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Tax Alert - Key announcements of
Union Budget 2024



Union Budget

2024-25



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This year's budget has brought in very few announcements for the Pharma and Life Sciences Industry.

The budget has maintained a neutral stance towards the Pharmaceutical and Life Sciences sector. Noteworthy advancements include a commitment to enhance R&D, with an emphasis on basic research and the development of prototypes - reemphasis of commitment made in interim budget. Additionally, the budget proposes the elimination of customs duties on select cancer medications and a reduction of Basic Customs Duty (BCD) on certain lifesaving drugs, medicinal products and medical equipment. The elimination of the angel tax is also anticipated to bolster the pharmaceutical start-up ecosystem. Also, skilling initiatives and support would help the healthcare sector. However, the budget did not focus on healthcare infrastructure, the manufacturing of medical devices, or incentives for R&D, which were notable omissions.

Overall, the budget presents a neutral impact on the Pharmaceutical and Life Sciences sector.

How does the budget impact the Pharma and Life Sciences sector?

Key amendments

Policy changes

- ▶ Government to operationalize the Anusandhan National Research fund for research and prototype development
- ▶ Government to set-up a mechanism for private sector driven research and innovation at commercial scale with a financing pool of INR1 lakh crore
- ▶ Estimated PLI allocation for pharmaceutical industry for 2024-25 shall be INR2,143 crores
- ▶ Focus on skill improvement by aligning course content and design to the skills of the industry and introduction of new courses to align with the emerging needs

Direct taxes

Comprehensive review of the Act to be completed within six months for

- ▶ Making the Act concise, lucid, easy to read and understand
- ▶ Reducing disputes and litigation
- ▶ Providing certainty to taxpayers

Tax on distributed income of domestic company for buy-back of shares

- ▶ Income distributed to shareholders by a domestic company on buy-back of its shares post 30 September 2024 shall be taxable in the hands of the shareholders as 'deemed dividend' as per applicable rates
- ▶ Capital loss, i.e., original cost of acquisition of shares bought back, arising to shareholders on such buy-back shall be available for set-off against capital gains on sale of shares or other asset
- ▶ No deduction for expenses shall be allowed against amount received on buy back
- ▶ Company is also required to apply TDS on such buy back as per applicable rates

Expenditure not allowed as deduction

- ▶ Any amount paid as a settlement for contravention of a law, as may be notified, shall not be allowed as a deduction. This amendment is effective from AY 2025-26 onwards.

Removal of Angel Tax

- ▶ Currently any consideration received on issue of shares in excess of fair market value of shares is taxable in hands of a company, not being a company in which the public are substantially interested.
- ▶ It is proposed that Angel tax shall not apply from AY 2025-26

Highlights



**INR89,287
crores**

Estimated health
expenditure

Withdrawal of 2% Equalisation Levy

- ▶ Removal of the existing Equalisation Levy of 2% on consideration received or receivable for e-commerce supply or services by an e-commerce operator with effect from 1 August 2024
- ▶ Consequent amendment is proposed under section 10(50) of the Act to claim exemption till 31 July 2024 on such income received

Rationalization of capital gain tax regime

- ▶ Period of holding for determination of LTCG vs STCG simplified - 12 months (for listed securities) and 24 months (for others)
- ▶ Tax rate for LTCG proposed at 12.5% on all categories of assets (currently, LTCG taxable at 20% for residents and 10% for non-residents as well as residents selling securities with payment of STT)
- ▶ Indexation not applicable on cost of acquisition
- ▶ Tax rate for STCG on sale of securities (with payment of STT) proposed to be increased from 15% to 20%
- ▶ Unlisted bonds and debentures will be deemed to be short term irrespective of the period of holding
- ▶ These amendments are effective from 23 July 2024

Reduction of timelines for issuance of reassessment notice

- ▶ Time limit to issue notice reduced from 10 years to five years and three months. The amendment will be effective from 1 September 2024

TDS amendments

- ▶ **Change in scope**
 - ▶ Explicitly provides that "work" defined under section 194C excludes any sum on which tax is required to be withheld under section 194J. This amendment is effective from 1 October 2024
- ▶ **Changes in TDS rate**
 - ▶ With effect from 1 October 2024
 - ▶ Payment towards commission reduced from 5% to 2%
 - ▶ Payments to e-commerce participants reduced from 1% to 0.1%
- ▶ Increase in interest rate on default of collection/payment of TCS to bring in parity with the existing TDS provisions
- ▶ **Timeline for considering assessee in default for TDS and TCS**
 - ▶ Taxpayer cannot be considered as an assessee in default; for failure to deduct or collect tax (whole or any part) from any person beyond:
 - ▶ Six years from the end of the relevant financial year
 - ▶ Two years from the end of financial year in which correction statement was filed; whichever is later
- ▶ Lower withholding tax certificate/ collection of tax certificate can be opted for payment/ receipt of goods exceeding INR50 lakhs with effect from 1 October 2024
- ▶ Penalty on failure to furnish statements - It is proposed to provide for penalty on late furnishing of TDS or TCS statement beyond one month instead of the existing period of 12 months

- ▶ Rationalization of prosecution provisions related to TDS (with effect from 1 October 2024)
 - ▶ Exemption from prosecution proceedings has been granted where TDS has not been deposited within the due date but deposited before the timeline for filing the TDS return for that quarter
 - ▶ However, this exemption would not be applicable to cases covering provision of benefits in kind (wholly or partly) under section 194R and other provisions mentioned in section 276B(b)
- ▶ Vivad se Vishwas Scheme, 2024

Nature of tax arrears	Appeal filing period	If scheme availed on or before 31 December 2024	If scheme availed on or after 1 January 2025
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

- ▶ Mechanism will apply to TP adjustments and TP disputes as well
- ▶ 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/ High Court decision in taxpayer's own case
- ▶ This Scheme shall come into effect from the date on which it is notified by the Central Government

Scope of Transfer Pricing (TP) assessment of Specified Domestic Transactions (SDTs) expanded

Scope of transfer pricing assessment expanded to enable the Transfer Pricing Officer (TPO) to audit SDTs which

- ▶ Have not been referred by the Assessing Officer (AO) and/ or
- ▶ Have been identified by the TPO during the course of the assessment proceeding
- ▶ Current assessment scope for SDTs was limited to SDTs referred by the AO

Objections to Dispute Resolution Panel (DRP)

- ▶ Taxpayers who have undisclosed income pursuant to a search not eligible to file objections before DRP against variations proposed to the income by the Assessing Officer
- ▶ Taxpayers in this category are only permitted to file an appeal with the Commissioner of Income Tax (Appeals)

Indirect taxes

Basic Customs Duty exemption provided for **import of specified cancer drugs** namely Trastuzumab, Deruxtecan, Osimertinib, Durvalumab with effect from 24 July 2024

Concessional Basic Customs Duty rate on import of X-ray tubes and flat panel detectors (including scintillators) for use in manufacture of X-ray machines for medicinal, surgical, dental or veterinary use, from current tariff rate of 15% to rates stated below, subject to prescribed conditions:

- ▶ 5% till 31 March 2025
- ▶ 7.5% with effect from 1 April 2025 to 31 March 2026 and
- ▶ 10% with effect from 1 April 2026

Concessional Basic Customs Duty rate on import of specified goods under Notification No. 50/2017 - Customs dated 30 June 2017, proposed to be lapsed on 30 September 2024

- ▶ Polypropylene, Stainless steel strip and Stainless steel capillary tube used for manufacture of syringes, needles, catheters and cannulae
- ▶ Parts and components required for manufacture of Blood Pressure Monitors and Blood Glucose Monitoring System (Glucometers)

Concessional Basic Customs Duty rate on import of specified goods under various Notifications extended for period up to 31 March 2029:

- ▶ Goods supplied freely under warranty as replacement for defective ones in lieu of earlier imported goods
- ▶ Specified medicines when imported for supply under Specified Patient Assistance Programme run by identified pharmaceutical companies
- ▶ Drugs and materials being used for clinical trial for which permission has been granted by the Licensing Authority
- ▶ Medicines/drugs/vaccines supplied free by United Nations International Children's Emergency Fund, Red Cross etc
- ▶ Life-saving drugs or medicines (including diagnostic test kits) imported for personal use (including provided for free of cost by overseas supplier)
- ▶ Life-saving medical equipment including accessories or spare parts or both of such equipment for personal use

Concessional Basic Customs Duty rate on import of specified goods under various Notifications extended for period up to 31 March 2026:

- ▶ Stainless steel tube and wire, for manufacture of Coronary stents /artificial valve
- ▶ Raw materials, for the manufacture of Cochlear Implants
- ▶ X-Ray Baggage Inspection Systems and parts thereof
- ▶ Portable X-ray machine / system

Impact analysis

The Finance Minister has tabled a detailed road map for pursuit of “Viksit Bharat” and laid out Innovation, Research and Development as one of the key priority areas. Further, employment and skilling also finds a prominent place in the focus areas. These announcement coupled with relief to start-up eco-system, packaged formula for MSMEs, exemptions and reductions in custom duty rates, and an endeavour to simplify taxes may positively impact the pharma eco-system. However, in the absence of any specific policy announcement for the sector; overall it is a neutral budget from pharma and healthcare perspective.

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

TDS- Tax Deducted at Source

TCS - Tax Collected at Source

STCG - Short Term Capital Gains

LTCG - Long Term Capital Gains

STT - Securities Transaction Tax

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

Gol - 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



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