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Tax News

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Union Budget for 2022-23

India

Discussion on budget highlights

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February 2, 2022

Dear Reader,

The Honourable Finance Minister, Ms. Nirmala Sitharaman presented the Union Budget for the financial year 2022 – 2023 ('Budget 2022') before the Lok Sabha on February 1, 2022. By all accounts, Budget 2022 was expected to be heavy hitter with unacceptable levels of unemployment and inflation and several upcoming elections. Surprisingly, Finance Minister delivered a budget which most pundits grudgingly accept as sober. Large outlays for infrastructure was welcomed given the obvious employment opportunities it would generate, but reduction in the allocation for employment schemes such as the MGNREGS raised eyebrows since cash in the hands of the common man was just what the economists had ordered.

Individual taxpayers experienced a sense of déjà vu when Ms. Sitharaman left them hanging with not even a slight increase in the basic exemption limit or standard deduction. Virtual digital assets were defined in the budget to include crypto currencies, utility tokens and non-fungible tokens and are to be treated akin to gambling by taxing them at 30% and not allowing set off and carry forward of losses. Perhaps, this was a case of throwing out the baby with the bathwater since young artists who had found a new market with NFTs will now face a significant tax bill and discourage a fledgling industry by treating them at par with speculators in crypto currency. Any hope of a silver lining in the form of these proposals being a tacit approval of such assets by the government were dashed quickly by the Finance Minister's statement that legality of such assets was an entirely different matter.

As has become customary, Budget 2022 has nullified several hard won decisions favourable to tax payers by amendments in the law. Budget 2022 will also be remembered for clarifying several provisions relating to charitable institutions and also for placing on borrowers the unreasonable onus of proving source of funds of lenders.

As in the earlier years, it gives us great pleasure to present you with a quick snap-shot on Budget 2022. We believe that you will benefit from the early insights on Budget 2022 through this issue of 'Tax News', though more clarity is expected on many of the provisions which will unravel in the coming days. We hope you will also find the ready reckoner and the compliance calendar useful.

Should you require any further clarifications or details on the budget proposals or any assistance in the analysis of the impact of the proposals on your business, please do feel free to get in touch with us. As always, we look forward to your valuable suggestions.

Yours faithfully



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Executive summary

Executive Summary

Direct taxation

Key areas include :

- No changes to tax structure to individuals, firms or companies.
 - Exemptions have been provided for contributions received for meeting Covid-19 medical expenses and for families of the victims.
 - Deadline for incorporation of eligible start-ups and commencement of commercial production for new manufacturing companies have been extended.
 - Profits from virtual digital assets will be taxed at 30% without any provision to set off expenses and losses.
 - Provision for filing 'updated returns' on payment of additional tax to be introduced.
 - Businessmen and professionals will be forced to declare non-monetary benefits in their personal tax returns
- ▶ Once again, individual taxpayers were left in the lurch without so much as a peep about increasing standard deduction. As a saving grace, the government has benevolently exempted contributions from employers and well-wishers received by Covid-19 patients towards meeting their medical expenses. Further, ex-gratia received by families of the pandemic victims from employers were exempted without limit and contributions from others were exempted to the extent of Rs. 10 lakhs.
 - ▶ Companies and firms also found their tax rates to be unchanged. The time limit for incorporation of start-ups eligible for tax holiday tax was extended to March 31, 2023. New domestic manufacturing companies were relieved by the extension of the deadline to March 31, 2024 for commencing commercial production and therefore being eligible for a reduced tax rate.
 - ▶ The definition of 'virtual digital assets' was introduced which included cryptographic currencies, utility tokens and non-fungible tokens. Such assets would now be taxed at 30% without any provision for claiming expenditure other than the cost of the asset itself. Further, transactions would be subject to TDS. The unkindest cut was that losses cannot be set off against any other head of income or be carried forward to future years. Any hopes of tacit approval of the government of cryptographic assets by introducing provision for its taxability was immediately dashed by the Finance Minister through her post budget interview wherein she stated that the legality of these assets was entirely a separate matter.
 - ▶ Indian companies earning dividends from their foreign subsidiaries can no longer pay tax on such dividends at a lower rate of 15%.
 - ▶ A scheme of filing 'updated returns' upto three years from the end of the financial year has been introduced. However, it will not be a free ride as it comes with a requirement to pay additional tax between 25% and 50%.
 - ▶ As usual, hard won judicial decisions favourable to taxpayers are proposed to be nullified by sly insertion of a few provisions. Some of the major changes are on ad-hoc disallowance of expenses even if no exempted income is received, disallowance of cesses and surcharge and disallowance of interest on loans if it is converted into principal.
 - ▶ It appears that medical professionals will be seeing their freebies drying up since such expenditure by pharmaceutical manufacturers will be treated as illegal and not be allowed as an expenditure.
 - ▶ Further, businessmen and professionals receiving non-monetary benefits will now be forced to declare these benefits in their tax returns since the payers are now required to deduct TDS on such benefits given.

Executive Summary

Direct taxation

Key areas include :

- Non-filers of tax returns will face higher TDS deductions.
 - Borrowers will have to explain source of funds of lenders in addition their identity, creditworthiness and genuineness of the transaction.
 - Provisions for books of account for charitable institutions are to be notified.
 - Small violations by charitable institutions will no longer affect the entire exemption available to the institution.
 - Unreasonable benefits given to related parties of charitable institutions will be subject to penalty which may be as high as 200% of the benefit given.
 - Losses cannot be set off against undisclosed income taxed as a result of search & survey proceedings.
- ▶ Non-filers of tax returns will be faced with additional TDS deductions of as much as twice the regular rate even if they do not file their previous year returns.
 - ▶ Based on court rulings, it was sufficient for a borrower to explain the identity and creditworthiness of a lender and the genuineness of a transaction. Now, it is incumbent on the borrower to explain the source of funds from which the lender lent to the borrower. Rampant misuse of this provision by the tax authorities is to be expected.
 - ▶ The focus on faceless assessment and appeal continues with a promise of further simplification of the process and to minimise direct interactions between the taxpayers and the tax authorities.
 - ▶ A sea change in provisions relating to charitable trusts and institutions have been proposed. Specific provisions regarding the books of account to be maintained will be separately notified. When the tax exemption available to these institutions was denied, tax authorities frequently taxed the entire amount of receipts instead of just the surplus. This anomaly has now been fixed by providing that only the surplus would be taxed.
 - ▶ In case of small violations by charitable institutions, tax would be levied only to the extent of violation and will not result in a blanket denial of exemption to the charitable institution.
 - ▶ Unreasonable benefits extended to persons like trustees of a charitable institution would be liable to penalty which is equal to the amount of such unreasonable benefit. At the second offence, a penalty of 200% is proposed. This is of course, in addition to the tax that will be payable by the charitable institution.
 - ▶ Charitable institutions will have to compute their eligibility for tax exemption on the basis of receipts & payments, i.e., on cash basis instead of the standard accrual system of accounting which is generally followed. In other words, expenses incurred, but not paid will not be treated as 'application' of their funds.
 - ▶ Taxpayers subject to search and survey proceedings will no longer be able to claim losses against undisclosed income which is detected.
 - ▶ While tax holidays for SEZ units was not re-introduced, Budget 2022 has promised to enact a fresh piece of legislation replacing the existing Special Economic Zones Act, 2005.

Executive Summary

Indirect taxation

Key areas include :

- E-Commerce operators have to collect and remit tax on restaurant supplies.
 - Non-filing two consecutive GSTR-3B returns will result in taxpayers being unable to file GSTR-1 returns further resulting in denial of credit to customers.
 - Interest will be payable only on the net amount of tax payable after setting off input tax credit.
 - Input tax credit of a financial year can be claimed till December 20th of the following financial year.
 - Differences between GSTR-1 and GSTR-3B will result in swift action for recovery of difference.
 - Input tax credit can be claimed only if it appears in the GSTR-2B of the taxpayer.
 - Aadhaar authentication will be mandatory for certain services like refunds.
- ▶ E-Commerce operators through whom restaurants provide their services have become liable to issue invoices and remit GST directly instead of the restaurants. However, for other goods and services, the suppliers will continue to remit GST with the E-Commerce operators collecting tax at source.
 - ▶ If suppliers fail to file two consecutive GSTR-3B returns, i.e., the return through which input tax credit is availed and tax liability discharged, they will no longer be able to file their GSTR-1 returns, i.e., the return of outward supplies. The implication will be that their customers will not be able to avail input tax credit of goods or services supplied to them. This will force suppliers to be more compliant.
 - ▶ Interest will be charged only on the net amount of tax payable, i.e., after adjusting input tax credit.
 - ▶ It has been clarified that interest will be charged only on wrong utilisation of input tax credit and not on wrong availment. Further, the interest rate for such wrong utilisation has been reduced to 18% from the prevailing 24%.
 - ▶ Aadhaar authentication of at least one person under each registration will be mandatory to avail certain services such as requesting for a refund.
 - ▶ Input tax credits for a financial year can be availed effectively till December 20th of the following financial year instead of the present date of October 20th. Presumably, this is in order to bring it in line with the income tax return finalisation deadlines.
 - ▶ Taxpayers who declare a higher tax liability is declared in GSTR-1 as compared to GSTR-3B can henceforth expect swift action for recovery of the difference as opposed to the present procedure for demand and recovery.
 - ▶ From January 1, 2022 onwards, input tax credit can be availed only if the credit appears in a taxpayer's GSTR-2B, i.e., after it has been properly reported by his supplier.
 - ▶ The frequency of filing returns on goods sent and received back from job-workers has been altered depending on the principal's turnover.
 - ▶ Customs duties on several items such as flax, high speed diesel and petrol have been reduced. At the same time, customs duties on items such as umbrellas, jewellery and solar modules have been increased to encourage and protect domestic manufacturers.
 - ▶ Budget 2022 has promised end to end automation of the entire process of clearing. A monthly statement has been proposed which is to be submitted by importers on a common portal.



Direct Taxation

Key highlights

- Tax rates for individuals have been left unchanged with two options to choose from.
- To avail the benefit of lower tax rates, individuals will have to forego almost all exemptions including standard deduction and deductions under Chapter VIA.
- Individuals who have income from dividend or from all long capital gains and short term capital gains from listed securities will have their surcharge restricted to 15% on such income.

Tax rates for individuals

- For the second year running, individual taxpayers were left without any relief either in the form of increased standard deduction or enhanced limits of deduction. The FM unveiled the budget with a promise of no additional tax burden on citizens during the pandemic.
- Budget 2022 has retained the twin structure of tax slabs for individuals which is detailed below:
 - Option 1: Structure introduced in Budget 2020 for those individuals who do not have tax saving investments
 - Option 2: Erstwhile tax structure

Income	Option 1	Option 2
Below Rs. 2.50 lakhs	Nil	Nil
Rs. 2.50 to Rs. 5.00 lakhs	5%	5%
Rs. 5.00 to Rs. 7.50 lakhs	10%	20%
Rs. 7.50 to Rs. 10.00 lakhs	15%	20%
Rs. 10.00 to Rs. 12.50 lakhs	20%	30%
Rs. 12.50 to Rs. 15.00 lakhs	25%	30%
Above Rs. 15.00 lakhs	30%	30%

- To avail the benefit of lower tax, individuals will have to forego almost all reliefs and exemptions.
- Surcharge rates remain largely unchanged as below.

	Income > Rs. 50 lakhs	Income > Rs. 1 crore	Income > Rs. 2 crores	Income > Rs. 5 crores
Surcharge	10% of income tax	15% of income tax	25% of income tax	37% of income tax

- However, relief in the form of capping of surcharge at the rate of 15% was introduced for individuals on their income by way of dividend, all long term capital gains and short term capital gains on listed securities.

Key highlights

- Tax rate of 25% has been retained for to companies with turnover up to Rs. 400 crores. Other companies have a tax rate of 30%.
- Lower tax rates of 22% and 15% for companies upon satisfaction of certain conditions
- Tax rate for LLPs and firms continues at 30%.
- Surcharge of 7% and 12% on domestic companies with income exceeding Rs. 1.0 crore and Rs. 10.0 crores respectively.
- Foreign companies with income exceeding Rs. 1.0 crore and Rs. 10.0 crores will be subject to a surcharge of 2% and 5% of income tax respectively.

Tax rates for companies and firms

- Reduced tax rate of 25% remains unchanged for companies with a turnover of up to Rs. 400 crores. Companies having turnover exceeding Rs. 400 crores will be taxed at 30%.
- The rates applicable to companies in different scenarios are given below:

Turnover	Income tax	Surcharge on (a)	Education and Health Cess on (a+b)	Effective tax rate
	(a)	(b)	(c)	
Domestic company - profit below Rs. 1 crore:				
Below Rs. 400 crores	25%	Nil	4%	26.00%
Above Rs. 400 crores	30%	Nil	4%	31.20%
Domestic company - profit between Rs. 1 crore to Rs. 10 crores:				
Below Rs. 400 crores	25%	7%	4%	27.82%
Above Rs. 400 crores	30%	7%	4%	33.38%
Domestic company - profit above Rs. 10 crores:				
Below Rs. 400 crores	25%	12%	4%	29.12%
Above Rs. 400 crores	30%	12%	4%	34.94%

Special rates for certain companies on satisfaction of conditions	Income tax	S'charge	Cess	Eff. tax rate
I. Domestic companies availing the benefit of section 115BAA	22%	10%	4%	25.168%
Conditions:				
- No deductions/incentive/exemptions can be claimed such as SEZ benefits, benefits of Sec. 80IA, 80IAB, 80IAC, 80IB etc. except sec. 80JJAA				
- Cannot claim additional depreciation				
II. Domestic company been set up and registered on or after 1 October 2019 and has commenced manufacturing on or before 31 March 2023 – Sec. 115BAB	15%	10%	4%	17.16%
Conditions:				
Apart from the conditions mentioned for companies mentioned in I. above, the additional conditions have to be satisfied:				
- Not to be formed by the splitting up and reconstruction of a business already in existence				
- Does not use any plant or machinery previously used for any purpose				
Other matters:				
Companies exercising above options will be excluded from provisions of Minimum Alternate Tax ('MAT')				
Surcharge rates applicable for such companies will be 10% rather than 7% in case of other companies.				

Key highlights

- ▶ The deadline for commencement of production by new manufacturing companies to take the benefit of a lower tax rate has been extended to March 31, 2024.
- ▶ The deadline for incorporation of eligible start-ups has been extended to March 31, 2023 for tax holiday benefits.
- ▶ Contributions received for meeting medical expenses due to Covid-19 have been exempted.
- ▶ Contributions received by families of Covid-19 victims have been exempted without limit where contributions are received from the deceased's employer and upto Rs. 10 lakhs when received from other persons.

Extension of manufacturing commencement date

- ▶ Earlier budgets had provided for benefits for a reduced income tax rate of 15% for new manufacturing companies. A key condition was that those companies had to commence manufacture on or before March 31, 2023. However, due to delays caused by the COVID-19 pandemic, several companies would be unable to commence commercial production by the prescribed deadline. Budget 2022 has taken cognisance of this difficulty and proposes to extend the deadline by another year to March 31, 2024.

Extension of deadline for incorporating start-ups eligible for tax holiday

- ▶ The extant provisions provide a tax holiday of any three consecutive years out of ten years from the incorporation of an eligible start-up. The window for incorporating such start-ups was ending with March 31, 2022. To factor in difficulties brought about by the COVID-19 pandemic and to presumably encourage entrepreneurs to setup profitable start-ups, Budget 2022 proposes to encourage the deadline for incorporation to March 31, 2023.
- ▶ It may be noted that only start-ups which hold a certificate of eligible business from the Inter-Ministerial Board of Certification and with a turnover of up to Rs. 100 crores is eligible for this tax holiday.

Contributions received for COVID-19 expenses

- ▶ The COVID-19 pandemic caused countless deaths and in many cases, those who managed to survive it and the families of the deceased were financially ruined due to the high expenditure incurred. In many cases insurers refused to cover such expenses as they were not covered under standard policies. It was at this hour of need, that the compassionate mindset of the common man came to the forefront whereby employers, friends and outright strangers helped the victims and their families in covering expenses incurred. However, one cannot overlook the tax impact of such contributions which became taxable if it has crossed Rs. 50,000. Further contributions by employers would be treated as perquisites and would be taxed in the hands of the employee.
- ▶ Since taxing such contributions would be adding insult to injury, the Finance Ministry issued a press statement promising that contributions to the extent of medical expenses actually incurred would not be taxed. Further, ex-gratia received by the family of the deceased from his employers would not be taxed without any limit and contributions up to Rs. 10 lakhs received from others would not be taxed. Budget 2022 proposes to formalise these benefits by introducing such provisions in law.

Key highlights

- ▶ Definition of virtual digital assets has been introduced which includes crypto currency, utility tokens and NFTs.
- ▶ Gain on transfer of virtual digital assets will be taxed at 30% without any provision to deduct any expenses apart from the cost of these assets.
- ▶ Losses on transfer of virtual digital assets can neither be set off against any other income nor carried forward to future years.
- ▶ Transactions in virtual digital assets of more than Rs. 50,000 in a financial year will be subject to TDS of 1%.
- ▶ Concessional rate of tax on dividends received by an Indian Company from a foreign company, has been withdrawn.

Scheme for taxation of virtual digital assets

- ▶ Budget 2022 has brought in a definition of a 'virtual digital asset' which includes cryptographic currency, utility tokens and non-fungible tokens..
- ▶ Profits on transfer of virtual digital assets will be taxed at 30%. However, apart from its cost of acquisition, no other costs or allowances would be allowed as a deduction while computing the profit. It remains to be seen if 'gas fees' which are fees paid to miners for validating transactions on the Ethereum network would be included in the 'cost of acquisition'.
- ▶ To make matters worse, losses under other heads of income would not be allowed to be set off against profits from transfer of virtual digital assets. Still worse, losses from transfer of virtual digital assets would neither be allowed to be set off against any other head of income nor can they be carried forward to future years.
- ▶ To track transactions of virtual digital assets, persons responsible for paying more than Rs. 50,000 in any financial year against purchase of virtual digital assets will be required to deduct TDS of 1%. While it may be possible to deduct and remit TDS while purchasing assets such as NFTs, it remains to be seen how this TDS provision can be practically implemented when transactions take place over an exchange where buyers do not have any information about the seller.
- ▶ While these provisions may have been introduced with intent of taxing millions of transactions that take place over crypto exchanges, it will probably deal a heavy blow to a new industry consisting of artists who are earning a respectable remuneration through their NFT creations.

Withdrawal of concessional rate on dividends received by Indian Companies

- ▶ Dividend earned by Indian companies from foreign companies in which they hold at least 26% are subject to tax only at 15%. Consequent to the abolition of dividend distribution tax in 2020, in order to provide parity in tax treatment of dividends received by Indian companies from such foreign company vis a vis dividends received from domestic companies, the concessional rate of 15% of tax has been proposed to be withdrawn.

Key highlights

- ▶ Introduction of updated returns to promote voluntary tax compliance and reduce litigation
- ▶ Assessee filing updated returns will have to pay additional tax to the extent of 25% to 50%.
- ▶ Updated returns can be filed upto 3 years from the end of the financial year.

Promoting voluntary tax compliance and reducing litigation

- ▶ The existing provisions provide for a last date of filing return of income as one year from the end of the financial year. This includes the time to file a revised return. The Department has taken cognisance of the fact that very often assessee are faced with a situation where a certain amount of income or tax has been omitted while filing their tax return.
- ▶ With the intention of promoting voluntary tax compliance and to reduce litigation, Budget 2022 has proposed to introduce a new provision for furnishing 'updated returns'.
- ▶ Under the proposed provisions, an assessee may furnish an updated return of his income for the previous year, within three years from the end of the financial year. This updated return should not be treated on par with a revised return that is to say that this return cannot be used for filing a return which has the effect of returning a loss or decreasing the total tax liability.
- ▶ Filing an updated return shall not be permitted in the following scenarios:
 - ▶ where an updated return has already been filed
 - ▶ where proceedings for assessment, re-assessment, re-computation or revision is pending or has already been completed for that assessment year
 - ▶ Where the assessing officer has information in respect of the assessee under the Prevention of Money Laundering Act or the Black Money and Imposition of Tax Act, or the Prohibition of Benami Property Transactions Act or the Smugglers and Foreign Exchange Manipulators Act and this information has been communicated to the assessee.
- ▶ The updated return shall be treated as defective unless it is accompanied by proof of payment of 'additional tax' which is computed as follows:

Additional tax	Amount payable
If updated return is filed with 2 years from the end of the financial year	25% of the aggregate tax and interest payable
If updated return is filed within 3 years from the end of the financial year	50% of the aggregate tax and interest payable

- ▶ Aggregate tax and interest payable shall be the additional tax and interest on account of offering the additional income.
- ▶ Interest under sections 234A, 234B and 234C will also apply.

Key highlights

- ▶ Surcharge or cess cannot be claimed as an expense
- ▶ Expenses will be disallowed even if no exempt income is earned during the year.
- ▶ Deduction of payment of interest will not be available under sec. 43B if the interest is converted into debentures or other liabilities.

Clarification regarding allowability of surcharge and cess as expense

- ▶ Section 40 of the IT Act specifies that any sum paid on account of any rate or tax levied on the profits including income tax is not allowable as a business expense. Over the years, assessees have found the favour of various courts across the country in their contention that cess and surcharge have not been specifically mentioned and therefore should be allowed as an expenditure.
- ▶ In order to align with the legislative intent that taxes include surcharge and cess, it is now proposed to amend the term 'tax' to include and deemed to have always included any surcharge or cess, by whatever name called with retrospective effect from April 1, 2005.

Clarification regarding disallowance under sec. 14A

- ▶ Sec. 14A provides that no deduction shall be allowed in respect of expenditures incurred for earning exempt income. This has been a subject matter of litigation over the years in cases where no exempt income has been accrued, arisen or received during the year. Over the years various courts have taken the stand that where exempt income was not earned during the year no disallowance of expenditure could be provided under sec. 14A. These decisions were in spite of the clarification issued by the CBDT in 2014.
- ▶ In order to make the legislative intent clear, an amendment is proposed to sec. 14A to clarify that disallowance under section 14A will apply even in cases where exempt income has not accrued, arisen or received during the year. This amendment will apply from FY 2021-22 onwards.

Deduction on payment of interest only on actual payment

- ▶ Sec. 43B of the IT Act provides for certain deductions only on actual payment. This includes deduction towards interest payable on any loan or borrowing from banks, NBFCs, financial institutions etc. In the past, conversion of interest into loan was considered by many assessees to be on par with payment of interest.
- ▶ It is now proposed to amend the explanation to sec. 43B to provide that conversion of interest payable into debenture or any other instrument by which liability to pay is deferred will not be treated as actual payment and therefore such amounts will be disallowed under sec. 43B.
- ▶ This amendment will apply from the financial year 2022-23 onwards.

Key highlights

- ▶ Targeting the practice of giving gifts to medical professionals, amendment proposed to sec. 37 to the effect that such gifts or perquisites will not be considered as allowable business expenditures as they are prohibited by law by virtue of the regulations issued by the Indian Medical Council.
- ▶ Non filers of tax returns even for a single financial year will now be subject to higher TDS if their TDS of the previous financial year has exceeded Rs. 50,000.

Clarification regarding allowability of certain expenses under sec. 37

- ▶ Sec. 37 provides for allowability of revenue expenses incurred wholly and exclusively for the purpose of the business provided the expenditure is not incurred for any purpose which is an offence or which is prohibited by law.
- ▶ The Indian Medical Council amended its regulations imposing a prohibition on medical practitioners taking gifts, travel facility, hospitality, cash or monetary grants from pharma companies and other allied health care industries. The CBDT, through a circular issued in 2012 clarified that the claim of expenses incurred in providing any of the above would be prohibited by law by virtue of the amendments to the regulations issued by the Indian Medical Council. Accordingly, these expenses would not be eligible to be claimed as a business expense under sec. 37(1).
- ▶ This circular issued by the CBDT was challenged before various courts and courts were generally unanimous in deciding that these payments or gifts were against the interest of the public and should be considered to be unlawful and therefore not allowable as an expense under sec. 37(1).
- ▶ Accordingly, to make the intention of the legislature clear and free from misinterpretation, it is proposed to amend sec. 37 by inserting an explanation which will cover the following:
 - ▶ Amount incurred 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
 - ▶ 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 the person in violation of any law, rule or regulation
- ▶ The impact of this amendment is likely to be faced primarily by companies operating in the health care sector.

Additional tax to be deducted from non-filers of tax returns

- ▶ The budget for 2020-21 had introduced a new provision whereby a person from whom more than Rs. 50,000 was deducted as TDS, but had not filed his tax return for the previous two years would be subject to TDS of double the standard TDS rate or 5%, whichever was higher. Budget 2022 proposes to make this provision even more stringent by making this provision applicable even if the deductee / payee has not filed his return for the previous one year.

Key highlights

- ▶ TDS on purchase of immovable properties will now be calculated on the higher of stamp duty value or the actual consideration.
- ▶ Non-monetary benefits received by professionals and businessmen will now be subject to TDS thereby forcing them to declare the monetary value of such benefits as income in their personal tax returns.
- ▶ Stringent provisions have been introduced to place the onus on recipients of loans and credit to prove the source of income of the creditor.
- ▶ Introduction of new Sec.79A to prohibit set off of losses in case of undisclosed income based on search or survey

TDS on purchase of immovable properties

- ▶ The existing provisions mandate a deduction of 1% as TDS where the consideration for purchase of property is Rs. 50 lakhs or more. However, there were several situations where the stamp value of the property would be more than Rs. 50 lakhs, but the actual consideration would be lower thereby leading to non-deduction of TDS. Budget 2022 proposes to now mandate deduction of TDS where the stamp value of the property crosses Rs. 50 lakhs, i.e., even if the actual consideration was below Rs. 50 lakhs.

TDS on non-monetary benefits relating to business or profession

- ▶ It is common for businessmen and professionals to receive non-monetary benefits from the customers and vendors. It could be in the form of gift cards, vouchers, electronic goods, etc. While the formal position has always been that such benefits are subject to tax in the hands of the recipient, it has always been difficult to monitor them as more often than not, the recipients would refrain from reporting benefits received in their tax returns.
- ▶ Budget 2022 proposes to identify and tax such benefits received, by now requiring the person giving the benefits to remit TDS of 10% on all benefits whose value exceeds Rs. 20,000.

Cash Credits in the books of accounts

- ▶ Presently, if an assessee shows a credit of any amount (loans, credits for purchases, etc.) in his books of account, but offers no explanation or an explanation which the tax authorities feel is unsatisfactory, such amounts could be taxed in the hands of the assessee. However, the courts have often come to the rescue of the assessee by holding that the responsibility of the assessee ended with establishing the identity and creditworthiness of the creditor and genuineness of transactions and he was not obliged to explain the source of funds in the hands of the creditor. However, Budget 2022 proposes to amend the law to include that the assessee has to prove the source of funds of the creditor in case of any loan or borrowing.

Restriction on set off of losses in case of undisclosed income –New Sec. 79A

- ▶ Assessee used to claim set off of losses or unabsorbed depreciation, against undisclosed income corresponding to difference in stock, undervaluation of stock, unaccounted cash payment etc. which is detected during the course of search or survey proceedings, in the absence of specific provision in the IT Act to disallow such set-off. To prevent this, new Section 79A has been introduced to prohibit set off of any loss under any provisions of the IT Act, against the undisclosed income detected as result of search or requisition or survey proceedings. Further, as per the new provisions, the undisclosed income is to include expenses recorded in the books, which is found to be false during the course of the search or survey proceedings.

Key highlights

- ▶ Rationalization of provisions relating to entities registered u/s 12AA/AB and 10(23C) proposed, to bring consistency.
- ▶ Books to be maintained by charitable entities to be prescribed.
- ▶ Denial of exemption restricted to amount of violation rather than denial of entire exemption

Further reforms under Faceless Assessment/Appeal Schemes

- ▶ The Central Government has undertaken a number of measures to make the processes under the IT Act, electronic, by eliminating person to person interface between the taxpayer and the Department to the extent technologically feasible and provide for optimal utilisation of resources and a team-based assessment with dynamic jurisdiction. A series of futuristic reforms have been introduced in the domain of Direct Tax administration for the benefit of taxpayers and economy. This started with faceless assessment in electronic mode involving no human interface between taxpayers and tax officials. The new faceless procedures / further simplification of procedures are being introduced in a phased manner in the IT Act.

Rationalisation of provision relating to Charitable Trust and Institutions

- ▶ Organisation undertakings charitable or other similar activities such as medical institutions, universities, hospitals etc. of charitable nature, are accorded tax exemptions mainly under two sections:
 - a. Sec. 10(23C)
 - b. Sec. 12AA/12AB
- ▶ Even though the nature of activities and exemption enjoyed by these organisations registered under the respective sections are similar, there were lack of consistencies and clarity of taxation in the provisions of these two sections. Budget 2022 has proposed to bring in amendments to ensure effective monitoring and implementation of the provisions on entities which are similarly placed. The major proposals are as follows:
 - ▶ **Books of accounts to be maintained**
Presently, even though the entities registered under these section are required to get their books audited, in case the income exceeds the maximum amount which is not chargeable to tax, there was no specific provision mandating the manner in which such books are to be maintained. Through this budget, it is proposed to prescribe the manner in which the books and other documents are to be maintained. Notification prescribing the books are yet to be published.
 - ▶ **Denial of exemption restricted to amounts applied in violation rather than denial of entire exemption**
Presently, small amounts of income applied in violation of the provisions of the IT Act would expose the entities to denial of exemption. To avoid difficulties to such charitable entities in the form of denial of exemption, Budget 2022 proposes to tax only such income or application of income which violates the provisions of entities registered under Sec. 12AA/AB and 10(23C). All such income will be subjected to tax at a rate of 30% without any deductions.

Key highlights

- ▶ Penal provisions to apply for unreasonable benefits passed on to related persons.
- ▶ Conditions for accumulation/setting apart of unutilized income now made applicable to entities registered under Sec. 10(23C)
- ▶ Filing of returns now made mandatory for entities registered under Sec. 10(23C)

▶ **Penalty for payment of unreasonable benefits to trustees/specified persons**

Entities registered under 12AA/AB are not allowed to pass on unreasonable benefits to related persons such as trustees or donors. No such condition was present with respect to entities registered under 10(23C). Budget 2022 has proposed to bring consistency in the provisions applicable to both these entities and going forward any violation to provisions will result in such benefits being taxed in the hands of such entities.

Further, to discourage misuse of funds, all such entities, whether registered under Sec. 12AA/AB or 10(23C), who pass on unreasonable benefits to related persons/trustees will be charged with a penalty under Sec. 271AAE. It is proposed to levy penalty of a sum equal to the amount passed on as benefit to such persons for the first instance of violation. A penalty of 200% is proposed for any subsequent violation in any subsequent year.

▶ **Accumulation of income in cases of non-utilization**

Presently, if a trust or institution 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. Such accumulation of income for entities registered under Sec 12AA/12AB was allowed subject to the fulfilment of certain conditions, while no such conditions were provided for entities registered under sec 10(23C). Similarly, there were inconsistencies in taxing such accumulated balance in case of non application of such accumulated income by entities registered u/s 12AA/AB and 10(23C). To bring consistency to provision applicable to these entities, the budget has proposed the following so that provisions of entities registered u/s 10(23C) are at par with entities registered u/s 12AA/AB:

- a. Unutilized accumulated income of 10(23C) registered entity shall be taxable in the last year within which such accumulated income should have been utilized but remains unutilized.
- b. The money set apart or accumulated shall be invested or deposited in specified investments.
- c. A statement, as prescribed, stating purpose of accumulating or setting apart the income shall be furnished within the prescribed time.

▶ **Filing return now made mandatory for 10(23C) entities**

If an entity registered under Sec. 12AA/AB does not furnish return of income within the specified time, then they are not eligible for exemption from taxation. Such provision were not applicable for 10(23C) registered entities, and they were not mandated to file returns. Through Budget 2022, filing return within the prescribed date will be a condition precedent for claiming exemption from tax for entities registered under Sec. 10(23C).

Key highlights

- ▶ Meaning of application of fund have been clarified to restrict only the amounts actually paid during the year
- ▶ Exit tax now applicable to entities registered under Sec. 10(23C)
- ▶ Clarity brought in relation to claim of expenditure in case of violation of provisions by charitable trusts

▶ **Meaning of application of funds for charitable purpose - clarified**

At present, there was lack in clarity in the term 'application' of funds in the context of charitable trusts. The ambiguity was to whether expense provisions/payables created in the books on accrual basis were also considered as application. Budget 2022 proposes to clarify this aspect and has explained that only the amounts that are actually paid during the year by the entity, i.e., excluding amounts which have been incurred, but not actually paid, shall be deemed to be application in that year. This will impact the entities following accrual system of accounting and henceforth they will have to prepare receipts and payments account which shall be the basis for utilization of funds.

▶ **Exit tax now applicable to entities registered under Sec. 10(23C)**

To ensure that the intended purpose of exemption availed by entities registered under 12AA/AB is achieved, a levy in the nature of an exit tax would be attracted when the organization is converted into a non-charitable organization or gets merged with a non-charitable organization or a charitable organization with dissimilar objects or winds up without transferring the assets to another charitable organization. Presently, these provisions are not applicable to entities registered under Sec. 10(23C). Budget 2022 proposes to make these provisions applicable to such entities registered under Sec. 10(23C) and henceforth exit tax will be applicable to such entities who do not satisfy the conditions.

▶ **Allowing expense in case exemption is denied to charitable institutions**

On account of lack of clarity in the present law, in cases of violation of tax provisions, the entire receipts of the entity was likely to be subject to tax. For example, if the exemption is denied to the entity for the late submission of the audit report, its entire receipts may be subject to taxation and no deduction for any application may be allowed. Budget 2022 proposes to clarify that the income of such entities whose exemption is denied shall be accorded the benefit of deduction of expenditures (other than capital expenditure) incurred in India, provided the following conditions are satisfied:

- a. Such expenditure is not met out of corpus fund as disclosed in the previous financial statements.
- b. Such expenditure is not sourced out of loans or borrowings.
- c. Such expenditure is not in the form of donation to any other person.
- d. Such expenditure was subject to TDS provisions, wherever applicable and not in cash exceeding Rs. 10,000.
- e. Further, no deduction in respect of any expenditure or allowance or set-off of any loss shall be allowed.



Indirect Taxation

Key highlights

- ▶ Going forward, recovery by GST authorities on account of differences between GSTR-1 and GSTR-3B will be swift instead of resorting to the usual demand and recovery procedures.
- ▶ It has been clarified that the interest is to be charged only on wrong utilisation of ITC and not just wrong availment of ITC. Further, the interest rate on wrong utilisation of ITC has been reduced to 18% from the prevailing 24%.
- ▶ Due date of availing ITC and rectification of other errors has been effectively extended December 20th following the end of the financial year.

Stringent provisions on recovery of tax declared in GSTR1 but short paid in GSTR3B

- ▶ Earlier, self-assessed tax was to be determined on the basis of liabilities declared in GSTR3B. Recently, the term "self-assessed tax" has been widened, in such a way that the recovery proceedings, in respect of 'self-assessed tax' on outward supplies which have been declared in Form GSTR-1 but not included in Form GSTR-3B, will now be initiated straight away through various modes without even resorting to demand and recovery proceeding under the CGST Act.

Interest to be charged on wrong utilization of ITC and not wrong availment

- ▶ Budget 2022 has proposed to clarify the position that interest is liable only on wrongly utilized ITC and not on mere availment. This provision is amendment retrospectively w.e.f. 01.07.2017 to avoid disputes for the past period. Before this amendment also, the existing provisions were sufficient to say that interest is not liable on the un-utilized ITC. Further, the rate of interest is clarified as 18% for wrongly utilized ITC as against the prevailing 24%.

Due date of availment ITC and rectification of other errors extended to effectively December 20th

- ▶ Presently, the due date of filing the GSTR3B returns for the month of September falls on the 20th of the October. On account of this proposal, additional time for availment of ITC will be available till 30th November of next financial year. This appears to have been done to make in line with the closure of books of account and income tax returns which generally happens by November of the next financial year. Since the amendment is in 'substitution' form, it can be said that it applies retrospectively (for FY 2018-19 to 2021-22 also).

Particulars	Old due date	New due date
Due date for availment of ITC for F.Y	20th October of next F.Y.	December 20 th of next F.Y.
Time limit for issue of credit notes and corresponding adjustment of tax Liability	Filing of Sep return of next F.Y.	December 11 th of next F.Y.
Rectification of errors or omissions in GSTR-1 for the F.Y	October 11 th of next F.Y.	December 11 th of next F.Y.
Rectification of errors or omissions in GSTR-3B for the F.Y	October 20 th of next F.Y.	December 20 th of next F.Y.

Key highlights

- ▶ The relevant date for calculating the limit of two years for refund applications for supplies to SEZ units and developers has been clarified as the due date of filing the GST returns.
- ▶ Aadhaar has been made mandatory for certain transactions

Increase of time limit for raising credit note

- ▶ In line with the above, the time limit for raising credit notes for a financial year will now be available till November 30th of the following financial year.

Relevant date for refund against supplies made to SEZ units and SEZ developers is provided

- ▶ In respect of Zero-rated supply of goods or services to a SEZ units, where a refund of tax paid is available in respect of refund of tax on payment based on filing LUT, there was a confusion as to the relevant date from when the time limit of 2 years must be considered for filing of the refund application since there was no specific mention for the same.
- ▶ Budget 2022 clarifies that the relevant date for filing refund claim in respect of supplies made to a SEZ unit would be the due date of furnishing of return in respect of such supplies.
- ▶ Since there was no specific provision in the law providing for the relevant date for computation of 2 years, the taxpayers were facing harassment at the hands of the refund sanctioning officer with each officer interpreting the time-limit as per their whims and fancies. This amendment is a welcome move and would lead to clarity among the taxpayers and also the field formations in granting the refund for taxes paid for supply of goods or services to SEZ.
- ▶ The effective date of the amendment is yet to be notified.

Mandatory Aadhaar authentication for registered person

- ▶ With effect from January 1, 2022 Aadhaar authentication of the primary authorized signatory and at least one promoter or partner is necessary in the GST portal for the purpose of following filings:
 - a. Filing of application for revocation of cancellation of registration
 - b. Filing of refund application in Form RFD-01
 - c. Refund of the IGST paid on goods exported out of India.
- ▶ In case of Company / LLP / Foreign company / AOP / Society / Trust / Club, Aadhaar authentication of only the primary authorized signatory would be sufficient.

Indirect Taxation: GST | Recent Amendments

Key highlights

- ▶ E-commerce operators liable pay tax on restaurant services provided through their platform
- ▶ GSTR-1 cannot be filed in case GSTR-3B of two earlier months have not been filed.
- ▶ Interest on GST will be calculated on net tax liability, i.e., after reducing input tax credit.

GST on services supplied by restaurants through E-commerce operators

For the E-commerce operator:

- ▶ With effect from January 1, 2022 E-commerce operators have become liable to issue invoices and pay GST on all restaurant services provided through them.
- ▶ For supplies other than restaurant services, supplied through E-commerce operators, the liability to pay GST continues on such supplier and E-commerce shall continue to pay collect and remit "tax collected at source" on such supplies
- ▶ E-commerce operators who are already registered will not be required to take separate registration for payment of tax on restaurant service.
- ▶ Input tax credit cannot be utilized by E-commerce operators to pay output tax on restaurant services supplied through them.

For Restaurants:

- ▶ The aggregate turnover of a restaurant supplying goods / services through E-commerce operators shall include the aggregate value of supplies made by them through E-commerce operator.
- ▶ Registered persons supplying restaurant services through e-commerce operator will report such supplies of restaurant services in Table 8 of GSTR-1 and Table 3.1 (c) of GSTR-3B. The said tables deal with Nil rated and Exempt supplies.

Blocking of GSTR-1 return filing facility

- ▶ With effect from January 1, 2022, the GSTR-1 return filing facility will be blocked if taxpayers have not submitted the return in Form GSTR-3B for the previous two return periods. If a taxpayer is unable to file GSTR-1 then the counterparty will not be able to claim the credit on such purchases in the relevant month. As per the existing provisions, non-filing of GSTR-3B resulted in the blocking of e-way bill generation. But, as per new rules, it will result in the blocking of the e-way bill facility as well as the GSTR-1 of the registered person.

Delayed interest liability for GST payment

- ▶ Section 50 of the CGST Act has been amended, whereby the interest will be charged only on the net tax liability of the tax payer, after taking into account the admissible input tax credit, i.e interest would be leviable only on the amount payable through electronic cash ledger.

Key highlights

- ▶ Change in frequency - Form ITC 04 filing in relation to job works
- ▶ Input tax credit ineligible – In case invoice details not populated in GSTR 2B.

Form ITC 04 – change in frequency of submission

Form GST ITC 04 declaration form is to be furnished by registered persons (Principal), showing the details of inputs or capital goods dispatched to or received from a job worker in a particular quarter.

With effect from 1st October 2021, the frequency of filing the ITC-04 form has been revised as follows:

Turnover	Change
More than Rs. 5 crores	Half yearly due on 25 th October and April respectively
Upto Rs. 5 crores	Yearly due on 25 th April

Restriction on availing input tax credit:

- ▶ With effect from January 1, 2022, no input tax credit can be claimed unless it appears in GSTR 2B. Earlier, a provisional ITC amount to the extent of 5% of the eligible ITC value already reflected in the GSTR-2B for that period was available which is now withdrawn.
- ▶ In case your supplier does not furnish the details of invoices in their GST returns then this rule will restrict your eligible input tax credit.
- ▶ This adds an additional responsibility to have regular check on suppliers compliance for ITC availment.
- ▶ The legal validity of this provisions shall be tested judicially. In the past, there are High Court decisions holding that ITC shall not denied directly without attempting to recover from the suppliers.
- ▶ Examples of eligibility of input tax credit amounting to Rs. 1,50,000 as per books for a month in case your supplier does not file his returns during different time periods is depicted below:

Time frame	Claim upto	Reason
From 1 st July17 to 8 th Oct 19	Rs.1,50,000	Rule 36(4) was not introduced
From 9 th Oct19 to 31 st Dec 19	Rs.1,20,000	Only 20% extra was allowed
From 1 st Jan20 to 31 st Dec 20	Rs.1,10,000	Only 10% extra was allowed
From 01 st Jan21 to 31 st Dec 21	Rs.1,05,000	Only 5% extra was allowed
From 11 st Jan22	Rs.1,00,000	Nothing extra is allowed

Indirect Taxation: Customs Duty

Key highlights

- Customs duties on several items such as flax, high speed diesel and petrol have been reduced.
- At the same time, customs duties on items such as umbrellas, jewellery and solar modules have been increased to encourage and protect domestic manufacturers.

Changes in BCD

- Following are the important items for which Budget 2022 has changed Basic Customs Duty ('BCD'):

Item	Existing	Proposed
Umbrellas	10%	20%
Imitation Jewellery	20%	20% or Rs 400/kg which ever is higher
Single or multiple loud speakers, whether or not mounted in their enclosures	15%	20%
Headphones and earphones, whether or not combined with a microphone, and sets consisting of a microphone and one or more loudspeakers	15%	20%
Smart meters(Rate change w.e.f 01-04-2022)	15%	25%
Solar cells	20%	25%
Electrical insulators of any material	10%	7.5%
Air separators, Purifiers, cleaners	15%	7.5%
Jute and other textile bast fibres	25%	10%
Flax, raw or processed, but not spun	25%/30%	Free
Cotton, not carded or combed	25%	5%
Fertilizers(other than ammonium sulphate, ammonium nitrate, Sodium nitrate, potassium sulphate, minerals or chemical fertilizers of NPK	10%	7.5%
High speed diesel	10%	2.5%
Petrol	10%	2.5%
Pepper long	70%	30%
Cashew nut, in shell	30%	2.5%
Solar Modules	20%	40%
Copper tubes and pipes, or fittings	10%	7.5%

Indirect Taxation: Customs Duty

Key highlights

- ▶ Advance rulings are now valid for period of three years.
- ▶ Exemption from customs duty for import of specified free gifts have been extended to various cesses.
- ▶ Automation of all customs processes

Changes in BCD (contd.)

Item	Existing	Proposed
Natural rubber in forms other than Latex	25%	25% or Rs30 per Kg, whichever is lower
Other medical equipment and medical related goods	10%	7.5%

Other amendments in Customs

- ▶ Earlier an exemption from customs duty on imports of specified free gifts, donations, relief and rehabilitation material imported by Charitable organizations, Red Cross Society, CARE and Government of India. This has been amended to provide exemption from Health Cess, Agriculture Infrastructure and Development Cess (AIDC) and Road and Infrastructure Cess (RIC) for goods imported
- ▶ Section 28H is being amended to make provision for prescribed fee by Board relating to application for advance ruling and also give flexibility to the applicant to withdraw his application at any time before a ruling is pronounced from the current 30 days time period.
- ▶ Advance ruling is now valid for a period of three years or till there is a change in the law or facts on the basis of which advance ruling was pronounced, whichever is earlier.
- ▶ Anti dumping is being permanently revoked on import of certain items from certain countries.

Changes in Customs Act, 1962

- ▶ End to end automation of the entire process.
- ▶ A monthly statement is being proposed which is to be submitted by the importer on the common portal.
- ▶ An option for voluntary payment of the necessary duties and interest, through the common portal is being provided to the importer.



Ready Reckoner

- Key TDS rates
- Reverse charge mechanism under GST
- Quoting of PAN
- Reporting financial transaction
- Compliance calendar

Ready Reckoner

Key TDS Rates

Section	Nature of payment	Cut-off amount (INR)	Rate % (Individual)	Rate % (Others)
194	Dividend	5,000	10%	10%
194A	Interest other than interest on security (by bank)	Others 40,000 Sen. Citizens 50,000	10%	10%
194A	Interest other than interest on securities (by others)	5,000	10%	10%
194C	Contracts	30,000	1%	2%
194H	Commission or brokerage	15,000	5%	5%
194I(b)	Rent (Land / building / furniture)	2,40,000	10%	10%
194I(a)	Rent (plant & machinery / equipment)	2,40,000	2%	2%
194IA	Consideration for transfer of immovable property	50,00,000	1%	1%
194IB	Rent paid by individual / HUF not subject to tax audit	50,000 per month	5%	5%
194IC	Payment under joint development agreement to resident individual who transfers land / building	Nil	10%	NA
194J(1)(a)	Professional / Royalty / Non-compete fee	30,000	10%	10%
194J(1)(b)	Technical service (not being a professional service)	30,000	2%	2%
194J(1)(ba)	Any remuneration or commission paid to director of the company (other than those covered under Sec. 192)	-	10%	10%
194M	Contracts / professional charges / paid by individual / HUF not subject to tax audit	50,00,000	5%	5%
194N	Cash withdrawals (from bank, co-operative bank, post office)	Withdrawals in excess of Rs. 1 crore a year	2%	2%
194O	Consideration paid by e-commerce operator for sale of goods or provision of services through its platform	5,00,000 (Individual)	1%	1%
194Q	Purchase of goods by a buyer whose turnover exceeds Rs. 10 crores	50,00,000	0.1%	0.1%

Ready Reckoner

Key TDS Rates – Continued

Section	Nature of payment	Cut-off amount (INR)	Rate % (Individual)	Rate % (Others)
194R	Benefit or perquisite of a business or profession	20,000	10%	10%
194S	Purchase of virtual digital assets	50,000	1%	1%
195	Non Residents	TDS is to be deducted on a case to case basis, at rates to be determined based on DTAA or Income Tax Act, whichever is beneficial and also subject to certain conditions		

Notes

- ▶ **Sec. 194C:** Where the aggregate of the amounts paid / credited or likely to be paid / credited to a contractor exceeds INR 100,000 during the financial year, TDS has to be deducted.
- ▶ **No PAN for the payee:** TDS of 20% has to be deducted if the deductee does not furnish his PAN.
- ▶ **Tax returns not filed by deductees:** TDS at double the usual rate or 5%, whichever is higher, needs to be deducted if deductees from whom more than Rs. 50,000 has been deducted in the preceding two years, but have not filed their tax returns.
- ▶ **No TDS on goods transport:** No deduction shall be made from any sum credited or paid to the account of a contractor during the course of business of plying, hiring or leasing goods carriages if he furnishes declaration that he owns not more than 10 goods carriage vehicles and also furnishes his PAN, to the person paying or crediting such sum.

Higher rate for deduction of TDS / TCS - Sec. 206AB / 206CCA

Higher rate of TDS/TCS deduction is applicable to all payments except the specified payments mentioned below under Exclusions.

Applicability:

- Aggregate TDS / TCS in each of immediately preceding two financial years is Rs. 50,000 or more.
- The person has **not filed OR filed after the due date**, the returns of income for **preceding financial year** for which the time limit for filing of income return has expired.

Key TCS Rates

- Tax is to be collected at source by sellers at the time of making specified sales to their customers. Seller will have to collect tax at source from the customers at the prescribed rates and remit it to the government on or before the 7th of the following month. Separate returns on quarterly basis will have to be submitted to the tax department.

Section	Nature of receipt	Cut-off amount (INR)	Rate %
206C(1)	Alcoholic liquor for human consumption	Nil	1%
206C(1)	Tendu leaves	Nil	5%
206C(1)	Timber	Nil	2.5%
206C(1)	Waste and scrap from the manufacture or mechanical working of materials	Nil	1%
206C(1F)	Sale of motor vehicle	10,00,000	1%
206C(1G)(a)	Authorized dealer receiving amounts to be remitted outside India under the Liberalised Remittance Scheme ('LRS') of RBI	7,00,000	5%
206C(1G)(b)	Seller of overseas tour package which offers visit to a country outside India including travel and hotel stay	Nil	5%
206C(1H)	Sale of goods by persons whose turnover exceeds Rs. 10 crores in the preceding financial year	50,00,000	0.1%

Quantum of TDS / TCS

If the provisions of Sec. 206AB or 206CCA are attracted, the following would be the applicable TDS / TCS rates: Twice the rate specified in the relevant provision of the IT Act/rates in force OR 5%, whichever is higher

Exclusions

- Payments to Non-residents not having a permanent establishment in India.
- Payment covered under the following sections:
 - Sec. 192 – TDS on salaries
 - Sec. 192A – TDS on premature withdrawal from EPF
 - Sec. 194B – TDS on lottery
 - Sec. 194BB – TDS on horse racing
 - Sec. 194LBC – TDS on income in respect of investment in securitisation trust
 - Sec. 194N - TDS on cash withdrawal from bank in excess of Rs. 1 crore

Furnishing of statement of financial transactions

Prescribed class of persons will have to furnish details of certain financial transaction entered by them during the year with the Income Tax Department. The list of some of these transactions which has to be reported by persons/entities are given below:

Class of persons	Nature of transactions	Value of transaction
Any entity/person who is liable for audit under IT Act	Receipt of cash against sale of goods or services	Cash payments exceeding Rs. 2,00,000/- in a year
Company or institution issuing bonds or debentures	Receipt from any person for acquiring bonds or debentures issued by the company or institution	Aggregating to Rs. 10,00,000/- or more in a year
Company	Receipt from any person for acquiring shares issued by the company	Aggregating to Rs. 10,00,000/- or more in a year
Company listed in a stock exchange	Buy back of shares from any person (other than the shares bought in the open market)	Aggregating to Rs. 10,00,000/- or more in a year
Authorized dealer in foreign exchange	Receipt from any person for sale of foreign currency including credit of such currency to foreign exchange card or expense in such currency through a debit or credit card or through issue of travellers cheque or draft or any other instrument	Aggregating to Rs. 10,00,000/- or more in a year
Registrar or sub-registrar	Sale or purchase of any immovable property	Payments/value as per stamp valuation exceeding Rs. 30,00,000/-

Annual reporting of transactions in Form 61A

All transactions covered under the various provisions mentioned in the above table will have to be reported to the Income Tax Department. The reporting will be done electronically in Form 61A. Form 61A will have to be furnished on or before 31st May each year. Non filing will lead to a penalty of Rs. 500 per day.

Mandatory modes of electronic payment

With effect from January 1, 2020, entities with turnover exceeding Rs. 50 crores will have to mandatorily provide the following prescribed electronic modes of payment

- ▶ Debit Card powered by RuPay
- ▶ Unified Payments Interface (UPI) (BHIM-UPI)
- ▶ Unified Payments Interface Quick Response Code (UPI QR Code) (BHIM-UPI QR Code)

With effect from February 1, 2020, a penalty of Rs. 5,000 per day will be leviable to entities which fail to provide the above three facilities for electronic modes of payment.

Ready Reckoner

Transactions in relation to which permanent account number is to be quoted in documents

Every person should quote their PAN in all documents pertaining to transactions prescribed. List of such transactions are as below:

Nature of transaction	Value of transaction
Sale / purchase of motor vehicle	All transactions
Application for opening bank account	All transactions
Application for credit / debit cards	All transactions
Opening DEMAT account with depositor	All transactions
Payment to a hotel or restaurant against a bill or bills at any one time	Cash payments exceeding Rs. 50,000
Payments in connection for travelling to a foreign country including purchase of foreign currency	Cash payments exceeding Rs. 50,000
Purchase of mutual fund units	All payments exceeding Rs. 50,000
Purchase of debentures and bonds in a company or an institution	All payments exceeding Rs. 50,000
Payment to the Reserve Bank of India, for acquiring bonds issued by it.	All payments exceeding Rs. 50,000
Deposit with a banking company or a co-operative bank	Cash payments exceeding Rs. 50,000
Purchase of bank drafts or pay orders or bankers' cheques	Cash payments exceeding Rs. 50,000
Fixed deposits with banks, post office, NBFC's and Nidhi Companies	Payments exceeding Rs. 50,000 or aggregating to more than Rs. 5,00,000 during a financial year
Payment for one or more pre-paid payment instruments, to a banking company or a co-operative bank	Amounts aggregating to more than Rs. 50,000 during a financial year
Life insurance premium paid	Amounts aggregating to more than Rs. 50,000 during a financial year
Sale or purchase, by any person, of shares of an unlisted company	Payments exceeding Rs. 1,00,000 per transaction
Sale or purchase of securities other than shares	Payments exceeding Rs. 1,00,000 per transaction
Sale or purchase of immovable property	Payments / value as per stamp valuation exceeding Rs. 10,00,000
Any other sale or purchase, by any person, of goods or services	Amount exceeding Rs. 2,00,000 per transaction

Form 60

Any person entering into any transaction referred in the above table and raising bills should ensure that the PAN has been correctly furnished and the same has been mentioned in the document. In case the PAN is not available then a declaration to that extend should be obtained in Form 60.

Details of declarations received in Form 60 needs to be filed with the Income Tax Department on half yearly basis by 31st October and by 30th April each year in Form 61.

Ready Reckoner: Reverse charge mechanism under GST

Reverse charge mechanism under GST

- ▶ Under the normal taxation regime, the supplier collects the tax from the buyer and deposits the same after adjusting the output tax liability with the input tax credit available. But under the reverse charge mechanism, the liability to pay tax shifts from the supplier to the recipient.
- ▶ Unlike Service Tax, there is no concept of partial reverse charge. The recipient has to pay 100% tax on the supply.
- ▶ The liability for remittance of GST under the reverse charge mechanism by the recipient arises in the following scenarios:

Description of service

Legal services provided by an advocate or a firm of advocates

Services provided by a goods transport agency in respect of transportation of goods by road

Services supplied by an arbitral tribunal to a business entity

Services provided by way of sponsorship to any body corporate or partnership firm

Services supplied by an insurance agent to any person carrying on insurance business

Support services provided by Government / local authority in relation to (1) renting of immovable property (2) other specified services (postal service, transportation of goods or passengers, services in relation to aircrafts or vessels)

Services supplied by a recovery agent to a banking company or a financial institution or a non-banking financial company

Supply of security services by non-corporate to a registered person

Supply of specified categories of goods and services to notified classes of registered persons [such categories of goods and services and classes of registered persons are yet to be notified]

Services supplied through an E-commerce operator

Services supplied by a directors of a company or a body corporate

Services of lending of securities under Securities Lending Scheme, 1997 of SEBI

Services provided by way of renting of any motor vehicle designed to carry passengers where the cost of fuel is included in the consideration charged from the service recipient, provided to a body corporate.

Services supplied by any person by way of transfer of development rights for construction of project by a promoter

February 2022

Sun	Mon	Tue	Wed	Thu	Fri	Sat
		1	2	3	4	5
6	7 TDS PAYMENT, EQUALISATION LEVY	8	9	10 GSTR-7 GSTR-8	11 GSTR-1	12
13 GSTR-6	14	15 PF, ESIC, SUBMISSION OF TAX AUDIT REPORT IN FORM 3CA/CB AY(21- 22), AOC-4	16	17	18	19
20 GST RET-01 GST PMT-08	21	22	23	24	25	26
27	28 PT (HALF YEARLY), GSTR 9 & 9C FOR FY 20-21, MGT-7					

March 2022

Sun	Mon	Tue	Wed	Thu	Fri	Sat
		1	2	3	4	5
6	7 TDS PAYMENT, EQUALISATION LEVY	8	9	10 GSTR-7 GSTR-8	11 GSTR-1	12
13 GSTR-6	14	15 PF, ESIC, INCOME TAX RETURN FOR AY (22-23)	16	17	18	19
20 GST RET-01 GST PMT-08	21	22	23	24	25	26
27	28	29	30	31 LAST DATE FOR FILING ITR FOR FY 2020-21		

April 2022

Sun	Mon	Tue	Wed	Thu	Fri	Sat
27	28	29	30	31	1	2
3	4	5	6	7 EQUALISATION LEVY	8	9
10 GSTR-7 GSTR-8	11 GSTR-1	12	13 GSTR-6 & GSTR 1(Q)	14	15	16
17	18	19	20 GSTR-3B & GSTR 5 & GSTR 5A	21	22	23
24	25	26	27	28	29	30 TDS PAYMENT FOR MARCH 2021 AND GSTR 4 PY

May 2022

Sun	Mon	Tue	Wed	Thu	Fri	Sat
1	2	3	4	5	6	7 TDS PAYMENT, EQUALISATION LEVY
8	9	10 GSTR-7 GSTR-8	11 GSTR-1	12	13 GSTR-6	14
15 PF, ESIC, TCS QUARTERLY STATEMENT	16	17	18	19	20 GSTR-3B & GSTR 5 & GSTR 5A	21
22	23	24	25	26	27	28
29	30 LLP FORM 11	31 TDS RETURN (JAN- MAR) & STATEMENT OF FINANCIAL TRANSACTION U/S 285BA				

June 2022

Sun	Mon	Tue	Wed	Thu	Fri	Sat
			1	2	3	4
5	6	7 TDS PAYMENT, EQUALISATION LEVY	8	9	10 GSTR-7 GSTR-8	11 GSTR-1
12	13 GSTR-6	14	15 PF, ESIC, ADVANCE TAX AY 23-24 & FORM 16 TO EMPLOYEES AY 2022-23 & QUARTERLY TDS CERTIFICATE FOR QUARTER ENDING MARCH 2022	16	17	18
19	20 GSTR-3B & GSTR 5 & GSTR 5A	21	22	23	24	25
26	27	28	29 DPT 3 ANNUAL RETURN	30 FORM 1 EQUALISATION LEVY STATEMENT	1	2

July 2022

Sun	Mon	Tue	Wed	Thu	Fri	Sat
					1	2
3	4	5	6	7 TDS PAYMENT, EQUALISATION LEVY	8	9
10 GSTR-7 GSTR-8	11 GSTR-1	12	13 GSTR-6 & GSTR 1(Q)	14	15 PF, ESIC, TCS QUARTERLY STATEMENT	16
17	18	19	20 GSTR-3B & GSTR 5 & GSTR 5A	21	22	23
24	25	26	27	28	29	30 QUARTERLY TCS CERTIFICATE FOR THE QUARTER ENDING JUNE 30, 2022
31 TDS RETURN (APR-JUN) IT RETURN FOR A.Y.(22- 23)						

August 2022

Sun	Mon	Tue	Wed	Thu	Fri	Sat
	1	2	3	4	5	6
7	8	9	10	11	12	13
TDS PAYMENT, EQUALISATION LEVY			GSTR-7 GSTR-8	GSTR-1		GSTR-6
14	15	16	17	18	19	20
	PF, ESIC					GSTR-3B & GSTR 5 & GSTR 5A
21	22	23	24	25	26	27
28	29	30	31			
			PT (HALF YEARLY)			

September 2022

Sun	Mon	Tue	Wed	Thu	Fri	Sat
				1	2	3
4	5	6	7	8	9	10
			TDS PAYMENT, EQUALISATION LEVY			GSTR-7 GSTR-8
11	12	13	14	15	16	17
GSTR-1		GSTR-6		PF, ESIC, ADVANCE TAX AY 23-24		
18	19	20	21	22	23	24
		GSTR-3B & GSTR 5 & GSTR 5A				
25	26	27	28	29	30	
					SUBMISSION OF TAX AUDIT REPORT IN FORM 3CA/CB AY(22- 23)	

October 2022

Sun	Mon	Tue	Wed	Thu	Fri	Sat
						1
2	3	4	5	6	7 TDS PAYMENT, EQUALISATION LEVY	8
9	10 GSTR-7 GSTR-8	11 GSTR-1	12	13 GSTR-6 & GSTR 1(Q)	14	15 PF, ESIC, TCS QUARTERLY STATEMENT
16	17	18	19	20 GSTR-3B & GSTR 5 & GSTR 5A	21	22
23	24	25	26	27	28	29
30 LLP FORM 8, LAST DATE FOR AOC 4	31 TDS RETURN (JUL- SEP), QUARTERLY STATEMENT OF TDS ENDING SEPTEMBER 30, 2022					

November 2022

Sun	Mon	Tue	Wed	Thu	Fri	Sat
		1	2	3	4	5
6	7 TDS PAYMENT, EQUALISATION LEVY	8	9	10 GSTR-7 GSTR-8	11 GSTR-1	12
13 GSTR-6	14	15 PF, ESIC, TDS CERTIFICATE (OTHER THAN SALARY) FOR THE QUARTER ENDING SEPTEMBER 30, 2022	16	17	18	19
20 GSTR-3B & GSTR 5 & GSTR 5A	21	22	23	24	25	26
27	28	29 LAST DATE FOR FILING MGT 7	30 INCOME TAX RETURN FOR AY (22-23) - TRANSFER PRICING CASES			

December 2022

Sun	Mon	Tue	Wed	Thu	Fri	Sat
				1	2	3
4	5	6	7 TDS PAYMENT, EQUALISATION LEVY	8	9	10 GSTR-7 GSTR-8
11 GSTR-1	12	13 GSTR-6	14	15 PF, ESIC, ADVANCE TAX AY 23-24	16	17
18	19	20 GSTR-3B & GSTR 5 & GSTR 5A. Last date to claim ITC relating to FY 2021-22	21	22	23	24
25	26	27	28	29	30	31 GSTR 9 (ANNUAL) GSTR-9A (COMPOSITION)

January 2023

Sun	Mon	Tue	Wed	Thu	Fri	Sat
1	2	3	4	5	6	7 TDS PAYMENT, EQUALISATION LEVY
8	9	10 GSTR-7 GSTR-8	11 GSTR-1	12	13 GSTR-6 & GSTR 1(Q)	14
15 PF, ESIC, TCS QUARTERLY STATEMENT	16	17	18	19	20 GSTR-3B & GSTR 5 & GSTR 5A	21
22	23	24	25	26	27	28
29	30	31 TDS RETURN (OCT- DEC)				

Note to Reader & Glossary

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We have used the following sources while preparing this document

1. The Finance Bill, 2022
2. The Finance Minister's Budget speech, February 1, 2022
3. Various notifications issued by the Central Board of Indirect Taxes & Customs

Glossary

AAR	: Authority for Advance Rulings	ITR	: Income Tax Return
ADD	: Anti Dumping Duty	Lakhs	: Hundred thousands
AIDC	: Agriculture Infrastructure & Development Cess	LLP	: Limited Liability Partnership
AOP	: Association of Persons	LRS	: Liberalised Remittance Scheme
AY	: Assessment Year	LUT	: Letter of Undertaking
BCD	: Basic Customs Duty	MAT	: Minimum Alternate Tax
Budget 2021	: Union Budget for 2021 - 22	MGNREGS	: Mahatma Gandhi National Rural Employment Guarantee Scheme
Budget 2022	: Union Budget for 2022 - 23	NBFC	: Non Banking Financial Companies
CBDT	: Central Board of Direct Taxes	NFT	: Non-Fungible Token
Crores	: Ten millions	PAN	: Permanent Account Number
DTAA	: Double Taxation Avoidance Agreement	PF	: Provident Fund
ESIC	: Employee State Insurance Corporation	PT	: Profession Tax
FM	: Finance Minister	RIC	: Road & Infrastructure Cess
FY	: Financial Year	RBI	: Reserve Bank of India
GJA	: G. Joseph & Associates	RCM	: Reverse charge mechanism
GST	: Goods & Services Tax	SEBI	: Securities & Exchange Board of India
HUF	: Hindu Undivided Family	SEZ	: Special Economic Zone
IGST	: Integrated Goods & Services Tax	SGST	: State Goods & Services Tax
INR /Rs.	: Indian Rupee	TCS	: Tax Collected at Source
IT Act	: Income-tax Act, 1961	TDS	: Tax Deducted at Source
ITC	: Input Tax Credit	UPI	: Unified Payments Interface

GJA Learning.

