



Nucleus
ADVISORS

BUDGET

2022-23





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Direct Tax Proposals

TAX

Tax Rates (Individual)**Option 1 (Old Regime)****Individuals other than Senior Citizen**

Income (Rs.)	Proposed rate of tax (AY 2023-24)
Upto 2,50,000	Nil
2,50,001-5,00,000	5%
5,00,001-10,00,000	20%
10,00,001 and above	30%

Senior Citizen (Between 60 - 80 years of age)

Income (Rs.)	Proposed rate of tax (AY 2023-24)
Upto 3,00,000	Nil
3,00,001-5,00,000	5%
5,00,001-10,00,000	20%
10,00,001 and above	30%

Super Senior Citizen (Between above 80 years of age)

Income (Rs.)	Proposed rate of tax (AY 2023-24)
Upto 5,00,000	Nil
5,00,001-10,00,000	20%
10,00,001 and above	30%

Tax Rates (Individual)

Option 2 (New Regime)

Individuals other than Senior Citizen

Income (Rs.)	Proposed rate of tax (AY 2023-24)
Upto 2,50,000	Nil
2,50,001-5,00,000	5%
5,00,001-7,50,000	10%
7,50,001-10,00,000	15%
10,00,001-12,50,000	20%
12,50,001-15,00,000	25%
15,00,001 and above	30%

Surcharge to be added

Income (Rs.)	Proposed rate of tax (AY 2023-24)	Old Rate of Tax (AY 2022-23)
Upto 50 Lakhs	Nil	Nil
50 Lakhs - 1 Crore	10%	10%
1 Crore - 2 Crore	15%	15%
2 Crore - 5 Crore	25%*	25%*
Above 5 Crore	37%*	37%*

**Note- No deduction*

Note: Cess of 4% is leviable on the amount of income tax and surcharge, if any.

Rebate under Section 87A continues for a resident individual (whose income does not exceed 5,00,000). The amount of rebate is 100% of income tax calculated before education cess or 12,500 whichever is less.

*Surcharge on Dividend income and capital gains u/s 111A, 112 & 112A will be restricted to 15% only.

Tax Rates (Corporate)

Income (Rs.)	Proposed rate of tax (AY 2023-24)
Domestic Company having total income less than 1 Crore	30%*
Domestic Company having total income more than 1 Crore but less than 10 Crore	30%* plus surcharge of 7%
Domestic Company having total income more than 10 Crore	30%* plus surcharge of 12%
Other Company having total income less than 1 Crore	40%
Other Company having total income more than 1 Crore but less than 10 Crore	40% plus 2%
Other Company having total income more than 10 Crore	40% plus 5%

Note: Cess of 4% shall be levied over and above the above taxes.

**Reduced rate of 25% shall be applicable where total turnover / receipts in the last P.Y. does not exceed Rs 400 Cr.*

**Reduce Tax Rate 22% plus surcharge as applicable u/s 115BAA*

Tax Rates (Others)**Firms**

Flat tax rate of 30% and surcharge @ 12% of income tax if net income exceeds Rs 1 Cr. Additionally, cess of 4% is applicable.

Cooperative Societies

Particulars	Proposed rate of tax
Having total income of less than 10,001	10%
Having total income of more than 10,000 but less than 20,001	1,000 plus 20% of total income in excess for Rs.10,000
Having total income of more than 20,000	3,000 plus 30% of total income in excess of Rs. 20,000

Surcharge to be added

Income (Rs.)	Proposed rate of tax (AY 2023-24)	Old Rate of Tax (AY 2022-23)
Upto 1 Crore	Nil	Nil
1 Crore- 10 Crore	7%	12%
Above 10 Crore	12%	12%

Additionally, cess of 4% shall be levied.

A co-operative society resident in India have the option to pay tax at 22 per cent, as per the provision of Section 115BAD, Surcharge would be at 10% on such tax.

Cash credits under section 68 of the Act [AY 2023-24]

Existing Law

- Section 68 of ITA seeks to tax unexplained credits in the books of taxpayers, including any sums received by a closely-held company in form of share application money, share capital and share premium.
- It is imperative for the recipient taxpayer to satisfactorily explain the sources of such funds to the satisfaction of the Tax Authorities.

Proposal

- FB22 proposes to expand the scope of Section 68 to also include credits in form of loans or borrowing .
- However, an exception has been made for well-regulated entities - e.g. VCFs/VCCs registered with SEBI.

Amendment in Section 80 DD for Inclusion of State Government

Existing Law

The existing provision of section 80DD provides for a deduction to an individual or HUF, who is a resident in India for contribution made to LIC or any other insurance company for the benefit of the dependent who is suffering from disability. The deduction is available to the individual only if the scheme provides annuity or lumpsum amount after the death of such individual.

Proposal

It is proposed to allow deduction under the said section to the individual/ HUF even if the annuity or lumpsum amount is payable by the insurance company during the lifetime but upon attaining age of 60 years or more of the individual or the member of the HUF in whose name subscription to the scheme has been made and where payment or deposit has been discontinued.

Incentive for Manufacturing Company

Existing Law

Section 115BAB provides for an option of concessional rate of taxation @ 15% for new domestic manufacturing companies registered on or after 01.10.2019, and the company is required to commence manufacturing or production of an article or thing on or before 31st March 2023.

Proposal

It is proposed to amend section 115BAB to extend the date of commencement of manufacturing or production of an article or thing, to 31st March, 2024.

Section-140(1)(b) Extension in scope

Existing Law

The existing provision of section 149(1)(b) provides that if three years, but not more than ten years, have elapsed from the end of the relevant assessment year unless the Assessing Officer has in his possession books of account or other documents or evidence which reveal that the income chargeable to tax, represented in the form of asset, which has escaped assessment amounts to or is likely to amount to fifty lakh rupees or more for that year.

Proposal

After sub-section-1 new sub-section shall inserted where the income chargeable to tax represented in the form of an asset or expenditure in relation to an event or occasion of the value referred to in clause (b) of sub-section (1), has escaped the assessment and the investment in such asset or expenditure in relation to such event or occasion has been made or incurred, in more than one previous years relevant to the assessment years within the period referred to in particular clause, a notice under section 148 shall be issued for every such assessment year for assessment, reassessment or re-computation, as the case may be.

Dispute Resolution Committee [AY 2022-23]**Existing Law**

The existing provisions of the Act do not contain any provision which will enable the Assessing Officer to pass an order giving effect to the order or directions of the Dispute Resolution Committee.

Proposal

Now, it is proposed to insert a new sub-section to enable the AO to pass an order giving effect to the resolution of dispute by the DRC. However, since DRC is an alternate dispute resolution mechanism itself, a taxpayer may opt for approaching either the Dispute Resolution Panel under section 144C of the Act or the DRC under section 245MA of the Act, and the AO shall pass the final order in conformity with the order by the DRC even in the case of an eligible assessee.

Change in Sec. 194-IA [AY 2022-23]**Existing Law**

As per the existing provisions of the section 194-IA Payment on transfer of certain immovable property other than agricultural land, TDS is to be deducted at the time of credit or payment of sum to the resident at the rate of 1% where the consideration for the transfer of an immovable property is more than fifty lakh rupees. The TDS is deducted on the amount of consideration paid for transfer of immovable property.

Proposal

TDS is to be deducted at the rate of 1% of such sum paid or credited to the resident or the stamp duty value of such property, whichever is higher. In case the consideration paid for the transfer and stamp duty value is less than fifty lakh rupees, no tax is to be deducted u/s 194-IA.

Amendment in proviso to Section 56(2)(X)

It is proposed to amend the proviso to section 56(2)(x) by inserting two new clauses in the proviso so as to provide that-

- 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 (without limit), or
 - from any other person or persons to the extent that such sum or aggregate of such sums does not exceed Rs. 10 lakh, where the cause of death of such person is illness relating to COVID-19 and the payment is, received within 12 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.

Continuity of Unabsorbed Tax Losses on Strategic Divestment of PSU

Finance Bill 2022 proposes to insert a new clause namely clause (f) which proposes that :-

The loss incurred in any year prior to the previous year shall be carried forward and set off against the income of the previous year to an erstwhile public sector company subject to the condition that the ultimate holding company of such erstwhile public sector company, immediately after the completion of strategic disinvestment, continues to hold, directly or through its subsidiary or subsidiaries, at least 51% of the voting power of the erstwhile public sector company in aggregate.

It is further proposed to provide that if the above condition is not complied with in any previous year after the completion of strategic disinvestment, the provisions of sub-section (1) shall apply for such previous year and subsequent previous years.

The terms “erstwhile public sector company” and “strategic disinvestment” shall have the meaning assigned to in clause (ii) and(iii) of the Explanation to clause (d) of sub-section (1) of Section 72A respectively.

No set off of losses consequent to search, requisition and survey

79A. Notwithstanding anything contained in this Act, Where no set off, against such undisclosed income, of any loss, whether brought forward or otherwise, or unabsorbed depreciation under sub-section (2) of section 32, shall be allowed to the assessee under any provision of this Act in computing his total income for such previous year.

Further, the term “undisclosed income” is proposed to be defined for above purpose, as that undisclosed income representing any money, bullion, jewelry or other valuable article or thing or any entry in the books of account or other documents or transactions, which has not been recorded in books or disclosed to PCIT/CIT, whether it was subject matter of search/seizure/survey/requisition proceedings, or not.

Amendment Section 179 and 194-IB

In section 179 of the Income-tax Act,--

- (a) in the marginal heading, the words “in liquidation” shall be omitted;
- (b) in the Explanation, after the word “interest”, the word “, fees” shall be inserted.

In section 194-IB of the Income-tax Act, in sub-section (4), the words, figures and letters “or section 206AB” shall be omitted.

Revenue mobilization measures Taxation of “Virtual Digital Assets” Section 115BBH

A new scheme has been introduced to provide for taxation of virtual digital assets (VDA) u/s Sec 115BBH which provides for taxation income from transfer of any virtual digital asset at the rate of 30%. However, no deduction in respect of any expenditure other than cost of acquisition or set off of any losses shall be allowed while computing income from transfer of such asset. Moreover carry forward of losses to subsequent assessment year will also be not allowed.

TDS on benefit or perquisite of a business or profession [AY 2022-23]

In order to widen and deepen the tax base, it is proposed to insert a new section 194R in the act so as to provide a new levy of TDS at the rate of 10% on transaction specified in Sec 28(iv) of the Income Tax Act. As per Sec 28(iv) of the Act, the value of any benefit or perquisite, whether convertible into money or not, arising from business or exercise of profession is to be charged as business income in the hand of the recipient of such benefit or perquisite.

Taxation of foreign dividend received [A Y 2023-24]

As per the existing provisions of Section 115BBD, any dividend income received from foreign company by any Indian company is taxable at the special rate of 15% subject to fulfillment of certain conditions. This concessional rate of tax has been abolished.

Power of Sec 263 given to TPO [AY 2022-23]

If CCIT or PCIT considers that any order passed by the TPO, working under his jurisdiction, to be erroneous in so far as it is prejudicial to the interests of revenue, he may pass an order directing revision of the order of TPO.

Power to CIT(A) to levy penalty u/s 271AAB, 271AAC and 271AAD of the Act [AY 2023-24]

It is proposed to amend the sections 271AAB, 271AAC and 271AAD by enabling the CIT (Appeals) also to levy penalty under these sections in case of enhancement is made by CIT(A).

Increase in Penalty u/s 272A

It is proposed to increase the amount of penalty from Rs. 100 per day to Rs. 500 per day for failures listed u/s 272A(2) like non-issue to TDS certificates, non-compliance of notice u/s 94(6), etc.

Reassessment u/s 148 & 148A

In order to simplify the procedures u/s 148, it is proposed to-

- (i) insert a new proviso to the effect that there is no requirement for approval for issuing notice u/s 148 if the AO has passed an order under 148A(d) with prior approval of the specified authority.
- (ii) to omit the requirement of approval of specified authority in following cases;-
 - any audit objection to the effect that the assessment in the case of the assessee for the relevant assessment year has not been made in accordance with the provisions of this Act; or
 - any information received under an agreement referred to in section 90 or section 90A of the Act; or
 - any information made available to the Assessing Officer under the scheme notified under section 135A; or
 - any information which requires action in consequence of the order of a Tribunal or a Court

Amendment of section 92CA

In section 92CA of the Income-tax Act, in sub-section (9), in the proviso, for the figures “2022”, the figures “2024” shall be substituted.

Incentives of NPS to State Government Employees [A Y 2020-21]

Under the existing provisions of the Act, any contribution by the Central Government to the NPS account shall be allowed as a deduction, if it does not exceed 14% of his salary where such contribution is made by the Central Government. This limit is presently 10% where such contribution is made by any other employer.

The State Governments were given an option to raise the contribution to 14% w.e.f 01.04.2019 on their own volition. In order to ensure that the State Government employees also get full deduction, it is proposed to increase the limit of deduction under section 80CCD of the Act to 14% in respect of contribution made by the State Government.

No deduction for cess and surcharge [A Y 2005-06]

Few courts has allowed the deduction of cess and surcharge in computing the income chargeable under the head “Profits and gains of business or profession”.

Now, new Explanation has been added w.e.f. AY 2005-06 to provide that the term “tax” includes and shall be deemed to have always included any surcharge or cess, by whatever name called, on such tax and the same will not be allowed as deduction under the head PGBP.

Incentive for Start Up

The existing provisions of the section 80-IAC of the Act provide for a deduction of an amount equal to 100% of the profits derived from an eligible business by an eligible start-up for 3 consecutive years out of 10 years, beginning from the year of incorporation, at the option of the assesses provided it is incorporated on or after the 1st day of April, 2016 but before 1st day of April 2022.

Now, it is proposed to extend the period of incorporation of eligible start-ups to 31st March, 2023.

Change in AMT by Co-operative Societies

Section 115JC of the Act provides for the alternate minimum tax (AMT) payable by co-operative societies, which is at the rate of 18.5%. However, the Minimum Alternate Tax (MAT) rate for companies has been 15% only. In order to provide parity between co-operative societies and companies, it is proposed to modify section 115JC(4) to reduce the AMT rate at 15% at which co-operative societies are liable to pay income-tax. Consequential amendment is also proposed in clause (b) of section 115JF in relation to the definition of “alternate minimum tax”

Disallowance u/s 14A [AY 2022-23]

Section 14A of the Act provides that no deduction shall be allowed in respect of expenditure incurred by the assessee in relation to exempt income.

It is proposed to amend section 14(1), so as to include a non- obstante clause in respect of other provisions of the Income-tax Act and provide that no deduction shall be allowed in relation to exempt income, notwithstanding anything to the contrary contained in this Act.

TDS on benefit or perquisite of a business or profession [AY 2022-23]

In order to widen and deepen the tax base, it is proposed to insert a new section 194R in the act so as to provide a new levy of TDS at the rate of 10% on transaction specified in Sec 28(iv) of the Income Tax Act.

As per Sec 28(iv) of the Act, the value of any benefit or perquisite, whether convertible into money or not, arising from business or exercise of profession is to be charged as business income in the hand of the recipient of such benefit or perquisite.

Set off-of loss in search cases [A Y 2023-24]

It is proposed to insert a new section 79A in the Act to provide that no set off of loss is allowed against the undisclosed income found/ surrendered consequent to proceeding u/s 132, or u/s 132A or a

u/s 133A, other than under section 133A(2A). In other words, where the total income of any previous year of an assessee includes any undisclosed income, the same cannot be set-off against any loss, whether brought forward or otherwise, or unabsorbed depreciation u/s 32(2) allowable to the assessee under any provision of this Act in computing his total income for such previous year.

TDS/TCS at higher rate u/s 206AB and 206CCA [AY2022-23]

It is proposed to reduce 2 years requirement to 1 year, by amending sections 206AB and 206CCA of the Act, to provide that “specified person” to mean as a person who has not filed its return of income for the assessment year relevant to the previous year immediately

preceding the financial year in which tax is to be deducted or collected, as the case may be, and the amount of tax collected and deducted at source is Rs. 50,000 or more in the said previous year. Hence, normal TDS rate will be applicable if conditions are fulfilled in 1 financial year.

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The above provisions of deduction or collection at higher rate will not apply in following cases:-

- TDS u/s 194-IA (Transfer of immovable property),
- TDS u/s 194-IB (Payment of Rent by Individuals & HUF), and
- TDS u/s 194M (Payment of sum exceeding Rs 50 Lakh by Individual & HUF)

Disallowance for expense in contravention of Law [AY 2022-23]

It is proposed to insert explanation 3 to section 37(1) to clarify that, the explanation 1, shall include and shall be deemed to have always included expenditure incurred by an assessee-

for any purpose which is an offense under, or which is prohibited by, any law for the time being in force, in India or outside India; or to provide any benefit or perquisite, in whatever form, to a person, whether or not carrying on a business or exercising a profession, and acceptance of such benefit or perquisite by such person is in violation of any law or rule or regulation or guidelines, as the case may be, for the time being in force, governing the conduct of such person; or to compound an offense under any law for the time being in force, in India or outside India.

New TDS on transfer of Virtual Digital Assets

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 1% of such sum as tax thereon u/s 194S.

Provided that in a case where the consideration for transfer of virtual digital asset is-

- (a) wholly in kind or in exchange of another virtual digital asset, where there is no part in cash; or
- (b) partly in cash and partly in kind but the part in cash is not sufficient to meet the liability of deduction of tax in respect of whole of such transfer, the person responsible for paying such consideration shall, before releasing the consideration, ensure that tax has been paid in respect of such consideration for the transfer of virtual digital asset.

Further, The provisions of sections 203A and 206AB shall not apply to a specified person. There is no need to deduct any TDS where-

- (a) the consideration is payable by a specified person and the value or aggregate value of such consideration does not exceed Rs. 50,000 during the financial year; or
- (b) the consideration is payable by any person other than a specified person and the value or aggregate value of such consideration does not exceed Rs. 10,000 during the financial year.

Specified Person” means a person,-

- (a) being an individual or a HUF, whose total sales, gross receipts or turnover from the business carried on by him or profession exercised by him does not exceed Rs. 1 crore in case of business or Rs. 50 lakh in case of profession, during the financial year immediately preceding the financial year in which such virtual digital asset is transferred;
- (b) being an individual or a HUF, not having any income under the head “Profits and gains of business or profession”.

New AIR by producers of cinematograph films

Under section 285B, it is proposed to include producers of cinematograph films or persons engaged in specified activities to expand the scope of reporting requirement in Form 52A to report particulars of all payments of over Rs. 50,000 in aggregate made by him or due from him to each such person as is engaged by him in such production or specified activity. “Specified Activities” would mean event management, documentary production, production of programs for telecasting on television or over the top platforms or any other similar platform, sports event management, other performing arts or any other activity as the Central Government may, by notification in the Official Gazette, specify in this behalf.

Effect of order of tribunal or court in respect of business reorganization

In many cases, it is seen that there is a gap between the effective date of merger order and the date on which such order is issued by the competent authority. This also affects the final accounts of such entities as they are unable to modify their already filed returns in accordance with the reorganization. In order to remove this anomaly, it is proposed to insert a new section 170A to the Act. Section-170A, Notwithstanding anything to the contrary contained in section 139, in a case of business reorganization, where prior to the date of order of a High Court or tribunal or an Adjudicating Authority as defined in clause (1) of section 5 of the Insolvency and Bankruptcy Code, 2016, as the case may be, any return of income has been furnished by the successor under the provisions of section 139 for any assessment year relevant to the previous year to which such order applies, such successor shall furnish, within a period of six months from the end of the month in which the said order was issued, a modified return in such form and manner, as may be prescribed, in accordance with and limited to the said order.

Disallowance of interest on conversion to debentures [AY 2023-24]

It is proposed to amend Explanation 3C, 3CA and 3D to section 43B so as to provide that conversion of interest payable u/s 43B clause (d), (da) & (e) 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. Hence, such interest, on being converted to debentures, is disallowed.

Penalty for passing on unreasonable benefits to trustee or specified persons

Under section 13 of the Act, trusts or institution under the second regime are required not to pass on any unreasonable benefit to the trustee or any other specified person. In order to discourage such misuse of the funds of the trust or institution by specified persons, it is proposed to insert a new section 271AAE in the Act to provide for penalty on trusts or institution under both the regimes which is equal to amount of income applied by such trust or institution for the benefit of specified person where the violation is noticed for the first time during any previous year and twice the amount of such income where the violation is notice again in any subsequent year. The proposed section seeks to operate without prejudice to any other provision of chapter XXI. Thus, if any penalty is leviable under any of the other provisions of this chapter, in addition to the proposed penalty, that penalty would also be applicable.

Deferment of Faceless Assessment in few cases [AY 2021-22]

As part of this process of making the tax administration transparent and efficient, provisions for notifying faceless schemes under sections 92CA, 144C, 253 and 264A were introduced in the Act through Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 with effect from 01.11.2020 and under section 255, was inserted through Finance Act, 2021 with effect from 01.04.2021 under which provides date of limitation March 31, 2022 for Sections 92CA, 144C, 253 and for section 255 date of limited was March 31, 2023. Section 92CA and section 144C are principally related to the transfer pricing functions and international taxation which are presently out of the regime of faceless assessment. New schemes for these two functions are a part of the assessment function and should follow the faceless assessment procedure, wherein certain modifications are proposed which will have an impact on the information technology structure. Therefore, notification at this time shall result in delay in stabilization of the systems. A scheme governing the procedures to be followed by such a body needs to be formulated after due consultations with Ministry of Law & Justice. Similarly, the scheme under section 253 have to follow the scheme under section 255. In light of the above limitations, it is proposed to extend the date for issuing directions for the purposes of these sections 92CA, 144C, 253 and 255 till 31st March, 2024.

Goods & Services Tax Proposals



Conditions for claiming ITC [Section 16(2) of CGST Act]

Existing Law

There are following 5 conditions for availing ITC:

- a) the taxpayer is in possession of a tax invoice;
- b) he has received the goods and services;
- c) he has furnished the return under section 39;
- d) the details of the invoice get reflected in GSTR 2B/2A;
and
- e) the tax charged in respect of such supply has actually been paid to the Government

Proposal

Now, the Government has proposed to insert sixth condition for claiming ITC: "ITC restricted in GSTR 2B cannot be availed"

Refund of Unutilized ITC [Section 54 of CGST Act]

Existing Law

The time limit for claiming refund of ITC on goods or services received by Embassy of foreign countries or other person notified under section 55 is six months from the last day of the quarter in which the said supply was received.

Proposal

The Government proposed to increase such time limit to two years from the last day of the quarter in which the said supply was received"

Matching of Invoices [Section 42 and 43 of CGST Act]

Existing Law

There are two-way-communication matching concepts in Sections 42, 43 and 43A of the CGST Act.

Proposal

Sections 42, 43 and 43A of the CGST Act are being omitted”

Interest on delayed payment of tax [Section 50 of CGST Act]

Existing Law

Interest @ 24% is levied for excess ITC claimed under section 42 or 43.

Proposal

The Government proposed to reduce the interest rate only to 18% and only on ITC that has been wrongly availed and utilized. Interest will not be levied if ITC is claimed but not utilized. The amendment proposed to be effective from 1st July 2017.

Levy of late fees [Section 47 of CGST Act]

Existing

Late fees is levied for delay in filing of GSTR 1, GSTR 3B and final return.

Proposal

The Government proposed to levy late fee for delay in filing of TCS return too.

Provisions of Cancellation of GST Registration Section 29(2)(b)

Existing Law

Composition dealer has not furnished returns for three consecutive tax periods; or any registered person, other than a composition dealer, has not furnished returns for a continuous period of six months

Proposal

Composition dealer has not furnished the return for a financial year beyond three months from the due date. A person, other than composition dealer, has not furnished returns for such continuous tax period as may be prescribed.

Limitation period increased for certain activities [Section 16(4), 34, 37, 52 of CGST Act]

Existing Law

Earlier, 30 September of the subsequent year was the deadline for the following activities:

1. for claiming ITC of invoices;
2. for issuing credit notes against invoices;
3. for rectification of any error in GSTR-1; and
4. for rectification of any error in TCS return, for the financial year

Proposal

The Government has proposed to extend such date from 30th September to 30th November.

Input Tax Credit can be availed which is not restricted as per GSTR-2B:

Section 38 is an enabling provision to provide for auto drafted Input Tax Credit (ITC) Statement in Form GSTR-2B.

Section 38 of the CGST Act, 2017 is proposed to be substituted and Sub section (1) seeks to provide for prescribing such other supplies as well as the manner, time, conditions and restrictions for communication of details of inward supplies and input tax credit to the recipient by means of an auto-generated statement and to do away with two-way communication process in return filing.

Further Sub-section (2) seeks to provide for the details of inward supplies in respect of which input tax credit may be availed and the details of supplies on which input tax credit cannot be availed fully or partially by the recipient. The ITC cannot be availed in the following situations:

- Details of supplies furnished by the supplier within such period of taking registration as may be prescribed.
- Supplier has defaulted in payment of tax and such default has continued for the prescribed period.
- Output Tax payable as per GSTR-1 exceeds the output tax liability paid through GSTR-3B; and such difference exceeds the prescribed limit.
- ITC availed by supplier exceeds the ITC available in his GSTR-2B; and such difference exceeds prescribed limit.
- Supplier has defaulted in discharging his tax liability in accordance with Section 49(12) i.e., ITC can be utilized upto a specified limit for discharging output tax liability.
- Such other class of person as may be prescribed.

The proposed amendment seems to be harsh and draconian as it proposes to inter alia deny the credit to recipient in cases his supplier has availed the input tax credit in contradiction to the input tax credit reflected in his GSTR-2B.

Availment of ITC

Section 41 of the CGST Act is being substituted so as to do away with the concept of "claim" of eligible input tax credit on a "provisional" basis and to provide for availment of self assessed input tax credit subject to such conditions and restrictions as may be prescribed.

If outward tax liability has not been discharged by the supplier then the recipient has to reverse such input tax credit along with interest. However, upon payment of outward tax liability by the supplier, the recipient can re-avail such input tax credit

Amendment in GSTR-3B provisions:

Section 39 of the CGST Act, 2017 is proposed to be amended so as to:

- (i) provide that the non-resident taxable person shall furnish the return for a month by 13th day of the following month;
- (ii) provide an option to the persons furnishing return under proviso to sub-section (1), to pay either the self-assessed tax or an amount that may be prescribed;
- (iii) provide for an extended time up to 30th of November of the following financial year, for rectification of errors in the GSTR-3B return. Current time limit is up to due date of furnishing GSTR-3B of September month of next financial year
- (iv) provide for furnishing of details of outward supplies of a tax period under sub-section (1) of section 37 as a condition for furnishing GSTR-3B return.

Amendment in Payment of tax

Payment of tax, interest, penalty and other amounts [Section 49 of CGST Act]

The Government proposed to obtain a power to create rules - for restricting the utilization of amount available in credit ledger; and - for restricting the maximum proportion of output tax liability that can be discharged by utilizing ITC. Further, the Government has proposed to allow transfer of amount available in cash ledger of a registered person to the cash ledger of a distinct person (person with same PAN).

Supplier has defaulted in discharging his tax liability in accordance with Section 49(12) i.e., ITC can be utilized upto a specified limit for discharging output tax liability.

Protection of Data

After Section-135A of the Customs Act, New Section shall be inserted, namely Section-135AA:-

If a person publishes any information relating to the value or classification or quantity of goods entered for export from India, or import into India, or the details of the exporter or importer of such goods under this Act, unless required so to do under any law for the time being in force, he shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to fifty thousand rupees, or with both.

Action subsequent to inquiry, investigation or audit or any other specified purpose

Even after completion of assessment if custom officer finds out any duty short levied, not levied, short paid or not paid, erroneously refunded, drawback wrongly allowed, interest short/not paid or levied. such officer of customs shall, after causing inquiry, investigation, or as the case may be, audit, transfer the relevant documents,

Amendment in Section-28H Application for Advance Ruling

section 28H of the Customs Act provides that under clause (a) in sub-section (1), after the words “an application in such form and in such manner”, the words “and accompanied by such fee” shall be inserted; under clause (b) sub-section (3) shall be omitted; (c) in sub-section (4), for the words “within thirty days from the date of the application”, the words “at any time before an advance ruling is pronounced” shall be substituted.

Amendment in Section-28J Application for Advance Ruling

section 28J of the Customs Act provides that The advance ruling shall remain valid for three years or till there is a change in law or facts on the basis of which the advance ruling has been pronounced, whichever is earlier. In respect of any advance ruling in force on the date on which the Finance Bill, 2022 receives the assent of the President, the said period of three years shall be reckoned from the date on which the said Finance Bill receives the assent of the President.”.

Economic Highlights



AGRICULTURE, IRRIGATION AND RURAL DEVELOPMENT

- ✎ INR 2.83 lac crore proposed to be allocated towards Sixteen Action Points for Agriculture, Irrigation and Rural Development
- ✎ INR 1.60 lac crore allocated for Agriculture, Irrigation & allied activities.
- ✎ INR 1.23 lac crore allocated for Rural development & Panchayati Raj.
- ✎ KISAN beneficiaries to be covered under the KCC scheme.
- ✎ Comprehensive measures for 100 water-stressed districts proposed.

HEALTHCARE

- ✎ INR 69,000 crore allocated for overall Healthcare sector.
- ✎ INR 6400 crore (out of INR. 69,000 crore) for PM Jan Arogya Yojana (PMJAY).
- ✎ Targeting diseases with an appropriately designed preventive regime using Machine Learning and AI.
- ✎ Jan Aushadhi Kendra Scheme to offer 2000 medicines and 300 surgicals in all districts by 2024.
- ✎ TB Harega Desh Jeetega campaign launched - commitment to end Tuberculosis by 2025.

LIVESTOCK

- ✎ Doubling of milk processing capacity to 108 million MT from 53.5 million MT by 2025.
- ✎ Artificial insemination to be increased to 70% from the present 30%.
- ✎ MNREGS to be dovetailed to develop fodder farms.
- ✎ Foot and Mouth Disease, Brucellosis in cattle, sheep and goat to be eliminated by 2025.

BLUE ECONOMY

- ✎ INR 1 lac crore fisheries' exports to be achieved by 2024-25.
- ✎ 200 lac tonnes fish production targeted by 2022-23.
- ✎ 3477 Sagar Mitras and 500 Fish Farmer Producer Organizations to involve youth in fisheries extension.
- ✎ Growing of algae, sea-weed and cage culture to be promoted.
- ✎ Framework for development, management and conservation of marine fishery resources.

CULTURE & TOURISM

- ✎ Allocation of INR 2500 crore for 2020-21 for tourism promotion.
- ✎ An Indian Institute of Heritage and Conservation under Ministry of Culture proposed; with the status of a deemed University.
- ✎ 5 archaeological sites to be developed as iconic sites with on-site Museums in the states of Haryana, Uttar Pradesh, Assam, Gujarat, Tamil Nadu.
- ✎ 4 museums to be renovated.
- ✎ Maritime museum to be set up at Lothal- the Harrapan age maritime site near Ahmedabad, by Ministry of Shipping.

KISAN RAIL TO BE SETUP BY INDIAN RAILWAYS THROUGH PPP

- ✎ To build a seamless national cold supply chain for perishables (milk, meat, fish, etc.
- ✎ Express and Freight trains to have refrigerated coaches.

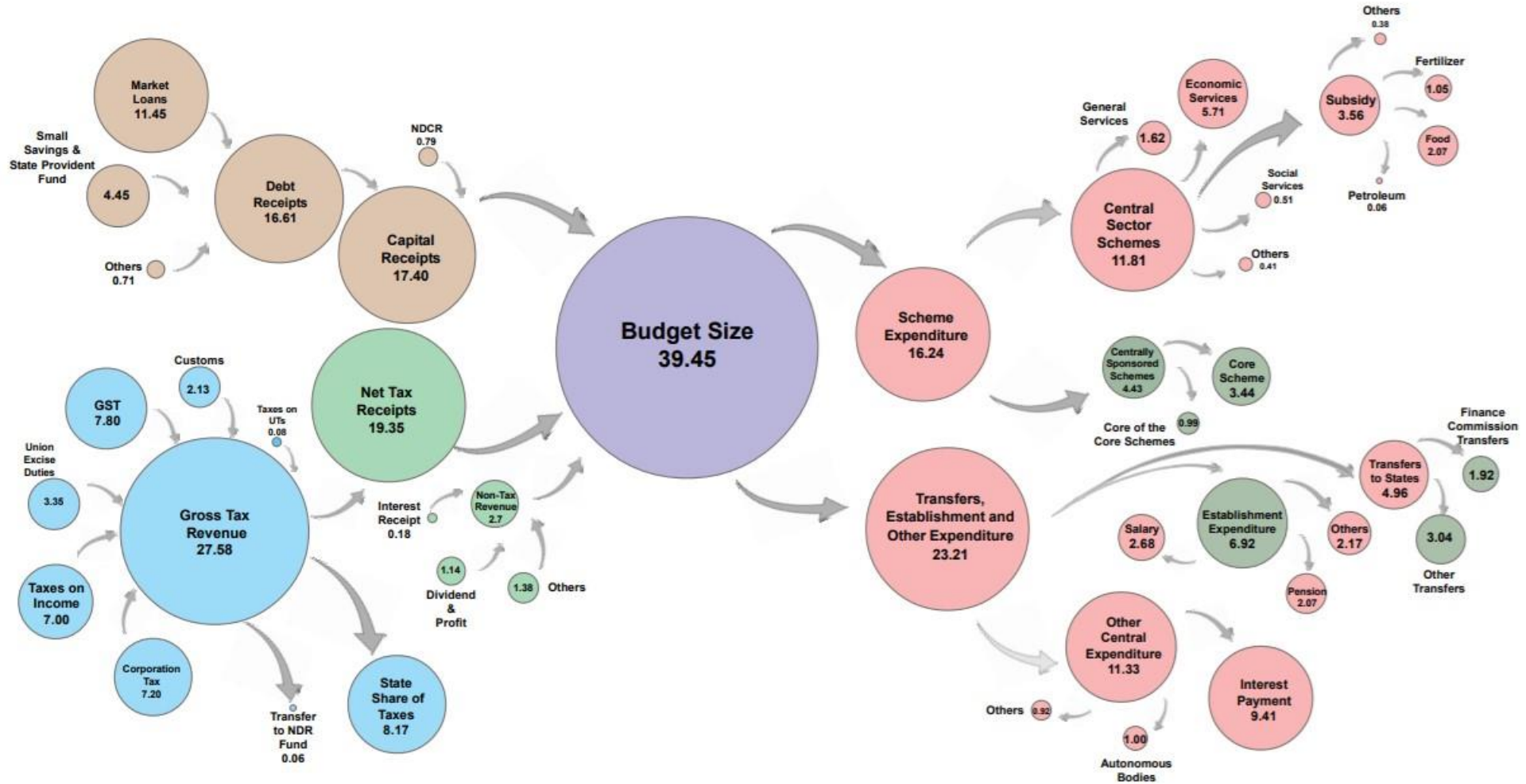
EDUCATION AND SKILLS

- ✎ INR 99,300 crore for education sector and INR 3000 crore for skill development.
- ✎ New Education Policy to be announced soon.
- ✎ National Police University and National Forensic Science University proposed for policing science, forensic science, and cyber-forensics. Degree level full-fledged online education program by Top-100 institutions in the National Institutional Ranking Framework.
- ✎ Upto 1-year internship to fresh engineers to be provided by Urban Local Bodies.
- ✎ Special bridge courses to be designed by the Ministries of Health, and Skill Development to fulfill the demand for teachers, nurses, para-medical staff and care-givers abroad.

SWACHH BHARAT MISSION

- ✎ INR 12,300 crore allocation for Swachh Bharat Mission in 2020-21.
- ✎ Emphasis on liquid and grey water management.
- ✎ Focus also on Solid-waste collection, source segregation, and processing.

बजट की रूपरेखा BUDGET PROFILE



Source: www.indiabudget.gov.in

About **Nucleus**

Nucleus Advisors LLP is a business consulting firm providing specialized services in the field of Investment Banking, Deal Transaction Advisory, Corporate Advisory, International Taxation, Audit & Assurance. We partner entrepreneurs in their critical decision making by providing them various analysis customized as per their requirement. We also help in the effective implementation of decisions and its subsequent monitoring as well.

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**THANK
YOU!**