</sup>	15.6 <sup>9</sup>	No change
► Total income more than INR1 crore to INR10 crore	16.69 <sup>10</sup>	16.69 <sup>10</sup>	
► Total income > INR10 crore	17.47 <sup>11</sup>	17.47 <sup>11</sup>	
<b>International Financial Service Centre (IFSC)</b>			
► Total income <= INR1 crore	9.36 <sup>12</sup>	9.36 <sup>12</sup>	No change
► Total income more than INR1 crore to INR10 crore	10.02 <sup>13</sup>	10.02 <sup>13</sup>	
► Total income > INR10 crore	10.48 <sup>14</sup>	10.48 <sup>14</sup>	
<b>C) Foreign company</b>			
<b>Regular tax</b>			
► Total income <= INR1 crore	41.6 <sup>15</sup>	41.6 <sup>9</sup>	No change
► Total income more than INR1 crore million to INR10 crore	42.43 <sup>16</sup>	42.43 <sup>10</sup>	
► Total income > INR10 crore	43.68 <sup>17</sup>	43.68 <sup>11</sup>	

\* These rates are inclusive of applicable surcharge.

<sup>1</sup> 25% plus 4% cess

<sup>2</sup> 25% plus 7% surcharge plus 4% cess on tax and surcharge

<sup>3</sup> 25% plus 12% surcharge plus 4% cess on tax and surcharge

<sup>4</sup> 30% plus 4% cess

<sup>5</sup> 30% plus 7% surcharge plus 4% cess on tax and surcharge

<sup>6</sup> 30% plus 12% surcharge plus 4% cess on tax and surcharge

<sup>7</sup> 15% plus 10% surcharge plus 4% cess on tax and surcharge

<sup>8</sup> 22% plus 10% surcharge plus 4% cess on tax and surcharge

<sup>9</sup> 15% plus 4% cess

<sup>10</sup> 15% plus 7% surcharge plus 4% cess on tax and surcharge

<sup>11</sup> 15% plus 12% surcharge plus 4% cess on tax and surcharge

<sup>12</sup> 9% plus 4% cess

<sup>13</sup> 9% plus 7% surcharge plus 4% cess on tax and surcharge

<sup>14</sup> 9% plus 12% surcharge plus 4% cess on tax and surcharge

<sup>15</sup> 40% plus 4% cess

<sup>16</sup> 40% plus 2% surcharge plus 4% cess on tax and surcharge

<sup>17</sup> 40% plus 5% surcharge plus 4% cess on tax and surcharge

## Notes:

1. MAT is not applicable to 15% CTR company and 22% CTR company. Presently, there is no MAT on foreign companies having no PE in India or having no registration requirement under any other law in India or foreign companies whose total income comprises solely of profits and gains from business or profession which are subject to presumptive basis of taxation under normal computation (shipping, aircraft, oil and gas, civil construction and turnkey power projects). If MAT is applicable to foreign companies, rates of surcharge will differ.
- ▶ **Cash perquisites received in the course of business/profession taxable**
    - ▶ Under the existing provisions, value of any benefit or perquisite, whether convertible into money or not, arising from business or profession is chargeable to tax and there is corresponding withholding obligation on the provider. Various courts have interpreted that benefit in the form of cash is not covered within the scope of such provisions.
    - ▶ In order to align with the intent of taxing cash perquisites, any benefit or perquisite granted in cash or in kind, partly or wholly, will now be taxable with effect from 1 April 2024. Consequential amendments have been proposed to be made to the applicable withholding tax provisions.
  - ▶ **Deduction of payments made to MSMEs<sup>18</sup> beyond statutory timeline to be allowed only on actual payment basis**
    - ▶ Under the ITL, certain specified payments are allowed as a deduction on accrual basis for a financial year only if they are actually paid before the due date of furnishing of return of income for the relevant financial year.
    - ▶ Under the MSMED Act, payments to MSMEs, as per written agreements, have to be made within 45 days. If there is no such written agreement, the MSMED<sup>19</sup> Act mandates that the payment shall be made within 15 days.
    - ▶ In order to promote timely payments to MSMEs, FB 2023 proposes to permit deduction for payments made to MSMEs on accrual basis only if the payment is made within the statutory timeline mandated by the MSMED Act. Further, in case of any defaults where payments are made to MSMEs beyond the statutory timeline as per MSMED Act, deduction under ITL will be allowed only on actual payment basis.
    - ▶ This amendment will be effective from assessment year 2024-25.
  - ▶ **Ease in claiming deduction on amortization of preliminary expenditure**
    - ▶ Under existing provisions of ITL, preliminary expenses which are incurred prior to the commencement of business or after commencement, in connection with extension of undertaking or setting up of a new undertaking are allowed to be amortized. These preliminary expenses include expenditure in connection with preparation of feasibility report, project report etc., provided such report is prepared by the taxpayer itself or by a concern which is approved by CBDT.
    - ▶ In order to ease the process of claiming amortization of these preliminary expenses, FB 2023 proposes to remove the condition of concern being approved by CBDT. As per the proposal, a taxpayer will be required to furnish a statement within a certain time limit and in a form, as will be prescribed subsequently, to claim amortization for such expenditure.
    - ▶ The proposed amendment will be effect from assessment year 2024-2025.
  - ▶ **No set off of unabsorbed depreciation and brought forward business loss for certain NRs under presumption taxation regime**
    - ▶ Under existing provisions of ITL, NRs engaged in extraction or production of mineral oils or in turnkey power project construction business are allowed to opt for presumptive taxation scheme, wherein income is taxed on presumptive basis. Alternatively, NRs also have an option to offer their actual profits to tax if they maintain audited books of accounts. Accordingly, where the NR incurs losses, NR can claim such actual losses and carry it forward for set off against the income of future of years, where NR has taxable income even when NR offers the income under presumptive scheme.
    - ▶ In order to prevent such set-off of actual losses of previous years against presumptive income, FB 2023 proposes to specifically restrict set off of prior years' unabsorbed depreciation and brought forward business loss in years where NR offers income under presumptive scheme.
    - ▶ The amendment is proposed to be effective from assessment year 2024-2025.

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<sup>18</sup> Micro, Small and medium enterprises

<sup>19</sup> Micro, Small and Medium Enterprises Development Act 2006

▶ **Rationalization of deduction available in respect of export proceeds earned by Eligible Unit in Special Economic Zone (SEZ)**

- ▶ The ITL provides a 15-year tax holiday in the form of a deduction from taxable profits of certain export profits earned by Eligible Unit in Special Economic Zone (SEZ) approved by 31 March 2020 and set-up and commencing operations on or before 30 September 2020.
- ▶ Presently, one of the conditions around claim of such deduction relates to obtaining a report from auditor quantifying the amount of deduction available as also making the claim in the return of income. Along the lines of some other incentive provisions, FB 2023 proposes to provide for an additional condition whereby deduction in respect of export profits earned by Eligible Unit in SEZ will be available only if the return is filed within the statutory due date under the ITL.
- ▶ Separately, such deduction in respect of export profits of Eligible Unit in SEZ is also proposed to be made contingent upon receipt of export proceeds in India within 6 months from end of relevant tax year (or higher period in accordance with exchange control regulations). FB 2023 also introduces consequent provisions permitting tax authority to rectify assessment order where deduction was claimed by the taxpayer but was denied earlier due to export proceeds are not recovered within due time as above. Rectification is permitted within 4 years from end of previous year in which export proceeds are received in India.

▶ **Gains from transfer of market linked debentures to be taxed as short-term capital gains**

- ▶ Currently, market linked debentures (MLDs) are listed securities and taxation of gains on transfer of such securities will depend upon the period for which the MLDs are held. In case of long-term capital gains, i.e. if the MLDs are held for more than 12 month period, the gains on transfer are taxable at the rate of 10%<sup>20</sup> and in case of short term capital gains, i.e. if the MLDs are held for a period of 12 months or less than 12 months, the gains are taxable at the existing applicable rates (refer table above under corporate tax rates tab).
- ▶ FB 2023 now proposes to tax the gains on MLDs as short-term capital gains, irrespective of the period for which the MLDs are held and concessional rate as applicable for long term capital gains will not be available. Further to arrive at the gains on transfer of MLDs, one can reduce the cost of acquisition of such debentures and also any expenses incurred in connection with the transfer.
- ▶ This amendment will be effective from assessment year 2024-25.

▶ **Conversion of physical gold to electronic gold and vice-versa to not attract capital gains tax**

- ▶ In order to promote the concept of Electronic Gold, FB 2023 proposes to exclude the conversion of physical form of gold into EGR and vice versa by a SEBI registered Vault Manager from the purview of 'transfer' for the purposes of computing capital gains chargeable to tax.
- ▶ Further, FB 2023 also proposes consequential amendments to provide that the cost of acquisition of the EGR for the purpose of computing capital gains shall be deemed to be the cost of gold in the hands of the person in whose name EGR is issued, and the holding period for the purpose of capital gains, would include the period for which gold was held by the taxpayer prior to its conversion into EGR. Similar rules will apply for conversion of EGR into physical gold.
- ▶ These amendments will be effective from assessment year 2024-25.

▶ **Claim of WHT credit in subsequent years in respect of income already offered to tax in past years**

- ▶ Presently, credit of tax withheld in respect of income of a taxpayer can be claimed only in the year in which such income is offered to tax. Representations were received with respect to the difficulty that can arise where the income is offered to tax in earlier years following accrual method of accounting, but tax is withheld and paid by payer only when the income is actually paid to the taxpayer subsequently. In such case, it is typically seen that benefit of such credit is lost as the time to file revised return for past years has lapsed.
- ▶ Accordingly, to ease such difficulty, FB 2023 proposes to allow a taxpayer to claim such tax credit in the said assessment year through an application made before tax authority within two years from the end of the financial year (FY) in which such tax was withheld. Additionally, it also permits the tax authority to carry out rectification granting such credit within four years from the end of the FY in which such tax was withheld.
- ▶ Separately, interest on refund, if any, that may arise in such case, shall be allowable only from the date of application (as above) made by the taxpayer.
- ▶ This amendment will be effective from 1 October 2023.

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<sup>20</sup> plus applicable surcharge and cess

- ▶ **Deletion of exemption from withholding tax on payment of interest on listed debentures paid to resident**
  - ▶ Under existing provisions of ITL, taxes are not withheld in case of interest payable to a resident on any security issued by a company, where such security is in dematerialized form and is listed on a recognized stock exchange in India.
  - ▶ However, concerns have been raised that the resident recipients are under reporting the interest income due to such withholding tax exemption. Hence, it is proposed to delete such exemption and accordingly, taxes will be required to be withheld on payment of interest on listed debentures to residents.
  - ▶ The amendment is proposed to be effective from 1 April 2023.
- ▶ **Taxation of net winnings from online games and related withholding obligation**
  - ▶ Currently, income from winnings from games, race horses etc. are taxable at the rate of 30%<sup>21</sup> and appropriate withholding provisions are also applicable. Due to increase in the users of online games and also different nature of such games, being easily accessible via the Internet and computer resources with a variety of playing options and payment options, it is proposed to bring in specific provisions regarding taxability and withholding of online games.
  - ▶ FB 2023 proposes to tax the net winnings from online games at the rate of 30% (excluding surcharge and cess) and the manner of computation of net winnings from online games will be prescribed.
  - ▶ FB 2023 also proposes to introduce withholding on net winnings from online games of the user account. If the user of online game withdraws winnings from its user account during financial year, tax is required to be withheld at the time of withdrawal on the net winnings comprised in such withdrawal. Further, tax is also required to be withheld on the net winnings in the user account at the end of the financial year which is not withdrawn.
  - ▶ Withholding on winnings from online games is proposed to be applicable from 1 July 2023. Taxability of winnings from online games proposed to be applicable from assessment year 2024-25.
- ▶ **Modification of determining the threshold limit for non-withholding of taxes on winnings from games (other than online game)**
  - ▶ Under existing provisions of ITL, taxes are required to be deducted on payment of winnings from lottery, puzzle, game, horse racing or for arranging for wagering or betting in any race course; where such amount of winnings exceeds INR10,000.
  - ▶ However, it was observed that payers split winnings into multiple transactions each below INR10,000 to avoid the withholding provisions. To address such concern, it is proposed that taxes will be required to be withheld if the winning amount or aggregate of winning amounts during relevant financial year exceeds INR10,000.
  - ▶ The amendment is proposed to be effective from 1 April 2023.
- ▶ **Availability of tax treaty benefit at the time of withholding taxes on income from specified units of Mutual Funds or specified company paid to a non-resident**
  - ▶ The existing provisions of the ITL provide for withholding taxes at the rate of 20% on income of non-residents from specified units of mutual funds or specified company. The treaty benefits which provide for lower rate of taxes are not considered at the stage of withholding by the payer, resulting in claim of refund by such non-resident taxpayers by filing a return of income under the ITL.
  - ▶ In this regard, acceding to various representations, FB 2023 proposes that tax treaty benefit should be considered by the payers while determining the withholding tax liability with reference to above payments as long as the non-resident taxpayer has furnished a Tax Residency Certificate to the payer.
  - ▶ This amendment is effective from 1 April 2023.
- ▶ **Preventing deferral of taxes through undervaluation of inventory**
  - ▶ Under the ITL, taxpayers are required to maintain books of accounts wherein inventory is required to be valued at lower of cost or Net Realisable Value (NRV) and a detailed mechanism is prescribed for this purpose under Income Computation and Disclosure Standards (ICDS).
  - ▶ In order to ensure that inventory is valued correctly by taxpayers, FB 2023 proposes to amend the ITL in order to enable the tax authority to direct taxpayer to obtain an inventory valuation report from a cost accountant setting forth such particulars as may be prescribed.

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<sup>21</sup> Plus applicable surcharge and cess

- ▶ Consequent to the above, FB 2023 proposes that the period of time required to undertake inventory valuation will be excluded from the time limit for completing assessment by the tax authority.
- ▶ These amendments are effective from assessment year 2023-24.
- ▶ **Decriminalization of defaults by liquidator under ITL**
  - ▶ The ITL requires any person appointed as liquidator of a company to notify the tax authority of his appointment within 30 days. Subsequently, the tax authority is obligated to notify the liquidator of taxes due from the said company within three months of receipt of notice of liquidator's appointment. Upon receipt of such notice from tax authority, the liquidator is obliged to set aside such amount to settle the income tax liabilities. Until such time of receipt of notice from tax authority, the liquidator is not permitted to part with any assets of the company.
  - ▶ Failure to comply with the above may result in prosecution of the liquidator, who may be subject to imprisonment ranging between six months to two years. FB 2023, with an intent to enhance ease of doing business by decriminalizing minor offences, proposes that no such prosecution proceedings may be initiated on or after 1 April 2023.
- ▶ **Other key corporate tax amendments**
  - ▶ Interest deduction limitation rule provisions will not be applicable to non-banking financial companies as notified by the Central Government with effect from 1 April 2024. Currently the exclusion is available only with reference to banking and insurance companies.
  - ▶ Sunset date of incorporation of eligible start-up for availing profit linked tax holiday extended by 1 year (i.e. to be incorporated before 1 April 2024 instead of 1 April 2023). Also, the qualifying period for not attracting loss carry forward limitation for such eligible start-up increased from 7 years from year of incorporation to 10 years from year of incorporation.



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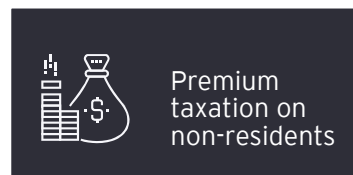
## Premium tax for non-residents and taxability of distributions by REIT/ InVIT expanded

### Key takeaways

#### Transaction tax

- ▶ **Angel tax extended to funds from non-residents as well**
  - ▶ Presently, funds received on issuance of shares by a closely held company from resident investors (other than specified investors) in excess of the company's prescribed fair market value are liable to tax in the hands of the Indian Company issuing the shares
  - ▶ Now funds raised from 'non-resident' investors will also be covered under the above regime
  - ▶ This amendment will be effective from 1 April 2024 (i.e., Assessment Year (AY) 2024-25)
  
- ▶ **Rationalization of carry-forward / set-off of losses to eligible start-ups**
  - ▶ In case of closely held companies, the benefit of carry forward and set-off of such losses is denied where 51% of the voting power beneficially held by the shareholders in the company has changed during the year
  - ▶ However, the above rule does not apply to eligible start-ups, if all the shareholders of the company as on the last day of the year, in which the loss was incurred, continue to hold those shares on the last day of the previous year in which the loss is set off
  - ▶ The above relaxation is currently only available for losses incurred during the period of seven years, beginning from the year in which such company is incorporated
  - ▶ With an intent to align with the profit linked deduction which is available to eligible start-ups (for three consecutive years) during the first 10 years of incorporation, it is now proposed to increase the period of 7 years to 10 years from incorporation, with respect to carry-forward and set-off of losses.
  - ▶ This amendment will be effective from 1 April 2023 (i.e., AY 2023-24)

### Highlights



- ▶ **Tax to unit holders on certain distributions made by business trusts (REITs / InVITs)**
  - ▶ Presently, the statute accords pass-through status to business trusts in respect of certain specific incomes (i.e., interest, dividend and rent) and such incomes are taxed in the hands of the unit holders on distribution by the business trusts
  - ▶ It is proposed that any other distributions (such as repayment of debt) by business trusts that do not suffer taxation either in the hands of REIT or in the hands of unit holders currently, will now be taxed as 'other income' in the hands of unit holders
  - ▶ Further, where such distribution is achieved through redemption of units by business trusts, then the distribution received shall be reduced by the cost of acquisition of the unit or units to the extent such cost does not exceed the distribution received
  - ▶ This amendment will be effective from 1 April 2024 (i.e., AY 2024-25)
  
- ▶ **Carry forward of accumulated losses and unabsorbed depreciation on amalgamation subsequent to Strategic Disinvestment by erstwhile public sector company and banking companies**
  - ▶ Presently, accumulated losses and unabsorbed depreciation can be carried forward on amalgamation of erstwhile public sector companies (i.e., a public sector company which ceased to be a public sector company pursuant to Strategic Disinvestment) if the amalgamation is completed within five years from the end of the year in which the restriction on amalgamation in the Share Purchase Agreement ends
  - ▶ Strategic Disinvestment is defined as the sale of shareholding by the central government or state government in a public sector company, resulting in a reduction of shareholding below 51% and transfer of control to the buyer
  - ▶ To facilitate further Strategic Disinvestment, it is proposed to expand the definition of 'Strategic Disinvestment' to include sale of shareholding by a public sector company in another public sector company or a company, which results in: (i) reduction of its shareholding below 51% and (ii) transfer of control to the buyer
  - ▶ It is also proposed to allow carry forward of accumulated losses and unabsorbed depreciation on amalgamation of banking companies subsequent to a Strategic Disinvestment, if such amalgamation takes place within five years from the end of the year during which such Strategic Disinvestment is carried out
  - ▶ This amendment will be effective from 1 April 2023 (i.e., AY 2023-24)
  
- ▶ **Clarificatory amendment issued on assessment/ reassessment of modified return filed by successor pursuant to an order of business reorganization issued by tribunals or courts**
  - ▶ The Finance Act, 2022 had made provisions for giving effect to the order of business reorganization issued by tribunal / courts, where prior to the date of order any return of income has been filed by the successor, such successor shall furnish a modified return within six months from the end of the month in which such order of business reorganization was issued, in accordance with and limited to the said order
  - ▶ It is now proposed to provide that in a case of business re-organisation, where prior to the date of order of the tribunal / courts, any return of income has been furnished for any assessment year relevant to a previous year, by an entity to which such order applies, the successor shall furnish, within a period of six months from the end of the month in which the said order was issued, a modified return in the form and manner, in accordance with and limited to the said order. This would also enable modification of the returns filed by the predecessor wherever required
  - ▶ It is also proposed that if proceedings of assessment or reassessment for the relevant assessment year have been completed on the date of furnishing of modified return, the Assessing Officer shall pass an order modifying the total income of the relevant assessment year in accordance with the order of the business re-organisation and taking into account the modified return so furnished. Where proceedings of assessment or reassessment for the relevant assessment year are pending on the date of furnishing of modified return, the Assessing Officer shall pass an order assessing or reassessing the total income of the relevant assessment year in accordance with the order of the business reorganization and after considering the modified return so furnished.
  - ▶ This amendment will be effective from 1 April 2023

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## Specified Domestic Transaction provision expanded and time limit to furnish information to Transfer Pricing Officer reduced

### Key takeaways

#### Transfer Pricing

- ▶ Expansion of the scope of Specified Domestic Transaction
  - ▶ Background
    - ▶ New section 115BAE has been inserted which provides for concessional income tax rate of 15% for certain new manufacturing co-operative societies subject to fulfillment of specified conditions.
    - ▶ Section 92BA provides for applicability of transfer pricing provisions to a certain set of Specified Domestic Transactions (SDTs).
  - ▶ Amendment:
    - ▶ The scope of section 92BA has been expanded to include transaction between the co-operative society as defined in section 115BAE and any other person
    - ▶ Therefore, the implication of the above amendment ensures that more than ordinary profits of the co-operative society are not eligible for the lower rate of tax

This amendment will be effective from 1 April 2024, i.e., assessment year 2024-25

- ▶ Time limit to furnish information before the transfer pricing officer reduced
  - ▶ Background
    - ▶ Section 92D, *inter alia*, provides for furnishing of information/documents as called for, by the assessing officer (including TPO) and the CIT(A) within 30 days from the date of receipt of notice, which can further be extended by a period not exceeding 30 days.
    - ▶ Due to limited time available for conclusion of TP proceedings, it may not be practically possible for the officer to provide Assessee a minimum of 30 days for producing initial documents, which are already in the possession of the Assessee.

### Highlights



SDT  
expanded

30 10



days

▶ Amendment:

- ▶ The time limit to furnish information under section 92D has been reduced from 30 days to 10 days, which on an application made by the Assessee can be further extended by a period not exceeding 30 days.

This amendment will be effective from 1 April 2023, i.e., assessment year 2023-24

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## Personal Tax

### Key tax takeaways

- ▶ In order to provide relief to individual taxpayers, several changes towards concessional tax regime have been introduced. The concessional regime provides enhanced rebate, standard deduction, reduced tax rates & lower surcharge for high net-worth individuals.
- ▶ A limit introduced on the maximum exemption available for re-investment into residential house property and taxability of sum received under life insurance policies received by individual taxpayers in certain cases.

### Personal tax

#### ▶ Changes to Concessional Tax Regime (CTR)

The below changes have been introduced under the CTR:

- ▶ CTR will be regarded as the default tax regime while an option to consider existing tax regime will be available to the taxpayers.
- ▶ Enhancement in the basic exemption limit to INR3 lakhs from the existing limit of INR2.5 lakhs.
- ▶ CTR now provides a change in the tax structure with reduced slabs (as mentioned below):

Income (INR)	Proposed rate*(%)
Up to INR3 lakhs	Nil
Above INR3 lakhs to INR6 lakhs	5%
Above INR6 lakhs to INR9 lakhs	10%
Above INR9 lakhs to INR12 lakhs	15%
Above INR12 lakhs to INR15 lakhs	20%
Above INR15 lakhs	30%

- ▶ Introduction of standard deduction of INR50,000.
- ▶ Maximum surcharge rate reduced from 37% to 25% in case of taxpayers having taxable income exceeding INR5 crores (maximum marginal rate reducing from 42.744% to 39%)
- ▶ Rebate limit enhanced to INR7 lakhs from the existing limit of INR5 lakhs (i.e., tax relief of up to INR 25,000)

Given the above changes, the tax benefit under the CTR would be case-specific, based on the income levels of the taxpayer.

#### ▶ Limit on the maximum exemption available for re-investment into residential house property

Under the existing provisions, the taxpayer is allowed an exemption from capital gains with respect to transfer of a long-term capital asset (including residential house property), provided such capital gains/ sale consideration is reinvested for purchase/construction of a new residential house property (without any limit on investment).

### Highlights



Changes to CTR

Maximum deduction of INR **10Cr.** under Section 54 & 54F



Increase in leave encashment statutory limit



Quick disposal of appeals

However, it was observed that higher deductions through purchasing very expensive residential house(s) were being claimed by high net-worth taxpayers.

In order to prevent the above, a maximum exemption limit of INR10 crores is proposed to be introduced (under section 54 & 54F). If the cost of the new property is more than INR 10 crores, the cost of such an asset shall be deemed to be INR 10 crores.

▶ **Rationalization of proceeds from insurance policies**

Currently, any sum(s) received from life insurance policies (other than Unit Linked Insurance Policy) is exempt from taxation (on satisfaction of specified conditions). Accordingly, exemptions were being claimed by the taxpayers on the sum received from such life insurance policies through large premium contributions.

With an intent to rationalize the exemption benefit, a sum received from insurance policies (other than unit linked policies), issued on or after 01 April 2023, having premium or aggregate of premium exceeding INR5 lakhs in a year, will be considered as taxable, except in the case of sum received on death.

▶ **TDS on payment of accumulated balance under Provident Fund (PF) scheme**

The existing provisions provide for deduction of tax at 10% on payment of accumulated balance due to an employee under the Provident Fund Scheme (if PAN is furnished). In case of failure to furnish PAN by the recipient, tax is required to be deducted at the maximum marginal rate.

To provide benefit to non-PAN cases, TDS rate has been reduced from the maximum marginal rate to 20% on taxable portion of PF withdrawal proceeds.

▶ **Increase in Tax Collected at Source (TCS) rate on certain remittances**

Under the current provisions, TCS is applicable at the rate of 5% on certain foreign remittances and overseas tour package. The rate for TCS has been proposed to be enhanced to 20% on such foreign remittances, without any threshold limit. The existing limits and the TCS rates remain unchanged for remittances with respect to education or for the medical treatment.

▶ **Enhancement in tax exemption limit of Leave Encashment**

Tax exemption limit for Leave encashment increased to INR25 lakhs from existing INR3 lakhs. However, the same is yet to be incorporated in the fine print.

▶ **Clarification relating to tax on benefit/ perquisite**

The existing provisions provide for deduction of tax at 10% under section 194R on benefit or perquisite provided to a resident in India, in respect of a business or exercise of a profession. Currently, taxes are required to be deducted where the benefit or perquisite is provided in cash or in kind.

In view of the above, clarification has been provided that TDS provisions will apply to benefit or perquisite whether in cash, or in kind, or partly in cash and partly in kind. Further, the person responsible for providing such benefit is required to ensure that taxes have been deducted in respect of the said benefit or perquisite.

▶ **Taxability of gift to Not Ordinarily Residents**

Under the current provisions, any sum of money in excess of INR50,000 received by a non-resident without consideration from a person resident in India on or after 05 July 2019 is considered as taxable income in India for such non-resident.

With an objective to widen and deepen the tax base, the above provision is proposed to be extended to Not Ordinarily Residents in India as well.

▶ **Conversion of physical gold to Electronic Gold Receipt or vice-versa**

It is proposed that any conversion of physical gold to the Electronic Gold Receipt (EGR) or EGR to physical gold shall not be considered as 'transfer' for the purpose of capital gains. Further, in case of such conversion, the date of acquisition in the new form would be considered as the date when the original asset was purchased.

▶ **Taxability of rent-free accommodation provided by employer**

To rationalize the current mechanism to compute the taxable value of rent-free accommodation to the employee, rules in this regard will be prescribed.

► **Increasing limits under presumptive taxation**

At present, presumptive taxation applies to certain resident taxpayers carrying on eligible business and having a specified turnover or gross receipt from business/ profession. In view of the representations made, the thresholds have been increased as follows:

Current Provisions	Current Limits	Increased Limits/ Changes
Taxpayers carrying on eligible business having a turnover/ gross receipts of INR2 crore or less (section 44AD)	INR2 crores	INR3 crores, provided cash receipts* does not exceed 5% of total turnover/gross receipts
Taxpayers engaged in specified profession having gross receipts of INR50 lakhs or less (section 44ADA)	INR50 lakhs	INR75 lakhs, provided cash receipts* does not exceed 5% of total gross receipts
Taxpayers carrying on business are required to get accounts audited if sales, turnover, gross receipts exceed INR1 crore (INR10 crore if at least 95% of receipts/ payments are in non-cash mode) in case of business and INR50 lakhs in case of profession (section 44AB)	INR1 crore (INR10 crore provided at least 95% of receipts/ payments are in non-cash mode)  INR50 lakhs in case of profession	In addition to current limits, the audit requirements under section 44AB shall not apply to taxpayers declaring profits under section 44AD(1)/ 44ADA(1)

*\*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 cashes*

► **Measures to improve taxpayers experience includes:**

- Deployment of additional Joint Commissioners for disposal of appeals at first appellate level
- More selective approach towards selection of scrutiny cases
- Planned roll out of a next-generation common IT Return Form for taxpayer convenience
- Plan to strengthen the grievance redressal mechanism

# Budget

2020

2021

2022


 2023

2024

## Key highlight | Impact | Action

Custom duty rate rationalization to encourage exports, green energy, and boost domestic manufacturing

### Key tax takeaways

#### Indirect tax

- ▶ **Goods and Services Tax**
  - ▶ ITC will not be available in respect of goods or services used for activities relating to corporate social responsibility.
  - ▶ Filing of returns and statements will not be allowed after three years from the relevant due dates.
  - ▶ Minimum threshold for launching prosecution will be increased from INR1 crore to INR2 crore except in case of issuance of invoice without supply.
- ▶ **Customs**
  - ▶ As part of rate rationalization of customs duty rate structure, BCD, SWS and AIDC rates will be reduced on a number of goods.
  - ▶ Validity period of two years imposed on certain customs exemptions, will not be applicable to identified categories such as imports under FTAs, re-imports, exemptions under FTP schemes, personal baggage.
  - ▶ Settlement Commission to pass order within nine months from the last day of the month in which application is made, or else the proceedings shall abate.

#### Indirect tax

- ▶ **Goods and Services Tax**
  - ▶ Input tax credit
    - ▶ ITC will not be available in respect of goods or services which are used or intended to be used for activities relating to obligation under corporate social responsibility referred to in section 135 of Companies Act, 2013.

### Highlights



No ITC on CSR activities

3  
years

Time period for filing returns after the due date

2  
years

Validity of exemption notification not to apply in specified cases



- ▶ The value of activities or transactions as may be prescribed in respect of warehoused goods before their clearance for home consumption, will be included in value of exempt supplies for the purpose of reversal of common ITC.
- ▶ Returns
  - ▶ Filing of GSTR-1, 3B, 4 to 9 and 9C will not be allowed after the expiry of three years from their relevant due dates. However, the Government may extend such timelines through notification.
- ▶ Refund
  - ▶ The amount of refund on account of zero-rated supplies granted on provisional basis shall now be 90% of the entire amount of refund claimed.
  - ▶ The manner, conditions and restrictions will be prescribed for computing the period of delay for the purpose of calculating interest on delayed refunds.
- ▶ Offense-related provisions
  - ▶ Penal provisions will be prescribed for e-commerce operators in case of contravention of provisions relating to supplies of goods made through them by unregistered persons or composition taxpayers.
  - ▶ Minimum threshold for launching prosecution will be increased from INR1 crore to INR2 crore. However, offense of issuance of invoices without supply of goods or services will not be covered for such increase.
  - ▶ Following offenses will be decriminalized:
    - ▶ Obstruction or preventing any officer in discharge of their duties.
    - ▶ Tampering of material evidence.
    - ▶ Failure to supply correct information or furnishing incorrect information.

Consequential amendments will be carried out in the other provisions.
- ▶ Compounding of offenses
  - ▶ Compounding will not be allowed to:
    - ▶ A person who has been accused of committing an offense of issuance of invoices without supply,
      - ▶ A person who has been allowed to compound once in respect of the following offenses:
        - ▶ Transporting, removing, supplying, purchasing etc. any goods which he knows or has reasons to believe are liable to confiscation,
        - ▶ receives or is concerned with the supply of services which he knows or has reasons to believe are in contravention of any provisions of GST law.
  - ▶ Earlier, compounding was not allowed in the following cases:
    - ▶ A person who was allowed to compound once in respect of any offenses not covered for punishment/ prosecution,
    - ▶ Offense which is also an offense under any other law for the time being in force.

Now, the person will be able to compound such offenses.
  - ▶ Quantum of Compounding will be reduced as follows:

## Highlights



**146**  
exemptions  
extended  
until 31  
March 2024



Settlement  
commission  
to pass  
order within  
9 months



Reduction in  
compounding  
amount

	Minimum	Maximum
Current	Higher of INR10,000 or 50% of tax involved	Higher of INR30,000 or 150% of tax involved
Proposed	25% of tax involved	100% of tax involved

▶ **Registration**

- ▶ Provisions of compulsory registration will not apply where the person is engaged exclusively in making exempt supplies or is an agriculturist. This will be retrospectively effective from 1 July 2017.

▶ **Miscellaneous**

- ▶ Registered persons supplying goods through e-commerce operator will be eligible to opt for composition scheme.
- ▶ Interest on ITC reversal in case of non-payment of value of supply to the supplier will be calculated as per the provisions of section 50 of CGST Act.
- ▶ Following supplies were taken outside the purview of GST w.e.f. 1 February 2019:
  - ▶ Supply of goods from a place in non-taxable territory to another place in non-taxable territory without such goods entering into India
  - ▶ Supply of warehoused goods before their clearance for home consumption
  - ▶ High sea sales

In order to remove the ambiguities regarding taxability of such transactions during the period 1 July 2017 to 31 January 2019, the above amendment will be retrospectively effective from 1 July 2017.

However, no refund will be allowed where the tax has already been paid.

- ▶ Place of supply of services by way of transportation of goods (including by way of mail or courier) outside India will be:
  - ▶ In case of registered recipient - location of the recipient,
  - ▶ In case of unregistered recipient - location at which goods are handed over for transportation.
- ▶ The condition of essential automation and involvement of minimal human intervention will be removed from the definition of OIDAR services. Thus, emphasis will be placed only on information technology required to provide such service.
- ▶ The definition of "non-taxable online recipient" will be amended to cover only unregistered persons (including persons registered solely for the purpose of deducting tax at source) receiving OIDAR services. Further, the definition will also cover cases where the services are used for business purposes.
- ▶ Provisions relating to consent based sharing of information furnished by taxable person will be introduced.

▶ **Customs**

▶ **Duty Rates**

- ▶ As part of rate rationalization of customs duty rate structure, BCD, SWS and AIDC rates on a number of goods, other than textile and agriculture, will be reduced.
- ▶ Also, BCD rate structure will be rationalized with exemption from levy of SWS/ AIDC on specified goods to maintain total effective customs duty.
- ▶ For the purpose of undertaking review, 146 out of 196 exemptions are extended for a period of one year up to 31 March 2024.

Few of the remaining exemptions are extended for a period of five years, two years and one year. The balance will be discontinued w.e.f. 31 March 2023.

- ▶ Validity of two years will not apply to exemption notifications issued in relation to:
  - ▶ Multilateral or bilateral trade agreements,
  - ▶ Obligations under international agreements, treaties, conventions including with respect to United Nations agencies, diplomats and international organizations,
  - ▶ Privileges of constitutional authorities,
  - ▶ Schemes under Foreign Trade Policy,
  - ▶ Central Government schemes having validity period of more than two years,
  - ▶ Re-imports, temporary imports, goods imported as gifts or personal baggage, and
  - ▶ All duty of customs including IGST other than BCD.
  
- ▶ Settlement Commission
  - ▶ Order shall be passed by the Settlement Commission within a period of nine months from the last date of the month in which application is made.
  - ▶ Such period may be extended by a further period of three months.
  - ▶ In case no order is passed within the above period, the settlement proceedings will abate.
  
- ▶ Others
  - ▶ Project Imports Regulations, 1986 and Customs Tariff Schedule have been amended to exclude solar power plant/ solar power project from the purview of project imports.
  - ▶ Retrospective amendments are made w.e.f. 1 January 1995 to clarify that the determination or review of safeguard duty, countervailing duty and anti-dumping duty are to be done by an authority as per the relevant rules.
  
- ▶ **Central Sales Tax Act**
  - ▶ Central Sales Tax Appellate Authority will be replaced by CESTAT to settle inter-state disputes.
  - ▶ Provisions relating to Authority for Advance Rulings will be deleted.
  - ▶ All the pending appeals (including advance ruling proceedings) will be transferred to CESTAT.

# Glossary

**CBDT** - Central Board of Direct Taxes

**EGR** - Electronic Gold Receipts

**FB** - Finance Bill

**MAT** - Minimum Alternate Tax

**MSME** - Micro, Small and Medium Enterprise

**MSME Act**- Micro, Small and Medium Enterprise Development Act 2006

**NR** - Non-resident

**ITL** - Income Tax Act 1961 read with Income Tax Rules 1962

**PE** - Permanent Establishment

**WHT** - Withholding taxes

**AIDC** - Agriculture Infrastructure and Development Cess

**BCD** - Basic Customs Duty

**CESTAT** - Customs, Excise and Service Tax Appellate Tribunal

**CGST Act** - Central Goods and Services Tax Act, 2017

**GST** - Goods and Services Tax

**IGST** - Integrated Goods and Services Tax

**ITC** - Input Tax Credit

**SWS** - Social Welfare Surcharge

**APA** - Advance Pricing Agreement

**FRBM** - Fiscal Responsibility and Budget Management

**GoI** - Government of India

**GST** - Goods and Services Tax

**GTR** - Gross tax revenues

**IPD** - Implicit price deflator

**CIT(A)** - Commissioner of Income Tax (Appeals)

**SDT** - Specified Domestic Transaction

**TP** - Transfer Pricing

**TPO** - Transfer Pricing Officer



For details on other sectors and solutions visit our website [https://www.ey.com/en\\_in/tax/union-budget-2023](https://www.ey.com/en_in/tax/union-budget-2023)

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