

UNION BUDGET

2023

- PAVING THE WAY TO A MORE RESILIENT FUTURE



CALIBRATED BOLDNESS

The Finance Minister, Smt. Nirmala Sitharaman, has given the last full budget before the union elections. While the FM has done every bit to keep the voters happy by giving some tax breaks to the medium & high-income earners, the FM has restrained from giveaways for the vote bank. FM has reduced the allocation to MNREGS while increasing the allocation to capital expenditure by 33% to Rs. 10 lac crores.

Last year when the budget was announced, the world was recovering from the Covid pandemic with a K-shaped recovery. Since then, the backdrop has shifted materially, with a war breaking out on continental Europe and inflation hitting double digits in the developed economies with massive increases in interest rates.

The policy approach is getting clearer over time – this year the FM has reduced the highest tax rate on the super rich and at the same time curbed a number of tax strategies used by them. Capital gains tax saved by investing in property is capped at Rs. 10 crores – a large sum for most Indians. In eagerness to withdraw deductions in the new tax regime, for the sake of, may be, simplicity of tax laws, one major socio-economic philosophy that is being withdrawn is deduction for Life Insurance, Retirement Planning and Mediclaim. In a country, especially in case of non-government employees where there is no facility of pension either from the employer or the Government, it is important to promote scheme that will provide necessary cashflows to citizens for routine household expenses post retirement, medical emergencies and funds to family incase of sudden loss of earning

family member. If the Government does not wish to curtail its revenue even for these basic requirement of tax paying citizens, then it may garner revenues by suitably increasing the tax rates. But retaining of thee deductions is of utmost and paramount importance.

Smart fixes have been proposed for enabling cash flow to MSMEs by ensuring that expense deductions will be available to businesses only on payment being made to MSMEs. Novel ideas like this are welcome as long as the implementation is smooth.

The budget has continued to follow the barbell approach from previous years with a focus on hard infrastructure like roads, river linkages, multi modal corridor, ropeways, railways and has also spoken about new age sectors like artificial intelligence institutions, clean and sustainable mobility, energy storage and other green initiatives.

The FM has clearly indicated a push to a more rationalized policy regime over time. The new tax regime for income tax will be considered the default. If this trend continues, we may see some more loop-holes getting closed and income caps could be used for bringing other exempt incomes under the tax bracket over the years. Broadening of the tax base, rationalizing the structure and removing provisions that are misused will ensure that government revenues are buffeted while the average Indian is not punished.

CA Haresh K. Chheda



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All the amendments mentioned below are proposed in the Finance Bill, 2023 and will take effect from FY 2023-24 (i.e. AY 2024-25) unless otherwise specifically stated, subject to passing by both the houses of the Parliament and assent by the President.

This document summarizes the Union Budget 2023 and the recent policy changes. It has been prepared for the privileged use of our clients. We recommend you to seek professional advice before taking action on specific issues.



I. KEY HIGHLIGHTS



DIRECT TAX PROPOSALS

- Tax rates for Individual, HUF, AOP (other than co-operative), BOI and AJP under new regime are proposed as under –

Total Income	Applicable Tax Rate
Upto INR 3,00,000/-	0%
More than INR 3,00,000/- upto INR 6,00,000/-	5%
More than INR 6,00,000/- upto INR 9,00,000/-	10%
More than INR 9,00,000/- upto INR 12,00,000/-	15%
More than INR 12,00,000/- upto INR 15,00,000/-	20%
Above INR 15,00,000/-	30%

- New tax regime for Individual, HUF, AOP (other than co-operative), BOI and AJP is proposed to be the default tax regime.
- Tax rate under erstwhile old regime remain unchanged.
- Under new tax regime highest surcharge rate on income above INR 5 crores is proposed to be reduced from 37% to 25%.
- No tax on individual having taxable income upto INR 7 lakhs as a result of increase in rebate to INR 25,000/- under new tax regime.
- Standard deduction of INR 50,000/- shall now be available under new regime.

- Eligible business having turnover more than INR 2 crores but up to INR 3 crores, where cash receipts does not exceed 5% of gross receipts, can now opt for presumptive taxation.
- Eligible profession having gross receipts more than INR 50 lakhs but up to INR 75 lakhs, where cash receipts does not exceed 5% of gross receipts, can now opt for presumptive taxation.
- Tax Holiday available to eligible start-ups to be extended to start-ups incorporated till 31st March, 2024.
- Loss incurred by eligible start-up during first 10 years (earlier 7 years) of its incorporation can be carried forward irrespective of change in voting power, subject to other condition.
- Concessional Tax Regime of 15% shall be available to new manufacturing co-operative societies which are setup and registered on or after 01st April, 2023 and commence production on or before 31st March, 2024.
- Any sum payable to micro or small enterprise beyond the time limit specified under section 15 of MSME Development Act, 2006 to be allowed as deduction only on actual payment.
- Deduction on Long Term Capital Gains from sale of residential property and any other capital asset cost of new residential house capped to INR 10 crores.
- Shares issued at premium to non-resident investor at higher than FMV shall be taxable in the hands of issuer company.



KEY HIGHLIGHTS

- Capital gain on transfer or redemption or maturity of Market-linked Debentures to be taxed as short term capital gain at normal slab rates.
- Exemption for income from life insurance policies (other than unit linked insurance policies) to be restricted to policies having aggregate annual premium of up to INR 5 lakhs. This will not affect the tax exemption provided to the amounts received on the death of the person insured and also to policies issued upto 31st March, 2023.
- TDS proposed to be applicable on interest paid on security which is in de-materialized form and is listed on recognized stock exchange.
- TDS to be applicable on net winnings from online games whether in cash or kind at 30% tax rate.
- Benefit or perquisite arising from business or profession includes benefit in form of cash. It is also clarified that TDS is applicable on benefits or perquisites whether in cash or in kind, if the value of benefit or perquisite exceeds INR 20,000/-.
- Return of income for re-assessment cases to be filed within three months from the end of the month in which notice is issued.
- Tax benefits announced for Agniveer Jawans.
- Deduction to SEZ units will be allowed only if convertible foreign exchange from sale of goods or provision of service is brought into India within a period of six months from end of the financial year.
- TCS rate for overseas tour package and all remittances other than for education or medical treatment, is proposed to be increased from 5% to 20%.
- Gift received by not ordinarily resident from person resident in India exceeding INR 50,000/- shall be taxable, irrespective of place of receipt.
- No capital gain on conversion of gold to electronic gold receipt and vice versa.
- Disallowance of interest paid by NBFC's to its Associated Enterprise(s) shall not be disallowed u/s 94B.
- TDS credit will be available for income already offered in the past years.
- Donations by charitable/religious entities to other charitable/ religious entities shall be allowed only to the extent of 85%.
- Non filing of application for regular registration / re-registration/ approval by charitable entities shall result in taxation of accreted income computed as prescribed.
- Tax exemption on leave encashment of non-government salaried employees is proposed to be increased to INR 25 Lakhs



GST PROPOSALS

- Input Tax Credit pertaining to supply of warehoused goods, before clearance for home consumption, to be reversed.
- Input Tax Credit in respect of goods or services or both used or intended to be used for CSR activities referred to in the Companies Act, 2013 not to be available.
- Persons engaged exclusively in exempt supplies and agriculturist not liable to register even for instances of compulsory registration.



II. DIRECT TAX

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New tax regime for Individual, HUF, AOP (other than co-operative), BOI and AJP is proposed to be the default tax regime. An individual/ HUF /AOP/ BOI/ AJP shall **have an option** to opt for old tax regime described below:

I. Tax Rates in Old Regime

Tax Rates for Individuals, HUF, AOP (Other than Co-Operative Society) , BOI & AJP				
Status →	Individual, HUF, AOP, BOI & AJP	Senior Citizen (60 years & Above)	Very Senior Citizen (80 years & above)	Notes
Taxable Income (INR)				<ul style="list-style-type: none"> Surcharge @ 10% if income exceeds INR 50 Lakhs but not exceeding INR 1 Crore. Surcharge @ 15% if income exceeds INR 1 Crore but not exceeding INR 2 Crores. Surcharge @ 25% if income exceeds INR 2 Crores but not exceeding INR 5 Crores. Surcharge @ 37% if income exceeds INR 5 Crores. In case of AOP consisting of only companies as its members, the rate of surcharge shall be restricted to 15%, even if total income exceeds INR 2 Crores. In case of STCG u/s 111A, LTCG and dividend, the rate of surcharge shall be restricted to 15%, even if total income exceeds INR 2 Crores. Health and Education Cess @ 4% of Tax + Surcharge. Maximum rebate of INR 12,500 available to resident individuals with net taxable income up to INR 5,00,000. AMT shall be applicable in case of taxpayer claiming specified deduction.
Upto – 2,50,000	NIL	NIL	NIL	
2,50,001 – 3,00,000	5%	NIL	NIL	
3,00,001 – 5,00,000	5%	5%	NIL	
5,00,001 –10,00,000	20%	20%	20%	
Above 10,00,000	30%	30%	30%	



II. Tax Rates u/s 115 BAC in New Regime (For Individuals, HUF & Others)

Tax Rates for Individuals/ HUF/ AOP (Other than Co-Operative Society)/ BOI & AJP				
Existing Slabs	Existing Tax Rates	Proposed Slabs	Proposed Tax Rates	Notes
Net Taxable Income (INR)	Slab Rate	Net Taxable Income (INR)	Slab Rate	<ul style="list-style-type: none"> Surcharge @ 10% if income exceeds INR 50 Lakhs but not exceeding INR 1 Crore. Surcharge @ 15% if income exceeds INR 1 Crore but not exceeding INR 2 Crores. Surcharge @ 25% if income exceeds INR 2 Crores. Health and Education Cess @ 4% of Tax + Surcharge. Maximum rebate of INR 25,000 available to resident individuals with total income up to INR 7,00,000.
Up to 2,50,000	NIL	Up to 3,00,000	NIL	
2,50,001 – 5,00,000	5%	3,00,001 – 6,00,000	5%	
5,00,001 – 7,50,000	10%	6,00,001 – 9,00,000	10%	
7,50,001 – 10,00,000	15%	9,00,001 – 12,00,000	15%	
10,00,001 – 12,50,000	20%	12,00,001 – 15,00,000	20%	
12,50,001 – 15,00,000	25%	Above 15,00,000	30%	
Above 15,00,00	30%	-	-	

Note 1:

- In case of short term capital gains u/s 111A, long term capital gains u/s 112 & 112A and dividend, the rate of surcharge shall be restricted to 15%, even if total income exceeds INR 2 Crores. The option u/s 115BAC can be opted every year in case of person not having business income. In other case, once such option is exercised it can be withdrawn only once in subsequent year unless such person ceases to have Business Income.
- AMT will not be applicable if one opts for Section 115BAC.



- In order to opt for old regime, individual, HUF & others shall have to opt for the same and file the return of income within the due date prescribed u/s 139(1).
- In case of new regime, the individual, HUF & others will not be able to set-off any loss carried forward or depreciation attributable to exemptions/deductions mentioned in Note 2 below. [Though set-off of loss of earlier years on account of unabsorbed depreciation is not allowed, corresponding adjustment in WDV of such block of assets is allowed].

Note 2:

Under the new tax regime, the following exemptions and deductions cannot be claimed:

- Leave travel concession u/s 10(5)- applicable for persons in employment
- House rent allowance u/s 10(13A) - applicable for persons in employment
- Allowances u/s 10(14) - applicable for persons in employment **other than:**
 - Transport allowance to divyang employee commuting between residence and office
 - Conveyance allowance to meet expenses during conveyance on duty
 - Allowance to meet cost of travel on tour or transfer
 - Daily allowance on account of absence from normal place of duty

- Deduction for entertainment allowance and profession tax u/s 16 against salary income
- Allowances to MPs/MLAs u/s 10(17)
- Allowance for income of minor u/s 10(32)
- Exemption for SEZ units u/s 10AA
- Interest on loan taken for self-occupied or vacant property u/s 24
- Additional depreciation u/s 32(1)(iia)
- Donations or expenditure on scientific research u/s 35(1)(ii), 35(1)(iia), 35(1)(iii), 35(2AA)
- Deductions u/s 32AD, 33AB, 33ABA, 35AD, 35CCC applicable to business income
- Any deduction under Chapter VIA like life insurance premium, PPF, ELSS, repayment of housing loan, mediclaim, donations, deductions in respect of profits.

Note 3:

Following deductions shall be available under both regimes.

- Deposit of amount under Agniveer Scheme will be allowed as deduction.
- Standard deduction of Rs. 50,000/- u/s 16(i) from Income from Salary will be allowed as deduction.
- Family pension u/s 57 (iia) will also be allowed as deduction.



RATE CHARTS – ILLUSTRATION FOR INDIVIDUALS

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Individuals < 60 years	Example 1				Example 2			
Particulars	Existing Old Regime (With HP loss)	Existing Old Regime (Without HP loss)	Existing New Regime	Proposed New Regime	Existing Old Regime (With HP loss)	Existing Old Regime (Without HP loss)	Existing New Regime	Proposed New Regime
Salary	11,52,500	11,52,500	11,52,500	11,52,500	15,50,000	15,50,000	15,50,000	15,50,000
Less: Standard Deduction	- 50,000	- 50,000	NIL	- 50,000	- 50,000	- 50,000	NIL	-50,000
Less: Profession Tax	-2,500	-2,500	NIL	NIL	-2,500	-2,500	NIL	NIL
Income from Salary	11,00,000	11,00,000	11,52,500	11,02,500	14,97,500	14,97,500	15,50,000	15,00,000
Net Annual Value (Self Occupied Property)	NIL	NIL	NIL	NIL	NIL	NIL	NIL	NIL
Less: Interest expense u/s 24	-2,00,000	NIL	NIL	NIL	-2,00,000	NIL	NIL	NIL
Income from House Property	-2,00,000	NIL	NIL	NIL	-2,00,000	NIL	NIL	NIL
Gross Total Income	9,00,000	11,00,000	11,52,500	11,02,500	12,97,500	14,97,500	15,50,000	15,00,000
<u>Less: Deductions under Chapter VI-A</u>								
80C – LIC, PPF, etc.	-1,50,000	-1,50,000	NIL	NIL	-1,50,000	-1,50,000	NIL	NIL
80D – Medclaim	-25,000	-25,000	NIL	NIL	-25,000	-25,000	NIL	NIL
Total Taxable Income	7,25,000	9,25,000	11,52,500	11,02,500	11,22,500	13,22,500	15,50,000	15,00,000
Tax Liability (Excl. Cess)	57,500	97,500	1,05,500	75,375	1,49,250	2,09,250	2,02,500	1,50,000
Cess	2,300	3,900	4,220	3,015	5,970	8,370	8,100	6,000
Total Tax Liability (Including Cess)	59,800	1,01,400	1,09,720	78,390	1,55,220	2,17,620	2,10,600	1,56,000



Tax Rates for Firms (including LLPs)					
Particulars	Basic Tax	Surcharge	Cess	Total	Notes
Income upto INR 1 Crore	30%	-	4%	31.20%	Health and Education Cess @ 4% of Tax + Surcharge
Income exceeding INR 1 Crore	30%	12%	4%	34.94%	

Tax Rates for Domestic Companies			
Particulars	Company opting for Sec 115BAA	Company opting for Sec 115BAB	Other Company
Business of the Company	Any Business	Manufacturing/Production	Any Business
Eligibility Criteria	No specific requirement	Set up and registered on or after 1 st October, 2019 (manufacturing / production to commence by 31 st March, 2024)	No specific requirement
Basic Tax Rate	22%	15%	25%/30% (Refer note 1)
Surcharge	10%	10%	0%/7%/12% (Refer note 2)
Cess	4%	4%	4%
Effective Tax Rate	25.17%	17.16%	26% to 34.94%
Minimum Alternate Tax	Not applicable	Not applicable	Basic Rate =15% of Book profits plus applicable surcharge and cess
Other Conditions	Prescribed exemptions /deductions are not allowed (Refer Note 7)		N.A.



Notes:

1. Basic rate of Tax is 25% if turnover in FY 2021-22 is not more than INR 400 Crores.
2. Surcharge Rates for Other Company

Total Income	Applicable Surcharge
Upto INR 1 Crore	0%
INR 1 Crore < To ≤ INR 10 Crores	7%
More than INR 10 Crores	12%

3. The option of Section 115BAA can be exercised in any year but before the due date specified u/s 139(1) for filing return of income for that year. This option once exercised cannot be withdrawn subsequently.
4. The option of section 115BAB needs to be exercised before the due date specified u/s 139(1) for filing 1st Return of Income of the Company.
5. The option u/s 115BAB, once exercised, cannot be withdrawn subsequently. However, if the company fails to satisfy the conditions of Section 115BAB it can opt for Section 115BAA.

However, if the violation is discovered subsequently after the due date u/s 139(1), it may be doubtful to opt for such an option.

6. Companies formed by restructuring or splitting up of existing business or using old plant & machinery more than 20% of total plant and machinery or using building used previously as hotel or convention centre are not eligible for opting for u/s 115BAB.
7. Prescribed exemptions/deductions includes:
 - Section 10AA : Units in Special Economic Zone
 - Section 32(1)(iia) : Additional depreciation allowance
 - Section 32AD : Deduction for investment in new plant and machinery in notified backward States.
 - Section 33AB : Tea/ coffee/ rubber development allowance
 - Section 33ABA : Site restoration fund.
 - Section 35(1)(ii), (iia), (iii) and 35(2AA), (2AB) : certain scientific research expenditure.
 - Section 35AD : Deduction in respect of expenditure on specified business (e.g Cold Storage, cross country gas line, etc.)



RATE CHARTS – DOMESTIC COMPANIES

- Section 35CCC : Expenditure on agricultural extension project.
 - Section 35CCD : Expenditure on skill development project.
 - All the deductions under Chapter VIA **except** section 80JJAA (deduction in respect of new employees) and section 80M (receipt of dividend).
8. Set-off of any loss carried forward from earlier years to the extent that such loss is attributable to any of the deduction mentioned above. Though set off of loss on account of unabsorbed depreciation is not allowed, corresponding adjustment in WDV of such block of assets shall be allowed.





Tax Rates for Foreign Companies

Particulars	Tax	Surcharge	Cess	Total	Notes:
Income upto INR 1 Crore	40%	-	4%	41.60%	Health and Education Cess @ 4% of Tax + Surcharge
Income exceeding INR 1 Crore but not exceeding than INR 10 Crores	40%	2%	4%	42.43%	
Income exceeding INR 10 Crores	40%	5%	4%	43.68%	





RATE CHARTS – CO-OPERATIVE SOCIETIES

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Tax Rates for Cooperative Societies

Particulars	Resident Co-operatives opting for Sec 115BAD	Resident Co-operatives opting for Sec 115BAE	Other Cooperatives
Business of Cooperative Society	Any Business	Manufacturing / Production	Any Business
Eligibility Criteria	No specific requirement	Set up and registered on or after 1 st April, 2023, and has commenced manufacturing or production of an article or thing on or before the 31st day of March, 2024	No specific requirement
Basic Tax Rate	22%	15%	10%/ 20%/ 30% (Note – 1)
Surcharge	10%	10%	0%/ 7%/ 12% (Note - 2)
Cess	4%	4%	4%
Effective Tax Rate	25.17%	17.16%	10.4% to 34.94%
Alternate Minimum Tax	Not applicable	Not applicable	Basic Rate =15% of Book profits plus applicable surcharge and cess
Other Conditions	Note - 3	Note – 4	N.A.

Note 1 – Basic Rate Total Income	Applicable Tax Rates	Note 2 – Surcharge Rates Total Income	Applicable Surcharge
Upto INR 10,000	10%	Upto INR 1 Crore	0%
INR 10,000 < To ≤ INR 20,000	20%	INR 1 Crore < To ≤ INR 10 Crores	7%
Exceeding INR 20,000	30%	More than INR 10 Crores	12%



Note 3 - Concessional rate of tax for Co-operative society u/s 115BAD

- In line with provisions related to domestic companies, co-operative society, resident in India, shall have the option to pay tax at effective rate of @ 25.17% (inclusive of surcharge and cess), subject to fulfilment of following conditions:
 - No deduction to be claimed in respect of:
 - Section 10AA : Units in Special Economic Zone
 - Section 32(1)(iia) : Additional depreciation allowance
 - Section 32AD : Deduction for investment in new plant and machinery in notified backward States.
 - Section 33AB : Tea/ coffee/ rubber development allowance
 - Section 33ABA : Site restoration fund.
 - Section 35(1)(ii), (iia), (iii) and 35(2AA): certain scientific research expenditure.
 - Section 35AD: Deduction in respect of expenditure on specified business (e.g. Cold Storage, cross country gas line etc)
 - Section 35CCC: Expenditure on agricultural extension project.
 - All the deductions under Chapter VIA **except** section 80JJAA (deduction in respect of new employees) and section 80LA (income from IFSC Unit).
- Set-off of any loss carried forward from an earlier year to the extent that such loss is attributable to any of the deduction mentioned above shall not be allowed. Though set off of loss on account of unabsorbed depreciation is not allowed, corresponding adjustment in WDV of such block of assets shall be allowed.
- AMT will not be applicable if one opts for Section 115BAD.
- Rest of the provisions are in line with the condition applicable to companies as per section 115BAA.





Note 4 - 15% concessional tax to promote new manufacturing co-operative society

- Presently newly set-up domestic manufacturing companies can opt for concessional tax rate of 15% without availing specified incentives/ deductions. This benefit was not available to manufacturing co-operative societies.
- Now in line with provisions related to domestic companies, it is now proposed that the co-operative societies which are resident in India, shall have the option to pay tax at the rate of 15% applicable for any previous year relevant to the assessment year beginning on or after the 1st day of April, 2024 without availing certain deductions.
- Conditions for claiming the benefit:
 - the cooperative society has been set-up & registered on or after the 1st day of April, 2023, & has commenced manufacturing or production of an article or thing on or before the 31st day of March, 2024 and the business is not formed by splitting up, or the reconstruction, of a business already in existence;
 - The co-operative society shall not be engaged in any business other than the business of manufacture or production which shall include the business of generation of electricity, but not include certain specified businesses.

- Remaining all the conditions are similar to the conditions provided u/s. 115BAB of the Income Tax Act.





RATE CHARTS – TAX DEDUCTED AT SOURCE (TDS)

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Rates of Tax Deduction at Source					
Section	Nature of Payments made to Resident	Threshold Limits	Payee		Notes
			Company, Partnership Firm / LLP / Co-op Society / Local Authority	Individual, HUF, AOP & BOI	
		(INR)	Rates	Rates	
192	Salary	N.A.	N.A.	Refer Note 15	N.A.
192A	Payment of accumulated balance due to an employee by RPF	50,000	N.A.	10%	1
193	Interest on Securities	2,500	10%	10%	2
194	Dividends	5,000 (only for Individuals)	10%	10%	N.A.
194-A	Other Interest	5,000	10%	10%	3 & 4
194-B	Winning from Lotteries or crossword puzzle, etc	Aggregate >10,000	30%	30%	N.A.
194-BA	Winnings from online games (w.e.f. 1 st July 2023)	N.A.	30%	30%	N.A.
194-BB	Winnings from Horse races	Aggregate >10,000	30%	30%	N.A.
194-C	Payment to Contractors / Sub-Contractors	Single Transaction > 30,000 Aggregate > 1,00,000	2%	1% / 2%	3 & 5
194-D	Insurance Commission	15,000	5%	5%	N.A.
194-DA	Payment in respect of Life Insurance Policy (other than amount in section 10(10D))	1,00,000	5%	5%	6



RATE CHARTS – TAX DEDUCTED AT SOURCE (TDS)

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Rates of Tax Deduction at Source					
Section	Nature of Payments made to Resident	Threshold Limits	Payee		Notes
			Company, Partnership Firm / LLP / Co-op Society / Local Authority	Individual, HUF, AOP & BOI	
		(INR)	Rates	Rates	
194-E	Income arising to a Non-Citizen, Non-Resident Entertainer or Sportsmen	NIL	N.A	20%	N.A.
194-EE	Payment in respect of deposits under NSS	2,500	10%	10%	N.A
194-G	Commission etc. on the sale of lottery tickets	15,000	5%	5%	N.A.
194-H	Commission/Brokerage	15,000	5%	5%	3
194-I	Rent of machinery, plant or equipment	2,40,000	2%	2%	3
194-I	Rent of land, building, or Furniture	2,40,000	10%	10%	3
194-IA	Payment on transfer of certain immovable property other than agricultural land	50,00,000	1%	1%	20
194-IB	Payment of Rent by Individuals/HUF (other than covered by Section 44AB)	50,000 p.m.	5%	5%	No TAN required
194- IC	Payment under Specified Agreement for Joint Development	NIL	10%	10%	N.A.
194-J	Professional Fees	30,000	10% / 2%	10% / 2%	3,7 & 8



RATE CHARTS – TAX DEDUCTED AT SOURCE (TDS)

GBCA & Associates LLP, Chartered Accountants

Rates of Tax Deduction at Source					
Section	Nature of Payments made to Resident	Threshold Limits	Payee		Notes
			Company, Partnership Firm / LLP / Co-op Society / Local Authority	Individual, HUF, AOP & BOI	
		(INR)	Rates	Rates	
194-K	Payment to resident for income in respect of units of Mutual fund or Administrator of Specified Undertaking or Specified Company	5,000	10%	10%	9
194-LA	Compensation or Consideration for Compulsory Acquisition of Immovable Property(other than agricultural land)	2,50,000	1%	1%	10
194-LBA	Incomes from units of Business Trust.	NIL	5% / 10%	5% / 10%	11
194-LC	Interest Income paid to Non-Residents by Specified Companies or Business Trust	NIL	5% / 4%	5% / 4%	12
194-LD	Interest income paid to Non-Residents by certain Bonds and Government Securities.	NIL	5%	5%	13
194-M	Payment for contract /professional services by individual/ HUF. (other than those covered under 194C and 194J).	50,00,000	5%	5%	No TAN required
194-N	Cash Withdrawn from bank, co-operative bank and post office.	1,00,00,000/ 3,00,00,000	2%	2%	14



RATE CHARTS – TAX DEDUCTED AT SOURCE (TDS)

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Rates of Tax Deduction at Source					
Section	Nature of Payments made to Resident	Threshold Limits	Payee		Notes
			Company, Partnership Firm / LLP / Co-op Society / Local Authority	Individual, HUF, AOP & BOI	
		(INR)	Rates	Rates	
194-O	Payment made by E-commerce operator to E-commerce Participant.	NIL (Refer Note 18)	1%	1%	18
194P	TDS by specified bank to specified senior citizen	N.A.	N.A.	Refer Note 15	N.A.
194Q	Purchase of goods	50,00,000	0.10%	0.10%	19
194R	TDS on benefit of perquisite in respect of Business or Profession	20,000	10%	10%	3
194S	Payment on transfer of Virtual Digital Asset	Specified persons = 50,000 Others = 10,000	1%	1%	No TAN required



Notes:

1. TDS provisions u/s 192A applies when withdrawal of accumulated balance in RPF is to be included in the total income. In case PAN is not available, TDS shall be at 20% instead of MMR.
2. Threshold limit for interest paid on debentures is INR 5,000. Threshold limit for interest on 7.75% GOI Savings (Taxable) Bonds, 2018 is INR 10,000. Tax will be deducted on interest on securities which is listed on recognised stock exchange.
3. The provisions of following TDS / TCS Sections shall apply if the Gross Receipts / Turnover is INR 1 Crore or more for Business and INR 50 Lakhs or more for Profession of deductor being Individual or HUF in relation to deduction under following sections:
 - Section 194A, 194C, 194H, 194I, 194J, 194R and
 - Section 206C
4. The threshold limit for TDS on interest income from Bank and Post office deposits for Senior Citizens is INR 50,000 and in any other cases INR 40,000.
5. TDS is to be deducted @ 2% if the payee is an AOP or BOI. No TDS is applicable on payment to Contractor during the course of plying, hiring or leasing of goods carriages, where such contractor owns 10 or less goods carriages during the FY and furnishes declaration along with PAN.
6. Applicable only where amount is not exempt u/s 10(10D).
7.
 - a. Rate of TDS is 2% instead of 10% if the payee is engaged only in the business of operation of call centre.
 - b. TDS on Remuneration to Director which is not in the nature of Salary to be deducted @ 10%.
8. TDS under section 194J for payment of fees for technical services (except professional services) is to be deducted @ 2% & for professional services is to be deducted @ 10%.
9. Units of Mutual Fund have been specified under section 10(23D) of Income Tax Act, 1961. "Administrator", "specified company" and "specified undertaking" are specified u/s 2 of the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002.
10. No tax will be deducted if payment is made in respect of any award or agreement which has been exempted from levy of income-tax u/s 96 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.
11. Interest payment from a SPV and Distribution of dividend by a Business Trust, to Resident unit holders shall be liable for TDS @ 10%. Whereas, in case of Non-Resident payee, TDS on dividend shall be @ 10% & that on interest payment shall be @ 5%.



Notes:

12. The period of concessional rate of TDS of 5% has been extended till 01st July 2023 from existing 01st July 2020. The rate of TDS has been reduced to 4% in case of interest payable to a Non-Resident on borrowings in foreign currency from a source outside India, by way of issue of any long term bond or Rupee Denominated Bonds on or after 01st April, 2020 but before 01st July, 2023 and which is listed only on a recognised stock exchange located in any IFSC.
13. In case of FPI and QFI, the lower TDS rate of 5% has been extended to 01st July, 2023. The said concessional TDS rate shall also be applied to FII and QFI in respect of investment made in Municipal Bonds.
14. The threshold limit of INR 1 Crore is for aggregate cash withdrawn from an account during the FY. However, if recipient is cooperative society, then threshold limit will be INR 3 Crore.
15. At the rates applicable to particular slab of income including applicable Surcharge and Health & Education Cess.
16. In case payee does not furnish PAN then TDS shall be deducted at higher of the following rates
- Rates specified in relevant provisions of the Act or
 - Rates in force or
 - 20%
- In case of payment by E-Commerce Operator to E-Commerce Participant, 5% TDS shall apply instead of 20%.
17. In case of non-filers having aggregate TDS / TCS of INR 50,000 or more and who have not filed their ITR in the immediately preceding the financial year (and time limit for filing the original return has expired), then the rate of TDS shall be higher of the following
- Twice the rates specified or
 - Rates in force or
 - 5%
- In case the payee does not furnish PAN and TDS rate for not furnishing PAN are higher than the above mentioned rates, then such higher rate shall be applicable.
- These provisions will not be applicable for the following payments:
- Salary
 - Accumulated Balance due to employee
 - Winnings from lottery, crossword puzzle or horse race
 - Income paid in respect of investment in securitization trust
 - TDS by banks on cash withdrawals
 - Payment on transfer of certain immovable property other than agriculture land



Notes:

- Payment of rent exceeding INR 50,000 per month by certain individuals or Hindu undivided family
- Payment of certain sums above INR 50,00,000 for a year by certain individuals or Hindu undivided family
In case of FPI and QFI, the lower TDS rate of 5% has been extended to 01st July, 2023. The said concessional TDS rate shall also be applied to FII and QFI in respect of investment made in Municipal Bonds.

18. TDS @ 1% to be deducted by e-commerce operator on the gross amount of sales or services or both made by the e-commerce participant and facilitated through its digital or electronic platform.

- E-commerce operator is required to deduct tax at the time of credit of amount of sale or service or both to the account of e-commerce participant or at the time of payment thereof to such participant by any mode, whichever is earlier.
- Tax also to be deducted by e-commerce operator where payment is made by purchaser of goods or recipient of services directly to e-commerce participant.

- If the gross amount of sales or services or both of e-commerce participant, being an individual or HUF, through e-commerce operator during the previous year does not exceed INR 5 Lakhs and such e-commerce participant has furnished his PAN or Aadhaar number to the e-commerce operator then TDS will not be required to be deducted on the same.
- In case the PAN of the e-commerce participant is not available then the rate of TDS shall be 5%.
- Transaction covered under this section shall not be liable for TDS under any other provisions.





Notes:

19. TDS on goods purchased from any resident, being seller, in following case

Nature of payment made to resident	Person Responsible to deduct tax	Rate of TDS (PAN is Provided)	Rate of TDS (PAN is Not Provided)	Exceptions
Purchase of goods (value or aggregate of value of goods purchased > INR 50 Lakhs during the FY)	Person being buyer whose total sales, gross receipts or turnover from the business carried on by him > INR 10 Crores during the FY immediately preceding the FY in which goods were purchased	0.10%	5%	<ul style="list-style-type: none">▪ Tax is deductible under any other provision of the Act▪ Transaction on which tax is collectible under the provisions of the Act other than sale of goods.

- Notified category of persons will be exempt from deducting tax on above mentioned transaction.
- If on a transaction, TCS is required u/s 206C(1H) as well as TDS under this amended section, then only TDS under this section will apply.

20. TDS on transfer on immovable property is to be deducted on sale consideration or stamp duty value of such property, whichever is higher provided either of the two exceeds INR 50 lakhs.

21. Form 15G/15H can be given wherever applicable.



RATE CHARTS – TAX COLLECTED AT SOURCE (TCS)

GBCA & Associates LLP, Chartered Accountants

Rates of Tax Collection at Source			
Section	Nature of Receipt by seller	Threshold Limits	Rates
		(INR)	
206C(1)	Alcoholic Liquor for human consumption	N.A.	1%
206C(1)	Timber obtained under a forest lease	N.A.	2.5%
206C(1)	Timber obtained by any other mode	N.A.	2.5%
206C(1)	Any other forest produce not being a timber or tendu leave	N.A.	2.5%
206C(1)	Scrap	N.A.	1%
206C(1C)	Grant of license, lease, etc. of parking lot	N.A.	2%
206C(1C)	Grant of license, lease, etc. of toll plaza	N.A.	2%
206C(1C)	Grant of Mining and quarrying	N.A.	2%
206C(1)	Tendu leaves	N.A.	5%
206C(1)	Minerals being coal or lignite or iron ore	N.A.	1%
206C(1F)	TCS on Motor Vehicle	10,00,000	1%
206C(1G)	TCS on remittance under LRS for purchase of overseas tour program package	N.A.	20%
206C(1G)	TCS on remittance under LRS for purpose other than for purchase of overseas tour package or educational loan or medical treatment	N.A.	20%



Rates of Tax Collection at Source			
Section	Nature of Receipt by seller	Threshold Limits	Rates
		(INR)	
206C(1G)	TCS on remittance under LRS for educational loan taken from financial institutions	In excess of 7,00,000	0.5%
	TCS on remittance under LRS for the purpose of education other than above or for the purpose of medical treatment	In excess of 7,00,000	5%
206C(1H)	TCS on sale of goods	In excess of 50,00,000	0.1%

Notes:

1. Seller means any company or firm or co-operative society, central Government, State Government or any local authority and includes an individual and HUF whose total sales or gross receipt/turnover exceeds 1 crore in case of business or 50 Lakhs in case of profession during the FY immediately preceding the FY in which the goods are sold.
2. In case buyer does not furnish PAN then TCS shall be collected at higher of the following rates
 - Twice the rate specified in relevant provisions of the Act or
 - 5%
3. In case of non-filers having aggregate TDS / TCS of INR 50,000 or more and who have not filed their ITR in the immediately preceding the financial year (and time limit for filing the original return has expired), then the rate of TCS shall be higher of the following
 - Twice the rates specified or
 - 5%

In case the payee does not furnish PAN and TDS rate for not furnishing PAN are higher than the above mentioned rates, then such higher rate shall be applicable.

The above provision are not applicable for non-resident who does have permanent establishment in India.



TDS on payment of accumulated balance under EPF Scheme

- Currently if an employee does not furnish his PAN, the tax on lump sum payment of taxable component of accumulated balance under EPF Scheme is deducted at maximum marginal rate (30% plus applicable surcharge and cess) instead of 10%.
- It is proposed to omit the requirement of deducting tax at MMR. Hence, in case of failure to furnish PAN, tax will be deducted at the rate of 20% as in other Non-PAN cases.

Application for claiming TDS Credit in respect of income already disclosed in the ITR of past year(s)

- Currently, it is difficult to claim TDS Credit in respect of income which has already been offered to tax in a given year but the TDS of which is deducted in a subsequent financial year.
- It is proposed to allow assessee to claim such TDS Credit by making an application to Jurisdictional AO.
- Application should be filed within a period of two years from the end of the FY in which such tax was deducted. On receipt of such application, AO can allow credit of such TDS in relevant year.
- The AO has to pass an order in this regards within 4 years from the end of the FY in which such tax has been deducted.
- It is also proposed that interest at the rate of 0.50% per month shall be paid on refund arising out of above rectification.
- This amendment shall be effective from 01st October 2023.

Withdrawal of exemption from TDS on payment of interest on listed debenture

- At present, interest on listed security which is in demat form is exempt from TDS.
- In order to reduce under reporting of interest on such security by the recipient, it is proposed to withdraw such exemption.

Extending the scope for lower TDS to business trust

- Currently, facility of application for lower/NIL deduction certificate is not available in respect of income received from units of business trust (i.e. REITs and InvITs).
- It is proposed to extend the benefit of such application in respect of income earned from units of REITs and InvITs by amending the existing provisions of the Act.
- This amendment shall be effective from 01st April, 2023.

Increasing threshold limit for co-operatives to withdraw cash without TDS

- Bank including co-operative bank deduct 2% of the sum payable to any person (recipient).
- The requirement to deduct tax applies only when the payment of amount or aggregate of amount in cash during the year exceeds INR 1 crore.
- It is now proposed to increase the threshold to INR 3 Crores where recipient is a co-operative society.



Tax treaty relief to Non-Residents for TDS on income from Indian Mutual Funds & Specified Companies

- Currently, TDS on income arising from units of Mutual Fund or from specified company to a non-resident or foreign company is deducted at 20% without treaty benefit.
- To provide relief to non-resident taxpayers earning such income, it is proposed that tax shall be deducted at the rate of 20% or rates provided in the tax treaty, whichever is lower.
- TDS will be deducted at lower rate only if such non-resident taxpayer furnishes the Tax Residency Certificate (TRC). Further, one also has to check whether the TRC obtained contains all the requisite information in absence of which Form 10F is required to be furnished additionally.

Relief from special provision for higher rate of TDS/TCS for non-filers of income-tax returns

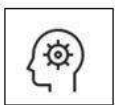
- Currently, higher rate of TDS/TCS is applicable for making payment to a person who is not filing return of income subject to conditions. There were certain persons, who were not required to file the return of income however, due to lack of clarity they were getting covered at higher rate of TDS/TCS.
- To provide relief from genuine hardship faced by the tax payers, it is proposed to amend the provision that the person(s) who are not required to file ITR and notified by the CG are to be excluded from the definition of non-filers of ITR.

TDS and taxability on net winnings from online games

- With effect from 01st July, 2023, TDS on net winnings from online games shall be deducted at 30%.
- TDS shall be deducted at the end of the financial year on the net winnings in users' account. In case any portion of net winnings are withdrawn during the financial year from the users' account, TDS shall be deducted at the time of withdrawal.
- Where net winnings are wholly or partly in kind, deductor shall ensure tax has been duly paid before releasing the winnings.

Revision of threshold for TDS on winnings from lottery/horse race etc.

- Presently, TDS on income by way of winnings is deducted on amount exceeding INR 10,000 per transaction at the time of payment for lottery/crossword puzzle/card game or other game of any sort and for horse racing/wagering/betting in any race course. It is proposed that the threshold limit of INR 10,000 shall apply on aggregate basis for the financial year.
- Scope of such TDS shall also be expanded to include betting and gambling of any form or nature whatsoever.



Agnipath Scheme, 2022

- Agnipath Scheme, 2022, which came into force from 1st November 2022, was introduced by the Ministry of Defence for enrolment of Agniveers in Indian Armed Forces. The government also introduced the Agniveer Corpus Fund in which contributions of the Agniveers and matching contributions of the government are deposited.
- After completion of engagement period of 4 years the Agniveers will be paid a one time package called as 'Seva Nidhi' comprising of the contribution made by the Agniveers and the government including interest on the same.
- To give the benefit of the contributions made to the Fund and for the payment received by Agniveer or his nominee from the Agniveer Corpus Fund it is proposed that:
 - Contribution made by the CG to the Agniveer Corpus Fund account of an individual enrolled in the Agnipath Scheme shall be considered as salary of that individual.
 - Deduction of the whole of the amount deposited by him & also the amount contributed by the CG to his account in the Agniveer Corpus Fund shall be allowed under Chapter VI-A. This shall be available under both the tax regime.
 - Any payment received from the Agniveer Corpus Fund by a person enrolled under the Scheme or the nominee of such person shall be exempt from tax.
- This amendment shall be effective from AY 2023-24.

Rationalization of provisions related to the valuation of residential accommodation provided to employees

- Any perquisite received by the employee as a rent free accommodation or accommodation at concessional rate from employer is taxable as perquisite under Income from Salaries.
- Methodology for computing perquisite value of rent free accommodation is provided in Rule 3 of Income Tax Rules and the methodology for valuation of perquisite of accommodation at concessional rate is provided by way of Explanations 1 to 4 of Sec 17(2)(ii).
- To bring uniformity among the methods, rule shall be prescribed for calculation of the value of both the perquisites in the form of rent free accommodation and accommodation at concessional rate.





Deduction for investment in residential house u/s 54 & 54F capped at INR 10 crores

- Presently, deduction from LTCG on the transfer of residential property or any other capital asset is allowed, if investment is made in residential house within prescribed time limits by Individual / HUF, without any monetary limit.
- It is now proposed to limit the aforesaid deduction by capping the investment in residential house to INR 10 Crores.
- Consequently, it is also proposed to limit deposit in the Capital Gains Account Scheme, upto INR 10 Crores.

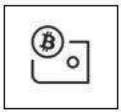
No tax implication on conversion of physical gold into electronic gold receipt (EGR) and vice versa

- In order to promote investment in Electronic Gold, it is proposed that conversion of physical gold into EGR & vice versa shall not be considered as taxable transfer chargeable to capital gains, provided such conversion is transacted via SEBI registered Vault Manager.
- For the purpose of capital gain on sale of such EGR converted from physical gold, the cost of acquisition shall be the cost of acquisition of physical gold and the period of holding shall commence from the period of holding of physical gold.
- The cost of acquisition and calculation of period of holding on sale of physical gold (converted from EGR) shall be computed in the similar manner.

Cost of acquisition in case of certain assets for computing capital gains

- Currently, the cost of acquisition and cost of improvement of certain intangible assets or any sort of right for which consideration has not been paid is not clearly defined in the Act.
- This has been a matter of litigation wherein the courts have held that there should be no chargeability of capital gains from transfer of such assets in absence of specific mechanism for computation of cost of acquisition.
- It is now proposed to provide that cost of acquisition of any self-generated intangible asset or any other similar right shall be taken as Nil.
- Similarly, it is also proposed that, the cost of improvement of any intangible asset or any other similar right shall be taken as Nil.





Restriction on double deduction of Interest on Housing Loan

- Currently, there is no specific provision which restricts capitalization of interest paid on borrowed capital for acquiring, renewing or reconstructing a property and claimed as deduction under the head house property or under Chapter VI-A of the Act and being also considered as part of cost of acquisition or cost of improvement while computing capital gains on transfer of such property.
- Thus, benefit of double deduction of same interest was being claimed under existing provisions.
- Therefore, to prevent such double deduction, it is now proposed to provide that the cost of acquisition or the cost of improvement which is deductible from sale proceeds shall not include the amount of interest claimed under head House Property or under Chapter VI-A.

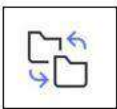
Consideration in case of Joint Development Agreement

- Currently, for computing capital gains on transfer of a capital asset under a Joint Development Agreement (JDA), full value of consideration is taken as the Stamp duty value of assessee's share, as increased by consideration received in 'cash'. The provision does not include the words "or by a cheque or draft of by any other mode."
- To rectify the same, it is proposed to include the words "or by a cheque or draft of by any other mode" in determining full value of consideration.

Taxation of Market Linked Debentures

- Market Linked Debentures ('MLDs') are proposed to be defined as securities having an underlying principal debt component whose returns are linked to the market returns on other underlying securities/ indices and includes any securities classified/ regulated as MLD by SEBI.
- Currently, LTCG on sale of MLDs is taxed at 10% (20% in case of unlisted) without indexation.
- It is proposed to tax gains on transfer/ redemption of MLDs as STCG, irrespective of the period of holding. Accordingly, such gains will now be taxable at applicable slab rates.
- Similar to section 50 (capital gains on depreciable asset) which also provides for treating capital gains as "gains from short-term capital asset", controversies in relation to exemption u/s 54F etc. & rate of tax may continue hereto.
- It is pertinent to note that this amendment shall be applicable only to MLDs as defined above and not applicable to any other securities such as Non Convertible Debentures etc.





Payments to Micro and Small Enterprises to be allowed as expenditure on actual payment basis

- Certain deduction of expenses are allowed only on payment basis.
- Section 15 of Micro, Small and Medium Enterprise Development (MSMED) Act, 2006 requires the buyer to make payment to micro and small enterprises within the time limit as agreed upon which cannot be more than 45 days.
- In order to ensure timely payments of dues to Micro and Small Enterprises, it is now proposed to allow such payments in the year in which actual payment thereof is made. It is also proposed to allow such payments outstanding at the year end, if such payments are made within the time limit specified in section 15 of MSMED Act, 2006.
- It is pertinent to note that the benefit of claiming deduction by making payment before the due date of filing ITR for the liability incurred during the year shall not be available.

Relief to start-ups in carry forward and set-off of losses

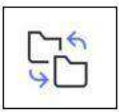
- Losses incurred, by an eligible startup companies (satisfying prescribed conditions), during the period of 7 years beginning from the year of its incorporation are allowed to be c/f and set off against the income of subsequent year/s irrespective of change in voting power, provided all the shareholders of such company as on the last day of FY in which such loss was incurred, continue to hold their shares (carrying voting

power) as on the last day of the subsequent FY in which such loss is set off.

- It proposed to increase the above mentioned time period of 7 years (from the date of incorporation) to 10 years.
- This amendment shall be effective from AY 2023-24.

Ease in claiming deduction on amortization of preliminary expenditure

- At present, certain preliminary expenses incurred prior to commencement of business or after commencement, in connection with extension of undertaking or setting up of a new unit are deductible.
- Currently, the activity such as preparation of feasibility reports or project reports, etc. in connection to eligible expenses should be carried out by the assessee or by a concern which is approved by the Board.
- In order to ease the process of claiming amortization of these preliminary expenses, it is now proposed to remove the necessity of the said activity being carried out by the approved concern. Instead, the assessee can simply avail the deduction by furnishing a statement containing particulars of expenditure in prescribed form and manner within prescribed time limit.



Extension of date of incorporation for eligible start-up for exemption

- Currently, a deduction of 100% of the profits derived from eligible business by an eligible start-up is available for any 3 consecutive years out of first 10 years from incorporation, if the turnover from the business does not exceed INR 100 Crores and if the eligible start-up is incorporated after 31st March, 2016 but on or before 31st March, 2023.
- In order to extend the benefit to eligible start-ups, it is proposed to extend the last date of incorporation from 31st March, 2023 to 31st March, 2024.
- This amendment shall be effective from AY 2023-24.

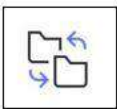
Non-Banking Financial Company (NBFC) Categorization

- Any sum payable by the assessee as interest to any Deposit taking NBFC or systematically Important Non-Deposit taking NBFC, shall be allowed only on actual payment or if the same is paid before the due date of furnishing of the return of income.
- Income of any Deposit taking NBFC or systematically Important Non-Deposit taking NBFC by way of interest in relation to bad and doubtful debts is chargeable to tax in the previous year in which it is credited to the profit and loss account or when it is actually received.

- Classification for NBFC i.e., Deposit taking NBFC and Systematically Important Non-Deposit taking NBFC is no longer followed by the RBI for the purpose of asset classifications.
- It is now proposed that henceforth, the Central Government shall notify the class of NBFC to which both the above provisions shall apply.

Benefit or Perquisites received in cash or in kind arising from business to be considered as taxable

- Benefit or perquisite whether convertible in money or not received in the course of business or profession is taxable.
- The Hon'ble Supreme Court in the case of Mahindra and Mahindra Ltd [(2018) 93 taxmann.com 32] has held that benefit or perquisite taxable u/s 28(iv) should be in some other form rather than in terms of money.
- Tax is deductible on benefit or perquisites arising in the course of business or profession subject to conditions.
- It is now proposed that the meaning of benefit or perquisite arising from business shall include benefit or perquisite in cash or in kind and shall also be liable to TDS.



Increase in threshold limits for presumptive taxation scheme for eligible business and professionals

- Under current presumptive taxation scheme, assessee engaged in eligible business or profession with turnover or gross receipts of up to a specified amount is given benefit to offer income at fixed rate with no requirement of audit and maintenance of books of account.
- In order to ease compliance and to promote non-cash transactions, it is proposed to amend as follows:

Particulars	Presumptive Taxation Scheme	
	Current	Proposed
Threshold Limit of Gross Turnover or Gross Receipts for business	up to INR 2 crores	up to INR 3 crores
Threshold Limit of Gross Receipts for professionals	up to INR 50 lakhs	up to INR 75 lakhs

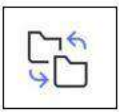
- The increased threshold limits are subject to the condition that cash receipts (including otherwise than by account payee cheque or bank draft) do not exceed five per cent of the total turnover or gross receipts as applicable, otherwise the old threshold shall apply.

Penalty for cash loan transactions against primary co-operatives

- Currently, acceptance of loan or deposit in cash (i.e. otherwise than by account payee cheque or bank draft or online transfer) of INR 20,000 or more subject to certain exceptions, is liable to penalty. Similarly, repayment of loan or deposit in cash of INR 20,000 or more subject to certain exceptions is also liable to penalty.
- It is proposed to raise the above limits for acceptance of cash loan and repayment of loan in cash from INR 20,000 to INR 2,00,000 for Primary Agricultural Credit Societies and Primary Co-Operative Agricultural and Rural Development Bank, which provides credit facilities to the rural segment.
- This amendment shall be effective from AY 2023-24.



Tax Return



Time limit for realizing Export proceeds by SEZ units claiming 10AA tax benefits

- Section 10AA allows taxpayers to claim 15 year tax benefits for businesses which are established in Special Economic Zones (SEZ) engaged in the export of goods or services and have commenced operations before 30th September, 2020.
 - It is proposed that the deduction under section 10AA will be allowed only if the proceeds from sale of goods or provision of services is received in, or brought into India, by the assessee in convertible foreign exchange, within a period of six months from the end of the previous year or, within such further period as the Reserve Bank of India or such authorized authority may allow. The export proceeds shall be deemed to have been received in India even when such proceeds are credited to a separate account maintained for that purpose by assessee with any bank outside India with RBI approval.
 - AO can amend the assessment order to allow tax deduction to the assessee if the export proceeds are realized post the permitted period.
 - Presently, if the assessee claims such deduction and files ITR after the prescribed due date, intimation was processed disallowing the deduction.
- However, section 10AA does not provide any condition for timely filing of return to claim benefit. To align both the provisions, it is proposed to amend section 10AA, whereby deduction shall not be allowed unless assessee furnishes return of income on or before prescribed due date.



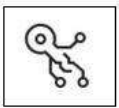


Taxation of proceeds of high premium life insurance policies

- Currently, sum received under life insurance policy, including bonus on such policy is exempt if the premium payable does not exceed 10% of the actual capital sum assured.
- It is now proposed to tax the following proceeds received under following life insurance policies:
 - Any sum received, under life insurance policy issued on or after 01st April, 2023, in respect of which the premium payable for any previous year during the term of the policy exceeds INR 5 Lakhs.
 - Any sum received, under multiple life insurance policies issued on or after 01st April, 2023, in respect of which the aggregate premium payable for any previous year during the term of any of the policies exceeds INR 5 Lakhs.
- Any sum received under above cases shall be exempt in case of death of person.
- Any sum received under life insurance policies which is not exempt shall be taxable under the head “Income From Other Sources” after deducting the aggregate of premium paid during the term of such life insurance policy if not claimed as deduction under any other provision of the Act.

Taxability for Investors of Business Trusts on Repayment of Debt and Redemption of units

- Business trusts (i.e. Real Estate Investment Trust (REIT) and Infrastructure Investment Trust (InvIT)) provide financing for infrastructure by making Equity /debt investment through SPV and earns income in form of interest, dividend and rent income (in case of REIT).
- Typically, REITs or InvIT make four kinds of payments to their unit holders viz. (1) Interest, (2) Dividend, (3) Rental Income (in case of REIT) and (4) Repayment of loan (represents distribution of surplus money received by the business trust due to repayment of loan by SPV). Currently, the first three are taxed in the hands of the unitholders. However, when payments are made under the category of repayment of debt, that amount is currently not taxed either at the REIT or InvIT or unitholder level.
- It is now proposed that income distributed by the Business Trust in the form of ‘repayment of debt’ shall be taxable for the unit holders under the head ‘Income from Other Sources’.
- Consequently, on redemption of units of business trust, it is also proposed that tax shall not be levied on amount representing cost of acquisition of such units and tax shall be levied only on the excess of the redemption amount over such cost under the head “income form Other Sources”. It shall be noted that deduction of cost cannot exceed redemption amount.



Gift by Resident to Not Ordinarily Resident – Deemed Accrual

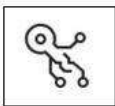
- Currently any sum of money paid by resident to RNOR outside India without consideration exceeding INR 50,000 was claimed to be non-taxable in India, as such income neither accrued nor was deemed to accrue in India and also was not received or deemed to be received in India.
- In order to ensure that such gifts/transfers are taxable in India, it is proposed that such gift/transfer of money by resident to RNOR shall be deemed to accrue or arise in India and accordingly will be taxed in India, like in case of Non-Resident.
- The above taxability will be subject to specified exceptions such as Gift received from relative, on occasion of marriage, etc.
- RNOR can explore possible treaty benefit under applicable DTAA.

Taxability on issue of shares to non-resident

- Currently, when a closely held company issues shares at premium to resident investors, the aggregate consideration received in excess of specified FMV is taxable in the hands of such closely held company under the head of 'IFOS'.
- It is proposed to expand applicability of this provision to consideration received from non-resident investors.
- Thus, receipt of aggregate consideration in excess of specified FMV for issue of shares at premium from any person irrespective of residential status shall be taxable in the hands of closely held company.

Tax Incentives to IFSC

- In case of Non-Residents, Income on transfer of offshore derivative instruments (commonly known as participating notes) entered into with IFSC Banking units (IBU) is exempted from tax.
- Under the offshore derivative instruments contract, the IBU invest in permissible Indian Securities and the income earned is taxed as Capital Gains/Interest/Dividend.
- Presently, income from investments made by the IBU's is taxed twice – at the time of receipt by the IBU and at the time of distribution to non-resident Overseas Derivative Instrument holders.
- To remove this double taxation, it is proposed to provide an exemption on the income distributed by the IBU to Non-Residents, provided the income is taxed in the hands of the IBU.
- Further, to encourage existing offshore funds to relocate to IFSC, it is proposed to extend the provisions relating to non taxability of transfer of assets by the original fund/SPV being a fund registered/incorporated outside India to a resultant fund being a category I/II/III AIF located in IFSC from 31st March, 2023 to 31st March, 2025.
- This amendment shall be effective from AY 2023-24.



No set off of UAD and b/f loss under certain Presumptive Taxation Schemes

- Assessee engaged in the business in connection with exploration/extraction, etc., of mineral oils or in certain civil constructions or turnkey power projects can opt for taxation at 10% on specified amounts.
- Assessee may cherry pick to be covered under presumptive taxation scheme in case of high book profit and opt out of presumptive scheme in the year they had a loss as per books to carry forward the same.
- To prevent any misuse of the said presumptive taxation scheme, it is proposed that no set off of UAD and b/f losses will be allowed when the profits are taxed as per the provisions of presumptive taxation scheme.

Reducing the time provided for furnishing TP report during proceedings

- When any assessee enters into international transaction or specified domestic transaction, he/she needs to maintain the information and documents under TP report covering details like ownership structure, profile of global group, description of business, nature and terms of transaction, FAR analysis, descriptions of methods determining ALP, assumptions, etc. as provided u/s 92D and relevant Income Tax Rules.

- Earlier, during the proceedings when notice was issued by the AO or the Commissioner (Appeals) requiring relevant documents in relation to such transactions, the assessee had 30 days' time (extendable by a period of maximum 30 days on application) from the date of receipt of notice to submit the said information.
- It is now proposed that the assessee should furnish the relevant information and documents within 10 days (extendable by a period of maximum 30 days on application) from the date of receipt of notice which will provide the officer reasonable amount of time to examine the documents and complete the pending proceedings.
- Certain assessee who are not required to maintain such detailed documentation on account of value of international transactions not exceeding INR 1 crore, will have to exercise caution as the time frame to submit the minimum documentation maintained by them to substantiate the ALP, has been reduced to 10 days.

No restriction to NBFC's on interest deductibility

- Under the existing provisions, where an Indian Company or a permanent establishment of a foreign company in India borrows money from its AE and incurs interest expenditure exceeding INR 1 crore, the maximum deduction for interest during the year is restricted to 30% of the EBITDA.
- The above provision is not applicable where the borrower is engaged in the business of Banking or Insurance.
- It is now proposed to provide relief to NBFC's as may be prescribed by excluding them from the above restriction relating to interest deductibility.



Assistance to authorised officer during search and seizure

- Currently as per section 132, the authorised officer may take assistance of any police officer or of any officer of the CG, or of both, for performing any action required during the course of search.
- Similarly, the authorised officer may make a reference to a valuation officer for estimating the fair market value of the property.
- Considering the advancement and increased use of technology in every aspect, the procedure of search and seizure has become complex. Also there has been difficulty in valuing the assets held in different forms due to paucity of time.
- To overcome these complexities, it is now proposed that the authorised officer, may take assistance of any other person or entity in addition to the police officer or of any officer of the CG, with prior approval of Principal Chief Commissioner or the Chief Commissioner or the Principal Director General or the Director General.
- Similarly, the authorised officer may also make reference, in addition to valuation officer, to any person or entity or any valuer registered under any law, with prior approval of Principal Chief Commissioner or the Chief Commissioner or the Principal Director General or the Director General. to

estimate the fair market value of the property.

- This amendment shall be effective from AY 2023-24.
- Prior to Finance Act 2021, the time limit for completion of assessment in search cases was given in section 153B. After the enactment of Finance Act 2021, assessment of search cases is governed by section 147 of the Act and thus section 153B had become redundant.
- The time limit for completion of assessment in search cases is linked to the execution of the last of the authorisations of search, which was provided in section 153B of the Act. Now, since the provisions of section 153B is not applicable, it is proposed to provide the meaning of execution of last authorisation u/s 132 itself.
- This proposed amendment to provide meaning of execution of last authorization is applicable retrospectively from the AY 2022-23.

Introduction of the authority of Joint Commissioner (Appeals) for cases involving small amount of disputed demand

- Currently as per the scheme for appeals under the Act, the first appellate authority for an assessee aggrieved by any order issued under the Act is the Commissioner (Appeals).



- Being the first authority for the appeals, Commissioner (Appeals) are overburdened due to huge number of appeals and pendency being carried forward every year.
- It is proposed to create a new authority for appeals at Joint Commissioner/ Additional Commissioner level to handle certain class of cases involving small amount of disputed demand.
- Earlier Sec 246 of the Act was providing for the appeal functions of Deputy Commissioner (Appeals) which was discontinued in the year 2000 and it is now proposed to be substituted for appeals to be filed before Joint Commissioner (Appeals).
- Any assessee aggrieved by any of the following orders of an Assessing Officer (below the rank of Joint commissioner) may appeal to the Joint Commissioner against:
 - an order being an intimation under section 143(1), where the assessee objects to the making of adjustments, or any order of assessment under section 143(3) or section 144, where the assessee objects to the amount of income assessed, or to the amount of tax determined, or to the amount of loss computed, or to the status under which he is assessed
 - an order of assessment, reassessment or recomputation under section 147
 - an order being an intimation under section 200A(1)
 - an order under section 201
 - an order being an intimation under section 206C(6A)
 - an order under section 206CB(1)
 - an order imposing a penalty under Chapter XXI
 - an order under section 154 or section 155 amending any of the orders mentioned above.
- Following are the points relevant to the proposed amendments:
 - Appeal cannot be filed before Joint Commissioner (Appeals) where order is passed by an authority ranked above Deputy Commissioner
 - Pending appeals against the above mentioned orders with Commissioner (Appeals) can be transferred to the Joint Commissioner (Appeals) by the authority so authorized.
 - Any appeal pending before Joint Commissioner (Appeals) can be transferred to the Commissioner (Appeals) by the authority so authorized.
 - The appellant shall be provided an opportunity of being heard where an appeal is to be transferred
 - Central Government for the purpose of disposal of appeals by the Joint Commissioner (Appeals) may make a scheme, by notification in official Gazette.
 - This amendment shall be effective from 01st April 2023.



Allowing prescribed authority to direct the assessee to get the inventory valued by Cost accountant

- Currently, assessees are required to maintain books of account including the maintenance of inventory records and value the inventory in accordance with Income Computation Disclosure Standards (ICDS).
- In order to ensure that the inventory is valued in accordance with various provisions of law and to minimize risk due to undervaluation of inventory, it is now proposed to enable the Assessing Officer to direct the assessee during the assessment proceedings to get the inventory valued by a cost accountant nominated by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner in this behalf after giving an opportunity of being heard to the assessee.
- Consequentially, the time limit for completion of assessment is now proposed to exclude the period for inventory valuation through the cost accountant for the purposes of computation of time limitation.
- Further, it is proposed to include the power to make rules for the form of prescription of report of inventory valuation and the particulars which such report shall contain.
- This amendment shall be effective from AY 2023-24.

Rationalisation of Appeals to the Appellate Tribunal

- Enactment of Finance Act, 2022 enabled Commissioner (Appeals) to pass an order for imposing penalty u/s 271AAB, 271AAC and 271AAD. This order was not an appealable order u/s 253 (provisions relating to filing of appeals to the Appellate Tribunal) as no specific reference in respect of this order was mentioned.
- It is now proposed to bring the above order under the purview of appealable orders u/s 253.
- Further, Finance Act 2021 amended section 263 to enable Principal Chief Commissioner and Chief Commissioner to pass an order of revision. This order was also not an appealable order u/s 253 as no specific reference in respect of this order was mentioned.
- It is now proposed to bring the above order under the purview of appealable orders u/s 253.
- Currently, the provisions of section 253 allows the respondent in an appeal, against an order of Commissioner (Appeals), to file a memorandum of cross-objections before the Appellate Tribunal. However in cases of appeal filed against the orders of other Income Tax Authority, no provision was mentioned for filing memorandum of cross objection.
- It is now proposed to include all classes of cases for filing memorandum of cross-objections.
- This amendment shall be effective from AY 2023-24.



Alignment of timeline provisions under section 153 of the Act in respect of assessment proceedings

- Change in time limit for completion of assessment proceedings:

Sr. No.	Proceedings under Sections	Time limit for completion of assessment as per current provisions of the Act	Time limit for completion of assessment as per proposed amendment in the Act
1.	Section 143 or 144	After expiry of 9 months from the end of the assessment year	After expiry of 12 months from the end of the assessment year
2.	Assessment proceeding where an updated return u/s 139(8A) has been furnished	After expiry of 9 months from the end of the financial year in which return u/s 139(8A) was furnished	After expiry of 12 months from the end of the financial year in which return u/s 139(8A) was furnished

Note: The above timelines will apply to assessments of AY 2022-23 and onwards

- As per the Finance Act, 2021 power was granted to pass order u/s 263 or 264 to the PCCIT or CCIT. However there was no mention of these orders in section 153 regarding time line for passing the order. Hence amendment is proposed, to provide that section 153(3), 153(5) and 153(6) shall also apply to the order passed by PCCIT and CCIT u/s 263 or 264 .
- In order to align the dates of limitations a new sub section (3A) is proposed to be inserted in section 153 of the Act. Whereby it is provided that where an assessment or reassessment is pending on the date of initiation of search u/s 132 or requisition u/s 132A, the period available for completion of such assessment/reassessment shall be extended by 12 months in following cases:
 - in a case where such search is initiated under section 132 or such requisition is made under section 132A;
 - in the case of an assessee, to whom any money, bullion, jewellery or other valuable article or thing seized or requisitioned belongs to;
 - in the case of an assessee, to whom any books of account or documents seized or requisitioned pertains or pertain to, or any information contained therein;
- This amendment shall be effective from AY 2023-24.



Relaxation of Reassessment Proceedings

- Prescription of period to furnish return of income in response to the notice u/s 148:
 - Currently in the course of the reassessment proceedings, on issuance of notice u/s 148 by the Income Tax Department, assessee is required to furnish return of income u/s 148 within the time prescribed in the notice, generally being 1 month from the date of issue of notice. On submission of such return, the income tax department subsequently issues a notice u/s 143(2).
 - Now it has been proposed that on receipt of notice u/s 148, a return in response should be furnished within three months from the end of the month in which such notice was issued, or within such further time as may be allowed by the Assessing Officer on a request made.
 - On failure to furnish the return of income within the above prescribed time limit, the return filed will not be considered as a return u/s 139 and consequently notice u/s 143(2) will not be issued.
- Extension of period to issue notice u/s 148 in case of search and requisition:
 - If the assessing officer is undertaking search actions or requisition, it is deemed that the information thus available with the Assessing Officer is evidencing that income has escaped assessment and there should be no need to issue a notice u/s 148A of the Act.
 - Income Tax Department can issue notice u/s 148 only for the assessment years where more than 3 years from end of such AY have not elapsed.
 - If the search or requisition has been conducted in the last 15 days of the financial year for any AY, 3 years of which will conclude at the end of same financial year, even though tax evasion may be evident from the books of accounts, it is not possible to compile the data to issue notice u/s 148 within the last 15 days.
 - Therefore, it has been proposed that if search action or requisition is conducted in the last 15 days of the financial year for an AY 3 years of which will conclude in the end of the financial year, in such a case 15 days period shall be excluded for calculating 3 years for issue of notice u/s 148.
 - Example.: If the search action or requisition has been concluded between the period of 16/03/2022 to 31/03/2022 [notice u/s 148 for AY 2017-18 can be issued upto 15/04/2022 (i.e. 15 days after end of 3 years from end of the relevant AY)].
- Authority to grant approval for issuing notice u/s 148 and section 148A:
 - Currently there is a confusion over who is authorized to grant approval for re-opening of assessments for a period beyond 3 years.
 - In order to clear the confusion, it is proposed that Principal Chief Commissioner or Principal Director General or Chief Commissioner or Director General can give authority for reopening of assessment of AY beyond 3 years.



CG to have power to amend or modify the directions related to faceless schemes and e-proceedings

- The CG has power under certain sections to issue directions with respect to implementation of e-proceedings and faceless schemes. For the purpose of issuing such directions in relation to the schemes various time limits (31st March, 2022 and 31st March, 2023) were incorporated in order to implement the reforms in timely manner.
- At present, there is no express provision that the CG may amend or modify the directions issued after expiry of the relevant time period.
- Therefore, it is proposed to provide that the directions issued before the expiry of relevant period may be amended/ modified by the CG at any time by notification in the Official Gazette.

Clarification regarding interest u/s 234B in case of filing Updated Return

- The Finance Act, 2022 inserted sub-section (8A) in section 139 of the Act enabling the furnishing of an updated return by taxpayers up to two years from the end of the relevant assessment year subject to fulfilment of certain conditions.
- Further, the existing provision of the section 140B(a) of the Act provides that computation of interest u/s 234B in respect of updated return shall be on an amount equal to the assessed tax or the amount by which the advance tax paid falls short of the assessed tax. This implies that the interest is payable only on the difference of the assessed tax and advance tax

- In order to clarify the same it is now proposed to provide that interest payable under section 234B shall be computed on an amount equal to the assessed tax.
- Further for the purpose of calculating the assessed tax, the amount of relief or tax referred in section 140A which is claimed in earlier return, if any should be reduced.
- The amendment shall apply retrospectively from 01st April, 2022.

Set off and withholding of refunds in certain cases

- Section 241A of the Act deals with withholding of refund due to the assessee in cases where assessment proceedings have been initiated and the AO is of the opinion that grant of refund is likely to adversely affect the interest of revenue. With effect from AY 2017-18, the refund shall be withheld only after recording the reasons and prior approval of the prescribed authority.
- Further, section 245 deals with set-off of refunds against tax payable after providing the assessee with an intimation in writing. As can be seen, the two sections are on same issue and therefore there is a need to integrate the same.
- It is now proposed to incorporate the provisions of section 241A in section 245 and repeal section 241A altogether.
- Further, it is proposed to amend section 244A which deals with interest on refund due to the assessee to exclude the period for which such refund has been withheld till the date of completion of assessment.
- This amendment shall be effective from AY 2023-24.



Provisions related to business reorganisation

- At present, section 170A provides for filing of modified return of income by the successor within 6 months from the end of the month in which order of business reorganisation is issued by tribunal or court or an Adjudicating Authority under the IBC, 2016. However, there is no provision for the procedure to be followed by the AO once such modified return of income has been furnished by the successor.
- It is proposed to provide following procedure to be followed by the AO as on the date of furnishing modified return of income for an AY to which the order for business reorganization applies :

If any assessment or reassessment

- have been completed then the AO shall pass an order modifying the total income determined in such assessment/reassessment after taking into consideration such order and modified return of income; or
 - Is pending then the AO shall pass an order assessing/ reassessing the total income after taking into consideration such order and modified return of income.
- It is also proposed that the tax shall be chargeable at the rate applicable for such AY (for which modified return is furnished).
 - This amendment shall be effective from AY 2023-24.





Penalty for furnishing inaccurate statement of specified financial transaction by reporting Financial Institutions

- Various class of person, including any reporting Financial Institution who is responsible for registering or maintaining document containing record of any specified financial transaction is required to file a statement in respect of such financial transaction u/s 285BA (Form 61A and 61B).
- Penalty of INR 50,000 is leviable if such person furnishes inaccurate information in the statement.
- Presently, there is no penal provision for submitting incorrect information by the account holder to the reporting Financial Institution.
- It is now proposed to provide that if the reporting Financial Institution submits an inaccurate statement due to false information submitted by the account holder, an additional penalty of INR 5,000 can be levied on such reporting Financial Institution for every inaccurate reportable account.
- Further, it is also proposed to provide that the reporting financial institution may recover the amount of penalty so paid from the account holder.
- This amendment shall be effective from 01st April, 2023.

Penalties consequent to new sections under TDS

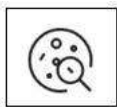
- Section 271C of the Act levies penalty with respect to the failure on part of the assessee to deduct whole or any part of the TDS amount. Whereas, section 276B of the Act provides for initiation of prosecution proceeding for failure to deposit TDS. Further penalty & prosecution are applicable on non-deposit of TDS amount with respect to distributed profit (u/s. 115O) and winnings from lottery (u/s. 194B) under the existing provision.
- Section 194R of the Act provides for deduction of tax on certain benefits or perquisites in respect of business or profession. In addition, Section 194BA, which is proposed to be inserted in the Act, provides for TDS on Net winnings from online games. Further, Section 194S provides for deduction of tax or payment on transfer of Virtual Digital Asset (VDA)..
- It is seen that there was no penalty or prosecution on default on deposit of TDS u/s 194R, 194BA and 194S to the government.
- Hence, it is now proposed that the person responsible to deduct shall now also ensure that the tax is deposited in respect of TDS deducted u/s 194R, 194BA and 194S of the Act. If there is failure on part of the assessee to pay the tax, then penalty u/s 271C and prosecution u/s 276B can be initiated.
- The amendment with respect to defaults in 194R and 194S of the Act shall be effective from 01st April, 2023 and with respect to defaults in section 194BA shall be effective from 01st July, 2023.



Decriminalization of section 276A of the Act

- Section 178 casts responsibilities on liquidator to issue notice about his appointment to the Assessing Officer and also to set aside the amount to meet costs and expenses for winding up the company.
- Section 276A provides for prosecution of liquidator of company for non-compliances of section 178.
- Since now the compliance required by section 178 is governed by IBC, 2016, the liquidator is working under the oversight of a specific law.
- Hence, it is proposed to provide a sunset clause in section 276A with effect from 31st March, 2023 whereby no fresh prosecution shall be launched on liquidator on or after 01st April, 2023.





Rationalization of the provisions relating to charitable trust and institutions.

- Currently, there are two regimes available for charitable trust and institutions to claim exemptions i.e. first regime is for institutions referred u/s 10(23C) and second regime is for charitable trusts referred u/s 11 and 12AA/12AB of the Act.

1. Removal of provisions related to the roll back of exemption:

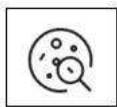
- Currently, the trust referred u/s 11 and 12AA/12AB of the Act is allowed to take the exemption with respect to the AY relevant to the FY in which the application for registration is made. Further, there is a roll back provision where the trust or institutions is allowed to take exemption for the AY preceding the relevant AY for which assessment proceedings are pending before AO as on the date of registration, if the object of trust remains the same for earlier years. In addition to it, the AO can not initiate the reassessment proceedings for these earlier years.
- Now, it is proposed to delete such roll back provision as the trust is required to apply for provisional registration before commencement of its activity which makes roll back provisions itself irrelevant.
- This amendment shall be effective from 01st April, 2023

2. Denial of exemption where return of income is not furnished within time:

- Currently, the return of income is not furnished by a trust or institution within the time frame specified u/s 139 of the Act, exemptions u/s 11 and 12 cannot be claimed.
- However, Section 139 was amended to provide for an option to file an updated return which can be filed up to 2 years from the end of the AY. The unintended consequence was that even charitable entities could file their updated return and claim exemption.
- Thus, amendments have been introduced to clarify that exemption can only be claimed if the return of income is furnished before the due date of filing return u/s 139(1) (31st October for AY 23-24) or belated return u/s 139(4), i.e., 31st December for respective AY.
- This amendment shall be effective from 01st April 2023.

3. Treatment of donations to other trusts

- Currently, the donations made by charitable entities to other charitable entities with similar objects can be claimed as application.
- It is now proposed that out of the donations made to other charitable entities only 85% shall be considered as application.



4. Combining provisional and regular registration for new registration

- Currently, new trust and institution under both regimes as well u/s 80G regime need to first apply for the provisional approval at least one month prior to the commencement of previous year in which the said approval is sought and such provisional approval shall be valid for a period of 3 years.
- Further, such provisionally registered trusts or institutions again need to apply for regular/final registration at least six months prior to expiry of period of the provisional registration/approval or within six months of the commencement of activities, whichever is earlier.
- Following difficulties are observed under the current provisions:
 - The trusts or institutions formed or incorporated during the previous year are not able to get the exemption for that year in which they are formed or incorporated since they need to apply one month before the previous year for which exemption is sought.
 - Trusts or institutions, where activities have already commenced, are required to apply for two registrations (provisional and regular) simultaneously.

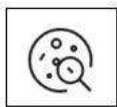
- In order to avoid such difficulties and rationalize the procedure, it is proposed to grant registration as follows:

Whether activity commenced	Application for registration
Activity not commenced	Apply for Provisional Registration
Activity already commenced	Apply for regular/ final registration

- Such application shall be examined by PCIT or CIT where upon satisfaction about the object, genuineness and compliance of other requirements will grant final registration for 5 years.
- The PCIT/CIT needs to pass such regular order within 6 months from the end of month in which application was received.
- These amendments shall be effective from 01st October, 2023.

5. Insertion of specified violation

- At present, the re-registration/ approval of the entities u/s 12, 10(23C) and 80G of the Act can be cancelled by PCIT/CIT for certain specified violations.



- The power to cancel registration is proposed to be extended to cases where the entities have furnished incomplete or incorrect information while applying for provisional or final registration.
- This amendment shall be effective from 01st April, 2023.

6. Additional ground for levy of accreted tax on income of trust

- Trusts and institutions were required to re-apply for re-registration as per the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020.
- Also, the trusts who have obtained provisional registration are required to apply for final registration within the prescribed timeline.
- The trust or institutions who have not done so shall be deemed to have been converted into any form not eligible for registration or approval u/s 12AA/ 12AB and 10(23C) of the Act in the previous year in which such period expires and the accreted income on the date of such violation, shall be taxed at maximum marginal rate.
- The Entity and also the Principal Officer or Trustees as the case may be are liable to pay the tax on the accreted income within 14 days from the end of the previous year in which such conditions are violated.
- This amendment shall be effective from AY 2023-24.

7. Alignment of the time limit for furnishing the form for accumulation of income and tax audit report:

- Currently, the charitable entities under the two regimes need to get their accounts audited and furnish the audit report in Form 10B or Form 10BB at least one month before the due date for furnishing the return of income, i.e., 30th September of relevant AY.
- In case of accumulation of funds, they are required to furnish a statement for such accumulation in Form 10 or Form 9A. This statement should be furnished on or before the due date specified u/s 139(1), i.e., 31st October of relevant AY. The auditor needs to include this statement in the audit report.
- Since the due date for furnishing audit report is a month prior to the due date for furnishing return of income, the auditors find it difficult to report.
- Thus, in case of accumulation of funds, it has been proposed to change the existing due date of filing a statement in Form 10 or Form 9A to 31st August of relevant AY, i.e., two months prior to the due date of furnishing return of income.
- This amendment shall be effective from AY 2023-24.



8. Depositing back of corpus and repayment of loans or borrowings:

- Under the existing provisions of the Act, corpus donations received by trusts and institutions under both regimes are exempt. Application out of corpus is not considered application of funds, unless such applied amount has been deposited back into the corpus and is considered application in the year of depositing back.
- Further, application from loan/borrowing is not considered as application of funds. However, when loan/borrowing is repaid from the income of any previous year, such repayment is considered as application.
- In order to ensure proper implementation of both the exemption regimes, following amendments have been proposed:
- In case of Corpus Donations:

Particulars	Corpus Donations Prior to 01 st April, 2021	Corpus Donations Post 01 st April, 2021
Utilization	NA	Not allowed as application of funds
Investment/Depositing back of the corpus amount applied within 5 years	Not allowed as application of funds	Allowed as application of funds (Refer Note)

In case of Loans/Borrowings

Particulars	Loans/Borrowings Prior to 01 st April, 2021	Loans/Borrowings Post 01 st April, 2021
Utilization	NA	Not allowed as application of funds
Repayment of the loan/borrowing amount applied within 5 years	Not allowed as application of funds	Allowed as application of funds (Refer Note)

- Note: The following conditions must also be complied with:
 - Donation should not be in the form of corpus donation to another charitable entity.
 - TDS, if applicable, must be deducted.
 - Payment/aggregate of payments to a person should not exceed ₹10,000 in a day by modes other than those specified.
 - Carry forward and set off of excess application is not allowed.
 - Application is allowed in the year in which it is actually paid.
 - Applications must not be to specified persons as defined u/s 13(1) of the Act.
 - Application should be in India.



Rationalization of the provisions of the Prohibition of Benami Property Transactions Act, 1988 (the PBPT Act)

- Under the existing provisions of the PBPT Act, the time limit to file appeal against the aggrieved order of the Adjudicating Authority, is 45 days from the date of the order.
- Invariably the order takes time to reach the office of the Initiating Officer or the approving authority which make it difficult to file an appeal within the prescribed time limit and leads to delay in such filing.
- To avoid such delay, it is proposed to amend the time limit to file appeal from 45 days from the date of the order to 45 days from the date when such order is received in the office of the Initiating Officer or the aggrieved person. Similar change is also proposed with reference to the order passed by an authority under section 54A (penalty) of the PBPT Act.
- Further, under the existing provisions of PBPT Act, the 'High Court', for the purpose of filing appeal against the order of the Adjudicating authority, have been defined as Jurisdiction of such High Court where the aggrieved party ordinarily resides or carries on business, or if the aggrieved party is Government then, jurisdiction of the High Court where the respondent, or any respondent in case of multiple respondents resides, or carries on business or personally works for gain.

- It has been observed that the non-residents against whom proceedings under PBPT Act have been initiated and who does not fall in the category of appellant or respondent mentioned in the definition, do not fall under the jurisdiction of any High Court.
- Hence, to enable the determination of High Court jurisdiction for the non-resident appellants or respondents, it is proposed to modify the definition of 'High Court' to provide that where the aggrieved party does not ordinarily reside or carry on business or personally work for gain in the jurisdiction of any High Court or where the Government is the aggrieved party and any of the respondents do not ordinarily reside or carry on business or personally work for gain in the jurisdiction of any High Court, then the High Court shall be such within whose jurisdiction the office of the Initiating Officer is located.

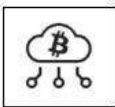
Removal of certain funds from section 80G

- As per the existing provisions, donations made to the following funds are qualified for 50% deduction:-
 - The Jawaharlal Nehru Memorial Fund
 - The Indira Gandhi Memorial Trust
 - The Rajiv Gandhi Foundation
- It is now proposed to remove these funds from section 80G which means donations made to any of these funds will not be eligible for 50% deduction u/s 80G.



III. INDIRECT TAX

- ❑ **GOODS AND SERVICE TAX ... 57**
- ❑ **CUSTOM DUTY 60**



Retrospective effect given to Amendments made in Schedule III earlier

- Schedule III of CGST Act lists down transaction which shall be considered to be neither supply of goods nor supply of services.
- Paragraph 7 & 8 of Schedule III of CGST Act dealing with out and out supply, supply of warehoused / bonded goods and high seas sales have been made retrospectively applicable from 01st July, 2017.
- Any Tax paid prior to this amendment shall not be refunded back to the taxpayers

Reversal of Input Tax Credit pertaining to sale of warehoused goods/ Bonded goods

- Input Tax Credit pertaining to exempt supplies requires proportionate reversal.
- As per the existing provision, the term “value of exempt supply” does not include the value of activities or transactions specified in Schedule III, except sale of land, sale of building
- However, it is proposed to also include “Supply of warehoused goods to any person before clearance for home consumption” in the value of exempt supply.

Non-availability of Input Tax Credit in respect of Corporate Social Responsibility Activities

- Input Tax Credit in respect of good or services or both used or intended to be used towards fulfilling obligations of corporate social responsibility under the Companies Act, 2013 is proposed to be ineligible and therefore, not available.

Reversal of Input Tax Credit pertaining to sale of warehoused goods/ Bonded goods

- Currently, persons engaged exclusively in the business of supplying goods or services or both that are not liable to tax or wholly exempt from tax are not required to obtain registration under GST provided such person is not liable to compulsory registration under the other provisions of law.
- Now, persons engaged exclusively in exempt supplies but liable to register compulsorily under the other provisions of law has been exempted from registration retrospectively w. e. f. 01st July, 2017.

Time Limit to file Returns

- New provision is proposed to be inserted to restrict the time limit for furnishing returns i.e. GSTR-1, GSTR-3B, GSTR9 & GSTR-8 till 3 years from the respective due dates



Penalty for E-commerce Operators

- Penalty of Rs.10,000 or amount of tax involved, whichever is higher, is proposed to be levied on the E-commerce Operator where –
 - Any unregistered person makes a supply through their platform, unless they have been exempted from taking Registration, or
 - Any supplier who is not eligible to make inter-state supplies makes such inter-state supply or
 - E-Commerce Operator files an incorrect statement under Section 52 of the supplies made through it.

Eligibility for Composition Scheme

- Person supplying goods through e-commerce operator are proposed to be eligible for opting composition scheme. However, persons supplying services through e-commerce operator continue to be ineligible for composition scheme.

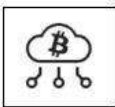
Interest on Delayed Refund

- Clarification provided for computation of Interest on delayed refund. Accordingly interest will be computed from 61st day of application of refund till the date of refund of tax subject to conditions and restrictions as may be prescribed.

Decriminalising certain offences and Compounding of certain Offences

- The following offences shall no longer be punishable under section 132
 - Preventing any officer from discharging his duties
 - Destruction or alteration of any evidence or documents
 - Failure to give any information to the officer
- Suitable amendments made in Section 138 for compounding of offences.
- Offence committed by a person by invoice without supply of goods or services or both for the purpose of availment of input tax credit shall not remain a compoundable offence.
- Penalty for compounding of offence changed and to now remain in the range of 25% to 100% of the amount of tax involved.





Scope of OIDAR Services widened

- The definition of “Non-taxable Online Recipient” has been amended and widened by amending Section 2(16) of IGST Act and it now means that any unregistered person, located in taxable territory, and availing OIDAR services will fall under the said definition.
- The definition of OIDAR is proposed to be amended to remove the requirements of “minimal human intervention” and “essentially automated”.



Change in Place of Supply of transportation services

- Currently, in cases of transportation of goods outside India, the place of supply is the destination of such goods.
- It is now proposed to omit such exception. Therefore, the place of supply is proposed to be the location of registered recipient or the place where goods are handed over, where the recipient is unregistered, even in cases where the destination of goods is outside India.



The above amendments carried out in the Finance Bill, 2023 vis-à-vis Goods and Service Tax Act will come into effect from the date when the same will be notified, as far as possible, concurrently with the corresponding amendments to the similar Acts passed by the States and Union territories with legislature, until stated otherwise.



A summary of changes in the rates of Basic Customs Duty (BCD) for selected tariff items is provided hereunder:

Sr. No.	Particulars	From	To
A	Tariff rate changes for Basic Customs Duty to be effective from 02.02.2023		
	Chemicals		
1	Styrene	2%	2.5%
2	Vinyl Chloride Monomer	2%	2.5%
	Gems and Jewellery Sector		
1.	Articles of precious metals	20%	25%
2	Imitation Jewellery	20% or Rs. 400 per kg, whichever is higher	25% or Rs. 600 per kg., whichever is higher
3	Silver (including silver plated with gold or platinum), unwrought or in semi-manufactured forms, or in powder form.	7.5%	10%
4	Seeds for use in manufacturing of rough lab-grown diamonds	5%	Nil
	Electrical goods		
1	Heat Coil for use in manufacture of Electric Kitchen Chimney	20%	15%
2	Electric Kitchen Chimney	7.5%	15%
	Rubber		
	Compounded Rubber	10%	25% or Rs 30 whichever is lower.
	Automobile and Toys		
1	Toys and parts of Toys	60%	70%
2	Bicycles	30%	35%



Sr. No	Particulars	From	To
B	Tariff Rate Changes (Without any changes to the effective rate of Customs Duty)		
	Commodity		
1	Gold (including gold plated with platinum) unwrought or in semi – manufactured form, or in powder form	12.5%	10%
C	Changes in Basic Customs Duty (to be effective from 02-02-23)		
	Commodity		
	- IT, Electronics		
1	Camera lens and its inputs/ parts for use in manufacture of camera module of cellular mobile phones	2.5%	Nil
2	Specified parts for manufacture of open cell of TV panel	5%	2.5%
D	Capital Goods		
	Specific capital goods/ Machinery for manufacture of Lithium ion cell for use in battery of electrically operated vehicles.	As Applicable	Nil



IV. GLOSSARY



GLOSSARY

Abbreviations	Full Forms
Act	Income Tax Act
AE	Associated Enterprises
AIF	Alternate Investment Funds
AJP	Artificial Juridical Person
ALP	Arm's Length Price
AMT	Alternate Minimum Tax
AO	Assessing Officer
AOP	Association of Persons
AY	Assessment Year
BCD	Basic Customs Duty
b/f	Brought Forward
BOI	Body of Individuals
c/f	Carried Forward
CBDT	Central Board of Direct Taxes
CCIT	Chief Commissioner of Income Tax
CG	Central Government
CGST	Central Goods and Services Tax
CVD	Countervailing duty
DTAA	Double Tax Avoidance Agreement with foreign countries or specified territories / associations

Abbreviations	Full Forms
EBITDA	Earnings before Interest, Taxation, Depreciation & Amortisation
EGR	Electronic Gold Receipt
EPF	Employee Provident Fund
FAR	Functions, Assets, Risk
FDI	Foreign Direct Investment
FEMA	Foreign Exchange and Management Act
FII	Foreign Institutional Investor
FMV	Fair Market Value
FPI	Foreign Portfolio Investors
FY	Financial Year
GDP	Gross Domestic Product
GOI	Government of India
GST	Goods and Services Tax
HUF	Hindu Undivided Family
IBC	Insolvency and Bankruptcy Code
IBU	IFSC Banking Unit
ICDS	Income Computation and Disclosure Standards
IFOS	Income from Other Sources



GLOSSARY

Abbreviations	Full Forms
IFSC	International Financial Services Centre
INR	Indian National Rupee
InvIT	Infrastructure Investment Trust
ITAT	Income-Tax Appellate Tribunal
ITR	Income Tax Return
LTC	Leave Travel Concession
LTCG	Long-Term Capital Gains
MAT	Minimum Alternate Tax
MLD	Market Linked Debentures
MMR	Maximum Marginal Rate
MRP	Maximum Retail Price
NBFC	Non-Banking Financial Company
NCLT	National Company Law Tribunal
NPS	National Pension Scheme
OBU	Offshore Banking Unit
OIDAR	Online Information Database Access and Retrieval Services
PAN	Permanent Account Number
PCCIT	Principal Chief Commissioner of Income Tax
PF	Provident Fund

Abbreviations	Full Forms
RBI	Reserve Bank of India
REIT	Real Estate Investment Trust
RNOR	Resident but not Ordinarily Resident
RPF	Recognised Provident Fund
SAD	Special Additional Duty
SDV	Stamp Duty Value
SEBI	Securities and Exchange Board of India
SHEC	Secondary & Higher Education Cess
SPV	Special Purpose Vehicle
STCA	Short-Term Capital Asset
STCG	Short-Term Capital Gains
STT	Securities Transaction Tax
TAN	Tax Deduction Account Number
TCS	Tax Collection at Source
TDS	Tax Deducted at Source
TP	Transfer Pricing
TPO	Transfer Pricing Officer
UAD	Unabsorbed Depreciation
u/s	Under Section
WDV	Written Down Value

‘न चोर हार्यं न च राज हार्यं न भात्रू
भाज्यं न च भारकारि
व्ययं कृते वर्धत एव नित्यं
विद्याधनं सर्वधनप्रधानम्’

Knowledge is the Wealth that:
The Thief cannot Steal,
The King cannot Acquire,
The Brothers cannot Share,
Does not Weigh on You,
Grows Forever as you share ,
Truly, Knowledge is the Greatest Wealth.

Benefice Business House, 3rd Level,
126, Mathuradas Mills Compound,
N. M. Joshi Marg, Lower Parel (W),
Mumbai – 400013, India.

☎ : +91 22 3321 3737
✉ : reachus@gbcaindia.com
🌐 : www.gbcaindia.com
in : gbca-associates

GBCA
& ASSOCIATES LLP
Chartered Accountants