

UNION BUDGET 2023 - TAX PROPOSALS

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FOREWORD:

The provisions of Finance Bill, 2023 (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 reliefs, 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
- Socio economic welfare measures
- Ease of compliance
- Widening and deepening of tax base/Anti-Avoidance.
- Improving compliance and Tax administration
- Rationalisation of Provisions; and
- Others

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"> ➤ Highest surcharge rate is proposed to be reduced from 37% to 25% in the new tax regime, resulting in maximum marginal rate of 39% ➤ The number of slabs in new tax regime under section 115BAC is proposed to be reduced to 5, maximum exemption limit is Rs. 3 lakhs. ➤ Section 87A rebate is proposed to be increased from the current Rs. 5 Lakhs to Rs. 7 Lakhs in the new tax regime. ➤ New income tax regime to become default tax regime but taxpayers can continue under the old regime as well. ➤ Standard deduction benefits to be extended to new tax regime for salaried class and pensioners. ➤ Leave encashment limit proposed to be increased from existing INR 3 Lakhs to INR 25 lakhs. ➤ The benefit of a lower tax rate of 15% to new cooperative societies is proposed. 	A
<u>Individual taxation</u>			
54 and 54F	Limiting the deduction claimed under section 54 and 54F.	Deduction from capital gains on investment in residential house under sections 54 and 54F capped to 10 crores	A1

24, 48	Prevention of double deduction on interest on borrowed capital for acquiring/ renewing property	Proposing to amend Section 48 to provide that the cost of acquisition or cost of improvement shall not include the amount of interest claimed under section 24 or Chapter VIA.	A2
10(10D)	Rationalisation of income exempt under life insurance policies.	It is proposed that where aggregate of premium for life insurance policies (other than ULIP) issued on or after 1st April 2023 is above ` 5 lakh per annum, income from only those policies with aggregate premium up to ` 5 lakh shall be exempt.	A3
192A, 206AA	TDS on payment of accumulated balance due to an employee	TDS of 20% for non-PAN cases instead of 30% as per 206AA	A4
43B	Promoting timely payments to Micro and Small Enterprises	Payments to Micro and Small Enterprises are proposed to be covered u/s 43B of the Act and to be allowed only on payment basis.	A5
35D	Ease in claiming deduction on amortization of preliminary expenditure.	<ul style="list-style-type: none"> ➤ Removal of certain condition for claiming deduction ➤ Requirement of furnishing a statement within the prescribed period. 	A6
44AD, 44ADA	Increasing threshold limits for presumptive taxation schemes	<p>The threshold of turnover of 44AD has been increased to Rs 3 crores.</p> <p>The threshold of turnover of 44ADA has been increased to Rs 75 lakhs</p>	A7
44BB, 44BBB	Preventing misuse of presumptive schemes under section 44BB and section 44BBB	No set off of unabsorbed depreciation and business loss	A8
New section 50AA	Special provision for taxation of capital gains in case of Market Linked Debentures	Proposal to tax the transfer, redemption or maturity of Market Linked Debentures as short-term capital gain	A9

142, 153	Preventing permanent deferral of taxes through undervaluation of inventory	Proposal to amend Section 142 to empower AO to direct the assessee for inventory valuation by a Cost Accountant, nominated by the designated officers.	A10
45(5A)	Alignment of provisions of section 45(5A) with the TDS provisions of section 194-IC	Proposal to amend the section to include any consideration received in cash or by a cheque or draft or by any other mode.	A11
55	Defining the cost of acquisition in case of certain assets for computing capital gains	Proposal to amend Section 55 to provide for cost of acquisition or improvement of 'any other intangible assets' and 'any other right' as Nil	A12
56(2)(viib)	Bringing the non-resident investors within the ambit of section 56(2)(viib) to eliminate the possibility of tax avoidance	Non-resident investors who were not covered under the angel investors taxation earlier are proposed to be included now.	A13
28, 194R	Providing clarity on benefits and perquisites in cash	Proposed to expand the definition of 'perquisite' u/s 28 to cover benefits received in cash; Further default u/s 194R, to now attract penalty/prosecution in line with other sections.	A14
80G	Removal of certain funds from section 80G	Deduction is proposed to be removed for three funds	A15
10AA	Specifying time limit for bringing consideration against export proceeds into India	New sub-section (4A) to Section 10AA to provide that the deduction shall be available if the proceeds from sale of goods or provision of services is received in, or brought into, India in convertible foreign exchange within 6 months from the end of the previous year or, within such further period as the 'competent authority' may allow;	A16

206AB and 206CCA	Relief from special provision for higher rate of TDS/TCS for non-filers of income-tax returns	Definition of 'specified person' is proposed to be amended to exclude person who is not required to furnish the return of income.	A17
155(20)	Facilitating TDS credit for income already disclosed in the return of income of past Year	Application to the Assessing Officer within 2 years from the end of the financial year	A18
196A	Tax treaty relief at the time of TDS under section 196A of the Act	TDS rate lower than 20% as per DTAA if TRC is furnished	A19
94B	Excluding non-banking financial companies (NBFC) from restriction on interest deductibility	NBFCs are proposed to be excluded from thin capitalization rules for maximum interest deduction.	A20
271C	Amendments in consequence to new provisions of TDS	Proposal to include two new TDS sections for penal provisions.	A21
285BA	Penalty for furnishing inaccurate statement of financial transaction or reportable account.	Penalty of Rs. 5,000/-	A22
194N	Increasing threshold limit for co-operatives to withdraw cash without TDS	It is proposed to amend 194N to substitute one crore rupees with three crore rupees in case of cooperative societies.	A23
79	Relief to start-ups in carrying forward and setting off of losses	Proposal to increase the period of carried forward to loss to 10 years.	A24
80-IAC	Extension of date of incorporation for eligible start-up for exemption	Proposal to extend the period for incorporation to 1 st April 2024	A25
47, 49	Conversion of Gold to Electronic Gold Receipt and vice versa		A26
115BAE	15% concessional tax to promote new	It is proposed to insert a new section 115BAE to the Act in which	A27

	manufacturing co-operative society	concessional tax regime is being provided for the new manufacturing cooperative societies subject to satisfaction of certain conditions.	
194LBA	Extending the scope for deduction of tax at source to lower or nil rate	197 lower deduction benefits are proposed to be extended to 194LBA	A28
9	Extending deeming provision under section 9 to gift to not-ordinarily resident	Proposal to extend the deeming provision of taxing sum of money exceeding 50,000 rupees, received by a not ordinarily resident, without consideration from a person resident in India.	A29
56(2)(xii) and 115UA	Tax avoidance through distribution by business trusts to its unit holders	Insertion of clause (xii) in subsection (2) of section 56 of the Act to provide that income chargeable to income-tax under the head "income from other sources" shall also include any sum, received by a unit holder from a business trust	A30
193	Removal of exemption from TDS on payment of interest on listed debentures to a resident	it is proposed to remove the exemption from TDS in respect of payment of interest on certain securities.	A31
194B	TDS and taxability on net winnings from online games	New provision proposed for taxation of net winnings from online games and related withholding obligation.	A32
206C	Increasing rate of TCS of certain remittances	TCS on overseas tour package is proposed to be increased to 20% without any threshold	A33
170A	Provisions related to business reorganisation	Proposal to enable filing of modified return of the predecessor and also enabling AO to modify the assessment order if already assessment was completed earlier.	A34

92D	Reducing the time provided for furnishing TP report	Reduction of time limit to furnish the TP study from 30 days to 10 days.	A35
269SS/269T	Penalty for cash loan/ transactions against primary co-operatives	Limit is increased from Rs. 20,000 to Rs. 2 lakhs for certain cases.	A36
12AB, 11	Amendments to the provisions of charitable institutions.		A37
47 (viia)	Tax Incentives to International Financial Services Centre (IFSC)		A38
Indirect Tax amendments			
CHANGES TO CUSTOMS ACT			A39
CHANGES IN CENTRAL EXCISE			A40
CHANGES TO CGST & IGST ACT			A41

DIRECT TAXES**RATES OF TAXES – FINANCIAL YEAR 2023-24****For Individuals [other than mentioned below], Hindu Undivided Family, Association of Persons, Body of Individuals, Artificial Judicial Person**

The rates provided in sub-section (1A) of section 115BAC of the Act shall be applicable, as default, for determining the income-tax payable in respect of the total income. These rates are given in the following table upon satisfaction of certain conditions as per the provisions of section 115BAC.

Total income	Tax rate
Up to 3,00,000	Nil
From Rs. 3,00,001 to Rs. 6,00,000	5%
From Rs. 6,00,001 to Rs. 9,00,000	10%
From Rs. 9,00,001 to Rs. 12,00,000	15%
From Rs. 12,00,001 to Rs. 15,00,000	20%
Above Rs. 15,00,000	30%

If 115BAC is not opted, then the tax rates for Individuals [other than mentioned below], Hindu Undivided Family, Association of Persons, Body of Individuals, Artificial Judicial Person are as below:

Total income	Tax rate
Up to 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%

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 for old tax regime	Rate of surcharge for new tax regime (115BAC)
1.	If the total income of the person exceeds Rs. 50 lakhs but does not exceed Rs. 1 crore	10% of income tax	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	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	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	25% 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%
- For the persons who has opted tax slab under section 115BAC (new tax regime) of the Act, the maximum surcharge on the income other than income from dividend and capital gain would be restricted to 25% as against 37%.

- 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 fulfilment of certain conditions. However, surcharge would be charged at 10% in such cases.

Further, under proposed new section 115BAE of the Act, a new manufacturing co-operative society set up on or after 01.04.2023, which commences manufacturing or production on or before 31.03.2024 and does not avail of any specified incentive or deductions, may opt to pay tax at a concessional rate of 15% for assessment year 2024-25 onwards. 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 2021-22 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**A. Proposals relating to Individual taxation:****Limiting the deduction claimed under section 54 and 54F.**

- Section 54 & 54F of the Income Tax Act, 1961 prescribes deduction available for individuals and HUF against the capital gains from transfer of a long-term capital asset by reinvesting the amount in any residential property in India within a specific time limit upon satisfying certain conditions.
- Section 54 applies if the asset transferred is a residential house and the resultant capital gain is reinvested in another residential house; whereas section 54F is applicable when the asset transferred is any long-term capital asset except a residential house and the net consideration is reinvested in a residential property within the time limits.
- These sections were introduced to promote housing and no upper limit for investment was prescribed till date. However, it was noted that very expensive residential properties were being acquired to claim higher deduction under these sections which defeated its very purpose.
- To curb this, Finance Bill 2023 proposes to restrict the maximum amount of deduction that can be claimed under sections 54 and 54F to Rs.10 crores. In other words, if the cost of new asset bought is more than Rs.10 crores, the cost of such new asset will be deemed as Rs.10 crores and the deduction u/s 54 or 54F will be calculated accordingly.
- Similar amendment is also proposed for the deposit in Capital Gain Account Scheme (CGAS) under these sections. A proviso is being proposed to insert to section 54(2) and 54F(4) of the Act to limit the deposit in CGAS up to Rs.10 crores.
- This amendment will take effect from 1st April 2024 and will accordingly apply in relation to the assessment year 2024-25 and subsequent assessment years.

Prevention of double deduction on interest on borrowed capital for acquiring/ renewing property

- Section 24 of the Act provides deduction for interest on borrowed capital for acquiring/ renewing/ reconstructing a property from the annual value of the property while calculating “income from house property”. In some cases, such interest is also eligible for deduction under other provisions of Chapter VIA.

- However, it was noted that some assesseees have taken double deduction for the interest by adding it to the cost of acquisition or cost of improvement of the property while calculating the capital gain for the sale of such property under section 48 of the Income Tax Act.
- To prevent this, Finance Bill 2023 proposes to amend section 48 to provide that the cost of acquisition or cost of improvement shall not include the amount of interest claimed under section 24 or Chapter VIA.
- This amendment will take effect from 1st April, 2024 and will accordingly apply in relation to the assessment year 2024-25 and subsequent assessment years.

Rationalisation of income exempt under life insurance policies.

- Section 10(10D) of the Income Tax Act provides exemption on the sum received under a life insurance policy if the premium payable for such policy for any of the years during its term does not exceed 10% of the sum assured.
- When it was noticed that this benefit was being misused by people taking large policies with high premium payable, Finance Act 2021 had brought an amendment to clause 10D of section 10 of the Act to provide that the sum received under a ULIP issued on or after 01.02.2021 shall not be exempt if the premium payable for any of the years during the policy term exceeds Rs.2,50,000/-. It was also provided that the if premium is payable for more than one ULIPs, issued on or after 01.02.2021, the exemption under the said clause shall be available only with respect to such policies where the aggregate premium does not exceed Rs.2,50,000/- for any of the years during the term of the policy.
- However, this amendment only excluded ULIPs having premium payable exceeding Rs.2,50,000/- from the purview of section 10(10D) and all other kinds of life insurance policies are eligible for the exemption irrespective of the amount of premium payable.
- To rationalize this, the Finance Bill 2023 proposes to tax income from insurance policies issued on or after 01.04.2023 (except ULIP for which provisions already exists) having premium or aggregate premium of Rs. 5,00,000/- in a year. Computation mechanism shall be prescribed.
- These provisions will not apply if the amount is received on the death of the insured person or to policies issued before 01.04.2023.
- This income shall be taxable under the head "Income from other sources" and deduction shall be allowed for premium paid if such premium has not been claimed as deduction earlier. Accordingly, section 56(2)(xiii) of the Act is proposed to be amended to tax such income. Section 2(24) of the Act is also proposed to be amended to provide that income shall include such taxable income.

- This amendment will take effect from 1st April 2024 and will accordingly apply in relation to the assessment year 2024-25 and subsequent assessment years.

TDS on payment of accumulated balance due to an employee

- Section 192A of the Act deals with TDS on payment of accumulated balance due to an employee under the Employee Provident Fund Scheme, 1952. The TDS rate prescribed here is 10% on the taxable amount of the lump sum payment if such payment or the aggregate amount of such payment exceeds Rs.50,000/-. There is also a provision that if the employee has not provided his Permanent Account Number (PAN), the TDS shall be deducted at maximum marginal rate.
- However, considering that many low paid employees do not have PAN, Finance Bill 2023 proposes to provide the TDS rate as 20% for non-PAN cases in accordance with section 206AA of the Act, instead of at the maximum marginal rate.
- This amendment will take effect from 1st April 2023

Promoting timely payments to Micro and Small Enterprises

- In order to promote timely payments to micro and small enterprises, it is proposed to include payments made to such enterprises within the ambit of section 43B of the Act.
- Accordingly, it is proposed to insert a new clause (h) in section 43B of the Act to provide that any sum payable by the assessee to a micro or small enterprise beyond the time limit specified in section 15 of the Micro, Small and Medium Enterprises Development (MSMED) Act 2006 shall be allowed as deduction only on actual payment.
- Section 15 of the MSMED Act mandates payments to micro and small enterprises within the time as per the written agreement, which cannot be more than 45 days. If there is no such written agreement, the section mandates that the payment shall be made within 15 days. Thus, the proposed amendment to section 43B of the Act will allow the payment as deduction only on payment basis.
- It can be allowed on accrual basis only if the payment is within the time mandated under section 15 of the MSMED Act.
- This amendment will take effect from 1st April 2024 and will accordingly apply to the assessment year 2024-25 and subsequent assessment years.

Ease in claiming deduction on amortization of preliminary expenditure.

- In order to ease the process of claiming amortization of preliminary expenses it is proposed to amend section 35D of the Act to remove the condition of activity in connection with these expenses to be carried out by a concern approved by the Board. Instead, the assessee shall be required to furnish a statement containing the particulars of this expenditure within prescribed period to the prescribed income-tax authority in the prescribed form and manner.
- This amendment will take effect from 1st April, 2024 and will accordingly apply to the assessment year 2024-2025 and subsequent assessment years.

Increasing threshold limits for presumptive taxation schemes

- The existing provisions of Section 44AD of the Act, inter-alia, provide for a presumptive income scheme for small businesses. This scheme applies to certain resident assesseees (i.e., an individual, HUF or a partnership firm other than LLP) carrying on eligible business and having a turnover or gross receipt of 2 crore rupees or less. Under this scheme, a sum equal to 8% or 6% of the turnover or gross receipts is deemed to be the profits and gains from business subject to certain conditions. If assessee has claimed to have earned higher sum than 8% or 6%, then that higher sum is taxable.
- Section 44ADA of the Act provides for a presumptive income scheme for small professionals. This scheme applies to certain resident assesseees (i.e., an individual, partnership firm other than LLP) who are engaged in any profession referred to in subsection (1) of section 44AA, and whose total gross receipts do not exceed fifty lakh rupees in a previous year. Under this scheme, a sum equal to 50% of the gross receipts is deemed to be the profits and gains from business. If assessee has claimed to have earned higher sum than 50%, then that higher sum is taxable.
- In order to ease compliance and to promote non-cash transactions, it is proposed to increase the threshold limits for presumptive scheme in section 44AD and section 44ADA of the Act on fulfilment of certain conditions.
- It is proposed to provide that (where the amount or aggregate of the amounts received during the previous year, in cash, does not exceed five per cent of the total turnover or gross receipts,)

Section	Existing threshold	New proposed Threshold
44AD	INR 2 crores	INR 3 crores
44ADA	INR 50 lakhs	INR 75 lakhs

- These amendments will take effect from 1st April 2024 and will accordingly apply to the assessment year 2024-2025 and subsequent assessment years.

Preventing misuse of presumptive schemes under section 44BB and section 44BBB

- It is proposed to insert a new sub-section to section 44BB and to section 44BBB of the Act to provide that notwithstanding anything contained in subsection (2) of section 32 and sub-section (1) of section 72, where an assessee declares profits and gains of business for any previous year in accordance with the provisions of presumptive taxation, no set off of unabsorbed depreciation and brought forward loss shall be allowed to the assessee for such previous year.
- These amendments will take effect from 1st April, 2024 and will accordingly apply to the assessment year 2024-2025 and subsequent assessment years.

Special provision for taxation of capital gains in case of Market Linked Debentures

- Market Linked Debentures are listed securities. They are currently being taxed as long-term capital gain at the rate of 10% without indexation. However, these securities are in the nature of derivatives which are normally taxed at applicable rates. Further, they give variable interests as they are linked with the performance of the market.
- In order to tax the capital gains arising from the transfer or redemption or maturity of these securities as short-term capital gains at the applicable rates, it is proposed to insert a new section 50AA in the Act to treat the full value of the consideration received or accruing as a result of the transfer or redemption or maturity of the "Market Linked Debentures" as reduced by the cost of acquisition of the debenture and the expenditure incurred wholly or exclusively in connection with transfer or redemption of such debenture, as capital gains arising from the transfer of a short term capital asset.
- Further, it is also proposed to define the 'Market linked Debenture' as a security by whatever name called, which has an underlying principal component in the form of a debt security and where the returns are linked to market returns on other underlying securities or indices and include any securities classified or regulated as a Market Linked Debenture by Securities and Exchange Board of India.
- This amendment will take effect from the 1st day of April, 2024 and shall accordingly, apply in relation to the assessment year 2024-25 and subsequent assessment years.

Preventing permanent deferral of taxes through undervaluation of inventory

- It is proposed to amend Section 142 to empower AO to direct the assessee for inventory valuation by a Cost Accountant, nominated by PCCIT or CCIT or PCIT or CIT.

- Also proposed to provide that except in the case of best judgment assessment, the assessee will be given an opportunity of being heard in respect of any material gathered on the basis of such inventory valuation which is proposed to be utilized for assessment;
- Proposed to amend Section 153 to exclude the period for inventory valuation through the cost accountant for the purposes of limitation period.
- The amendments in section 142 and 153 of the Act will take effect from 1st April, 2023 and will accordingly apply to the assessment year 2023-2024 and subsequent assessment years. The amendment in section 295 of the Act will take effect from 1st April, 2023.

Alignment of provisions of section 45(5A) with the TDS provisions of section 194-IC

- It has been noticed that the taxpayers are inferring that any amount of consideration which is received in a mode other than cash, i.e., cheque or electronic payment modes would not be included in the consideration for the purpose of computing capital gains chargeable to tax under sub-section (5A) of section 45.
- Accordingly, it is proposed to amend the provisions of sub-section (5A) of section 45 so as to provide that the full value of consideration shall be taken as the stamp duty value of his share as increased by any consideration received in cash or by a cheque or draft or by any other mode.
- This is a clarificatory amendment and though, provided to be effective from the 1st day of April, 2024, it can apply for earlier year as well.

Defining the cost of acquisition in case of certain assets for computing capital gains

- It is proposed to amend Section 55 to provide for cost of acquisition or improvement of 'any other intangible assets' and 'any other right' as Nil;
- The amendment is proposed because there are intangible assets or any sort of right for which no consideration is paid for acquisition and the Courts have held that for taxability as capital gains there has to be a definite cost of acquisition or it should be deemed to be Nil under the Act;
- This amendment will take effect from the 1st day of April, 2024 and shall accordingly, apply in relation to the assessment year 2024-25 and subsequent assessment years.

Bringing the non-resident investors within the ambit of section 56(2)(viib) to eliminate the possibility of tax avoidance

- Clause (viib) of sub section (2) of section 56 of the Act was inserted vide Finance Act, 2012 to prevent generation and circulation of unaccounted money through share premium received from resident investors in a closely held company in excess of its fair market value. However, the said section is not applicable for consideration (share application money/ share premium) received from non-resident investors.
- Accordingly, it is proposed to include the consideration received from a non- resident also under the ambit of clause (viib) by removing the phrase 'being a resident' from the said clause. This will make the provision applicable for receipt of consideration for issue of shares from any person irrespective of his residency status.
- These amendments will be effective from the 1st day of April, 2024 and shall accordingly, apply in relation to the assessment year 2024-25 and subsequent assessment years.

Providing clarity on benefits and perquisites in cash

- Section 28 of the Act provides for income that shall be chargeable to income-tax under the head "Profits and gains of business or profession". Clause (iv) of this section brings to chargeability the value of any benefit or perquisite, whether convertible into money or not, arising from business or the exercise of a profession. This provision was inserted through the Finance Act 1964 and the Circular no 20D dated 7th July 1964 issued to explain the provisions of this Act stated clearly that the benefit could be in cash or in kind. Therefore, the intention of the legislation while introducing this provision was also to include benefit or perquisite whether in cash or in kind. However, Courts have interpreted that if the benefit or perquisite are in cash, it is not covered within the scope of this clause of section 28 of the Act.
- In order to align the provision with the intention of legislature, it is proposed to amend clause (iv) of section 28 of the Act to clarify that provisions of said clause also applies to cases where benefit or perquisite provided is in cash or in kind or partly in cash and partly in kind.
- This amendment will take effect from 1st April, 2024 and will accordingly apply to the assessment year 2024-2025 and subsequent assessment years.
- Section 194R of the Act inserted by the Finance Act 2022 provides for deduction of tax on benefit or perquisite provided to a resident arising from business or exercise of a profession.

- First proviso to sub-section (1) provides that 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 required to be deducted has been paid in respect of the benefit or perquisite.
- Sub-section (2) provides for issuance of guidelines by CBDT (with the approval of the Central Government) for the purpose of removing difficulties. Accordingly Circular No 12 dated 16th June 2022 was issued. This circular, inter-alia, provides that tax under section 194R is required to be deducted whether the benefit or perquisite is in cash or in kind.
- Accordingly, it is proposed to clarify by way of insertion of an Explanation to section 194R of the Act to provide that provisions of sub-section (1) apply to benefit or perquisite whether in cash or in kind or partly in cash and partly in kind.

Removal of certain funds from section 80G

Following funds have been proposed to be omitted from the list of 80G eligible funds for availing deduction.

- the Jawaharlal Nehru Memorial Fund – **80G (2)(a)(ii)**
- the Indira Gandhi Memorial Trust - **80G (2)(a)(iiic)**
- the Rajiv Gandhi Foundation - **80G (2)(a)(iiid)**

This amendment will take effect from the 1st day of April, 2024 and shall accordingly, apply in relation to the assessment year 2024-25 and subsequent assessment years.

Specifying time limit for bringing consideration against export proceeds into India

- At present section 10AA does not provide any condition to file return before due date provided under sub-section (1) of section 139 of the Act.
- It is proposed to insert a proviso to sub section (1) of 10AA of the Act to provide that no deduction under the said section shall be allowed to an assessee who does not furnish a return of income on or before the due date specified under sub-section (1) of section 139.

- It is also proposed to insert a new sub-section to provide that the deduction under section 10AA of the Act shall be available for such unit, if the proceeds from sale of goods or provision of services is received in, or brought into, India by the assessee in convertible foreign exchange, within a period of six months from the end of the previous year or, within such further period as the competent authority may allow in this behalf.
- For the purpose of this newly inserted sub-section, the expression “competent authority” shall mean the Reserve Bank of India or such authority as is authorized under any law for the time being in force for regulating payments and dealings in foreign exchange.
- These amendments will be effective from the 1st day of April, 2024 and shall accordingly, apply in relation to the assessment year 2024-25 and subsequent assessment years.

Relief from special provision for higher rate of TDS/TCS for non-filers of income-tax returns

- It is proposed to amend the definition of ‘specified person’ for section 206AB and 206CCA so as to exclude a person who is not required to furnish the return of income for the assessment year relevant to the said previous year and who is notified by the Central Government in the Official Gazette in this behalf.
- This amendment will take effect from 1st April 2023.

Facilitating TDS credit for income already disclosed in the return of income of past year.

- It is proposed to insert a new sub-section (20) in section 155 of the Act. This new sub-section applies where any income has been included in the return of income furnished by an assessee under section 139 of the Act for any assessment year (hereinafter referred to as the “relevant assessment year”) and tax has been deducted at source on such income and paid to the credit of the Central Government in accordance with the provisions of Chapter XVII-B in a subsequent financial year.
- In such a case the assessee can make application in the prescribed form to the Assessing Officer within 2 years from the end of the financial year in which such tax was deducted at source. Then Assessing Officer shall amend the order of assessment or any intimation allowing credit of such tax deducted at source in the relevant assessment year.
- It has been further provided that the provisions of section 154 of the Act shall, so far as may be, apply thereto, and the period of 4 years specified in sub-section (7) of that section shall be reckoned from the end of the financial year in which such tax has been deducted.

- Further, credit of such tax deducted at source shall not be allowed in any other assessment year.
- Amendment has also been proposed in section 244A of the Act to provide that the interest on refund arising out of above rectification shall be for the period from the date of the application to the date on which the refund is granted.
- These amendments will take effect from 1st October 2023.

Tax treaty relief at the time of TDS under section 196A of the Act

- Section 196A of the Act provides for TDS on payment of certain income to a non-resident (not being a company) or to a foreign company, at the rate of 20%. The income is required to be in respect of units of a Mutual Fund specified under clause (23D) of section 10 of the Act or from the specified company referred to in the Explanation to clause (35) of section 10 of the Act.
- In order to provide the relief requested by taxpayers, it is proposed to insert a proviso to sub-section (1) of section 196A of the Act. This proviso seeks to provide that the TDS would be at the rate which is lower of the rate of 20% and the rate or rates provided in agreement referred to in sub-section (1) of section 90 or sub-section (1) of section 90A of the Act, in case of a payee to whom such agreement applies and such payee has furnished the tax residency certificate referred to in sub-section (4) of section 90 or sub-section (4) of section 90A of the Act.
- This amendment will take effect from 1st April 2023.

Excluding non-banking financial companies (NBFC) from restriction on interest deductibility

- It is proposed to amend Section 94B to provide relief to notified non-banking financial companies (NBFCs) from the restrictions imposed on excess interest deduction under Sec 94B(1) for payments to non-resident AEs;
- Currently the restrictions on such excess interest deductions are not applicable to companies engaged in banking or insurance business.
- It is also proposed to provide that for the purposes of this section, “non-banking financial company” shall have the same meaning as assigned to it in clause (vii) of the Explanation to clause (vii) of sub-section (1) of section 36 of the Act.
- This amendment will take effect from 1st April 2024 and will accordingly apply to assessment year 2024-25 and subsequent assessment years.

Amendments in consequence to new provisions of TDS

- It is proposed to amend section 271C inserting two new subclauses under clause (b) in sub-section (1) providing reference to the first proviso to section 194R and the first proviso to section 194S for penalty or prosecution for a person who does not pay or fails to ensure that tax has been paid in a situation where the benefit or perquisite is passed in kind.
- These amendments will take effect from the 1st day of April, 2023.
- Further, in consequence to the proposal to insert section 194BA in the Act, it is proposed to insert a new sub-clause under section 271C and section 276B providing reference to subsection (2) of section 194BA.
- This amendment will take effect from the 1st day of July, 2023.

Penalty for furnishing inaccurate statement of financial transaction or reportable account.

- It is proposed to insert a new sub-section (2) in the said section which shall provide that if there is any inaccuracy in the statement of financial transactions submitted by a prescribed reporting financial institution and such inaccuracy is due to false or inaccurate information submitted by the account holder, a penalty of Rs. 5,000/- shall be imposable on such institution, in addition to the penalty leviable on such financial institution in the said section, if any.
- This penalty shall be levied by the income tax authority prescribed under sub-section (1) of section 285BA of the Act.
- These amendments will take effect from the 1st day of April 2023

Increasing threshold limit for co-operatives to withdraw cash without TDS.

- Section 194N of the Act provides that a banking company or a co-operative society engaged in carrying on the business of banking or a post office, which is responsible for paying any sum to any person (referred to as the recipient) shall, at the time of payment of such sum in cash, deduct an amount equal to two per cent of such sum, as income-tax only when the payment of amount or aggregate of amount in cash during the year exceeds one crore rupees.
- However, in case of a recipient who is a non-filer tax is to be deducted at the rate of 2% on any sum exceeding Rs. 20 lakhs but not exceeding Rs. 1 crore in aggregate during the financial year and, at the rate of 5% on sum exceeding Rs. 1 crore in aggregate during the financial year.
- It is proposed to amend 194N to substitute one crore rupees with three crore rupees.

- This amendment will take effect from 1st April 2023

Relief to start-ups in carrying forward and setting off of losses.

It is proposed to amend the proviso to sub-section (1) of section 79 of the Act so that the carried forward loss of eligible start-ups shall be considered for set off under this proviso, if such loss has been incurred during the period of 10 years beginning from the year in which such company was incorporated.

Extension of date of incorporation for eligible start-up for exemption

It is proposed to amend the provisions of section 80-IAC of the Act so as to extend the period of incorporation of eligible start-ups to 1st day of April 2024 from 01st day of April 2023.

Conversion of Gold to Electronic Gold Receipt and vice versa

- It is proposed to insert a new clause in section 47 of the Act to exclude the conversion of physical form of gold into Electronic Gold Receipts (EGR) and vice versa by a SEBI registered Vault Manager from the purview of 'transfer' for the purposes of Capital gains.
- To insert a new sub-section (10) to section 49 of the Act to provide that the cost of acquisition of the EGR for the purpose of computing capital gains shall be deemed to be the cost of gold in the hands of the person in whose name Electronic Gold Receipt is issued, and the holding period for the purpose of capital gains, would include the period for which gold was held by the assessee prior to its conversion into EGR.
- These amendments will take effect from the 1st day of April, 2024 and shall accordingly, apply in relation to the assessment year 2024-25 and subsequent assessment years.

15% concessional tax to promote new manufacturing co-operative society.

- It is proposed to insert a new section 115BAE to the Act in which concessional tax regime is being provided for the new manufacturing cooperative societies
- The conditions are materially similar to the conditions applicable to new manufacturing companies, which are as under:-
 - i. notwithstanding anything contained in the Act but subject to the provisions of Chapter XII, other than those mentioned under section 115BAD, the income-tax payable in respect of the total income of an assessee, being a cooperative society resident in India, for any previous year relevant to the assessment year beginning on or after the 1st day of April, 2024, shall, at the

option of such assessee, be computed at the rate of fifteen per cent, on satisfaction of certain specified conditions;

- ii. the condition for concessional rate shall be that the total income of the new manufacturing co-operative society is computed,—
 - a. without any deduction under the provisions of section 10AA or clause (iia) of sub-section (1) of section 32 or section 33AB or section 33ABA or subclause (ii) or sub-clause (iia) or sub-clause (iii) of sub-section (1) or subsection (2AA) of section 35 or section 35AD or section 35CCC or under any of the provisions of Chapter VI-A other than the provisions of section 80JJAA.
 - b. without set off of any loss carried forward or depreciation from any earlier assessment year, if such loss or depreciation is attributable to any of the deductions referred to in ii(a) above; and
 - c. by claiming the depreciation, if any, under section 32, other than clause (iia) of sub-section (1) of the said section, determined in such manner as may be prescribed;
- iii. the loss and depreciation referred to in (ii)(b) above shall be deemed to have been given full effect to and no further deduction for such loss shall be allowed for any subsequent year.
- iv. the concessional rate shall not apply unless the option is exercised by the person in the prescribed manner on or before the due date specified under sub-section (1) of section 139 for furnishing the first of the returns of income for any previous year relevant to the assessment year commencing on or after 1st day of April, 2024 and such option once exercised shall apply to subsequent assessment years;
- v. the option so exercised cannot be withdrawn.
- vi. if the income of the assessee, includes any income, which has neither been derived from nor is incidental to manufacturing or production of an article or thing and in respect of which no specific rate of tax has been provided separately under this Chapter, such income shall be taxed at the rate of twenty-two per cent and no deduction or allowance in respect of any expenditure or allowance shall be made in computing such income;
- vii. where it appears to the Assessing Officer that, owing to the close connection between the assessee to which this section applies and any other person, or for any other reason, the course of business between them is so arranged that the business transacted between them produces to the assessee more than the ordinary profits which might be expected to arise in such

business, the Assessing Officer shall, in computing the profits and gains of such business for the purposes of this section, take the amount of profits as may be reasonably deemed to have been derived therefrom and such income shall be charged at the tax rate of thirty per cent.;

- viii. in case the aforesaid arrangement involves a specified domestic transaction referred to in section 92BA, the amount of profits from such transaction shall be determined having regard to arm's length price as defined in clause (ii) of section 92F. The amount, being profits in excess of the amount of the profits determined by the Assessing Officer, shall be deemed to be the income of the assessee. The income-tax payable in respect of the income, in such case shall be computed at the rate of thirty per cent.
- ix. the income-tax payable in respect of income, being short term capital gains derived from transfer of a capital asset on which no depreciation is allowable under the Act shall be computed at the rate of 22%;
- x. where the assessee fails to satisfy the specified conditions under the section in any previous year, the option shall become invalid in respect of the assessment year relevant to that previous year and subsequent assessment years and other provisions of the Act shall apply to the assessee as if the option had not been exercised for the assessment year relevant to that previous year and subsequent assessment years.
- It is further proposed to provide that any machinery or plant which was used outside India by any other person shall not be regarded as machinery or plant previously used for any purpose, on fulfilment of certain specified conditions.
 - It is also proposed that where any machinery or plant or any part thereof previously used for any purpose is put to use by the assessee and the total value of such machinery or plant or part thereof does not exceed twenty per cent of the total value of the machinery or plant used by the assessee, then, the concessional rate shall apply on fulfilment of the specified conditions.
 - It is proposed to provide that the assessee shall not be engaged in any business other than the business of manufacture or production of any article or thing and research in relation to, or distribution of, such article or thing manufactured or produced by it.
 - Further, it is proposed that the business of manufacture or production of any article or thing shall include the business of generation of electricity, but not include certain specified businesses.
 - Further, it is proposed to insert a new clause (vb) in the section 92BA of the Act to include the transaction between the Cooperative society and the other person with close connection within the purview of 'specified domestic transaction'.

- These amendments are proposed to take effect from the 1st day of April, 2024 and shall accordingly, apply in relation to the assessment year 2024-25 and subsequent assessment years.

Extending the scope for deduction of tax at source to lower or nil rate

- Section 194LBA of the Act, inter-alia, provides that business trust shall deduct and deposit tax at the rate of 5% on interest income of non-resident unit holders.
- It is proposed to amend sub-section (1) of section 197 of the Act to provide that the sums on which tax is required to be deducted under section 194LBA of the Act shall also be eligible for certificate for deduction at lower rate.
- This amendment will take effect from 1st April 2023.

Extending deeming provision under section 9 to gift to not-ordinarily resident

- It is proposed to amend clause (viii) of sub-section (1) of section 9 of the Act so as to extend this deeming provision to sum of money exceeding fifty thousand rupees, received by a not ordinarily resident, without consideration from a person resident in India.
- This amendment will take effect from 1st April, 2024 and will accordingly apply to assessment year 2024-25 and subsequent assessment years.

Tax avoidance through distribution by business trusts to its unit holders

- Interest, dividend and rental income which are generally distributed by business trusts to its unit holders have been accorded a pass-through status at the level of business trust and are taxable in the hands of the unit holder. However, in respect of the distributions made by the business trust to its unit holders which are shown as repayment of debt, it is actually an income of unit holder which does not suffer taxation either in the hands of business trust or in the hands of unit holder.
- It may be noted that dual non-taxation of any distribution made by the business trust i.e. which is exempt in the hands of the business trust as well as the unit holder, is not the intent of the special taxation regime applicable to business trusts.
- In view of the above, it is proposed to make such sum received by unit holder taxable in his hands. However, provision is also proposed for a situation when the sum received by unit holder represents redemption of unit held by him. Hence it is proposed to amend the Act by way of,-

- i. insertion of clause (xii) in sub-section (2) of section 56 of the Act to provide that income chargeable to income-tax under the head "income from other sources" shall also include any sum, received by a unit holder from a business trust, which-
 - a. is not in the nature of income as referred to in clause (23FC) or clause (23FCA) of section 10 of the Act; and
 - b. is not chargeable to tax under sub-section (2) of section 115UA of the Act;
- ii. insertion of a proviso to the said clause to provide that where the sum received by a unit holder from a business trust is for redemption of unit or units held by him, the sum received shall be reduced by the cost of acquisition of the unit or units to the extent such cost does not exceed the sum received;
- iii. insertion of sub-section (3A) in section 115UA of the Act to provide that the provisions of sub - sections (1), (2) and (3) of this section, shall not apply in respect of any sum, as referred to in clause (xii) of sub-section (2) of section 56 of the Act, received by a unit holder from a business trust;
- iv. insertion of sub-clause (xviic) in clause (24) of section 2 of the Act to provide that income shall include any sum referred to in clause (xii) of sub-section (2) of section 56 of the Act.

Removal of exemption from TDS on payment of interest on listed debentures to a resident

- The proviso to section 193 of the Act provides exemption from TDS in respect of payment of interest on certain securities.
- Clause (ix) of the proviso to the aforesaid section provides that no tax is to be deducted in the case of any interest payable on any security issued by a company, where such security is in dematerialized form and is listed on a recognized stock exchange in India in accordance with the Securities Contracts (Regulation) Act, 1956 (32 of 1956) and the rules made thereunder.
- It is seen that there is under reporting of interest income by the recipient due to above TDS exemption. Hence, it is proposed to omit clause (ix) of the proviso to section 193 of the Act.

TDS and taxability on net winnings from online games

It is proposed to:

- amend section 194B and 194BB of the Act to provide that deduction of tax under these sections shall be on the amount or aggregate of the amounts exceeding ten thousand rupees during the financial year.
- amend section 194B of the Act to include “gambling or betting of any form or nature whatsoever” within its scope.
- amend section 194B of the Act to exclude online games from the purview of the said section from the 1st day of July, 2023, since a new section 194BA is proposed to be introduced for deduction of tax at source on winnings from online games from that date;
- insert a new section 194BA in the Act, with effect from 1st July 2023, to provide for deduction of tax at source on net winnings in the user account at the end of the financial year. In case there is withdrawal from user account during the financial year, the income-tax shall be deducted at the time of such withdrawal on net winnings comprised in such withdrawal. In addition, income-tax shall also be deducted on the remaining amount of net winnings in the user account at the end of the financial year. Net winnings shall be computed in the prescribed manner.
- to provide in the proposed section 194BA that in a case where the net winnings are wholly in kind or partly in cash and partly in kind but the part in cash is not sufficient to meet the liability of deduction of tax in respect of whole of the net winnings, the person responsible for paying shall, before releasing the winnings, ensure that tax has been paid in respect of the net winnings;
- to amend section 115BB of the Act to exclude income from winnings from online games from the purview of the said section from the assessment year 2024-25, since it is proposed to introduce section 115BBJ to tax winnings from online games from that assessment year;
- to insert a new section 115BBJ in the Act with regard to tax on winnings from online games to provide that where the total income of an assessee includes any income by way of winnings from any online game, the income-tax payable shall be the aggregate of—
 - a. the amount of income-tax calculated on net winnings from such online games during the previous year, computed in the prescribed manner, at the rate of thirty percent; and
 - b. the amount of income-tax with which the assessee would have been chargeable had his total income been reduced by the net winnings referred to above;

- The amendments proposed for section 194B and section 194BB of the Act will take effect from 1st April, 2023. The proposed section 194BA of the Act will take effect from 1st July 2023. The amendment proposed for section 115BB of the Act and the proposed section 115BBJ in the Act will take effect from 1st April, 2024 and will accordingly be applicable for the assessment year 2024-25 and subsequent assessment years.

Increasing rate of TCS of certain remittances

The current and proposed TCS rates are tabulated as under:

Sl. No.	Type of remittance	Present rate*	Proposed rate*
1.	For the purpose of any education, if the amount being remitted out is a loan obtained from any financial institution as defined in section 80E.	0.5% of the amount or the aggregate of the amounts in excess of Rs. 7 lakhs.	No change.
2.	For the purpose of education, other than (i) or for the purpose of medical treatment.	5% of the amount or the aggregate of the amounts in excess of Rs. 7 lakhs.	No change.
3.	Overseas tour package	5% without any threshold limit.	20% without any threshold limit.
4.	Any other case	5% of the amount or the aggregate of the amounts in excess of Rs. 7 lakhs.	20% without any threshold limit.

* In the table above, the present rate and the proposed rate of TCS are on the amount or the aggregate of the amounts being remitted by the buyer in a financial year.

This amendment will take effect from the 1st day of April 2023.

Provisions related to business reorganisation.

- It is proposed to substitute section 170A, to provide that notwithstanding anything contained in section 139, in a case of business reorganisation, where prior to the date of order of the tribunal or the High Court or Adjudicating Authority as defined in clause (1) of section 5 of the Insolvency and Bankruptcy Code, 2016, any return of income has been furnished for any assessment year relevant to a previous year, by an entity to which such order applies, the successor shall furnish, within a period of six months from the end of the month in which the said order was issued, a modified return in the form and manner, as may be prescribed, in accordance with and limited to the said order.

- This would also enable modification of the returns filed by the predecessor wherever required.
- It is also provided that, if proceedings of assessment or reassessment for the relevant assessment year have been completed on the date of furnishing of modified return under sub-section (1), the Assessing Officer shall pass an order modifying the total income of the relevant assessment year in accordance with the order of the business reorganisation and taking into account the modified return so furnished. Where proceedings of assessment or reassessment for the relevant assessment year are pending on the date of furnishing of modified return under sub-section (1), the Assessing Officer shall pass an order assessing or reassessing the total income of the relevant assessment year in accordance with the order of the business reorganisation and taking into account the modified return so furnished.
- For the purposes of such assessment or reassessment, unless provided otherwise, all other provisions of the Act shall apply and the tax shall be chargeable at the rate applicable to such assessment year.
- This amendment will take effect from the 1st day of April, 2023.

Reducing the time provided for furnishing Transfer Pricing report.

- It is proposed to amend sub-section (3) of Section 92D by providing that instead of the current period of 30 days, a period of 10 days (from the date of receipt of a notice issued in this regard, either by the AO or CIT(A)) will be available for an assessee to furnish the TP report during the course of proceedings of the Act;
- Assessee may, on application, extend the period of 10 days by a further period not exceeding 30 days.
- This amendment will take effect from 1st April 2023.

Penalty for cash loan/ transactions against primary co-operatives

- It has been proposed that an amendment may be made in the section 269SS of the Act by raising the limit of Rs. 20,000 to Rs. 2 lakhs where such deposit is accepted by a primary agricultural credit society (PACS) or a primary co-operative agricultural and rural development bank (PCARD) from its member or such loan is taken from a primary agricultural credit society or a primary co-operative agricultural and rural development bank by its member.

- It is also proposed to amend the provisions to section 269T of the Act and increase the limit of Rs. 20,000 to Rs. 2 lakhs in the case of PACS and PCARD.

Amendments to the provisions of charitable institutions:

1. Depositing back of corpus and repayment of loans or borrowings

- Due to the changes vide the Finance Act, 2021 to the provisions related to corpus and loan or borrowing, the application from corpus or loan or borrowings have been claimed as application prior to 01.04.2021. Allowing such amount to be application again as investment or reposting back in corpus or repayment of loan or borrowing will amount to double deduction.
- A trust may invest or deposit back the amount in to corpus or repay the loan after many years of application from the corpus or loan and claim such repayment of loan or investment/depositing back in to corpus as application for charitable or religious purposes. Availability of indefinite period for the investment or depositing back to the corpus or repayment of loan will make the implementation of the provisions quite difficult.
- In order to ensure proper implementation of the exemption, it is proposed to provide that application out of corpus or loans or borrowings before 01.04.2021 should not be allowed as application for charitable or religious purposes when such amount is deposited back or invested in to corpus or when the loan or borrowing is repaid.
- It is further proposed to provide that if the trust or institution invests or deposits back the amount in to corpus or repays the loan within 5 years of application from the corpus or loan, then such investment/depositing back in to corpus or repayment of loan will be allowed as application for charitable or religious purposes.
- It is also proposed to provide that where the application from corpus or loan did not satisfy the required conditions, the repayment of loan or investment/depositing back in to corpus of such amount will not be treated as application.
- These amendments will take effect from 1st April, 2023 and will accordingly apply to the assessment year 2023-24 and subsequent assessment years.

2. Treatment of donation to other trusts:

- In order to ensure intended application toward charitable or religious purpose, it is proposed that only 85% of the eligible donations made by a trust or institution to another trust shall be treated as application only to the extent of 85% of such donation.

- These amendments will take effect from 1st April, 2024 and will accordingly apply in relation to the assessment year 2024-25 and subsequent assessment years.

3. Omission of redundant provisions related to roll back of exemption.

- With a view to rationalise the provisions, it is proposed to omit the second, third and fourth proviso to sub-section (2) of section 12A of the Act.
- These amendments will take effect from 1st April 2023

4. Combining provisional and regular registration in some cases

- New trusts or institutions need to apply for the provisional registration/approval at least one month prior to the commencement of the previous year relevant to the assessment year from which the said registration/approval is sought. Such provisional registration/ approval shall be valid for a period of 3 years.
- Provisionally registered/approved trusts or institutions will again need to apply for regular registration/approval at least six months prior to expiry of period of the provisional registration/ approval or within six months of the commencement of activities, whichever is earlier. Regular registration/approval shall be valid for a period of 5 years.
- In order to ensure rationalisation of the provisions, the following amendments are proposed:
 - a) The trusts and institutions shall be allowed to make application for the provisional approval only before the commencement of activities.
 - b) The trusts and institutions, which have already commenced their activities, shall make application for a regular approval.
- These amendments will take effect from 1st October 2023.

5. Specified violations under section 12AB and fifteenth proviso to clause (23C) of section 10.

- In some cases the form furnished by the trusts or institutions for provisional approval/registration and for re-registration/approval are defective and since the process of registration/approval/provisional registration/approval is automated, registration has been granted by the CPC. At present the approval/registration and the provisional approval/registration of the trusts can be cancelled by the PCIT/CIT for certain specified violations.

- In order to rationalise the provisions, it is proposed that, “specified violation” shall also include the case where the application is not complete or it contains false or incorrect information.
- These amendments will take effect from 1st April 2023.

6. Trusts or institutions not filing the application in certain cases.

- Certain trusts and institutions may not apply for the regular registration after taking the provisional registration. Further some trusts and institutions may not apply for the re-registration/approval. By not applying for re-registration/approval or registration/approval, the trust gets an easy route to exit without payment of the tax on accreted income.
- It is proposed that trusts or institutions not applying or renewing registration within specified time frame is liable for exit tax.
- These amendments will take effect from 1st April, 2023 and will accordingly apply to the assessment year 2023-24 and subsequent assessment years.

7. Alignment of the time limit for furnishing the form for accumulation of income and tax audit report

- The due date for furnishing form 9A and form 10 is same as the due date of furnishing the return of income. The trusts are also required to furnish audit report in form 10B/10BB one month before the due date for furnishing return of income. The auditors are required to report the details of form 10/9A in the audit report. Since the due date for furnishing form 9A/10 is one month before the due date of furnishing the ITR, auditors find it difficult to report.
- In order to rationalise the provisions, it is proposed to provide for filing of Form No. 10A/9A at least two months prior to the due date specified under sub-section (1) of section 139 for furnishing the return of income for the previous year.
- These amendments will take effect from 1st April, 2023 and will accordingly apply to the assessment year 2023-24 and subsequent assessment years.

8. Denial of exemption where return of income is not furnished within time

- If the return of income is not furnished by a trust or institution within the time under section 139 of the Act, exemption under section 11, 12 or exemption under sub-clause (iv)/(v)/(vi)/(via) of clause (23C) of section 10 of the Act shall not be available to such trust or institution.

- Section 139 of the Act was amended by the Finance Act, 2022 providing for an option to the taxpayers to furnish updated return of income up to 2 years from the end of assessment year.
- This resulted in unintended consequences of allowing exemption under section 11, 12 of the Act and sub-clause (iv)/(v)/(vi)/(via) of clause (23C) of section 10 of the Act will be available to the trusts where they furnish updated return of income. Accordingly, it is proposed to clarify that the exemption under section 11, 12 and sub-clause (iv)/(v)/(vi)/(via) of clause (23C) of section 10 of the Act will be available only if the return of income has been furnished within the time allowed under sub-section (1) or subsection (4) of section 139 of the Act.
- 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.

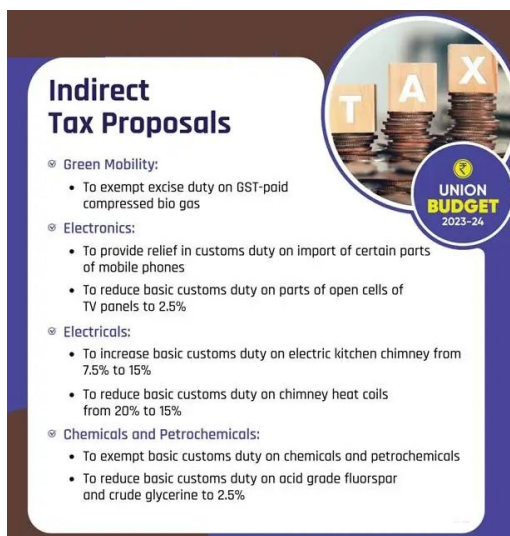
Tax Incentives to International Financial Services Centre (IFSC)

- It is proposed to amend clause (b) of the Explanation to clause (viiad) of section 47 of the Act to extend the date for transfer of assets of the original fund, or of its wholly owned special purpose vehicle, to a resultant fund in case of relocation to 31st March, 2025 from current limitation of 31st March, 2023.
- It is proposed to amend clause (4E) of section 10 of the Act, to also provide exemption to any income distributed on the offshore derivative instruments, entered into with an offshore banking unit of an International Financial Services Centre as referred to in sub-section (1A) of section 80LA, which fulfils such conditions as may be prescribed.
- It has also been provided that such exempted income shall include only that amount which has been charged to tax in the hands of the IFSC Banking Unit under section 115AD.

INDIRECT TAX AMENDMENTS

1. CHANGES TO CUSTOMS ACT

- A new proviso has been inserted to Section 25(4A). Vide Finance Act, 2021 validity period of 2 years was prescribed to conditional Exemption Notifications by inserting sub-section 4A. Now, a proviso has been inserted to make this validity period inapplicable in case of exemptions granted to or in relation to:
- (a) any multilateral or bilateral trade agreement;
 - (b) obligations under international agreements, treaties, conventions or such other obligations including with respect to United Nations agencies, diplomats and international organisations;
 - (c) privileges of constitutional authorities;
 - (d) schemes under the Foreign Trade Policy;
 - (e) the Central Government schemes having validity of more than two years;
 - (f) re-imports, temporary imports, goods imported as gifts or personal baggage;
 - (g) any duty of customs under any law for the time being in force, including integrated tax leviable under sub-section (7) of section 3 of the Customs Tariff Act, 1975, other than duty of customs leviable under section 12.
- A new sub-section 8A has been added to Section 127C to prescribe time limit of 9 months within which the application for settlement of cases is to be concluded. If no order is passed in the settlement of cases within such time, the adjudication proceedings can be resumed as if no application for settlement has been filed. This period of 9 months can be extended by 3 more months after recording the reasons.



Indirect Tax Proposals

- Green Mobility:
 - To exempt excise duty on GST-paid compressed bio gas
- Electronics:
 - To provide relief in customs duty on import of certain parts of mobile phones
 - To reduce basic customs duty on parts of open cells of TV panels to 2.5%
- Electricals:
 - To increase basic customs duty on electric kitchen chimney from 7.5% to 15%
 - To reduce basic customs duty on chimney heat coils from 20% to 15%
- Chemicals and Petrochemicals:
 - To exempt basic customs duty on chemicals and petrochemicals
 - To reduce basic customs duty on acid grade fluorspar and crude glycerine to 2.5%

2. CHANGES IN RATE OF CUSTOMS DUTY & EXEMPTIONS

➤ On following goods rate of BCD has been increased with effect from 02.02.2023.

HSN	Description of Goods	Old Rate	New Rate
2902 50 00	Cyclic Hydrocarbon - Styrene	2.0%	2.5%
2903 21 00	Vinyl chloride (chloroethylene)	2.0%	2.5%
4005	Compounded rubber, unvulcanised, in primary forms or in plates, sheets or strip	10.0%	25% or Rs. 30 per kg., whichever is lower
7113	Articles of jewellery and parts thereof, of precious metal or of metal clad with precious metal	20.0%	25.0%
7114	Articles of goldsmiths' or silversmiths' wares and parts thereof, of precious metal or of metal clad with precious metal	20.0%	25.0%
7117	Imitation jewellery	20% or Rs. 400 per kg., whichever is higher	25% or Rs. 600 per kg., whichever is higher
8414 60 00	Hoods having a maximum horizontal side not exceeding 120 cm	7.5%	15.0%
8712 00 10	Bicycles	30.0%	35.0%
9503	Tricycles, scooters, pedal cars and similar wheeled toys; dolls' carriages; dolls; other toys; reduced-size ("scale") models and similar recreational models, working or not; puzzles of all kinds	60.0%	70.0%

➤ Following rate reduction has been proposed to be effective from the date on which Finance Bill, 2023 receives assent of the President of India.

HSN	Description of Goods	Old Rate	New Rate
4011 30 00	New pneumatic tyres, of rubber of a kind used on aircraft	3.0%	2.5%
7106	Silver (including silver plated with gold or platinum), unwrought or in semi-manufactured forms, or in powder form	12.5%	10.0%
7107 00 00	Base metals clad with silver, not further worked than semi-manufactured	12.5%	10.0%
7108	Gold (including gold plated with platinum) unwrought or in semi-manufactured forms, or in powder form	12.5%	10.0%
7109 00 00	Base metals or silver, clad with gold, not further worked than semi-manufactured	12.5%	10.0%
7110 11 10, 7110 11 20, 7110 19 00, 7110 21 00, 7110 29 00, 7110 41 00, 7110 49 00	Platinum; Palladium; Iridium, osmium and ruthenium	12.5%	10.0%
7111 00 00	Base metals, silver or gold, clad with platinum, not further worked than semi-manufactured	12.5%	10.0%
7112	Waste and scrap of precious metal or of metal clad with precious metal; other waste and scrap containing precious metal or precious metal compounds, of a kind used principally for the recovery of precious metal other than goods of heading 8549	12.5%	10.0%
7118	Coin	12.5%	10.0%
8802 20 00, 8802 30 00, 8802 40 00	Aeroplanes and other aircraft	3.0%	2.5%

- Application of Chapter 98 related to Project Imports have been made inapplicable to 'solar power plant or solar power project'. As such, goods related to such solar power plant or solar power project are now to be classified under respective Chapters instead of Chapter 98.
- Customs classification and rules relating thereto have been rationalized so as to be effective from 01.05.2023. Although rate of tax have not been changed, based on specific nature of products and resultant new classification, there may be a need to check for change in rate of tax on case to case basis.

➤ Following changes have been made in rate of duty related to

I. Chemicals and Petrochemicals

- (a) The BCD on denatured ethyl alcohol is being reduced from 5% to Nil for use in the manufacture of industrial chemicals through IGCR route.
- (b) The BCD on acid grade fluorspar (containing by weight more than 97% of calcium fluoride) is being reduced from 5% to 2.5% .
- (c) The BCD on crude glycerin is being reduced from 7.5% to 2.5% for use in manufacture of epichlorohydrin through IGCR route.
- (d) The BCD on Naphtha is being increased from 1% to 2.5%.
- (e) The BCD on styrene is being increased from 2 % to 2.5%.
- (f) The BCD on Vinyl Chloride monomer is being increased from 2% to 2.5%.

II. Precious Metals

- (a) The import duty on Dore and bar of gold and platinum were enhanced in June and October 2022 respectively. While maintaining the existing incidence of import duty on these items, the BCD rate and AIDC rates are being recalibrated. The import duty on silver bar and silver Dore is however being enhanced.
- (b) The import duty on articles made of precious metals falling under CTH 7113 & 7114 is being increased from 22% to 25%. It is however being exempted from SWS.
- (c) The import duty on imitation jewellery classified under Heading 7117 is being increased from 22% or Rs. 400/kg, whichever is higher' to '25% or Rs. 600/kg, whichever is higher'. It is however being exempted from SWS.

III. Export promotion measures

- (a) The BCD on 'seeds' for use in manufacture of rough lab grown diamond is being reduced to Nil subject to IGCR condition for a period of two years.
- (b) The BCD on certain ingredients/inputs for use in the manufacture of aquatic feed is being reduced subject to IGCR condition

IV. Electronic Goods

- (a) The BCD on camera lens for camera module and input/sub parts for lens of camera module of mobile phone is being reduced from 2.5% to Nil subject to IGCR condition.
- (b) Exemption from BCD is being provided to specified chemicals/items for manufacture of Pre-calcined Ferrite Powder as is available for Ferrites (S. No 17 of Notification no 25/1999-Customs).

- (c) Exemption from BCD is being provided to Palladium Tetra Amine Sulphate for manufacture of parts of connectors as is available for manufacture of connectors. (S.No 225 of Notification no 25/1999 -Customs).
- (d) The BCD on parts for manufacture of open cells of TV panels is being reduced from 5% to 2.5% subject to IGCR condition

V. Electrical appliances

- (a) The BCD on electric kitchen chimney is being increased from 7.5% to 15% .
- (b) The BCD on heat coils for use in manufacture of electric kitchen chimney is being reduced from 20% to 15% subject to IGCR condition.

VI. Automobiles

- (a) Exemption from BCD is being provided to vehicles, specified automobile parts/components, sub-systems and tyres, when imported by notified testing agencies for the purpose of testing and/ or certification , subject to specified conditions.
- (b) The BCD on vehicle (including electric vehicles) in Semi-Knocked Down (SKD) form is being increased from 30% to 35%. However it is being exempted from SWS
- (c) The BCD on vehicles in Completely-Built Unit (CBU) form is being increased from 60% to 70%. However it is being exempted from SWS

VII. Capital Goods

- (a) Customs duty exemption is being provided to import of specified capital goods and machinery required for manufacture of lithium-ion cells for batteries used in electric vehicles as is available for manufacture of lithium-ion cells for batteries used in mobile handsets.(S.No 69 of Notification no 25/2002 -Customs)

VIII. Others

- (a) The BCD on bicycles is being increased from 30% to 35%. However it is being exempted from SWS.
- (b) The BCD on toys and its parts is being increased from 60% to 70%. However it is being exempted from SWS . There are no changes to the effective rate on parts covered under S. No 591 of Notification No. 50/2017-Customs.
- (c) The BCD on aircraft (other than those at Nil or 2.5%) and aircraft tyres (other than those at Nil) is being reduced from 3% to 2.5% but they will attract AIDC of 0.5%.
- (d) The BCD on coal, peat and lignite is being increased to 2.5% but these are being exempted from AIDC.

- (e) The BCD on compounded rubber is being increased from 10% to '25% or Rs. 30/kg whichever is lower'.
- (f) The BCD on pecan nuts is being reduced from 100% to 30%. The SWS exemption is being withdrawn.
- (g) The BCD on Warm blood horse imported by sports person of outstanding eminence for training purpose for equestrian sports is being reduced from 30% to Nil subject to conditions.

- Following changes have been made to Agriculture Infrastructure and Development Cess (AIDC) which results in change of effective rate of tax.

Sl. No.	Commodity	From	To
1	Silver Bar	2.50%	5%
2	Silver Dore	2.50%	4.35%

- Many exemptions have been altered so as to change the effective rate of tax. Also, expiry dates have been prescribed to a number of exemptions.

3. CHANGES IN CENTRAL EXCISE

- National Calamity Contingent Duty (NCCD) on cigarettes have been increased so as to result in additional duty of excise.
- Central excise duty exemption is being provided on blended Compressed Natural Gas (CNG) from so much of the amount as is equal to the GST paid on Bio Gas /Compressed Bio Gas contained in such blended CNG.

4. CHANGES TO CGST & IGST ACT

- Section 10 of CGST Act, 2017 has been amended so as to enable registered persons engaged in supplying goods through electronic commerce operators to pay tax under the composition levy.
- Section 17 has been amended to prescribe Rule 42 and Rule 43 reversals even towards 'Supply of warehoused goods to any person before clearance for home consumption'.
- ITC on goods or services used in relation to CSR Expenses have been restricted by amending Section 17(5).

- Section 23 (which prescribes persons not liable to be registered) has been amended retrospectively w.e.f 01.07.2017 so as to give the said Section 23 an overriding effect over Section 22 & 24.
 - GSTR-1 cannot be filed after the expiry of 3 years from the tax period. Section 37 and 39 of CGST Act have been amended to insert this new restriction.
 - GSTR-9 and GSTR-9C cannot be filed after the expiry of 3 years from due date to file such returns. Section 44 has been amended to insert this new restriction.
 - TDS Statement under Section 52 cannot be filed after 3 years from the due date to file such statement.
 - Section 54 has been amended to enable provisional refund of 90% even on 'amount of input tax credit provisionally accepted'.
 - Section 56 has been amended to enable prescribing rules and regulations in relation to interest on delayed refunds.
 - Section 122 has been amended to prescribe penalty on Electronic Commerce Operator in case of some specific offenses/defaults as below:
 - (a) If any unregistered person (other than person exempted from registration through notification) has been allowed to supply through their portal
 - (b) If any person not eligible to make interstate supply is allowed make interstate supply through their portal
 - (c) If fails to furnish correct details of any outward supply of goods effected through it by a person exempted from obtaining registration under this Act
- Amount of penalty has been prescribed as Rs. 10,000 or amount equivalent to the amount of tax involved whichever is higher.
- Section 132 has been amended to give effect to the recommendation of GST Council related to decriminalization of certain offences.
 - Option of compounding of offences has been completely withdrawn for a person accused of issuing fake invoices to enable wrongful availment of ITC. Minimum amount to be paid for compounding has been reduced to 25% from the existing 50%. Section 138 has been suitably amended.

- New Section 158A has been inserted in CGST Act so as to provide for the manner and conditions for sharing of the information furnished by the registered person in his application for registration or in his return filed or in his statement of outward supplies, or the details uploaded by him for generation of electronic invoice or E-way bill or any other details, as may be provided by rules, on the common portal with such other systems, as may be notified.
- Schedule III was earlier amended to prescribe Drop-Shipment transactions and High Sea Sale transactions as neither supply of goods nor supply of service. These amendments have been given retrospective effect right from 01.07.2017. However, it is prescribed that no refund of tax already paid towards these transactions shall be given.
- Definition of “non-taxable online recipient” given in Section 2(16) of IGST Act has been amended to prescribe all unregistered persons as “non-taxable online recipients”. This would impact the foreign entities involved in provision of ‘online information and database access or retrieval’ service.
- Scope of definition of ‘online information and database access or retrieval service’ has been widened. Now supply of service need not be “essentially automated and involving minimal human intervention”.
- Place of supply related to ‘transportation of goods’ service including mail or courier has been amended when both supplier and the recipient are within India. Special provision in this regard in the form of subsection (8) has been omitted. As such, now the place of supply will have to be decided as per general provision.

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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.

Started in the year 1994 as audit firm in Bangalore with an ambition to provide services in the area of accountancy and audit our legacy of vast experience and exposures to different types of industries made us rapidly adaptable to the changing needs of the time and technology by not only increasing our ranges of services but also by increasing quality of service.

With diversification, our professional practice is not only limited to Bangalore but has crossed over to the other parts of India with a motto to provide “One Stop Solutions” to all our clients.

For more information, please visit www.vishnudaya.com

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