

INDIA BUDGET 2022

Say hello to your (fiscal) antibodies.

Prevention and precaution are the trending global buzzwords, albeit a harsh reality of our times. We surmounted a vaccination drive unlike anything seen in the world (inoculating a decent sized country per day) offering protection to the people and setting new benchmarks alright. But businesses and livelihoods were still reeling from the after effects of the pandemic.

The need of the hour was not a token bandaid for today, but a comprehensive booster that fortifies the next few decades.

This budget, aims to do just that.

With enhanced Capex and a focus on an ambitious infrastructure upgrade across key sectors, securing future growth and returns is now not just an ambitious plan, but an actionable idea that's ready for deployment.

New highways and river linking projects will establish connections that reduce the gap between rural and urban India.

A focus on green energy and climate action will enhance sustainability and usher in a mindset of responsible growth.

Initiatives like 'One station, One product' and unlocking the power of drone technology will empower the agriculture sector.

The introduction of the digital rupee will further embellish India's innovation chops in the global FinTech industry.

This budget is not just a step, but a giant leap towards a gainfully employed and connected India.

Connected on ground with infrastructure and energy efficiency.

Connected in air with drones and a massive push for 5G technology.

Connected in the cyberspace with substantial upgrades for the digital economy.

The connections are live and ticking.

Dial in now.



Policy Measures

Direct Tax

Indirect Tax



POLICY MEASURES



An unending pandemic, elections in four states, demands for increasing government spends, restrict fiscal deficit, these were some of the challenges facing the Finance Minister as she tabled the Budget for 2022-23.

To her credit, she has managed a fine balancing act. The emphasis on capital expenditure while keeping the fiscal deficit under control and not yielding to the temptation of electoral demands underlies this budget. Complaints of inadequacy will always be there. But, so long as all the right boxes are ticked, it may be petty to nit-pick.

Everyone has their own set of expectations from the budget. Has this budget met yours? Make an informed decision by leafing through our simplified version of the Budget.

Policy Measures

Fresh from the success of the previous year's investment proposals, this year's budget lays down four priority areas for focus:

- PM GatiShakti
- Inclusive Development
- Productivity Enhancement & Investment, Sunrise Opportunities, Energy Transition, and Climate Action
- Financing of Investments

The intent behind investment in these areas is to lay the foundation and give a blueprint to steer the economy over the AmritKaal of the next 25 years – from India at 75 to India at 100.

Let us look at the salient features of a few of these.

PM GatiShakti

A transformative approach for economic growth and enhanced international competitiveness this places emphasis on infrastructure growth. Supported by Energy Transmission, IT Communication, Bulk Water & Sewerage, and Social Infrastructure, the goal is to work together with the State Governments and private sector to create huge job and entrepreneurial opportunities.

Inclusive Development

- Chemical-free natural farming throughout India commencing from the Ganges region
- Co-investment model (facilitated through NABARD) to finance start-ups who wish to provide farmers and rural enterprises tech-based IT support
- Kisan drones to support farmers in crop assessment, digitalization of land records, spraying insecticides, etc.

- DESH-Stack, API based e-portal, to be launched for skill development of citizens
- The scope of e-VIDYA scheme [one class one TV channel] and vocational training courses to be upgraded in quality, content and reach to facilitate virtual education for children

Productivity Enhancement and Investment

Ease of doing business 2.0	Ease of living
SEZ Act to be replaced for facilitating states to become partner with developers	Introduction of chip based ‘e-passport’
Unique Land Parcel Identification number for IT based management of property records and for linking it to NGDR system	Extending the reach of communication, e-services and digital resources to villages and rural areas through Bharatnet project
PARIVESH portal’s scope enhanced to make single application and tracking in CPC-Green	Centre to support states to modernize urban planning through by-laws, TPS and TOD
C-PACE e-system to facilitate winding up of companies in 6 months, rather than 2 years	Clean and sustainable mobility in urban areas and better urban development strategies
Rules in relation to government tenders made better by changes in e-bills, payment timelines and conciliation mechanisms	Battery swapping policy for EV ecosystems
IBC to be amended to better the resolution process and facilitate cross border resolutions	Facilitation for roll out of 5G mobile services by telecom mobile operators

Financing of Investments

A key component of this is Public Investment. With an increase of 35.4% in the outlay for capital expenditure over the previous year, the Government believes this will pump prime private investment in infrastructure. Sovereign Green Bonds are being planned to fund green infrastructure is another important component of Financing of Investments.

Beginning 2022-23, in a first for the country, the Reserve Bank of India will introduce Digital Rupee using blockchain and other technologies.



DIRECT TAX



Virtual Digital Asset (VDA)

Effective 1 April 2022

- VDA includes cryptocurrencies, non-fungible token or other digital assets notified by the Government but excludes Indian & foreign currency.
- Gains on transfer of VDA will be taxable at the rate of 30% and no deduction of any expenditure or set-off of loss will be allowed except the acquisition cost.
- Loss on transfer of VDA is neither eligible to be set-off against any other income nor allowed to be carried forward.
- VDA is received without consideration or less than its fair market value, where the variance is in excess of ₹ 50,000 then the same is taxable in the hands of the recipient of VDA as Income from other sources.

Effective 1 July 2022

- Any person responsible for paying any consideration for transfer of a VDA to a resident must:
(a) Deduct tax at source @ 1% at the time of payment or credit whichever is earlier except when not exceeding the threshold:

Category of payer	Threshold	Relaxation
Individual or HUF having income from business/profession and: <ul style="list-style-type: none">◦ Business turnover is up to ₹ 1 Crore; or◦ Profession gross receipts is up to ₹ 50 Lakhs	₹ 50,000	Relaxation from, obtaining TAN; higher rate of deduction in case of non-filer of return
Individual or HUF having no income from business/profession		
In any other case	₹ 10,000	-

- (b) If consideration for transfer of a VDA is in kind/exchange or partly in kind/ partly in cash and cash component is not sufficient to cover the tax deduction at source, then the deductor must ensure that tax has been paid before paying such consideration.
- (c) Where tax is deducted per the above provisions, then other provisions of deduction at source will not be applicable.

Tax incentives to International Financial Services Centre (IFSC)

Effective 1 April 2022

- Tax exemptions to Non Residents:
 - for income earned or received from transfer of Offshore Derivative Instruments or Over the Counter derivatives with an offshore banking unit of an IFSC.
 - for royalty and interest income from leasing of ship to a unit established in IFSC.
 - for transfer of securities or financial products or funds in the portfolio account created with an offshore banking unit in IFSC and managed by a portfolio manager to the extent no income is accrued/arise or deemed to be accrued/arise in India.
 - for income on premium on issue of shares more than fair value of shares to a specified fund in IFSC.
 - for income on transfer of ships which is leased by a unit in IFSC.

Covid Relief

Effective 1 April 2020

Covid reliefs will not be taxable subject to conditions to be specified by the Government:

- any sum received by an employee from his employer in relation to treatment of COVID-19 related illness in respect of self or family;
- any relief received by the individual in relation to treatment of COVID-19 related illness in respect of self or family;
- any relief received by the family member of a deceased (due to COVID-19 related illness) employee from his employer within 12 months from the death;
- aggregate compensation up to ₹ 10 lakhs received by the family member of a deceased (due to COVID-19 related illness) from any person within 12 months from the death.
- Tax holiday for eligible start-ups will be available if incorporated before 1 April 2023.
- Beneficial tax of 15% for domestic manufacturing companies commencing production on or before 31 March 2024.

Business/Profession Income

Effective 1 April 2005

To overcome the judgements of various Courts, it is now expressly being provided that Income tax (including surcharge and cess) paid is not allowed as a deductible expense.

Effective 1 April 2021

- expenditure towards scientific research made to research association, university, college or other approved institution or company, shall be allowed as deduction in the hands of payer only if statement of such donations is filed in prescribed manner by the payee.

- Reduction of goodwill amount from the block of asset shall construe transfer for computing capital gains.

Effective 1 April 2022

- Expense incurred for a purpose which is an offence or prohibited by law is defined to include:
 - offence or prohibited by law in force for time being in India or abroad;
 - provision of any benefit or perquisite and acceptance of the same is in violation of any law or rule or guideline in force, governing the conduct of such recipient;
 - to compound an offence under any law in force in India or abroad.
- The interest payable by an assessee to financial institutions/NBFC/ bank shall not be allowed as an expense if the said interest is converted into debenture or any other instrument by which liability to pay the interest is deferred to a future date. The interest will not be deemed to be paid on said conversion. This amendment overrides judgements of various courts.
- The expenditure relating to exempt income shall be disallowed even where exempt income has not accrued, arisen or received during the year.

Carry forward and set off of losses

Effective 1 April 2021

- An erstwhile public sector company can claim carry forward and set off of losses subject to condition that the ultimate holding company, immediately after the completion of strategic disinvestment continues to hold directly or indirectly at least 51% of the voting power.
- If the above condition is not complied in any financial year after the completion of strategic disinvestment, the above benefit shall not apply for said financial year and subsequent financial years.
- No set-off of loss brought forward or unabsorbed depreciation shall be allowed to assessee against undisclosed income found consequent to search, requisition or survey.

Deductions

Effective 1 April 2019

- Any contribution to NPS by State Government employees up to 14% of their salary will be deductible just like in case of Central Government employees.

Effective 1 April 2022

- Deduction for medical expenditure or amount paid to any insurer, incurred or paid by the individual or member of the HUF for disabled dependent, will be allowed if such scheme provides for the payment of annuity or lump sum for the benefit of the dependent once the individual or member of the HUF attains the age of 60 years or more.
- It is further proposed that in case disabled dependant predeceases individual or member of HUF, the amount deposited shall not be treated as income in the hands of such individual or member of HUF if he/she has attained the age of 60 years or more.

Dividend or Bonus Stripping

Effective 1 April 2022

- The scope of dividend and bonus stripping has been widened to include units issued by a Business Trust and an Alternative Investment Fund.
- Bonus stripping will now be applicable to securities also.

Updated Return

Effective 1 April 2022

- An updated return may be filed (whether original return is filed or not) within 24 months from the end of the relevant assessment year if it results in increase in income/tax.
- An updated return cannot be filed:
 - for a financial year and two preceding financial years in case of search, seizure, survey is conducted, or questioning notices are issued against valuable articles or books of account in first mentioned financial year.
 - more than once for a financial year.
 - in case assessment or re-assessment is pending/completed or prosecution proceedings have been initiated.
 - where the Assessing Officer has intimated information in his possession under the specified provisions or Acts.
- The person filing the updated return must pay tax after considering:
 - Advance tax and taxes already paid
 - TDS, TCS, reliefs, foreign tax credit
 - MAT or AMT credit
- The interest on delay in filing of return, default and deferment of advance tax will be computed on the income as per updated return.
- In addition to the above said tax and interest, assessee is also liable to pay additional income tax at the rate of:
 - 25% of the aggregate of tax, surcharge, cess and interest payable as per updated return if it is filed within 12 months from the end of the relevant assessment year;
 - 50% of the aggregate of tax, surcharge, cess and interest payable as per updated return if it is filed beyond 12 months but within 24 months from the end of the relevant assessment year.
- The assessment order or best judgement order in case of updated return must be made within 9 months from the end of the financial year in which it is filed.
- Prosecution for non-furnishing of return cannot be initiated in case an updated return is filed.

Assessment & other procedures

Effective 1 April 2022

- Despite a dispute resolution committee (“DRC”) for small and medium taxpayer being set up last year, the assessing officer had no powers to pass order as per its direction. Now the assessing officer has to pass orders within one month from the end of the month in which directions from DRC is received.
- Government is empowered to remove anomalies to give effect to the faceless transfer pricing assessment, faceless DRP and faceless ITAT Appeal any time before 31 March 2024.
- The ambit of revisionary powers of the Principal Commissioner/Commissioner has been increased by specifically including transfer pricing orders. This overturns the rulings passed by the various courts.
- The procedure for re-assessment was streamlined in the previous budget and continuing the same,
 - No further approval is required for issuing re-assessment notice when enquiry is conducted with the prior approval of specified authority and the order for issuing notice is passed.
 - Information gathered by assessing officer based on audit objection, exchange of information and specified mode of faceless collection of information will be valid reason for re-assessment.
 - In case of search, seizure, survey or requisition notices, re-assessment order will not be passed by any officer below the rank of Joint Commissioner except with the prior approval of Additional Commissioner/Director or Joint Commissioner/Director.
 - The scope of re-assessment in relation to assessment year of more than three years but less than ten years is widened to include unexplained expenditure in relation to an event or transaction and any entry or entries in the books of account.
- Timelines set for passing transfer pricing orders pursuant to the revisionary powers of Principal Commissioner/Commissioner:

Scenario	Timelines
Fresh transfer pricing assessment	9 months from the end of the financial year in which revisionary order is passed
Other than fresh transfer pricing assessment	3 months from the end of the month in which revisionary order is passed
Assessment order incorporating the above said transfer pricing order	2 months from the end of the month in which such transfer pricing order is received

- The CIT(A) will also have powers to levy penalty on account of undisclosed income in search cases, unexplained credits or expenditure and deliberate falsification or omission of entry in books of account.

Faceless Assessment Scheme

Effective 1 April 2022

- To streamline the process of faceless assessment few changes have been proposed in the scheme.
 - Coverage of regular assessment, best judgement assessment and re-assessment.
 - Response to notice u/s 143(2) must be given as per the timelines in the notice.
 - Hearing via Video conference mandatory, if requested by the assessee.
 - If NFAC is of the view that accounts have to be audited u/s 142(2A), then the case may be referred to Principal Chief Commissioner/Chief Commissioner/Principal Commissioner having jurisdiction over the assessee and the case shall be transferred to the jurisdictional Assessing Officer.
 - Considering the technical issues arising due to use of information technology leading to unnecessary litigation, any assessment proceedings not made in accordance with the procedure laid down will not be invalidated. This is retrospective from 1 April 2021.

Appeals

Effective 1 April 2022

- To streamline multiple appeals on the same question of law pending before any High Court or Supreme Court, following measures are introduced:
 - Collegium comprising of 2 or more Principal Chief Commissioner/Chief Commissioner/Principal Commissioners will direct the Principal Commissioner or Commissioner not to file an appeal with ITAT or High court where same question of law is already pending with superior courts.
 - The Assessing Officer on direction of Principal Commissioner or Commissioner will file a communication to this effect in prescribed form with ITAT within 60 days of receipt of CIT(A) order or with High Court within 120 days of receipt of ITAT order.
 - No such communication shall be made without the consent of the assessee.
 - If same question of law is decided in favour of the Revenue in a pending case, then it will file appeal to the ITAT or High Court within 60 days of communication of such order.

Penalties & offences

Effective 1 April 2022

- Penalty increased from ₹ 100 per day to ₹ 500 per day for failure to answer questions, sign statements, furnish information, returns or statements, allow inspections etc.
- Repeated offence on account of failure to pay tax collected at source to the Government shall be liable for prosecution in the absence of reasonable cause.

Compliances

Effective 1 April 2022

- Details of payments of exceeding ₹ 50,000 has to be submitted in the prescribed form and timelines by those involved in production of cinematograph film, documentary, programmes for telecasting on television or OTT, event management, other performing arts or any other specified activity by the Government.

TDS/TCS

Effective 1 April 2022

- Deduction of tax at source on sale of immovable property will be applicable on the higher of actual consideration or stamp duty value.
- TDS/TCS for non-filers of income tax return is prescribed at higher rates. Non-filers are now redefined to mean those who have not filed their return of income within the specified timelines for the immediately preceding financial year in which tax has to be deducted and their aggregate TDS/TCS is at least ₹ 50,000.
- Higher rate of tax deduction at source in case of non-filers payee is done away with, in case of:
 - sale of immovable property;
 - payment for rent, works contract, commission/brokerage by certain individual/HUF to whom tax audit is not applicable.
- In case the tax deducted at source is paid and borne by the payer, and it subsequently comes to light that such tax was not applicable, then the payer can file a claim for refund of such tax deducted within 30 days of its payment. The order must be passed within 6 months from the end of the month in which claim is made. Any rejection of claim is appealable before CIT(A).

Effective 1 July 2022

- Many a time, professionals or businessmen receive gratification of some kind for having achieved targets or some such milestone as may be agreed between them and any principal or beneficiary. Such gratification, especially when in kind, very often goes under the radar and remains untraced, hence untaxed. To overcome this any benefit or perquisite received by a resident because of business or profession will be liable to deduction at source @ 10% provided the value is greater than ₹ 20,000. If benefit or perquisite is in kind or partly in kind/ partly in cash and cash component is not sufficient to cover TDS then the deductor has to ensure that tax has been paid before releasing the benefit or perquisite.

Others

Effective 1 April 2022

- In case of all business reorganisations, the successors will have to file modified return in the prescribed form within 6 months from the end of the month in which order is issued by the Tribunal, Adjudicating Authority or a High

Court for period starting from the effective date till the order date.

- Directors of a private limited company are liable, jointly and severely, for the unrecovered dues of the company now not restricted only in case of liquidation, unless such non-recovery is not attributed to any gross neglect, misfeasance or breach of duty . Further the liability now includes fees in addition to tax, penalty, interest, fine or any other amount payable under the income tax law.
- Any credit in the books of the assessee by way of loan or borrowing, will not be treated as unexplained credit if satisfactory explanation has been offered to the assessing officer about the nature and source of such credit of the lender/creditor by the assessee.
- Concessional rate of 15% on dividends received by an Indian company from specified foreign company has been withdrawn.
- CBDT can now grant relief from levying fee for delay in furnishing return in cases it deems fit.

Key Changes in Tax Rates

- No changes proposed in tax rates for corporates and individuals.
- It is proposed to change surcharge for co-operative societies from existing 12% on total income exceeding ₹ 1 crore at par with companies where surcharge is 7% (Total Income is between ₹ 1,00,00,000 - ₹ 10,00,00,000) or 12% (Total Income above ₹ 10,00,00,000).
- Also, in line with the MAT rate of companies, AMT rate for co-operative societies is slashed to 15% from existing 18.5%
- It is proposed in case of an association of persons consisting of only companies as its members, the rate of surcharge on the amount of Income-tax shall not exceed 15%.
- It is proposed to limit surcharge on transfer of all long-term capital gains to 15%.

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 for the first year in which opting-in is considered.
- Individuals/HUFs can opt in/out on year-on-year basis. However, those having business income who has once opted this scheme will have an option to opt out of the scheme only once in the subsequent years.
- Provision of MAT/AMT is not applicable.

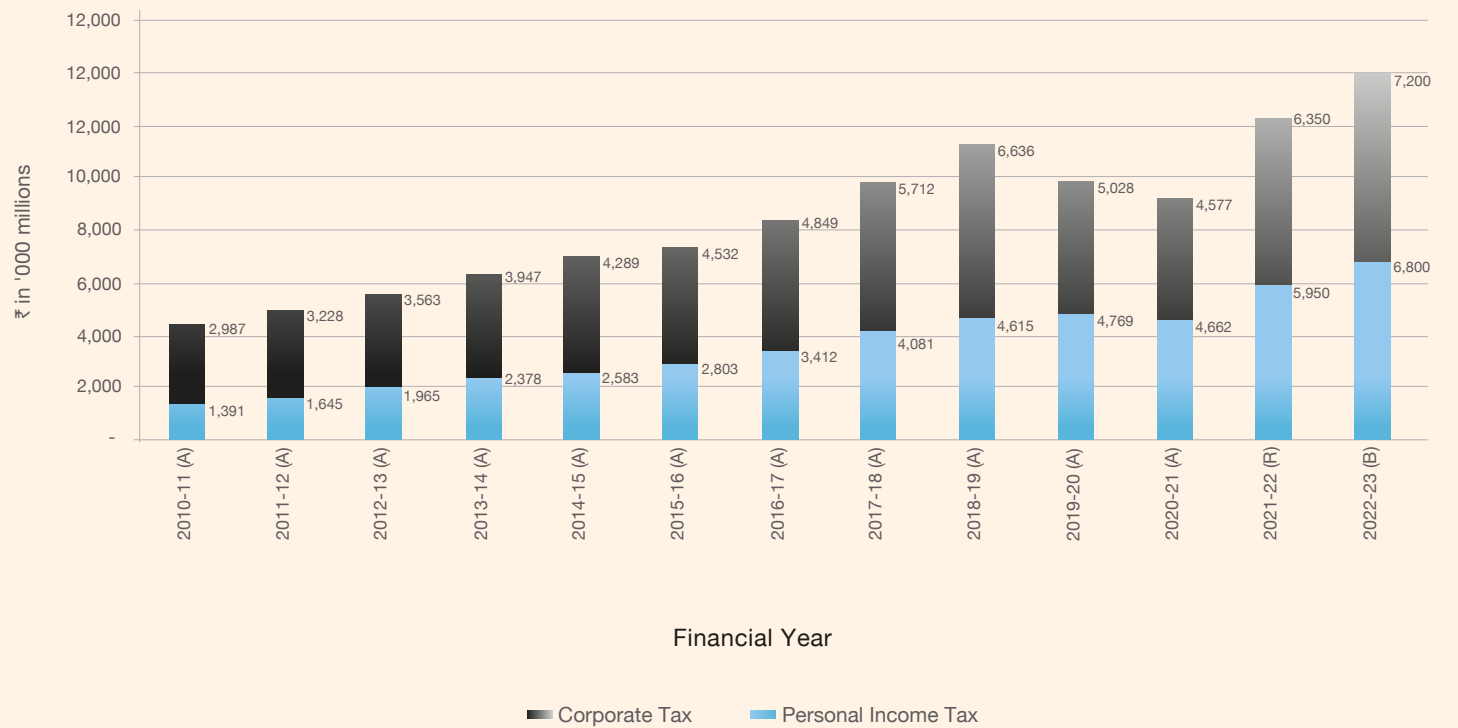
TAX RATE CHART FOR THE FINANCIAL YEAR 2022-23 FOR FIRMS AND COMPANIES

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 2020-21 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 & commences operation on or before Mar 31, 2024) (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 having adjusted total income exceeding ₹ 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)

DIRECT TAX COLLECTION CHART



PROPOSED PERSONAL TAX RATE CHART FOR THE FINANCIAL YEAR 2022-23

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 (other than AOP covered below), 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
AOP consisting of only companies as its members	up to ₹ 50,00,000	Nil
	₹ 50,00,001- ₹ 1,00,00,000	10% of Basic Tax as per step 1
	Above ₹ 1,00,00,000	15% 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 is 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, 112, 112A and income by way of dividend shall not exceed 15%.

PROPOSED WITHHOLDING TAX RATES FOR THE PAYMENTS TO NON-RESIDENTS IN THE FINANCIAL YEAR 2022-2023 UNDER INCOME TAX ACT, 1961

All figures are in percentage

Section	Nature of payment	Recipient is a non-resident Individual				
		≤ ₹ 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 & casual income)	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 2022-2023 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 ¹	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' ²	10.00	20.00	10.00	20.00	10.00	20.00
194C	Payments to contractors: ²						
	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 ²	5.00	20.00	5.00	20.00	5.00	20.00
194I	Rent: ²						
	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 ²	10.00	20.00	10.00	20.00	10.00	20.00
194J	Fee for technical services (not being a professional service) ²	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 ³	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

¹ Applicable to all types of Assessee.

² The 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.

³ 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).

PROPOSED WITHHOLDING TAX RATES FOR THE PAYMENTS TO RESIDENTS IN THE FINANCIAL YEAR 2022-2023 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
194IB	Rent exceeding fifty thousand rupees for a month or part of month paid ⁴	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 ⁴	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 ⁵	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
194R	Any benefit or perquisite provided to a resident person in the course of business or profession, whether convertible into money or not ²	10.00	20.00	10.00	20.00	10.00	20.00
194S	Consideration for transfer of a virtual digital asset	1.00	20.00	1.00	20.00	1.00	20.00

⁴ 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.

⁵ "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

Though the Finance Minister in her budget speech spent less than 5 minutes on GST related changes, there are many changes proposed under the GST law in the Finance Bill 2022. The changes proposed will be effective upon the enactment of Finance Act as well as corresponding enactments under the respective State GST Act. Significant changes proposed are discussed below:

Substantive changes

Interest not payable if credit not utilized

- Interest on wrongly availed input tax credit would be payable only if such credit has been utilized for output tax payment. Further, the rate of interest has been notified at 18% p.a. in such cases. This change is proposed to be introduced with retrospective effect from 1st July 2017.

Input tax credit is not an unfettered right:

- Government's obsession to penalize the recipient for the default of suppliers seems to be never ending. First the provision was incorporated in Central GST Act, that input tax credit shall not be eligible if supplier has not paid tax to the Government. Then last year another condition was introduced in Section 16 that, supplier shall report tax invoice in his GSTR-1 return and the same needs to be communicated to the recipient for the later to be eligible for taking credit.

Now in this year's budget, one more condition has been imposed on the recipient for claiming input tax credit. The new condition states that the input tax credit which is appearing as 'restricted credit' in 'auto-generated statement' under Section 38(2) shall not be availed.

Section 38 has been proposed to be substituted and in sub-section (2) of new Section 38, six restrictions have been specified, which are all related to the default or non-compliance on the part of the supplier for such period of time as may be prescribed by the Government in Central GST rules.

With the substitution of Section 38, provisions in Central GST Act relating to two-way matching of returns including filing of statement of inward supplies have been omitted

Procedural changes

- Time limit is extended till 30th November of next financial year for:
 - availing input tax credit on invoice or debit note under Section 16(4);
 - rectifying errors or omissions in GSTR-1 and GSTR-3B return;
 - issuing credit note under Section 34.

- Registered person who has not filed GSTR-1 return for a previous tax period, will be debarred from filing GSTR-1 return for the subsequent tax period.
- Registered person will not be able to file his GSTR-3B return, if GSTR-1 return of the same tax period is not filed.
- Section 41 of Central GST Act has been amended to provide that, input tax credit shall be claimed by the registered person on self-assessment basis. Further, in case the credit is availed but tax is not paid by supplier, the same is liable to be reversed along with interest. Later, if tax is paid by the supplier, recipient would be able to reclaim the credit which was reversed earlier.
- Registered person will now be able to transfer balance in his electronic cash ledger in Central GST and Integrated GST account to his GSTINs in other States.
- 'Relevant date' to file GST refund in case of supplies to SEZ developer or unit has been notified as 'due date of filing GSTR-3B return of the supplier'.
- GST Officer is now empowered to withhold all types of refund claims in case GST returns are pending to be filed. Earlier, this provision was applicable only in case of refund of unutilized input tax credit, but now the same is made applicable to all types of refunds.
- Interest on reversal of credit is reduced to 18% but without occasion for refund to those who may have discharged interest at 24%.
- Services supplied for payment towards grant of license to sell liquor will now be specifically exempted. While Apex Court in MADA v. SAIL is still to decide on the question of whether royalty is a tax or a fee, this exemption sets the tone to interpret the royalty paid on mining rights granted.

Customs

Legislative Changes

- With a view to providing additional support to prevent undervaluation, Section 14 is being amended to include rules for casting additional obligations on importers in respect of a class of goods whose value is not being declared correctly, the criteria to select such goods and the necessary checks thereof.
- Advance Rulings will have a validity of three years unless there is a change in law or facts prior to that. Further, an application for advance ruling may now be withdrawn anytime before the ruling is pronounced.
- Section 110AA has been inserted to reaffirm the principle that where an original function is exercised by an officer of competent jurisdiction is subject to an audit, enquiry, investigation etc., by another officer, then upon conclusion of such proceedings, the relevant documents along with a written report shall be transferred to the officer who originally exercised the jurisdiction for further action.

- Very often importers and exporters are called upon to disclose sensitive and confidential data to Customs authorities during any proceeding. Leakage of such sensitive data can cause irreparable harm to the importers or exporters. With a view to data protection, a new section 1354AA is being inserted to punish a person with imprisonment up to 6 months or a fine up to ₹50,000 for unlawful disclosure of any data relating to classification, value or quantity of goods imported or exported.

Amendments pursuant to Court Rulings

Recently, the Supreme Court, in the case of Canon India Private Limited v. Commissioner of Customs, was called upon to answer whether DRI Officers had any authority in law to issue a show cause notice under Section 28(4) of the Customs Act for recovery of duties allegedly not levied when the goods had been cleared for import by a Deputy Commissioner of Customs who decided that the goods are exempted.

Answering for Canon India Private Limited, the Supreme Court held that the show cause notice issued by the DRI officers were invalid, without any authority of law and liable to be set aside and the ensuing demands were also set aside.

This decision caused a huge upheaval and brought all the cases investigated by DRI Officers from 2014-15 to 2018-19 to a grinding halt putting at risk disputed duties of close to ₹17,000 crore.

No sooner was this decision rendered, than it was a foregone conclusion that not only will the Government bring in appropriate changes in the law to overcome the flaws pointed out by the Supreme Court and other High Courts, but would also bring in retrospective amendments to ratify the actions already taken and impacted by the judgment.

Thus, amendments have been proposed Budget to:

- Define a proper officer in relation to any function performed under the Customs Act by an officer of Customs as one who is specifically assigned those functions under Section 5.
- Substitute the definition of an officer of Customs with a new definition to include officers of the Preventive section, Audit section as well as officers from the Revenue Intelligence.
- Explicitly give powers to the Board, the Principal Commissioner, or the Commissioner of Customs to assign functions to an Officer of Customs who shall then be the Proper Officer in relation to such functions.
- In the light of faceless assessments, criteria to be adopted by the Board while assigning the functions as above have been delineated

Finally, Clause 96 of the Finance Bill retrospectively validates all such actions which have been struck down by the Supreme Court due to lack of jurisdiction and further states that all pending proceedings will be disposed of in accordance with Customs Act as amended by the Finance Act, 2022.

Scrutiny, Audit etc. under GST

Self-assessment of tax is the core around which the edifice of GST is built

The law does not spring this as a surprise, but rather takes the taxpayer through a raft of concepts before enjoining the responsibility of self-assessment on him.

Thus, we have a detailed exposition on supply, i.e., the foundation on which GST rests, levy, i.e., the measure and nature of tax; timing i.e., the point in time when supply is subject to the levy; and finally, the value i.e., the value of supply which is subject to the levy at the point in time mandated by law. This is then well rounded by identification of prior tax paid which is available to the taxpayer as a credit when remitting his dues to the Government. Having guided the taxpayer through the rigors of this tax, the law then proceeds to educate the taxpayer on his reporting obligations eventually foisting the responsibility of self-assessment of tax on him. But then these are discussions for another day.

Faced taxpayers self-assessing their liability to tax, it became incumbent on Government to ensure that this self-assessment does not prejudice exchequer. And towards this the law provides the administration with a variety of tools.

These tools are laid out in a manner designed to combat non-compliance. While they can be exercised in a linear fashion, there is nothing the law which mandates this, thereby giving enough flexibility to the administration to apply these tools out of turn depending on the seriousness of the non-compliance.

Scrutiny of returns

This is a very simple tool used by the administration to query taxpayers' returns for any discrepancy(ies). These discrepancies may be resolved by a satisfactory explanation or a further probe, in accordance with law. Strictly speaking, scrutiny of returns does not permit deep probe into the transactions of taxpayer and limits officer's role to escalate unresolved discrepancy(ies). Care must be taken by taxpayers not to entertain broad-based review of 'books and records' in the course of scrutiny of returns.

Audit by tax authorities

Things get a little more serious here with the Commissioner authorising officers to carry out transactions' audit of a registered person. With GST being primarily IT-driven, the Government has a whole lot of analytics available to it. These analytics are put to good use in (i) audit selection based on risks to revenue (ii) identify areas of review by

analytical review or manual examination and (iii) mining insights by exchange of experience across the Nation. Audit will be a timebound and in-depth review of the affairs of the registered person which culminates in an audit report. The registered person may (a) explain all or any of the findings to the satisfaction of the audit team (b) accept all or any of the findings and pay the resultant tax or (c) deny the findings of the audit team and accept a notice to be independently adjudicated.

Special audit

Not to be confused with Audit, a special audit is where the registered person will be advised to allow a CA or CWA to audit the records. Such an audit is exercised when the business of the taxpayer is complex, and areas of audit are limited to instances where (i) undervaluation of supplies or (ii) disproportionate claim of input tax credit. A special audit can only be done with the prior approval of the Commissioner and can be undertaken in conjunction with any of the tools at the officers' disposal such as scrutiny, inquiry, investigation, or any similar proceedings. The report is submitted to the Officer who may use the findings in other proceedings.

Power of inspection, search and seizure

Things are now getting to be a bit more serious, and the administration gets to flex its muscles. However, this power can be exercised only when a Joint Commissioner and above has reasons to believe, and this is a very singular requirement, that an act of suppression has occurred, or excess credit has been availed or any of the provisions of the law have been contravened and all with an intention to evade tax. In all such cases, a Joint Commissioner and above can authorise an inspection of the premises of (i) taxable person or (ii) transporter or warehouse-keeper.

Pursuant to intelligence gathered if there are reasons to believe that (i) any goods can be liable to confiscation are secreted or (ii) any documents, books or things relevant for further action are secreted, he can authorise a search and even seizure of these 'offending articles'. Inspection, search, and seizure result in notice being issued for a demand of tax or credit. Confiscation, on the other hand, is one where title in offending goods pass to the Government; an option is given to redeem the goods on payment of a fine.

Power to arrest

And with this, the powers reach their zenith. When focus is on self-assessment, strict compliance becomes mandatory. One way of nudging a person in this direction is the power to arrest. These powers come with sufficient safeguards, including for the Commissioner to have reasons to believe evasion or tax, fraudulent availing of credit

or failure to pay tax to the Government and on top of this come with monetary limits beyond which they can be exercised.

While at first blush these tools available with the government may seem one-sided, it is important to understand that the taxpayer is given ample opportunity to actively engage with the government whenever any of these tools are used and every stage.

Where things take a turn for the worse is when the response to any of these actions is not apposite. The response to any of these must be in direct proportion to the questions raised, nothing more or nothing less. It is necessary for every taxpayer to appropriately respond to any question directed towards him, yet it is not within his realm to educate the government, which rather than providing him relief may end him in a soup.

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