FINANCE BILL 2021 HIGHLIGHTS

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DIRECT TAX PROPOSALS

Tax Rates for FY 2021-22 (unchanged)

Individuals/HUF

- Optional tax regime to provide relief to ***Individuals/HUF*** at the following tax rate subject to the condition that certain exemptions/ losses/ deductions cannot be claimed.

Ind/ HUF	Existing Tax rate
Upto 2.5L	NIL
>2.5L-5.0L	5%
>5.0L-7.5L	10%
>7.5L-10.0L	15%
>10.0L-12.5L	20%
>12.5L-15L	25%
>15L	30%

- In case, the taxpayer intends to claim deductions /exemptions, the tax rates and slabs will be as under:

Individual/ HUF	Existing Tax rate
Upto 2.5L	NIL
>2.5L-5.0L	5%
>5.0L-10.0L	20%
>10.0L	30%

Firms

- Tax Rate for **firms** remains **unchanged** @ 30%

Domestic Companies

- Tax Rate for **Domestic Companies** remains **unchanged**

Turnover in FY 2018-19	Tax Rate in FY 2021-22
Turnover<400 Cr	**25%**
Turnover>400 Cr	**30%**

Other than Domestic Companies

- Tax rate remains **unchanged** @ 40%

Surcharge Rates for FY 2021-22

***Individuals and domestic companies** -*

Income (in INR)	Individual (unchanged)	Company (unchanged)
Upto 50L	NIL	NIL
>50 L - 1Cr	10%	NIL
>1Cr - 2Cr	15%	7%*
>2Cr - 5Cr	25%	7%*
>5Cr - 10Cr	37%	7%*
> 10Cr	37%	12%**

*2% in case of "other than domestic companies"
**5% in case of "other than domestic companies"

Firms

- Surcharge @ 12% of income tax if net income exceeds 1 Cr

The Health and Education Cess remains **unchanged** @ 4%

Maximum Marginal Rates

Companies

Particulars	Income > 10 Cr
Domestic Company:	
Turnover<400Cr (in FY 18-19)	29.12%
Turnover>400Cr (in FY 18-19)	34.94%
Foreign Company	43.68%

Firms

- Maximum rate @ 34.94% if income exceeds INR 1Cr.

Individuals

- Maximum rate @ 42.744% if income exceeds INR 10Cr.

Individual Taxation

- Exemption introduced for **resident senior citizens above 75 years of age** from tax return filing requirement, subject to certain conditions.

- Extension of additional deduction of INR 150,000 per annum for interest on loans for affordable residential house property (subject to the specified conditions) sanctioned up to 31 March 2022.

- Interest accrued on employees' contribution (in excess of INR 250,000) to a provident fund account is now taxable.

- **Cash allowance** given to employees between 1.10.2020 to 31.3.2021, in lieu of **Leave Travel Concession** shall be exempt, subject to fulfillment of the prescribed conditions.

- Income accrued to a resident individual from overseas retirement benefit account (where income from such account is not taxable on accrual basis but taxable at the time of withdrawal or redemption) opened by such individual while being a non-resident in India and resident in such overseas jurisdiction, shall be taxed in the manner and in the year as prescribed.

- Maturity proceeds from the unit-linked insurance policy (ULIP) issued on or after 1 February 2021, proposed to be taxable, if the aggregate annual premium exceeds INR 250,000 in any of the financial year during the term of any of those policies. Such taxable ULIPs to be considered as capital asset and subject to capital gains on redemption.(w.e.f. AY 2021-22)

CAPITAL GAINS

- New provisions introduced on partnership firms for taxing the capital gains arising on distribution of capital asset/money, in excess of the partner's capital balance. The capital gain will be equal to the FMV of asset reduced by balance of the capital account (w.e.f. 1 April, 2021).

- The scope of definition of slump sale expanded to include all types of 'transfer' (including exchange).

- No capital gain tax on transfer of capital assets by a primary co-operative bank to a banking company and on issuance of shares by the banking company to the shareholders of primary co- operative bank.

Resident senior citizen above 75 years of age exempt from filing tax returns

Corporate Taxation

Start-Ups

Tax deduction extended to eligible startups incorporated before April 1, 2022.

Time limit for investment of net consideration from transfer of house property in startups extended from 31 March 2021 to 31 March 2022.

Business Expenditure and Compliances

- **No deduction** is to be allowed to employer relating to **employees' contributions** to any provident fund or superannuation fund or any other relevant fund, **if employer does not credit/pay/deposit it into such funds before the due date** under respective Acts. Due date applicable to deductions on payment basis i.e. return filing due date will not apply to this transaction.

- It is clarified that **presumptive taxation** scheme for professionals applicable to the taxpayer, being an individual, HUF or partnership firm, but not to Limited Liability Partnership (LLP) as defined under the LLP Act,2008.

Safe Habour Limit

- The safe harbour limit for taxing a transfer of a residential unit in comparison with the value adopted for stamp duty purposes to be 20 per cent if:

  - The transfer of residential unit is in the period from 12 November 2020 to 30 June 2021.
  - The transfer is by way of first-time allotment of the residential unit to any person.
  - The consideration received or accruing as a result of such transfer does not exceed INR 2 Cr.

  Consequential relief is provided to the buyers of such residential unit.

Relaxation for SWFs and Pensions Funds

- Rationalization of provisions to remove difficulties in meeting conditions and claiming exemption for Soveriegn Wealth Funds(SWF) and Pension Funds (PF) on their income from investment in Indian Infrastructure, subject to further conditions

Depreciation on Goodwill

- Goodwill of a business or profession will not be considered as a depreciable asset and no depreciation to be allowed even in respect of purchased goodwill.

  - Block of assets shall not include Goodwill for purposes of depreciation.

- If Goodwill is forming part of the block of asset as on AY beginning on 1 April 2020 and depreciation has been claimed, WDV and short-term capital gain to be computed in a manner to be prescribed.
- Cost of acquisition for Goodwill acquired under certain modes of acquisition shall be the purchase price of the previous owner.

- If Goodwill is purchased, such purchase price would be the cost of acquisition. However, depreciation obtained prior to AY 2021- 22 shall be reduced from the purchase price of the Goodwill.
- These amendments are applicable from AY 2021-22.

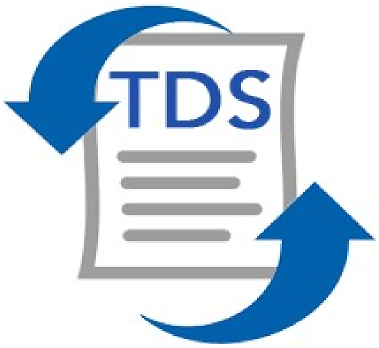
Zero Coupon Bond

- The definition of 'zero coupon bond' is proposed to be modified to include bonds issued by an infrastructure debt fund. Such bonds have to be notified.

Tax holiday for Real estate

- Tax holidays for real estate:
  - The deadline for the approval of affordable housing projects for tax holiday proposed to be extended to 31 March 2022.
  - Tax holiday proposed to be granted to rental housing projects, which have to be notified on or before 31 March 2022, and need to fulfil the notified conditions.

Goodwill will no longer be considered as a depreciable asset



TDS on purchase of goods (w.e.f from 1 July, 2021)

- A new TDS of 0.1 per cent (5% in the absence of PAN) is introduced on a persons (whose total sales, gross receipts or turnover from the business exceed INR10 crore rupees during the relevant year) responsible for paying any sum to any resident for purchase of goods of value exceeding INR50 lakh rupees in the previous year. This TDS is not applicable if a transaction is subject to other TDS or TCS [except TCS on sale of goods] provisions.

  Where a transaction is subject to both TDS and TCS, the provisions of TDS shall prevail.

No TDS on Dividend Paid by SPV to Business Trust (w.e.f 1.4.2020)

- Dividend payments made by special purpose vehicle to business trusts (REITs and InvITs) from specified SPVs exempted from TDS.

Tax deduction at source for payments made to non-filers of income tax returns (w.e.f. 1.7.2021)

- Special provision introduced for higher TDS/TCS for non-filers of income-tax return subject to certain exclusions. Higher of twice the applicable rate or five per cent to be levied.

- If both existing provisions and new provisions for higher TDS/TCS apply, then higher of the two will apply

- Applies where aggregate TDS/TCS exceeds INR 50,000 in two previous years

- These provisions not to apply to non-resident not having a PE in India

TDS introduced at the rate of 0.1 percent on purchase of goods exceeding INR 50 Lakhs

International Taxation

Equalisation levy

- Clarified that tax on Royalty/FTS and Equalisation levy (EL) are mutually exclusive **effective from 1 April 2020**. EL shall not apply if consideration is taxable as Royalty/FTS.

- Scope of online sale of goods/ online provision of services would include instances where one or more of the following activities are carried out online:
  - Acceptance of offer for sale; or
  - Placing or acceptance of purchase order; or
  - Payment of consideration; or
  - Supply of goods or provision of services, partly or wholly.

- 'Consideration' for the purpose of levy of EL clarified to include value of goods or services, regardless of ownership or facilitation by e-commerce operator.

- Incomes subject to EL from 1 April., 2020 will be exempt from income-tax.

Non-resident Taxation

- While deducting tax on income of FII from securities, in case of a payee to whom tax treaty is applicable and who has furnished the tax residency certificate, the tax is to be deducted at the rate of twenty per cent or at the tax treaty rate, whichever is lower.

Transfer Pricing

- The taxpayer may make an application to the AO for re-computation of book profits of earlier year/s, if there is an increase in the book-profits of a previous year as a result of an APA or a secondary adjustment.

- In case of a partnership firm which is required to furnish an accountant's report in Form 3CEB, the due-date for filing of return of income of its partners has been proposed to be extended to 30th November of the assessment year.

Miscellaneous

Tax Audit

- The turnover threshold for applicability of tax audit for persons carrying on business increased from INR5croretoINR10crore provided that the aggregate of the receipts in cash do not exceed 5 percent of all amounts received including for total sales, turnover or gross receipts and aggregate of payments in cash do not exceed 5 percent of all payments

ITR filing

- Belated and Revised returns to be filed 3 months before the end of the relevant assessment year or before the completion of the assessment, whichever is earlier.

Others

- Relaxation on interest for default in advance tax payments extended to dividend income. No relaxation in respect of tax on deemed dividend on payments made to shareholders under section 2(22)(e).

- The term 'liable to tax' has been defined to mean that there is a liability of tax on a person under any law in any country and includes cases where exemptions are granted subsequent to imposition of such tax.

Charitable Trust (W.e.f 1st April, 2022)

- Corpus donations received by registered charitable trusts were earlier exempt.

- Now, the corpus donations shall be exempt only if the trust invests such contributions in prescribed modes under section 11(5).

- Exempt application of income in earlier years will not be eligible to be set-off in calculating exempt income of current year

- Utilization of loans and borrowings will not be allowed as application for charitable or religious purpose, However, repayment of such loans will be considered as application in the year of such repayment.

IFSC related changes

- Conditions for no business connection to be further relaxed, if fund manager in IFSC

- Income of investment division of offshore banking unit in IFSC exempt (other than Indian equity).

- Income on transfer of non-deliverable forward contracts entered by non-resident with offshore banking unit to be exempt.

- Aircraft lease rentals income of non-resident from IFSC unit to be exempt. Income arising from transfer of aircraft/aircraft engine eligible for 100% tax deduction.

- Transfer of assets from offshore fund to resultant AIF fund in IFSC not to be treated as a transfer. Further Units exchange by a share / unit holder not a transfer.

- Capital gains on transfer of shares of an Indian Company acquired / relocated from offshore fund to be exempt if capital gains on such shares were not chargeable to tax had that relocation not taken places. Capital gains on transfer of shares of an Indian Company acquired / relocated from offshore fund to be exempt if capital gains on such shares were not chargeable to tax had that relocation not taken places.

ASSESSMENT PROCEDURES

- New regime introduced for re-assessment for cases of income escaping assessment including search cases, to reduce litigation and provide ease of doing business.

- Time-limit for re-opening of assessment reduced from 4/6 years to 3 years from end of relevant assessment year (reopening with prior approval of PCIT).

- Only in specific cases where income escaping assessment (represented in the form of an asset) exceeds / likely to exceed INR 50 lakh or more, time-limit of 3 years stands enhanced to 10 years (reopening with prior approval of PCCIT).

- Assessment / re-assessment / income re-computation for Search under Section 132 / requisition under Section 132A conducted on or after 1 April 2021 to be included under the new procedure.

- New provisions are introduced to conduct enquiries by AO and provide an opportunity of being heard to the assessee before issuing reopening notice. No opportunity to be given in search cases.

- Time limit for completion of assessment proceedings in case of TP reference for AY 2021-22 and onwards, reduced from the earlier 24 months to 21 months from the end of the assessment year. Consequently, the time-limit for completion of TP assessment proceedings also stands reduced from erstwhile 22 months to 19 months. Adjustments on account of increase in income indicated in tax audit report but not taken in the return of income permitted while processing of return of income.

Turnover threshold for tax audit increased to 10Cr, subject to conditions

- Due date changed for following-:
  - ➢ Issuance of intimation pursuant to processing of return of income reduced to 9 months from end of financial year in which return was furnished.
  - ➢ Issuance of scrutiny notice revised to 3 months from end of the financial year in which return was furnished.

- Powers granted to Assessing Officer for provisional attachment of taxpayer's property during pendency of penalty proceedings for fake entries/invoices if penalty likely to exceed INR 2 crore.

- Power granted to income-tax authority (to be prescribed) for issuance of notice requiring filing of return of income to align with policy of moving towards facelessregime.

- Power given to Board to specify class of assesses where conditions of treating a return as defective may be relaxed.

<u>LITIGATION AND DISPUTE MANAGEMENT</u>

- The Authority for Advance Rulings (AAR) to be discontinued and the Central Government to constitute one or more Board for Advance Rulings. Board of Advance Ruling will be comprised of two members, each being an officer not below the rank of Chief Commissioner. Ruling of the Board for Advance Rulings will not be binding on the Department or the taxpayer and it would be appealable before the High Court. Consequential amendments are made in other AAR related provisions.

- Faceless ITAT scheme to be introduced on the same lines as the faceless appeal scheme.

- Income Tax Settlement Commission to be discontinued and an Interim Board to be constituted for pending cases.
- Vivaad se Vishwas (VsV) scheme not available for cases decided by Income Tax SettlementCommission.

- Dispute Resolution Committee to be constituted for preventing new disputes and settling issues at the initial stage in the case of certain SMEs.

Time limit for re-opening assessment reduced to 3 years

INDIRECT TAX PROPOSALS

- Scope of term 'supply' enhanced to include transactions involving supply of goods or services by any person (other than individual) to its members or constituents and vice-versa for cash, deferred payment or other valuable consideration. Further, the person and its members shall be deemed to be separate entities and transactions between them shall be deemed to take place from one person to another.

- Input tax credit shall be available to the recipient once the tax invoice or debit note has been reported and reflected on the GSTN portal by the supplier.

- Requirement for furnishing of GST audited annual accounts and reconciliation statement has been removed.

- Every registered person shall furnish an annual return which may include a self-certified reconciliation statement, reconciling the value of supplies declared in the return furnished for the financial year with the audited annual financial statement for every financial year as may be prescribed.

- It is proposed to give powers to the Commissioner to exempt a class of registered person from filing annual return, by notification. Further, the provisions of annual return shall not be applicable to any department of Central Government, State Government or local authority, whose books of account are subject to audit by the Comptroller and Auditor General of India or an auditor appointed for auditing the accounts of local authorities under any law for the time being in force.

- CGST Act amended to make seizure and confiscation of goods and conveyances in transit, a separate proceeding from the recovery of tax and the same to be adjudicated independently

- The amendment in Section 50 of CGST Act, which provided for payment of interest only on tax liability paid in cash has been made applicable retrospectively w.e.f. 1 July 2017.

- IGST Act has been amended to provide that supply of goods or services to SEZ developer/ unit would be considered as zero-rated supply, only where the same is used for authorised operations of SEZ.

- In case of non-realisation of sale proceeds within nine months from the date of export, the registered person shall be liable to deposit the refund so received along with interest @ 18 per cent within 30 days after the expiry of 9 months.

- The Government may restrict, zero-rated supply on payment of IGST to a notified class of exporter/ notified supplies of goods and services.

- Explanation has been inserted in Section 75(12) of CGST Act which has clarified that 'self-assessed tax' would include the tax payable on outward supplies furnished under Section 37 but not included in Section 39.

- In the interest of revenue, the Commissioner may, in the manner as may be prescribed, after the initiation of proceedings, attach provisionally, any property/ bank account belonging to the taxable person, pertaining to assessments, inspection, search, seizure, arrest, demand and recovery.

- No appeal shall be filed against an order in regard to detention or seizure of goods or conveyances, unless a sum equal to 25 per cent of penalty has been paid by the Appellant.

- The penalty for taxable goods increased to 200% of the tax payable on the goods detained, where the owner comes forward for the payment of the said penalty. In other case, higher of the penalty equivalent to 50% of the value of goods or 200% of taxes, would be applicable. Further, tax officer is required to issue the order within 15 days from such detention. The transporter has been given an option to get his conveyance released on the payment of penalty so computed or INR 1 Lakh, whichever is less.

- Proceedings relating to confiscation of goods or conveyances and levy of penalties have been delinked from such proceedings relating to detention, seizure and release of goods and conveyances in transit.

- Commissioner or any other officer authorized by him is empowered to collect any information from any person in any matter by issuance of an order.

- An opportunity of being heard to be provided to the concerned person with respect to information sought under Section 150 (Obligation to furnish information return) and Section151 (Power to collect statistics).

Mandatory requirement of annual GST audit removed and replaced with submission of self-certified reconciliation statement

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