

## BUDGET 2023, HIGHLIGHTS & ANALYSIS

On 1<sup>st</sup> February, 2023, the Union Minister for Finance & Corporate Affairs, Smt. Nirmala Sitharaman, has presented the Union Budget 2023 before the Parliament. In Finance Bill, 2023 which have been tabled in the Parliament proposed 150+ amendments to the Income-Tax Act and other related Acts.

As said by our FM 'Good governance is the key to nation's progress'. This bill aims to maintain continuity and stability of taxation, further simplify and rationalize various provisions to reduce the compliance burden, promote the entrepreneurial spirit and provide tax relief to citizens.

### KEY HIGHLIGHTS OF THE BUDGET 2023 ARE SUMMARISED BELOW:

#### DIRECT TAXATION:

- **New Tax Regime**

The government has proposed that the new tax regime of section 115BAC will be a default regime. However, citizens will continue to have the option to avail the benefit of the old tax regime wherein there are no changes proposed in slab rates under old regime. Section 115BAC shall apply to individual, HUF, AOP (Other than a co-operative society), Body of Individuals (BOI) and Artificial Juridical Person.

#### New Tax regime slabs up to FY-2022-23 (AY-2023-24)

Total Income (in Rs)	Rate (in %)
Up to Rs.2,50,000	NIL
Rs.2,50,001 to Rs.5,00,000	5
Rs.5,00,001 to Rs.7,50,000	10
Rs.7,50,001 to Rs.10,00,000	15
Rs.10,00,001 to Rs.12,50,000	20
Rs.12,50,001 to Rs.15,00,000	25
Above 15,00,000	30

#### Change in new tax regime slabs from FY-2023-24 (AY-2024-25)

Total Income (in Rs)	Rate (in %)
Upto 3,00,000	NIL
3,00,001 to 6,00,000	5
6,00,001 to 9,00,000	10
9,00,001 to 12,00,000	15
12,00,001 to 15,00,000	20
Above 15,00,000	30

However, there are no changes proposed in slab rates under old regime.

- **Increase in Exemption Limit in New Tax Regime**

The government has proposed to increase the exemption limit for individual taxpayers from the current Rs 2.5 lakhs to Rs 3 lakhs. This would help reduce the tax burden on individuals with lower incomes and encourage savings

- **Increase in standard deductions :**

The standard deduction for salaried individuals of Rs 52,500 (including Rs. 2,500 on account of professional tax, if paid) and deduction from family pension up to Rs 15,000 which was so far available only under old tax regime has been extended to new tax regime for salaried individual and pensioners.

- **Hike in tax exemption on leave encashment**

The government proposed to hike tax exemption on leave encashment on retirement of non-government salaried employees to ₹25 lakh from ₹3 lakh. The exemption limit was set in 2002 and has not undergone any revision since then the proposed revision will help the employees in getting more dispensable income in their hand

- **Increase in Rebate u/s 87A**

Tax rebate has been increased for individual taxpayers from income below Rs. 5 Lakhs to income below Rs 7 lakhs. Therefore, you do not have to pay tax if your taxable income is below 7 lakhs under the **new tax regime only**.

- **Decrease in highest surcharge rate**

In new tax regime, the highest rate of surcharge of 37% on income above Rs. 5 crores is reduced to 25%. This would result in reduction of maximum tax rate from 42.744% to 39%. This will reduce the tax burden on high net worth individuals.

- **Amendments relating to income from business and profession**

- U/s 28(iv) the value of any benefit or perquisite arising for, business or the exercise of profession whether convertible into money or in cash or in kind or partly in cash or partly in kind shall now be taxable with effect from 1<sup>st</sup> April 2024.
- Amount paid to purchase sugarcane by the sugar manufacturing co-operative societies at a price equal to or less than the price fixed by the Government shall be allowed as a deduction under Section 36(1)(xvii)
- A new category of NBFCs is notified for the purpose of Sections 43B and 43D.
- Deduction for sum payable to MSMEs shall be allowed only on a payment basis under Section 43B.
- Threshold limit for presumptive taxation scheme for MSME entities has been increased from Rs 2 crore to Rs 3 crore u/s 44AD and for specified professional u/s 44ADA the presumptive taxation limit has been enhanced from Rs 50 Lakhs to Rs 75 Lakhs. The increased threshold limit shall apply where at least 95% of receipts and payments be made through non-cash methods.
- Restrictions imposed on setting off of unabsorbed depreciation and brought forward loss by assesses opting for presumptive tax schemes under Sections 44BB and 44BBB.
- The process for claiming amortization of preliminary expenses is being streamlined by amending Section 35D. The requirement that the work to be carried out by a concern approved by the CBDT has been removed. The assessee will now only need to submit a statement with details of the expenditure to the prescribed income-tax authority.

- **Amendments relating to income from Capital Gains**

- **Exemptions (Sections 54 and 54F):** The capital gain tax exemption u/s 54 and 54F is restricted to Rs.10 crores. Earlier, there was no threshold limit. These amendments will take effect from 1<sup>st</sup> day of April 2024.
- **Tax on transfer of Market Linked Debentures (Section 50AA):** It has been noticed that a variety of hybrid securities that combine features of plain vanilla debt securities and exchange traded derivatives are being issued through private placements and listed on stock exchanges. It is seen that such securities differ from plain vanilla debt securities.

Market Linked debentures are listed securities. They are currently being taxed as long term capital gain at the rate of 10% without indexation. However these securities are in the nature of derivatives which are normally taxed at applicable rates. Further they give variable interest as they are linked with the performance of the market.

In order to tax the capital gains arising from the transfer or redemption or maturity of these securities as short-term capital gains at the applicable rates, it is proposed to insert a new section 50AA in the Act to treat the full value of the consideration received or accruing as a result of the transfer or redemption or maturity of the “Market Linked Debentures” as reduced by the cost of acquisition of the debenture and the expenditure incurred wholly or exclusively in connection with transfer or redemption of such debenture, as capital gains arising from the transfer of a short term capital asset.

Further, it is also proposed to define the ‘Market linked Debenture’ as a security by whatever name called, which has an underlying principal component in the form of a debt security and where the returns are linked to market returns on other underlying securities or indices and include any securities classified or regulated as a Market Linked Debenture by Securities and Exchange Board of India. This amendment will take effect from first day of April 2014 and shall accordingly apply in relation to the assessment year 2024-25 and subsequent assessment years.

➤ **Calculation of Cost of Acquisition/Improvement (Section 48):** While calculating capital gain on house property, cost of acquisition of the asset or the cost of improvement shall not include the deductions claimed on the amount of interest on house property under Section 24(b) or under the provisions of chapter VIA of the Act

- **Taxability under other sources.**

U/s 56(xiii) receipts from life insurance policies, including the amount allocated by way of bonus under a life insurance policy (other than amount received under unit linked insurance policy) issued on or after 01-04-2023 shall be taxed as income from other sources, if the premium paid is above Rs. 5,00,000 in a year. Exemption shall continue in the case of receipt on the death of the insured person. Further this section will not affect insurance policies issue till 31<sup>st</sup> March 2023.

- **Tax on winning from online games**

Winning from any online game shall be taxable at a rate of 30% (plus applicable surcharge and cess) under a new Section 115BBJ.

- **Tax benefit for Start-ups:**

It has been proposed to extend the date of incorporation for availing income tax benefits to start ups from 31<sup>st</sup> March 2023 to 31<sup>st</sup> March 2024. Eligible start-ups can set off and carry forward the losses incurred during the 7 years of incorporation even in case of a change in shareholding, provided 100% of shareholders continue during the relevant period. The time limit of 7 years is increased to 10 years. This will encourage entrepreneurship and innovation in the country and will help to create job opportunities.

- **Provisions related to Assessments and Appeals**

- An appeal can be filed against penalty orders imposed by the Commissioner (Appeals) under Sections 271AAB, 271AAC, and 271AAD and revision orders passed by the Principal Chief Commissioner or Chief Commissioner under Section 263. The amendment also enables the filing the memorandum of cross-objections in all cases appealable to the Appellate Tribunal.
- The amendment is proposed to Section 132 to allow the authorized officer to seek assistance from approved professionals, such as digital forensic experts and registered valuers, during the search and seizure process.
- The completion of assessment in search cases will be linked to the execution of the last authorization during the search.
- A new appellate authority of the Joint Commissioner (Appeal) is introduced for select categories of assessees, such as individuals and HUFs, to expedite resolution in appeal proceedings
- The time available with the “Interim Board for Settlement” for disposal of pending rectification applications is extended to provide sufficient opportunity.
- An enabling provision is proposed to direct a cost audit for the valuation of inventory before an assessing officer does an assessment.
- The time available for completion of the assessment is increased from 9 months to 12 months with effect from Assessment Year 2022-23.
- If an assessment or reassessment is pending in search cases, the deadline for completion of the assessment or reassessment shall be extended by 12 months for the Assessee for whom the search was initiated or the requisition was made and the Assessee to whom any

seized or requisitioned money, bullion, jewellery, or other valuable items belong or to whom any seized or requisitioned books of account or documents pertain or contain relevant information

- **Provisions related to trusts**

- Application by a charitable or religious trust before 01-04-2021 out of corpus, loans or borrowings shall not be allowed when such amount is deposited back or invested in the corpus, or the loan or borrowing is repaid.
- Repayment of loan or investment/depositing back into corpus shall be considered an application for charitable or religious purposes only within 5 years of application from the corpus or loan.
- The donations by a trust or institution to another trust or institution shall be treated as the application of up to 85% of such donations.
- Three name-based funds (Jawaharlal Nehru Memorial Fund, Indira Gandhi Memorial Trust, and Rajiv Gandhi Foundation) have been removed from the list of eligible funds for a deduction under Section 80G.
- The trusts and institutions that have commenced the activities shall make the application directly for regular registration instead of provisional registration.
- The submission of an application for registration containing false or incorrect information, or if it is incomplete, shall be considered a specified violation and result in the cancellation of the registration of trusts or institutions by PCIT/CIT.
- The provisions of accreted tax under Section 115TD are extended to trusts or institutions if they fail to apply for re-registration.
- To claim accumulation of income, the trusts or institutions shall file Form 9A and Form 10 at least 2 months before the due date of filing of return of income.
- The trusts or institutions cannot claim the benefit of exemption provisions by filing an updated return of income.

- **Tax on income of certain new manufacturing co-operative societies**

Manufacturing co-operative societies established on or after 01-04-2023 and beginning production on or before 31-03-2024 may pay tax at a reduced rate of 15% (plus 10% surcharge and cess) under the new tax regime of Section 115BAE, provided specified incentives or deductions are not claimed.

- **Tax Benefit to Agniveers**

Individuals enrolled in the Agnipath Scheme and subscribing to the Agniveer Corpus Fund shall get a deduction of the Government contribution to their Seva Nidhi under the new tax regime. Sum received from the Agniveer Corpus Fund by a person enrolled under the Agnipath Scheme 2022 shall be exempt from tax under Section 10(12C). Deductions for contributions made to the Agniveer Corpus Fund shall be allowed under Section 80CCH in both existing and new tax regimes. Contribution by the Central Government to the Agniveer Corpus Fund account of an individual enrolled in the Agnipath Scheme shall be considered as a salary under Section 17

- **Provision related to TDS**

- **U/s 194BA:** No benefit of the threshold for deduction of tax on net winnings from online gaming will be allowed. The tax shall be deducted on withdrawal or on the balance in the account at the year-end.
- **U/s 194N:** The threshold limit for TDS is increased from Rs. 1 crore to Rs. 3 crore where the recipient is a co-operative society.
- **U/s 206AB and 206CCA:** These sections requires higher TDS/TCS for those specified persons who have not filed their income tax returns and have a TDS/TCS aggregate of at least 50,000 in the previous year. An amendment is proposed to exclude persons who are not required to file a return of income and are notified by the Government from being considered as specified persons.
- **U/s 206C:** The rate of TCS on overseas tour packages and select other cases increased from 5% to 20%, without any threshold benefit
- **TDS on EPF Withdrawal:** TDS rate to be reduced from 30% (maximum marginal rate) to 20% on taxable portion of EPF withdrawal.
- **U/s 196A:** The TDS shall be deducted at a rate lower of 20% or the rate provided in a tax treaty for certain income in respect of units of mutual funds under clause 10(23D) paid to non-residents or foreign companies. The relief will be provided if the payee furnishes a tax residency certificate.
- **TDS Mismatch U/s 155(20):** A new provision is introduced to resolve the TDS mismatch and allow the Assessee to claim TDS credit in the relevant assessment year. This can be done by applying to the Assessing Officer within two years of TDS.

- **Penalty for cash loan/transactions against primary co-operatives:**

It is amended under section 269SS of the Act to provide that where a deposit is accepted by a primary agricultural credit society or a primary co-operative agricultural and rural

development bank from its member or a loan is taken from a primary agricultural credit society or a primary co-operative agricultural and rural development bank by its member in cash, no penal consequence would arise, if the amount of such loan or deposit in cash is less than Rs.2 lakh.

Further, section 269T of the Act is amended to provide that where a deposit is repaid by a primary agricultural credit society or a primary co-operative agricultural and rural development bank to its member or such loan is repaid to a primary agricultural credit society or a primary co-operative agricultural and rural development bank by its member in cash, no penal consequence shall arise, if the amount of such loan or deposit in cash is less than Rs.2 lakh

- **Penalties**

- Penalty under Section 271C and prosecution under Section 276B to be launched for failing to deduct tax under Section 194R or Section 194S on the benefits passed in kind.
- U/s 271FAA: Penalty of Rs. 5,000 is to be levied on financial institutions furnishing SFTs for each inaccuracy due to false information submitted by account holders. The institution may recover the penalty from the account holder

- **Miscellaneous**

- The Permanent Account Number (PAN) will be used as a common identifier for all digital systems of specified government agencies. The KYC process will be simplified and a one-stop update of identity will be established through Digilocker service and Aadhaar. A system of 'Unified Filing Process' will be set-up to streamline the current process of duplication for multiple departments for ease of business.
- Tax exemption under Section 10(46A) shall be allowed to the non-corporate entities (such as a body, authority, board, trust, or commission) established by a Central or State Act to provide housing, plan urban development, and regulate activities for public benefit
- Distributions by the business trust to its unit holders, shown as debt repayment, are made taxable in the hands of unit holders
- Income tax refund can be adjusted against any sum payable under the Income-tax only after giving an intimation in writing. Further, in case of assessment/reassessment, reasons in writing are needed to withhold the refund. However, additional interest on such refund is not payable from the date refund is withheld till the date of assessment is made.
- On filing an updated return, the interest will be computed on the difference between the assessed tax and the advance tax claimed in the earlier return

- Amendment is proposed to Section 92D to reduce the time frame for submitting information or documents related to international or specified domestic transactions in tax proceedings from 30 days to 10 days, with an option to extend by another 30 days.

## ✚ **INDIRECT TAXATION:**

The indirect tax proposals made in Budget 2023 promote exports, encourage domestic manufacturing, enhance domestic value addition, and boost green energy and mobility:-

### ❖ **Proposed amendments related to GST:**

#### **AMENDMENTS IN THE CGST ACT, 2017.**

- **Changes in Composition Scheme:** Section 10 of the CGST Act, **2017** is amended so as to remove the restriction imposed on registered persons engaged in supplying goods through electronic commerce operators from opting to pay tax under the Composition Levy.
- **Input Tax Credit:** Section 16 is amended for a condition that in cases where a recipient taxpayer fails to pay to their supplier invoice value including the GST within 180 days from the date of issue of invoice, then they must pay with interest computed under Section 50 on it.
- **Value of exempt supply for purposes of apportionment of credits shall include sale of warehoused goods to any person before clearance for home consumption:** Explanation to section 17(3) of the CGST Act is being amended so as to restrict availment of input tax credit in respect of certain transactions specified in para 8(a) of Schedule III of the said Act viz sale of warehoused goods to any person before clearance for home consumption, by including the value of such transactions in the value of exempt supply. It may be noted that earlier only value of activities or transactions specified in para 5 of Schedule III viz sale of land and incomplete building were included in value of exempt supply.
- **Filing of Belated Returns:** Sections 37, 39, 44, and 52 are amended to restrict taxpayers from filing GSTR-1 (return for outward supplies), GSTR-3B (summary returns), GSTR-9 (annual returns), and GSTR-8 (e-commerce operator) for a tax period after the expiry of three years from the due date.
- **Penalties:** Penalty of Rs.10,000 or an amount equivalent to the amount of tax involved,

whichever is higher will be charged for e-commerce operators who-

- Allow an unregistered person to supply goods or services or both through them except where such person is exempted from GST registration.
  - Allow any registered person from making inter-state supply of goods/services through them where they are ineligible for it.
  - Do not furnish accurate details in the GSTR-8 of any sale of goods made through them by person exempted from obtaining GST registration.
- 
- **Refund Of Tax:** Section 54 of the CGST Act, 2017 is being amended so as to remove the reference to the provisionally accepted input tax credit to align the same with the present scheme of availment of self- assessed input tax credit.
  - **Interest On Delayed Refund:** Section 56 of the CGST Act, 2017 is being amended so as to provide for an enabling provision to prescribe manner of computation of period of delay for calculation of interest on delayed refunds.
  - **New Section for Penalty on Electronic Commerce Operators:** Section 122 of the CGST Act is being inserted so as to provide for penal provisions applicable to Electronic Commerce Operators in case of contravention of provisions relating to supplies of goods made through them by unregistered persons or composition taxpayers shall be liable to pay a penalty of ten thousand rupees, or an amount equivalent to the amount of tax whichever is higher.
  - **Decriminalization of certain offences and increase in monetary threshold:** Section 132 of the CGST Act is being amended so as to decriminalize offences specified in clause (g), (j) and (k) of the said sub-section and to increase the monetary threshold for launching prosecution for the offences under the said Act from one hundred lakh rupees to two hundred lakh rupees, except for the offences related to issuance of invoices without supply of goods or services or both.
  - **Amendment in compounding of Offences:** Section 138 of the CGST Act 2017 is to exclude the persons involved in offences relating to issuance of invoices without supply of goods or services or both from the option of compounding of the offences under the said Act.
  - **Consent based sharing of information furnished by Taxable person:** A new section 158A

has been inserted in the CGST Act to allow businesses to now share GST data digitally with consent. It prescribes the manner and conditions for sharing information furnished by a registered person on the GST portal with such other systems as may be notified, as declared in:-

- Returns filed under GSTR-1/3B/9 or
  - Application of Registration or
  - Statement of Outward supplies or
  - Generation of an e-invoice or E-way bill or
  - Any other details, as may be prescribed.
- **Amendment in Schedule III (Negative List):** Schedule III of the CGST Act is being amended to give retrospective applicability to Para 7, 8 (a) and 8 (b) of the said Schedule viz High seas Sale, Supply of warehoused goods before clearance and Supply by endorsement of documents of title before clearance for home consumption, with effect from 01st July, 2017, so as to treat the activities/ transactions mentioned in the said paragraphs as neither supply of goods nor supply of services. It is also being clarified that where the tax has already been paid in respect of such transactions/ activities during the period from 01st July, 2017 to 31st January, 2019, no refund of such tax paid shall be available.

## **AMENDMENTS IN THE IGST ACT, 2017**

- Clause (16) of section 2 of the IGST Act is being amended so as to revise the definition of “non-taxable online recipient” by removing the condition of receipt of online information and database access or retrieval services (OIDAR) for purposes other than commerce, industry or any other business or profession so as to provide for taxability of OIDAR service provided by any person located in non-taxable territory to an unregistered person receiving the said services and located in the taxable territory. Further, it also seeks to clarify that the persons registered solely in terms of clause (vi) of Section 24 of CGST Act shall be treated as unregistered person for the purpose of the said clause.
- Section 12(8) of IGST Act is being omitted so as to specify the place of supply, irrespective of destination of the goods, in cases where the supplier of services and recipient of services are located in India. Currently as per proviso to Section 12(8) in cases where the transportation

of goods is to a place of outside India, the place of supply is regarded as place of destination of such goods

Note: Amendments carried out in the Finance Bill 2023 in relation to CGST and IGST Act will come to effect retrospectively from 1<sup>st</sup> July, 2017.

## ❖ **Proposed amendments related to Custom :**

- National Calamity Contingent Duty (NCCD) on specified cigarettes was increased.
- The customs duty for importing silver dore, bars and articles has been increased to align them with that on gold and platinum. Further, the duty on jewellery made from precious metals including gold, silver and platinum is increased.
- Extension is granted to the exemption from BCD on raw materials for manufacturing CRGO Steel, ferrous scrap and nickel cathode.
- FM has reduced the basic customs duty on seeds used to manufacture Lab Grown Diamonds (LGDs).
- Electric Kitchen chimney to reduce inverted to reduce inverted duty structure from 7.5% to 15%.
- Benefit for ethanol blending program and acid program and epichlorohydrine.
- Marine Products- to promote exports-shrimps, etc. Duty on shrimpfeed reduced
- Basic Customs Duty reduced for seeds in manufacture for diamonds
- Concessional Custom Duty on steel , ferrous products, copper , rubber
- Custom duty on goods of textiles , toys, bicycle reduced from 21% to 13%
- To promote Green Mobility – concession to be provided on Basic customs duty for import of lithium ion battery

In conclusion, the Income Tax provisions of the Union Budget 2023 are focused on easing the tax burden on the common man and encouraging savings, entrepreneurship, and innovation in the country. The budget is expected to provide a major boost to the economy and create job opportunities for the people.

## By team BDMV:

CA Bharat J. Vyas – Managing Partner

CA Devang H. Divecha – Partner (Direct Taxes)

CA Vishal V. Kelkar – Partner (Indirect Taxes)

CA Mukesh K. Vyas – Partner (Audit & Assurance)

CA Meet P. Shah – Partner (Audit & Assurance)

Kaushik Darji – Manager (Taxation)

Akshay Marye – Direct Tax Executive

Yash Acharya - Audit Executive

Fioni Shah - Indirect Tax Executive

---

## Disclaimer

*The information, opinions and thoughts expressed herein in this article is intended solely for private circulation and knowledge sharing purpose. All efforts have been made to ensure the accuracy of information in this article. This article is legal information and should **NOT** be seen as legal advice. The information provided is of a general nature. It is not a substitute for specific advice in reader's own circumstances. Information contained in the opinion, comments and reply is not intended to constitute a recommendation, offer or advice. It does not constitute a solicitation to any class of persons to act on the basis of opinions expressed thereto. The information can only provide an overview of the regulations in force at the date of publication, and no action should be taken without consulting the detailed legislation or seeking professional advice. Readers are recommended to obtain specific professional advice from a Professional Accountant before taking any action or refrain from action. Whilst due care has been taken in the preparation of this response query and information contained herein, we will not be responsible for any errors that may have crept in inadvertently and do not accept any liability whatsoever, for any direct or consequential loss howsoever arising from any use of this article or its contents or otherwise arising in connection herewith. Further the opinion expressed herein is solely for the use of the user how has sought the query and not for general use.*