FINANCE BILL 2022 HIGHLIGHTS

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Gopal Mittal & Associates
Chartered Accountants

Office: B-122, C-123, 12th Floor, Himalaya House, 23 K G Marg, New Delhi- 110 001| 011-49250600, 49250601
info@ca-gma.com| www.ca-gma.com

DIRECT TAX PROPOSALS

Tax Rates for FY 2022-23

Individuals/HUF (unchanged)

- 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 2019-20	Tax Rate in FY 2022-23
Turnover<400 Cr	25%
Turnover>400 Cr	30%

Other than Domestic Companies

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

Surcharge Rates for FY 2022-23

Individuals, domestic companies and cooperative societies -

Income (in INR)	Individual (unchanged)	Company / Societies
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

Association of Persons

- Surcharge @ 10% of income tax if net income exceeds 50 L and 15% is income exceeds 1 Cr

Note: The surcharge rate cannot exceed 15% in respect of long-term capital gain arising from the transfer of any capital asset. Earlier, this benefit was only available to long term capital gains from listed shares.

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

Individual Taxation

Exemption for COVID related payments

On treatment

- Amount received from the employer or any other person for treatment of Covid-19 would be exempt from tax.

In case of death

- Any financial assistance received by a family member from the deceased person's employer after his/her death shall be exempt

- Any financial assistance received by family member from any other person (other than employer) – including Government shall be exempt upto Rs.10 Lakh

NPS deduction to state employees

- The threshold limit for deduction in respect of employer's contribution to NPS is increased to 14%% of salary in the case of State government employees (now at par with Central Government employees).

Relaxation on 80DD deduction

- Now, deduction would be allowed for an insurance scheme which provides payment of annuity or lump sum amount to differently abled dependent during lifetime of parents/ guardians i.e, upon parents/guardians attaining 60 years of age.

Specific exemptions for COVID related payments

Corporate Taxation

Start-Ups

- Tax deduction of 100% of profits (for 3 consecutive years out of first 10 years of incorporation) extended to eligible startups incorporated before April 1, 2023.

Dividends from foreign companies

- Currently, the dividend income **received by an Indian company from a foreign company** in which the said Indian company holds more than 26% or more in nominal value of equity shares is taxed at a concessional rate of 15%.

  The said concessional rate shall not apply from April 1, 2022 onwards.

New Domestic Manufacturing Company

- The last date of commencement of manufacturing or production by new domestic companies for availing 15% tax rate has been extended to 31st March 2024.

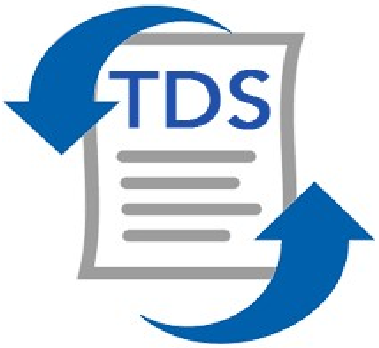
Carry forward losses of erstwhile PSU's

- In case of strategic disinvestment, if the ultimate holding company continues to hold 51% or more of total voting power (directly or indirectly) in the PSU, then the tax benefit of carry forward losses of the erstwhile PSU would not be lost.

Exemptions incentivizing IFSC operation

- Additional incentives in form of exemptions have been proposed to encourage IFSC operations such as
  - specified royalty/ interest incomes,
  - income of NR from securities/fund maintained with offshore banking unit in IFSC,
  - premium on issue of shares to fund set up in IFSC in excess of FMV issued,
  - income from transfer of offshore derivative instruments or over the counter derivatives entered into with offshore banking units set up in IFSC
  - gains from transfer of ship leased by a unit in IFSC

Extension of timelines for startups and new manufacturing companies



Tax Deduction at Source

TDS on benefits or perquisites (w.e.f from 1 April, 2022)

- A new TDS of 10 per cent is introduced on persons responsible for providing any resident any perquisite or incentive arising from carrying out any business or profession. However, no tax is deducted if the value of benefit or perquisite does not exceed Rs.20,000 during the year (section 194R).

TDS on purchase of immovable property (w.e.f. 1 April, 2022)

- TDS on purchase of immovable property shall be deducted at the rate of 1% of the stamp duty value or sum paid/credited to the seller – whichever is higher.

- Earlier, stamp duty value was not considered for TDS provision.

TDS at higher rate on non-filers of income tax return

- Currently, TDS is deducted at higher rates on payments to specified person who have not filed return of income for 2 years immediately preceding the relevant year in which tax is required to be deducted
- It is proposed to reduce 2 years' requirement to 1 year.
- However, the requirement to deduct tax at higher rate will not apply on specified persons (individuals/ HUFs deducting TDS under simplified tax deduction system - without TAN requirement)

Penalty on delayed filing of TDS/TCS returns

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

Interest on failure to deduct/ deposit TDS

- Where an order is passed by the AO for a default in collection/ deduction or in payment of TDS/TCS, the interest on such default is to be paid in accordance with the AO's order

TDS introduced on benefit / perquisite given to resident in course of business or profession

International Taxation

Transfer Pricing

- The procedure for faceless scheme for transfer pricing assessments and dispute resolution panel was to be notified by March 31st, 2022. Now, the deadline has been extended to March 31st, 2024.

- The revision of orders under section 263 has been expanded to cover TP order specifically fresh TP order, pursuant to the setting aside or cancelling of the assessment by the ITAT or by the revision under section 263, shall be issued within nine months from the end of the financial year in which the ITAT order is received or revision order under section 263 is passed

- The AO shall give effect to the fresh TP order within two months from the end of the month in which such fresh TP order is received

- The amendments are proposed to be effective from FY21–22

Faceless assessment scheme for TP assessments to be notified by 31st March, 2024

Miscellaneous

Tax on Digital Assets

- Definition of "Virtual Digital Assets" introduced, to include any information or code or number or token (not being Indian or foreign currency), generated by cryptographic means and Non-fungible tokens (NFTs) or tokens of similar nature

- Any income on transfer of digital assets subject to tax @ 30%

- No deduction of expenses/allowance against such income allowed except cost of acquisition

- No carry forward of losses allowed on transfer of such assets.

- TDS introduced for payment to resident for transfer of digital asset @ 1%

- Digital asset transferred without consideration/ with inadequate consideration in the hands of recipient, subject to a threshold of Rs.50,000.

Clarificatory amendments

- Health and Education cess cannot be allowed as business expenditure.

- Expenditure incurred to earn exempt income shall be disallowed, even when no exempt income has accrued during the relevant year

- Conversion of interest payable on an existing liability into debenture or any other instrument by which liability to pay is deferred, will not be considered as interest paid, and disallowed as deduction

- Expenses incurred for any purpose which is prohibited by Indian/foreign laws or for compounding of offences in India /abroad will not be allowable.

- Reduction of goodwill from block of assets to be treated as transfer for purpose of capital gains

- Definition of 'slump sale' amended to substitute the word 'sales' with 'transfer

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

- Any sum will be considered as application towards object of the trust only if such amount is actually paid, irrespective of the year in which it is recognized as expense as per method of accounting regularly adopted.

- The taxable income of the following trusts shall be computed after allowing for a deduction for the expenditure incurred in India, for the objects of the trust
  - Trusts having commercial receipts over 20% of total receipts
  - Trusts not getting their accounts audited
  - Trusts not filing their return of income

- Following income of the trust shall be chargeable to tax at 30%
  - Income accumulated or set apart in excess of 15%
  - Deemed income under section 11(3) and 11(1B)
  - Investments made in an unspecified manner
  - Benefit extended to specified person
  - Income applied outside India

- Maintenance of books of accounts made compulsory for charitable trusts/institutions having income exceeding the minimum threshold which is not chargeable to tax.

- Income which is set apart for specified purpose shall be deemed to be income if it is not so utilized

- Where the trust or institution hold any property including a temple/mosque/gurudwara/ church or such other notified place – an amount received for repair of such property may be optionally considered as corpus donation

- It has been proposed to introduce penalty for extending benefit to specified persons by the charitable trust/institutions – equal to the amount of benefit on the first time such offence and twice such amount on offence in any subsequent year

Penalty provisions

- It is proposed to increase the penalty for failure to answer questions, sign statements, furnish information, returns or statements, allow inspection etc. to Rs.500 per day (from Rs.100 per day)

- Power to levy penalty in cases related to undisclosed income, unexplained credits, falsification or deliberate omission in books has been extended to Commissioner (Appeals) as well.

Application of sum towards objects of trust to be considered on payment basis

Updated Returns

- Updated returns introduced to provide opportunity to correct omissions/mistakes while estimating income.
- It can be filed within 2 years from the end of relevant assessment years
- Updated returns cannot be filed if it has the effect of decreasing tax liability/increasing refund/increasing losses in original/belated/revised return
- Additional tax of 25%/50% shall be on increased income (apart from normal tax and interest) if filed within end of 1st year/2nd year from end of relevant assessment year

Faceless Assessment

- Faceless Assessment scheme has been amended to allow for mandatory personal hearing if it is requested by the taxpayer (to be allowed through video conferencing or video telephony)
- Faceless assessment scheme is proposed to be revamped, in view of the issues being faced in its implementation and administration. Key changes are proposed to the faceless assessment scheme such as:
  - Regional faceless assessment center to be removed
  - Re-assessment included in the scope of faceless assessment
  - Changes in function of technical units and specialized review units

Re-assessment Procedures

- Time-limit for re-opening of assessment and issuance of notice 3 years from end of relevant assessment year.
- Amendment has been proposed to allow issuance of notice under section 148 within 3 to 10 years from the end of relevant assessment year where AO has in his possession books of accounts/other evidence which reveal that escaped income chargeable to tax (amounting to Rs.50 Lakh or more), represented:
  - in the form of an asset or
  - expenditure in respect of a transaction or in relation to an event or occasion or
  - an entry or entries in books of accounts

- Scope of information suggesting that income has escaped assessment has been further widened to include the following:
  - any audit objection, or
  - any information received from a foreign
  - jurisdiction under an agreement
  - Information collected under faceless scheme notified for specified provisions
  - information that requires action in consequence of an order of a tribunal or court

- The approval before issuance of re-assessment notice under section 148 shall not be required if the Assessing Officer has passed order under section 148A(d) with prior approval.

Litigation and Dispute Management

- Effective 1 April 2022, the litigation management measures are introduced to reduce litigation/appeal on identical question of law

- Applicable when an appeal by the revenue is pending on any identical question of law in case of the same taxpayer or another taxpayer before the jurisdictional High Court or the Supreme Court or in a special leave petition.
- Collegium of two or more CCIT or PCIT or CIT to decide if filing an appeal needs to be deferred.

- Tax authorities to file an application with the relevant appellate authority for deferral of appeal filing until the identical question of law becomes final in the other case.

- Acceptance of taxpayer that question of law pending is identical is a prerequisite.

Bonus stripping provisions widened

- The anti-avoidance provisions of bonus stripping are proposed to be made applicable to securities and units of business trusts such as Infrastructure Investment Trust (InvIT), Real Estate Investment Trust (REIT) and Alternative Investment Funds (AIFs).

- The losses shall be now disallowed in the hands of unit holders of InvIT, REIT or AIFs on account of such arrangements

Litigation management measures introduced to reduce litigation/appeals

INDIRECT TAX PROPOSALS

- Time limit has been relaxed till November 30th of subsequent year in the following cases:
  - Claim of input tax credit (ITC)
  - Issuance of credit note
  - Rectification of errors in statement of refund
  - Supply and returns
  - Rectification of TCS return

- Input tax credit shall be available only to the extent of eligible credit reflected in GSTR 2B

- For refund filing purposes, relevant date relating to supplies made to SEZ unit/developer to be computed from the due date of furnishing Form GSTR 3B.

- Due date of filing GSTR 3B for non-resident taxable person proposed to be changed from 20th to 13th of subsequent month.
- GSTR 3B cannot be filed unless GSTR 1 is filed, subject to exceptions notified by CG.

- Amendment has been proposed to enable GST officer to cancel registration in case taxpayer has not filed GSTR returns for more than prescribed period.

- Late fee for delayed filing TCS return has been introduced.

- Manner and condition for communication of details of inward supplies and ITC in auto generated statement has been prescribed.

- Self-assessed ITC availed in return to be reversed, along with interest where tax is not paid by the supplier; re-availment permissible in cases where a supplier is paying tax.

- 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 authorized operations of SEZ.

- Balance in cash ledger of CGST can be transferred to other ledgers within same GSTIN or to CGST/IGST cash ledger of a distinct person

All the indirect tax provisions will be applicable once they are notified

GOPAL MITTAL & ASSOCIATES

CHARTERED ACCOUTANTS

B-122, C-123, 12th Floor, Himalaya House, 23 K G Marg, New Delhi- 110001|

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