



# India Budget 2022



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*Tax  
proposals*

## Corporate Tax

### Rationalisation of TDS/TCS provisions on payments to non filers of income tax returns

- Finance Act 2021 introduced higher rates of TDS/ TCS for payments to persons who have not filed tax returns for last 2 years
- The 2 year requirement has now been reduced to 1 year ie higher TDS/ TCS rates shall apply only in case of persons who have not filed tax return in the immediately preceding year
- This amendment will take effect from 1 April 2022

### Deductibility of surcharge and cess

- It has now been clarified that tax includes surcharge and cess and hence, such payments are not a deductible business expenditure
- Amendment applicable retrospectively with effect from 1 April 2005

# Direct Tax

## Corporate Tax

- Concessional tax rate of 15% for domestic manufacturing companies commencing manufacturing or production by 31 March 2023 extended to 31 March 2024. This amendment will be effective from AY 2022-23
- Profit linked tax exemption for eligible start ups extended by another year start ups incorporated upto 31 March 2023 will now be eligible

## Corporate Tax

### Tax on virtual digital assets

- Virtual digital assets means inter alia code or number or token (not being Indian or foreign currency) generated through cryptographic means or otherwise and includes Non Fungible Tokens or any other token of similar nature
- Income from virtual digital assets taxable at 30%
  - Cost of acquisition allowed as a deduction no other deduction allowed
  - Loss on transfer of virtual digital asset not allowed for set off or carry forward purposes
  - This provision shall take effect from AY 2023 24
- Gifts of virtual digital assets will be a benefit taxable in the hands of the recipient
- TDS at 1% introduced for virtual digital assets transactions
  - On transfer consideration payable/ paid to residents
  - Applicable even where consideration is wholly / partly in kind or in exchange of another virtual digital asset
  - Will override TDS obligations under section 194O, which applies to payment made by e commerce operator to an e commerce participant
  - This provision shall take effect from 1 July 2022

## Corporate Tax

### Dividend income received from specified foreign company

- Dividend received by an Indian company from specified foreign company taxable at concessional tax rate of 15% has been withdrawn . This amendment will be effective from AY 2023- 24

### Bonus stripping and dividend stripping

- Provisions of bonus stripping now also applicable to units of InvITs / REITs/ AIFs and securities
- Provisions of dividend stripping now also applicable to units of InvITs / REITs/ AIFs
- This amendment will take effect from AY 2023 24

### Clarification regarding deduction on payment of interest only on actual payment

- Section 43B of the Act permits deduction of interest payable on any loan or borrowing from certain specified financial institutions/ NBFC/ scheduled bank/ co operative bank on payment basis
- It is now clarified that conversion of interest payable into debenture or any other instrument by which liability to pay is deferred to a future date, shall not be deemed to have been actually paid
- This amendment will take effect from AY 2023-24

# Direct Tax

## Corporate Tax

- Benefit or perquisite provided to a resident carrying on business or profession shall be subject to TDS at the rate of 10% of the value of such benefit/ perquisite
- In case of non- monetary benefit/ perquisites or where the monetary component is not sufficient to cover the TDS liability, the person responsible for providing shall be required to ensure that tax has been paid before such benefits/perquisites are released
- These provisions shall not apply if the value of the benefit or perquisite does not exceed INR 20,000 in each financial year
- This amendment will take effect from 1 July 2022

# Direct Tax

## Human Capital

- No change in tax slab rates, standard deduction and deduction for interest on housing loans
- 15% cap on surcharge on long term capital gains applicable to all capital assets
- Relief measures were announced via press statement on 25 June 2021 towards medical treatment expenditure and compensation received by family members in relation to death of an individual. These measures have now been introduced in the Act with effect from Assessment Year 2020 21 to provide clarity on various aspects
- Compensation received only within 12 months from the death of an individual eligible for exemption

## Human Capital

- Tax payer allowed to file updated return of income within 24 months from end of the relevant assessment year on payment of additional tax
  - If updated return filed within 12 months additional tax payable at the rate of 25% of aggregate of tax and interest payable
  - If updated return filed in the subsequent 12 months additional tax at the rate of 50% of aggregate of tax and interest payable
- Option to file an updated return of income cannot be availed by taxpayers in certain specified circumstances



## Human Capital

### Assessment

- Revenue authorities can now defer filing an appeal before the High Court and Tribunal if an identical question of law is pending before the jurisdictional High Court or the Supreme Court including in case of another taxpayer
- Application for deferral to be filed only on receipt of acceptance from the taxpayer
- This amendment is applicable from 1 April 2022
- Currently there are several instances where Revenue authorities continue to ask for payment of outstanding demands even where these were reduced/ waived by the NCLT
- Now, procedure provided in the IT Act to reduce such tax demand from the outstanding demand register
- The amendment will take effect from 1 April 2022
- Application for refund of withholding tax will now need to be filed with the assessing officer instead of direct appeal to the CIT(A)



## Transfer Pricing

- Provisions of Section 263 amended to specifically provide for revision of transfer pricing orders
- Consequent amendment to Section 153 to allow the AO a time limit of two months to give effect to the TPO's order issued consequent to the revision order

# Direct Tax

## Transaction Tax

- Proceedings pending or completed on the predecessor during the pendency of application for business reorganization deemed to be applicable to the successor. This amendment will be effective from AY 2023-24
- Modified return can be filed by the successor in case of business reorganisation, for the period between the appointed date and date of the final order of the competent authority
- Such modified tax return to be filed within six months from the end of the month in which the competent authority issues the order. This amendment will be effective from 1 April 2022

## Goods and Services Tax

- New condition for availment of input tax credit ('ITC') inserted i.e. ITC can be availed by the taxable person only as auto-populated in GSTR-2B, subject to defaults made by suppliers, *inter-alia*, default in payment of tax beyond the prescribed period, short-payment of tax as per supply reported in GSTR-1, excess ITC availed by suppliers
- Time limit for availing ITC extended from due date of filing return for the month of September to 30<sup>th</sup> November of the subsequent financial year
- Concept for availment of input tax credit on provisional basis scrapped
- Time limit for issuance of credit note in respect of any supply extended from 30<sup>th</sup> September to 30<sup>th</sup> November of the subsequent financial year
- Non-resident taxable person to file return upto 13<sup>th</sup> instead of 20<sup>th</sup> of the subsequent month
- Time limit for rectification of errors in returns filed by the taxpayer extended from the due date of filing return for the month of September to 30<sup>th</sup> November of the subsequent financial year
- GSTR-1 to be filed in order to file GSTR-3B for a particular tax period
- GST registration of composition dealer may be cancelled suo-moto by the proper officer for non-filing of GSTR-4 for a financial year beyond 3 months from due date
- Balance of CGST and IGST available in electronic cash ledger may be transferred from one GSTIN to another GSTIN with same PAN

# Indirect Tax

## Goods and Services Tax

- Interest on wrong availment of input tax credit will be levied only upon utilization of such wrong ITC
- Interest on wrongly availed and utilized ITC to be levied at 18% retrospectively i.e. w.e.f. 1 July 2017 (as against 24% earlier)
- Provision inserted to specify the maximum proportion of output tax liability that may be discharged through electronic credit ledger by specified registered persons
- Late fee levied in case of e-commerce operator for non filing of GSTR-8 (TCS) by the due date

## Customs

- The definition of 'proper officer' is being modified; officers of Directorate of Revenue Intelligence, Customs (Preventive) and audit officers being specifically included in the class of officers of Customs, to validate actions taken in past
- Advance ruling under Customs to remain valid for a period of 3 years or until change in law or facts, whichever is earlier
- Import of Goods at Concessional Rate of Duty Rules, 2017 to be revised make the entire process digital and transparent
- Concessional rates in capital goods and project imports to be gradually phased out and a moderate tariff of 7.5 % to be applied
- Graded duty structure to be notified to boost domestic electronics manufacture like wearables, hearables and smart meters
- Sunset clause in respect of conditional exemptions not to be applicable on international commitments such as FTA, ITA, concessions emanating from FTP like Advance Authorisation, and concessions under Phased Manufacturing Programmes (PMP)
- As a simplification measure, several concessional rates are being incorporated in the Customs Tariff Schedule itself instead of being prescribed through various notifications
- Certain proposals for sectors like Electronics, Gems and Jewellery, Chemicals, MSME, Exports, Tariff measure to encourage blending of fuel.
- Changes in rate of duty, tariff rates, etc. enclosed as Annexures



# Indirect Tax

## Special Economic Zone

- The Special Economic Zones Act, 2005 to be replaced with a new legislation by 30<sup>th</sup> September 2022 enabling the states to become partners in 'Development of Enterprise and Service Hubs'.
- Customs administration to be fully IT driven in SEZs

## Contact Us:

### Amit Nayyar

Senior Partner- Corporate & International Taxation

Email – [an@felixadvisory.com](mailto:an@felixadvisory.com)

### Jatin Kumar

Senior Manager - Direct Taxation

Email – [jk@felixadvisory.com](mailto:jk@felixadvisory.com)

### Anchal N. Arora

Director - Indirect Taxation

Email – [anchal@felixadvisory.com](mailto:anchal@felixadvisory.com)

### Bhupinder Madaan

Senior Manager - Indirect Taxation

Email – [bm@felixadvisory.com](mailto:bm@felixadvisory.com)



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