

UNION BUDGET

2022-23

... accepting new norms?



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1

Economic Survey

Analysis of growth of GDP, factors impacting growth, outlook, etc.

1. Economic Survey 2022

India Outlook in FY 21-22

- 9.2%**

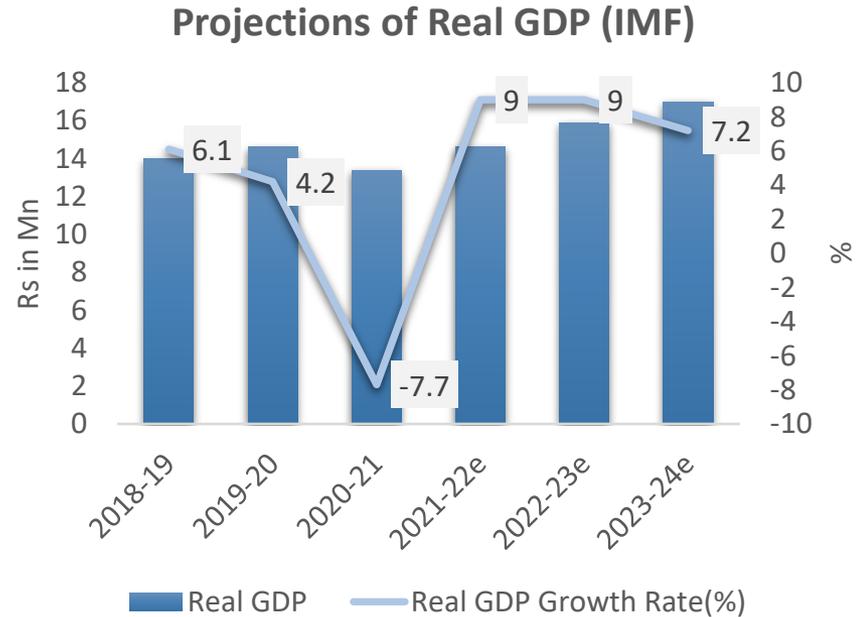
- In the current fiscal, the economy is expected to grow at 9.2%
- 16.5%**

- Exports are expected to grow by 16.5% in 2021-22
- 13.5%**

- During April-November 2021, Capex has grown by 13.5 percent (YoY) with focus on infrastructure-intensive sectors.
- 8.2%**

- Overall service Sector GVA is expected to grow by 8.2% in 2021-22.
- 2.9%**

- Food inflation averaged at a low of 2.9% in 2021-22 (April to December) as against 9.1 per cent in the corresponding period last year.



\$81.97 bn

In 2020-21, India registered highest ever annual FDI Inflow

\$634 bn

Foreign Exchange Reserve equivalent to 13.2 months of imports

3rd

Largest Start-up Ecosystem in World

1st

Largest Crypto Investor in the World

46th

Rank in Global Innovation Index (gained 35 places since 2015)

2

Rates of Taxes

Tax rates for assesses

2. Rates of Taxes

Taxation of Individuals, HUF, Co-operative, Firms and Local Authorities

For Individual Tax Payer (upto 60 years) & HUF :	New Regime (115BAC)*	Old Regime
< ₹ 2.5 Lakhs		0.00%
> ₹ 2.5 Lakhs to < ₹ 5 Lakhs	5.20%	5.20%
> ₹ 5 Lakhs and < ₹ 7.5 Lakhs	10.40%	20.80%
> ₹ 7.5 Lakhs and < ₹ 10 Lakhs	15.60%	20.80%
> ₹ 10 Lakhs and < ₹ 12.5 Lakhs	20.80%	31.20%
> ₹ 12.5 Lakhs and < ₹ 15 Lakhs	26.00%	31.20%
> ₹ 15 Lakhs and < ₹ 50 lakhs		31.20%
> ₹ 50 Lakhs and < ₹ 1 crores		34.32%
> ₹ 1 crores and < ₹ 2 crores		35.88%
> ₹ 2 crores and < ₹ 5 crores		39.00%
> ₹ 5 crores		42.74%
Notes		
<ul style="list-style-type: none"> ▪ The above mentioned rates are effective rates of tax (including applicable tax rate, surcharge (SC), Health and Education cess) ▪ In Old Regime, the base exemption for senior citizen ie. 60 years to 80 years is ₹ 3,00,000 and for super senior citizen ie. 80 years & above is ₹ 5,00,000/- ▪ *There are various deduction and benefits which have to be forgone in the New Regime ▪ Further, an assessee has an option to choose between the New Regime and Old Regime tax rates ▪ If total income only including the income by way of dividend or income under the provisions of section 111A and 112A of the Act exceeds ₹ 2 crores, surcharge at the flat rate of 15% of such income tax would be applicable. 		

For Co-operatives, Firms and Local Authorities	Co-operatives*	Partnership Firms and Local Authorities
< ₹ 10,000	10.40%	31.20%
> ₹ 10,000 and < ₹ 30,000	20.80%	
> ₹ 30,000 and < ₹ 1 crores	31.20%	
> ₹ 1 crores and < ₹ 10 crores	33.38% (30% + 7% + 4%)	34.94% (30% + 12% + 4%)
more than ₹ 10 crores		34.94% (30% + 12% + 4%)

Notes

*A co-operative society resident in India shall have the option to pay tax at 25.16% for assessment year 2021-22 onwards as per the provisions of section 115BAD, subject to fulfilment of certain conditions

2. Rates of Taxes

Taxation of Domestic Companies - Summary

Section	Type of company	Base MAT rate	Normal tax rate	Effective normal tax rate		
				Income upto 1 Cr	Income > 1 Cr but upto 10 Cr	Income > 10 Cr
115BA	Domestic manufacturing company set-up and registered on or after 1 March 2016	15%	25%	26% (Nil SC + 4% cess)	27.82% (7% SC+ 4% cess)	29.12% (12% SC+ 4% cess)
115BAA	Any domestic company (even if an existing company or engaged in non-manufacturing business)	NA	22%	25.17% (10% SC+ 4% cess)	25.17% (10% SC+ 4% cess)	25.17% (10% SC+ 4% cess)
115BAB	Domestic manufacturing company set-up and registered on or after 1 October 2019 and commences manufacturing upto 31 March 2024	NA	15%	17.16% (10% SC+ 4% cess)	17.16% (10% SC+ 4% cess)	17.16% (10% SC+ 4% cess)
Para E of First Schedule	Domestic companies having turnover of less than INR 400 crores during FY 2018-19	15%	25%	26% (Nil SC+ 4% cess)	27.82% (7% SC+ 4% cess)	29.12% (12% SC+ 4% cess)
	Domestic companies having turnover of more than INR 400 crores during FY 2018-19	15%	30%	31.20% (Nil SC+ 4% cess)	33.38% (7% SC+ 4% cess)	34.94% (12% SC+ 4% cess)

2. Rates of Taxes

Taxation of Domestic Companies – Comparative Analysis

Particulars	Section 115BA (existing 25% tax rate)	Section 115BAA (amended 22% tax rate)	Section 115BAB (Amended 15% tax rate)	Domestic companies (Turnover < INR 400 crs)	Domestic companies (Turnover > INR 400 crs)
Coverage	Tax on domestic manufacturing companies	Tax on all domestic companies not claiming certain incentives /exemptions	Tax on new domestic manufacturing (including electricity generating) companies not claiming incentives / exemptions	All domestic companies have annual turnover during FY 18-19 less than ₹ 400 crores	All domestic companies have annual turnover during FY 18-19 more than ₹ 400 crores
Date of set-up condition	On or after 1 March 2016	No condition	On or after 1 October 2019 and has commenced manufacturing on or before 31 March 2024	NA	NA
Rate of tax after including surcharge and cess	26% / 27.82% / 29.12%	25.17%	17.16%	26% / 27.82% / 29.12%	31.2% / 33.38% / 34.94%
Applicability of MAT	Yes	No	No	Yes	Yes
MAT Credit	Available	Not Available	Not Available	Available	Yes
Base / essential conditions	Manufacturing company which is set up after 1 March 2016	Any domestic companies (including trading or service company)	Manufacturing Company which is set up on or after 1 Oct 2019 and commences operations on or before 31 March 2023	NA	NA

2. Rates of Taxes

Taxation of Domestic Companies – Comparative Analysis

Particulars	Section 115BA (existing 25% tax rate)	Section 115BAA (amended 22% tax rate)	Section 115BAB (Amended 15% tax rate)	Domestic companies (Turnover < INR 400 crs)	Domestic companies (Turnover > INR 400 crs)
Condition of split/reconstruction and second hand machinery	Not Applicable	Not Applicable	Applicable	Irrelevant	Irrelevant
Impact on claim of incentives and losses attributable to incentives	Need to be foregone	Need to be foregone	Need to be foregone	Available	Available
Specified domestic transfer – Transfer pricing	Applicable where certain profit linked deduction is claimed		Applicable on any business transacted by company with related party	Applicable where certain profit linked deduction is claimed	
Is it optional? When the option is to be exercised.	Yes - Option to be exercised during the first year - once opted in, opt out unlikely to apply. The exception provided is only when 115BAB applicable	Yes – Option can be exercised anytime - once opted the choice is irreversible	Yes – Option can be exercised anytime - once opted the choice is irreversible	NA	NA

2. Rates of Taxes

Dividend Distribution Tax

Dividend Distribution Tax Abolished

- Companies declaring dividend were liable to pay Dividend Distribution Tax (DDT) @ 15% on such dividends. Since the recipient should be able to take advantage of his marginal income level, it is proposed to abolish the DDT. Consequently, recipient shall be liable to pay tax on such dividends as per its income level. Dividend to be factored while calculating advance tax only if the dividend is declared.
- Following are the tax rates (excluding cess and surcharge) for each shareholder type:
 - Companies - 22% or 25%
 - LLPs – 30%
 - Individuals – as per slab rates
- Removal of cascading effect: New section 80M has been introduced to remove the cascading effect. Dividend received by a company shall be excluded from its income to the extent that company declares dividend.
- Expenses incurred to earn dividend (upto 20% of the dividend amount) shall be eligible for deduction against dividend income.

Particulars	Company			LLPs
	New domestic manufacturing companies (section 115BAB)	Other domestic companies not availing incentives (section 115BAA)	Existing companies (not opting for section 115BAA)	
Base tax rate	15%	22%	25%	30%
Effective tax rate	17.16%	25.17%	29.12%	34.94%
	(10% SC + 4% cess)	(10% SC + 4% cess)	(12% SC + 4% cess)	(12% SC + 4% cess)
Income of company/ LLP (A)	100	100	100	100
Less: Outflow of Corp. tax (B)	17.16	25.17	29.12	34.94
Net income (C)	82.84	74.83	70.88	65.06
Less: Outflow of DDT	0	0	0	NA
Net amount available to owners (D)	82.84	74.83	70.88	65.06
Tax to shareholder if it is a company @22% (E)	18.22	16.46	15.59	NA
Tax to shareholder if it is an individual	As per tax slab rates			NA
Total tax outflow for shareholder which is a company or LLP (B+E)	35.38	41.63	44.71	34.94

3

Impact on Individuals and Businesses

Amendments impacting all assessee

3. Impact on Individuals and Businesses

Provisions for filing of updated return

Updated tax return introduced for filing at any time within 2 years from the end of the relevant assessment year to provide an opportunity to correct omissions/mistakes while estimating income. However, such return cannot be filed if it has the effect of decreasing the total tax liability or results in refund or increases the refund due in the previously filed original/delated/ revised return.

Clarifications regarding deduction on payment of interest on actual payment

As per the Act, Interest payment deduction is allowed on payment basis. It is now clarified that converting outstanding interest into debentures or any other instrument by which the liability to pay is deferred shall not be deemed to have been actually paid.

Cess and surcharge not an allowable expense

Certain taxpayers claim deduction of 'cess' or 'surcharge' as an allowable expenses claiming that 'cess' or "surcharge' is not an tax and hence should be treated as on allowable expense.

To make the intention of the legislature clear, it is proposed to add an explanation that the term 'tax' includes and shall be deemed to have always included any surcharge or cess.

Disallowance of expenses incurred to earn tax exempt income u/s 14A

Per the Act, any expense incurred to earn exempt income shall be disallowed under section 14A. This section has been subject to many litigation. To bring further clarity it is now clarified that provisions of section 14A 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.

No set off of loss in search cases

It has been proposed that where the total income of an assessee includes any undisclosed income detected during search and survey, no set off of any brought forward loss against such undisclosed income shall be allowed to the assessee.

TDS on benefit or perquisite of a business or profession

It is proposed that any person responsible for providing any benefit/perquisite to a resident, arising from business/profession carried out by such resident, shall before providing such benefit/perquisite, ensure that tax has been deducted at source at the rate of 10% on the value of such benefit/perquisite.

3. Impact on Individuals and Businesses

Clarifications on allowability of certain expenditures

Per the Act, any expense incurred for any purpose which is an offence or prohibited by law shall be disallowed.

It is now clarified that following expenses incurred shall also be considered and shall always be deemed to be considered as an expense incurred against the law -

- i. 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
- ii. 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

Widening the scope of Specified Financial Transactions by producers of cinematograph films or persons engaged in specified activities

A producer of cinematographic films is obliged to furnish within 30 days from the end of the financial year or from the date of completion of the film, whichever is earlier, a statement containing particulars of all payments over Rs. 50,000/- in the aggregate made by him or due from him to each person engaged by him.

It is proposed bring other specified activities under the ambit of the above reporting. "Specified Activities" would mean

event management, documentary production, production of programs for telecasting on television or over the top platforms or any other similar platform, sports event management, other performing arts.

Unexplained cash credits

As per the existing provisions, identity, creditworthiness of creditor and genuineness of transactions is sufficient for explaining the credit in the books of account and the onus does not extend to explaining the source of funds in the hands of the creditor.

It is proposed to amend the provisions 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.

3. Impact on Individuals and Businesses

Extension of date of incorporation for eligible start-up for exemption and for investment in eligible start-up

Start-ups are eligible to claim 100% deduction of the profits and gains derived from an eligible business for three consecutive years out of ten years, beginning from the year of incorporation, at the option of the assessee subject to the condition that, -

- i. The total turnover of its business does not exceed Rs. 100 crores,
- ii. It is holding a certificate of eligible business (refer definition below) from the Inter-Ministerial Board of Certification, and
- iii. It is incorporated on or after 1st day of April, 2016 but before 1st day of April, 2022.

Definition of 'eligible business' – a business carried out by an eligible start-up engaged in innovation, development or improvement of products or processes or services or a scalable business model with a high potential of employment generation or wealth creation.

It is now proposed to extend the outer date of incorporation of eligible startups to **31st March, 2023**.

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

Any person who is liable to deduct/collect tax at source but does not deduct it or after so deducting fails to pay the same

to the credit of the Central Government, then he shall be liable to pay simple interest at the rates specified therein.

The computation of such interest is subject to frequent litigation. It is now clarified that if an amount of interest is determined by the Assessing Officer by making an Order in this regard, then such amount shall be final and appeal shall not be possible for the same.

Other Amendments

- i. Exemption for COVID related ex-gratia payments for medical treatment/death – Certain exemptions were announced for such payments by press release dated 25 June 2021. Legislative amendments have been introduced to give effect to such announcement.
- ii. In order to bring parity between Central Government employees and State Government employees, now deduction of employer contribution to National Pension System (NPS) will be increased from 10% to 14% for State Government employees.
- iii. Now deduction would be allowed for an insurance scheme which provides payment of annuity or lump sum amount to the differently abled dependent during the lifetime of parents/guardians, i.e., upon parents/guardians attaining the age of sixty years.

3. Impact on Individuals and Businesses

Additional Incentives for IFSC

Over the past few years several tax concessions have been provided to units located in International Financial Services Centre (IFSC) under the Act to make it a global hub of financial services sector. In additions to earlier tax concessions some of the new tax concessions in way of exempt income are as follows:

- Income from transfer of offshore derivative instruments or over-the-counter derivatives entered into with offshore banking unit set up in an IFSC.
- Royalty or interest income received from a unit set up in an IFSC on account of the lease of a ship, in addition to existing exemption in relation to lease of aircraft.
- Income of a non-resident from a portfolio of securities or fund maintained with the offshore banking unit set up in IFSC, to the extent such income accrues or arises outside India and is not deemed to accrue or arise in India.
- Premium on issue of shares in excess of fair value of shares issued to a specified fund set up in an IFSC.
- Gains from transfer of a ship leased by a unit set up in IFSC

4

Impact on Business Reorganization and Transactions

Amendments impacting transactions

4. Impact on Businesses Reorganisation and Transaction

Rationalization of Surcharge on Long Term Capital Gains:

Long-term capital gains on listed equity shares, units, etc. are liable to maximum surcharge @ 15%, while the other long-term capital gains are subject to graded surcharge which goes up to 37%.

It is proposed that long-term capital gains arising on transfer of any capital asset (including unlisted shares) will be subject to a maximum of 15% surcharge. This will give impetus to start-up community.

Amendments related to successor entity subsequent to business reorganization

In case of business reorganization such as amalgamation, demerger etc. the assessment of the predecessor entity is done upto the date of succession and the assessment of the successor entity is done from the date of succession.

Business reorganization such as amalgamation, demerger are done by filing an application to NCLT, High court or any other adjudicating authority. This process is long-drawn and is not time bound. Further, the reorganization is usually from a preceding date. During the pendency of the court proceedings the income tax proceedings and assessments are carried on and often completed on the predecessor entities only. Courts have held such proceedings and consequent assessments illegal as the predecessor assessee ceases to exist in the midst of a perfectly valid and legal proceeding.

Therefore, with a view to clarify that such proceedings under

the Act are valid, it is proposed a new section to provide that the assessment or other proceedings pending or completed on the predecessor in the event of a business reorganization, shall be deemed to have been made on the successor.

Further, a new section is proposed to be introduced, to enable for the entities going through such business reorganization, for filing of 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.

In case of IBC cases, the outstanding income tax liability is usually reduced by a substantial amount, if not reduced to zero. Currently there is no mechanism provided under the Act to reduce such demands from the outstanding demand register. A new section is proposed to be introduced to provide such mechanism.

Rationalization of provisions of TDS on sale of immovable property

TDS @1% shall be deducted on sale of immovable property on higher of sale consideration or stamp duty value. No TDS to be deducted if the sale consideration and stamp duty value is less than Rs. 50 lakhs.

4. Impact on Businesses Reorganisation and Transaction

Bonus and Dividend stripping extended to securities and units

Bonus Stripping is an arrangement where an investor buys shares in a company knowing that the company is set to make bonus issues to its existing shareholders and sells the original share after acquiring the bonus issue. In this arrangement, the investor sells the original unit for a short-term capital loss.

Dividend stripping is an arrangement, where an investor buys shares or units of mutual funds in a company before the company could declare dividends to its shareholders for the financial year. After receiving the dividend, the investor would sell the share when the market value for the share is lesser than the purchase price, which inevitably results in short-term capital loss.

There are anti-abuse provisions under the Act to ignore such losses made on bonus stripping and dividend stripping.

The anti-abuse provisions of bonus stripping and dividend stripping is proposed to be extended to securities and units of business trusts such as InvIT, REIT and AIF respectively.

Reduction of Goodwill from block of assets to be considered as 'transfer'

From AY 2021-22, goodwill of a business & profession is not considered as a depreciable asset & no depreciation on goodwill of a business & profession can be availed.

In case goodwill is purchased by an assessee, purchase price of the goodwill will be the cost of acquisition subject to the condition that in case depreciation on such goodwill was obtained prior to assessment year 2021-22, then the depreciation amount so obtained shall be reduced from the purchase price of the goodwill.

It is proposed to clarify that reduction of the amount of goodwill of a business or profession from the block of asset shall be deemed to be transfer.

5

Taxation of Virtual Digital Assets

New tax regime introduced for Virtual Digital Assets

5. Taxation of Virtual Digital Assets

Virtual digital assets have gained tremendous popularity in recent times and the volumes of trading in such digital assets has increased substantially. However, there was no such legality over the transaction relating to the Purchase/Sale of Virtual Digital Assets such as Cryptocurrencies, NFTs, etc. The current budget introduced the taxability relating to the same.

Sr. No.	Nature	As per proposed Provisions
1	Definition	Virtual Digital Asset is defined as 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 which is 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 and includes its use in any financial transaction or investment, but not limited to, investment schemes and can be transferred, stored or traded electronically.
2	Taxability on transfer	Transfer of any virtual digital asset to be taxed at the rate of 30% (plus surcharge and cess).
3	Allowable Deduction	Only cost of Acquisition to be allowed as a deduction against the sale value of the asset.
4	Set-off and carry forward of loss	No set off of any loss arising from transfer of virtual digital asset shall be allowed against any income computed under any other provision of the Act and such loss shall not be allowed to be carried forward to subsequent assessment years
5	Applicability for TDS	TDS should be deducted at the rate of 1% of such sum. TDS to be deducted even if transfer of Virtual Digital Asset is against another Virtual Digital Asset.
6	Gift of Virtual Digital Asset	Gift of Virtual Digital Asset shall be taxed in the hands of the recipient. However, gifting to relative shall be exempt from tax.

So, does this makes cryptocurrencies a legal tender?

In our opinion the taxing of cryptocurrencies transactions does not make cryptocurrencies legal as illegal income are also taxable as per the law. We need to wait and watch whether the govt legalizes the cryptocurrencies.

6

Rationalization of taxation of Charitable Trusts and Institutions

6. Rationalization of taxation of Charitable Trusts and Institutions

Finance Bill 2022 rationalize the provisions of Charitable Trust and Institutions under two regimes mentioned below:

- a. Income of any fund / institution / trust / university / educational institution / hospital / medical institution referred u/s 10 (23C) (Trust or Institution under first regime)
- b. Income of Trusts registered under section 12AA/12AB (Trust or Institution under second regime)

In the Finance Bill, it is proposed to rationalize the provisions of both the exemption regimes by-

- I. ensuring their effective monitoring and implementation;
- II. bringing consistency in the provisions of the two exemption regimes; and
- III. providing clarity on taxation in certain circumstances.

I. Ensuring effective monitoring and Implementation of two exemption regimes

- a. Books of account to be maintained by the trusts or institutions under both the regimes.
- b. Penalty to be levied under both the regimes if unreasonable benefits are passed to the trustee or any other specified person.

Penalty will be equal to:

- amount of income applied by such trust or institution for the benefit of specified person where the violation is noticed for the first time during any previous year.
- twice the amount of such income where the violation is notice again in any subsequent year.

II. Bringing consistency in the provisions of two exemption the regimes

a) Accumulation Provision

Under the existing provisions of both the regimes in the Act, a trust or institution is required to apply 85% of its income during any previous year. However, if it is not able to apply 85% of its income during the previous year, it is allowed to accumulate such income for a period not exceeding 5 years.

However, the accumulation of income, as per the provisions of second regime of the Act is allowed subject to the fulfilment of certain conditions while there are no such conditions specifically provided under the first regime of the Act. In order to bring consistency between both the regimes the conditions under second regime is proposed to be made also applicable to first regime.

6. Rationalization of taxation of Charitable Trusts and Institutions

The second regime of the Act provides for the specific previous year in which the accumulated income will be subjected to tax in case of different types of violations. It, inter alia, provides that if the accumulated income is not applied within 5 years, it shall be taxed in the 6th year. While, on the other hand, there are no such specific provisions under first regime of the Act and therefore, if the accumulated income is not applied within 5 years, the same shall be taxed in the 5th year itself.

Hence, it is proposed to provide that any income referred to the second regime shall be deemed to be the income of the previous year being the last previous year of the period, for which the income is accumulated or set apart

b) Bringing consistency in the provisions relating to payment to specified person

It is proposed that if the income or part of income or property of any trust or institution under the first regime has been applied for the benefit of the specified person mentioned in the sub-section (3) of section 13 of second regime shall be deemed to be the income of the previous year in which it is so applied.

c) The provisions of section 115TD to apply to any trust or institution under the first regime.

The provisions of the Chapter XII-EB brought about for

imposing a levy in the nature of an exit tax which is attracted when the organisation is converted into a non-charitable organisation or gets merged with a non-charitable organisation or a charitable organisation with dissimilar objects or does not transfer the assets to another charitable organization have been made applicable to only the trusts or institutions under the second regime. However, the provisions are not applicable to any trust or institution under the first regime.

Hence, it is proposed to amend the provisions of section 115TD, 115TE and 115TF of the Act to make them applicable to any trust or institution under the first regime as well.

d) Filing of return by person claiming exemption under first regime of the Act.

According provisions of second regime of the Act, if a trust or institution under the second regime does not furnish return of income in accordance with the provisions of sub-section (4A) of section 139, within the time allowed under that section, then exemptions of sections 11 and 12 are not applicable. There is no similar provision in the other regime.

Hence, it is proposed to provide that for the purpose of exemption, any trust or institution under the first regime is required to furnish the return of income for the previous year in accordance with the provisions of sub-section (4C) of section 139 of the Act, within the time allowed under that section.

6. Rationalization of taxation of Charitable Trusts and Institutions

(III) Providing clarity on taxation in certain circumstances

Allowing certain expenditure in case of denial of exemption

Different provisions mandate denial of exemption to the trusts or institutions under both the regimes. Some of the provisions under which exemption is not available for its violation are as follows:

- (a) Having commercial receipts in excess of 20% of the annual receipts in violation of the provisions;
- (b) Not getting the books of account audited;
- (c) Not filing the return of income presently specifically provided under the second regime only

There is presently lack of clarity on computation of taxable income in case of nonavailability of exemption in these cases. For example, if the exemption is denied to the trust or institution for the late submission of the audit report, its entire receipts may be subjected to taxation and no deduction for any application may be allowed.

In order to bring clarity in the computation of the income chargeable to tax in such

cases, the following amendments are proposed:

- 1) It is proposed to provide that where any trust or institution under first or second regime violates the provisions and conditions, its income chargeable to tax shall be computed after allowing deduction for the expenditure

(other than capital expenditure) incurred in India, for the objects of the trust or institution, subject to fulfilment of the following conditions, namely:

- (i) such expenditure is not from the corpus standing to the credit of such trust or institution as on the last day of the financial year immediately preceding the previous year relevant to the assessment year for which the income is being computed;
- (ii) such expenditure is not from any loan or borrowing;
- (iii) claim of depreciation is not in respect of an asset, acquisition of which has been claimed as application of income in the same or any other previous year;

and

- (iv) such expenditure is not in the form of any contribution or donation to any person.

2) It is also proposed no deduction in respect of any expenditure or allowance or set-off of any loss shall be allowed to the assessee under any other provision of the Act.

Taxation of certain income of the trusts or institutions under both the regimes at special rate.

Certain Specified Income of the trust (first and second regime both) shall be taxed at 30%. No deduction or exemptions shall be allowed for such specified income.

7

Assessments and Appeals

New faceless assessment provision introduced

7. Assessments and Appeals

Faceless Assessment

The Central Government has undertaken a number of measures to make the process under the Act electronic, by making the assessments faceless.

However, various difficulties are being faced by the administration and the taxpayers in the operation of the faceless assessment procedure.

In order to streamline the faceless assessment procedure, the old section is replaced by a new section

Highlights of new section are as follows:

- Faceless assessment shall apply for Assessment, Best Judgement Assessment and Income escaping Assessment
- the National Faceless Assessment Centre (NaFAC) shall assign the case selected for the purposes of faceless assessment to a specific Assessment Unit (AU)
- There are various Units proposed such as Assessment Units (AU), Technical Units (TU), Review Units (RU) and Verification Units (VU).
- The proposed section also provides that all communication, among the AU, RU, VU or TU or with the assessee or any other person with respect to the information or documents or evidence or any other details, as may be necessary for the purposes of making a faceless assessment shall be through the NaFAC.
- Assessee or his representative can request for a personal hearing in case of any objection against the draft order.

Where the request for personal hearing has been received, the income-tax authority of relevant unit shall allow such hearing, through NaFAC, which shall be conducted exclusively through video conferencing.

Other procedural Aspects with regards to the Faceless Assessment is detailed in the Proposed Budget.

Penalties

Penalties for default in furnishing of various returns (including withholding tax/tax collection at source) and statements enhanced from INR 100 per day to INR 500 per day

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

New section is proposed to reduce the amount of litigation where a question of law is pending before High Court or Supreme Court.

If Tax Authorities are of the opinion that any question of law arising in case of an assessee is pending before high Court or Supreme Court, it may direct the Commissioner or Principal Commissioner not to file any appeal, at this stage, to the Appellate Tribunal.



Key Indirect Tax Amendments

GST and Customs

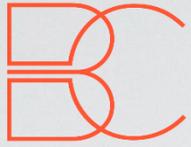
8. Key Indirect Tax Amendments

Goods and Services Tax

- Time limit has been relaxed till 30th November, in the following cases:
 - Claim of input tax credit (ITC)
 - Issuance of credit note
 - Rectification of errors in statement of outward supply and returns
 - Rectification of TCS return
- GSTR-3B cannot be filed without filing GSTR-1. The Government may notify exceptions.
- Manner and condition for communication of details of inward supplies and ITC in auto generated statement has been prescribed. Two-way communication process in return filing has been removed.
- Claim of provisional credit has been replaced with self-assessed credit.
- Late fee to be introduced on delayed filing of TCS return
- For non-payment of tax by the supplier, ITC will need to be reversed along with interest by the recipient. Such ITC can be reclaimed on subsequent tax payment by the supplier.
- Balance in cash ledger of CGST can be transferred to other ledgers within same GSTIN or to CGST/IGST cash ledger of a distinct person.
- Interest on ITC wrongly availed and utilized shall be leviable @ 18% (amendment retrospective from 1 July 2017).
- Relevant date for filing refund claims in respect of supplies made to SEZ developer or a unit shall be the due date of filing GSTR-3B for such supplies.
- Registration can be cancelled if returns are not furnished for a period as may be prescribed.

Customs

- MAs a part of custom duty rate rationalization, around 350 exemptions have been withdrawn
- More than 40 exemptions relating to capital goods and project imports to be gradually phased out
- Customs tariff structure is simplified by moving unconditional concessional rates from existing exemption notifications to First Schedule of Custom Tariff Act.
- Import of Goods Concessional Rate of Duty (IGCR) rules have been revised to make the entire process digital and transparent.
- Officers of DRI, Audit and Preventive formation are included in the definition of 'proper officer' to validate actions taken by such officers
- Board /Principal Commissioner /Commissioner of Customs have been empowered for assigning functions to the officers of customs.
- Customs advance ruling to have a validity of three years or change in law or facts, whichever is earlier
- Valuation provision amended to enable the board to specify additional obligations on importer in case of incorrect declaration of value of imports.



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