UNION BUDGET 2021

TAX HIGHLIGHTS

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DIRECT TAX

Income Tax Rates



1. No change in the Personal tax rates, surcharge and health education cess.

2. No change in Income Tax rates for Firms, Limited Liability Partnerships, Companies (Domestic and Foreign) including rates for Minimum Alternate Tax and Alternate Minimum Tax.

Tax Incentives

3. In view of the situation arising due to COVID-19, tax exemption subject to fulfillment of conditions extended to cash allowance in lieu of Leave Travel Concessions.

4. Income Tax Return (ITR) filing exempted for people above 75 years having only pension and interest income, subject to certain prescribed conditions.

5. Tax Holiday available u/s 80-IBA to affordable housing project has been extended to rental housing projects notified by the Central Government. The proposed amendment will take effect from April 1st, 2022. Time-limit for approval of affordable housing project extended to March 31st, 2022.

6. Additional Incentives proposed for units located in International Financial Services Centre (IFSC – GIFT City).

6.1 Central Government to notify relaxation of conditions prescribed for eligible funds and fund managers where a fund manager located in IFSC commences operations on or before March 31st, 2024.

6.2 Income accrued or arising to, or received by a non-resident on the transfer of non-deliverable forward contracts entered into with an offshore banking unit, exempted from tax where the unit of the IFSC commences operations on or before March 31st, 2024

DIRECT TAX

6.3. The Bill proposes an exemption from capital gains arising to the shareholders of the original fund on the transfer of shares to the resultant fund.

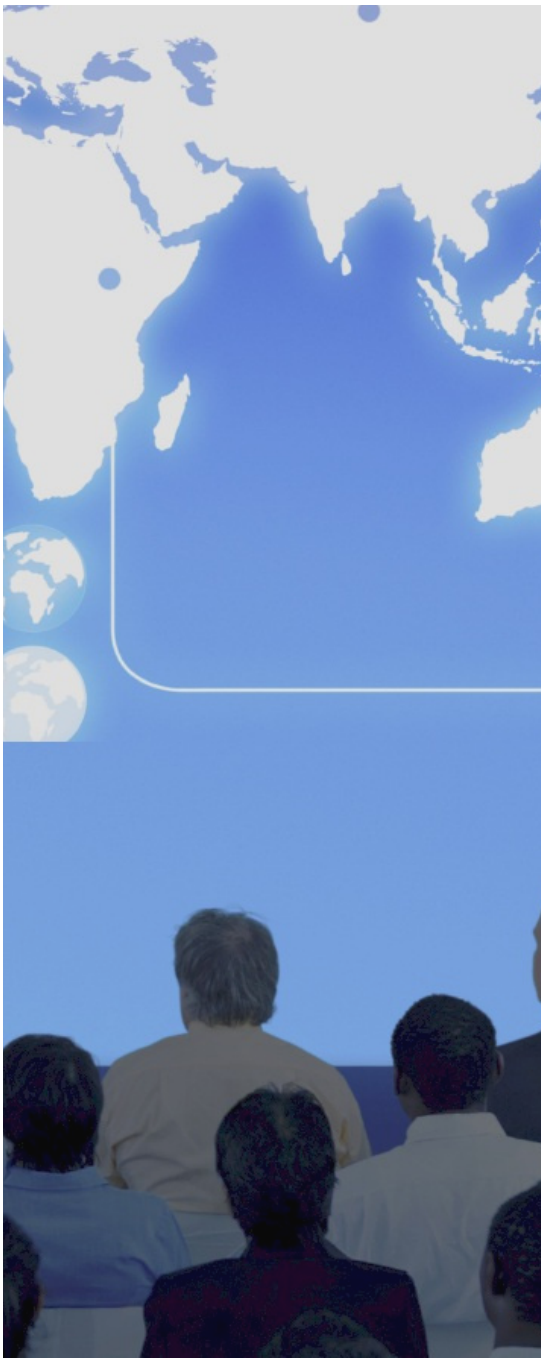
6.4. Income accruing by way of royalty on account of a lease of an aircraft to a unit of IFSC, is proposed to be exempted from tax, when the unit is eligible for deduction under section 80LA and has commenced operation on or before March 31st, 2024.

6.5. Transfer of an asset by an offshore fund i.e., original fund to the resultant fund on account of relocation, shall not be considered as 'transfer' for capital gains tax purposes, on fulfilment of prescribed conditions.

7. Specific Infrastructure debt funds notified by the Central Government allowed are to issue Zero-Coupon Bonds.

8. Tax Neutral benefits available upon re-organisation of cooperative banks extended to primary co-operative banks on converting into a banking company. Accordingly, the benefit of deductions and capital gains available during re-organisation also extended to such conversions.

9. Time limit prescribed for sanction of loan for claiming deduction in respect of interest on loan taken by a first-time buyer (Section 80EEA) extended from March 31st, 2021 to March 31st, 2022.



DIRECT TAX

Removing difficulties faced by the Taxpayers

10. The Last date for incorporating a start-up to qualify as an 'eligible start-up' for availing a Tax Holiday prescribed under Section 80-IAC, extended from April 1st, 2021 to April 1st, 2022.

11. Last day for making an investment in eligible start-ups for claiming exemption from tax on Capital Gains arising from the transfer of residential property, is extended from March 31st, 2021 to March 31st, 2022.12. In order to boost the demand in the real-estate sector and to enable the real-estate developers to liquidate their unsold inventory at a lower rate to home buyers, it is proposed to increase the safe harbour limit of 10% to 20%, subject to fulfilment of conditions.

13. Income in the nature of dividend, interest or long-term capital gains arising from an investment made by a Sovereign Wealth Fund (SWF) and Pension Fund (PF) in India is exempted from Tax. The exemption is available on making 100% investment. To remove difficulties in meeting this condition, the limit is proposed to be reduced to 50%. In this regard to further enlarge the scope of infrastructure activities, SWF/PFs are now allowed to invest through holding companies.

14. The Bill proposes to address the difficulties arising in making adjustments to book profit under provisions of Minimum Alternate Tax (MAT).

14.1. It provides that in cases where on account of an Advance Pricing Agreement (APA) or a secondary adjustment, the past year income is included in the books of accounts resulting in an increase in book profits of the current year, the Assessing Officer shall, on an application made to him, recompute the book profit of the past year(s).
14.2. It also provides a time limit of 4 years to commute the MAT liability commences from the end of the financial year in which the Assessing Officer receives the application in respect of recomputing the book profits.

15. Exemption from deduction of tax at source on payment of Dividend to insurance companies or insurers (Section 194) is extended to payment of dividend to business trust.

DIRECT TAX

16. An amendment is proposed in Section 196D of the Act. It provides that in case of Foreign Institutional Investors (FIIs), to whom the benefit of DTAA applies and who have furnished their tax residency certificate (TRC), the payee shall deduct TDS @ 20% or @ the rates provided in DTAA, whichever is lower.

17. In order to incentivize non-cash transactions to promote the digital economy and to further reduce the compliance burden of small and medium enterprises, the threshold limit for tax audit specified u/s 44 AB has been increased to INR 10 Crores from the existing limit of INR 5 Crores. The proposed amendment would take effect from 1st April 2021 (i.e. FY 20-21).

18. In respect of Section 234C, providing for payment of interest on failure to pay the advance tax installment, the Bill proposes to exclude dividend income while computing the advance tax.

19. Amendment is proposed to Section 44ADA of the Act to provide that the provision of presumptive taxation under the said section shall apply to an assessee, being an individual, HUF, or partnership firm, not being an LLP as defined under the Limited Liability Partnership Act, 2008.



DIRECT TAX

Rationalization of Various Provisions

20. In view of various judicial decisions, the Bill clarifies that for an employer to avail deductions for payment made to an employee contribution fund, the payment to the fund shall have to be made before the due date prescribed under the law.

21. The Bill proposes to insert new Section 245MA to constitute a new Dispute Resolution Committee (DRC). The DRC shall consider only those disputes where the returned income is less than Rupees Fifty lakh rupee (if there is a return) and the aggregate amount of variation proposed in a specified order is Rupees Ten Lakh or less.

22. The Bill proposes to constitute a Board for Advance Rulings and provides that the existing Advance Ruling Authority cease to operate from a notified date. The Board shall consist of two members, each being an officer not below the rank of Chief Commissioner. Advance rulings of such Board shall not be binding on the Applicant or the Department and if aggrieved, the Applicant or the Department may appeal against the ruling or the order passed by the Board, before the High Court.

23. The Bill proposes to reform the system of assessment; reassessment; re-computation of income escaping assessment and the assessment of search-related cases.

23.1. Under the new system, prior approval of PCCIT/PCIT is to be obtained for non-search cases.
23.2. In cases where the amount escaped assessment is more than INR 5 million, the time period for issuance of notice for initiating reassessment proceedings, is maintained at 10 years and in any other case, 3 years from the end of the relevant Assessment Year.
23.3. In respect of search cases, there is no time limit to issue of notice and provision of opportunity of being heard is laid off.



DIRECT TAX

24. Section 142 is proposed to be amended allowing a 'prescribed authority' to issue a notice in addition to the current powers of the Assessing Officer to issue a notice under the said section.

25. The Bill proposes to discontinue Income-tax Settlement Commission (ITSC) and instead proposes to constitute an Interim Board of Settlement for pending cases, following which ITSC shall cease to operate on or after 1st February 2021.

25.1. No application for settlement of cases shall be made on or after 1st February 2021.
25.2. Applications not declared invalid and in respect of which no order is issued, shall be treated as pending applications.
25.3. February 2021, onwards functions and powers of the ITSC viz. provisional attachment, exclusive jurisdiction over the case, inspection of reports and power to grant immunity, shall apply mutatis-mutandi to the Interim Board for the purposes of disposal of pending applications.

26. ULIP proceeds received on or after February 1st, 2021 is taxable if the premium paid in any previous year exceeds Rs. 250,000 over the policy term. The aggregate premium would be considered for the exemption limit.

27. ULIPs not qualifying for exemption will be considered as a 'capital asset' and gains of such ULIPs to be taxable at 10% if it qualifies as a long term capital asset.

28. The Bill proposes to widen the scope of 'slump sale'. It is defined to include transfer by way of exchange.

29. Interest on Provident Fund, where contribution made is in excess of Rs. 250,000 per annum, is proposed to be made taxable with effect from 1st April 2022.

30. In respect of reconstitution or dissolution of a specified entity (partnership firm or AOP or BOI), it is proposed to tax the receipt of a capital asset or any other asset received by a specified person (partner, member, etc.) as capital gains in the hands of the specified entity. This amendment will take effect from 1st April 2021.

DIRECT TAX



31. In the context of Equalization Levy, the Bill defines the term 'E-commerce supply' to mean an online sale of goods owned by the E-commerce operator; online provision of services provided by the E-commerce operator; online sale of goods or provision of services or both, facilitated by the E-commerce operator; or combination of activities referred herein.

32. With respect to depreciation on Goodwill, the Bill proposes not to consider Goodwill as a depreciable asset. It is clarified that in a case where goodwill is purchased by an assessee, the purchase price of the goodwill will continue to be considered as the cost of acquisition for the purpose of computation of capital gains. This amendment to take effect from April 1st, 2021 (i.e. FY 20-21 onwards).

33. Amendment is proposed to Section 44ADA of the Act to provide that the provision of presumptive taxation under the said section shall apply to an assessee, being an individual, HUF or partnership firm, not being an LLP as defined under the Limited Liability Partnership Act, 2008.

34. In respect of the Income Declaration Scheme (IDS) the Bill proposes to amend section 191 of the Finance Act, 2016, to provide that the excess amount of tax, surcharge or penalty paid in pursuance of a declaration made under IDS, shall be refundable to the specified class of persons without payment of any interest.

35. The Bill proposes to apply TDS on the purchase of goods @ 0.1% where the aggregate consideration exceeds INR 50 Lakh. In cases where a Permanent Account Number is not provided, TDS shall be applied @5%.

INDIRECT TAX

Goods & Services Tax (GST)

1. Supply of goods or services by clubs and associations to its members and vice-versa will be treated as supply for the purpose of levy of GST. This amendment overrides the ruling of the Supreme Court in the case of Calcutta Club which had held that no service tax is leviable to transactions between the club and its members.

2. Input tax credit on invoice or debit notes can be availed only upon submission of the statement of outward supplies by the supplier in Form GSTR-1 and reflected in Form GSTR-2A of the recipient.

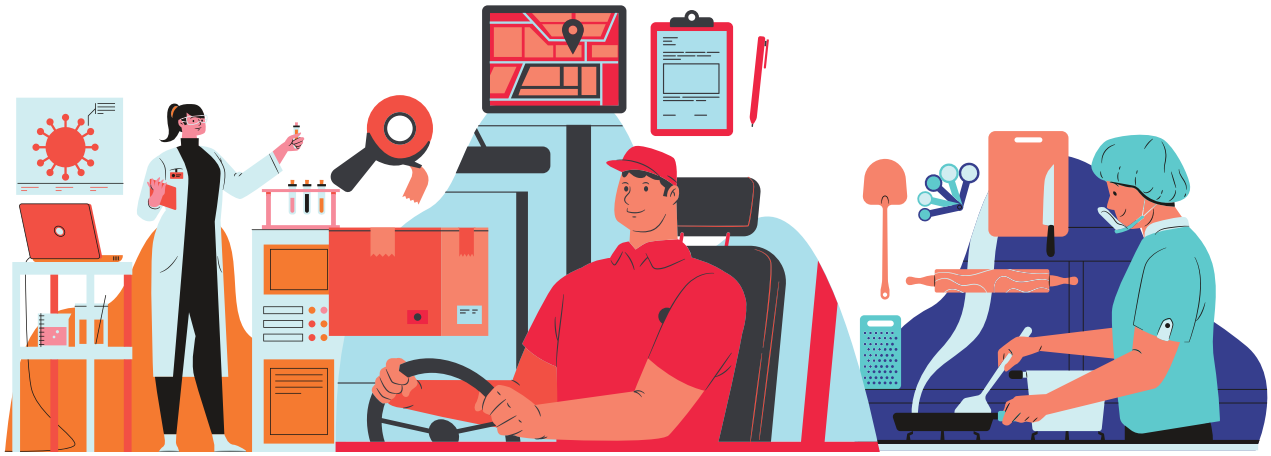
3. Section 50 has been amended to give effect to the interest liability on net tax payment basis with retrospective effect from 1st July 2017.

4. Seizure and confiscation of goods and conveyance in transit have been separated for the purpose of initiating proceedings for the recovery of tax.

5. The phrase “self-assessed tax” has been clarified in Section 75 to include the tax payable on outward supply furnished in GSTR-1 but not included in the return in GSTR-3B.

6. The validity of the provisional attachment shall remain valid for one year from the date of order of assessment, inspection, search, seizure and arrest

7. Upfront payment of 25% of the penalty amount made mandatory for filing of appeal against the order of detention or seizure.



INDIRECT TAX

Goods & Services Tax (GST)



8. The benefit of zero-rated supply of goods or services made to a SEZ developer or a SEZ unit is now available only when the said supply is for authorised operations.

9. Zero-rated supply on payment of IGST will henceforth be restricted to a notified class of taxpayers or notified class of goods or services.

10. Refund of tax paid on export of goods will be allowed on the receipt of the sale proceeds in foreign exchange, as per the RBI regulation.

11. Mandatory requirement of auditing the annual accounts and certification of reconciliation statement by specified professionals has been done away.

12. Annual returns can now be filed by the prescribed taxpayer on a self-certification basis. The Commissioner, based on the recommendation of the GST Council, can exempt a class of taxpayers from this requirement.

13. The Commissioner is empowered to call for information from any person relating to any matter in connection with the act without providing the opportunity of personal hearing.

INDIRECT TAX

Customs Duty

1. Common Customs Electronic (CCE) portal has been introduced to facilitate registrations, filing of bills of entry, shipping bills and other documents or forms, payment of duty and for carrying other specified functions under the law. This portal will also enable service of summons, notices and orders.

2. Section 25 of the Act amended to introduce a two-year sunset clause for all conditional exemption notifications. It will expire on March 31st falling immediate two years from the date of its issuance. All existing conditional exemptions will come to an end on March 31st, 2023.

3. In search and seizure cases, a time limit of 2 years, further extendable by 1 year by the Commissioner, has been provided for completion of the proceedings which would culminate in the issuance of a notice under Section 28 of the Customs Act.

4. Section 46 amended making it mandatory to file the bill of entry one day before the arrival of goods. The Board may notify the time period for presenting the bill of entry in certain specific cases.



INDIRECT TAX

Customs Duty

5. Export goods can be confiscated on a wrongful claim of refund or remission of duties by the exporter.

6. Stringent penalty would be levied in cases where input tax credit has been claimed on fraudulent invoices and the said credit is used for payment of IGST on exports effected under the claim of refund of the said tax.



7. Amendment to Section 149 introduced allowing a bill of entry or a shipping bill or export bill to be amended through the customs automated system. Certain amendments can be even carried out by the importer or the exporter on the common portal.

8. Provisions related to Anti-Dumping Duty, CVD and safeguard measures amended to introduce anti-absorption and provisions for retrospective levy in anti-circumvention cases. The period for revocation of anti-dumping duty on goods cleared from EOU and SEZ restricted to one year.

9. Import of goods at concessional duty will be allowed for job-work and sub-contracting purposes in addition to depreciation benefit on capital goods.

10. 351 amendments to the existing Tariff have been proposed in accordance with HSN 2022 and will come into effect from January 1st, 2022. This amendment is made to adapt to the current trade through the recognition of new product streams, the changing nature of commodities being traded, the advent of new technologies and addressing the environmental and social issues of global concerns.

INDIRECT TAX

Changes in Customs Duty

Automobile Parts	Basic Customs Duty increased from 10% to 15% on certain parts of automobiles
Ethanol Feeds	Basic Customs Duty (BCD) increased from 2.5% to 5% on ethanol feeds excluding dog, cat and shrimp feed.
Leather Goods	BCD increased from Nil to 10% on tanned, crust and finished leather of all kinds.
Silk/Cotton	BCD increased from 10% to 15% on raw silk whereas from NIL to 10% on cotton waste
Mobile Parts	BCD increased on specified parts of mobile phones and its charger or adapter
Aircraft Components	BCD is exempted on components, parts including engines of aircraft imported for manufacture of such aircraft or parts thereof by Defence PSUs
Compressors	Compressors used in refrigerating or air conditioning equipment will now be subject to BCD of 15% as against 12.5% earlier
Gold/Silver	Customs duty has been reduced on gold and silver
LED	BCD increased from 5% to 10% on inputs and parts of LED lights or fixtures including LED lamps
Printing Accesories	Inputs or raw materials of machines capable of connecting to an automatic data processing machine, ink cartridge, with or without print head assembly and ink spray nozzle will be subject to BCD @2.5%
Solar Devices	BCD on solar inverters increased to 20% whereon on solar lanterns and lamps to 15%
Medical Equipments	Health Cess has been exempted on import of medical devices imported by International Organisation and Diplomatic Missions
Steel	Levy of Anti-Dumping Duty on specified steel products imported from China, Indonesia, Vietnam, Brazil, and Germany have been rescinded till 30th September 2021
AIDC Goods	Rate of BCD on goods subject to new cess (AIDC) has been calibrated to reduce the impact on consumers

INDIRECT TAX

Agriculture Infrastructure and Development Cess (AIDC)

Levy of AIDC has been proposed, with immediate effect, on import of a small set of products including apples, crude palm and soybean oil, lentils, pulses, alcoholic beverages, coal, fertiliser, cotton, silver and gold. AIDC is also levied on locally manufactured petrol and diesel. The rate of cess varies from product to product. AIDC is not leviable on goods that are not chargeable to BCD. The cess collected will be used for the improvement of agriculture infrastructure and other development expenditure.

Central Sales Tax (CST)

The facility of Form C has been restricted to the registered dealer purchasing goods for re-sale or for use in the manufacture or processing of goods for sale. In other words, the amendment excludes the goods used in the telecommunication network or in mining or in generation or distribution of electricity or any other form of power.

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