

# Key Highlights of Union Budget 2022

## Changes under the Income Tax Law



## Direct Tax

India is growing at an accelerated pace and people are undertaking multiple financial transactions. The Income Tax Department has established a robust framework of reporting of taxpayers' transactions.

The provisions of Finance Bill, 2022, relating to direct taxes seek to amend the Income tax Act, 1961 ('the Income tax Act'), to continue reforms in direct tax system through tax-incentives, removing difficulties faced by taxpayers and rationalization of various provisions with a view to achieving the above, the various proposals for amendments are organized broadly under the following heads:—

- (A) Rates of Income Tax
- (B) Promoting voluntary tax compliance and reducing litigation;
- (C) Socio economic welfare measures;
- (D) Widening and deepening of tax base;
- (E) Revenue mobilisation;
- (F) Phasing out of exemptions;
- (G) Rationalisation measures.

Following amendments have been proposed under Income Tax Laws in the Finance Bill, 2022 vide Clause 2 to 84 which shall be effective from April 01, 2022 as per Clause 1(2)(a) of the Finance Bill, 2022:

- 1. Levy of surcharge @ 12%** in cases where tax has to be charged and paid under sub-section (2A) of section 92CE (related to transfer pricing) or Section 115QA (which provides that a domestic company distributing its income through buy back of shares have to pay income tax /distribution tax @20%) or Section 115TA (Tax on distributed income to investors) or Section 115TD( Tax on accreted income) of the Income tax Act.
- 2. Tax deduction limit increased to 14% on employers contribution to NPS account of State Govt employees:**

In Section 80CCD of the Income tax Act, in sub-section (2), for the words “Central Government” wherever they occur, the words “Central Government or the State Government” shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 2020. So, by virtue of this amendment, Deduction for National Pension Scheme for State Government employees under Section 80CCC made at par with Central Government.

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**3. Set off of losses against undisclosed income:**

The proposed new Section 79A seeks to provide that notwithstanding anything contained in the Act, no set off of losses brought forward, or otherwise, or unabsorbed depreciation under sub-section (2) of Section 32 shall be allowed to an assessee while computing his total income in any previous year which includes undisclosed income –

- That is found in the course of a search under Section 132 or a requisition under Section 132A or a survey under Section 133A, other than under sub-section (2A) of that section,
- That is represented, either wholly or partly, by any entry in the books of account in respect of an expense or other documents maintained in the normal course relating to the previous year which is found to be false and would not have been found to be so, had the search not been initiated or the survey not been conducted or the requisition not been made.

**4. Health and Education cess shall not be allowed as business Expenses under Section 37 of Income tax Act:**

For the removal of doubts, it is hereby clarified that for the purposes of clause (a), in subclause (ii) of Section 40 of Income tax Act, the term “tax” shall include and shall be deemed to have always included any surcharge or cess, by whatever name called, on such tax.’

So, the income tax is not an allowable expenditure for computation of business income. This includes tax as well as surcharges. The ‘Health and Education Cess’ is imposed as an additional surcharge on the taxpayer for funding specific government welfare programs.

**5. Tax holiday extended for startups for 1 more year:**

In Section 80-IAC of the Income tax Act, in the Explanation below sub-section (4), in clause (ii), in sub-clause (a), for the figures “2022”, the figures “2023” shall be substituted.

**6. Income from virtual digital assets (Cryptocurrency) chargeable to tax @ 30%:**

As per the newly inserted Section 115BBH of the Income tax Act:

(1) Where the total income of an assessee includes any income from the transfer of any virtual digital asset, the income tax payable shall be the aggregate of—

- (a) the amount of income tax calculated on the income from transfer of such virtual digital asset at the rate of **thirty per cent.**; and



(b) the amount of income tax with which the assessee would have been chargeable, had the total income of the assessee been reduced by the income referred to in clause (a).

(2) Notwithstanding anything contained in any other provision of this Act,—

(a) **No deduction in respect of any expenditure (other than cost of acquisition)** or allowance or set off of any loss shall be allowed to the assessee under any provision of this Act in computing the income referred to in clause (a) of sub-section (1); and

(b) No set off of loss from transfer of the virtual digital asset computed under clause (a) of sub-section (1) shall be allowed against income computed under any other provision of this Act to the assessee and such loss shall not be allowed to be carried forward to succeeding assessment years.

#### **7. TDS on virtual digital assets**

A new section, **Section 194S** has been inserted, which states that any person responsible for paying to a resident any sum by way of consideration for transfer of a virtual digital asset, shall, at the time of credit of such sum to the account of the resident or at the time of payment of such sum by any mode, whichever is earlier, deduct an amount equal to **one per cent** of such sum as income tax thereon.

#### **8. Reduction in rates of Alternate Minimum Tax for Co-operative Society**

For co-operative societies, the rate of alternate minimum tax has been reduced from 18.5% to 15%.

#### **9. Not to file appeal against common question of law**

Clause 52 seeks to insert a new Section 158AB in the Incometax Act relating to procedure where an identical question of law is pending before the High Courts or Supreme Court.

#### **10. Provisions related to filing of updated return within the period of 2 years for correcting errors**

Any person, whether or not he has furnished a return under sub-section (1) or sub-section (4) or sub-section (5) of Section 139 (i.e. Original return filed before the due date, belated return, revised return respectively), for an assessment year (herein referred to as the relevant assessment year), may furnish an **updated return** of his income or the income of any other person in respect of which he is assessable under this Act, for the previous year relevant to such assessment year, in the prescribed form, verified in such manner and

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setting forth such particulars as may be prescribed, at any time within **twenty-four months** from the end of the relevant assessment year.

**11. Newly incorporated manufacturing entities will be incentivized under concessional tax regime for one more year**

Clause (a) of sub-section (2) of the Section 115BAB requires that the domestic company should be set-up and registered on or after the 1st day of October, 2019, and should have commenced manufacturing or production of an article or thing on or before the 31st day of March, 2023 for availing the benefit of concessional rate.

It is proposed to amend the said clause so as to extend the date of commencement of manufacturing or production of an article or thing from **31st March, 2023 to 31st March, 2024**.

**12. Rationalization of surcharge.**

Surcharge on AOPs capped at 15% to reduce the disparity in surcharge between individual companies and AOPs.

Surcharge on long term capital gains arising from transfer of any type of assets has been capped at 15%.

**13. Deduction of tax on benefit of perquisite in respect of business or profession**

Section 194R has been inserted to provide that any person responsible for providing to a resident, any benefit or perquisite, whether convertible into money or not, arising from business or the exercise of a profession, by such resident, shall, before providing such benefit or perquisite, as the case may be, to such resident, ensure that tax has been deducted in respect of such benefit or perquisite at the rate of **ten per cent.** of the value or aggregate of value of such benefit or perquisite.

Further, no deduction shall be made if the value of benefits passed on does not exceed Rs. 20,000.

**14. Tax Incentives to IFSC units**

- It is proposed to amend the clause (4E) of Section 10 so as to provide that exemption under the said clause (4E) shall also be applicable to the **income accrued or arisen to, or received by a non resident** as a result of transfer of offshore derivative instruments or over-the-counter derivatives entered into with an Offshore Banking Unit of an International Financial Services Centre, as referred to in sub-section (1A) of Section 80LA, which fulfils such conditions as may be provided by rules.
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- Clause (4F) of the said section provides exemption to any income of a non-resident by way of royalty or interest, on account of **lease of an aircraft** in a previous year, paid by a unit of an International Financial Services Centre as referred to in sub-section (1A) of Section 80LA, if the unit has commenced its operations on or before 31st March, 2024.
- It is proposed to amend the said clause to extend the said exemption to any income of a non-resident by way of royalty or interest, on account of **lease of a “ship”** paid by a unit of an International Financial Services Centre also.
- It is also proposed to insert a new clause (4G) to the said section so as to provide exemption to any **income received by a non-resident from portfolio of securities** or financial products or funds, managed or administered by any portfolio manager on behalf of such non-resident, in an account maintained with an Offshore Banking Unit, in any International Financial Services Centre as referred to in sub-section (1A) of Section 80LA, to the extent such income accrues or arises outside India and is not deemed to accrue or arise in India.

#### **15. Income tax relief on Covid -19 treatment expenses and compensation**

- Any sum of money received by an individual, from any person, in respect of any expenditure actually incurred by him on his medical treatment or treatment of any member of his family, in respect of any illness related to COVID-19 subject to such conditions, as may be notified by the Central Government in this behalf, shall not be the income of such person;
- Any sum of money received by a member of the family of a deceased person, from the employer of the deceased person, or from any other person or persons to the extent that such sum or aggregate of such sums does not exceed **ten lakh rupees**, where the cause of death of such person is illness relating to COVID-19 and the payment is, received within twelve months from the date of death of such person, and subject to such other conditions, as may be notified by the Central Government in this behalf, shall not be the income of such person.

#### **16. TDS on sale of immovable property**

Clause 56 seeks to amend Section 194-IA of the Income tax Act relating to payment on transfer of certain immovable property other than agricultural land.

- Sub-section (1) of the said section provides for deduction of tax by any person responsible for paying to a resident any sum by way of consideration for transfer of any immovable property (other than agricultural land) shall at the time of credit or
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payment of such sum to the resident at the rate of one per cent. of such sum as income tax thereon.

- Sub-section (2) of the said section provides that no deduction of tax shall be made where the consideration for the transfer of an immovable property is less than **fifty lakh rupees**.

**Amendment-** It is proposed to amend sub-section (1) of the said section to provide that the person responsible for paying to a resident any sum by way of consideration for transfer of any immovable property (other than agricultural land) shall at the time of credit or payment of such sum to the resident deduct tax at the rate of **one per cent** of such sum or the stamp duty value of such property, whichever is **higher**, as income tax thereon.

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