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Tax Alert - Key announcements of
Union Budget 2024



Union  Budget

2024-25

Bolstering India's pathway to energy transition



Ms. Neetu Vinayek

*Partner & Leader, Oil & Gas, Tax & Regulatory Services
EY - India*

In Budget 2024, the Hon'ble Finance Minister (FM) has announced a strategy to sustain high and more resource-efficient economic growth, along with energy security in terms of availability, accessibility and affordability. The announcements were made for coal gasification scheme, mandatory blending of compressed biogas and financial support for collection of biomass. In the final budget, the Hon'ble FM has announced a future policy document on appropriate energy transition pathways that balances the imperatives of employment, growth and environmental sustainability.

Though there was no specific announcement for the Oil & Gas sector, following allocations have been made in the expenditure budget :

- ▶ INR497.25 crore for scheme for Development of Pipeline infrastructure for injection of Compressed Biogas (CBG) in City Gas Distribution (CGD) Network
- ▶ INR408 crore for Indian Strategic Petroleum Reserve Limited (ISPRL) Phase II (Construction of Caverns)
- ▶ INR388 crore for appraisal of areas in India's Extended Continental Shelf for oil and gas reserves
- ▶ INR387.26 crore for scheme for promotion of flagging of merchant ships in India
- ▶ INR332 crore for 'Mission Anveshan' (ie Part II of National Seismic Programme)
- ▶ INR150 crore for scheme for providing financial support for collection of biomass

Aforesaid allocations demonstrate government's focus on CBG, strategic petroleum reserves and National Seismic Programme.

How does the budget impact the Oil & Gas sector?

Key amendments

Direct Tax

Domestic companies

- ▶ No changes in tax rates proposed for domestic companies

Foreign companies

- ▶ The rate of income-tax chargeable on income of FCo (other than that chargeable at special rates) is proposed to be reduced from 40% to 35%. This will result in reduction of effective tax rate for non-residents operating in the oil and gas sector. Same has been tabulated as under:

	Existing maximum effective tax rate	Proposed maximum effective tax rate
NR engaged in providing services for prospecting, extraction, or production of mineral oils, opting to be taxed on gross basis under Section 44BB	4.368% of gross receipts	3.822% of gross receipts
NR offering income on net basis	43.68% on income computed (net basis)	38.22% on income computed (net basis)

No extension of sunset date for certain tax benefits

- ▶ Sunset date of 31 March 2024 for commencement of manufacture/ production by new domestic manufacturing companies has not been extended
- ▶ Transfer of ship (including oil and gas vessels) by a unit in IFSC was eligible for tax holiday provided the IFSC unit is setup before 31 March 2025. The aforesaid sunset is not further extended
- ▶ Royalty or interest on lease of a ship (including oil and gas vessels) paid by a unit in IFSC to a non-resident is exempt from tax subject to the IFSC unit commencing operations before 31 March 2025. The aforesaid sunset is not further extended

Withdrawal of Equalisation Levy

- ▶ Equalisation Levy of 2% on NR e-commerce operators has been withdrawn with effect from 1 August 2024

Rationalization of capital gains taxation

Capital gains tax rates

- ▶ Currently, short-term capital gains is taxed at 15% or applicable slab rate and long-term capital gains is taxed at 10% or 20%, depending on residential status of the taxpayer and category of asset

Highlights



Focus on energy transition and energy security



Corporate tax rate for FCo reduced to 35%



Additional goods included in the Custom exemption entry

Rationalization of capital gains taxation

(...continued)

- ▶ Now, with an intent to rationalize the tax rates, the following changes will be made:
 - ▶ Short-term capital gains tax on STT paid equity shares, units of equity oriented mutual fund and unit of a business trust will be raised from 15% to 20%. Other short-term capital gains shall continue to be taxed at applicable slab rate
 - ▶ Long term capital gains tax on all category of assets will be 12.5%
- ▶ This amendment will be effective 23 July 2024

Holding period of assets

- ▶ Currently, holding period for different classes of assets varies from 12 months to 36 months
- ▶ Now, there will be only two holding periods, 12 months and 24 months, for determining short-term and long-term capital gains
- ▶ For all listed securities, the holding period will be 12 months and for all other assets, it will be 24 months
- ▶ Unlisted bonds and debentures will be deemed to be short-term irrespective of the holding period
- ▶ This amendment will be effective 23 July 2024

Indexation benefit for capital gains computation

- ▶ Currently, indexation is available for all assets except units, bonds and debentures
- ▶ Now, indexation will be removed for all category of assets
- ▶ This amendment will be effective 23 July 2024

Removal of angel tax provisions

- ▶ Currently, angel tax is applicable for companies on receipt of consideration in excess of fair market value for issue of shares to investors
- ▶ Now, angel tax has been proposed to be removed (amendment will be effective from 1 April 2025) (i.e., Financial Year 2024-25)

Taxation of buy-back proceeds as dividend for shareholders

- ▶ Currently, buy-back tax is payable by domestic companies at the rate of 23.30% on buy-back of shares and the same is exempt in the hands of shareholders
- ▶ Now, buy-back tax will be abolished and such income will be taxable in the hands of the shareholders as "deemed dividend"
 - ▶ No deduction for expenses will be available against such dividend income
 - ▶ Domestic company to withhold tax at 10% from payment to resident shareholders
 - ▶ Cost of acquisition of shares will result in capital loss and allowed to be set-off and carry forward against capital gains
- ▶ This provision is effective 1 October 2024

Capital gains tax exemption for corporate gifts removed

- ▶ Currently, transfer of a capital asset under a gift or will or an irrevocable trust is not considered as transfer for purpose of capital gains
- ▶ This exemption will now be applicable only to such transfers by individuals and HUFs
- ▶ Gifts by corporates will be considered taxable
 - ▶ Fair value provisions will apply for computation of capital gains

Vivad se Vishwas Scheme, 2024

- ▶ Vivad se Vishwas Scheme, 2024 introduced and shall come into effect once notified. The scheme will be applicable for appeals filed before Commissioner (Appeals), DRP, ITAT, HC and SC. The table below summarizes the timelines and corresponding settlement of demand to avail the scheme:

Nature of tax arrears	Appeal filing period	If scheme availed on or before 31 December 2024, required settlement would be:	If scheme availed on or after 1 January 2025, required settlement would be:
Tax, interest and penalty	After 31 January 2020 but on or before 22 July 2024	Disputed tax	Disputed tax + 10% of disputed tax
Tax, interest and penalty	On or before 31 January 2020	Disputed tax + 10% of disputed tax	Disputed tax + 20% of disputed tax
Interest or penalty	After 31 January 2020 but on or before 22 July 2024	25% of disputed interest or penalty	30% of disputed interest or penalty
Interest or penalty	On or before 31 January 2020	30% of disputed interest or penalty	35% of disputed interest or penalty

- ▶ Settlement amount payable to be reduced to 50% in following cases:
 - ▶ Where appeal/ writ/ SLP is filed by tax authorities
 - ▶ Where the issue is covered by a favourable ITAT/ HC decision in taxpayer's own case

Rationalization of reassessment provisions

- ▶ Time limit for issue of notice for reassessment proceedings reduced from 10 years to five years and three months
- ▶ The amended provisions will apply from 1 September 2024

Rationalization of prosecution provisions for delay in deposit of WHT

- ▶ Currently, ITL contains prosecution provisions for delay in deposit of WHT within the prescribed time limit
- ▶ Now, an exemption from such prosecution provisions has been introduced where WHT has been deposited on or before the due date for filing the WHT return for that quarter
- ▶ This amendment will take effect from 1 October 2024

Simplification of income tax law

- ▶ Comprehensive review of ITL to be completed within 6 months for:
 - ▶ Making the ITL concise, lucid, easy to read and understand
 - ▶ Reducing disputes and litigation
 - ▶ Providing certainty to taxpayers

Rationalization of WHT rates

► Payments to residents (other than salaries)

Section	Nature of payment	Existing rate	Proposed rate	Effective from
194D	Payment of insurance commission to a person other than company	5%	2%	1.04.2025
194DA	Payment in respect of life insurance policy	5%	2%	1.10.2024
194G	Payment of commission, remuneration or prize on sale of lottery tickets	5%	2%	1.10.2024
194F	Payments for re-purchase of units of mutual fund or Unit Trust of India	20%	Omitted	1.10.2024
194H	Payment of commission or brokerage	5%	2%	1.10.2024
194-IB	Payment of rent by certain individuals or HUF	5%	2%	1.10.2024
194M	Payment of contractual fee, commission, brokerage or professional fee by individual/ HUF	5%	2%	1.10.2024
194-O	Payment by e-commerce operator to e-commerce participant	1%	0.1%	1.10.2024
194T	Payment of salary, remuneration, interest, bonus or commission by partnership firm to partners	NIL	10%	1.04.2025

Indirect Tax

Customs

- ▶ Additional goods have been included in the exemption entry for petroleum exploration operations (S No 404 of Notification no 50/2017-customs)
- ▶ The customs exemption (for petroleum exploration operations under S No 404) is proposed to be extended till 31 March 2026 only
- ▶ Time limit for export of vessels imported for maintenance, repair and overhauling, increased from six months to one year, further extendable by one year
- ▶ Provisions will be amended to enable the acceptance of different types of proof of origin in order to align with new trade agreements which provide for self-certification. Accordingly, for claiming preferential duty benefit, importer can also submit a declaration for the purpose of proof of origin

GST

Future litigation framework

- ▶ Common timeline will apply for issuance of SCNs (42 months from due date of annual returns) and Orders (12 months from the date of notice) in both fraud and non-fraud cases from tax year 2024-25
- ▶ Staggered relaxation of penalty in case of litigation to continue - distinct for fraud and other cases (60 days from SCN/ Order for making payment of tax and interest)

Resolving past tax controversy

- ▶ Amnesty scheme to provide waiver of interest and penalty for pending demands in non-fraud cases for FY 2017-18 till 2019-20, if entire tax demand is paid up to the date to be notified
 - ▶ Period covered from 1 July 2017 to 31 March 2020
 - ▶ Benefit available:
 - ▶ For matters under Section 73 (at any stage) and includes proceedings ultimately concluded as per Section 73
 - ▶ Payment of full tax demand by notified date - additional conditions to be prescribed
 - ▶ Erroneous refund cases excluded. Refund of interest and penalty already paid not available
 - ▶ Appeals or writ petitions need to be withdrawn. Matters concluded under this provision cannot be appealed
 - ▶ For department appeals upheld, remaining tax to be paid in three months from the date of order

Other key amendments

- ▶ Time for filing appeals in GSTAT: Three-month time period for filing appeals before GSTAT to start from a date to be notified
- ▶ Authorized representatives allowed to appear for summons before proper officer
- ▶ Reduction proposed in the amount of pre-deposit for filing of appeals with appellate authority - notably 10% from present 20% for Tribunal appeal
- ▶ Time of supply for reverse charge services from unregistered suppliers to be earlier of date of payment or the date of self-invoice
- ▶ Time limit to avail ITC for 1 July 2017 to 31 March 2021 extended to 30 November 2021 (no refund of tax paid or ITC reversed)
- ▶ ITC will be restricted where the tax is paid under section 74 of CGST Act for demands upto FY 2023-24. However, such restriction will not be applicable where the tax is paid pursuant to detention, seizure or confiscation
- ▶ TDS return are mandatorily to be filed even if there are no deductions made in any month

Impact analysis

According to the latest Economic Survey, India's energy needs are expected to grow by 2 to 2.5 times by 2047 to fulfil the developmental priorities and aspirations of a growing economy. The proposed policy document on energy transition pathway is the right step towards the larger objective and reinforces the Government's commitment towards balanced and sustainable development along with creating employment opportunities. For further deep dive, the Government's much awaited policy document will throw more light on how the short-term objective of managing growing energy demand is balanced with the employment, growth and environmental sustainability.

Glossary

CGST Act - Central Goods and Service Tax 2017

DRP - Dispute Resolution Panel

FCo - Foreign Company

GST - Goods and Service Tax

GSTAT - GST Appellate Tribunal

HC - High Court

HUF - Hindu Undivided Family

IFSC - International Financial Services Centre

ITAT - Income Tax Appellate Tribunal

ITC - Input Tax Credit

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

NR - Non-resident

SC - Supreme Court

SCN - Show Cause Notice

SLP - Special Leave Petition

STT - Securities Transaction Tax

TDS - Tax Deducted at Source

TP - Transfer Pricing

WHT - Withholding taxes



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Our offices

Ahmedabad

22nd Floor, B Wing, Privilon
Ambli BRT Road, Behind Iskcon
Temple
Off SG Highway
Ahmedabad - 380 059
Tel: + 91 79 6608 3800

Bengaluru

12th & 13th Floor
"UB City", Canberra Block
No.24 Vittal Mallya Road
Bengaluru - 560 001
Tel: + 91 80 6727 5000

Ground & 1st Floor
11, 'A' wing
Divyasree Chambers
Langford Town
Bengaluru - 560 025
Tel: + 91 80 6727 5000

Bhubaneswar

8th Floor, O-Hub, Tower A
Chandaka SEZ, Bhubaneswar
Odisha - 751024
Tel: + 91 674 274 4490

Chandigarh

Elante offices, Unit No. B-613 &
614
6th Floor, Plot No- 178-178A
Industrial & Business Park,
Phase-I
Chandigarh - 160 002
Tel: + 91 172 6717800

Chennai

6th & 7th Floor, A Block,
Tidel Park, No.4, Rajiv Gandhi
Salai
Taramani, Chennai - 600 113
Tel: + 91 44 6654 8100

Delhi NCR

Ground Floor
67, Institutional Area
Sector 44, Gurugram - 122 003
Haryana
Tel: +91 124 443 4000

3rd & 6th Floor, Worldmark-1
IGI Airport Hospitality District
Aerocity, New Delhi - 110 037
Tel: + 91 11 4731 8000

4th & 5th Floor, Plot No 2B
Tower 2, Sector 126
Gautam Budh Nagar, U.P.
Noida - 201 304
Tel: + 91 120 671 7000

Hyderabad

THE SKYVIEW 10
18th Floor, "SOUTH LOBBY"
Survey No 83/1, Raidurgam
Hyderabad - 500 032
Tel: + 91 40 6736 2000

Jaipur

9th floor, Jewel of India
Horizon Tower, JLN Marg
Opp Jaipur Stock Exchange
Jaipur, Rajasthan - 302018

Kochi

9th Floor, ABAD Nucleus
NH-49, Maradu PO
Kochi - 682 304
Tel: + 91 484 433 4000

Kolkata

22 Camac Street
3rd Floor, Block 'C'
Kolkata - 700 016
Tel: + 91 33 6615 3400

Mumbai

14th Floor, The Ruby
29 Senapati Bapat Marg
Dadar (W), Mumbai - 400 028
Tel: + 91 22 6192 0000

5th Floor, Block B-2
Nirlon Knowledge Park
Off. Western Express Highway
Goregaon (E)
Mumbai - 400 063
Tel: + 91 22 6192 0000

3rd Floor, Unit No 301
Building No. 1
Mindspace Airoli West
(Gigaplex)
Located at Plot No. IT-5
MIDC Knowledge Corridor
Airoli (West)
Navi Mumbai - 400708
Tel: + 91 22 6192 0003

Pune

C-401, 4th Floor
Panchshil Tech Park, Yerwada
(Near Don Bosco School)
Pune - 411 006
Tel: + 91 20 4912 6000

10th Floor, Smartworks
M-Agile, Pan Card Club Road
Baner, Taluka Haveli
Pune - 411 045
Tel: + 91 20 4912 6800

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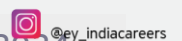
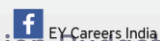
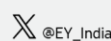
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