



ANALYSIS OF TAX PROPOSALS

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FOREWORD:

The provisions of Finance Bill, 2022 (hereafter referred to as "the Bill"), relating to direct taxes seek to amend the Income-tax Act, 1961 (hereafter referred to as 'the Act'), to continue reforms in direct tax system through tax-incentives, removing difficulties faced by taxpayers and rationalization of various provisions.

With a view to achieve the above, the various proposals for amendments are organized under the following heads:—

- Rates of Income-Tax
- Promoting voluntary tax compliance and reducing litigation;
- Socio economic welfare measures
- Widening and deepening of tax base;
- Revenue mobilisation
- Phasing out of exemptions
- Rationalisation measures

Under the Indirect Taxes front, not many changes are proposed considering the fact that Goods and Services Tax have been enforced five years back and many amendments have been carried out through circulars and notifications. In this budget only the few amendments of GST and customs have been brought out.

We have made our best effort to summarise the key changes in simpler manner under this budget highlights. Trust the same would be found useful in understanding the taxation proposals.

Best Regards,

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EXECUTIVE SUMMARY

Section	Description	Particulars	Reference (Click on the link for detailed analysis)
Rates of income tax	The detailed annexure of rates of income tax for all categories of assessees.	<ul style="list-style-type: none"> ➤ There are no changes in the tax slabs. Same tax rates as applicable for FY 2021-22 will continue for FY 2022-23. Individual and HUF taxpayers have an option to opt for taxation under section 115BAC. Cooperative Societies have an option of taxation under section 115BAD. ➤ Maximum surcharge on LTCG and STCG on sale of all classes of assets (E.g., immovable property, unlisted shares, foreign shares) is proposed to be restricted at 15% as against 25%/ 37%. 	A
115BBH and 194S	Scheme for taxation of virtual digital assets	<ul style="list-style-type: none"> ➤ Gains from transfer of Virtual Digital Assets to be taxed @ 30%. No deduction other than cost of acquisition allowable while computing gains. ➤ Further, TDS shall be attracted at the rate of 1% on transfer of virtual digital asset to a resident, subject to certain conditions ➤ Loss on sale of virtual digital assets not allowed to be set off. ➤ Loss from sale of other capital assets is not allowed to set off against this income. ➤ Gift of virtual digital assets taxable in hands of recipient. 	A1
Section 40	Clarification regarding treatment of cess and surcharge	The term "tax" includes and shall be deemed to have always included any surcharge or cess, by whatever name called, on such tax and hence not allowable as expenditure	A2
Section 37	Clarifications on allowability of expenditure under section 37	Expenses incurred for any purpose which is an offence or prohibited by any law in India or outside India, to provide any benefit or perquisite to a person, for whom acceptance of such benefit or perquisite is in violation of	A3

		the law governing the conduct of such person, to compound an offence under domestic or foreign law are not eligible for deduction. This will have an impact on pharma sector.	
Section 43B	Clarification regarding deduction on payment of interest only on actual payment	Conversion of interest payable into debenture or any other instrument by which liability to pay is deferred to a future date, shall not be deemed to have been actually paid.	A4
Section 115BAB	Extension of the last date for commencement of manufacturing or production, under section 115BAB, from 31.03.2023 to 31.03.2024	Concessional tax regime u/s 115BAB for new manufacturing companies extended by one year	A5
80-IAC	Extension of date of incorporation for eligible start up for exemption	Extension of deadline for setting up start up for availing tax benefits extended by one year	A6
Section 94(8)	Provisions pertaining to bonus stripping and dividend stripping to be made applicable to securities and units	The provisions of dividend stripping, and bonus stripping are proposed to be extended to units of business trusts such as InvIT or REIT and AIFs; Additionally, provisions of bonus stripping are proposed to be extended to securities also	A7
80CCD	Incentives to National Pension System (NPS) subscribers for state government employees	Increase in the limit for employer's contribution to PF/NPS from 10% to 14% for state govt employees as well	A8

80DD	Condition of releasing of annuity to a disabled person	Proposal to allow the deduction even if the lumpsum/ annuity payment received during the lifetime, i.e., upon attaining the age of 60 years or more of the individual or the member of the HUF in whose name subscription to the scheme has been made and where payment or deposit has been discontinued.	A9
17(2) and 56(2)(x)	Exemption of amount received for medical treatment and on account of death due to COVID-19	Exemption for any sum paid by the employer/ any other person, in respect of any expenditure incurred by the taxpayer on his medical treatment or treatment of any member of his family in respect of any illness relating to COVID-19 (subject to specified conditions).	A10
194-IA	Rationalization of provisions of TDS on sale of immovable property	Proposal for TDS by the transferee at 1% on the consideration paid or stamp duty value of the immovable property whichever is higher, effective April 1, 2022, as against the present taxation on actual sale consideration.	A11
28(iv) and new section 194R	TDS on benefit or perquisite of a business or profession	Proposal to insert Section 194R for TDS at 10% on the value of benefit or perquisite covered u/s 28(iv) paid or likely to be paid by any person to a resident in excess of Rs.20,000/- during a financial year; This may have impact to the FMCG, Pharma and other companies.	A12
Section 14A	Clarification in respect of disallowance under section 14A in absence of any exempt income during an assessment year	Applicability of Section 14A, on expenditure incurred on exempt income not accrued/arisen/received during the financial year.	A13
115BBD	Withdrawal of concessional rate of taxation on dividend income under section	Concessional rate of 15% tax on the dividend income received by an Indian company from a foreign company in which the said Indian company holds 26 % or more in nominal value of equity shares (specified foreign company) is proposed to be withdrawn.	A14

	115BBD		
Section 139	Provisions for filing of updated return	Section 139 Provisions for filing of updated return Introduction of new provision for updating return of income upon payment of additional tax within 2 years from the end of relevant AY.	A15
Section 10(23C), 11, 12AA and 12AB	Rationalisation of the provision of Charitable Trust and Institutions	Proposal to include various provisions to bring consistency between both the exemption sections 10(23C) and 12AA/ 12AB	A16
2(42C)	Definition of the term "slump sale	Proposal to amend the definition of slump sale u/s 2(42C) which was earlier amended to expand its scope to cover all forms of transfer under slump sale; Now it is proposed to substitute the word "sales" with the word "transfer" in the definition towards the end.	A17
Section 50	Reduction of Goodwill from block of assets to be considered as 'transfer'	Proposal to clarify that reduction of the amount of goodwill of a business or profession, from the block of asset in accordance with Section 43(6)(c)(ii)(B) shall be deemed to be transfer. This means that the purchase cost of goodwill will be allowed as cost of acquisition	A18
Section 158AA	Litigation management when in an appeal by revenue an identical question of law is pending before jurisdictional High Court or Supreme Court.	Litigation management system proposed to be introduced to avoid repetitive appeals involving identical issues. Revenue shall defer from filing appeals against an Assessee until the substantial question of law is decided by the jurisdictional High Court or the Supreme Court.	A19
Section 245MA	Amendment in section 245MA of the Act related	Enabling section proposed to be introduced to enable the Assessing Officer to pass an order giving effect to the resolution of dispute by the DRC.	A20

	to Dispute Resolution Committee		
Section 170 and new section 156A	Amendments related to successor entity subsequent to business reorganization	New section 156A to the Act to give effect to the orders of the competent authority and to modify the demands in accordance with the directions. Applicable to mergers, demergers and amalgamation of companies.	A21
Section 201(1A) and 206C (7)	Consequence for failure to deduct/collect or payment of tax – Computation of interest		A22
115JC	Rationalization of provisions of the Act to promote the growth of co-operative societies	MAT rate for co-operative societies reduced from 18.5% to 15%.	A23
Section 79	Facilitating strategic disinvestment of public sector companies	Provisions of Section 79(1) [restriction on set off and carry forward of losses] would not apply if the ultimate holding company of such erstwhile public sector company, immediately after the completion of strategic disinvestment, continues to hold, directly or through its subsidiary or subsidiaries, at least 51% of the voting power of the erstwhile public sector company in aggregate.	A24
206AB and 206CCA	Rationalization of provisions of section 206AB and 206CCA to widen and deepen tax-base	<ul style="list-style-type: none"> ➤ Specified person definition proposed to be amended to include only the person who has not filed return for 1 year when TDS/TCS exceeds 50,000/- as against 2 years. ➤ It is also proposed to amend the sections for not including section 194-IA, 194-IB and 194M wherein the TDS is deducted by individual / HUF. 	A25

68	Cash credits under section 68 of the Act	Proposal to include that the nature and source of any sum, whether in form of loan or borrowing, or any other liability credited in the books of an assessee shall be treated as explained only if the source of funds is also explained in the hands of the creditor or entry provider.	A26
	Faceless Schemes under the Act	It is proposed to extend the date for issuing directions for the purposes of these sections 92CA, 144C, 253 and 255 till 31st March 2024.	A27
271AAB, AAC, AAD	Rationalization of the provisions of these sections	Enabling the Commissioner (Appeals) to levy penalty under these sections along with Assessing Officer.	A28
Section 272A	Amendment in the provisions of section 272A of the Act	Proposal to increase the amount of penalty for failures to Rs. 500 from the existing sum of Rs. 100/-	A29
	Amendments in CGST, IGST and UTGST Acts, 2017:	All amendments shall be effective from the date to be notified	A30
	Retrospective changes relating to GST:		A31
	Amendments in Customs Act and Customs Tariff Act:		A32
	Amendments in Customs Act, 1962		A33

RATES OF TAXES – FINANCIAL YEAR 2022-23

For Individuals [other than mentioned below], Hindu Undivided Family, Association of Persons, Body of Individuals, Artificial Judicial Person

Total income	Tax rate
Less than or equal to Rs. 2,50,000	Nil
From Rs. 2,50,001 to Rs. 5,00,000	5%
From Rs. 5,00,001 to Rs. 10,00,000	20%
Above Rs. 10,00,000	30%

For Resident Individuals who is of the age of 60 years or more but less than 80 years at any time during the previous year

Total income	Tax rate
Less than or equal to Rs. 3,00,000	Nil
From Rs. 3,00,001 to Rs. 5,00,000	5%
From Rs. 5,00,001 to Rs. 10,00,000	20%
Above Rs. 10,00,000	30%

For Resident Individuals who is of the age of 80 years or more at any time during the previous year

Total income	Tax rate
Less than or equal to Rs. 5,00,000	Nil
From Rs. 5,00,001 to Rs. 10,00,000	20%
Above Rs. 10,00,000	30%

On satisfaction of certain conditions as per the provisions of section 115BAC, an individual or HUF shall, have the option to pay tax in respect of the total income at following rates:

Total income	Tax rate
Up to 2,50,000	Nil
From 2,50,001 to 5,00,000	5%
From 5,00,001 to 7,50,000	10%
From 7,50,001 to 10,00,000	15%
From 10,00,001 to 12,50,000	20%
From 12,50,001 to 15,00,000	25%
Above 15,00,000	30%

Additional Points for A, B and C above:

The amount of income-tax computed as per the above-mentioned provisions shall be increased by surcharge. The rates of surcharge are as under:

Sr. No.	Particulars	Rate of surcharge
1.	If the total income of the person exceeds Rs. 50 lakhs but does not exceed Rs. 1 crore	10% of income tax
2.	If the total income of the person exceeds Rs. 1 crore but does not exceed 2 crores	15% of income tax
3.	If the total income of the person exceeds Rs. 2 crores but does not exceed 5 crores (excluding the income by way of dividend or income under the provisions of section 111A, 112 and 112A of the Act)	25% of income tax
4.	If the total income of the person exceeds Rs. 5 crores (excluding the income by way of dividend or income under the provisions of section 111A, 112 and 112A of the Act)	37% of income tax

Note:

- For the income by way of dividend or income under the provisions of section 111A, 112 and 112A of the Act, the maximum surcharge would be restricted to 15%
- In case of an association of persons consisting of only companies as its members, the rate of surcharge on the amount of Income-tax shall not exceed 15%.
- Health and Education Cess – 4% of income-tax including surcharge.

For Cooperative Societies

Total income	Tax rate
Less than or equal to Rs. 10,000	10%
From Rs. 10,001 to Rs. 20,000	20%
Above Rs. 20,000	30%

Additional Points:

- The amount of income-tax computed as per the above-mentioned provisions shall be increased by surcharge. In case the total income of the co-operative society exceeds Rs. 1 crore and does not exceed Rs. 10 crores, surcharge would be 7% of such income tax. If the total income exceeds Rs. 10 crores then the surcharge would be 12% of such income-tax.
- Health and Education Cess – 4% of income-tax including surcharge.

Note: A co-operative society resident in India shall have the option to pay tax at 22% for assessment year 2021-22 onwards as per the provisions of section 115BAD, subject to fulfillment of certain conditions. However, surcharge would be charged at 10% in such cases.

For Firm or Local Authority

Total income	Tax rate
On the whole of the total income	30%

Additional Points:

- The amount of income-tax computed as per the above-mentioned provisions shall be increased by surcharge. In case the total income of the firm or local authority exceeds Rs. 1 crore – 12% of such income-tax.
- Health and Education Cess – 4% of income-tax including surcharge.

For Companies

Particulars	Basis	Tax Rate
Domestic Company	Where its total turnover or the gross receipt in the financial year 2020-21 does not exceed Rs. 400 crores.	25%
Domestic Company	Companies other than those referred Above	30%
Domestic Company	Companies opting Section 115BAA subject to fulfillment of certain conditions	22%
Domestic Company	New Manufacturing Companies opting Section 115BAB subject to fulfillment of certain conditions	15%
Foreign Company	Total Income	40%
Minimum Alternate Tax	Book Profits	15%

Additional Points:

The rates of surcharge are as under:

Particulars	Domestic Company	Foreign Company
Total Income less than Rs. 1 crore	0%	0%
Total Income more than Rs. 1 crore but less than Rs. 10 crores	7%	2%

Total Income more than Rs. 10 crores	12%	5%
Companies opting taxation u/s 115BAA and 115BAB (irrespective of the total income)	10%	NA

Health and Education Cess – 4% of income-tax including surcharge.

DETAILED ANALYSIS

Scheme for taxation of virtual digital assets

- Finance Bill 2022 proposes to introduce a new scheme to provide for taxation of virtual digital assets, tax on gift of virtual digital assets and TDS on payment for transfer of virtual digital asset to a resident.
- Proposes to introduce Section 115BBH which provides for charge of tax on income of transfer of any virtual digital asset at the rate of 30%.
- No deduction for any expenditure (apart from deduction for cost of acquisition) or allowance or set off of any loss shall be allowed while computing income from transfer of such asset.
- Further, no set off of any loss arising from transfer of virtual digital asset shall be allowed against any income and such loss shall not be allowed to be carried forward to subsequent assessment years.
- These provisions are applicable from April 1, 2023, and will apply from AY 2023-24 onwards.
- Proposes to insert clause (47A) un Section 2 w.e.f April 1, 2022 to define "virtual digital asset" to mean: (a) any information or code or number or token (not being Indian currency or any foreign currency), generated through cryptographic means or otherwise, by whatever name called, providing a digital representation of value exchanged with or without consideration, with the promise or representation of having inherent value, or functions as a store of value or a unit of account including its use in any financial transaction or investment, but not limited to investment scheme and can be transferred, stored or traded electronically; (b) a non-fungible token or any other token of similar nature by whatever name called; (c) any other digital asset as may be notified by the Central Government in the Official Gazette in this behalf.
- It is further proposed to provide that the Central Government may, by notification in the Official Gazette, exclude any digital asset from the definition of virtual digital asset subject to such

conditions as may be specified therein; Explanations have been provided on the meaning of "non-fungible token", "currency", "foreign currency" and "Indian currency".

- In order to provide for taxing the gifting of virtual digital assets, proposes to modify Section 56(2)(x) to state that the expression "property" shall include virtual digital asset w.e.f. April 1, 2023.
- Additionally, proposes to insert Section 194S to provide for TDS on payment for transfer of virtual digital asset to a resident at the rate of 1% w.e.f July 1, 2022.
- Also provides for scenarios where payment is partly or wholly in kind or by way of exchange of virtual digital assets.
- Further provides for certain exemptions for "specified persons" and low value transactions and Guidelines to be issued by CBDT to remove any difficulty arising in giving effect to the TDS provisions

Clarification regarding treatment of cess and surcharge

- Section 40 of the Act specifies the amounts which shall not be deducted in computing the income chargeable under the head "Profits and gains of business or profession".
- Sub-clause (ii) of clause (a) of section 40 of the Act provides that any sum paid on account of any rate or tax levied on the profits or gains of any business or profession or assessed at a proportion of, or otherwise on the basis of, any such profits. or gains shall not be deducted in computing the income chargeable under the head "Profits and gains of business or profession".
- However, certain taxpayers are claiming deduction on account of 'cess' or 'surcharge' under section 40 of the Act claiming that 'cess' has not been specifically mentioned in the aforesaid provisions of section 40(a)(ii) and, therefore, cess is an allowable expenditure. This view has been upheld by Courts in a few judgments. Further, Courts are also relying upon the CBDT Circular No. 91/58/66-ITJ(19) dated 18-05-1967.
- The interpretations of two High courts and various ITATs are against the intention of legislature and not in line with the judgment of Hon'ble Supreme Court. Hence, in order to make the intention of the legislation clear and to make it free from any misinterpretation, it is proposed to include an Explanation retrospectively in the Act itself to clarify that for the purposes of this sub-clause, the term "tax" includes and shall be deemed to have always included any surcharge or cess, by whatever name called, on such tax.
- Amendment is made retrospectively to make clear the position irrespective of the circular of the CBDT.

- This amendment will take effect retrospectively from 1st April, 2005 and will accordingly apply in relation to the assessment year 2005-06 and subsequent assessment years.

Clarifications on allowability of expenditure under section 37

- Section 37 of the Act provides for allowability of revenue and non-personal expenditure (other than those failing under sections 30 to 36) laid out or expended wholly and exclusively for the purposes of business or profession.
- The Memorandum to Finance Bill, remarks that judgments allowing deduction on expenses incurred for a purpose which is an offence under foreign law or for compounding of an offence for violation of foreign law are against the intention of the law as the statute does not say that the Explanation 1 applies only to the violation of domestic law;
- Also clarifies on freebies given to the Doctors by Pharmaceutical companies that any expense incurred in providing various benefits in violation of the provisions of Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations, 2002 shall be inadmissible u/s 37(1) for being prohibited by the law
- In order to make the intention of the legislation clear and to make it free from any misinterpretation, it is proposed to insert another Explanation to sub-section (1) of section 37 to further clarify that the expression “expenditure incurred by an assessee for any purpose which is an offence or which is prohibited by law”, under Explanation 1, shall include and shall be deemed to have always included the expenditure incurred by an assessee, —
 - a. for any purpose which is an offence under, or which is prohibited by, any law for the time being in force, in India or outside India; or*
 - b. to provide any benefit or perquisite, in whatever form, to a person, whether or not carrying on a business or exercising a profession, and acceptance of such benefit or perquisite by such person is in violation of any law or rule or regulation or guidelines, as the case may be, for the time being in force, governing the conduct of such person; or*
 - c. to compound an offence under any law for the time being in force, in India or outside India.*
- This amendment will take effect from 1st April, 2022.

Clarification regarding deduction on payment of interest only on actual payment

- Section 43B of the Act provides for certain deductions to be allowed only on actual payment.

- Explanation 3C, 3CA and 3D of this section provides that a deduction of any sum, being interest payable on loan or borrowing from specified financial institution/NBFC/scheduled bank or a co-operative bank under clause (d), clause (da), and clause (e) of this section respectively, shall be allowed if such interest has been actually paid and any interest referred to in these clauses which has been converted into a loan or borrowing or advance shall not be deemed to have been actually paid.
- However, certain taxpayers are claiming deduction under section 43B on account of conversion of interest payable on an existing loan into a debenture on the ground that such conversion is a constructive discharge of interest liability and, therefore, amounted to actual payment which has been upheld by several Courts.
- Under the provisions of this section conversion of the outstanding interest liability into debentures is not an actual payment and cannot be claimed as deduction. In other words, a mercantile system of accounting cannot be looked at when a deduction is claimed under this section, as actual payment would have to be made.
- In view of the above, it is proposed to amend Explanation 3C, Explanation 3CA and Explanation 3D of section 43B to provide that conversion of interest payable under clause (d), clause (da), and clause (e) of section 43B, into debenture or any other instrument by which liability to pay is deferred to a future date, shall also not be deemed to have been actually paid.
- This amendment will take effect from 1st April, 2023 and will accordingly apply in relation to the assessment year 2023-24 and subsequent assessment years.

Extension of the last date for commencement of manufacturing or production, under section 115BAB, from 31.03.2023 to 31.03.2024

- Section 115BAB of the Income-tax Act provides for an option of concessional rate of taxation @ 15 % for new domestic manufacturing companies provided that they do not avail of any specified incentives or deductions and fulfil certain other conditions.
- Sub-section (2) of section 115BAB of the Act contains the conditions required to be fulfilled by such companies. Clause (a) of said sub-section (2) provides that the new domestic manufacturing company is required to be set up and registered on or after 01.10.2019, and is required to commence manufacturing or production of an article or thing on or before 31st March, 2023
- The intent of the introduction of section 115BAB was to attract investment, create jobs and trigger overall economic growth. However, the cumulative impact of the persistence of the COVID-19 pandemic has resulted in some delay in setting up/registration of new domestic companies and the

commencement of manufacturing or production by such companies, if they have been set up and registered.

- In order to provide relief to such companies, it is proposed to amend section 115BAB so as to extend the date of commencement of manufacturing or production of an article or thing, from 31st March, 2023 to 31st March, 2024.
- This amendment will take effect from 1st April, 2022 and will accordingly apply in relation to the assessment year 2022-23 and subsequent assessment years.

Extension of date of incorporation for eligible start up for exemption

- The existing provisions of the section 80-IAC of the Act, inter alia, provides for a deduction of an amount equal to 100% of the profits and gains derived from an eligible business by an eligible start-up for 3 consecutive assessment years out of 10 years at the option of the assessee subject to the condition that,-
 - a. the total turnover of its business does not exceed one hundred crore rupees,
 - b. it is holding a certificate of eligible business from the Inter-Ministerial Board of Certification, and
 - c. it is incorporated on or after 1st day of April, 2016 but before 1st day of April 2022.
- Due to COVID pandemic there have been delays in setting up of such units. In order to factor in such delays and promote such eligible start-ups, it is proposed to amend the provisions of section 80-IAC of the Act to extend the period of incorporation of eligible start-ups to 31st March, 2023.
- This amendment will take effect from 1st April, 2022 and will accordingly apply in relation to the assessment year 2022-23 and subsequent assessment years.

Provisions pertaining to bonus stripping and dividend stripping to be made applicable to securities and units

Section 94 of the Act contains anti avoidance provisions to deal with transactions in securities and units of mutual fund which, inter-alia, include dividend stripping and bonus stripping.

It is proposed to amend sub-section (8) of section 94, pertaining to the prevention of tax evasion through bonus stripping, so as to make the said provision applicable to securities as well.

It is also proposed to amend the Explanation to the said section to modify the definition of unit, so as to include units of business trusts such as InvIT, REIT and AIF, within the definition of units.

This amendment will take effect from 1st April, 2023 and will accordingly apply in relation to the assessment year 2023-24 and subsequent assessment years.

Incentives to National Pension System (NPS) subscribers for state government Employees

- It is proposed to increase the limit of deduction under section 80CCD of the Act from the existing ten per cent to fourteen per cent in respect of contribution made by the State Government to the account of its employee.
- This amendment will take effect retrospectively from 1st April, 2020 and will accordingly apply in relation to the assessment year 2020-21 and subsequent assessment years; so as to ensure no additional tax liability arises on any contribution made in excess of 10% during such time.

Condition of releasing of annuity to a disabled person

- It is proposed to allow the deduction under the said section also during the lifetime, i.e., upon attaining age of sixty years or more of the individual or the member of the HUF in whose name subscription to the scheme has been made and where payment or deposit has been discontinued.
- Further, it is proposed that the provisions of sub-section (3) shall not apply to the amount received by the dependant, before his death, by way of annuity or lump sum by application of the condition referred to in the proposed amendment.
- This amendment will take effect from 1st April, 2023 and will accordingly apply in relation to the assessment year 2023-24 and subsequent assessment years.

Exemption of amount received for medical treatment and on account of death due to COVID-19

- It is proposed to amend clause (2) of section 17 and to insert a new sub-clause in the proviso to state that any sum paid by the employer in respect of any expenditure actually incurred by the employee on his medical treatment or treatment of any member of his family in respect of any illness relating to COVID-19 subject to such conditions, as may be notified by the Central Government, shall not be forming part of "perquisite".
- Further, it is proposed to amend the proviso to Clause (x) of sub-section (2) of section 56 and insert two new clauses in the proviso so as to provide that-
- any sum of money received by an individual, from any person, in respect of any expenditure actually incurred by him on his medical treatment or treatment of any member of his family, in respect of any illness related to COVID-19 subject to such conditions, as may be notified by the Central Government in this behalf, shall not be the income of such person;

- any sum of money received by a member of the family of a deceased person, from the employer of the deceased person (without limit), or from any other person or persons to the extent that such sum or aggregate of such sums does not exceed ten lakh rupees, where the cause of death of such person is illness relating to COVID-19 and the payment is, received within twelve months from the date of death of such person, and subject to such other conditions, as may be notified by the Central Government in this behalf, shall not be the income of such person.
- Further, it is proposed to provide that for the purpose of both of the said clauses, “family” in relation to an individual shall have the same meaning as assigned to in the Explanation 1 to clause (5) of section 10.
- These amendments will take effect retrospectively from 1st April, 2020 and will accordingly apply in relation to the assessment year 2020-21 and subsequent assessment years.

Rationalization of provisions of TDS on sale of immovable property

- Finance Bill 2022, in order to remove inconsistency, proposes TDS by the transferee at 1% on the consideration paid or stamp duty value of the immovable property whichever is higher, effective April 1, 2022.
- In case the consideration paid for the transfer of immovable property and the stamp duty value of such property are both less than fifty lakh rupees, then no TDS is required.
- Currently Section 194-IA provides TDS at 1% on the consideration paid by the transferee to the transferor whereas Sections 43CA and 50C provide that transferor is subject to capital gains tax at the value of sale consideration or stamp duty value whichever is higher.
- This amendment will take effect from 1st April, 2022.

TDS on benefit or perquisite of a business or profession

- As per clause (iv) of section 28 of the Act, the value of any benefit or perquisite, whether convertible into money or not, arising from business or exercise of profession is to be charged as business income in the hands of the recipient of such benefit or perquisite. However, in many cases, such recipient does not report the receipt of benefits in their return of income, leading to furnishing of incorrect particulars of income.
- Accordingly, in order to widen and deepen the tax base, it is proposed to insert a new section 194R to the Act to provide that the person responsible for providing to a resident, any benefit or perquisite, whether convertible into money or not, arising from carrying out of a business or exercising of a

profession by such resident, shall, before providing such benefit or perquisite, as the case may be, to such resident, ensure that tax has been deducted in respect of such benefit or perquisite at the rate of 10% of the value or aggregate of value of such benefit or perquisite.

- For the purpose of this section, the expression 'person responsible for providing' has been proposed to mean a person providing such benefit or perquisite or in case of a company, the company itself including the principal officer thereof.
- Further, in a case where the benefit or perquisite, as the case may be, is wholly in kind or partly in cash and partly in kind but such part in cash is not sufficient to meet the liability of deduction of tax in respect of whole of such benefit or perquisite, the person responsible for providing such benefit or perquisite shall, before releasing the benefit or perquisite, ensure that tax has been paid in respect of the benefit or perquisite.
- No tax is to be deducted if the value or aggregate value of the benefit or perquisite paid or likely to be paid to a resident does not exceed Rs. 20,000/- during the financial year.
- Further, the provisions of the said section shall not apply to an individual or a Hindu undivided family, whose total sales, gross receipts or turnover does not exceed Rs. 1 crore in case of business or Rs. 50 lakhs in case of profession during the financial year immediately preceding the financial year in which such benefit or perquisite, as the case may be, is provided. This requirement will have difficulties in implementation for want of clarity on the term's "benefits" or "perquisite". This amendment will have far reaching impact to FMCG, Pharma, Automobile and other companies having such expenses mostly to the dealers, distributors etc .
- This amendment will take effect from 1st July, 2022.

Clarification in respect of disallowance under section 14A in absence of any exempt income during an assessment year

- Section 14A of the Act provides that no deduction shall be allowed in respect of expenditure incurred by the assessee in relation to income that does not form part of the total income as per the provisions of the Act (exempt income).
- It is proposed to insert an Explanation to section 14A of the Act to clarify that notwithstanding anything to the contrary contained in this Act, the provisions of this section shall apply and shall be deemed to have always applied in a case where exempt income has not accrued or arisen or has not been received during the previous year relevant to an assessment year and the expenditure has been incurred during the said previous year in relation to such exempt income.
- This amendment will take effect from 1st April, 2022.

- It is also proposed to amend sub-section (1) of the said section, so as to include a non-obstante clause in respect of other provisions of the Income-tax Act and provide that no deduction shall be allowed in relation to exempt income, notwithstanding anything to the contrary contained in this Act.
- This amendment will take effect from 1st April, 2022 and will accordingly apply in relation to the assessment year 2022-23 and subsequent assessment years.

Withdrawal of concessional rate of taxation on dividend income under section 115BBD

- Section 115BBD of the Act provides for a concessional rate of tax of 15 % on the dividend income received by an Indian company from a foreign company in which the said Indian company holds 26 % or more in nominal value of equity shares (specified foreign company). This rate was aligned to the rate of tax provided under section 115-O of the Act.
- In order to provide parity in the tax treatment in case of dividends received by Indian companies from specified foreign companies vis a vis dividend received from domestic companies, it is proposed to amend section 115BBD of the Act to provide that the provisions of this section shall not apply to any assessment year beginning on or after the 1st day of April, 2023.
- This amendment will take effect from 1st April, 2023 and will accordingly apply in relation to the assessment year 2023-24 and subsequent assessment years.

Provisions for filing of updated return

- It is proposed to introduce a new provision for filing an updated return of income by any person, whether he has filed a return previously for the relevant assessment year or not.
- An updated return can be filed within 24 months from the end of the relevant assessment year
- Payment of additional tax by persons opting to furnish their returns in the newly provided timelines is required
- The new provision of filing an updated tax return will not apply -
 - a. If the updated return is a return of loss or has the effect of decreasing the total tax liability determined on the basis of return filed previously; or
 - b. Results in refund/ increases the refund due on the basis of tax returns filed previously; or
 - c. In case search has been initiated and/ or survey has been conducted; or
 - d. Other conditions as specified
- An amount equal to 25 % or 50% as additional tax on the tax and interest due on the additional income furnished would be required to be paid.

Rationalization of the provision of Charitable Trust and Institutions

In the Finance Bill, it is proposed to rationalize the provisions of both the exemption regimes viz. exemption under Section 10(23C) and Section 12AA/ 12AB by-

1. Ensuring their effective monitoring and implementation;
2. Bringing consistency in the provisions of the two exemption regimes; and
3. Providing clarity on taxation in certain circumstances
4. Reducing the number of years for accumulation and spending to 5 years.

There are various provisions which are proposed to be amended to bring consistency between above two sections for which we would like to share a detailed note analyzing those provisions shortly.

Definition of the term “slump sale

- Slump sale is defined in clause (42C) of section 2 of the Act, as the transfer of one or more undertaking, by any means, for a lump sum consideration without values being assigned to individual assets and liabilities in such sales. Vide the Finance Act, 2021, the definition of “slump sale” was amended to expand its scope to cover all forms of transfer under slump sale. However, inadvertently, in the last sentence there is reference to the word “sales” instead of “transfer”.
- Therefore, it is proposed to carry out consequential amendment by amending the provision of clause (42C) of section 2 of the Act, to substitute the word “sales” with the word “transfer”.
- This amendment will take effect retrospectively from the 1st April, 2021 and will accordingly apply in relation to the assessment year 2021-22 and subsequent assessment years.

Reduction of Goodwill from block of assets to be considered as ‘transfer’

- It is proposed to clarify that for the purposes of section 50 of the Act, reduction of the amount of goodwill of a business or profession, from the block of asset in accordance with sub item (B) of item (ii) of sub-clause (c) of clause (6) of section 43, shall be deemed to be transfer. This means that the purchase cost of goodwill will be allowed as cost of acquisition.
- Since the amendment to the effect that goodwill of a business or profession is not a depreciable asset has been made applicable from assessment year 2021-2022 the above amendment will take effect retrospectively from 1st April 2021 and will accordingly apply in relation to the assessment year 2021-22 and subsequent assessment years.

Litigation management when in an appeal by revenue an identical question of law is pending before jurisdictional High Court or Supreme Court.

- Finance Bill, 2022 proposes to insert Section 158AB to provide a procedure when an appeal is pending on an identical question of law before the jurisdictional High Court or Supreme Court in the assessee's own case or in the case of any other assessee for an assessment year.
- Proposes that a collegium (comprising of 2 or more PCITs, CCITs or CITs) may decide and intimate the CIT or PCIT not to file any appeal before ITAT or HC in such cases.
- Decision on deferment will be subject to acceptance by the assessee that question of law in its case is identical to the question in another case.
- Further proposes to insert a sunset clause that no directions can be made u/s 158AA on or after Apr 1, 2022.

Amendment in section 245MA of the Act related to Dispute Resolution Committee

- Finance Act, 2021 introduced a new chapter XIX-AA in the Act consisting of section 245MA for constituting Dispute Resolution Committee ("DRC") for specified persons who may opt for dispute resolution under the said section and who fulfil specified conditions mentioned in the said section.
- A taxpayer may opt for approaching either the Dispute Resolution Panel under section 144C of the Act or the DRC under section 245MA of the Act, and the AO shall pass the final order in conformity with the order by the DRC even in the case of an eligible assessee.
- This amendment will take effect from 1st April, 2022.

Amendments related to successor entity subsequent to business reorganization

- Finance Bill 2022 proposes to insert sub-section (2A) to section 170, to provide that in the event of a business reorganisation, the assessment or other proceedings pending or completed on the predecessor shall be deemed to have been made on the successor.
- It is observed that during the pendency of the proceedings for business reorganisation, the income tax proceedings and assessments are carried on and often completed on the predecessor entities and Courts have held them to be illegal since the predecessor assessee ceases to exist in the midst of a perfectly valid and legal proceeding.

- Finance Bill 2022 also proposes to insert Section 170A to enable the entities going through business reorganisation to file modified returns for the period between the date of effectivity of the order and the date of issuance of final order of the competent authority on business reorganisation.
- Further, in the cases of business reorganisation, there are instances where the Court or Tribunal or an Adjudicating Authority u/s 5(1) of IBC recasts the liabilities leading to modified tax demand and presently there is no procedure or mechanism in the Act to reduce such demands from the outstanding demand register.
- To facilitate this, Finance Bill 2022 also proposes to insert Section 156A to give effect to the orders of the competent authority and to modify such demands in accordance with the directions; Amendments proposed to be effective from Apr 1, 2022.

Consequence for failure to deduct/collect or payment of tax – Computation of interest

It is proposed to:

- amend sub-section (1A) of section 201 to provide that where any order is made by the Assessing Officer for the default under sub-section (1) of the said section, the interest shall be paid by the person in accordance with the order made by the Assessing Officer in this regard;
- amend sub-section (7) of section 206C to provide that where any order is made by the Assessing Officer for the default under sub-section (6A) of the said section, the interest shall be paid by the person in accordance with the order made by the Assessing Officer in this regard.
- These amendments will take effect from 1st April, 2022

Rationalization of provisions of the Act to promote the growth of co-operative societies

- Section 115JC of the Act, inter alia, provides for the alternate minimum tax (AMT) payable by co-operative societies, which is at the rate of 18.5%.
- It is proposed to modify sub-section (4) of section 115JC to reduce the AMT rate at which co-operative societies are liable to pay income-tax to 15%.
- Consequential amendment is also proposed in clause (b) of section 115JF in relation to the definition of “alternate minimum tax”.
- These amendments will take effect from 1st April, 2023 and will accordingly apply in relation to the assessment year 2023-24 and subsequent assessment years.

Facilitating strategic disinvestment of public sector companies

- Section 79 of the Act provides for carry forward and set-off of losses in case of certain companies.
- Sub-section (1) of the said section, inter-alia, provides that where a change in shareholding has taken place during the previous year in the case of a company, not being a company in which the public are substantially interested, no loss incurred in any year prior to the previous year shall be carried forward and set off against the income of the previous year, unless on the last day of the previous year, the shares of the company carrying not less than 51 % of the voting power were beneficially held by persons who beneficially held shares of the company carrying not less than 51% of the voting power on the last day of year or years in which the loss was incurred. Sub-section (2) of the said section provides certain circumstances in which the provisions of sub-section (1) shall not apply.
- In order to facilitate the strategic disinvestment of public sector companies, it is proposed to amend section 79 of the Act to provide that the provisions of sub-section (1) of section 79 shall not apply to an erstwhile public sector company subject to the condition that the ultimate holding company of such erstwhile public sector company, immediately after the completion of strategic disinvestment, continues to hold, directly or through its subsidiary or subsidiaries, at least 51 per cent of the voting power of the erstwhile public sector company in aggregate.
- It is further proposed to provide that if the above condition is not complied with in any previous year after the completion of strategic disinvestment, the provisions of sub-section (1) shall apply for such previous year and subsequent previous years.
- This amendment will take effect from 1st day April, 2022 and will accordingly apply in relation to the assessment year 2022-23 and subsequent assessment years.

Rationalization of provisions of section 206AB and 206CCA to widen and deepen tax-base

- In order to widen and deepen the tax-base and to nudge taxpayers to furnish their return of income, Finance Act, 2021 inserted sections 206AB and 206CCA in the Act. The said sections provide for special provision for deduction and collection of tax at source respectively, in case of specified persons at higher rates specified therein.
- However, in order to reduce the additional burden on individual and Hindu undivided family (HUF) taxpayers covered under section 194-IA, 194-IB and 194M of the Act for whom simplified tax deduction system has been provided without requirement of TAN, it is proposed that the provisions of section 206AB will not apply in relation to transactions on which tax is to be deducted under the said sections of the Act.

- In addition to above, it is also proposed to rectify a drafting error in sections 206AB and 206CCA wherein the terms “deductor” and “collectee” respectively were used incorrectly. Further, since the returns are now being furnished electronically, it is also proposed that in place of ‘filing’ of return, the term ‘furnishing’ of return may be substituted.
- Further, as a consequential amendment in section 194-IB it is also proposed to omit the reference of section 206AB from sub-section (4) of the said section.
- These amendments will take effect from 1st April, 2022.

Cash credits under section 68 of the Act

- It is proposed to amend the provisions of section 68 of the Act so as to provide that the nature and source of any sum, whether in form of loan or borrowing, or any other liability credited in the books of an assessee shall be treated as explained only if the source of funds is also explained in the hands of the creditor or entry provider.
- However, this additional onus of proof of satisfactorily explaining the source in the hands of the creditor, would not apply if the creditor is a well regulated entity, i.e., it is a Venture Capital Fund, Venture Capital Company registered with SEBI.
- This amendment will take effect from 1st April, 2023 and will accordingly apply in relation to the assessment year 2023-24 and subsequent assessment years.

Faceless Schemes under the Act

- As part of this process of making the tax administration transparent and efficient, provisions for notifying faceless schemes under sections 92CA, 144C, 253 and 264A were introduced in the Act through Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 with effect from 01.11.2020 and under section 255, was inserted through Finance Act, 2021 with effect from 01.04.2021.
- It is proposed to extend the date for issuing directions for the purposes of these sections 92CA, 144C, 253 and 255 till 31st March, 2024. Further, several amendments are proposed to remove some of the anomalies.
- These amendments will take effect from 1st April, 2022.

Rationalization of the provisions of sections 271AAB, 271AAC and 271AAD of the Act

- It is proposed to amend the sections 271AAB, 271AAC and 271AAD by enabling the Commissioner (Appeals) to levy penalty under these sections to the along with Assessing Officer.
- These amendments will take effect from 1st April, 2022.

Amendment in the provisions of section 272A of the Act

- Section 272A of the Act provides for penalty for failure to answer questions, sign statements, furnish information, returns or statements, allow inspections etc. At present, the amount of penalty for failures listed under sub-section (2) of section 272A is one hundred rupees for every day during which the failure continues.
- It is proposed to increase the amount of penalty for failures listed under sub-section (2) of section 272A to five hundred rupees from the existing sum of one hundred rupees.
- This amendments will take effect from 1st April, 2022.

AMENDMENTS IN CGST, IGST AND UTGST ACTS, 2017:***(All amendments shall be effective from the date to be notified)***

- The Finance Bill 2022 has provided for the extended time for availment of ITC in respect of any invoice or debit Note pertaining to financial year up to 30th November of following Financial Year. The same is done by amending the section 16(4) of the CGST Act. (Clause 99 of Finance Bill, 2022);
- Clause (b) and (c) of sub-section (2) of section 29 of the CGST Act are being amended so as to provide that the registration of a person is liable for cancellation, where:
 - a. a person paying tax under section 10 has not furnished the return for a financial year beyond three months from the due date of furnishing of the said return;
 - b. a person, other than those paying tax under section 10, has not furnished returns for such continuous tax period as may be prescribed. [Clause 100 of Finance Bill, 2022 refers]
- Sub-section (2) of section 34 of the CGST Act is being amended so as to provide for an extended time for issuance of credit notes in respect of any supply made in a financial year up to thirtieth day of November of the following financial year. (Clause 101 of Finance Bill, 2022);

- Section 37 of the CGST Act is being amended so as to:
 - a. provide for prescribing conditions and restrictions for furnishing the details of outward supply and for communication of the details of such outward supplies to concerned recipients;
 - b. do away with two-way communication process in return filing;
 - c. provide for an extended time upto thirtieth day of November of the following financial year for rectification of errors in respect of details of outward supplies furnished under sub-section (1);
 - d. provide for tax period-wise sequential filing of details of outward supplies under sub-section (1). (Clause 102 of Finance Bill, 2022);

- Section 39 of the CGST Act is being amended so as to:
 - a. provide that the non-resident taxable person shall furnish the return for a month by thirteenth day of the following month;
 - b. provide an option to the persons furnishing return under proviso to sub-section (1), to pay either the self-assessed tax or an amount that may be prescribed;
 - c. provide for an extended time up to thirtieth day of November of the following financial year, for rectification of errors in the return furnished under section 39;
 - d. provide for furnishing of details of outward supplies of a tax period under subsection (1) of section 37 as a condition for furnishing the return under section 39 for the said tax period. (Clause 104 of Finance Bill, 2022);

- Section 41 of the CGST Act is being substituted so as to do away with the concept of “claim” of eligible input tax credit on a “provisional” basis and to provide for availment of self-assessed input tax credit subject to such conditions and restrictions as may be prescribed. (Clause 105 of Finance Bill, 2022);

- Sections 42, 43 and 43A of the CGST Act are being omitted so as to do away with two-way communication process in return filing. (Clause 106 of Finance Bill, 2022);

- Section 47 of the CGST Act is being amended so as to provide for levy of late fee for delayed filing of return under section 52. Further, reference to section 38 is being removed consequent to the amendment in section 38 of the CGST Act. (Clause 107 of Finance Bill, 2022);

- Section 49 of the CGST Act is being amended so as to:
 - a. provide for prescribing restrictions for utilizing the amount available in the electronic credit ledger;
 - b. allow transfer of amount available in electronic cash ledger under the CGST Act of a registered person to the electronic cash ledger under the said Act or the IGST Act of a distinct person;
 - c. provide for prescribing the maximum proportion of output tax liability which may be discharged through the electronic credit ledger. (Clause 109 of Finance Bill, 2022);
- Sub-section (3) of section 50 of the CGST Act is being substituted retrospectively, with effect from the 1st July, 2017, so as to provide for levy of interest on input tax credit wrongly availed and utilized. (Clause 110 of Finance Bill, 2022);
- Sub-section (6) of section 52 of the CGST Act is being amended so as to provide for an extended time up to thirtieth day of November of the following financial year for rectification of errors in the statement furnished under sub-section (4). (Clause 111 of Finance Bill, 2022);
- Section 54 of the CGST Act is being amended so as to:
 - a. explicitly provide that refund claim of any balance in the electronic cash ledger shall be made in such form and manner as may be prescribed;
 - b. provide the time limit for claiming refund of tax paid on inward supplies of goods or services or both under section 55 as two years from the last day of the quarter in which the said supply was received;
 - c. extend the scope of withholding of or recovery from refunds in respect of all types of refund;
 - d. provide clarity regarding the relevant date for filing refund claim in respect of supplies made to a Special Economic Zone developer or a Special Economic Zone unit by way of insertion of a new sub-clause (ba) in clause (2) of Explanation thereto. (Clause 112 of Finance Bill, 2022);

RETROSPECTIVE CHANGES RELATING TO GST:

Following amendments carried out in the Finance Bill, 2022, vide Section 114 to 123 will come into effect on the date of its enactment.

- Central Tax, Union Territory Tax and Integrated Tax is being exempt on supply of unintended waste generated during the production of fish meal (falling under heading 2301), except fish oil, for the period 01.07.2017 to 30.09.2019, subject to the condition that if the said tax has been paid, same shall not be eligible for refund. [Clause 116, 119, 122 of the Finance Bill, 2022 refers];
- Central Tax, Union Territory Tax and Integrated Tax is being exempt on supply of 'service by way of grant of alcoholic liquor license, against consideration in the form of license fee or application fee or by whatever name it is called by the State Governments', as it has been declared as an activity or transaction which shall be treated neither as a supply of goods nor a supply of service, for the period 01.07.2017 to 30.09.2019, subject to the condition that if the said tax has been paid, same shall not be eligible for refund [Clause 117, 120, 123 of the Finance Bill, 2022 refers];
- Retrospective changes are being made to notify www.gst.gov.in, retrospectively, with effect from 22nd June, 2017, as the Common Goods and Services Tax Electronic Portal, for all functions provided under Central Goods and Services Tax Rules, 2017, other than those provided for e-way bill and for generation of invoices under sub-rule (4) of rule 48 of the CGST Rules. [Clause 114 of the Finance Bill, 2022 refers];
- Retrospective changes are being made to Central Tax, Integrated Tax and United Territory Tax notifications notify rate of interest under sub-section (3) of section 50 of the CGST Act as 18%, with effect from the 1st day of July, 2017. [Clause 115, 118, 121 of the Finance Bill, 2022 refers];

Amendments in Customs Act and Customs Tariff Act:

- Customs Administration of SEZs to be fully IT driven and function on the Customs National Portal – shall be implemented by 30th September 2022.
- Sector Specific custom duty changes:
 - a. **Jewellery**
Customs duty on cut and polished diamonds and gemstones being reduced to 5 per cent
Nil customs duty to simply sawn diamond – To give a boost to the Gems and Jewellery sector.
 - b. **Chemical**
Customs duty on certain critical chemicals namely methanol, acetic acid and heavy feed stocks for petroleum refining being reduced; Duty is being raised on sodium cyanide for which adequate domestic capacity exists – This will help in enhancing domestic value addition.
 - c. **Exemptions withdrawn**

Customs duty on umbrellas being raised to 20 per cent. Exemption to parts of umbrellas being withdrawn. Exemption being rationalised on implements and tools for agri-sector which are manufactured in India.

Customs duty exemption given to steel scrap last year extended for another year to provide relief to MSME secondary steel producers Certain Anti- dumping and CVD on stainless steel and coated steel flat products, bars of alloy steel and high-speed steel are being revoked – to tackle prevailing high prices of metal in larger public interest.

d. MSME Sectors

Customs duty on umbrellas being raised to 20 per cent. Exemption to parts of umbrellas being withdrawn. Exemption being rationalised on implements and tools for agri-sector which are manufactured in India Customs duty exemption given to steel scrap last year extended for another year to provide relief to MSME secondary steel producers Certain Anti- dumping and CVD on stainless steel and coated steel flat products, bars of alloy steel and high-speed steel are being revoked – to tackle prevailing high prices of metal in larger public interest.

➤ Changes in BCD Rate-Chapter wise

Chapter Head	Description	Effective date
3-5	Atlantic salmon” falling under heading 0302 or 0303 now attract a BCD rate of 30%.	01.02.2022
	BCD on Live Black tiger shrimp (Penaeus monodon) (heading 0306) is being decreased from 30% to 10%	01.02.2022
	BCD on certain goods such as Frozen Krill, Frozen Mussels, Frozen Squids are decreased	01.02.2022
8	All goods falling under tariff items 0802 21 00 and 0802 22 00 will now attract a BCD rate of 30%.	01.02.2022
	Consequently, all goods falling under tariff items 0802 91 00, 0802 92 00, 0802 99 00 will now attract standard tariff @100%	01.02.2022
	Goods falling under tariff item 0810 6000 or sub-heading 0810 90 will now attract a BCD rate of 30%.	01.02.2022
13	“Seed lac” falling under sub-heading 1301 90 will now attract a BCD rate of 30%	01.02.2022
	“Dammar batu” falling under tariff item 1301 90 22 will now attract a BCD rate of 30%.	01.02.2022

15	"Crude glycerin for use in manufacture of soaps" falling under tariff item 1520 00 00 will now attract a BCD rate of 7.5%.	01.02.2022
	Social Welfare Surcharge is being exempted on all goods falling under subheadings 1509 90 and 1510 90	01.02.2022
25	Silica Sands', falling under tariff items 2505 10 11, 2505 10 12 and 2505 10 19 attracts BCD @ 5%	01.02.2022
	All goods other than Rough Marble and Travertine blocks; Marble slabs', falling under tariff items 2515 11 00, 2515 12 10, 2515 12 20, 2515 12 90, 2516 11 00 and 2516 12 00 attract a BCD rate of 40%, Further exemption from Social Welfare Surcharge has been granted to these items.	01.02.2022
41	Export duty is being reduced from 40% to 30% on 'Raw hides and skins of buffalo' falling under sub-heading 4101	01.02.2022
44	Wood in chips or particles, used in manufacture of paper, paperboard and newsprint (falling under tariff items 4401 21 00 and 4401 22 0 attracts 5%	01.02.2022
66	BCD on Umbrellas and sun umbrellas (heading 6601) is being increased from 10% to 20%	01.02.2022
68	Mica glass tape for use in manufacture of insulated wires and cables falling under heading 8544' (falling under tariff item 6814 90 90) is now attracts 10%	01.02.2022
84	The concessional rates prescribed in items in this chapter will be removed and applicable rate is applicable from 1st April 2023.	01.04.2023
85	camera lens for use in manufacture of camera module of cellular mobile phone (tariff item 3920 99 99/ 9002 11 00) is being decreased from 15%/ 10% to 2.5%	01.04.2022
	BCD rate on specified parts of transformers for use in manufacture of chargers / adapters is being decreased from 10%/ 15% to 5%	01.02.2022
	Notification No.11/2022-Customs is being issued to prescribe a Phased Manufacturing Program (PMP) for wrist wearable devices (commonly known as smart watches), falling under tariff item 8517 62 90, and its inputs/ parts / sub-parts. The BCD has been reduced from regular rates to the rates prescribed in the above notification	01.02.2022
90	Health Cess on needles for suture (tariff item 9018 32 10) used in manufacture of surgical sutures (tariff item 3006 10	01.02.2022

	10) is being decreased from 5% to 'Nil' by inserting S. No. 1A in notification No. 08/2020-Customs	
	The BCD rates on Smart Meters and inputs/ parts/ subparts thereof, will be governed as per the phased manufacturing program (PMP)	01.02.2022
95	BCD on parts of electronic toys used in the manufacture of electronic toys, falling under heading 9503 is being increased from 15% to 25%	01.02.2022

The applicable BCD rate on certain items falling under the chapter 1, 9, 10, 11, 12, 14, 17, 26, 33, 39, 69, 70, 71, 74, 75, 76, 88, 89, 90, 91, which hitherto were prescribed through notification, are being incorporated in the First Schedule from 1.5.2022. Accordingly relevant exemption entries shall be omitted from 1st May 2022.

- Exemption to import duty for bonafide exporters - A scheme for duty-free imports for the purpose of use in goods meant for export, based on end-use monitoring is being introduced for bonafide exporters subject to the requirement of exporting value added products manufactured using inputs imported under these exemptions, within a period of six months. Importer shall be required to follow the procedure under the Import of Goods at Concessional Rate (IGCR) Rules, 2017.
- Clarifications regarding Social Welfare Surcharge: Circular No. 03/2022 - Customs dated 1st February, 2022 is being issued clarifying the applicability of social welfare surcharge on goods exempted from Basic Customs Duty.

Amendments in Customs Act, 1962

- Clause (34) of section 2 contains definition of "proper officer". This section is being modified to specifically state that assignment of functions to an officer of Customs by the Board or the Principal Commissioner of Customs or the Commissioner of Customs shall be done under the newly inserted sub-sections (1A) and (1B) of Section 5 in the Customs Act, 1962 (52 of 1962).
- Section 3 is being amended to specifically include the officers of DRI, Audit and Preventive formation in the class of Officers. This amendment has been made to remove any ambiguity as regards the class of officers of Customs.
- Sub-Section (1A) and 1(B) to Section 5: Sub-section (1A) and (1B) have been inserted in section 5 of the Act to explicitly provide power of assignment of function to officers of customs by the Board or as the case may be by the Principal Commissioner of Customs or Commissioner of Customs. This amendment has been necessitated to correct the infirmity observed by the Courts in recent judgements that the Act required explicit provision conferring powers for assignment of function to

officers of Customs as “proper officers” for the purposes of the Act, besides the definition clause (34) in section 2 of the Customs Act.

- Sub-section (4) to Section 5 is being inserted to delineate the criteria which the Board may adopt while imposing limitations or conditions under sub-section (1) or while assigning functions under sub-section (1A) to the officer of Customs. For instance, one of the limitations/ conditions that the Board currently imposes on “officers of Customs” is that they are required to operate within a specified territorial jurisdiction.
- Sub-section (5) to Section 5 is being inserted to ensure that wherever necessary, for the proper management of work, two or more officers of customs, can concurrently exercise powers and functions (for example in the case of faceless assessment).
- Section 14 is being amended to include provisions for rules enabling the Board to specify the additional obligations of the importer in respect of a class of imported goods whose value is not being declared correctly, the criteria of selection of such goods, and the checks in respect of such goods. This amendment is a measure to address the issue of undervaluation in imports.
- Section 28H is being amended to make provisions for prescribing appropriate fees by Board relating to application for advance Ruling and also give flexibility to the applicant to withdraw his application at any time before a ruling is pronounced from the current 30 days’ time period.
- Sub-section (2) under Section 28J is being substituted so that advance ruling under sub-section (1) of Section 28J is now valid for a period of three years or till there is a change in law or facts on the basis of which the advance ruling has been pronounced, whichever is earlier.
- Section 135AA is being inserted to protect the import and export data submitted to Customs by importers or exporters in their declarations by making the publishing of such information unless provided by the law, as an offence under Customs Act.

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About Us:

Vishnu Daya & Co LLP is a Professional Services Firm under which dedicated professionals have developed core competence in the field of audit, financial consulting services, financial advisory, risk management, direct and indirect taxation services to the clients. Each Partner is specialized in different service area. The services are structured differently in accordance with national laws, regulations, customary practice, and other factors. We continuously strive to improve these services to meet the growing expectations of our esteemed customers.

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