

LODHA & CO

Chartered Accountants



India
Union
Budget

2023

and recent development
in regulatory framework

B R I E F I N G

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FOREWORD

The Union Budget has been presented in the back drop of major economies experiencing moderation of growth, impacted by the pandemic, risk of economic recession in major economies and global uncertainties. India, in contrast, has stood out with growth rate of around 7%, which is the highest amongst the major economies. To address the risks tempering India's growth, the Government's strategy includes inclusive budgetary reforms, making India Atmanirbhar and attaining macro-economic stability.

The budget's focus is on maintaining the growth momentum with a significant increase of 33% in capital expenditure to ₹ 10 lakh crores amounting to 3.3% of GDP, to kick start a virtuous cycle of investment and job creation. Along with 13.6% hike in grants in aid to states for creating capital assets, the effective capital expenditure is budgeted at ₹ 13.7 lakh crores amounting to 4.5% of the GDP. The higher investment outlay will encompass Logistics, regional Connectivity and building sustainable cities for tomorrow. The budget provides for highest ever capital expenditure of ₹ 2.4 lakh crores for Railways for FY 24 and has identified 100 critical transport infrastructure projects, for last and first mile connectivity for ports, coal, steel, fertiliser and foodgrains sector with an outlay of ₹ 75,000 crores.

Proposals to boost the entire agriculture value chain include development of Digital Public Infrastructure for Agriculture sector, Agriculture Accelerator Fund to encourage Agri start ups to develop innovative solutions in transforming agricultural practices, Agricultural credit target of ₹ 20 lakh crores, greater focus on animal husbandry, dairy, fisheries and high value horticultural crops, and massive decentralised storage capacity for farm produce to be set up in the cooperative sector.

To support an inclusive growth model, the budget has unveiled new tax benefits for cooperative bodies and has proposed investments in technology infrastructure. New cooperatives that commence manufacturing activities till March 31, 2024 would be taxed at a flat 15%, similar to the lower rate applicable to the new manufacturing companies. Revamping the credit guarantee scheme with infusion of ₹ 9000 crores and provision of collateral free guaranteed credit of ₹ 2 lakh crores will boost the MSME sector. Vivad Se Viswas has been extended to MSMEs for forfeited amounts of bid/performance deposit which will be refunded by Government Enterprises and undertakings. Vivad se Vishwas II has been proposed for faster resolution of arbitration cases lying sub judice.

To accelerate the shift to clean energy, the budget proposals include Green Hydrogen Mission which will reduce Carbon footprints launched with an initial outlay of ₹ 19700 crores, a ₹ 35000 crores capital investment plan for transition to green energy, viability gap funding for mega battery energy storage projects, a framework for pumped storage and a green credit programme which will incentivise environmentally sustainable actions by companies and others.

Aspirational Blocks and Development Program has been designed for 500 blocks across domains such as health, nutrition, agriculture, education, water resources, financial inclusion, skill development and basic infrastructure.

To enhance the ease of doing business, a large number of legal compliances have been removed and decriminalised. A national Financial Information Registry is proposed to be set up to act as a central repository of financial and ancillary information to develop a robust financial sector. Launch of Skill India Digital Program and Pradhan Mantri Kaushal Vikash Yojana 4.0 is proposed to be launched to upskill younger generations in new technologies. Skilling and entrepreneurship is proposed to be enhanced along with technology platforms to foster tourism for domestic and foreign travellers with active state and central participation and through Public-Private Partnership.

The budget has promised a simplification of the KYC process coupled with a one stop solution for identity and address updating. The proposal for a legal heirship certificate issued by a local revenue official being recognised as a valid document for transmission of amounts lying in the savings schemes will address the issues faced by people in getting access to these assets. In a fresh impetus to the GIFT city, the proposals include allowing acquisition financing by IFSC banking units of foreign banks, recognition for issue of p-notes as valid contracts, single window IT system for registration and approval from financial regulators.

On the Direct tax front, there seems to be an effort to make the new tax regime as the default regime by making it attractive. For the new tax regime, the rebate limit has been raised from ₹ 5 lakhs to ₹ 7 lakhs and the tax slabs have been rationalised with basic exemption limit hiked to ₹ 3 lakhs. Standard deduction is now allowed under the new regime. At the top end, the maximum effective tax rate has been reduced from 42.74% to 39%. Average processing time of returns is proposed to be reduced from 93 days to 16 days. The deposit limit for the post office monthly schemes has been enhanced to ₹ 9 lakhs from ₹ 4.5 lakhs for a single account and to ₹ 15 lakhs from ₹ 9 lakhs for a joint account. Further, the deposit limit for senior citizen savings scheme has been enhanced from ₹ 15 lakhs to ₹ 30 lakhs.

Benefits have been bestowed on start ups in the form of extension of the income tax exemption to eligible firms by a year till March 31, 2024 and carry forward of the benefit of losses to 10 years instead of 7 years earlier. The conversion of physical gold into electronic Gold receipt (and vice versa) has been made tax neutral. The time limit for tax benefits to funds relocating to IFSC, Gift city has been extended till March 31, 2025. To ease litigation, considering the pendency of the appeals before Commissioner (Appeals), for speedy disposal of cases, it is proposed that joint commissioners / Additional commissioners will handle appeals involving low disputed amounts.

On the Indirect Taxation front, the budget has included proposals aimed to promote exports, boost domestic manufacturing, enhance domestic value additions and encourage green energy. The proposals to slash customs duties on inputs & components for various products will boost local manufacturing and green mobility. Changes in customs duties will also help manufacturing under PLI scheme as India looks to attract global supply chains into the country. The current concessional duty on import of some items has been proposed to continue e.g lithium cells. The Basic Customs Duty (BCD) has also been exempted on some items e.g. on denatured ethyl alcohol under the ethanol blending programme. A simplified tax structure has been envisaged with fewer rates and the Basic Customs Duty rates have been reduced from 21% to 13% for goods other than textile and agricultural items.

The revenue deficit is projected to reduce steeply to 2.9% of GDP in FY 24 compared to 4.1% in FY 23. The fiscal deficit for FY 24 is estimated to be 5.9% of GDP lower than 6.4% projected for FY 23 along with a commitment to reduce it to 4.5% by FY 26. The nominal growth target of 10.5% for FY 24 seems to be realistic. The budget formulated considering 7 priorities viz, Inclusive development, Green Growth, Youth Power, Reaching the last mile, Infrastructure and Investment, Unleashing the Potential and financial sector has targeted formation of Inclusive India through sustainable economic growth. In the words of FM "This is the first budget in Amrit Kaal. This budget hopes to build on foundations set in previous budgets. The world has recognised Indian economy as a bright star."

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BUDGET HIGHLIGHTS

DIRECT TAXES

Tax Rates

Old Tax regime

- Old tax regime with no changes in tax rates and slabs have been continued.

New tax regime

- New tax regime has become the default regime with an option to be exercised for continuing with old regime.
- Number of slabs in new tax regime have been reduced and the minimum threshold for taxable limit has been increased from ₹ 2.5 lakhs to ₹ 3 lakhs. Standard deduction of ₹ 50,000 and deduction for family pension against salary has been considered allowable.
- Rebate for tax exemption increased from ₹ 5 lakhs to ₹ 7 lakhs.
- Highest surcharge rate reduced from 37% to 25%.
- It is proposed to provide a concessional tax of 15% to be levied for co-operative societies set up on or after April 01, 2023 engaged in manufacturing operations commencing operations on or before March 31, 2024.

Business Income

- It is proposed to insert clause (h) in Section 43B prescribing that payment to MSMEs shall only be allowed as business expenditure on actual payment basis.
- Section 79 has been proposed to be amended to increase the time period for carry forward of loss of eligible startups from 7 years to 10 years from date of incorporation.
- It is proposed to define Strategic divestment U/s Section 72A to mean the transfer of shareholding/ control by Central Govt, State Govt or a public sector company and amend Section 72AA dealing with amalgamation of one or more banking company with any other banking institution or a company to facilitate carry forward of losses and depreciation subsequent to a strategic disinvestment, if amalgamation takes place within 5 years of strategic disinvestment.
- The threshold limits for presumptive scheme of taxation for eligible businesses has been increased from ₹ 2 crores to ₹ 3 crores and for specified profession from ₹ 50 lakhs to ₹ 75 lakhs.
- A new sub-section to section 44BB and 44BBB dealing with services provided by non-residents in connection to extraction or production of minerals oils etc. and section 44BBB dealing with profit of a foreign company engaged in business of civil constructions etc. has been modified to provide that no set off of unabsorbed depreciation and brought forward loss shall be allowed under presumptive taxation in the previous year where presumptive taxation has been opted.
- The restriction on deduction of interest expense to the extent of 30% of EBIDA in respect of debts by non-residents which are associated enterprises of the borrower being not applicable to banking or insurance companies, have also not been made applicable to NBFC's.

Capital Gain

- It is proposed to insert new clause in section 47 to provide that conversion of Gold into Electronic Gold receipts (EGR) and vice versa shall not be considered as transfer.
- Exemption limit for claiming roll over benefit in relation to investment made in residential house under section 54 and 54F of the Income Tax Act has been capped to ₹ 10 crores.
- It is proposed to insert a new section 50AA in the Act to tax the capital gains arising from the transfer or redemption or maturity of Market linked Debentures as Short Term Capital Gain at applicable rates.

Income from Other Sources

- Section 56(2)(vii)(b) now to be applicable in case of inadequate consideration for issue of shares from any person (non-resident also) irrespective of residential status.

Deductions and Exemptions

- Cut-off date for incorporation in case of start-ups availing 100% deduction of the profit in eligible cases under section 80-IA has been extended up to March 31, 2024.
- It is proposed to insert new Section 80CCH to provide deduction for the amount deposited into Agniveer corpus Fund by the central government and Agniveer individuals enrolled under Agnipath scheme 2022.
- Section 10(4E), to be amended to provide exemption to any income distributed to non-resident holder of offshore derivative instruments by IFSC banking unit.

Charitable Trust

- Application of fund out of corpus or borrowings before April 01, 2021 are not to be allowed for charitable or religious purposes when such amounts are deposited back or invested to corpus or when the loan or borrowing is repaid.
- Repayment of loan or investment/depositing back into corpus shall be considered an application for charitable or religious purpose only within 5 years of application thereof from corpus or loan.
- Sections 10(23C) and 11 to restrict the exempted application by charitable trusts and institutions on donations made to other charitable trusts and institutions to the extent of 85% of the income;
- To claim accumulation of income, the trust or institution shall file Form 9A/10 at least two months before the due date of filing of return of income.
- The exemption u/s 10(23C), 11 and 12 will be available only if the return of income has been furnished within the time allowed u/s 139.

TDS, Returns and Assessment Proceedings

- Deployment of Joint Commissioners (Appeals) for disposal of small appeals in order to reduce the pendency of appeals at CIT(A).
- It is proposed to amend Section 142 to empower Assessing Officer to direct the assessee for Inventory valuation by a Cost Accountant.
- Relevant provisions of section 132 to be amended to provide the authorized officer to requisition the services of any other person or entity for the purposes of the search and registered valuer to estimate value of the assets as prescribed.
- Section 170A to be substituted to provide that in the event of a business reorganization, the successor shall furnish a modified return within 6 months from the end of the month in which the said order was issued.
- The time for completion of assessment shall be increased to twelve months as against nine months as specified earlier from the end of the AY in which the income was first assessable.
- A new sub-section (3A) may be inserted in section 153 of the Act to provide that the period available for completion of assessment or reassessment which was pending on the date of search or requisition shall be extended by twelve months.
- The time period to furnish transfer pricing documentation is proposed to be reduced from 30 days to 10 days. The transfer pricing officer may extend the same by another 30 days at his or her discretion.
- TDS u/s 196A in respect of Non-resident against Income from units of mutual funds as specified would be the lower of 20% or the rate provided in DTAA.

- TDS will be deducted on the accumulated balance due to an employee under Employees' Provident Fund Scheme, 1952 at the rate of 20% as per section 206AA where the PAN has not been furnished by the employees.
- Increase in limit of cash withdrawal from ₹ 1 crores to ₹ 3 crores for withholding of tax on such withdrawals by co-operative society.
- Section 197(1) of the Act to be amended to provide that the certificate for deduction at lower rate u/s 194LBA in respect of income distributed by a business trust to its unit holders can be obtained by the non-resident assessee.
- It has been proposed to increase the rate of TCS u/s 206C for remittance through Liberalised remittance scheme (LRS) and on sale of overseas tour package and certain other cases out of India from 5% to 20%.
- TDS on net winnings income from online gaming to be levied at the time of withdrawal or at the end of the financial year.

Miscellaneous

- Section 269SS and 269T of the Act to be amended to increase the limit of ₹ 20,000 for loan and deposits in cash to ₹ 2 lakhs in case of Primary Agricultural Credit Societies ("PACS") and Primary Co-Operative Agricultural and Rural Development Bank ("PCARD").
- Clause (viii) of sec 9(1) to be amended to extend this deeming provision to sum of money exceeding fifty thousand rupees received by a not ordinarily resident without consideration from a resident in India being taxable as Income from other sources.
- Exemption u/s 10(22B) in respect of income of a notified news agency to be withdrawn.
- Amount received from Insurance Policies where aggregate of premium for life insurance policies (other than ULIP), issued on or after April 01, 2023, is above ₹ 5 lakhs shall be taxable as Income from Other Sources.

BUDGET HIGHLIGHTS

INDIRECT TAXES

GOODS AND SERVICES TAX

- Value of exempt supply for the purpose of apportionment of credits expanded to include Supply of warehoused goods to any person before clearance for home consumption.
- Input tax credit not allowable in respect of goods or services used for activities relating to corporate social responsibility.
- Deposit of Input Tax Credit availed along with interest in cases of non-payment to suppliers within 180 days from date of issue of invoice.
- Provisions for interest on delayed refunds amended to prescribe manner of computation of period of delay for calculation of interest.
- Taxpayers supplying goods through E- commerce operator (ECOs) will be eligible to opt for composition scheme. New penal provisions made applicable in case of contravention of specified provisions.
- Option for compounding of offence not allowed on issuance of any invoice or bill without supply of goods or services or both.
- Minimum and maximum amounts for compounding of offences reduced to 25% and 100% respectively of the amount of tax involved.
- Maximum Time limit of three years prescribed for furnishing of details of outward supplies (GSTR-1), for furnishing of returns (GSTR-3B), for furnishing of Annual returns and reconciliation (GSTR 9/9C) and for furnishing of tax collected at source statement (GSTR-8).
- Provisions incorporated empowering the common portal for sharing of data furnished by taxpayers with other systems notified by Government. Such details to be shared post obtaining consent of supplier/ recipient as applicable. The Government or the common portal shall not be responsible with respect to any liability arising consequent to information shared under this section.
- In case of supply of goods to a place outside India, place of supply has been specified to be the location of person if recipient is registered and location of handing over for transportation in cases where recipient is unregistered.

CUSTOMS

- Validity period of two years shall no longer be made applicable to exemption notifications issued in relation to multilateral or bilateral trade agreements and in certain specified cases.
- Provisions related to imposition of Countervailing duty and Anti-dumping duty amended retrospectively with effect from January 01, 1995 to clarify that determination and review refers to 'determination and review' as prescribed under Rules. Similar amendment made in provision dealing with appeals.

OTHER MEASURES AND PRONOUNCEMENTS

Fiscal Management

- Revised estimates for expenditure in 2022-23 is ₹ 41.90 lakh crores as against the Budgeted Estimates of ₹ 39.45 lakh crores and total expenditure during 2022-23 is estimated to be over ₹ 45 lakh crores.
- Fiscal deficit estimates for 2022-23 is ₹ 17.8 lakh crores at 5.9% of GDP against revised estimate of fiscal deficit for 2021-22 being ₹ 16.61 lakh crores at 6.4% of GDP.
- Capital expenditure has been increased by 33.33% from ₹ 7.50 lakh crores in current year to ₹ 10 lakh crores to aid the economic growth.
- States will be allowed a fiscal deficit of 3.5% of GSDP of which 0.5% will be tied to power sector reforms.

The 'Saptarishi'-7 Priorities, guiding us through the Amrit Kaal

Priority 1: Inclusive Development- Sabka Sath Sabka Viswas

- **Agriculture and Cooperation**
 - Digital public infrastructure covering different aspects of agriculture like crop planning, estimation, farm inputs etc.; and to support for growth of Agri-tech industry and start-ups;
 - Agriculture Accelerator Fund to be set-up for encouraging Agri-startups by young entrepreneurs bringing in modern technologies to transform agricultural practices, increase productivity and profitability of farmers;
 - **Public Private Partnerships (PPP)** for collaboration between farmers, state and industry for input supplies, extension services, and market linkages in case of extra-long staple cotton;
 - **Atmanirbhar Clean Plant Program** will be launched at an outlay of ₹ 2,200 crores to boost availability of disease-free, quality planting material for high value horticultural crops;
 - To make India a global hub for '**Shree Anna**' or millets, such as jowar, ragi, bajra, etc.; the Indian Institute of Millet Research (IIMR), Hyderabad to be the Centre of Excellence for sharing best practices, research and technologies at the international level;
 - To support the animal husbandry, dairy and fisheries, the Agriculture Credit Target will be increased to ₹ 20 lakh crores;
 - **PM Matsya Sampada** Yojana with a targeted investment of ₹ 6,000 crores to enable activities in Fisheries will be launched;
 - For the vision of '**Sahakar Se Samridhhi**', massive decentralised storage capacities shall be set up helping the farmers store their produce and realize remunerative prices through sale at appropriate times.

- **Health, Education and Skilling**

Health

- 157 new nursing colleges to be established;
- **Sickle Cell Anaemia** elimination mission by 2047 to be launched;
- Joint public and private medical research to be encouraged via select ICMR labs;
- New program to promote research in pharmaceuticals to be launched.

Education and Skilling

- Revamped Teachers' Training via District Institute of Education and Training;
- National Digital Library to be set up for children and adolescents;
- States will be encouraged to set up physical libraries at Panchayat and Ward levels.

Priority 2: Reaching the Last Mile-

- **Pradhan Mantri PVTG (Particularly Vulnerable Tribal Groups) Development Mission** will be launched with availability of ₹ 15,000 crores over 3 years to provide safe housing, clean drinking water etc. to PVTG families and habitations;
- 38,800 teachers and support staff to be recruited for 740 **Eklavya Model Residential Schools**;
- Assistance of ₹ 5,300 crores for sustainable micro irrigation and filling up of surface tanks in drought prone region of Karnataka;
- Outlay for **PM Awas Yojana** is being enhanced by 66% to over ₹ 79,000 crores;
- '**Bharat Shared Repository of Inscriptions**' to be set up for digitization of ancient inscriptions.

Priority 3: Infrastructure & Investment

- Incentives for Investments in Infrastructure and productive capacity will have large multiplier impact on growth and employment;
- Capital investment outlay increased by 33% to ₹ 10 lakh crores being 3.3% of GDP;
- The '**Effective Capital Expenditure**' of the Centre through Grants-in-Aid to States will be at ₹ 13.7 lakh crores being 4.5% of GDP;
- Continuation of 50-year interest free loan to state governments to incentivise infrastructure investments;
- A capital outlay of ₹ 2.40 lakh crores for the Railways have been proposed;
- 100 transport infrastructure projects identified for end to end connectivity for ports, coal, steel, fertilizer, and food grains sectors with investment of ₹ 75,000 crores, including ₹ 15,000 crores from private sources;
- **Urban Infrastructure Development Fund (UIDF)** will be established with a fund of ₹ 10,000 crores per annum through use of priority sector lending to create urban infrastructure in Tier 2 and Tier 3 cities;

Priority 4: Unleashing the Potential

- Three Centres of Excellence for Artificial Intelligence will be set-up in top educational institutions for developing cutting edge applications in agriculture, health and sustainable cities;
- **National Data Governance Policy** will be brought out to unleash innovation and research by start-ups and academia;
- **DigiLocker** services with Aadhaar as foundational identity shall be established to have a one stop solution for reconciliation and updating of identity and address;
- **Permanent Account Number (PAN)** will be used as the common identifier for all digital systems of specified government agencies;
- **Vivad se Vishwas I – Relief for MSMEs**
95% of the forfeited amount relating to bid or performance security, will be returned to MSMEs by government and government undertakings in cases of failure to execute contracts during the Covid period;
- **Vivad se Vishwas II – Settling Contractual Disputes**
A voluntary settlement scheme with standardized terms will be introduced to settle contractual disputes of government and government undertakings;
- For efficient administration of justice, Phase-3 of the E-Courts project to be launched with an outlay of ₹ 7,000 crores;
- An Entity **DigiLocker** will be set up for use by MSMEs, large business and charitable trusts enabling in storing and sharing documents online securely;
- 100 labs for developing applications using 5G services will be set up to realise employment potential and business opportunities;

Priority 5: Green Growth

India is moving forward firmly for the ‘panchamrit’ and net-zero carbon emission by 2070 to usher in green industrial and economic transition.

- **Green Hydrogen Mission**
Target for annual production of 5 MMT by 2030 to facilitate transition of economy to low carbon intensity and reduce dependence on fossil fuel imports;
- **Energy Transition**
₹ 35,000 crores provided for priority capital investments towards energy transition and net zero objectives and energy securities;
- **Energy Storage Projects**
Viability Gap Funding to promote Battery Energy Storage Systems with capacity of 4000 MWH shall be provided;
- **Renewable Energy Evacuation**
Grid integration for 13 GW renewable energy from Ladakh will be constructed with investment of ₹ 20,700 crores;
- **PM-PRANAM**
PM Programme for Restoration, Awareness, Nourishment and Amelioration of Mother Earth to be launched for incentivise the states and union territories;
- Under **GOBARdhan (Galvanizing Organic Bio-Agro Resources Dhan) scheme** Establishing 500 new ‘waste to wealth’ plants at total investment of 10,000 crores;
- **Bhartiya Prakritik Kheti Bio-Input Resource Centres**
10,000 centres for creation of national level distributed micro-fertilizer and pesticide manufacturing network helping 1 crore farmers to adapt natural farming.
- **MISHTI** will be taken up for mangrove plantation along the coastline and on salt pan lands.
- **Amrit Dharohar** to be implemented for optimal usage of wetlands, and enhance biodiversity, carbon stock, eco-tourism opportunities and income generation for local communities.
- **Coastal Shipping** will be promoted as the energy efficient and lower cost mode of transport through PPP mode.

Priority 6: Youth Power

- **Pradhan Mantri Kaushal Vikas Yojana 4.0** covering new course like coding, AI, Robotics, 3D Printing, Drones and Soft skills setting up 30 Skill India International Centres across different states.
- Expanding digital ecosystem for skilling with launch of a unified Skill India Digital platform for enabling demand-based formal skilling, linking with employers including MSMEs and facilitating access to entrepreneurship schemes.
- **National Apprenticeship Promotion Scheme** Launching a pan-India Scheme to provide stipend support to 47 lakhs youth in three years.
- At least 50 destinations will be selected through challenge mode, to be developed as a complete package for domestic and foreign tourists.
- Encouraging state to set up Unity Malls for promotion and sale of ODOP (One District- One Product), GI and handicrafts products.

Priority 7: Financial Sector

- Expand corpus under a revamped scheme to enable additional collateral free guaranteed credit of ₹ 2 lakhs crores for MSMEs;
- Setting up of National Financial Information Registry (NFIR) to enable efficient lending and to promote financial inclusion and enhance financial stability.
- Initiatives to promote business activities in GIFT IFSC;
- Setting up of a Central Data Processing Centre for faster handling of administrative work under the Companies Act;
- Mahila Samman Bachat Patra for opening one time new small savings for a period of two years with the upper band of ₹ 2 lakhs.
- Enhanced maximum deposit limit for senior citizens savings scheme From ₹ 15 lakhs to ₹ 30 lakhs.

BUDGET PROPOSALS- DIRECT TAX LAWS
TAX RATES

Slab	IN PERCENTAGE (\$)					
	Existing			Proposed		
	Basic	Surcharge	Cess	Basic	Surcharge	Cess
UNDER EXISTING REGIME (OLD) TAX REGIME						
Individuals and HUF etc.						
Upto ₹ 2,50,000	Nil	Nil	Nil	Nil	Nil	Nil
₹ 2,50,001 to ₹ 5,00,000	5	Nil	4	5	Nil	4
₹ 5,00,001 to ₹ 10,00,000	20	Nil	4	20	Nil	4
₹ 10,00,001 to ₹ 50,00,000	30	Nil	4	30	Nil	4
*₹ 50,00,001 to ₹ 1,00,00,000	30	10	4	30	10	4
*₹ 1,00,00,001 to 2,00,00,000	30	15	4	30	15	4
@*₹ 2,00,00,001 to 5,00,00,000 (Read with Note 1 and 3)	30	25	4	30	25	4
@*Above ₹ 5,00,00,000	30	37	4	30	37	4
(Read with Note 1 and 3)						
Firms and Local authorities						
Upto ₹ 1,00,00,000	30	Nil	4	30	Nil	4
*Above ₹ 1,00,00,000	30	12	4	30	12	4
Co-operative Societies						
Upto ₹ 10,000	10	Nil	4	10	Nil	4
₹ 10,001 to ₹ 20,000	20	Nil	4	20	Nil	4
₹ 20,001 to ₹ 1,00,00,000	30	Nil	4	30	Nil	4
*₹ 1,00,00,001 to ₹ 10,00,00,000	30	7	4	30	7	4
*Above ₹ 10,00,00,000	30	12	4	30	12	4
Companies – Domestic						
Turnover with Less than 400 crores	Turnover to be with reference to PY 2020-2021			Turnover to be with reference to PY 2021-22		
Upto ₹ 1,00,00,000	25	Nil	4	25	Nil	4
₹ 1,00,00,001 to ₹ 10,00,00,000	25	7	4	25	7	4
Above ₹ 10,00,00,000	25	12	4	25	12	4
Companies – Domestic – Others than above						
Upto ₹ 1,00,00,000	30	Nil	4	30	Nil	4
₹ 1,00,00,001 to ₹ 10,00,00,000	30	7	4	30	7	4
Above ₹ 10,00,00,000	30	12	4	30	12	4
Companies – Foreign						
Upto ₹ 1,00,00,000	40	Nil	4	40	Nil	4
₹ 1,00,00,001 to ₹ 10,00,00,000	40	2	4	40	2	4
Above ₹ 10,00,00,000	40	5	4	40	5	4

Slab	IN PERCENTAGE (\$)					
	Existing			Proposed		
	Basic	Surcharge	Cess	Basic	Surcharge	Cess
UNDER NEW TAX REGIME						
Co-operative Society – Domestic - U/s 115BAD	22	10	4	22	10	4
Co-operative Society – New Manufacturing – U/s 115BAE	NA	NA	NA	15	10	4
Companies – Domestic – Start Ups- U/s 115BAB	15	10	4	15	10	4
Others- U/s 115BAA	22	10	4	22	10	4

Existing				Proposed			
Slab	Rates %			Slab	Rates %		
	Basic	Surcharge	Cess		Basic	Surcharge	Cess
Individual, HUF etc. - U/s 1A of 115BAC							
Upto ₹ 2,50,000	Nil	Nil	Nil	Upto ₹ 3,00,000	Nil	Nil	Nil
₹ 2,50,001 to ₹ 5,00,000	5	Nil	4	₹ 3,00,001 to ₹ 6,00,000	5	Nil	4
₹ 5,00,001 to ₹ 7,50,000	10	Nil	4	₹ 6,00,001 to ₹ 9,00,000	10	Nil	4
₹ 7,50,001 to ₹ 10,00,000	15	Nil	4	₹ 9,00,001 to ₹ 12,00,000	15	Nil	4
₹ 10,00,001 to ₹ 12,50,000	20	Nil	4				
₹ 12,50,001 to ₹ 15,00,000	25	Nil	4	₹ 12,00,001 to ₹ 15,00,000	20	Nil	4
₹ 15,00,001 to ₹ 50,00,000	30	Nil	4	₹ 15,00,000 to ₹ 50,00,000	30	Nil	4
*₹ 50,00,001 to ₹ 1,00,00,000	30	10	4	*₹ 50,00,001 to ₹ 1,00,00,000	30	10	4
*₹ 1,00,00,001 to ₹ 2,00,00,000	30	15	4	*₹ 1,00,00,001 to ₹ 2,00,00,000	30	15	4
@*₹ 2,00,00,001 to ₹ 5,00,00,000 (Read with Note 1)	30	25	4	@*₹ 2,00,00,001 to ₹ 5,00,00,000 (Read with Note 1)	30	25	4
@*Above ₹ 5,00,00,000 (Read with Note 1 and 2)	30	37	4	@*Above ₹ 5,00,00,000 (Read with Note 1 and 2)	30	25	4

(*) Subject to Marginal relief

(\$) To be read in conjunction with Notes as given below

(@) The aggregate of income (excluding the income by way of dividend or capital gain u/s 111A, 112 & 112A)

Notes:

1. If total income includes any income chargeable by way of capital gain u/s 111A, 112 and 112A of the Act or dividend income, the rate of surcharge on income tax (if applicable) on such part of income shall not exceed 15%.
2. For person whose income chargeable to tax u/s 1A of 115BAC, and where total income excluding the dividend or chargeable by way of capital gain u/s 111A, 112 and 112A of the Act exceeding 2 crores, surcharge would be restricted to 25%.
3. If income is taxable u/s 115A, 115AB, 115AC, 115ACA and 115E and does not include any income u/s 115AD of the Act, the rates of surcharge are similar to the rates for individual and HUF's without excluding dividend or capital gains.
4. If total income includes any income chargeable u/s 115AD(1)(b) (capital gain to Foreign Institutional Investor), the rate of surcharge on income tax (if applicable) on such part of income shall not exceed 15%.
5. In case of AOP where only companies as its members and who has exercised option u/s 1A of 115BAC, the rate of surcharge shall not exceed 15%.

6. In other cases, including cases where provision of sub-section (2A) section 92CE, sections 115-0, 115QA, 115R, 115TA or 115TD are applicable, the surcharge shall be levied at the rate of 12%.
7. In case of a resident individual (both male and female) who attains the age of 60 years or more but less than 80 years at any time during the previous year, the basic exemption limit is up to ₹ 3 lakhs.
8. In case of a resident individual (both male and female) who attains the age of 80 years or more at any time during the previous year, the basic exemption limit is up to ₹ 5 lakhs.

New Tax Regime (1A of 115BAC)

It is proposed to make the new tax regime u/s 115 BAC(1A) as default regime and shall apply to all individual or HUF or AOP. In such case the Assessee will also be entitled to standard deduction u/s 16(ia), family pension u/s 57(ia) and amount deposited in Agniveer Corpus Fund under proposed section 80CCH.

Rebate u/s 87A

Under the existing tax structure, an individual resident having income till up to ₹ 5 lakhs is not required to pay tax. It is proposed to extend the said exemption upto ₹ 7 lakhs in case of an individual resident whose income is chargeable u/s 115BAC(1A).

SOCIO ECONOMIC WELFARE MEASURES

Promoting Timely payments to Micro and Small Enterprises

Section 43B of the Act provides for certain deductions to be allowed only on actual payment.

It is proposed to insert a new clause (h) to provide that any sum payable by the assessee to micro or small enterprise beyond 45 days (15 days where there are no written terms for payment) shall not be allowed on accrual basis and shall be allowed as deduction only when actual payments are made.

Agnipath Scheme, 2022

In order to implement the Agnipath scheme 2022, it has been decided to create a dedicated Agniveer Corpus Fund with consolidated contributions of all the Agniveers and matching contributions by the government along with interest there against.

With regard to taxation of such contributions, it is proposed to make the following amendments:

- To insert a new clause (12C) in section 10 of the Act to provide that any payment received from the Agniveer Corpus Fund by a person enrolled under the Agnipath Scheme, 2022, or the nominee of such person shall be exempt.
- To insert a new section 80CCH to the Act to allow deduction to an individual assessee from his total income, of the whole of the amount deposited by him and also the amount contributed by the Central Government to his account in the Agniveer Corpus Fund.
- To insert a new sub-clause in clause (1) of section 17 of the Act so as to include within the ambit of Salary, the contribution made by the Central Government in the previous year, to the Agniveer Corpus Fund account.
- To provide that in the new tax regime of section 115BAC an individual enrolled in the Agnipath Scheme and subscribing to the Agniveer Corpus Fund shall get a deduction under section 80CCH(2) of the government contribution to the corpus fund

This amendment will take effect from April 01, 2023 and will accordingly, apply in relation to the assessment year 2023-24 and subsequently.

Relief to sugar co-operatives from past demand

The Sugar co-operatives had been claiming payment of Final Cane price (FCP) over and above the Statutory Minimum Price (SMP) as business expenditure but was disallowed. In order to provide certainty in this matter new clause (xvii) was also inserted in section 36(1) of the Act effective April 01, 2016.

It is now proposed to insert a new sub-section (19) in section 155 of the Act to provide that any deduction in respect of any expenditure incurred for the purchase of sugarcane which has been disallowed wholly or partly in AY 2015-16 or earlier, shall, on the basis of an application made by such assessee in this regard, be allowed by the Assessing Officer to the extent of a price which is equal to or less than the price fixed or approved by the Government for that previous year. For this purpose, the provisions of section 154 shall be applicable, and the period of 4 years specified in section 154(7) shall be reckoned from the April 01, 2023.

This amendment will take effect from April 01, 2023 and will accordingly, apply in relation to the assessment year 2023-24 and subsequently.

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

Section 194N of the Act provides that a banking company or a co-operative society engaged in carrying on the business of banking or a post office, which is responsible for paying any sum to any person (referred to as the recipient) shall, at the time of payment of such sum in cash, deduct 2% of such sum when the payment of amount or aggregate of amount in cash during the year exceeds ₹ 1 crores.

It is proposed to insert a new proviso in Section 194N of the Act to provide that where the recipient is a co-operative society, the threshold limit of ₹ 1 crores shall be increased to ₹ 3 crores.

This amendment will take effect from April 01, 2023 and will accordingly, apply in relation to the assessment year 2023-24 and subsequently.

Penalty for cash loan/transactions against primary co-operatives.

Section 269SS and 269T respectively provide that no person shall take or repay from/to any person any loan or deposit otherwise than by an account payee cheque or account payee bank draft or online transfer through a bank account, if the amount of such loan or deposit is ₹ 20,000 or more. Certain exceptions have, however, been specified in the provisions.

It has been proposed to amend the section 269SS and 269T of the Act by raising the limit of ₹ 20,000 to ₹ 2 lakhs for Primary Agricultural Credit Societies ('PACS') and Primary Co-Operative Agricultural and Rural Development Bank ('PCARD').

This amendment will take effect from April 01, 2023 and will accordingly, apply in relation to the assessment year 2023-24 and subsequently.

Relief to start-ups in carrying forward and setting off of losses

Section 79 of the Act prohibits setting off of carried forward losses if there is change in shareholding in case of companies, other than the companies in which the public is substantially interested. The carried forward loss is set off only if at least 51% shareholding (as on the last date of the previous year) remains with the shareholders which were same on the last date of the previous year to which the loss belongs. In case of start-up the loss was allowed to be set off only if it has been incurred during the period of 7 year beginning from the year in which such start up has been incorporated.

In order to align Section 79 with section 80-IAC of the Act whereby startup at their option are eligible to claim deduction of income for 3 consecutive years out of 10 years, it is proposed to amend Section 79 of the Act so that the carried forward loss of eligible start-ups shall be considered for set off for the period upto 10 years (enhanced from 7 years) beginning from the year in which such company was incorporated.

This amendment will take effect from April 01, 2023 and will accordingly, apply in relation to the assessment year 2023-24 and subsequently.

Extension of due date for eligible start-up for exemption

Further, in order to further promote the development of start-ups in India and to provide them with a competitive platform, it is proposed to extend the sunset period of incorporation of eligible start-ups under Section 80IAC for further period of 1 year to on or before April 01, 2024 as against April 01, 2023 provided earlier.

This amendment will take effect from April 01, 2023 and will accordingly, apply in relation to the assessment year 2023-24 and subsequently.

Conversion of Gold to Electronic Gold Receipt and vice-versa

It is proposed to exclude the conversion of physical form of gold into Electronic Gold Receipts (EGR) and vice versa by a SEBI registered Vault Manager from the purview of 'transfer' for the purposes of Capital gains.

For this purpose, following amendments are proposed to be made:

- To insert a new clause in section 47 of the Act so as to provide that any transfer of physical gold to the EGR issued by a Vault Manager or such EGR to physical gold shall not be considered as 'transfer'.
- To amend section 49 of the Act to provide that the cost of acquisition of the gold for the purpose of the above, shall be deemed to be the cost of acquisition of assets in the hands of the person in whose name an EGR is issued and vice versa.
- To amend section 2(42A) of the Act to provide that the holding period for the purpose of capital gain shall include the period for which the Gold was held by the assessee prior to conversion into the EGR and vice-versa.

Exemption to development authorities

It is proposed to insert section 10(46A) so as to exempt any income arising to a body or authority or Board or Trust or Commission, not being a company, which has been established or constituted by or under a Central or State Act with one or more of the following purposes, namely: - (i) dealing with and satisfying the need for housing accommodation; (ii) planning, development or improvement of cities, towns and villages; (iii) regulating, or regulating and developing, any activity for the benefit of the general public; or (iv) regulating any matter, for the benefit of the general public, arising out of the object for which it has been created.

Consequential amendment is also proposed in the Explanation to the 19th proviso of section 10(23C) of the Act. Similarly, consequential amendment is also proposed in sub-section (7) of section 11 of the Act.

Facilitating certain strategic disinvestment

Section 72A(1) lays down the conditions to facilitate carry forward and set off of loss and unabsorbed depreciation in the case of amalgamation of a private sector company with one or more companies pursuant to a strategic disinvestment.

It is proposed to amend the definition of Strategic Disinvestment u/s section 72A of the Act that it shall mean sale of shareholding by the Central Government, the State Government or Public Sector Company in a public sector company or a company which results in (i) reduction of its shareholding below 51%, and (ii) transfer of control to the buyer. Therefore the benefit of carry forward of losses and unabsorbed depreciation will be available in such cases.

Section 72AA of the Act relates to carry forward of accumulated losses and unabsorbed depreciation allowance in a scheme of amalgamation in certain cases, which, inter-alia, includes amalgamation of one or more banking company with any other banking company or institution.

It is also proposed to amend section 72AA of the Act to allow carry forward of accumulated losses and unabsorbed depreciation allowance in the case of amalgamation of one or more banking company with any other banking institution or a company consequent to a strategic disinvestment, if such amalgamation takes place within 5 years of strategic disinvestment.

This amendment will take effect from April 01, 2023 and will accordingly, apply in relation to the assessment year 2023-24 and subsequently.

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

It is proposed to insert a new section 115BAE to provide for concessional tax regime for the new manufacturing co-operative societies wherein tax @ 15% shall be levied subject to certain specified conditions;

Further, it is proposed to amend the section 92BA of the Act to include the transaction between such co-operative society and the other person with close connection within the purview of 'specified domestic transaction' and therefore in the event these transactions not been entered on Arms Length basis, tax shall be computed @ 30%.

EASE OF COMPLIANCE

Ease in claiming deduction on amortization of preliminary expenditure

Under the existing provision of section 35D of the Act provides for amortization of certain preliminary expenses which are incurred before the commencement of business or after commencement, in connection with extension of undertaking or setting up of a new unit.

In order to ease the process of claiming amortization of these preliminary expenses i.e. preparation of feasibility report etc., it is proposed to amend proviso to section 35D(2)(a) by removing the condition of activity in connection with these expenses to be carried out by a concern approved by the Board. Now the assessee shall be required to furnish a statement containing the particulars of this expenditure in the prescribed form and manner.

Increasing threshold limits for presumptive taxation schemes

Under the existing provisions of Section 44AD or 44ADA provide for a scheme for taxation under presumptive scheme which applies to certain resident assessee carrying eligible business or engaged in any profession referred in section 44AA(1). This scheme can be opted by the assessee whose turnover or gross receipts is up to ₹ 2 crores rupees in case of business or up to ₹ 50 lakhs rupees in case of profession.

It has been proposed to increase the threshold limit for eligible business u/s 44AD will increase to ₹ 3 crores and for profession u/s 44ADA to ₹ 75 lakhs, provided that the amount or aggregate of the amount received during the previous year in cash, does not exceed 5% of the total turnover or gross receipts.

Extending the scope for deduction of tax at source to lower or nil rate

Under the existing provision of section 197 of the Act for grant of a certificate by the assessing officer relating to tax deduction at lower or nil rate. Section 194LBA provides that business trust shall deduct and deposit tax @ 5% on interest income of non-resident unit holders. This rate of deduction may be required to be reduced due to some exemption for example exemption u/s 10(23FE) of the Act allowed to notified Sovereign Wealth Funds and Pension Funds.

It is proposed to amend section 197(1) of the Act to provide that the certificate for deduction at lower rate u/s 194LBA can be obtained by the assessee.

This amendment will take effect from April 01, 2023 and will accordingly, apply in relation to the assessment year 2023-24 and subsequently.

WIDENING AND DEEPENING OF TAX BASE/ ANTI AVOIDANCE

Extending deeming provision under section 9 to gift to not-ordinarily resident

Sections 9(1)(VIII) of the Act is a deeming provision providing the types of income deemed to accrue or arise in India and thereby any sum of money exceeding ₹ 50,000, received by a non-resident without consideration from a resident in India shall be income deemed to accrue or arise in India.

It is proposed to amend the aforesaid clause and extend this deeming provision to sum of money exceeding ₹ 50,000 received by a not ordinarily resident without consideration from a resident in India.

Removal of exemption of news agency under clause (22B) of section 10

Under the existing provision of section 10(22B) of the Act provides for exemption to any income of a notified news agency which is set up in India solely for collection and distribution of news subject to the conditions that its income is applied solely for collection and distribution of news and does not distribute its income to its members.

Tax avoidance through distribution by business trusts to its unit holders

Finance (No.2) Act, 2014 introduced a special taxation regime for Real Estate Investment Trust (REIT) and Infrastructure Investment Trust (InVIT) (commonly referred as business trusts). Section 115UA of the Act provides a pass through status to business trusts in respect of interest income, dividend income received from a special purpose vehicle in case of both REIT and InVIT and rental income in case of REIT which is taxable in the hands of the unit holders unless specifically exempted.

In certain cases business trusts distribute sums to their unit holders which are categorised as repayment of debt which is not taxable in the hands of business trust and unit holder both. In some cases, such sum received by unit holder represents redemption of unit.

In order to make such sum taxable in the hands of unit holder, it is proposed to amend the Act by insertion of clause (xii) in sec 56(2) to provide that any sum received by unit holder which is not in the nature of income referred in clause (23FC) and (23FCA) of section 10 and is not chargeable to tax u/s 115UA(2), shall be included under Income from other sources as reduced by the cost of acquisition of such units to the extent such cost does not exceed the sum received in the prescribed manner.

Removal of exemption from TDS on payment of interest on listed debentures to a resident

Section 193 of the Act provides for TDS on payment of any income to a resident by way of interest on securities. Sec 193(ix) of the Act provides that no tax is to be deducted in the case of any interest payable on any security issued by a company, where such security is in dematerialized form and is listed.

It is proposed to omit the aforesaid clause and thereby TDS shall be deductible on such payment.

Preventing misuse of presumptive schemes under section 44BB and section 44BBB

The existing provision of section 44BB it provides that presumptive scheme in the case of a non-resident assessee who is engaged in the business of providing services or facilities in connection with, or supplying plant and machinery on hire used, or to be used, in the prospecting for, or extraction or production of, mineral oils. Similarly section 44BBB of the Act provides for presumptive scheme in the case of a non-resident foreign company who is engaged in the business of civil construction or the business of erection of plant or machinery or testing or commissioning thereof, in connection with a turnkey power project approved by the Central Government.

Both sections provide that an assessee pay tax on presumptive basis if he maintains books of accounts as required u/s 44AA(2) of the Act and get them audited u/s 44AB of the Act.

Assessees are opting in/out of presumptive schemes in different previous year in order to avail benefit of both presumptive and non-presumptive income.

It is proposed to insert a new sub-section to section 44BB and to section 44BBB of the Act to provide that notwithstanding anything contained in section 32(2) and 72(1), no set off of unabsorbed depreciation and brought forward loss shall be allowed to the assessee where he offers profits and gains of business for any previous year in accordance with the provisions of presumptive taxation for such previous year.

TDS and taxability on net winnings from online games

The existing provision of Section 194B of the Act provides that the person responsible for paying to any person any income by way of winnings from any lottery or crossword puzzle or card game and other game of any sort in an amount exceeding ₹ 10,000 shall, at the time of payment, deduct income-tax thereon at the rates in force.

Section 194BB of the Act provides for similar provisions for deduction of tax at source for horse racing in any race course or for arranging for wagering or betting in any race course.

It has been observed that deductors are deducting tax under above sections by applying the threshold of ₹ 10,000/- per transaction and avoiding tax deduction by splitting a winning into multiple transactions each below ₹ 10,000/-.

In view of the above, following proposals have been made:

- amend section 194B and 194BB of the Act to provide that tax shall be deducted on the amount or aggregate of the amounts exceeding ₹ 10,000 during the financial year;
- amend section 194B of the Act to include “gambling or betting of any form or nature whatsoever” and exclude online games from the July 01, 2023;
- insert a new section 194BA in the Act, w.e.f. July 01, 2023, to provide for deduction of tax at source on net winnings in the user account at the end of the financial year in the prescribed manner;

- To amend section 115BB of the Act to exclude income from winnings from online games and insert a new section 115BBJ in the Act with regard to tax on winnings from online games at the rate of 30% as prescribed.

The amendments proposed for section 194B and 194BB of the Act will take effect from April 01, 2023. The proposed section 194BA of the Act will take effect from July 01, 2023.

Increasing rate of TCS of certain remittances

Section 206C(1G) of the Act provides for TCS on foreign remittance through the Liberalised Remittance Scheme and on sale of overseas tour package.

It has been proposed to increase the rate of TCS on foreign remittances for overseas tour package (except for education or medical treatment) from 5% to 20% without any threshold limit.

This amendment will take effect from July 01, 2023 and will accordingly, apply in relation to the assessment year 2024-25 and subsequently.

Limiting the roll over benefit claimed under section 54 and section 54F

Under the existing provision for section 54 of the Act, the deduction is available on the LTCG arising from transfer of a residential house if the capital gain is reinvested in a residential house. Similarly section 54F of the Act, deduction is available on the LTCG arising from transfer of any long term capital asset except a residential house, if the net consideration is reinvested in a residential house.

It is proposed to impose a limit of ₹ 10 crores rupees on the maximum deduction that can be claimed by the assessee under these sections. It will apply to deposit in CGAS account as well.

Special provision for taxation of capital gains in case of Market Linked Debentures

Market Linked Debentures' are listed securities and being taxed as LTCG at the rate of 10% without indexation. These securities are in the nature of derivatives which are normally taxed at applicable rates.

In order to tax the capital gains arising from the transfer or redemption or maturity of these securities as STCG at the applicable rates, it is proposed to insert a new section 50AA in the Act. It is also proposed to define the 'Market linked Debenture' as a security by whatever name called, which has an underlying principal component in the form of a debt security and where the returns are linked to market returns on other underlying securities or indices.

Preventing permanent deferral of taxes through undervaluation of inventory

ICDS-II relates to valuation of inventory. Section 148 of the Companies Act 2013 also mandates maintenance of cost records and its audit by cost accountant in some cases. In order to ensure that the inventory is valued in accordance with various provisions of law, it is proposed to amend section 142 of the Act relating to inquiry before assessment to enable the assessing officer to direct the assessee to get the inventory valued by a cost auditor. The related expenses determined in this case will be paid by central government.

This amendment will take effect from April 01, 2023 and will accordingly, apply in relation to the assessment year 2023-24 and subsequently.

Rationalisation of exempt income under life insurance policies

The existing provisions of Section 10(10D) of the Act provide for income-tax exemption on the sum received under a life insurance policy, including bonus on such policy provided that the premium payable for any of the years during the terms of the policy should not exceed 10% of the actual capital sum assured.

It is now proposed to tax income from insurance policies (other than ULIP for which provisions already exists) having premium or aggregate of premium above ₹ 5 Lakhs in a year, under the head "income from other sources". However, income received on the death of the insured person shall be exempt. Further, deduction shall be allowed for premium which has not been claimed as deduction earlier.

Alignment of provisions of section 45(5A) with the TDS provisions of section 194-IC

Under the existing provisions of Section 45(5A) of the Act provides that the capital gains arising to an assessee (individual and HUF), from the transfer of a capital asset, being land, building or both, under a Joint Development agreement (JDA), shall be chargeable to tax as income of the previous year in which the certificate of completion for the whole or part of the project is issued by the competent authority. Further, for computing the capital gains, the full value of consideration shall be taken as the stamp duty value of his share including receipt of any cash consideration.

However, certain taxpayers inferred that any amount of consideration which is received in a mode other than cash would not be included in the consideration for computing capital gains chargeable to tax u/s 45(5A).

It is proposed to amend the provisions of section 45(5A) so as to provide that the full value of consideration shall be taken as the stamp duty value of his share as increased by any consideration received in cash or by a cheque or draft or by any other mode.

Prevention of double deduction claimed on interest on borrowed capital for acquiring, renewing or reconstructing a property

Under the existing provisions of section 24 of the Act provides that the amount of any interest payable on borrowed capital for acquiring, renewing or reconstructing a property is allowed as a deduction under the head "Income from house property". Further, Section 48 of the Act provides that the income chargeable under the head "Capital gains" shall be computed, by deducting the cost of acquisition of the asset and the cost of any improvement thereto from the full value of the consideration received or accruing as a result of the transfer of the capital asset.

Therefore, some assesseees have been claiming double deduction, firstly, from house property income u/s 24, (and in some cases, under other provisions of Chapter VIA of the Act) and secondly, while computing capital gains.

It is proposed to insert a proviso after section 48(ii) to provide that the cost of acquisition or the cost of improvement shall not include the amount of interest claimed u/s 24 or Chapter VIA.

Defining the cost of acquisition in case of certain assets for computing capital gains

Existing provisions of section 55 of the Act defines the 'cost of any improvement' and 'cost of acquisition' for the purposes of computing capital gains. However, for intangible assets or any sort of right for which no consideration has been paid for acquisition and cost of acquisition has not been clearly defined as 'nil'.

It is proposed to amend the provisions of section 55(1)(b)(1) & 55(2)(a) to provide that the 'cost of improvement' or 'cost of acquisition' of such assets shall be 'Nil'.

IMPROVING COMPLIANCE AND TAX ADMINISTRATION

Extension of time for disposing pending rectification applications by Interim Board for Settlement

Section 245D of the Act lays down the procedure for Settlement Commission upon receiving an application for settlement by an assessee along with timelines for settlement or disposal of pending applications.

However, vide Finance Act, 2021, Settlement Commission has been abolished with retrospective effect from February, 01, 2021 and the Central Government constituted one or more Interim Boards for Settlement (IBS) for settlement of pending applications with Settlement Commission as on January 31, 2021.

Considering grievances of stakeholders, it is proposed to substitute clause (iv) of sub-section (9) of section 245D of the Act to extend the time limit for amending an order or allowing rectification application expiring on or after 1st February, 2021 but before February 01, 2022 up to September 30, 2023 in order to avoid accumulation of such pending cases and any further litigation in this respect.

This amendment will take effect retrospectively from February 01, 2021 and will accordingly, apply in relation to the assessment year 2020-21 and subsequently.

Introduction of the authority of Joint Commissioner (Appeals)

In order to reduce the overburden of Commissioner of Income Tax (Appeals) (CIT(A)), a new authority is being proposed to be created at Joint Commissioner level to handle certain class of cases of individuals or HUF involving small amount of disputed demand with powers, responsibilities and accountability similar to that of CIT(A) with respect to the procedure for disposal of appeals.

Section 246 of the Act, which earlier provided for appeal functions of Deputy Commissioner (Appeals), was discontinued in year 2000. Accordingly, it is proposed to substitute section 246 of the Act to provide for appeals to be filed before Joint Commissioner (Appeals) (JCIT(A)).

It is proposed to provide power to the Board, or an income-tax authority so authorized by the Board in this regard, to transfer appeals pending before CIT(A) to JCIT(A) and vice-versa and allow transferee to proceed with the matter from the stage at which it was before such transfer. It is also proposed to give appellant an opportunity of being reheard in respect of transfer.

Further, consequential amendments have also been proposed in relevant provisions of the Act to align functioning of JCIT (A) with that of CIT(A).

This amendment will take effect from April 01, 2023 and will accordingly, apply in relation to the assessment year 2023-24 and subsequently.

Rationalisation of Appeals to the Appellate Tribunal

Section 253 of the Act deals with provisions relating to filing of appeals before the Appellate Tribunal.

It is proposed to amend clause (a) of sub-section (1) of section 253 of the Act to include appeal against order passed by CIT(A) under sections 271AAB (penalty in case of search under section 132), 271AAC (penalty in case of unexplained income) and 271AAD (penalty for false entry or omission of relevant entry in books of accounts).

It is also proposed to insert clause (aa) of sub-section (1) of section 253 of the Act to prefer appeal before Appellate Tribunal against order passed by JCIT(A) under sections 154, 250, 270A, 271, 271A, 271AAC, 271AAD and 271J of the Act.

It is further proposed to amend sub-section (4) of section 253 of the Act to allow respondent to file memorandum of cross-objections in all class of cases against which appeal can be made to Appellate Tribunal instead of current provision of only against order of CIT(A).

This amendment will take effect from April 01, 2023 and will accordingly, apply in relation to the assessment year 2023-24 and subsequently.

Reducing the time provided for furnishing TP report

Section 92D, inter alia, provides for furnishing of information/ documents as called for by the Assessing Officer or CIT(A) within 30 days from date of receipt of notice, which can further be extended by a period not exceeding 30 days.

Due to limited time available for completion of TP proceedings, the time limit to furnish information under section 92D is proposed to be reduced to 10 days which, on an application made by the assessee, can further be extended by a period not exceeding 30 days.

This amendment will take effect from April 01, 2023 and will accordingly, apply in relation to the assessment year 2023-24 and subsequently.

Assistance to authorised officer during search and seizure

Section 132 of the Act deals with provisions relating to search and seizure.

Sub-section (2) of section 132 of the Act is proposed to be substituted to provide that services of any person or entity, as may be approved by the Principal Chief Commissioner or the Chief Commissioner or the Principal Director General or the Director General, may be availed by the Authorised Officer during the course of search proceedings in addition to services of police officer or officer of the Central Government, in view of increased use of technology and digitization.

It is also proposed to substitute sub-section (9D) of section 132 of the Act to provide that for the purposes of valuation of property, services of any person or entity or any valuer registered by or under any law, as may be approved by the Principal Chief Commissioner or the Chief Commissioner or the Principal Director General or the Director General, may be availed by the Authorised Officer in addition to services of valuation officer referred under section 142A of the Act and such person or entity or valuer, as may be appointed, shall submit report within a period of 60 days from the date of receipt of intimation.

The timeline for completion of assessment or reassessment in case of search is linked to execution of last of authorisations during search procedure. Hence, it is proposed to substitute Explanation 1 to section 132 of the Act with effect from April 01, 2022 to provide that last of authorisations for search shall be deemed to have been executed

- in case of search, on conclusion of search as recorded in last panchnama, or
- in case of requisition under section 132A of the Act, on actual receipt of books of accounts or assets or other documents by the Authorised Officer.

This amendment will take effect from April 01, 2023 and will accordingly, apply in relation to the assessment year 2023-24 and subsequently.

Provisions related to business reorganisation

Section 170A of the Act deals with provisions for giving effect to the order of business reorganization issued by Tribunal or Court or an Adjudicating Authority under Insolvency and Bankruptcy Code, 2016 (order of reorganization).

It is proposed to substitute section 170A of the Act as follows:

Sub-section (1) is proposed to provide that in case of business reorganization, where prior to date of order of reorganization, any return of income has been furnished by entity to which such order applies, the successor shall furnish, within a period of 6 months from the end of the month in which such order of reorganization was issued, a modified return in accordance with and limited to said order of reorganization.

Clause (a) of sub-section (2) is proposed to provide that in case assessment or reassessment proceedings have been completed on date of furnishing of modified return, the AO shall pass an order modifying total income in accordance with such order of reorganization.

Clause (b) of sub-section (2) is proposed to provide that in case assessment or reassessment proceedings are pending on date of furnishing of modified return, the Assessing Officer (AO) shall pass an order assessing or reassessing total income modifying total income in accordance with such order of reorganization.

Explanation to section 170A is proposed to include following definitions

- business reorganisation as procedure involving amalgamation or demerger or merger of businesses and
- successor as resulting companies in business reorganization.

This amendment will take effect from April 01, 2023 and will accordingly, apply in relation to the assessment year 2023-24 and subsequently.

Alignment of timeline provisions under section 153 of the Act

Section 153 of the Act deals with time limit for completion of assessment, reassessment or recomputation.

Taking into consideration short time period available for assessment and thereby taxpayers not getting enough time to provide evidences in their favour, it is proposed to increase time limit for completion of assessment under section 143 or section 144 relating to assessment year beginning on or after April 01, 2022 from 9 months to 12 months from the end of assessment year in which income was first assessable.

Consistent with above, time available for completion of assessment in case of updated return is also proposed to be increased to 12 months from end of financial year in which such return is furnished.

It is proposed to insert a new sub-section (3A) of section 153 of the Act to provide that period available for completion of assessment or reassessment which was pending on the date of search or requisition shall be extended by 12 months.

It is also proposed to include in sub-section (4) of section 153 of the Act that time limit available for completion of assessment or reassessment shall be extended by 12 months in respect of assessment in case of updated return or assessment in case of search or requisition.

It is proposed to amend clause (iv) of Explanation 1 to section 153 of the Act in order to include time involved in inventory valuation as exclusion while computing period of limitation.

This amendment will take effect from April 01, 2023 and will accordingly, apply in relation to the assessment year 2023-24 and subsequently.

Provisions relating to reassessment proceedings

In order to facilitate conduct and completion of reassessment proceedings in a seamless manner, it is proposed to amend section 148 of the Act, which deals with issue of notice where income has escaped assessment, to provide that return in response to notice issued under section 148 of the Act shall be furnished within 3 months from the end of the month in which such notice is issued or within such further time as may be allowed by Assessing Officer on a request made in this regard. It is further proposed that return furnished after the prescribed time period as proposed herein shall not be deemed to be a return under section 139 of the Act.

Accordingly, it has been proposed that in case of search under section 132 of the Act is initiated or a search for which the last of the authorization is executed or requisition is made under section 132A of the Act after 15th March of any financial year, a period of fifteen days shall be excluded for the purpose of computing the period of limitation for issuance of notice under section 148 of the Act and notice so issued shall be deemed to have been issued on the 31st day of March.

Similarly, it is also proposed to insert another proviso in section 149 of the Act to provide that in cases where the information deemed to be with the AO emanates from a statement recorded or documents impounded under summons or survey, on or before the 31st day of March of a financial year, in consequence of, a search initiated or last of the authorization executed under section 132 of the Act or a requisition made under section 132A of the Act, after 15th day of March of such financial year, a period of fifteen days shall be excluded for the purpose of computing the period of limitation for issuance of notice under section 148 of the Act and the show cause notice issued under clause (b) of section 148A of the Act in such case shall be deemed to have been issued on the 31st day of March of such financial year.

To clarify the position of law in regard to grant of approval for the purposes of section 148 and 148A of the Act, it has been proposed to provide that the specified authority shall be Principal Chief Commissioner or Principal Director General or Chief Commissioner or Director General.

This amendment will take effect from April 01, 2023 and will accordingly, apply in relation to the assessment year 2023-24 and subsequently.

Penalty for furnishing inaccurate statement of financial transaction or reportable account

Section 285BA of the Act makes it mandatory for a person responsible for registering or maintaining books of account or other document containing a record of any specified financial transaction or any reportable account as may be prescribed, to furnish a statement in respect of such specified financial transaction or such reportable account to prescribed Income Tax Authority.

Section 271FAA deals with levy of penalty of ₹ 50,000 for furnishing inaccurate statement of financial transaction or reportable account.

It is proposed to insert sub-section (2) in section 271FAA of the Act to provide that in case of reporting financial institution referred to in clause (k) of sub-section (1) of section 285BA of the Act which is required to furnish a statement under that section provides inaccurate information and such inaccuracy is due to false or inaccurate information furnished by the holders of relevant reportable accounts, the prescribed Income Tax Authority under section 285BA shall direct that reporting financial institution to pay a sum of ₹ 5,000 for every inaccurate reportable account in addition to penalty under sub-section (1) of section 271FAA of the Act and the reporting financial institution shall be entitled to recover the sum paid on behalf of such reportable account holder.

This amendment will take effect from April 01, 2023 and will accordingly, apply in relation to the assessment year 2023-24 and subsequently.

Amendments in consequence to new provisions of TDS

It is proposed to insert new section 194BA to provide for TDS on net winnings from online games. Where the consideration is wholly in kind or partly in cash and partly in kind, the person responsible for paying the net winnings shall ensure that TDS has been paid in respect of such net winnings.

Section 271C of the Act deals with levy of penalty for failure to

- Deduct tax at source as required under Chapter XVII-B (tax deduction at source) or
- Pay tax required under section 115-0 or
- Pay TDS under proviso to section 194B (tax on winnings from crossword, lottery, etc)

Section 276B of the Act deals with prosecution for failure to pay tax under Chapter XII-D (section 115-0) or under Chapter XVII-B (tax deduction at source) to Central Government.

It is further proposed to levy penalty and prosecution in case where the person fails to pay or fails to ensure that the TDS has been deposited in case where the consideration passed is partly or wholly in kind as per Section 271C and 276B by inserting the references of section 194R (tax on benefit or perquisite in respect of business or profession), 194S (tax on payment on transfer of virtual digital asset) and new proposed section 194BA.

This amendment will take effect from April 01, 2023 and will accordingly, apply in relation to the assessment year 2023-24 and subsequently except for provisions relating new proposed section 194BA which shall be effective from 1st July, 2023.

RATIONALISATION OF PROVISIONS

Excluding non-banking financial companies (NBFC) from restriction on interest deductibility

Section 94B provides restriction on deduction of interest expense at 30% of EBITDA if chargeable income exceeds ₹ 1 crore in respect of any debt issued by a non-resident, being an associated enterprise of the borrower (may be Indian company or Permanent Establishment of foreign company in India).

Sub-section (3) of section 94B of the Act excludes certain banking and insurance companies from its scope. Non-banking financial companies, as defined in clause (vii) of Explanation to clause (vii) of sub-section (1) of section 36 of the Act, primarily being engaged in the business of financing, have also been proposed to be excluded from scope of aforesaid section.

Tax treaty relief u/s 196A

Section 196A of the Act deals with TDS on payment of income in respect of units of Mutual Fund as specified therein to non-resident (not being a company) or to a foreign company @ 20%.

The treaty benefits which provide for lower rate of taxes are not considered at the stage of withholding by the payer, resulting in claim of refund by such non-resident taxpayers by filing a return under the Act.

In this regard, it is proposed to insert a proviso under sub-section (1) of section 196A of the Act to provide deduction of tax at source on payment to above mentioned persons or entities at lower of 20% or rates provided in DTAA as long as non-resident taxpayer has furnished a Tax Residency Certificate to the payer.

This amendment will take effect from April 01, 2023 and will accordingly, apply in relation to the assessment year 2023-24 and subsequently.

TDS on payment of accumulated balance due to an employee

The existing provisions of section 192A of the Act provide for deduction of tax @ 10% on payment of accumulated balance due to an employee under Provident Fund Scheme (if PAN is furnished) in the cases as specified in said section. In case of failure to furnish PAN by recipient, tax is required to be deducted at maximum marginal rate.

In order to provide benefit to non-PAN cases, TDS has been proposed to be reduced to 20% on taxable portion of withdrawal proceeds of Provident Fund.

This amendment will take effect from April 01, 2023 and will accordingly, apply in relation to the assessment year 2023-24 and subsequently.

Facilitating TDS credit for income already disclosed in the return of income of past year

Under the present scenario, credit of tax deducted at source can be claimed only in the year in which such income is offered to tax. Difficulty is being faced by taxpayers wherein income is offered to tax in earlier years following accrual method of accounting, but tax is deducted and paid by payer only when income is actually paid to taxpayer subsequently. In such case, it is observed that assessee is unable to claim credit of tax deducted at source.

Accordingly, it is proposed to insert a new sub-section (20) under section 155 of the Act to provide that assessee may make an application to the AO within a period of two years from the end of the financial year in which such tax was deducted at source. Then AO shall amend the order of assessment or any intimation allowing credit of such tax deducted at source in the relevant assessment year.

Additionally, it is proposed to permit tax authority to carry out rectification granting such credit within 4 years from the end of financial year in which such tax has been deducted.

Further, it is also proposed to be amend section 244A of the Act to provide interest on refund arising out of above rectification for the period from the date of the application till the date on which the refund is granted.

These amendments will take effect from October 01, 2023 and will accordingly, apply in relation to the assessment year 2023-24 and subsequently.

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

Section 206AB and section 206CCA of the Act provide that higher rate of TDS and TCS shall respectively be levied on non-filers of the income tax returns. These non-filers are referred to as "specified person" for the purposes of these sections. Specified person currently excludes the non-resident who do not have permanent establishment in India.

It is proposed to insert in sections 206AB and 206CCA of the Act that persons who are not required to furnish return of income and who are notified by the Central Government in the Official Gazette in this behalf should also be excluded from specified person for the purposes of these sections.

This amendment will take effect from April 01, 2023 and will accordingly, apply in relation to the assessment year 2023-24 and subsequently.

Widening the ambit of section 56(2)(viib) for Non-resident investors

Section 56(2)(viib) of the Act provides that aggregate consideration for issue of shares received by a closely held company from resident person exceeding the fair market value of shares, as computed under Rule 11UA of the Income Tax Rules, shall be chargeable to tax.

It is proposed to include non-resident investors within the scope of aforesaid section 56(2)(viib) of the Act.

Provisions related to the valuation of residential accommodation provided to employees

Clause (2) of section 17 of the Act, "perquisite" inter alia includes value of rent-free accommodation or value of any concession in the matters of rent provided to employees by the employer.

It is proposed to amend sub-clause (i) and (ii) of clause (2) of section 17 of the Act to provide power of prescribing method for computation of value of rent-free accommodation provided by employer and value of accommodation provided by employer at concessional rate.

It is also proposed to amend Explanation 1 under sub-clause (ii) of clause (2) of section 17 of the Act to provide that accommodation shall be deemed to be provided at concessional rate if value of accommodation in prescribed manner exceeds rent recoverable from, or payable by, the assessee.

The Explanations 2 to 4 under sub-clause (ii) of clause (2) of section 17 of the Act are proposed to be deleted to rationalize the section and specify the method for computation of value of accommodation provided to employee by employer.

Time limit for bringing consideration against export proceeds into India

The existing provisions of section 10AA of the Act provide 15-year tax benefit to a unit established in a SEZ which begins to manufacture or produce articles or things or provide any services on or after April 01, 2005 but on or before April 01, 2020, which was further extended to September 30, 2020. However, the said section does not provide condition to file return before due date provided under section 139(1) for claiming deduction as is provided under section 143(1) of the Act.

It is proposed that deduction under section 10AA of the Act will be provided only when the return of income has been filed on or before the due date under section 139(1) of the Act.

Further, it is proposed to insert a new sub-section to provide that deduction u/s 10AA could be availed only when proceeds from sale of goods or provision of services is received in, or brought into, India by assessee in convertible foreign exchange within a period of 6 months from the end of the previous year or, within such further period as the RBI may allow in this behalf. It is also proposed that export proceeds from sale of goods or provision of services shall be deemed to have been received in India where such proceeds are credited to a separate account maintained for the purpose by the assessee with any bank outside India with prior approval of the RBI.

PROVISIONS OF CHARITABLE TRUST AND INSTITUTIONS

Income of any fund or institution or trust or any university or other educational institution or any hospital or other medical institution is exempt subject to fulfillment of conditions provided under various sections under two regimes viz. those referred in sub-clauses (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of section 10 of the Act; and those registered under section 12AA/ 12AB of the Act (first and second regime respectively).

Section 12AA and Section 12AB provide for procedure to make application for the registration of the trust or institution to claim exemptions. Various amendments have been brought as referred below under both regimes.

Depositing back of corpus and repayment of loans or borrowings

Under the existing provisions of the Act, income of trust or institution shall not include income in the form of voluntary contributions made with specific direction that it shall form part of corpus subject to the condition that such voluntary contributions are invested/ deposited in modes specified in section 11(5) of the Act maintained specifically for such corpus.

Application for charitable or religious purposes from corpus shall not be treated as application of income for charitable or religious purposes.

It is proposed to include that amount not so treated as application as above, shall be treated as application for charitable or religious purposes in the previous year in which the amount is invested/ deposited back into modes specified in section 11(5) of the Act maintained specifically for such corpus from the income of that year and to the extent of such investment/ deposit provided the same is invested/ deposited within a period of 5 years of application from the corpus.

Similarly, application for charitable or religious purposes, from any loan or borrowing, shall not be treated as application of income for charitable or religious purposes. It is proposed to include that amount not so treated as application as above, shall be treated as application for charitable or religious purposes in the previous year in which loan or borrowing is repaid from the income of that year and to the extent of such repayment provided the same is repaid within a period of 5 years of sanction of loan.

Prior to April 01, 2021, application from corpus or loan or borrowings have already been claimed as application for charitable or religious purposes. It is now proposed that application out of corpus or loans or borrowings prior to April 01, 2021 should not be allowed as application for charitable or religious purposes when such amount is invested/ deposited back or when loan or borrowing is repaid.

These amendments will take effect from April 01, 2023 and will accordingly, apply to assessment year 2023-24 and subsequent assessment years.

Treatment of donation to other trusts

The income of the trust and institutions under both regimes i.e., registered under section 10 and section 12AA/ 12AB respectively is exempt subject to fulfillment of following conditions:

- At least 85% of income of trust should be applied during the year for charitable and religious purposes;
- Trusts or institutions are allowed to apply 85% of their Income either themselves or by making donation to other trust of similar objective;
- If donated to other trusts or institutions, donation should not be towards corpus.

Thus, every trust or institution under both the regime was allowed to accumulate 15% of its income each year.

In order to ensure intended application towards charitable or religious purposes, it is proposed that only 85% of the eligible donations made by a trust or institution under the first or the second regime to another trust under the first or second regime shall be treated as application.

Merging of provisional and regular registration in few cases

Under both regime (i.e., trusts or institutions registered under sections 10 and 12AA/ 12AB), new trust/ institution need to apply for provisional registration at least one month prior to commencement of previous year relevant to assessment year for which the registration is sought and such registration is valid for 3 years.

Provisionally registered trusts/ institutions under both regimes and section 80G regime will again need to apply for regular registration at least six months prior to expiry of period of the provisional registration or within six months of the commencement of activities, whichever is earlier. Regular registration/ approval shall be valid for a period of 5 years.

Following difficulties are encountered due to above provisions:

- Trusts or institutions formed or incorporated during the previous year are not able to get the exemption for that year in which they are formed or incorporated since they need to apply one month before the previous year for which exemption is sought;
- Trusts or Institutions, where activities have already commenced, are required to apply for two registrations (provisional and regular) simultaneously.

In order to overcome the difficulties mentioned above following amendments are proposed:

- Trust and Institutions under the first regime, second regime and under 80G will be allowed to make application for provisional registration before commencement of activities;
- The trust and institutions that have commenced the activities shall make the application for regular registration instead of provisional registration.

Such application will be examined by the Principal Commissioner or Commissioner and after being satisfied after genuineness of the activities and compliance with law, approval shall be given for 5 years.

Denial of exemption where return of income is not furnished within time

Exemption under various provisions of the Act is not available to trusts or institutions if return of income is not filed within time limit under section 139 of the Act.

However, insertion of section 139(8A) enabled taxpayers to furnish updated return of income up to 2 years from end of relevant assessment year. This meant that exemptions would be available if updated return is furnished by taxpayer.

Hence, it is now proposed to provide that trusts or institutions shall furnish return of income in accordance with time limit laid down under sub-section (1) or (4) of section 139 of the Act.

Further, it is proposed to provide for filing of Form No. 10A/ 9A at least 2 months prior to due date specified under section 139(1) of the Act for furnishing return of income for the previous year.

Set off and withholding of refunds in certain cases

Section 241A of the Act deals with withholding of refund, where a refund becomes due to an assessee u/s 143(1) and notice for assessment is issued to him u/s 143(2), the AO may withhold such refund till the date of such assessment being made, if he is of the opinion that the grant of refund is likely to adversely affect the revenue after taking prior approval of Principal Commissioner (PCIT) or Commissioner (CIT) after recording the reasons in writing.

Considering an overlap between the two provisions, it is proposed to integrate the two sections by substituting section 245, so as to provide that where a refund is due, the revenue, may, in lieu of payment of the refund, set off the amount or part amount to be refunded, against any sum remaining payable after intimating the reasons in writing. It is also proposed to provide that where a part of the refund has been set off or where no amount is set off, and refund becomes due to a person, then, the AO, having regard to the fact that proceedings of assessment or reassessment are pending in such case and grant of refund will adversely affect the revenue, and for reasons recorded in writing and with prior approval of the PCIT/CIT, may withhold the refund till the date on which such assessment or reassessment is made.

It is further proposed that in case of an assessee where proceedings for assessment or reassessment are pending, the additional interest shall not be payable to the assessee, for the period beginning from the date on which such refund is withheld by the AO till the date on which the assessment or reassessment pending in such case, is made.

This amendment will take effect from April 01, 2023 and will accordingly, apply in relation to the assessment year 2023-24 and subsequently.

Note: Provisions of Direct taxes given above unless specifically mentioned otherwise are effective from assessment year 2024-25 and subsequent years.

BUDGET PROPOSALS - INDIRECT TAX LAWS

GOODS AND SERVICES TAX

AMENDMENTS IN THE CGST ACT, 2017

INPUT TAX CREDIT

- Explanation to Section 17(3) dealing with apportionment of credits and blocked credits has been expanded to include Supply of warehoused goods to any person before clearance for home consumption, in the value of exempt supply.
- Section 17 (5) dealing with apportionment of credits and blocked credits has been amended to provide that input tax credit will not be available in respect of goods or services used for activities relating to corporate social responsibility referred to in section 135 of the Companies Act, 2013.
- Section 54 (6) dealing with refund of tax has been amended to remove the reference to the provisionally accepted input tax credit and to align the same with the present scheme of availment of self-assessed input tax credit as per Section 41(1) dealing with availment of input tax credit.
- The amount equivalent to Input Tax Credit availed on receipt of Goods or Services shall be paid along with interest as prescribed under section 50 dealing with interest on delayed payment of tax for the cases where recipient fails to make payment towards the value of goods or services along with tax thereon to the supplier within 180 days from date of issue of invoice. Earlier, the said amount of input tax credit was allowed to be added with the amount of output tax liability.

INTEREST, PENALTY AND COMPOUNDING OF OFFENCES

- Section 56 dealing with interest on delayed refunds has been amended so as to provide for an enabling provision to prescribe manner of computation of period of delay for calculation of interest on delayed refunds.
- Section 122 dealing with Penalty for certain offences has been amended to insert penal provisions applicable to Electronic Commerce Operators (ECOs) in case of contravention of provisions in relation to supplies of goods made through them by unregistered persons or composition taxpayers other than a person specifically exempted from registration or allows an interstate supply by a person who is not eligible to make interstate supply or fails to furnish the correct details in the TCS return(Form GSTR-8) of any outward supply of goods effected through it by a person exempted from obtaining registration. Amount of penalty as provided in this case is higher of ₹ 10,000 or an amount equivalent to the amount of tax involved had such supply being made by registered person other than a person paying tax under section 10(Composite Dealer).
- Section 10 (2)(d) and (2A) (c) dealing with composition levy has been amended to remove the restriction imposed on registered persons engaged in supplying goods through electronic commerce operators from opting to pay tax under the Composition Levy.
- Section 132(1) dealing with Punishment for certain offences has been amended so as to decriminalize offences of any officer in the discharge of his duties under this Act such as tampering or destroying any material evidence or documents; and failing to supply any information which he is required to supply or supplies false information.
- Monetary threshold for launching prosecution for the offences have been increased from ₹ 100 lakhs to ₹ 200 lakhs, except for the offences related to issuance of invoices without supply of goods or services or both.
- A person accused of offence under section 132(1)(b) dealing with penalty for certain offences in relation to issue of any invoice or bill without supply of goods or services or both in violation of the provisions of this Act, or the rules made thereunder leading to wrongful availment or utilisation of input tax credit or refund of tax shall not be provided with option of compounding of offence.
- Section 138(2) dealing with compounding of offences has been amended to rationalise the minimum amount for compounding of offence to 25% of the tax involved and the maximum amount not being more than 100% of the tax involved.

TIME LIMIT

- Maximum time limit of three years have been prescribed for furnishing:
 - Details of outward supplies (GSTR-1) for a tax period by a registered person under Section 37 (5);
 - Return (GSTR-3B) for a tax period by a registered person under Section 39 (11);
 - Annual return/reconciliation (GSTR-9/9C) of outward supplies for a financial year by a registered person under Section 44 (2); and
 - The statement (GSTR-8) for a month by an electronic commerce operator under Section 52 (15).

Further, there is an enabling provision for extension of the said time limit, subject to certain conditions and restrictions.

OTHERS

- Section 23 dealing with Person not liable for registration has been amended with retrospective effect from July 01, 2017 to specify that persons exempt under section 23 need not require registration even though if they are liable for registration in terms of section 22(1) dealing with person liable for registration and section 24 dealing with compulsory registration in certain cases.
- New section 158A dealing with disclosure of information by a public servant has been inserted for prescribing manner and conditions for sharing of the information furnished for application of registration or statement of outward supplies, or the details to be uploaded for generation of electronic invoice or E-way bill or any other details in such manner and subject to such conditions as may be prescribed.
- The Government or the common portal shall not be responsible with respect to any liability arising consequent to information shared under this section and there shall be no impact on the liability to pay tax.
- Following activities or transactions covered under para 7 and 8 of Schedule III which are neither treated as a supply of goods nor a supply of services have been amended to provide retrospective application with effect from July 01, 2017:
 - supply of goods from a place in the non-taxable territory to another place in the non-taxable territory without such goods entering India;
 - supply of warehoused goods to any person before clearance for home consumption; and
 - supply of goods by the consignee to any other person, by endorsement of documents of title to the goods, after the goods have been dispatched from the port of origin located outside India but before clearance for home consumption.

However, tax already paid in respect of above during the period from July 01, 2017 to January 31, 2019 will not be refunded.

AMENDMENTS IN THE IGST ACT, 2017

- The definition of “non-taxable online recipient” under section 2 (16) has been modified to also include the recipient who receives online information and database access or retrieval services (OIDAR) for purposes of commerce, industry or any other business or profession. Further, persons who are required to deduct tax under section 51, whether or not separately registered under Central Goods and Services Act shall be treated as unregistered person for the purpose of the this clause.

Further, Section 2 (17) has been amended to widen the scope of OIDAR by removing the condition of rendering of the said supply being essentially automated and involving minimal human intervention.

- Proviso to section 12 (8) dealing with place of supply as the place of destination of goods in case where the transportation of goods is to a place outside India has been removed to specify the place of supply as location of the person if recipient is registered and location at which goods are handed over for transportation in cases where recipient is unregistered.

CUSTOMS ACT, 1962

AMENDMENTS TO THE CUSTOMS ACT 1962

- Section 25(4A) dealing with power to grant exemptions from duty has been amended to insert a proviso whereby the validity period of two years shall not apply to exemption notifications issued in relation to:
 - multilateral or bilateral trade agreements;
 - obligations under international agreements, treaties, conventions including with respect to UN agencies, diplomats, international organizations;
 - privileges of constitutional authorities;
 - schemes under Foreign Trade Policy;
 - Central Government schemes having a validity of more than two years; re-imports, temporary imports, goods imported as gifts or personal baggage; and
 - any duty of customs under any law for the time being in force including integrated tax leviable under sub-section (7) of Section 3 of the Customs Tariff Act, 1975, other than duty of customs leviable under section 12.
- Section 127 C (8A) dealing with procedure on receipt of an application under section 127B has been inserted so as to specify a time limit of nine months for disposal of the application filed for settlement before the Settlement Commission which can be further extended by three months.

TARIFFS AND DUTIES

AMENDMENTS TO THE CUSTOMS TARIFF ACT, 1975

RETROSPECTIVE AMENDMENTS (WITH EFFECT FROM 01.01.1995)

- Provisions related to imposition of Countervailing duty on subsidized articles (Section 9 (6) and (7)) and Anti-dumping duty (Section 9A (5) and (6)) amended to clarify that determination and review refers to 'determination and review' as prescribed under Rules. Similar amendment made in provision dealing with appeals (Section 9C).

AMENDMENTS TO THE FIRST SCHEDULE TO THE CUSTOMS TARIFF ACT, 1975

TARIFF RATE CHANGES (to be effective from February 02, 2023)				
A.	Increase in Tariff rate		Rate of Duty	
S. No.	Heading, sub-heading tariff item	Commodity	From	To
CHEMICALS				
1	2902 50 00	Styrene	2%	2.50%
2	2903 21 00	Vinyl Chloride Monomer	2%	2.50%
RUBBER				
3	4005	Compounded Rubber	10%	25% or ₹ 30 per kg., whichever is lower
GEMS AND JEWELLERY SECTOR				
4	7113, 7114	Articles of precious metals	20%	25%
5	7117	Imitation Jewellery	20% or ₹ 400 per kg., whichever is higher	25% or ₹ 600 per kg., whichever is higher
ELECTRICAL GOODS				
6	8414 60 00	Electric Kitchen Chimney	7.50%	15%

A. Increase in Tariff rate			Rate of Duty	
S. No.	Heading, sub-heading tariff item	Commodity	From	To
AUTOMOBILES AND TOYS				
7	8712 00 10	Bicycles	30%	35%
8	9503	Toys and parts of toys (other than parts of electronic toys)	60%	70%
B. Tariff rate changes (without any changes to the effective rate of Customs Duty)			Rate of Duty	
S. No.	Heading, sub-heading tariff item	Commodity	From	To
1	4011 30 00	New or retreaded pneumatic tyres, of rubber, of a kind used on aircraft of heading 8802	3%	2.50%
2	7107 00 00	Base metals clad with silver, not further worked than semi- manufactured	12.50%	10%
3	7108	Gold (including gold plated with platinum) unwrought or in semi- manufactured forms, or in powder form	12.50%	10%
4	7109 00 00	Base metals or silver, clad with gold, not further worked than semi- manufactured	12.50%	10%
5	7110 11 10	Platinum, unwrought or in semi- manufactured form, or in powder form	12.50%	10%
	7110 11 20			
	7110 19 00			
	7110 21 00			
	7110 29 00			
	7110 41 00			
	7110 49 00			
6	7111 00 00	Base metals, silver or gold, clad with platinum, not further worked than semi- manufactured	12.50%	10%
7	7112	Waste and scrap of precious metal or of metal clad with precious metal; other waste and scrap containing precious metal or precious metal compounds, of a kind used principally for the recovery of precious metal other than goods of heading 8549	12.50%	10%
8	7118	Coin	12.50%	10%
9	8802 20 00	Aero planes and other aircrafts	3%	2.50%
	8802 30 00			
	8802 40 00			
C. Tariff rate changes (with changes to the effective rate of Customs Duty)			Rate of duty	
S. No.	Heading, sub-heading tariff item	Commodity	From	To
1	7106	Silver (including silver plated with gold or platinum), unwrought or in semi-manufactured forms, or in powder form	12.50%	10%

OTHER PROPOSALS INVOLVING CHANGES IN BASIC CUSTOMS DUTY RATES IN NOTIFICATION (to be effective from February 02, 2023)

A.	Changes in Basic Customs Duty		Rates of Duty	
S. No	Chapter, Heading, sub- heading, tariff item	Commodity	From	To
AGRICULTURAL PRODUCTS AND BY PRODUCTS				
1	0802 99 00	Pecan nuts	100%	30%
2	1504 20	Fish lipid oil for use in manufacture of aquatic feed	30%	15%
3	1520 00 00	Crude glycerin for use in manufacture of Epichlorohydrin	7.50%	2.50%
4	2102 20 00	Algal Prime (flour) for use in manufacture of aquatic feed	30%	15%
5	2207 20 00	Denatured ethyl alcohol for use in manufacture of industrial chemicals	5%	Nil
6	2301 20	Fish meal for use in manufacture of aquatic feed	15%	5%
7	2301 20	Krill meal for use in manufacture of aquatic feed	15%	5%
8	2309 90 90	Mineral and Vitamin Premixes for use in manufacture of aquatic feed	15%	5%
MINERALS				
9	2529 22 00	Acid grade fluorspar (containing by weight more than 97% of calcium fluoride)	5%	2.50%
PETROCHEMICALS				
10	2710 12 21, 2710 12 22, 2710 12 29	Naphtha	1%	2.50%
GEMS AND JEWELLERY SECTOR				
11	7102, 7104	Seeds for use in manufacturing of rough lab-grown diamonds	5%	Nil
12	7106	Silver (including silver plated with gold or platinum), unwrought or in semi- manufactured forms, or in powder form	7.50%	10%
13	7106	Silver Dore	6.10%	10%
IT, ELECTRONICS				
14	25, 28, 32, 39, 40, 69, 73, 85	Specified chemicals/items for manufacture of Pre-calcined Ferrite Powder	7.50%	Nil
15	3824 99 00	Palladium Tetra Amine Sulphate for manufacture of parts of connectors	7.50%	Nil
16	Any Chapter	Camera lens and its inputs/parts for use in manufacture of camera module of cellular mobile phone	2.50%	Nil
17	8529	Specified parts for manufacture of open cell of TV panel	5%	2.50%
ELECTRONIC APPLIANCES				
18	8516 80 00	Heat Coil for use in the manufacture of Electric Kitchen Chimneys	20%	15%
AUTOMOBILES				
19	8703	Vehicle (including electric vehicles) in Semi-Knocked Down (SKD) form.	30%	35%

A. Changes in Basic Customs Duty			Rates of Duty	
S. No	Chapter, Heading, sub- heading, tariff item	Commodity	From	To
20	8703	Vehicle in Completely Built Unit (CBU) form, other than with CIF more than USD 40,000 or with engine capacity more than 3000 cc for petrol- run vehicle and more than 2500 cc for diesel-run vehicles, or with both	60%	70%
21	8703	Electrically operated Vehicle in Completely Built Unit (CBU) form, other than with CIF value more than USD 40,000	60%	70%
22	39,40,58,70, 72, 73,83,84,85, 87,90	Vehicles, specified automobile parts/components, sub-systems and tyres when imported by notified testing agencies for the purpose of testing and/ or certification, subject to conditions	As applicable	Nil
CAPITAL GOODS				
23	84, 85	Specific capital goods/machinery for manufacture of Lithium-ion cell for use in battery of electrically operated vehicle (EVs)	As applicable	Nil

B. Changes in Basic Customs Duty (without any change in the effective rate of Customs Duties i.e., BCD+AIDC+SWS)			Rate of Duty	
S. No	Chapter, Heading, sub- heading, tariff item	Commodity	From	To
1	2701, 2702, 2703	Coal, peat, lignite	1%	2.50%
2	7108	Gold (including gold plated with platinum) unwrought or in semi- manufactured forms, or in powder form	12.50%	10%
3	7108	Gold Dore	11.85%	10%
4	7110 11 10 7110 11 20 7110 19 00 7110 21 00 7110 29 00 7110 41 00 7110 49 00	Platinum, unwrought or in semi- manufactured form, or in powder form other than those used in manufacture of noble metal compounds, noble metal solutions and catalytic converters	12.50%	10%

AGRICULTURE INFRASTRUCTURE AND DEVELOPMENT CESS (AIDC)

Notification No. 11/2021 – Customs, dated February 01, 2021 have been amended to revise the AIDC rates on the following goods (w.e.f. February 02, 2023):

A. AIDC rate changes (with changes to the effective rate of Customs Duty)			Rate of Duty	
S. No	Chapter, Heading, sub- heading, tariff item	Commodity	From	To
1	7106,98	Silver (including silver plated with gold or platinum), unwrought or in semi- manufactured forms, or in powder form	2.50%	5%
2	71	Silver Dore	2.50%	4.35%

B.	Changes to AIDC (without any change to the effective rate of Customs Duty)		Rate of Duty	
S. No	Chapter, Heading, sub-heading, tariff item	Commodity	From	To
1	2701, 2702, 2703	Coal, peat, lignite	1.50%	Nil
2	40113000	New pneumatic tyres, of rubber , of a kind used on aircraft as mentioned in Entry 280 A of Notification No. 50/2017-Customs	Nil	0.50%
3	7108 or 98	Gold (including gold plated with platinum) unwrought or in semi-manufactured forms, or in powder form	2.50%	5%
4	7108	Gold Dore	2.50%	4.35%
5	7110	Platinum other than rhodium and goods covered under S. Nos. 415(a) and 415A of the Table in notification No. 50/2017- Customs, dated the June 30, 2017.	1.50%	5.40%
6	8802 20 00 8802 30 00 8802 40 00	Aero planes and other aircraft covered under S.No. 543A of Notification No. 50/2017-Customs	Nil	0.50%

EXCISE

AMENDMENT TO SEVENTH SCHEDULE TO THE FINANCE ACT, 2001

THE SEVENTH SCHEDULE TO THE FINANCE ACT, 2001 HAS BEEN AMENDED WITH EFFECT FROM February 02, 2023 TO REVISE THE NCCD RATES ON SPECIFIED CIGARETTES UNDER HS 2402 AS DETAILED BELOW:

Tariff item	Description	Unit	NCCD Rates	
			(in ₹ per thousand)	
			From	To
2402 20 10	Other than filter cigarettes, of length not exceeding 65 millimetres	Tu	200	230
2402 20 20	Other than filter cigarettes, of length exceeding 65 millimetres but not exceeding 70 millimetres	Tu	250	290
2402 20 30	Filter cigarettes of length (including the length of the filter, the length of filter being 11 millimetres or its actual length, whichever is more) not exceeding 65 millimetres	Tu	440	510
2402 20 40	Filter cigarettes of length (including the length of the filter, the length of filter being 11 millimetres or its actual length, whichever is more) exceeding 65 millimetres but not exceeding 70 millimetres	Tu	440	510
2402 20 50	Filter cigarettes of length (including the length of the filter, the length of filter being 11 millimetres or its actual length, whichever is more) exceeding 70 millimetres but not exceeding 75 millimetres	Tu	545	630
2402 20 90	Other	Tu	735	850
2402 90 10	Cigarettes of tobacco substitutes	Tu	600	690

EXCISE DUTY EXEMPT ON COMPRESSED NATURAL GAS (CNG)

- To promote green fuel, exemptions has been granted on Compressed Natural Gas (CNG) from so much of the excise duty of excise leviable on amount of GST paid on Biogas or Compressed Biogas which is blended with CNG from February 02, 2023 subject to specified conditions.

CENTRAL SALES TAX ACT, 1956

- CESTAT is now the appellate authority to deal with specified inter-state sale disputes under the provisions of the Central Sales Tax Act. Further, all appeals pending as on date on which Finance Bill 2023 receives assent, shall be transferred to CESTAT.

FOREIGN DIRECT INVESTMENTS POLICIES IN INDIA

Key amendments in the FDI Policy are as under:

FDI Policy – Foreign Investment in LIC and other modifications/ clarity

As per amendment issued vide Press Note No. 1 (2022 Series) issued on March 14, 2022:-

FDI up to 20% under automatic route is now permitted in Life Insurance Corporation ('LIC'), subject to the following conditions:-

- any foreign investment in LIC will be subject to compliance with the provisions of the Life Insurance Corporation Act, 1956 and applicable provisions of the Insurance Act, 1938, as amended from time to time;
- Foreign portfolio investment in LIC shall be governed by the provisions of Foreign Exchange Management (Non-Debt Instruments) Rules, 2019, and SEBI (Foreign Portfolio Investors) Regulations, 2019, as amended from time to time;
- Any increase in foreign investment in LIC shall be in accordance with the pricing guidelines specified by RBI under FEMA Regulations; and
- Meaning of the terms such as 'Equity Share Capital', 'Foreign Direct Investment', 'Foreign Investors', 'Foreign Portfolio Investment', 'Indian Insurance Company', 'Indian Company', 'Non-resident Entity', 'Public Financial Institution', 'Resident Indian Citizen', 'Total Foreign Investment', in respect of foreign investment in LIC shall be same as provided in the rules notified by Department of Financial Services under Insurance Act, 1938 or regulations issued by IRDAI from time to time.

Amendment in Definitions

- The definition of Capital has been amended to include partly paid equity shares, fully paid compulsorily convertible preference shares and debentures and Indian share warrants issued under the provisions of 'any other applicable law';
- The definition of 'Convertible Note' has been amended to increase the conversion period from 5 years to 10 years;
- The explanation to the definition of 'Foreign Investment' under the extant FDI Policy has been expanded to include declarations of beneficial ownership made by a person under 'any other applicable law';
- The definition of 'Indian Company' has been amended to include companies or a body corporate established or constituted by or under any Central or State Act, it has been clarified that:
 - If the term 'Company' or 'Indian Company' or 'Investee Company' is qualified by reference to a company incorporated under the Companies Act, such term shall mean a company incorporated under the Companies Act but not a body corporate; and
 - It has also been clarified that 'Indian Company' does not include a society, trust or any entity, which is excluded as an eligible investee entity under the FDI Policy.
- A new definition of 'Share Based Employee Benefits' has been inserted, and means any issue of capital instruments to employees, pursuant to share based employee benefits schemes formulated by a body corporate established or constituted by or under any Central or State Act. Further, with the introduction of Share Based Employee Benefits, an Indian Company is now allowed to issue the same to its employees and/or director (including that of its holding company, subsidiary company, and joint venture) who are resident outside India, subject to prescribed conditions.
- An Indian company issuing employees' stock option or sweat equity shares shall file form 'ESOP Reporting' with the Foreign Exchange Department (in place of filing of form ESOP with the concerned regional office as required earlier), within 30 days of the issue.
- A new definition of 'Subsidiary' has been inserted, which shall have the same meaning as is assigned to it under the Companies Act, 2013, as amended from time to time.

- The definitions of 'Real Estate Business' under para 5.1(f) and Note (i) to para 5.2.10.2 of the FDI Policy, have been aligned. The definition has been amended to clarify that 'Real Estate Business' means dealing in land and immovable property with a view to earning profit there from; and earning of rent/ income on lease of the property, not amounting to transfer, will not amount to real estate business. Further, construction of educational institutions, recreational facilities, city and regional level infrastructure and townships have been excluded from the said definition.
- FDI Policy has been modified to provide for the issue of 'Capital Instruments' on the restructuring of an Indian company by way of a scheme of compromise or arrangement or merger or amalgamation of two or more Indian companies, or a reconstruction by way of demerger or transfer of one or more undertaking, approved by National Company Law Tribunal or other competent authority to do so by law.

FOREIGN EXCHANGE MANAGEMENT ACT (FEW SELECTED, RECENTLY ISSUED NOTIFICATIONS OR CIRCULARS):

Transactions in Credit Default Swap (CDS) by Foreign Portfolio Investors (FPIs) – Operational Instructions, as below:

- FPIs are eligible to be categorised as non-retail users and have been allowed to buy and sell CDS protection under the Credit Derivatives Directions;
- Selling of CDS protection by all FPIs shall be limited to 5% of the outstanding stock of corporate bonds as specified by the Reserve Bank from time to time;
- Debt instruments received by FPIs as a deliverable obligation and debt instruments purchased by FPIs for meeting deliverable obligations in physical settlement of CDS contracts shall be reckoned under the investment limits for corporate bonds; and
- The notional amount of protection sold by FPIs, and the debt instruments received as deliverable obligation as well as debt instruments purchased for meeting deliverable obligations by FPIs in physical settlement of CDS contracts are not subject to minimum residual maturity requirement/ short-term limit, concentration limit or single/group investor-wise limits applicable to FPI investment in corporate bonds as specified in the direction.

Interest Equalization Scheme on Pre and Post Shipment Rupee Export Credit – Extension:

- Interest Equalization Scheme for Pre and Post Shipment Rupee Export Credit ('Scheme') has been extended up to March 31, 2024 or till further review, whichever is earlier;

International Trade Settlement in Indian Rupees (INR):

The broad framework for cross border trade transactions in INR under Foreign Exchange Management Act, 1999 (FEMA) is as delineated below:

- **Invoicing:** All exports and imports under this arrangement may be denominated and invoiced in Rupee (INR).
- **Exchange Rate:** Exchange rate between the currencies of the two trading partner countries may be market determined.
- **Settlement:** The settlement of trade transactions under this arrangement shall take place in INR

AD banks in India have been permitted to open Rupee Vostro Accounts accordingly:

- Indian importers undertaking imports through this mechanism shall make payment in INR which shall be credited into the Special Vostro account of the correspondent bank of the partner country, against the invoices for the supply of goods or services from the overseas seller /supplier.
- Indian exporters, undertaking exports of goods and services through this mechanism, shall be paid the export proceeds in INR from the balances in the designated Special Vostro account of the correspondent bank of the partner country.

Boost to outbound acquisitions due to enactment of the Foreign Exchange Management (Overseas Investment) Directions, 2022:

In August 2022, the Indian Government and Reserve Bank of India overhauled the Indian regime in relation to overseas investments by Indian entities, through the respective enactments of the Overseas Investment Rules, Foreign Exchange Management (Overseas Investment) Regulations, 2022 ("**OI Regulations**"), and the Foreign Exchange Management (Overseas Investment) Directions, 2022 ("**OI Directions**") (the OI Rules, OI Regulations and OI Directions, collectively referred to as the "**OI Regime**").

- In OI Regime non-financial services companies in India would be able to invest into financial services companies outside India, through the automatic route, subject to the non-financial services entity having generated profits over the last 3 years in India.
- 3 year profitability criteria has been relaxed in the context of an investment made into an investee foreign financial services entity that is located in the International Financial Services Centre at GIFT City, Gandhinagar, India.

- Indian investors shall have clarity in relation to the eligibility criteria, permissible structures and the possibilities of integration. Additionally, there is a reduced uncertainty of the outcome of the transaction.
- The OI Regime has also permitted round tripping for Indian entities up to 2 layers of subsidiaries, including entering into joint ventures with foreign entities.
- In the long run, the increased outflow occurring due to the OI Regime will only bolster confidence of Indian and foreign players alike.

NBFC – Key Changes

Master Circular - Bank Finance to Non-Banking Financial Companies (NBFCs) – Major amendments:

The ceiling on bank credit linked to Net Owned Fund (NOF) of NBFCs has been withdrawn in respect of all NBFCs which are statutorily registered with RBI and are engaged in principal business of asset financing, loan, factoring and investment activities. Accordingly, banks may extend need based working capital facilities as well as term loans to all NBFCs registered with RBI and engaged in infrastructure financing, equipment leasing, hire-purchase, loan, factoring and investment activities subject to provisions. Banks may also extend finance to NBFCs against second hand assets financed by them.

Implementation of 'Core Financial Services Solution' by Non-Banking Financial Companies (NBFCs):

NBFCs – Middle Layer and NBFCs - Upper Layer with 10 and more 'Fixed point service delivery units' as on October 01, 2022 shall be mandatorily required to implement 'Core Financial Services Solution (CFSS)', akin to the Core Banking Solution (CBS) adopted by banks. The CFSS shall provide for seamless customer interface in digital offerings and transactions relating to products and services with anywhere/ anytime facility, enable integration of NBFCs' functions, provide centralised database and accounting records, and be able to generate suitable MIS, both for internal purposes and regulatory reporting. Timeline is on or before September 30, 2025. However, NBFC-UL shall ensure that the CFSS is implemented at least in 70% of 'Fixed point service delivery units' on or before September 30, 2024.

For NBFC – Base Layer and NBFC – Middle and Upper Layers with fewer than 10 'Fixed point service delivery units' - Not mandatory. However, they may consider implementation of a Core Financial Services Solution for their own benefit.

Compliance Function and Role of Chief Compliance Officer (CCO) – NBFCs:

NBFCs in Upper Layer and Middle Layer shall put in place a Board approved policy and a Compliance Function, including the appointment of a Chief Compliance Officer (CCO), based on the Framework latest by April 01, 2023 and October 01, 2023, respectively. The Circular as a set of minimum guidelines only and accordingly frame their guidelines taking into account their corporate governance framework, the scale of operations, risk profile and organizational structure, etc.

Framework should broadly describe the responsibility of the Board and Senior Management, Compliance Function, Compliance Policy, etc.

Guidelines applicable to NBFC - Middle Layer (ML) and NBFC - Upper Layer (UL) - Regulatory Restrictions on Loans and Advances: is provided as below:

Loans and advances to Directors - Unless sanctioned by the Board of Directors/ Committee of Directors, NBFCs shall not grant loans and advances aggregating ₹ 5 crores and above to:

- their directors (including the Chairman/ Managing Director) or relatives of directors;
- any firm in which any of their directors or their relatives is interested as a partner, manager, employee or guarantor; and
- any company in which any of their directors, or their relatives is interested as a major shareholder, director, manager, employee or guarantor.

The proposals for credit facilities of an amount less than ₹ 5 crores to these borrowers may be sanctioned by the appropriate authority in the NBFC under powers vested in such authority, but the matter should be reported to the Board.

Loans and advances to Senior Officers of the NBFC - NBFCs shall abide by the following when granting loans and advances to their senior officers:

- Loans and advances sanctioned to senior officers of the NBFC shall be reported to the Board.
- No senior officer or any Committee comprising, inter alia, a senior officer as member, shall, while exercising powers of sanction of any credit facility, sanction any credit facility to a relative of that senior officer. Such a facility shall be sanctioned by the next higher sanctioning authority under the delegation of powers.

Loans and advances to Real Estate Sector - While appraising loan proposals involving real estate, NBFCs shall ensure that the borrowers have obtained prior permission from government/ local government/ other statutory authorities for the project, wherever required. To ensure that the loan approval process is not hampered on account of this, while the proposals may be sanctioned in normal course, the disbursements shall be made only after the borrower has obtained requisite clearances from the government / other statutory authorities.

Scale Based Regulation (SBR) for NBFCs: Capital requirements for Non-Banking Finance Companies – Upper Layer (NBFC-UL):

NBFC-UL shall maintain Common Equity Tier 1 capital of at least 9% of Risk Weighted Assets and shall maintain, on an on-going basis.

Guidelines on Compensation of Key Managerial Personnel (KMP) and Senior Management in NBFCs:

NBFCs shall put in place a Board approved compensation policy. The policy shall include constitution of a Remuneration Committee, principles for fixed/ variable pay structures, and malus/ clawback provisions.

Board of NBFCs should delineate the role of various committees, including Nomination and Remuneration Committee (NRC).

Review of Minimum Investment Grade Credit Ratings for Deposits of NBFCs:

Minimum investment grade credit rating for deposits of NBFCs shall be ‘BBB-’ from any of the SEBI-registered Credit Rating Agencies.

Lending by Commercial Banks to NBFCs and Small Finance Banks (SFBs) to NBFC-MFIs (Microfinance Institutions), for the purpose of on-lending to priority sectors:

Lending by commercial banks to NBFCs and lending by Small Finance Banks (SFBs) to NBFC-MFIs, for the purpose of on-lending to certain priority sectors is allowed on an on-going basis.

Provisioning for Standard assets by Non-Banking Financial Company – Upper Layer:

NBFCs classified as NBFC-UL shall maintain provisions in respect of ‘standard’ assets at the following rates for the funded amount outstanding:

Category of Assets	Rate of Provision
Individual housing loans and loans to Small and Micro Enterprises (SMEs)	0.25%
Housing loans extended at teaser rates	2%, which will decrease to 0.40% after 1 year from the date on which the rates are reset at higher rates (if the accounts remain ‘standard’)
Advances to Commercial Real Estate – Residential Housing (CRE - RH) Sector	0.75%
Advances to Commercial Real Estate (CRE) Sector (other than CRE-RH)	1.00%
Restructured advances	As stipulated in the applicable prudential norms for re-structuring of advances
All other loans and advances not included above, including loans to Medium Enterprises	0.40%

Current credit exposures arising on account of the permitted derivative transactions shall also attract provisioning requirement as applicable to the loan assets in the 'standard' category, of the concerned counterparties. Since NBFCs with net worth of ₹ 250 crores or above are required to comply with Indian Accounting Standards (Ind AS) for the preparation of their financial statements, they shall continue to hold impairment allowances as required under Ind AS.

Multiple NBFCs in a Group: Classification in Middle Layer:

NBFCs that are part of a common Group or are floated by a common set of promoters shall not be viewed on a standalone basis. In line with the existing policy on consolidation of assets of the NBFCs in a Group, the total assets of **all the NBFCs in a Group** shall be consolidated to determine the threshold for their classification in the Middle Layer.

If the consolidated asset size of the Group is ₹ 1000 crores and above, then each Investment and Credit Company (NBFC-ICC), Micro Finance Institution (NBFC-MFI), NBFC-Factor and Mortgage Guarantee Company (NBFC-MGC) lying in the Group shall be classified as an NBFC in the Middle Layer and consequently, regulations as applicable to the Middle Layer shall be applicable to them.

Statutory Auditors are required to certify the asset size (as on March 31) of all the NBFCs in the Group every year. The certificate shall be furnished to the Department of Supervision of the Reserve Bank under whose jurisdiction the NBFCs are registered.

OTHERS RBI CIRCULARS:

Consolidated Circular on Opening of Current Accounts and Cash Credit (CC)/ Overdraft (OD) Accounts by Banks:

- For borrowers, where the aggregate exposure of the banking system or a CC/ OD facility less than ₹ 5 crores, banks can open current accounts/ CC/ OD without any restrictions placed vide this circular subject to obtaining an undertaking from such customers.
- Where the aggregate exposure of the banking system or a CC/ OD facility is ₹ 5 crores or more: Borrowers can open current accounts with any one of the banks with which it has CC/OD facility, provided that the bank has at least 10% of the aggregate exposure of the banking system to that borrower. In case none of the lenders has at least 10% the aggregate exposure, the bank having the highest exposure among CC/OD providing banks may open current accounts. Other lending banks may open only collection accounts subject to the condition that funds deposited in such collection accounts will be remitted within two working days of receiving such funds, to the CC/OD account maintained with the above-mentioned bank.
- Where the aggregate exposure of the banking system is ₹ 50 crores or more: The Lending banks subject to Escrow account mechanism can open current accounts whereas collection account can be opened without any restriction. Non-lending bank shall no open any current/ collection accounts.
- Banks are free to open current accounts of prospective customers who have not availed any credit facilities from the banking system, subject to necessary due diligence as per their Board approved policies.

Exemptions Regarding Specific Accounts

Specific accounts which are stipulated under various statutes and specific instructions of other regulators/ regulatory departments/ Central and State Governments. An indicative list of such accounts is given below:

- Accounts for real estate projects mandated for the purpose of maintaining 70% of advance payments collected from the home buyers;
- Nodal or escrow accounts of payment aggregators/ prepaid payment instrument issuers for specific activities;
- Accounts for the purpose of IPO/ NFO/ FPO/ share buyback/ dividend payment/ issuance of commercial papers/ allotment of debentures/ gratuity etc. which are mandated by respective statutes or by regulators and are meant for specific/ limited transactions only;
- Accounts opened as per the provisions of Foreign Exchange Management Act, 1999;
- Accounts for payment of taxes, duties, statutory dues, etc. opened with banks authorized to collect the same, for borrowers of such banks which are not authorized to collect such taxes, duties, statutory dues, etc.; and
- Accounts for settlement of dues related to debit card/ ATM card/ credit card issuers/ acquirers, etc.

Legal Entity Identifier (LEI) for Borrowers:

LEI is extended to Primary (Urban) Co-operative Banks (UCBs) and Non-Banking Financial Companies (NBFCs). Non-individual borrowers enjoying aggregate exposure of ₹5 crores and above from banks and financial institutions (FIs) shall be required to obtain LEI codes as per the timeline:

Exposure	LEI to be obtained on or before
Above ₹25 crores	April 30, 2023
Above ₹10 crores, up to ₹25 crores	April 30, 2024
₹5 crores and above, up to ₹10 crores	April 30, 2025

Securities & Exchange Board of India (few selected, recently issued notifications or circulars):

Disclosure obligations of high-value debt-listed entities in relation to Related Party Transactions (RPT's):

Disclosure obligations in relation to Related Party Transactions for high-value debt listed entities (i.e., entities having listed non-convertible debt securities outstanding value of ₹ 500 crores and above) specified as below:

- Information to be reviewed by the Audit Committee for approval of RPTs;
- Information to be provided to shareholders for consideration of RPTs at the AGM; and
- Format for reporting of RPTs to the Stock Exchange (contains nature of relationship, key managerial personnel details, nature and value of the transaction)

Issuance of Securities in dematerialized form in case of Investor Service Requests:

Listed companies shall issue the securities in dematerialized form only while processing the following service request:

Issue of duplicate securities certificate; Claim from unclaimed suspense account; Renewal/ exchange of securities certificate; Endorsement; Sub-division/ splitting of a securities certificate; Consolidation of securities certificates/ folios; Transmission; and Transposition;

Introduction of Special Situation Funds (SSF) as a sub-category under category I AIFs:

SEBI (Alternative Investment Funds) Regulations, 2012 has introduced Special Situation Funds (SSF) with the following specification:

- Each scheme of SSF shall have a corpus of at least ₹ 100 crores
- SSF shall accept an investment of value:
 - no less than ₹ 10 crores from an investor;
 - not less than ₹ 5 crores in case of an accredited in-store; and
 - not less than ₹ 25 lakh in case of employees or directors of the SSF.
- SSF intending to act as a resolution applicant shall ensure compliance with the eligibility requirement provided under the Insolvency and Bankruptcy Code, 2016.

For SSF acquiring the stressed loan following is specified:

- SSF may acquire stressed loan in terms of RBI Master Directions;
- A stressed loan shall be subject to a minimum lock-in period of six months which shall not be applicable in case of recovery from the borrower; and
- The initial and continuous due diligence requirements for investors of SSF shall be applicable as those mandated by Reserve Bank of India for investors in Asset Reconstruction Companies.

Disclosures in the abridged prospectus and front cover page of the offer document:

- Format has been specified for disclosure for an abridged prospectus and front cover page of the offer documents.
- Copy of the abridged prospectus to be made available on the website of issuer company, lead managers, registrar to an issuer and a link for downloading abridged prospectus shall be provided in price band advertisement.
- The Issuer Company/ Merchant Bankers (MBs) shall ensure that:
 - the disclosures in the abridged prospectus are adequate, accurate and does not contain any misleading or misstatement;

- the qualitative statements in the abridged prospectus shall be substantiated with Key Performance Indicators (KPIs) and other quantitative factors;
- A Quick Response (QR) code is inserted on the front page of the documents such as front outside cover page, abridged prospectus, price band advertisement, etc. as deemed fit by them; and
- The scan of QR code shall lead to downloading of prospectus, abridged prospectus and price band advertisement.

Nomination for Eligible Trading and Demat Accounts:

All existing eligible trading and demat account holders will be provided a choice of nomination on or before March 31, 2023 failing which the trading and demat accounts shall be frozen.

Change in Unified Payment Interface (UPI) limits: Investment through UPI with a limit of:

- ₹ 5 lakhs for investment in Non-convertible Securities, Securitised Debt Instruments, Security Receipts, Municipal Debt Securities and Commercial Paper;
- ₹ 5 lakhs for Public Issue of Equity Shares and convertibles; and
- Maximum of ₹ 5 lakhs in public issues of units of REITs & InvITs with a facility to block funds.

Clarification on applicability of regulation 23 of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 in relation to Related Party Transaction: Amendment to Regulation 23 of the LODR Regulations as below with effect from April 01, 2022:

- No fresh approval required for an RPT that has been approved by the audit committee and shareholders prior to April 01, 2022;
- All existing related party contracts or arrangements entered into prior to April 01, 2022 and which may continue beyond such date shall whether material or becomes material subsequently be placed for approval of the shareholders in the first General Meeting subsequent to notification of these regulations; and
- RPT for which the audit committee has granted omnibus approval shall continue to be placed before the shareholders if it is material in terms of the Regulation

The statement contained in the notice sent to the shareholders for seeking approval for an RPT shall provide relevant information so as to enable the shareholders to take a view whether the terms and conditions of the proposed RPT are not unfavorable to the listed entity, compared to the terms and conditions, had similar transaction been entered into between two unrelated parties.

Clarification on period for which Related Party Transactions approval is valid:

- Omnibus approval granted by the audit committee shall be valid for a period not exceeding one year and shall require fresh approvals after expiry of one year;
- Shareholders' approval of omnibus RPTs approved in an AGM shall be valid upto the date of the next AGM for a period not exceeding fifteen months; and
- For omnibus approvals of material RPTs, obtained from shareholders in general meetings other than AGMs, the validity of such omnibus approvals shall not exceed one year

Enhanced guidelines for debenture trustees (DT) and listed issuer companies on security creation and initial due diligence:

Guidelines specifies the following:

- **Manner of change in security/ creation of additional security/conversion of unsecured to secured in case of already listed non-convertible debt securities:**

Before initiating due diligence, DT and the listed entity shall enter into an amended debenture trust agreement to incorporate the obligations for continuous monitoring and any other stipulations of SEBI from time to time with respect to security creation, initial due diligence and continuous monitoring. A DT shall carry out due diligence for change in security, creation of security/ additional security in the prescribed manner. Thereafter, the issuer company shall create the proposed security and the charge in favour of DT and the same shall be registered, within 30 days of creation of such charge

- **Encumbrance on securities for issuance of listed debt securities:**

Creation of encumbrance on the securities for securing the non-convertible debt securities shall be through the depository system only in accordance with the Depositories A/c.

- **Empanelment of External Agencies by Debenture Trustee(s):**

For the purpose of empanelment of external agencies, DT shall carry out due diligence in terms of the Circular.

Following shall not constitute a change in the structure of the non-convertible debt securities, provided there are no other changes to the terms/ nature of issue of the non-convertible debt securities i.e.: maturity date; coupon rate; face value; redemption schedule; and nature of the non-convertible debt securities (secured/unsecured) etc.

Participation of SEBI registered Foreign Portfolio Investors (FPIs) in Exchange Traded Commodity Derivatives (ETCD) in India:

Foreign investors can participate in Indian ETCDs through the FPI route, subject to following conditions:

- FPIs will be allowed to participate in cash-settled-agricultural commodity derivative contracts and indices comprising such non-agricultural commodities;
- FPIs desirous of participating in ETCDs shall be subject to risk management measures applicable, from time to time;
- FPIs other than individuals, family offices and corporates may participate in eligible commodity derivatives products as 'Clients' and shall be subject to all rules, regulations and instructions, position limit norms as may be applicable to clients, issued by SEBI and stock exchanges, from time to time;
- FPIs belonging to categories viz. individuals, family offices and corporates will be allowed position limit of 20% of the client level position limit in a particular commodity derivative contract; and
- The participation of FPIs including individuals, family offices and corporates shall be subject to compliance with the provisions of SEBI.

Reduction in denomination for debt securities and non-convertible redeemable preference shares:

- Effective January 01, 2023, the face value of each debt security or non-convertible redeemable preference share issued on private placement basis shall be ₹ 1 lakhs instead of existing ₹ 10 lakhs.

Scheme(s) of Arrangement by entities who have listed their Non-convertible Debt securities (NCDs)/ Non-convertible Redeemable Preference shares (NCRPS) (Listed Entity):

- The newly inserted Regulation 59A requires the listed entity to obtain the No-Objection Letter from Stock Exchanges, where listed, before filing such scheme with any court or Tribunal. In case of multiple listing, a single filing of the draft scheme of arrangement in terms of Regulations would suffice; and

The above circular shall not apply to a Scheme of Arrangement which solely provides for an arrangement between a debt listed entity and its unlisted wholly owned subsidiary. However, such debt listed entity shall file the draft Scheme of Arrangement with Stock Exchange(s) for the purpose of disclosure and the Stock Exchange(s) shall disseminate the scheme documents on their websites.

Schemes of Arrangement by Listed Entities - Clarification is provided with respect to submission of NOC from the lending scheduled commercial banks/ financial institutions/ debenture trustee:

- No Objection Certificate (NOC) from the lending scheduled commercial banks/ financial institutions/ debenture trustees, from not less than 75% of the secured creditors in value should be obtained before the receipt of the No-objection letter from stock exchanges.

Timelines for transfer of dividend and redemption proceeds to unitholders:

- **Transfer of Dividend Payments:**

- The record date shall be two working days from the issue of public notice, wherever applicable, for the purpose of payment of dividend; and
- The payment of dividend to the unitholders shall be made within seven working days from the record date

- **Transfer of Redemption or Repurchase Proceeds:**

- The transfer of redemption or repurchase proceeds to the unitholders shall be made within three working days from the date of redemption or repurchase; and
- For the purpose of overseas investments, the transfer of redemption or repurchase proceeds to the unitholders shall be made within five working days from the date of redemption or repurchase.

Interest for the period of delay in transfer of redemption or repurchase or dividend shall be payable to unitholders at the rate of 15% per annum along with the proceeds of redemption or repurchase or dividend, as the case may be. Such Interest shall be borne by Asset Management Companies (AMCs).

Limited relaxation – dispatch of physical copies of financial statements etc. – Regulation 58 of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015:

- Relaxations from dispatching of physical copies of financial statements is extended till September 30, 2023.

Relaxation from compliance with certain provisions of the SEBI (Listing Obligations and Disclosure Requirements) Regulations:

- Relating to dispatching hard copy of the statement containing salient features of all the documents as prescribed in section 136 of the Companies Act, 2013 (Financial Statements, Board's Report, Auditor's Report etc.), to those shareholders who have not registered their email addresses. The said relaxation was extended till September 30, 2023.

COMPANIES ACT 2013 ('2013 Act')

Amendment in Companies (Accounts) Rules, 2014:

- Rule 12(1B) has been inserted requiring companies covered under section 135(1) of the 2013 Act to furnish a report on Corporate Social Responsibility (CSR) in Form CSR-2 to the Registrar for the financial year (2020-2021) and onwards as an addendum to Form AOC-4 as applicable;
- As per the proviso to rule 3(1) of the Companies (Accounts) Rules, 2014, as amended, for the financial year commencing on or after April 01, 2023 every company shall use such accounting software for maintaining its books of account, having feature of recording audit trail of each and every transaction, creating an edit log of each change made in the books of account along with the respective dates and ensure that the audit trail cannot be disabled.
- Amendments in the certain provisions of Rule 3 of the Companies (Accounts) Rules, 2014 are as follows:
 - Rule 3(1) now provides that such books of account and other relevant books and papers should be accessible in India, at all times;
 - Rule 3(5) provides that the back-up of the books of account and other books and papers of the company, including at any place outside India, if any, shall be kept in servers physically located in India on a daily basis instead of periodic basis; and
 - Rule 3(6) has been amended to provide the name and address of the person in control of the books of account and other books and papers in India, where service provider is located outside India to ROC.
- **Amendments issued on Indian Accounting Standards: -**

The Ministry of Corporate Affairs (MCA) vide notification dated March 23, 2022, has notified certain amendments to Indian Accounting Standards (Ind AS) effective from April 01, 2022. Most of these amendments have been made to keep the Ind AS converged with the International Financial Reporting Standards (IFRS) issued by the International Accounting Standards Board (IASB) except for an amendment to Ind AS 16, Property, Plant and Equipment (PPE).

An overview of the amendments is given below:

Ind AS	Amendments notified
Ind AS 37, Provisions, Contingent Liabilities and Contingent Assets	<p>The following costs can be included as 'costs of fulfilling a contract' while assessing whether a contract is onerous (a) The incremental costs of fulfilling that contract—for example, direct labour and materials; and (b) An allocation of other costs that relate directly to fulfilling contracts—for example, an allocation of the depreciation for an item of PPE used in fulfilling that contract among others.</p> <p>Transition: At the date of initial application, the cumulative effect of initially applying the amendments is recognised as an opening balance adjustment to retained earnings or other component of equity, as appropriate without restating the comparatives.</p>
Ind AS 103, Business Combinations	The amendments have given reference of Conceptual Framework for Financial Reporting under Ind AS for definition of assets and liabilities without changing the accounting requirements for business combinations.
Ind AS 16, Property, Plant and Equipment (PPE)	Clarification has been provided that excess of net sale proceeds of items produced over the cost of testing, if any, during a trial run, shall not be recognised in the statement of profit or loss, but deducted from the directly attributable costs considered as part of cost of an item of PPE.
Ind AS 101, First-time Adoption of Indian Accounting Standards	As per the amendment, if a subsidiary adopts Ind AS later than its parent and applies Ind AS 101.D16(a), then a subsidiary may elect to measure cumulative translation differences for all foreign operations at amounts included in the consolidated financial statements of the parent, based on the parent's date of transition to Ind AS. A similar election is available to an associate or joint venture that uses the exemption in paragraph D16(a).

Ind AS	Amendments notified
Ind AS 109, Financial Instruments	This amendment clarifies that for the purpose of performing the '10% test' for derecognition of financial liabilities – in determining those fees paid net of fees received, a borrower includes only fees paid or received between the borrower and the lender, including the fees paid or received by either the borrower or lender on the other's behalf.
Ind AS 41, Agriculture	The amendment removes the requirement to exclude cash flows for taxation when measuring fair value, thereby aligning the fair value measurement requirements in Ind AS 41 with those in Ind AS 113, Fair Value Measurement.

Amendments in Companies (Registration of Charges) Rules, 2014:

- Rule 3(5) has been inserted providing that Rule 3 for creation or modification of charge, shall not apply to any charge required to be created or modified by a banking company under Section 77 in favour of the Reserve Bank of India (RBI) when any loan or advance has been made to it under Section 17 of the RBI Act, 1934.
- Rule 13 has been inserted for signing of charge e-forms by insolvency resolution professional or resolution professional or liquidator for companies under resolution or liquidation and filed with Registrar.

Amendments in Companies (Prospectus and Allotment of Securities) Rules, 2014:

- A new proviso under Rule 14(1) has been inserted providing that a company shall not make any offer or invitation of any securities to a body corporate incorporated in, or a national of, a country which shares a land border with India, unless such body corporate or the national have obtained government approval under Foreign Exchange Management (Non-debt Instruments) Rules, 2019 and have attached the same with the private placement offer cum application letter (Form PAS-4).

Amendments in Companies (Incorporation) Rules, 2014:

- Form INC-9 related to declaration by Subscribers and First Directors has been amended to include compliance of government's approval under the Foreign Exchange Management (Non-debt instruments) Rules, 2019, where applicable.
- In Form No. INC-32 (SPICe+), in Part-B, in declaration to be given by Professional, the following has been inserted: -
 "I, on behalf of the proposed directors, hereby declare that person seeking appointment is a national of a country which shares a land border with India, necessary security clearance from Ministry of Home Affairs, GOI shall be attached with the consent".
- In the Companies (Incorporation) Rules, 2014, Rule 25B has been inserted requiring the Registrar based on the information or documents available on MCA 21 portal, to visit at the address of the registered office in presence of two independent witnesses of the locality in which the said registered office is situated and can also seek the assistance of the local police for the same. A notice should be issued to the company and its directors for removal of the name of the company from the register of companies in accordance with the provisions of the 2013 Act in case ROC concludes that the company is not capable of receiving and acknowledging communications and notices.

The amendment also prescribes the format of the physical verification report.

Amendments in Companies (Appointment and Qualifications of Directors) Rules, 2014:

- A new proviso to Rule 8 and Rule 10(1) has been inserted requiring a security clearance from the Ministry of Home Affairs, Government of India should be attached along with the consent for the person seeking appointment as a director or an independent director being a national of a country which shares land border with India. Also, no DIN will be allotted until the above stated security clearance has been attached along with the application for DIN. The consequent amendments to Form DIR-2 has also been issued.
- A new Rule 6(5) has been inserted which provides that any individual whose name has been removed from the databank of independent directors may apply for restoration of his/ her name on payment of the prescribed fees, subject to the following conditions:

- The name shall be shown in a separate restored category for a period of one year from the date of restoration within which, the person shall be required to pass the online proficiency self-assessment test and thereafter his/her name shall be included in the databank; and
- In case the person fails to pass the online proficiency self-assessment test within one year from the date of restoration, his/her name shall be removed from the data bank, and he/she shall be required to apply afresh for inclusion of his/her name in the databank.

Amendments in Companies (Removal of Name of Companies from the Register of Companies) Rules, 2016:

- **A new sub-rule 4(4) has been inserted which provides that:**
 - After the RoC, on examination of the application made in Form No. STK-2, finds it necessary to call for further information or finds the application defective or incomplete in any respect, he/ she shall inform the applicant to remove such defects and re-submit the application within 15 days from the date of such information.
 - After the company has re-submitted the application, if the RoC finds that it is still defective or incomplete in any respect, he/she shall give further time of 15 days to remove such defects or complete the application.
- Amendment in the forms to be filed in case the company is not carrying on any business or operation as per the physical verification conducted in accordance with Section 12(9) of the 2013 Act:
 - Form SKT-1: Notice by registrar for removal of the name of the company
 - Form SKT-5 and Form SKT-5A: Public Notice for removal of the name of the company

Amendments in Companies (Corporate Social Responsibility Policy) Rules, 2014

- A new proviso under Rule 3(1) has been inserted stating that a Company that has any amount outstanding in its unspent CSR account, then such company has to constitute a CSR committee and comply with the relevant provisions of Section 135 of the 2013 Act.
- Rule 3(4) of the CSR Rules has been amended to provide that CSR activities can now be undertaken by a registered public trust or a registered society exempted under sub-clauses (iv), (v), (vi) or (via) of Section 10(23C) of the Income Tax Act, 1961. Further, an explanation has been added to clarify the meaning of the term 'entity' to mean a statutory body constituted under an Act of Parliament or State legislature to undertake activities covered in Schedule VII of the 2013 Act.
- Rule 8(3) of the CSR Rules has been amended to provide that the limit to book expenditure towards impact assessment has now been amended to 2% of the total CSR expenditure for that financial year or ₹ 50 lakhs, whichever is higher.
- A revised format has been prescribed for the annual report on CSR activities which is to be attached to the board's report for the financial year. Key revisions are:
 - Provide an executive summary along with the weblinks of impact assessment of CSR projects carried out;
 - Disclose only the total amount spent on on-going and other CSR projects; and
 - Disclose the balance amount in unspent CSR account, and deficiency, if any, in accordance with Section 135(6) of the 2013 Act.
- It has been clarified that spending of funds towards the 'Har Ghar Tiranga' campaign would be considered as an eligible CSR activity.

Amendments in Companies (Specification of definition details) Rules, 2014:

- Definition of a 'small company' under the 2013 Act has been revised, as under:

A small company means a company, other than a public company, which meets both the given conditions:

- Its paid-up share capital does not exceed ₹ 4 crores or such higher amount specified not exceeding ₹ 10 crores; and
- Its turnover for the immediately preceding financial year does not exceed ₹ 40 crores or such higher amount specified not exceeding ₹ 100 crores.

Amendments in Companies (Acceptance of Deposits) Rules, 2014 (Deposit Rules):

Rule 16 of the deposit rules has been amended requiring the statutory auditor of the company should additionally submit a declaration, certifying the information pertaining to the particulars of deposit and particulars of liquid assets in Form DPT-3.

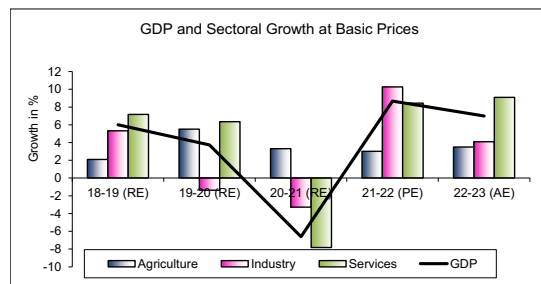
Amendment in Companies (Prospectus and Allotment of Securities) Rules, 2014 dated January 20, 2023:

Requirement of attaching a copy of resolution passed in general meeting authorising bonus issue, along with Form PAS-3, has been omitted.

MACRO ECONOMIC INDICATORS

Overall Growth

In the current year, India has also faced the challenge of reining in inflation that the European strife accentuated. Measures taken by the government and RBI, along with the easing of global commodity prices, have finally managed to bring retail inflation below the RBI upper tolerance target in November 2022. However, the challenge of the depreciating rupee, although better performing than most other currencies, persists with the likelihood of further increases in policy rates by the US Fed. The widening of the Current Account Deficit may also continue as global commodity prices remain elevated and the growth momentum of the Indian economy remains strong. The loss of export stimulus is further possible as the slowing world growth and trade shrinks the global market size in the second half of the current year. Despite these, agencies worldwide continue to project India as the fastest-growing major economy at 6.5-7.0% in FY23. These optimistic growth forecasts stem in part from the resilience of the Indian economy seen in the rebound of private consumption seamlessly replacing the export stimuli as the leading driver of growth. The uptick in private consumption has also given a boost to production activity resulting in an increase in capacity utilisation across sectors.



Sectoral growth

The agriculture sector in India has grown at an average annual growth rate of 4.6% during the last six years. This growth is partly attributable to good monsoon years and partly to the various reforms undertaken by the government to enhance agricultural productivity. Policies such as Soil Health Cards, the Micro irrigation Fund, and organic and natural farming have helped the farmers optimise resource use and reduce the cultivation cost. Kisan Rail exclusively caters to the movement of perishable Agri Horti commodities. Cluster Development Programme (CDP) has promoted integrated and market-led development for horticulture clusters.

In FY23, the Industry sector witnessed modest growth of 4.1% compared to the strong growth of 10.3% in FY22. This is likely on account of input cost-push pressures, supply chain disruptions and the China lockdown impacting the availability of essential inputs and slowing the global economy.

India maintained its dominance in the world services trade in FY22. Despite pandemic induced global restrictions and weak tourism revenues, India's services exports stood at US\$ 254.5 billion in FY22 recording a growth of 23.5% over FY21 and registered a growth of 32.7% in April-September 2022 over the same period of FY22. Software and business services together constitute more than 60% of India's total services exports and exhibited strong growth during Q2FY23.

Fiscal and Budgetary Developments

The fiscal deficit of the Union Government, which reached 9.2% of GDP during the pandemic year FY21, has moderated to 6.7% of GDP in FY22 PA and is further budgeted to reach 6.4% of GDP in FY23. The fiscal deficit of the Union Government at the end of November 2022 stood at 58.9 % of the BE, lower than the five-year moving average of 104.6% of BE during the same period.

State Governments improved their finances in FY22 after being adversely impacted by the pandemic in FY21. The combined Gross Fiscal Deficit (GFD) of the States, which increased to 4.1% of GDP in the pandemic-affected year, was brought down to 2.8% in FY22. The consolidated GFD-GDP ratio for States has been budgeted 3.4% in FY23.

The revenue deficit of the Centre decreased from 7.3% in 2020-21 to 4.4% in 2021-22 (PA) and is estimated to be at 3.18 in 2022-23 (BE).

Budget 2022-23 envisaged a fall to 10.7% from 11.4% in 21-22(PA) in gross tax revenue.

Capital Markets

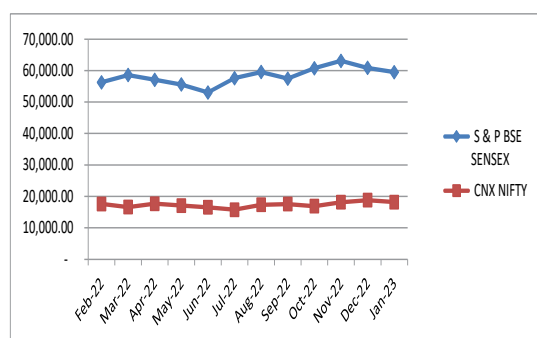
Indian benchmark indices, i.e the BSE and NSE closed at 59,500 and 17,748 (as on January 30, 2023) and gained 6% and 4% each over the previous year (as on end of February 2022).

From April to November 2022, the buoyant performance of the primary market has been observed despite turmoil in global financial markets. Compared to FY22, the number of firms opting to list on the bourses increased by 37% though the amount raised declined to almost half of what was raised in the last year i.e. ₹ 1,14,361 crores in April to November 2022 whereas it was ₹ 1,81,532 crores in April to November 2021.

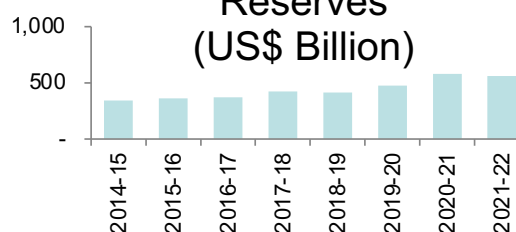
In April-November 2022, the amount of resources mobilised by the issuance of debt securities in the primary market increased by 5% compared to the corresponding period last year. The total number of issues in the same period also increased by 11 %. From April to November 2022, public issues of debt increased by 10 % compared to the same period the year before, but the amount raised by public issues of debt in the same period decreased by 27%.

Balance of Trade and Balance of Payments (BOP)

Merchandise exports were US\$ 332.8 billion over April-December 2022 against US\$ 305.0 billion during the period April-December 2021. Non-petroleum and non-gems & jewelry exports in April-December 2022 were US\$ 233.5 billion, as compared to US\$ 230.0 billion in April-December 2021. Petroleum, oil, and lubricants (POL) exports constituted about 21.1% and non-POL exports were 78.9% of total exports during FY23 (until December 2022). Owing to the rise in global crude oil prices, petroleum products continued to be the most exported commodity in FY22 and April-December 2022, followed by gems and jewelry, organic & inorganic chemicals, and drugs & pharmaceuticals.



Foreign Exchange Reserves (US\$ Billion)



India's current account balance (CAB) recorded a deficit of US\$ 36.4 billion (4.4% of GDP) in Q2FY23 due to higher merchandise trade deficit of US\$ 83.5 billion and an increase in net investment income outgo

During April-September 2022, gross FDI inflows were US\$ 39.3 billion as compared to US\$ 42.5 billion a year ago. Computer Software and Hardware attracted the highest share of FDI equity inflow (23.4%) followed by Services (15.4%) and Trading (12.2%)

Foreign investment, consisting of Foreign Direct Investment (FDI) and foreign portfolio investment (FPI), is the largest component of the capital account. On a BOP basis, the net capital inflows declined to US\$ 29.0 billion in H1 FY 23 primarily driven by the FPI outflow of US\$ 14.6 billion in Q1 FY 23

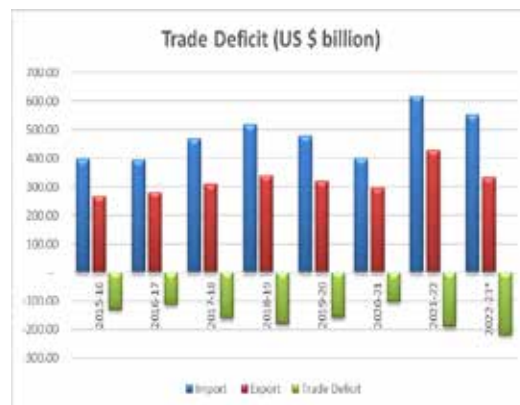
Inflation

Overall, the monthly trend of inflation rates based on wholesale prices has been sliding downwards from its peak of 16.6% in May 2022 to 10.6% in September 2022 and further to 5.0% in December 2022. Part of the double-digit inflation in WPI during H1 of FY23 could be attributed to food inflation, which stayed at 7.5% Cereals and vegetables were the major contributors to food inflation owing to erratic climatic conditions.

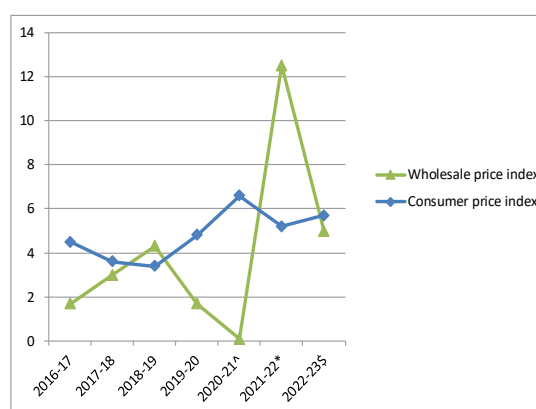
Consumer price inflation in India went through three phases in 2022. A rising phase up to April 2022 when it crested at 7.8%, then a holding pattern at around 7% up to August 2022 and then a decline to around 5.7% by December 2022. The rising phase was largely due to the fallout of the Russia-Ukraine war and a shortfall in crop harvests due to excessive heat in some parts of the country.

Exchange Rate Developments

During 2022-23 (April 2022 – January 2023), the exchange rate of the rupee has depreciated to ₹ 81.65 per US dollar as compared to ₹ 76.12 per US dollar in March 2022.



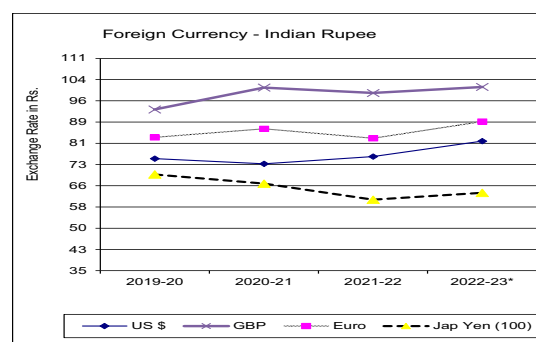
* For April to December 2022



^ For 2020-21 refers to April to December 2020 for WPI & April to November 2020 for CPI

* For 2021-22 refers to April to December 2021 for WPI & April to November 2021 for CPI

\$ For 2022-23 refers December 22 WPI & CPI



*Rates as on 30th Jan, 2023

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