



**INDIA  
BUDGET...**

2021

## What an unprecedented year

The unprecedented pandemic and shutdown of the world as we know it.  
The unprecedented metamorphosis of working from home becoming living at work.  
The unprecedented rise in global consumption of alcohol, albeit as a hand sanitiser.  
The unprecedented defeat of facial recognition softwares at the hands of cloth masks.  
Above all, the *unprecedented* use of the word 'unprecedented'.

The human spirit of survival was tested to the bleeding edge.  
Business models were transformed at a metaphorical gunpoint.  
'Pivot' and 'Reinvention' went from being fancy buzzwords to literal life support systems.

Farmer protests divided the public discourse.  
The test series victory in Australia united it.  
A national epitome spectator sport, the IPL, was played in empty stadiums and yet clocked the highest audience numbers in history.

A year of contradictions and conflicts.  
The India Budget 2021-2022 is taking it head on.

No tax relief for the common man.  
But more job creation with uncommonly higher capital investments.  
No bailouts for white elephant PSUs.  
But definitive roadmap for their disinvestments to increase the revenues.  
No end to this pandemic in sight.  
But a definite push towards galvanising the healthcare systems.

This budget might not put any extra money in our individual pockets. But the government has loosened its purse strings for now.

That too, was *unprecedented*.

The image features a central composition of overlapping circles in various shades of gray. The largest, darkest circle is in the foreground, containing the text 'Policy Measures', 'Direct Tax', and 'Indirect Tax'. Behind it are several lighter, semi-transparent circles of different sizes and positions. The background is white, decorated with several small, light gray abstract shapes and horizontal lines. The overall aesthetic is clean, modern, and minimalist.

**Policy Measures**

**Direct Tax**

**Indirect Tax**



**POLICY  
MEASURES...**

The Budget 2021-22 has been introduced in the backdrop of a world economy recovering from the COVID-19 pandemic. When calamitous events precede any occasion, it becomes very difficult not to sound like a broken record.

Much was expected from this budget, and the Hon'ble Finance Minister's assertion that this budget will be unlike any other in a hundred years, only fuelled the expectations.

To be fair, the Budget does have its delightful moments as can be witnessed by the resounding approval given by the stock markets, but whether it lives up to the expectation built by the Hon'ble Finance Minister is something we will let you decide.

## **Policy Measures**

The Policy Measures of the present budget stand on six pillars viz.

- Health and Well Being
- Physical & Financial Capital and Infrastructure
- Inclusive Development for Aspirational India
- Reinvigorating Human Capital
- Innovation and Research & Development
- Minimum Government and Maximum Governance

Let us flip through the more important ones.

### **Health and Well Being**

The pandemic lay bare our feeble attempts over the years to have a strong healthcare network. Successive budgets have invested in health care, but the past few months have shown how little these efforts were. This budget marks a huge shift. Allocating ₹ 2.24 lakh crores in BE 2021-22, this is a massive increase of 137% over the previous years' allocation of just less than ₹ 1.00 lakh crores. Specifically, ₹ 0.35 lakh crores have been earmarked for the Covid-19 vaccine.

### **Physical & Financial Capital and Infrastructure**

Capital Expenditure is the next area which has received a huge fillip. While the previous year's allocation was ₹ 4.12 lakh crores, this year sees a massive hike of 34.5% to ₹ 5.54 lakh crores with incentivization for departments showing good progress.

A Development Financial Institution, to provide long term debt for infrastructure projects, with a capital of ₹ 0.20 lakh crores is proposed in the current year, with plans to enable it to have a lending portfolio of at least ₹ 5 lakh crores in 3 years.

Road Infrastructure is being augmented by planning new economic corridors viz.

- 3,500 kms. of national highway works in Tamil Nadu
- 1,100 kms. of national highway works in Kerala
- 675 kms. of national highway works in West Bengal

Railways will receive a provision of ₹ 1.10 lakh crores, of which ₹ 1.07 lakh crores will be for capital expenditure.

Urban infrastructure covering public bus transport services under the PPP model and additional coverage of Metro Rail are receiving substantial allocations in the present budget.

The Power sector sees a new paradigm with a framework being planned which will allow consumers to choose from one or more distribution companies thus ending the monopoly of single distribution companies in the government and private sector. With the viability of DISCOMS becoming a major headache, the budget proposes to allocate ₹ 3.06 lakh crores over 5 years in a new reforms-based result-linked power distribution sector scheme.

The provisions of SEBI Act, 1992, Depositories Act, 1996, Securities Contracts (Regulation) Act, 1956 and Government Securities Act, 2007 will be rationalised into a single Securities Markets Code.

The Insurance Act, 1938 will be amended to permit FDI up to 74% in Insurance Companies and permit foreign ownership and control. This will however come with adequate safeguards covering the Board of Directors, maintenance of specified percentage of profits in General Reserve etc.

An Asset Reconstruction Company and an Asset Management Company is being set up to consolidate and take over the stressed debt of public sector banks and manage and dispose them to Alternate Investment Funds and other potential investors.

The Deposit Insurance and Credit Guarantee Corporation Act, 1961 will be amended to ensure depositors get easy and time bound access to their deposits to the extent of deposit insurance cover in case bank is temporarily unable to fulfil its obligations.

As a measure to improve credit discipline, the minimum loan size eligible for debt recovery under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act, 2002 is proposed to be reduced from the existing level of ₹ 50 lakhs to ₹ 20 lakhs for NBFCs with minimum asset size of ₹ 100 crores.

After decriminalising offences not involving fraud or impacting public interest under the Companies Act, it is now the turn of the LLP Act. Imposition of penalties will also help relieve the stretched judicial system.

Companies with a capital less than ₹ 200 lakhs and a turnover less than ₹ 2,000 lakhs will now be termed as 'Small Companies'.

OPCs or One Person Companies can now be incorporated without any restrictions on capital or turnover. They may also be turned into any type of Company. The residency limit for Indians to set up an OPC has been reduced to 120 days. From 1 January 2021, all benches of the National Company Law Tribunal (NCLT) which have implemented e-filing will move ahead with the launch of Automatic Case Number Generation.

In 2019, the Ministry of Corporate Affairs (MCA) announced plans to introduce AI in the MCA-21 portal, currently being used by companies. Proposed rolling out of AI-based Version 3.0 portal of MCA-21 will ensure that no one is required to fill in known details again and also interlink databases thereby routine enforcement can be done on autopilot mode.

As is wont, this budget too expects tall returns from disinvestment, to wit, ₹ 1.75 lakh crores. But the difference this time is that a Policy of Disinvestment with a clear roadmap of disinvestment in all strategic and non-strategic sectors is on hand to aid this.

### **Inclusive Development for Aspirational India**

Given the prickly farmers' protests going on currently, it is no surprise that the Budget's policies on Agriculture commence with a narrative on MSP paid to wheat farmers.

The Agricultural Credit target for the current year has been set at ₹ 16.5 lakh crores. The Rural Infrastructure Development Fund sees an increased allocation of ₹ 0.10 lakh crores at ₹ 0.40 lakh crores.

The plight of migrant workers during the Covid-19 pandemic was pathetic to say the least. Much work is being put into this to ensure minimum wages to all category of workers, coverage of all workers under the ESI scheme and so on.

The Budget has allocated ₹ 1,500 crores for boosting the penetration of digital payments as well as other measures to boost financial inclusion. A world-class fintech hub will be set up at GIFT City.

The government will introduce a bill to set up Development Financial Institutions (DFI) with an outlay of ₹ 20,000 crores to boost credit access for small businesses, MSMEs as well as those working in areas of focus such as manufacturing and infrastructure.

To further facilitate credit flow under the scheme of Stand Up India for scheduled castes and tribes, as well as women entrepreneurs, the government has proposed to reduce the margin money requirement from 25% to 15%, and to also include loans for activities allied to agriculture.

The image features a teal background with several overlapping circles in various shades of green and light blue. Scattered throughout are small white geometric shapes: horizontal lines, diamonds, and irregular organic shapes. In the center, there is a white rounded rectangle with a black border. Inside this rectangle, the words "DIRECT" and "TAX..." are written in a bold, black, sans-serif font, stacked vertically. An orange mouse cursor arrow with a black outline points towards the bottom right corner of the white box.

**DIRECT  
TAX...**

Often, the best action is inaction. By choosing to stay away from changing the tax rates, the Hon'ble Finance Minister has provided relief to a populace haunted by Covid 19. However, a slew of changes has been brought about in the administration of Income Tax. Unless specified, these changes will take effect from 1 April 2021.

## Definitions

- The term 'liable to tax' though used liberally in the Income Tax Act and treaties, is not defined. 'Liable to tax' will be defined to include a person who has liability of tax on income under any law of any country and includes cases where subsequent to imposition of tax liability, an exemption has been provided.
- Definition of 'slump sale' will be amended to include transfer by any means, thus including 'slump exchange' within its ambit. The computation mechanism of slump sale will also apply to 'slump exchange'. This proposal overrules the Hon'ble Bombay High Court's ruling in Bharat Bijlee Ltd where a distinction was drawn between slump sale and slump exchange.
- From 1 April 2022, 'zero coupon bonds' can also be issued by an 'Infrastructure Debt Fund' at par with ones issued by an Infrastructure Capital Company, an Infrastructure Capital Fund, a PSU or a Scheduled Bank.
- From 1 April 2020, 'goodwill' will be excluded from the definition of intangible depreciable assets of a business or profession. Thus, no depreciation can be claimed on goodwill. This proposal overrules the Hon'ble Supreme Court's ruling in Smifs Securities Ltd wherein it was held that goodwill is eligible for depreciation. Since, goodwill has been removed from Block of Asset, the depreciation claimed against such goodwill up to 31 March 2020 will be reduced from the purchase price for the purpose of ascertaining the cost of acquisition.

## Divestment of PSU

- Conditions for reconstruction or splitting up into separate companies under demerger will be relaxed thereby allowing Divested PSUs the benefit of carry forward and set off losses and unabsorbed depreciation.

## Personal taxation

- For the financial year 2020-21, cash allowance provided to an employee in lieu of leave travel concession or assistance is exempt if prescribed conditions are satisfied.
- Unit linked insurance policies (ULIPs) issued after 1 February 2021 with a premium amount either individually or collectively more than ₹ 2.5 Lakhs in a financial year would be treated as a Capital Asset and taxed on par with Equity Oriented Mutual Fund. However, ULIPs received upon death would continue to be exempt. This is done to curb the tax exemptions claimed by high net-worth individuals.
- Deduction of ₹ 1.5 lakhs of housing loan interest under affordable housing scheme taken by first time home buyers has been extended to home loans sanctioned till 31 March 2022.

- Rules are being framed to reduce the genuine hardship of taxpayers in respect of income received from foreign retirement benefit account held with a notified country and created at the time of being a non-resident in India.
- Interest accrued in the provident fund account of an individual/employee will not be exempt if the annual contribution to such fund is more than ₹ 2.5 lakhs.

### **Computation of business / professional income**

- The definition of the term 'income' includes any sum received by the taxpayer from his employees for contribution to any welfare fund for the welfare of such employees. A few courts have held that, this contribution is allowed as deduction if such sum is credited by the taxpayer to the employees' account with relevant funds any time before the due date for filing the return of income. To overcome such rulings, it has been clarified that the only way to claim the deduction is by making a remittance as per the due date of the respective law and not as per Income Tax Act.
- From 1 April 2020, to boost demand in the real estate sector and to enable them to liquidate their unsold inventory at a lower rate to the home buyers in this pandemic, the tolerance limit of variation between the sale value of land and/or building and the stamp duty value is raised from 10% to 20%. Thus, if variations are within tolerance limit, the actual sale consideration will be taken for tax computation provided the transfer of residential unit by way of first allotment takes place during the period from 12 November 2020 to 30 June 2021 and the consideration does not exceed ₹ 2 crores.
- From 1 April 2020, if cash receipts/payments are less than 5% of total receipts/payments then the tax audit turnover limit is enhanced to ₹ 10 crores from ₹ 5 crores.
- From 1 April 2020, Limited Liability Partnerships (LLPs) can no longer take the benefit of presumptive taxation scheme for professionals as they are required to maintain books of account under the LLP Act.
- From 1 April 2020, the gains arising on transfer of capital asset/money/other asset at the time of dissolution or reconstitution of a firm/AOP/BOI shall be taxable as capital gains in the hands of the firm/AOP/BOI in the year in which the partner/member receives such asset. The fair market value of such asset on the date of such receipt shall be deemed to be the full value of consideration.
- Deductions in the case of business re-organisation available for a Primary Co-operative Bank in case of conversion to another Co-operative Bank has now been extended to include conversion into a banking company. As a result, business re-organisations entailing conversion of Primary Co-operative Banks into Banking Companies will not have any Capital Gains.
- The benefit of tax holiday for affordable housing projects is extended to housing projects approved on or before 31 March 2022.

- To promote supply of affordable rental houses to migrant workers, a notified rental housing project will be eligible for 100% deduction of profits. The conditions for it are yet to be notified.
- Tax holiday for start-ups will be extended till 31 March 2022. Capital gains tax exemption too, on investment in start-ups will be extended till 31 March 2022.
- From 1 April 2020, to bring parity with the existing provisions on MAT on dividend of a foreign company, it is proposed that adjustment would be made for calculation of book profits for income and expenditure in respect of dividend chargeable under lower rate of DTAA.
- From 1 April 2020, book profits and related tax payable under MAT on increased income of previous year arising due to secondary adjustment or advance pricing agreement will be recomputed by the Assessing Officer for prior years on an application made by the taxpayer. Further, the time limit available for passing rectification orders will be 4 years from the end of the financial year in which application is made.

### Equalisation Levy

- ‘Online sale of goods’ and ‘online provision of services’ will be defined to include one or more of the following activities taking place online:
  - acceptance of offer for sale;
  - placing the purchase order;
  - acceptance of the purchase order;
  - payment of consideration; or
  - supply of goods or provision of services, partly or wholly.
- From 1 April 2020, it is clarified that payments for royalty or fees for technical services will not fall within the scope of Equalisation Levy.
- Consideration from e-commerce supply or services will include
  - consideration for sale of goods irrespective of whether the e-commerce operator owns the goods; and
  - consideration for provision of services irrespective of whether service is provided or facilitated by the e-commerce operator.
- From 1 April 2020, it is proposed that transactions taxable under Income Tax Act are not liable for equalisation levy.

### Religious or Charitable institutions

- Exemption for income received by any person on behalf of any educational institution and hospitals has been increased to ₹ 5 crore per person in aggregate from all such institutions.
- Various measures have been taken to avoid double exemption claimed by institutions in the form of application of income for religious or charitable purposes.

## International Financial Services Centre (IFSC)

- The requirement of obtaining permission by an IFSC unit to claim deduction has been removed provided it is registered under the International Financial Services Centre Authority Act, 2019.
- Income of an IFSC unit derived from transfer of aircraft or aircraft engine which was earlier leased to a domestic aviation company is also eligible for 100% deduction. Further, royalty paid to non-resident by an IFSC unit claiming such deduction is also exempt in the hands of non-resident.
- The fund manager located in an IFSC unit, of an eligible Investment Fund may be relieved from satisfying certain conditions to not constitute a business connection in India.
- To encourage investment activities in IFSC by an Offshore Banking Unit (OBU), the definition of specified fund is expanded to include investment division of such OBU which will be treated on par with specified fund for the purpose of taxation and certain exemptions. However, such investment activity should start by 31 March 2024.
- Transfer of Non deliverable forward contract with an OBU will be exempt in the hands of a non-resident, subject to certain conditions.
- During relocation, shares of the resident company held by a foreign (original) fund gets transferred to a IFSC (resultant) fund. Capital gains arising on such transfer is exempted in the hands of the original fund and its non-resident members.

## Sovereign Wealth Fund/Pension Fund

- To boost investment from Sovereign Wealth Funds (SWF) and Pension Funds (PF), condition of 100% investment in eligible infrastructure company is reduced to 50%. SWFs and PFs are now allowed to invest in India through their holding company as well as allowed to invest in non-banking finance company-infrastructure debt fund/Infrastructure finance company subject to certain conditions.

## Due Dates – Tax Returns

From 1 April 2020,

- For a partner in a firm having to file a transfer pricing certificate, 30 November
- Revised and belated returns will have to be filed within 9 months from the end of the financial year or prior to completion of assessment, whichever is earlier

## Returns Processing

- A return is defective when it fulfils certain prescribed criteria. But the Central Board of Direct Taxes (CBDT) has powers to remove difficulties by relaxing the application of specified conditions to certain classes of assesseees.

- In wake of the faceless assessment scheme with dynamic jurisdiction, the notice calling for a return vests with the prescribed income tax authority in addition to the assessing officer.
- The intimation for processing of the return must be issued within 9 months from the end of the financial year in which return is filed.
- While processing the return, income will be increased as per tax audit report and certain deductions will be disallowed, if return is filed beyond the due date.
- The notice for scrutiny assessment must be issued within 3 months from the end of the financial year in which return is filed.

### Income escaping assessment

The present scheme of income escaping assessment or re-assessment is being revamped.

- Income will be assessed or re-assessed based on
  - Objections raised by the CAG in its audit.
  - Information flagged based on the risk management strategy of CBDT.
  - Search, documents requisitioned, survey in the case of an assessee.
  - Valuables seized or documents requisitioned in case of any person subject to prior approval of the Principal Commissioner or Commissioner.
- In other cases, the Assessing Officer will conduct an enquiry based on the information available, issue show cause notice and consider the reply submitted by the assessee and then pass an order for opening of assessment.
- The time limit to reopen the past assessments is reduced to 3 years and in case of serious tax evasion, where there is evidence of concealment of income to the tune of ₹ 50 lakhs or more, assessments can be reopened for the past 10 years.
- Issuance of notice, conducting of enquires or issuance of show cause notice or passing of order for the income escaping assessment shall be under faceless assessment scheme.

### Assessment Completion

- All assessments must be completed within 9 months from the end of the relevant assessment year.

### Withholding taxes

- From 1 April 2020, tax will not be withheld on dividend paid by an SPV to a business trust.
- Tax will not be withheld on Interest paid by Infrastructure Debt Funds on zero coupon bonds.
- Tax will be withheld at the slab rate (after considering payment to LIP, NSC, medical premium etc., and rebate) by the specified bank in case of an Indian resident who is at least 75 years,

- derives pension and has interest income from the same bank in which pension is deposited; and
- provides a specified declaration to the bank.

*Such a person will also be exempt from filing a return of income.*

- From 1 July 2021, a buyer must withhold tax of 0.1% on payment to a seller:
  - If the aggregate value of goods purchased during the financial year exceeds ₹ 50 lakhs.
  - Tax will be withheld on the amount exceeding ₹ 50 lakhs; and
  - The buyer's total sales, gross receipts or turnover exceeds ₹ 10 crores during the preceding financial year.

*If the seller does not have a PAN, then tax must be withheld @ 5%.*

- Tax withheld on dividends paid to an FII will be the lower of 20% or rate applicable as per respective DTAA. This overrides the Hon'ble Supreme Court's judgment in the case of PILCOM v. CIT.
- From 1 July 2021, where a return has not been filed for two years immediately preceding the previous year and the sum of tax withheld or collected at source is at least ₹ 50 thousand in each of these years, then tax will have to be withheld at higher of:
  - Two times the rate specified or
  - Two times the rates in force or
  - 5%

*However, this will not be applicable to a non-resident not having a fixed base permanent establishment.*

- Under similar circumstances, tax will have to be collected at source at higher of:
  - Twice the rate specified or
  - 5%

*However, this will not be applicable to a non-resident not having a fixed base permanent establishment.*

## **Interest on Advance tax**

- No interest will be levied for deferment of advance tax instalments resulting from inaccurate determination of dividends. However, the advance tax on such dividends must be paid in the subsequent instalments or by 31 March when there is no subsequent instalment.

## **Income Tax Settlement Board**

- From 1 February 2021 Income Tax Settlement Commission (ITSC) will cease to operate and an Interim Board of Settlement will be constituted for disposing off the cases pending before the ITSC as on 31 January 2021.
- The Central Government will constitute Interim Boards, each with three Chief Commissioners of Income Tax. Decisions or rulings will be based on majority opinion.

- From 1 February 2021 all powers of the Settlement Commission will be exercised by the Interim Board for Settlement.
- In case of applications wherein rectifications must be filed and the time limit is expiring on or after 1 February 2021, in calculating the period of expiry, the higher of, time till constitution of the Interim Board or 60 days will be excluded.
- Pending applications may be withdrawn by the taxpayers within 3 months of the Finance Act 2021 coming into force and intimation must be given to the tax authorities. Once tax authorities receive the intimation, they will proceed to conduct the assessment as per the tax law.
- During assessment, the tax authority will not consider information or materials filed by the taxpayer before the ITSC unless such information or materials have been obtained by him during any other proceedings, inquiry conducted, or evidence recorded.
- The Central Government will make a faceless scheme for settlement of pending applications.

### **Dispute Resolution Committee (DRC) for small and medium taxpayers**

- To reduce litigation, a new scheme for dispute resolution is being proposed for small and medium taxpayers under a faceless mode with dynamic jurisdiction.
- The Central Government will constitute Committee(s) and frame rules to settle disputes where the adjustment is up to ₹ 10 lakhs and the returned income is up to ₹ 50 lakhs.
- The Central Government can issue directions no later than 31 March 2023 to rationalise this scheme by not applying any provision of the Income Tax Act or apply with modifications.
- This scheme will exclude
  - assessments resulting from search, seizure or survey or based on cross border exchange of information.
  - a taxpayer under detention, against whom prosecution has been initiated or who is convicted under specified laws.
- The Committee will have powers to reduce or waive any penalty or grant immunity from prosecution subject to certain conditions.
- The CBDT will be empowered to prescribe additional conditions to be eligible for this scheme.

### **Board for Advance Ruling**

- The existing Authority for Advance Ruling will be replaced by Board(s) for Advance Ruling.
- Each Board for Advance Ruling will comprise of two Chief Commissioners of Income Tax.
- The decision of the Board may be appealed at a High Court within 60 days of the order.

- From a notified date, all pending applications before the Authority for Advance Ruling will be transferred to the Board for Advance Ruling.
- The Central Government can issue directions no later than 31 March 2023 to rationalise this scheme by not applying any provision of the Income Tax Act or apply with modifications.
- This will also be faceless with dynamic jurisdiction.

### **Faceless Appeals before ITAT**

- Central Government will soon notify faceless scheme with dynamic Jurisdiction for appeals before the ITAT.

### **Provisional attachment in fake invoice cases**

- Starting with GST, moving on to Customs and ending with income tax, fake invoices will attract penalty equivalent to false entry or invoice amount. Further, to safeguard the interest of the revenue it can provisionally attach the property of the assessee provided the penalty is likely to be in excess of ₹ 2 crores. With every law providing for provisional attachment of property, it remains to be seen who will have primacy of attachment.

### **Vivad se Vishwas scheme**

- Vivad se Vishwas scheme will not be applicable to the cases pending or decided by ITSC.
- This will apply retrospectively from 17 March 2020.

## Conditions For New Tax Regime

Conditions	Sec 115 BAA	Sec 115 BAB	Sec 115 BAC
Applicability	Domestic Company	New Manufacturing Company	Individuals / HUF
Tax Rate	25.17%	17.16%	Slab Rates under new Regime
Computation Of Total Income below exemptions/deductions-			
• Leave Travel Concession	-	-	X
• House Rent Allowance	-	-	X
• Other Prescribed Allowances	-	-	X
• Allowances to MPs/MLAs	-	-	X
• Allowance of Minor's Income	-	-	X
• Tax Holiday for SEZ units	X	X	X
• Standard Deduction, Entertainment Allowance Deduction and Professional/Employment Tax	-	-	X
• Interest in respect of Self Occupied or Vacant House Property	-	-	X
• Additional Depreciation	X	X	X
• Additional deduction for investment in machinery	X	X	X
• Deduction for Tea Development Account	X	X	X
• Site Restoration Fund	X	X	X
• Expenditure on Scientific Research	X	X	X
• Capital expenditure for specified business	X	X	X
• Expenditure extension projects	X	X	X
• Skill development projects	X	X	-
• Family Pension	-	-	X
• Chapter VI-A except deduction on additional employment	X	X	X
• Employer Contribution to Pension Scheme	-	-	✓
• Inter Corporate Dividends	✓	✓	-
• Unabsorbed Depreciation Loss	✓	✓	✓
• Set off of any prior period loss carried forward related to above items	X	X	X
• Current Year House Property Loss Set off	-	-	X

\*Includes applicable Surcharge and Cess

**Other Conditions:**

- Once option is exercised, then it cannot be subsequently withdrawn for the same or any other tax year.
- The option is to be exercised in the prescribed manner on or before due date of filing the Tax Return.
- In case of Individuals/HUFs with business income who has once opted this scheme will have an option to opt out of the scheme only once in the subsequent year
- Provision of MAT/AMT is not applicable.

## Tax Rate Chart For The Financial Year 2021-22 For Firms And Companies

Firms/LLP Tax		
Step 1- Compute basic tax	30% on Taxable income	
Step 2- Compute surcharge	₹ 15 – ₹ 1,00,00,000 Above ₹ 1,00,00,000	Nil 12% of Tax Liability
Step 3- Compute Health and education cess at 4% on the sum of Step 1 (Basic Tax) and Step 2 (Surcharge)		
Step 4- Total Tax: Sum of Step 1 (Basic Tax), Step 2 (Surcharge) and Step 3 (Cess)		
Corporate Income Tax		
Existing Rates/Old Regime (with applicable exemptions and deductions)		
Step-1 Compute basic tax as per below Category		
Domestic company having total turnover/receipts in financial year 2018-19 not exceeding ₹ 400 Crore	25% on Taxable income	
Domestic company other than above	30% on Taxable income	
Foreign company	40% on Taxable income	
Step 2- Surcharge as per below category		
Domestic company	₹ 15 – ₹ 1,00,00,000 ₹ 1,00,00,000 - ₹ 100,000,000 Above ₹ 10,00,00,000	Nil 7% of Tax Liability 12% on Tax Liability
Foreign company	₹ 15 – ₹ 1,00,00,000 ₹ 1,00,00,000 - ₹ 10,00,00,000 Above ₹ 10,00,00,000	Nil 2% of Tax Liability 5% on Tax Liability
Step 3- Compute Health and education cess at 4% on the sum of Step 1 (Basic Tax) and Step 2 (Surcharge)		
Step 4- Total Tax: Sum of Step 1 (Basic Tax), Step 2 (Surcharge) and Step 3 (Cess)		
Or - New Regime (Optional- without exemptions and deductions)		
Step-1 Compute basic tax as per below category		
For manufacturing sector (setup after Oct 01, 2019) (Section 115BAB)	15% on Taxable income	
Other than manufacturing sector (Section 115BAA)	22% on Taxable income	
Step 2- Surcharge at 10% on above		
Step 3- Compute Health and education cess at 4% on the sum of Step 1 (Basic Tax) and Step 2 (Surcharge)		
Step 4- Total Tax: Sum of Step 1 (Basic Tax), Step 2 (Surcharge) and Step 3 (Cess)		

The above rates are without considering the benefit of marginal relief (if any)

Minimum Alternate Tax	
Companies Opting for Existing Rates/Old Regime	15% of Book profit (Add applicable surcharge and cess as above)
Companies Opting for New Regime	Not Applicable
Alternate Minimum Tax	
Every Individual, Hindu undivided family, Association of person & Body of Individuals, Firm/LLP or co-operative society having adjusted total income exceeding Rs 20,00,000 from business or profession and claiming deduction in respect of certain income or capital expenditure in case of specified business or claiming SEZ tax holiday.	18.50% of adjusted total income (Add applicable surcharge and cess as above)

The above rates are without considering the benefit of marginal relief (if any)

## Direct Tax Collection Chart



## Proposed Personal Tax Rate Chart For The Financial Year 2021-22

Step-1 Compute basic tax as per below slab		
Existing Rates/Old Regime (with applicable exemptions and deductions)		
Resident Individual who is of the age of 80 years or more	up to ₹ 5,00,000 ₹ 5,00,001- ₹ 10,00,000 ₹ 10,00,001 and above	Nil (Taxable income - ₹ 5,00,000)* 20% (Taxable income - ₹ 10,00,000)* 30% + ₹ 1,00,000
Resident Individual who is of the age or above 60 years and less than 80 years	up to ₹ 3,00,000 ₹ 3,00,001- ₹ 5,00,000 ₹ 5,00,001- ₹ 10,00,000 ₹ 10,00,001 and above	Nil (Taxable income - ₹ 3,00,000)* 5% (Taxable income - ₹ 5,00,000)* 20% + ₹ 10,000 (Taxable income - ₹ 10,00,000)* 30% + ₹ 1,10,000
Other Individual, Hindu undivided family, Association of person & Body of Individuals	up to ₹ 2,50,000 ₹ 2,50,001- ₹ 5,00,000 ₹ 5,00,001- ₹ 10,00,000 ₹ 10,00,001 and above	Nil (Taxable income - ₹ 2,50,000)* 5% (Taxable income - ₹ 5,00,000)* 20% + ₹ 12,500 (Taxable income - ₹ 10,00,000)* 30% + ₹ 1,12,500
Or New Regime (Optional- without exemptions and deductions)		
All Individuals and Hindu undivided family who opt for New Regime	up to ₹ 2,50,000 ₹ 2,50,001- ₹ 5,00,000 ₹ 5,00,001- ₹ 7,50,000 ₹ 7,50,001- ₹ 10,00,000 ₹ 10,00,001- ₹ 12,50,000 ₹ 12,50,001- ₹ 15,00,000 ₹ 15,00,001 and above	Nil (Taxable income - ₹ 2,50,000)* 5% (Taxable income - ₹ 5,00,000)* 10% + ₹ 12,500 (Taxable income - ₹ 7,50,000)* 15% + ₹ 37,500 (Taxable income - ₹ 10,00,000)* 20% + ₹ 75,000 (Taxable income - ₹ 12,50,000)* 25% + ₹ 1,25,000 (Taxable income - ₹ 15,00,000)* 30% + ₹ 1,87,500
Step 2- Compute surcharge as per below slab		
Individual, HUF, AOP, BOI and Artificial Juridical Person	up to ₹ 50,00,000 ₹ 50,00,001- ₹ 1,00,00,000 ₹ 1,00,00,001- ₹ 2,00,00,000 ₹ 2,00,00,001- ₹ 5,00,00,000 ₹ 5,00,00,001 and above	Nil 10% of Basic Tax as per step 1 15% of Basic Tax as per step 1 25% of Basic Tax as per step 1 37% of Basic Tax as per step 1
Step 3- Compute Health and education cess at 4% on the sum of Step 1 (Basic Tax) and Step 2 (Surcharge)		
Step 4- Total Tax: Sum of Step 1 (Basic Tax), Step 2 (Surcharge) and Step 3 (Cess)		
Step 5- Resident Individuals can claim rebate of entire tax where the taxable income up-to ₹ 5,00,000		

The above rates are without considering the benefit of marginal relief (if any)

Also surcharge in case of income chargeable under section 111A or 112A shall not exceed 15%.

# Proposed Withholding Tax Rates For The Payments To Non-residents In The Financial Year 2021-2022 Under Income Tax Act, 1961

All figures are in percentage

Section	Nature of payment	Recipient is a non-resident Individuals				
		≤ ₹ 50 lakh (₹ 5 Million)	₹ 50 lakh to 1 crore (₹ 5 to 10 million)	₹ 1 crore to 2 crore (₹ 10 Million to 20 Million)	₹ 2 crore to 5 crore (₹ 20 Million to 50 Million)	> ₹ 5 crore (₹ 50 Million)
194LB	Interest by infrastructure debt fund	5.20	5.72	5.98	6.5	7.12
	Interest by Indian company towards:					
194LC	(a) Foreign currency loan taken on or after July 1, 2012 but before July 1, 2023	5.20	5.72	5.98	6.5	7.12
	(b) Long Term bond issued on or after October 1, 2014 but before July 1, 2023	5.20	5.72	5.98	6.5	7.12
	(c) Rupee denominated bond issued on or after September 17, 2018 but before March 31, 2019	Nil	Nil	Nil	Nil	Nil
	(d) Any long term or rupee denominated bond listed on recognized stock exchange issued on or after April 01, 2020 but before July 01, 2023	4.16	4.576	4.78	5.20	5.70
	(e) Rupee denominated bond other than above before July 1, 2023	5.20	5.72	5.98	6.5	7.12
195	Other Interest	20.80	22.88	23.92	26.00	28.50
	Royalty	10.40	11.44	11.96	13.00	14.25
	Fee for technical services	10.40	11.44	11.96	13.00	14.25
	Dividend Income	20.80	22.88	23.92	26.00	28.50
	Any other income (other than capital gains)	31.20	34.32	35.88	39.00	42.74

Section	Nature of payment	Person to whom payment is made is a foreign company		
		≤ ₹ 1 crore (₹ 10 Million)	≤ ₹ 1 to 10 crore (₹ 10 to 100 Million)	> ₹ 10 crore (₹ 100 Million)
194LB	Interest by infrastructure debt fund	5.20	5.304	5.46
	Interest by Indian company towards:			
194LC	(a) Foreign currency loan taken on or after July 1, 2012 but before July 1, 2023	5.20	5.304	5.46
	(b) Long Term bond issued on or after October 1, 2014 but before July 1, 2023	5.20	5.304	5.46
	(c) Rupee denominated bond issued on or after September 17, 2018 but before March 31, 2019	Nil	Nil	Nil
	(d) Any long term or rupee denominated bond listed on recognized stock exchange issued on or after April 01, 2020 but before July 01, 2023	4.16	4.2432	4.368
	(e) Rupee denominated bond other than above before July 1, 2023	5.20	5.304	5.46
195	Other Interest	20.80	21.216	21.84
	Royalty	10.40	10.608	10.92
	Fee for technical services	10.40	10.608	10.92
	Dividend	20.80	21.216	21.84
	Any other income (other than capital gains)	41.60	42.432	43.68

The above rates are inclusive of surcharge, health and education cess, wherever applicable

The remitter may withhold the tax at the beneficial rate available, if any in the respective tax treaty, on production of tax residency certificate (TRC) & Form 10F

# Proposed Withholding Tax Rates For The Payments To Residents In The Financial Year 2021-2022 Under Income Tax Act, 1961

All figures are in percentage

Section	Nature of payment	Recipient is					
		Resident Individuals & HUF		Resident Firm / LLP		Resident Company	
		With PAN	Without PAN	With PAN	Without PAN	With PAN	Without PAN
192	Salary <sup>1</sup>	Individual tax rate		Not applicable		Not applicable	
193	Interest on securities	10.00	20.00	10.00	20.00	10.00	20.00
194	Dividends	10.00	20.00	10.00	20.00	10.00	20.00
194A	Interest other than 'interest on securities' <sup>2</sup>	10.00	20.00	10.00	20.00	10.00	20.00
194C	<b>Payments to contractors:<sup>2</sup></b>						
	Contractors	1.00	20.00	2.00	20.00	2.00	20.00
	Contractors in transport business (not owning more than 10 goods carriage)	Nil	20.00	Nil	20.00	Nil	20.00
194D	Insurance commission	5.00	20.00	5.00	20.00	10.00	20.00
194H	Commission and brokerage <sup>2</sup>	5.00	20.00	5.00	20.00	5.00	20.00
194I	<b>Rent:<sup>2</sup></b>						
	Plant / machinery / equipment	2.00	20.00	2.00	20.00	2.00	20.00
	Land / building / furniture / fittings	10.00	20.00	10.00	20.00	10.00	20.00
194J	Fee for professional services <sup>2</sup>	10.00	20.00	10.00	20.00	10.00	20.00
194J	Fee for technical services (not being a professional service) <sup>2</sup>	2.00	20.00	2.00	20.00	2.00	20.00
194J	To a Call Center	2.00	20.00	2.00	20.00	2.00	20.00
194K	Payment in respect of specified units <sup>3</sup>	10.00	20.00	10.00	20.00	10.00	20.00
194IA	Transfer of any immovable property other than agricultural land or statutory compulsory acquisition	1.00	20.00	1.00	20.00	1.00	20.00

Section	Nature of payment	Recipient is					
		Resident Individuals & HUF		Resident Firm / LLP		Resident Company	
		With PAN	Without PAN	With PAN	Without PAN	With PAN	Without PAN
194IB	Rent exceeding fifty thousand rupees for a month or part of month paid <sup>4</sup>	5.00	20.00	5.00	20.00	5.00	20.00
194M	Payment to Contractors or Fees for Professional services exceeding fifty lakh rupees in aggregate during previous year <sup>4</sup>	5.00	20.00	5.00	20.00	5.00	20.00
194N	Cash Withdrawal from bank account in excess of one crore rupees in aggregate during a previous year	2.00	20.00	2.00	20.00	2.00	20.00
194O	E- commerce transaction	1.00	5.00	1.00	5.00	1.00	5.00
194P	Pension & Bank Interest to Specified senior citizen <sup>5</sup>	Individual tax rate		Not applicable		Not applicable	
194Q	Payment of certain sum for purchase of goods exceeding fifty lakh rupees in aggregate during a previous year	0.10	5.00	0.10	5.00	0.10	5.00

<sup>1</sup> Applicable to all types of Assessee. <sup>2</sup> These above provisions are applicable to all types of assessee except individuals or Hindu Undivided Family, whose total sales, gross receipts or turnover from the business or profession does not exceed one crore rupees in case of business or fifty lakh rupees in case of profession in the previous year. <sup>3</sup> The above mentioned units are units of Mutual Fund specified under section 10(23D) or units from the Administrator defined under section 10(35) of the specified undertaking specified under section 2(i) of the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002 or units from the specified company defined under section 10(35). <sup>4</sup> The above provisions are applicable to individuals or Hindu Undivided Family, except those whose total sales, gross receipts or turnover from the business or profession exceed one crore rupees in case of business or fifty lakh rupees in case of professional in the previous year, including personal purposes.

<sup>5</sup> "Specified senior citizen" means a resident Indian who is of the age of 75 years or more and having income from pension only. He/she can also have income from bank interest but from the same bank in which he/she is receiving the pension. Further, he/she should have furnished a declaration of the same for deducting tax on source under section 194P.



**INDIRECT  
TAX...**

## **Goods and Services Tax**

Despite a long history with myriad transaction taxes, the road to GST and thereafter has been anything, but smooth. Contradictions, contraindications, contrarian views have all contributed sighs of exasperation. But we have trudged along, looking for the elusive Utopia where all our doubts on GST will be finally laid to rest. We have not reached there...not by a long stretch. But we are, one hopes, moving towards it.

The latest amendments brought up in the budget aim at rationalising, consolidating, and ironing out some of the wrinkles in GST.

### **Principle of Mutuality**

The Supreme Court's decision to exclude transactions between an Association/Club and its members on the principle of mutuality from service tax threatened to muscle its way into GST too. Section 7 will now be amended to bring ample clarity that all such transactions will fall within the meaning of 'Supply', thereby thwarting the threat.

### **Input credit restriction**

The legal validity of input credit restrictions introduced through Rule 36(4) has also been given an honourable burial. By proposing to amend Section 16 to make furnishing of invoice or debit note in the statement of outward supplies, an essential ingredient to avail credit, the Government has made its stand unequivocal. To avail credit, it is not sufficient if the recipient has paid tax to the supplier, the supplier too needs to remit it to the Government.

### **Audit**

Audits by independent professionals have always acted as a foil between the assessee and the Government. By interposing an independent professional view, both assessees and the Governments have benefited immensely. Curiously, however, the present budget proposes to do away with the concept of GST Audit, instead relying on the assessee to furnish a reconciliation statement of supplies reported vis-à-vis financial statements. One view could perhaps be that increasing automation and data analytics provide enough comfort to the Government to do away with independent audits. But time alone will be the judge of this.

### **Interest**

A reluctant Government finally acquiesced with the GST Council that interest on delayed filing of monthly returns will only be on the portion of tax paid by cash. Yet, when implemented, contrary to what was decided, it appeared to have prospective effect. This perceived anomaly will now be rectified to ensure that this will be with effect from 1 July 2017.

## **Refunds**

Refund mechanism presently provides for two options viz. refund of accumulated input tax credit, when exports are under bond/LUT and refund of tax paid on exports. A simple concept was successfully mangled by the Rules seeking to usurp the authority imposed by the Act thereby leading to avoidable litigations. This budget will now primarily permit only refund of accumulated input tax credit. Thus, exports, except in certain cases, will only be made under bond/LUT.

Another contradiction whereby the Rules permitted refund on supplies to a SEZ unit or developer only for authorised operations will also be remedied by making necessary changes in the IGST Act i.e., the Act itself will provide that a 'zero rated' supply would mean a supply for authorised operations to a SEZ unit or developer. For a legislation to be effective, it must not only plug the leaks within itself but should also assist other legislations in plugging their leaks. Thus, where an exporter fails to bring in the sale proceeds within the time prescribed under the Foreign Exchange Management Act, 1999, he will now have to repay the refunds received along with interest within 30 days of such expiry.

## **Miscellaneous**

Provisional attachment of the property including bank account of the taxpayer, during any pending proceeding, is a favourite tool in the hands of GST department to protect the interest of the Government revenue and with the increase in GST frauds and menace of fake invoicing, this has assumed great significance. This power available with the Commissioner is now proposed to be expanded to cover other proceedings such as scrutiny of GST returns, inspection of goods during movement etc.

Liability admitted in GSTR-1 return but not paid can now be recovered by the GST officer through prescribed methods for recovery of tax including bank account attachment, garnishee proceedings etc. Thus with the changes proposed, filing of GSTR-1 return assumes significance now as, it not only determines admitted liability of the supplier but it also protects input tax credit claim of the recipient.

Keeping in mind ease of procedures, non-compliance with e-way bill provisions will now be delinked from the process of adjudication of tax. With this, goods/conveyance detained for the want of valid e-way bill, will be released upon payment of prescribed penalty alone as against present requirement of payment of tax as well as penalty.

Defects in / non-compliance with e-way bill requirement to attract higher penalty of 200% of tax amount as against present limit of 100%.

## **Customs**

With Atmanirbhar Bharat occupying a prime position, it is inevitable that imports and exports will be impacted. After all, imports are anathema to Atmanirbharata. Yet, it is not all gloom and doom. While there are duty rate increases, much has been done to ease the rigours of regulatory compliance.

## **Digitisation & Ease**

The Budget proposes a new e-customs portal to facilitate electronic filing of import export documentation, amendments to documents etc. Soon all orders, decision, summons or notices will be uploaded on this portal. No levy of anti-dumping duty or CVD on imports by an EOU or an SEZ to the extent the output products are exported is being proposed.

The benefit of an exemption notification contingent upon use of the imported goods covered by that notification in the manufacture of goods or provision of services is now being extended to include job work, using such goods too.

## **Procedure**

Conditional exemption notifications will, unless varied or rescinded, automatically lose validity from the 31<sup>st</sup> day of March immediately following two years from the date of grant or variation. In the case of existing notifications, this date will ordinarily be 31 March 2023.

Bills of entry will now have to be filed at least 1 day prior to the arrival of the aircraft, vessel or vehicle carrying the goods at a customs station.

## **Penal Proceedings**

The Budget introduces a new time limit of 2 years from the date of initiation of an audit, search, seizure or summons to issue a notice where any of these actions result in recovery of duties not levied, paid, short-levied, short paid or erroneously refunded. Since these actions do not have any time limit, this new provision may perhaps have the effect of overriding the time limits under recovery provisions.

Rounding off the penal provisions under GST, use of fraudulent invoices in goods exported and thereafter used to claim a refund under GST will now attract a penalty of up to five times the refund claimed under Customs too.

## **Tariff Changes**

The new HSN 2022 adopted by the World Customs Organisation recommends a slew of changes to the existing HSN. Changes will be made in the Customs Tariff effective 1 January 2022 to align with HSN 2022.

## **Agricultural Infrastructure and Development Cess**

Agricultural Infrastructure and other development expenditure is proposed to be funded by levying a new cess. This cess will be equal to basic customs duty and levied on the value on which basic customs duty is levied. Coming into effect from 2 February 2021, the Government will notify the goods to which, and the rate at which this Cess will be levied.

## **Manufacture and Other Operations in Warehouse (No. 2) Regulations, 2019 (MOOWR)**

Introduced from 1 October 2019, MOOWR presented a simpler alternative to setting up an EOU or an SEZ.

- A single application is sufficient to set up as well as obtain permission for manufacturing and related operations.
- MOOWR permits import of capital goods, machineries, tools, raw materials, etc. without payment of Customs duty with no 'actual user' condition. These goods may be either used for manufacturing or trading.
- The output may either be exported or sold within India. If sold in India, then duty forgone on imports must be paid and GST procedures for invoicing and payment of GST must be followed.
- If output is exported, then a refund of unutilized input tax credit may be sought.
- Goods may be sent for job-work, subject to following procedures under GST law.
- No requirements to fulfil any export obligations, NFE, etc. Goods may be stored in the warehouse without any time restriction.
- Procedural requirements such as appointment of warehouse keeper, bonding, monthly returns, maintaining books and transportation needs to be adhered to.

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