



# UNION BUDGET 2021-2022



**GARV-&-Affiliates**

CHARTERED ACCOUNTANTS

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# FOREWORD

The First Ever Digital Union Budget was presented in the Parliament on the First Day of February, 2021 by the Hon'ble Union Minister of Finance and Corporate Affairs Smt. Nirmala Sitharaman. The Budget is considered as a **"Vaccine to The Economy"** as India continues to fight against the deadly Coronavirus. The Budget focused on Atma Nirbhar Bharat and aimed at strengthening the country's Infrastructure, Health, Education, Agriculture and providing ample opportunities to the youth.

The Union Budget Rests on Six Pillars:

- Health and Wellbeing
- Physical & Financial Capital, and Infrastructure
- Inclusive Development for Aspirational India
- Reinvigorating Human Capital
- Innovation and R&D
- Minimum Government and Maximum Governance

Focusing on the dire need of developing a robust Healthcare System in the Country, a new centrally sponsored Scheme , PM AatmaNirbhar Swasth Bharat Yojana is to be launched with an Outlay of Rs. 64,180 crore over six years. Under the Scheme, several health labs & wellness centers are proposed to be set up in both Urban & Rural India.

# DIRECT TAX

## RATES OF TAX (A.Y. 2022-23, F.Y. 2021-22)

### Individuals / HUF

(Other than Senior Citizens and Super Senior Citizens)

No Changes were made in the Tax Rates

#### **Option 1:**

EXISTING SCHEME	
Income Slab	Rate of Tax
Total Income $\leq$ 2,50,000	Nil
Total Income $>$ 2,50,000 and $\leq$ 5,00,000	5%
Total Income $>$ 5,00,000 and $\leq$ 10,00,000	Rs.12,500+20%
Total Income $>$ 10,00,000	Rs.1,12,500+30%

#### **Option 2:**

NEW SCHEME	
Income Slab	Rate of Tax
Total Income $\leq$ 2,50,000	Nil
Total Income $>$ 2,50,000 and $\leq$ 5,00,000	5%
Total Income $>$ 5,00,000 and $\leq$ 7,50,000	10%
Total Income $>$ 7,50,000 and $\leq$ 10,00,000	15%
Total Income $>$ 10,00,000 and $\leq$ 12,50,000	20%
Total Income $>$ 12,50,000 and $\leq$ 15,00,000	25%
Total Income $>$ 15,00,000	30%

***New Scheme can be availed subject to following conditions:-***

- The option shall be exercised for every previous year where the individual or the HUF has no business income

- In cases where assessee has business Income the option once exercised for a previous year shall be valid for that previous year and all subsequent years.
  
- **Following exemptions and deductions are not available:**
  - (i) Leave travel concession -section 10(5);
  - (ii) House rent allowance -section 10(13A);
  - (iii) Special Allowance-section 10(14);
  - (iv) Allowances to MPs/MLAs-section 10(17);
  - (v) Allowance for Clubbing Minor's Income - section 10(32);
  - (vi) Exemption for SEZ unit - in section 10AA;
  - (vii) Standard deduction, deduction for entertainment allowance and employment/professional tax - section 16;
  - (viii) Interest under section 24 in respect of self-occupied or vacant property;
  - (ix) Additional depreciation under section 32(1)(iia);
  - (x) Deductions under section 32AD, 33AB, 33ABA;
  - (xi) Various deduction for donation for or expenditure on scientific research contained in sub-clause (ii) or sub-clause (iia) or sub-clause (iii) of sub-section (1) or sub-section (2AA) of section 35;
  - (xii) Deduction under section 35AD or section 35CCC;
  - (xiii) Deduction from family pension - section 57(iia);
  - (xiv) Any deduction under Chapter VIA except deduction u/s 80 CCD AND 80JJAA.
  
- **Following Losses are not allowed to be set off -**
  - (i) carried forward or depreciation from any earlier assessment year, if such loss or depreciation is attributable to any of the deductions referred to in (a) above; or
  - (ii) Under the head house property with any other head of income;
  
- Such taxpayer will also not be subject to alternative minimum tax

### Senior Citizens

(Above 60 years but below 80 years)

Income Slab	Rate of Tax
Total Income <= 3,00,000	Nil
Total Income >3,00,000 and <= 5,00,000	5%
Total Income > 5,00,000 and <= 10,00,000	Rs.10,000+20%
Total Income > 10,00,000	Rs.1,10,000+30%

### Super Senior Citizens

(Above 80 year)

Income Slab	Rate of Tax
Total Income <= 5,00,000	Nil
Total Income > 5,00,000 and <= 10,00,000	20%
Total Income > 10,00,000	Rs.1,00,000 + 30%

- *Rebate U/s 87A, Rs. 12,500/- for individual resident*
- *For Total Income <5,00,000*
- *Continued under new scheme also.*

- **Surcharge:**

Income Slab	Surcharge
Total Income = 50 Lakhs – 1 Crore	10 % of Tax
Total Income = 1 crore - 2 crore	15% of Tax
Total Income = 2 Cr. – 5 Cr	25% of Tax
Total Income > 5 Crore	37% of Tax

*In case total income includes LTCG u/s 111A and STCG u/s 112A, the rate of surcharge shall not exceed 15% on such capital gain.*

- **Health and Education Cess**

Health and Education Cess (on Tax plus Surcharge) levied @ 4% to continue.

## Firms & LLP

Income	Rate of Tax
Total Income	30%

- Surcharge to be continued to be levied @ 12% of tax where, Taxable Income > 1 Crore.
- Health & Education Cess @ 4% on Tax & Surcharge to continue.

## Domestic Company

		Tax Rate
Turnover or Gross Receipts of P.Y. 2018-19	Up to Rs.400 Crore	25%
	Exceeding Rs.400Crore	30%

## Surcharge

Taxable Income	Surcharge
Up to Rs.1 Crore	Nil
Rs.1 Crore – Rs.10 Crore	7%
Exceeding Rs.10 Crore	12%

- Health and Education Cess@4% on tax & surcharge to continue.

## Concessional Rate of Tax for Companies

Type of Companies	Concessional Rate
New Manufacturing Domestic Company	15%
New Electricity Generating Company	15%
Other Domestic Companies	22%

- Surcharge at 10% and Health & Education Cess @4% shall be applicable irrespective of turnover
- No benefit of Chapter VIA deduction except 80JJAA and 80M as well as exemptions
- Such companies not required to pay tax under MAT.

- *Additional depreciation will not be available*

### Cooperative Societies

Taxable Income	Existing Tax Rate	New Scheme
<b>Up to Rs. 10,000</b>	10%	22%+10% Surcharge
<b>Rs.10,000 – Rs.20,000</b>	Rs1,000 + 20%	
<b>Exceeding Rs.20,000</b>	Rs3,000 + 30%	

- *The concessional tax rate of 22% for resident co-operative society is provided under section 115BAD on fulfillment of certain conditions*
- *Old regime Surcharge – 12% of tax where Income exceeds ₹ 1 cr.*
- *Health and Education Cess@4% on tax to be continued.*
- *Option to pay tax at concessional rate once exercised cannot be withdrawn.*
- *Provisions relating to AMT would not be applicable and consequently no credit of AMT would be available.*
- *Co-operative society shall not be entitled to following exemption:\_\_\_*
  - *tax holiday under section 10AA*
  - *Additional depreciation under section 32(1) (ia) etc.*

### Foreign Company

- Tax rate @ 40%
- Cess@ 4%
- Surcharge as per the following table:

Taxable Income	Surcharge
<b>Up to Rs. 1 Crore</b>	Nil
<b>Rs. 1 Crore – Rs. 10 Crore</b>	2%
<b>Exceeding Rs. 10 Crore</b>	5%

Hence a welcome relief as no additional tax introduced against wide apprehension of COVID cess being levied.



# TDS & TCS RELATED PROPOSALS

## TDS on Goods-194Q

(Applicable wef **1st July, 2021**)

Applicability Conditions::

- Buyer making payment to resident seller for Purchase of goods
- Turnover of the buyer exceeds **Rs. 10 crores** in the **Previous Financial Year**
- Consideration payable by buyer exceeds Rs. 50 Lakhs
- Buyer liable to deduct TDS at earlier of credit or payment to seller
- Rate of TDS will be @ **0.1%** of amount exceeding Rs 50 lacs
- Where the seller fails to furnish his PAN, rate of TDS shall be 5%

No TDS is to be deducted where the transaction is liable to TDS or TCS under any other clause.

In transactions where seller is liable to collect TCS u/s 206C(IH) and buyer is liable to deduct tax at source u/s 194Q , the provisions of section 194Q will prevail and buyer will deduct tax at source.

# EASE OF COMPLIANCE

## Exemption from Filing Returns for Senior Citizens

Senior Citizens over 75 years of age will not be required to file Income Tax Returns if their income consists only of Pension & Interest Income. The Bank paying Interest is required to deduct Tax u/s 194P.

**Note :** The Pension Account & Savings Account should be in the same Bank and the assessee cannot have bank account with any other bank.

## Reduced Time Limit for Re-opening Tax Proceedings

The Time Limit for re-opening of cases where Income has escaped Assessment has been reduced to **3 years from erstwhile period of 6 years**. In Cases of **Serious Tax Evasion with concealment of Income of Rs. 50 lacs or more can be re-opened upto 10 years** with the prior Approval of Principal Chief Commissioner. However now reopening of information can be on the basis of receipt of specific information.

The proposal to reopen till 10 years is really harsh provision as there will be requirement to keep the books of accounts for 10 years in case there is reopening of assessment.

Further, in search, survey or requisition cases initiated or made or conducted, on or after 1st April, 2021, it shall be deemed that the Assessing officer has information which suggests that the income chargeable to tax has escaped assessment in the case of the assessee for the three assessment years immediately preceding the assessment year relevant to the previous year in which the search is initiated or requisition is made or any material is seized or requisitioned or survey is conducted.

## Time period for Assessment Proceedings

Period for issue of notice u/s 143(2) for assessment proceedings and completion of assessment is reduced by 3 months. However, this reduction in Time Limit will not be beneficial for assesses to the extent the period for filing the belated and revised return has also been reduced by 3 months

## Establishing a Dispute Resolution Committee

In order to benefit the small & medium tax payers, a Dispute Resolution Committee will be constituted to resolve Disputes where taxable income is upto Rs. 50 lakhs and disputed income is upto Rs. 10 lakhs.

## Abolition of Settlement Commission

It is proposed to abolish the Income Tax Settlement Commission.

## Establishing a National Faceless Income Tax Appellate Tribunal

The Budget Proposed to Setup a National Faceless Income Tax Appellate Tribunal whereby all communication between the appellant & the tribunal will be effected electronically. In case any Personal Hearing is needed, same will be conducted through Video-Conferencing Mode.

## Relief from Payment of Advance Tax on Dividend

To ease the Computation of Advance Tax, tax liability on Dividend income will required to be calculated only after the declaration of Dividend Income. Earlier, dividend income was required to be computed on estimate basis for payment of Advance Tax Liability which resulted in Interest liability u/s 234C. This has been introduced in similar line as income from Capital Gains

The Budget proposed to consider dividend Income for Advance Tax only when the same has been declared which will enable the tax payers to save Interest liability u/s 234C.

## Increased Threshold for Tax Audits

The Turnover threshold for conducting Tax Audit has been enhanced to Rs. 10 Crores from the earlier limit of Rs. 5 Crores for assesses carrying out 95% of their receipt and payment transactions via Digital Modes of Payment. This will encourage use of Digital Payment for business transactions & will be a further step towards the development of Cashless Economy.

## Relief to Trusts

So as to provide relief from Compliance burden to Trusts running educational institutions and hospitals, the limit on Annual Receipts for these trusts is proposed to be enhanced to Rs 5 Crores from Existing limit of Rs 1 Crores.

It has been proposed that excess application of a particular year will not be allowed in subsequent year

In case borrowing by trust the same will be considered as deduction from the application of income i.e the assets for which borrowed funds had been utilized will not be considered as application to the extent of the borrowed fund. However the repayment of the borrowings will be treated as application of income

Corpus donation need to be invested in investments as specified by Section 11(5) and any donation from corpus will not be treated as application of income. However in subsequent year if the amount is invested in investments as specified as Section 11(5) of Income Tax Act, 1961 will be treated as application to the extent of the amount received as corpus donation.

No TDS will be required to be deducted in case Dividend is paid to Real Estate Investment Trusts (REITs) & Infrastructure Investments Trusts (InVITs). This will attract further Foreign Investment in India & will provide boost to the domestic economy.

# ATTRACTING FOREIGN INVESTMENT

- Allowing Infrastructure Debt Funds to raise funds by issuing Zero Coupon Bonds
- Relaxation of some conditions relating to prohibition on private funding, restriction on commercial activities, and direct investment
- Tax on dividends will be deducted at lower treaty rate for Foreign Portfolio Investors

## DEDUCTIONS & EXEMPTIONS

- Promoting the Initiative of “Housing For All”, Loans Taken till March 2022 for acquisition of Affordable House will be eligible for Additional deduction on Interest amount upto Rs. 1.50 lacs
- Tax holiday for Affordable Housing projects u/s 80IBA extended till March 2022 & further Tax exemption allowed to notified Affordable Rental Housing Projects
- Capital Gain exemption under section 54GB of the Act on sale of residential house property and investment proceeds therefrom in shares of an eligible Start-Up now extended till 31 March 2022.
- Tax holiday for capital gains from incomes of aircraft leasing companies & investment division of foreign banks located in IFSC
- Tax exemptions for aircraft lease rentals paid to foreign lessors
- Tax incentive for relocating foreign funds in the IFSC
- Eligibility for tax holiday claim for Start-Ups extended by one further year

# OTHER MAJOR ASPECTS

- In Case the Employees Contribution to Provident Fund, whether Mandatory or voluntary exceeds Rs 2.50 lacs in a year, the Interest Accrued on the same will not be allowed Tax Exemption. Hence, Interest accrued on amount over & above Rs 2.5 lacs will now be taxable. This Amendment is going to affect employees with high salaries and PF contributions.
- Proceeds from Unit Linked Insurance Policies (ULIP) on which Premium has been paid for amount exceeding Rs 2.5 lacs will now be taxable in the hands of Investors. Hence in cases where policies are issued after 1<sup>st</sup> February 2021 the income from ULIP will be treated as equity oriented and taxed @10% without benefit of indexation.
- Value Received in lieu of Leave Travel Concession or assistance received by, or due to Individual shall be exempt subject to fulfillment of certain condition in relation to incurring of specified expenditure
- The Scope of Slump Sale has been extended to include all other types of transfers including exchange, relinquishment, or extinguishment of assets.
- No Deduction will be allowed in case the employer makes late deposit of Employees Contribution to Provident Fund or Employee State Insurance after the prescribed due date as per specified Act. A harsh measure as even a delay for one day will entail disallowance.
- Time limit for filing of Belated & Revised Income Tax Return to be reduced by 3 months
- **Introduction of New Section [206AB & 206CCA]:** A new section is proposed to be introduced which provides for Higher Rate of TDS & TCS for Non-Filer of IT returns. In case TDS is required to be deducted and the payee is not filing return then the payer is required

to deduct tax at double rate or 5% whichever is higher. Hence, the person deducting TDS will now be required to ensure that returns have been filed by the deductee .

- Where a partner member of a firm or AOP receives any capital asset or money or other asset at the time of dissolution or reconstitution, which exceeds the balance in their capital account firm or AOP at the time of dissolution or reconstitution, the same shall be taxable as Capital Gains of such firm or AOP .

### Depreciation on Goodwill

- Goodwill will not form part of block of asset and hence no depreciation will be allowed on the goodwill. However sale of goodwill will be liable to capital gains tax.

## Tax Incentives

### Taxation of Real Estate transaction

- Amendment in section 43CA, Section 50C and Section 56(2) (x).

**Existing Provision:** If the difference between actual sale consideration and stamp duty valuation does exceed a safe harbor of 10 %, the consideration for such transfer is deemed to be the value adopted for stamp duty purposes.

- **Proposed Provision:** The limit of 10% now raised to 20% for sale of residential flats with sale consideration not exceeding Rs. 2 Crores. This benefit is only applicable to primary sale, and is applicable only when the transfer takes place between 12<sup>th</sup> November, 2020 till 30<sup>th</sup> June 2021.

# INDIRECT TAX

## Availment of Input Tax Credit linked to furnishing of details by Supplier

- Section 16(2) proposed to be amended w.e.f. the notified date
- No credit can be availed unless the details of invoice/ debit note have been furnished by the supplier in GSTR-1 (statement of outward supplies) and such details are communicated to the recipient in GSTR-2A [Insertion of clause (aa) to Section 16(2) of CGST Act]



*Earlier the GST Act did not propose specific restrictions on availment of input tax credit if the details of the same were not provided by the supplier in the statement of outward supplies though Rule 36(4) of the CGST Rules, 2017 restricted the availment of input tax credit. The High Courts had accepted writs against Rule 36(4) on the ground that the same was deemed to be ultra vires the Act. The Finance Bill proposes to amend the Act to bring it in line with the rules. The question that will remain to be examined is that position of Rule 36(4) prior to effective date of insertion of Clause (aa) to Section 16(2).*

## Omission of GST Audit Certification by Professionals

- Section 35(5) of the CGST Act, 2017 requiring submission of audited financial statements and GST reconciliation statement certified by a Chartered Accountant or a Cost Accountant is proposed to be omitted w.e.f. from a notified date
- Further, Section 44 of the CGST Act, 2017 is proposed to be amended to provide that the Annual Return submitted by a registered taxable person may include a self certified reconciliation statement.

*Presently, the Annual Return in Form GSTR 9 is being filed by registered taxable persons whose turnover exceed Rs. 2 crores. Additionally, registered taxable persons having aggregate annual turnover exceeding Rs. 5 crores are required to file a reconciliation statement in Form 9C which is duly certified by a Chartered Accountant or a Cost Accountant.*



*The Finance Bill, 2021 proposes to eliminate the requirement of certification of Form 9C by a professional. It further proposes a self certified reconciliation statement details of which are yet to be announced. It is important to note that under the erstwhile Service Tax and Excise Law, there was no requirement of annual audit to be conducted by professionals, though most State VAT Laws had provisions for VAT Audit by professionals.*

***With this amendment, the condition of annual return and furnishing of reconciliation statements shall continue but on self certification basis.***

### Interest on Delayed payment of GST

- Proviso to section 50(1) of the CGST Act, 2017 providing interest on GST to be paid on net output liability is proposed to be inserted with retrospective effect from 1<sup>st</sup> July, 2017.

*The said amendment was initially made effective from 1 September 2020, as per which, interest on delayed payment of tax in case of belated filing of GST returns is to be computed only on net cash liability (after setting off the available input tax credits).*

*For the past period, an administrative arrangement was made wherein the GST authorities were directed not to start/ continue with any proceedings requiring interest to be paid on Gross GST Liability for the period upto 31 August 2020.*

*The said administrative arrangement for past period has now been proposed to be incorporated in the GST law by way of a retrospective amendment.*

***Therefore, effectively, no interest shall be charged under section 50(1) on that portion of the GST Liability which is paid by debiting the electronic credit ledger and this provision will be effective from the date of commencement of GST Law. However, if the returns are submitted after commencement of proceedings under section 73 or 74 of the CGST Act, 2017 i.e., after issue of show cause notice by the department, the benefit of this proviso shall not be available to the tax payer.***

### Transactions Between Clubs and Members

- Clause (aa) proposed to be entered in Section 7(1) of the Central Goods and Services Tax Act, 2017 with retrospective effect from 1<sup>st</sup> July, 2017 to provide that “the activities or transactions, by a person, other than an individual, to its members or constituents or vice versa, for cash, deferred payment or other valuable consideration” shall be treated as supply and be subject to GST

- It is further proposed to be provided that the person and its members/ constituents shall be treated as two separate persons and the transactions between them shall be treated as provided from one person to another irrespective of any Court/ Tribunal order against the same.

*Taxation of supply of services by any club to its members has always been a debatable issue. While the revenue authorities seek to tax all activities provided by a club to its members, the clubs have often taken the point of view that such activities should not be subject to service tax or GST because a club comprises of its members and a person cannot be subject to tax for services it provides to itself. This concept was termed as the “concept of mutuality”.*

*Recently, in a landmark judgement, the Supreme Court ruled that service tax cannot be levied on members’ club in the incorporated form. On the basis of this judgement, many clubs opined that no GST shall also be levied on transactions with members.*

***The proposed amendment overrides the Supreme Court Judgement so far as its applicability in respect of GST is concerned and clarifies that all transactions between clubs and members shall be treated as supply and be subject to GST.***

### Zero Rated Supplies/ Exports

Section 16 of the IGST Act is being amended so as to:

- **zero rate the supply** of goods or services to a **Special Economic Zone** developer or a Special Economic Zone unit **only when the said supply is for authorised operations;**
- **restrict the zero-rated supply on payment of integrated tax** only to a **notified class of taxpayers** or notified supplies of **goods or services;**
- **link the foreign exchange remittance in case of export of goods with refund.**

# ABOUT US

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## Our Presence

