DPNC GLOBAL

UNION BUDGET 2022-23 – A Snapshot





आत्मनिर्भर भारत

Digital India
Power To Empower

FOREWORD

What does one do when you're playing a grand slam final (*read striving towards being an economic superpower)*, you're two sets to love down (*read two years of covid down*) and all odds are stacked against you (*read rising inflation, widening fiscal deficit, declining global liquidity, increasing commodity prices, increasing unemployment, declining private investments)*?

Apparently, champions and leaders always have a plan, conviction, reasonable clarity, power and skill sets and with a little bit of luck, it seems you can create history! On Sunday, 30th January 2022, Rafael Nadal created history in just this fashion, defying all odds, sceptics and cynics.

On 1st February 2022, Our Finance Minister Ms. Nirmala Sitharaman under the leadership of our Honourable Prime Minister, tabled the Union Budget for FY 22-23 wherein she has made some arduous choices to continue our march toward an audacious target of India - A USD 5 trillion economic superpower.

The budget for FY 22-23 has estimated a deficit of 6.4% of GDP being close to INR 16.61 lakh crores (USD 2214.92 billions) while attempting to attain a GDP growth of 8-8.5% addressing a high unemployment rate which reflects a vacuum of 200 million jobs. With Covid still looming over our heads and an adult vaccination coverage of less than 60%, inflation at 5.2% for 2021-22 and lacklustre private investments, our Finance Minister had to make a fundamental choice:

- Achieving sustainable growth through capital investments creating jobs harnessing our youth, enhancing consumption, triggering private investments through a well established long term Multiplier Effect; or
- Driving up consumption with immediate effect through Direct Benefit Transfers, Subsidies and higher Welfare Spending, which too needs due consideration given the degree of suffering prevalent across India as an aftermath of Covid.

The choice made by the FM for this budget is one that is progressive and pro sustainable growth. It is built on the foundations of technology, infrastructure, digitisation, sustainability, financial inclusion, cooperative federalism, public private partnerships paving the way for India at 100 and a targeted Fiscal Deficit below 4.5% by FY 2026. More so, it is much in synch with the framework and decisions taken in their prior year budgets which should help optimise implementation.

Clocking a GDP growth of 9.2% for FY 21-22 and a record GST collection of around INR 1.4 lakh crores for January 2022, the economic engines are well in motion to potentially catapult the nation to double digit growth subject to implementation (as always!)
Our five key takeaways from the Budget theme are:

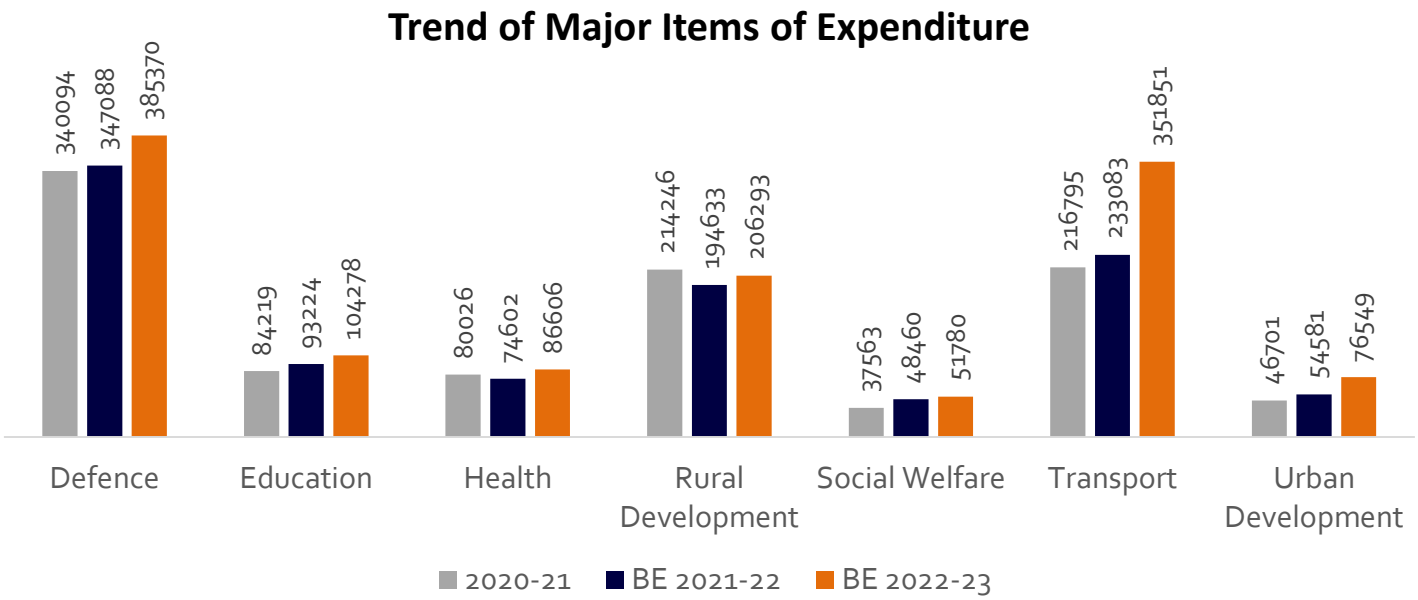
1. KEY BUDGETS AND ESTIMATES FY 21-22 and FY 22-23

- **Tax Revenue Receipts** for FY 21-22 were at RE of INR 17.5 lakh crores (USD 233.33 Billions) Vs. BE of INR 15.45 lakh crores (USD 206 Billions) highlighting the strong economic performance despite third onslaught of Covid. For FY 22-23, the BE are up by 10.5% to INR 19.34 lakh crores from PY RE.

- **Borrowings and Loans** for FY 21-22 to support Fiscal Deficit were up by 5.6% on RE of INR 15.91 lakh crores Vs. BE of INR 15.06 lakh crores For FY 22-23, the BE are up by 10.3% to INR 16.61 lakh crores from PY BE.
- **Disinvestment income/ Other Receipts** were at RE of INR 0.78 lakh crores Vs. BE of INR 1.75 lakh crores, recording a shortfall of 55% which also explains the higher Borrowings. For FY 22-23, the BE are down by 63% to INR 0.65 lakh crores.
- **Revenue Deficit** at 4.7% of GDP in RE FY 21-22 is at 3.8% of GDP in BE for FY 22-23 being a positive sign towards fiscal consolidation.

2. ALLOCATION OF CAPITAL FOR LONG TERM GROWTH

- **Capital Expenditure Allocation** has increased from INR 5.54 lakh crores in FY 21-22 to INR 7.5 lakh crores in FY 22-23 being an increase of 35%. Effective Capital Expenditure at INR 10.68 lakh crores in FY 22-23 is at 28% of total expenditure planned for FY 22-23.
- **Allocation to Healthcare, Education, Defence, and Social Welfare** as tabled below continue to increase moderately. However, if one adjusts Healthcare allocations for Covid expenditure, then the incremental allocation may be meaningful.



3. DIGITISATION AND FINANCIAL INCLUSION

- Development of **Digital University** under a Hub and Spoke model
- Digital Ecosystem for **Skilling and Livelihood** – DESH-stack e-portal
- National **Digital Health Ecosystem**
- **Drone Shakti** including **DrAAS** (Drone as a Service) including adoption of Kisan Drones for Crop Assessment, spraying insecticides etc.
- Digitisation of land records under a IT based management system - **'One Nation-One Registration'**
- **Digital Banking** through 75 digital banks across 75 districts
- **Anytime Anywhere Post Office Savings** with 1.5 lakh post offices across India to become part of core banking system enabling access through net banking, mobile banking, ATMs etc.

4. SUSTAINABLE DEVELOPMENT

- Promoting EV through **Battery Swapping Interoperability Standards**
- **Issuance of Sovereign Green Bonds** to finance Green Projects
- **Promoting** Public Transport, improved urbanisation plans, special mobility zones and **Clean and Sustainable Mobility**
- Transition to **Carbon Neutral and Circular Economy**

5. ATMANIRBHARTA

a. **PM GatiShakti driven by seven engines providing requisite infrastructure enabling the vision of AtmaNirbharta**
b. **Digital Rupee Currency** to enable digital transactions and deter certain other global Virtual Digital Assets.
c. **Defence Procurement** from domestic manufacturers increased to 68% from 58% in FY 21-22 and defence R&D increase
d. **Support to Sunrise Sectors** through thematic funds supported by government upto 20% of capital

In light of the above, DPNC Global is happy to present a brief compilation of the Union Budget FY 22 23 including analysis of key amendments to Direct Tax and Indirect Tax. Under Direct Taxes, some relevant amendments include:

1. **'Virtual Digital Assets'**: Introduction of taxation on income from **'Virtual Digital Assets'** is a significant change offering clarity and direction by the government on their stand on such Digital Assets (subject to RBI clarifications). However, not permitting set off and carry forward of losses or any expense against such income is clearly a deterrent for the asset class.
2. **Long Term Capital Gains:** Lower surcharge on long term capital gains will be of relief welcomed by all.
3. **Dividend Distribution Tax**: Abolishing concessional rate (15%) of taxation on divided paid by foreign companies to Indian corporates will adversely impact repatriation of accumulated profits held by such foreign entities.
4. **Minimise Litigation:** Amendments to minimise litigation including in relation to Section 14A, Section 37, Section 43B, Education Cess claim. Further, providing for filing of updated ITRs, litigation management in case of repetitive appeals, amendment related to assessment of non existent entity pursuant to reorganization and mandatory personal hearing in faceless assessments will all be steps towards Ease of Doing Business.

With the economic engines firing all cylinders as per data released, the significant uptick in Public Capital Expenditure combined with an expected increase in private capital participation, India could well achieve the unprecedented. All we need now is to stick with the plan, have conviction, reasonable clarity, strong implementation and a little bit of luck!

Team DPNC Global

Union Budget 2022-23– A Snapshot

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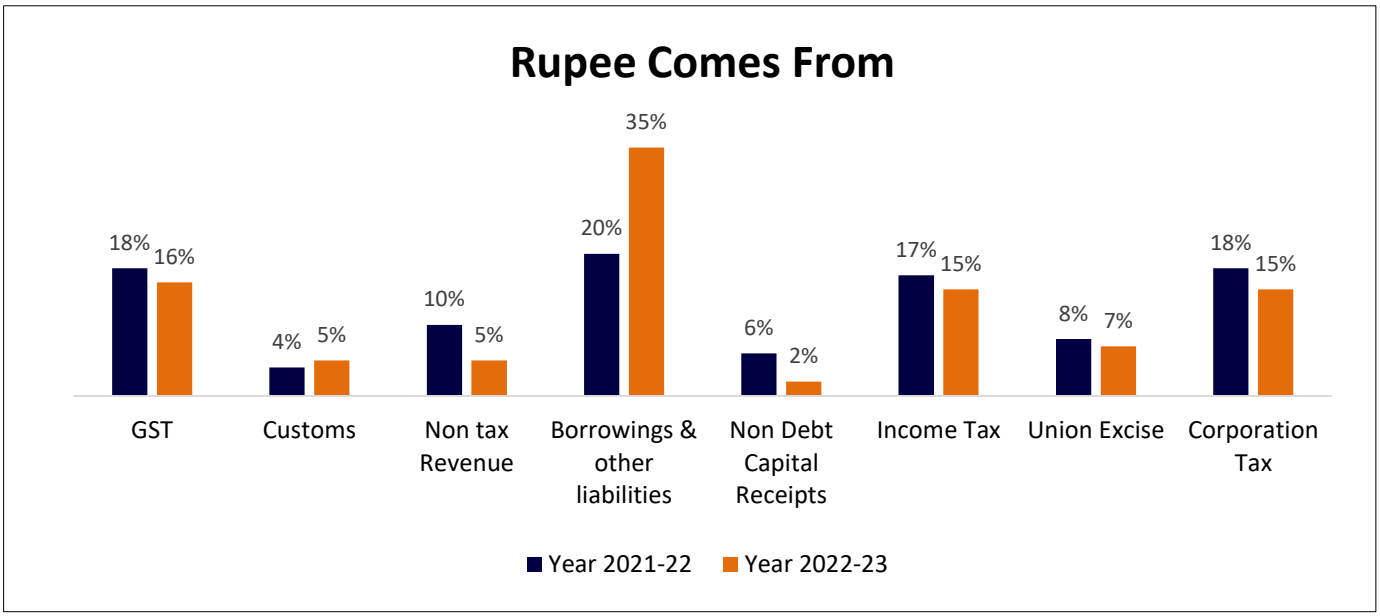
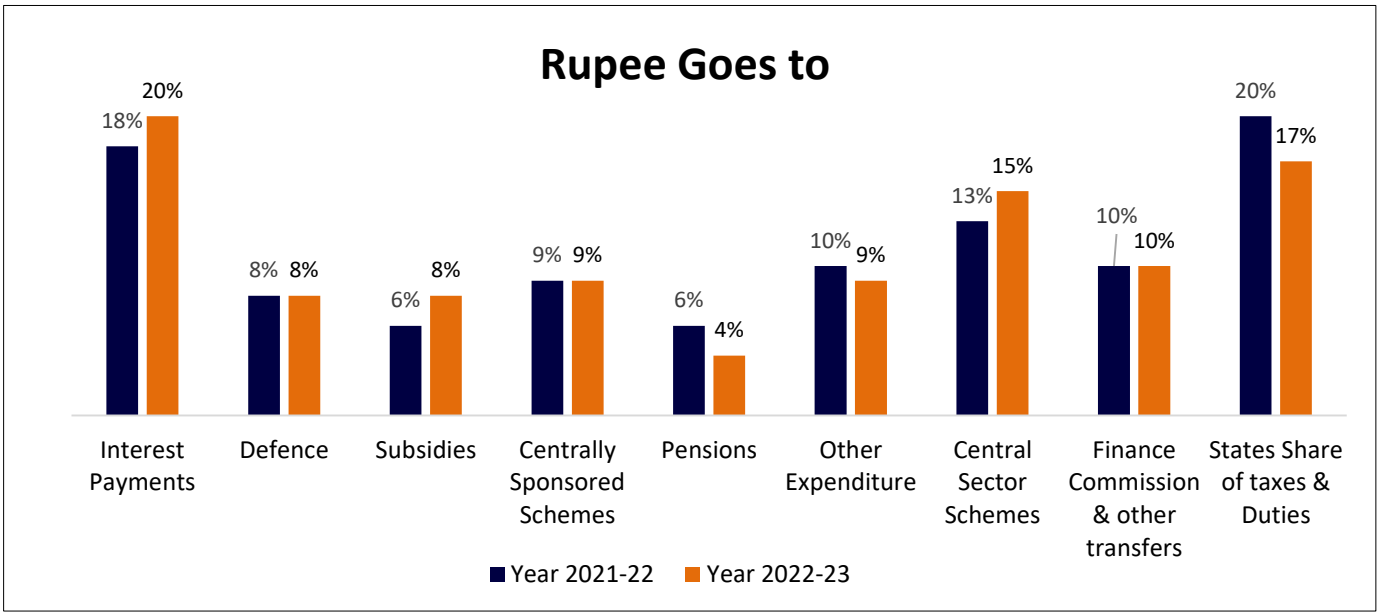
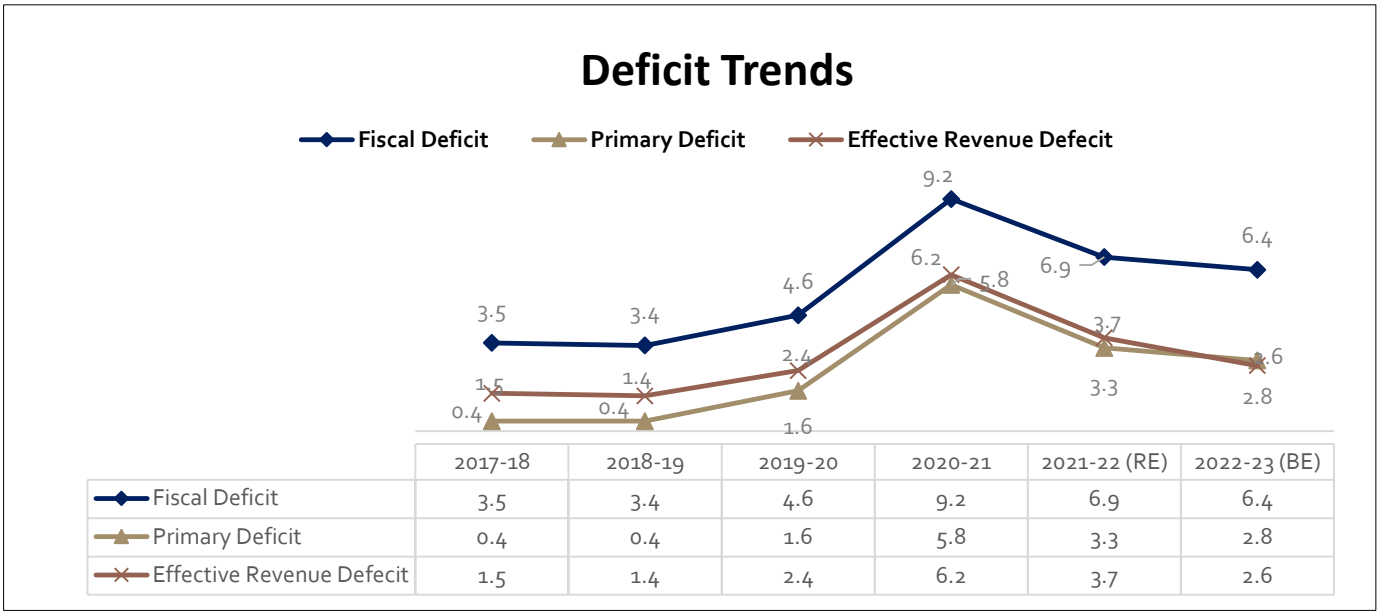
Budget Allocation and Fiscal Summary 2022-23

"The goal of 'Amrit Kaal' is to ascend to new heights of prosperity for India and the citizens of India. The goal of 'Amrit Kaal' is to create an India where the level of facilities is not dividing the village and the city. The goal of 'Amrit Kaal' is to build an India where the government does not interfere unnecessarily in the lives of citizens. The goal of 'Amrit Kaal' is to build an India where there is world's every modern infrastructure"

~ Hon'ble Prime Minister, Shri Narendra Modi







	2017-18	2018-19	2019-20	2020-21	2021-22 (RE)	2022-23 (BE)
Fiscal Deficit	3.5	3.4	4.6	9.2	6.9	6.4
Primary Deficit	0.4	0.4	1.6	5.8	3.3	2.8
Effective Revenue Defecit	1.5	1.4	2.4	6.2	3.7	2.6

Union Budget 2022-23– A Snapshot

Budget Theme and Allocation 2022-23

"This Budget seeks to lay the foundation and give a blueprint to steer the economy over the Amrit Kaal of the next 25 years – from India at 75 to India at 100. It continues to build on the vision drawn in the budget of 2021-22.
"

~Nirmala Sitharaman, Finance Minister of India

The country is marking "**Azadi ka Amrit Mahostav**" and have entered into "**Amrit Kaal**", being the 25 years long leadup to India@100. By achieving certain goals during Amrit Kaal, the Governnment aims to achieve the following Vision:

i. Complementing macro-economic level growth focus with micro level all-inclusive welfare focus;

ii. Promoting digital economy & fintech, technology enabled development, energy transition and climate action; and

iii. Relying on virtuous cycle starting from private investment with public capital investment helping to crowd-in private investment

Disinvestment by Government

- Strategic transfer of ownership of Air India completed
- Selected strategic partner for Neelanchal Ispat Nigam Limited (NINL)
- Public issue of LIC expected shortly.

The Union Budget continues to provide impetus for growth by laying parallel track for:

- A Blueprint for Amrit Kaal, which is futuristic and inclusive, directly benefiting youth, women, farmers, Scheduled Caste and Scheduled Tribes; and
- Big public investment for modern infrastructure, readying for India @ 100 guided by PM Gati Shakti and be benefited by synergy of multi-modal approach.

The Government has laid four priorities:

1) PM GatiShakti
2) Inclusive Development
3) Productivity Enhancement & Investment, Sunrise Opportunities, Energy Transition and Climate Action
4) Financing of Investments

1. PM GatiShakti

- Transformative approach for economic growth and sustainable development. Approach is driven by Seven engines, namely Roads, Railways, Airports, Ports, Mass Transport, Waterways and Logistics Infrastructure.
- The above engines are supported by the complementary roles of Energy Transmission, IT Communication, Bulk Water & Sewerage, and Social Infrastructure and powered by Clean Energy and Sabka Prayas leading to huge job and entrepreneurial opportunities for all especially youth.

A. PM GatiShakti National Master Plan

- Scope of PM GatiShakti National Master Plan will encompass seven engines for economic transformation, seamless multimodal connectivity and logistics efficiency including infrastructure developed by state governments. The focus will be on planning, financing including through innovative ways, use of technology, and speedier implementation.

B. Road Transport

- PM GatiShakti Master Plan for Expressways will be formulated and National Highways network will be expanded by 25,000 km in 2022-23. INR 20,000 crore will be mobilized through innovative ways of financing to complement the public resources.

C. Seamless Multimodal Movement of Goods and People

- Data exchange among all mode operators will be brought on Unified Logistics Interface Platform (ULIP) designed for Application Programming Interface (API) providing efficient movement of goods through different modes, reducing logistics cost and time, assisting just-in-time inventory management, and in eliminating tedious documentation.

D. Multimodal Logistics Parks

- Contracts for implementation of Multimodal Logistics Parks at four locations through PPP mode will be awarded in 2022-23.

E. Railways

- 'One Station-One Product' concept will be popularized to help local businesses & supply chains. 2,000 km of network will be brought under Kavach, the indigenous world-class technology for safety and capacity augmentation in 2022-23.
- Four hundred new-generation Vande Bharat Trains with better energy efficiency and passenger riding experience will be developed and manufactured during the next three years. One hundred PM GatiShakti Cargo Terminals for multimodal logistics facilities will be developed during the next three years.

F. Parvatmala: National Ropeways Development Programme

- National Ropeways Development Programme will be taken up on PPP mode aiming to improve connectivity and convenience for commuters, besides promoting tourism. This may also cover congested urban areas, where conventional mass transit system is not feasible. Contracts for 8 ropeway projects for a length of 60 km will be awarded in 2022-23.

G. Capacity Building for Infrastructure Projects

- With technical support from the Capacity Building Commission, central ministries, state governments, and their infra-agencies will have their skills upgraded. This will ramp up capacity in planning, design, financing (including innovative ways), and implementation management of the PM GatiShakti infrastructure projects.

2. Inclusive Development

A. Agriculture

- Chemical-free Natural Farming will be promoted throughout the country, with a focus on farmers' lands in 5-km wide corridors along river Ganga, at the first stage.
- A scheme in PPP mode will be launched for delivery of digital and hi-tech services to farmers.
- Use of 'Kisan Drones' will be promoted for crop assessment, digitization of land records, spraying of insecticides, and nutrients.
- A fund with blended capital, raised under the co-investment model, will be facilitated through NABARD to finance startups for agriculture & rural enterprise, relevant for farm produce value chain.

B. Ken Betwa project and Other River Linking Projects

- Implementation of the Ken-Betwa Link Project, at an estimated cost of INR 44,605 crore will be taken up. This is aimed at providing irrigation benefits to 9.08 lakh hectare of farmers' lands, drinking water supply for 62 lakh people, 103 MW of Hydro, and 27 MW of solar power. Allocations of INR 4,300 crore in Revised estimates for 2021-22 and INR 1,400 crore in 2022-23 have been made for this project.

C. Food Processing

- Government will provide a comprehensive package with participation of state governments for farmers to adopt suitable varieties of fruits and vegetables, and to use appropriate production and harvesting techniques.

D. Universalization of Quality Education

- One class-one TV channel' programme of PM eVIDYA will be expanded from 12 to 200 TV channels. In vocational courses, to promote crucial critical thinking skills, to give space for creativity, 750 virtual labs in science and mathematics, and 75 skilling e-labs for simulated learning environment, will be set-up in 2022-23.

E. Micro, Small and Medium Enterprises (MSME)

Udyam, e-Shram, NCS and ASEEM portals will be interlinked and scope will be widened. They will now perform as portals with live, organic databases, providing G2C, B2C and B2B services.

- Emergency Credit Line Guarantee Scheme (ECLGS) has provided much-needed additional credit to more than 130 lakh MSMEs. This has helped them mitigate the adverse impact of the pandemic. The said ECLGS will be extended up to March 2023 and its guarantee cover will be expanded by INR 50,000 crore to total cover of INR 5 lakh crore, with the additional amount being earmarked exclusively for the hospitality and related enterprises.
- Credit Guarantee Trust for Micro and Small Enterprises (CGTMSE) scheme will be revamped facilitating additional credit of INR 2 lakh crore for Micro and Small Enterprises and expand employment opportunities.
- Raising and Accelerating MSME Performance (RAMP) programme with outlay of INR 6,000 crore over 5 years will be rolled out.

F. Skill Development

- The National Skill Qualification Framework (NSQF) will be aligned with dynamic industry needs.
- Digital Ecosystem for Skilling and Livelihood – the DESH-Stack eportal– will be launched to empower citizens to skill, reskill or upskill through on-line training.
- Startups will be promoted to facilitate 'Drone Shakti' through varied applications and for Drone-As-A-Service (DrAAS).

G. Digital University

- A Digital University will be established to provide access to students across the country for world-class quality universal education with personalised learning experience at their doorsteps. This will be made available in different Indian languages and formats.

H. Ayushman Bharat Digital Mission

- An open platform, for the National Digital Health Ecosystem will be rolled out consisting of digital registries of health providers and health facilities, unique health identity, consent framework, and universal access to health facilities.

I. National Tele Mental Health Programme

- To better access to quality mental health counselling and care services, a 'National Tele Mental Health Programme' will be launched including a network of 23 tele-mental health centres of excellence, with NIMHANS being the nodal centre and International Institute of Information Technology-Bangalore (IIITB) providing technology support.

J. Mission Shakti, Mission Vatsalya, Saksham Anganwadi & Poshan 2.0

- Mission Shakti, Mission Vatsalya, Saksham Anganwadi and Poshan 2.0 were launched recently to provide integrated benefits to women and children. Saksham Anganwadis are a new generation anganwadis that have better infrastructure and audio-visual aids, powered by clean energy and providing improved environment for early child development. Two lakh anganwadis will be upgraded under the Scheme.

K. Har Ghar, Nal Se Jal

- Allocation of INR 60,000 crore has been made with an aim to cover 3.8 crore households in 2022-23.

L. Housing for All

- In 2022-23 80 lakh houses will be completed for the identified eligible beneficiaries of PM Awas Yojana, both rural and urban. INR 48,000 crore is allocated for this purpose.

M. Vibrant Villages Programme

- Villages on the northern border will be covered under the new Vibrant Villages Programme. The activities will include construction of village infrastructure, housing, tourist centres, road connectivity, provisioning of decentralized renewable energy, direct to home access for Doordarshan and educational channels, and support for livelihood generation.

N. Anytime – Anywhere Post Office Savings

- In 2022, 100% of 1.5 lakh post offices will come on the core banking system enabling financial inclusion and access to accounts through net banking, mobile banking, ATMs, and also provide online transfer of funds between post office accounts and bank accounts.

O. Digital Banking

- It is proposed to set up 75 Digital Banking Units (DBUs) in 75 districts of the country by Scheduled Commercial Banks.

P. Digital Payments

- The financial support for digital payment ecosystem announced in the previous Budget will continue in 2022-23.

3. Productivity Enhancement & Investment, Sunrise Opportunities, Energy Transition, and Climate Action

A. Green Clearances

- The scope of single window portal, PARIVESH, for all green clearances launched in 2018 will now be expanded, to provide information to the applicants. Based on location of units, information about specific approvals will be provided.

B. E-Passport

- The issuance of e-Passports using embedded chip and futuristic technology will be rolled out in 2022-23 to enhance convenience for the citizens in their overseas travel.

C. Urban Development

- A high-level committee of reputed urban planners, urban economists and institutions will be formed to make recommendations on urban sector policies, capacity building, planning, implementation and governance.

D. Clean & Sustainable Mobility

- The Government aims to promote a shift to use of public transport in urban areas by clean tech and governance solutions, special mobility zones with zero fossil-fuel policy, and EV vehicles

E. Battery Swapping Policy

- A battery swapping policy will be brought out and inter-operability standards will be formulated. The private sector will be encouraged to develop sustainable and innovative business models for 'Battery or Energy as a Service'. This will improve efficiency in the EV ecosystem.

F. Land Records Management

- States will be encouraged to adopt Unique Land Parcel Identification Number to facilitate IT-based management of records. The facility for transliteration of land records across any of the Schedule VIII languages will also be rolled out.
- The adoption or linkage with National Generic Document Registration System (NGDRS) with the 'One-Nation One-Registration Software' will be promoted as an option for uniform process for registration and 'anywhere registration' of deeds & documents.

G. AVGC Promotion Task Force

- An animation, visual effects, gaming, and comic (AVGC) promotion task force with all stakeholders will be set-up to recommend ways to realize this and build domestic capacity for serving our markets and the global demand

H. Telecom Sector

A scheme for design-led manufacturing will be launched to build a strong ecosystem for 5G as part of the Production Linked Incentive Scheme.

To enable affordable broadband and mobile service proliferation in rural and remote areas, 5% of annual collections under the Universal Service Obligation Fund will be allocated.

The contracts for laying optical fibre in all villages, including remote areas, will be awarded under the Bharatnet project through PPP in 2022-23. Completion is expected in 2025.

I. Export Promotion

The Special Economic Zones Act will be replaced with a new legislation that will enable the states to become partners in 'Development of Enterprise and Service Hubs'.

J. AtmaNirbharta in Defence

68% of the capital procurement budget will be earmarked for domestic industry in 2022-23, up from 58% in 2021-22.

Defence R&D will be opened up for industry, startups and academia with 25% of defence R&D budget earmarked.

Private industry will be encouraged to take up design and development of military platforms and equipment in collaboration with DRDO and other organizations through SPV model.

An independent nodal umbrella body will be set up for meeting wide ranging testing and certification requirements.

K. Sunrise Opportunities

Artificial Intelligence, Geospatial Systems and Drones, Semiconductor and its eco-system, Space Economy, Genomics and Pharmaceuticals, Green Energy, and Clean Mobility Systems have immense potential to assist sustainable development at scale, modernize the country, provide employment opportunities for youth and make Indian industry more efficient and competitive.

L. Energy Transition and Climate Action

The budget proposes several near-term and long-term actions for energy transition and climate action.

M. Solar Power

To facilitate domestic manufacturing for the goal of 280 GW of installed solar capacity by 2030, an additional allocation of INR 19,500 crore for Production Linked Incentive for manufacture of high efficiency modules, with priority to fully integrated manufacturing units from polysilicon to solar PV modules, will be made.

N. Circular Economy

The Circular Economy transition is expected to help in productivity enhancement as well as creating large opportunities for new businesses and jobs.

O. Transition to Carbon Neutral Economy

5%-7% biomass pellets will be co-fired in thermal power plants resulting in CO2 savings of 38 MMT annually providing extra income to farmers and job opportunities to locals and helping avoid stubble burning in agriculture fields.

Energy efficiency and savings measures will be promoted through Energy Service Company (ESCO) business model. It will facilitate capacity building and awareness for energy audits, performance contracts, and common measurement & verification protocol.

"India's budget today shows the government will continue to reduce its deficit without harming the economy's recovery from the pandemic. The measured pace of fiscal consolidation will allow India to be the fastest growing major emerging economy in the world in 2022. We forecast GDP to expand by 9.0% this year compared to growth of 5.5% in China."

Mansoor Mohi-uddin, Chief Economist at Bank of Singapore

4. Financing of Investments

A. Public Capital Investment

- The outlay for capital expenditure in the Union Budget is once again being stepped up sharply by 35.4% from INR 5.54 lakh crore in the current year to INR 7.50 lakh crore in 2022-23. This has increased to more than 2.2 times the expenditure of 2019-20. This outlay in 2022-23 will be 2.9% of GDP.
- With this investment taken together with the provision made for creation of capital assets through Grants-in-Aid to States, the 'Effective Capital Expenditure' of the Central Government is estimated at INR 10.68 lakh crore in 2022-23, which will be about 4.1% of GDP.

B. Green Bonds

- As a part of the government's overall market borrowings in 2022-23, sovereign Green Bonds will be issued for mobilizing resources for green infrastructure. The proceeds will be deployed in public sector projects which help in reducing the carbon intensity of the economy.

C. GIFT-IFSC

- World-class foreign universities and institutions will be allowed in the GIFT City to offer courses in Financial Management, FinTech, Science, Technology, Engineering and Mathematics free from domestic regulations, except those by IFSCA to facilitate availability of high-end human resources for financial services and technology.
- An International Arbitration Centre will be set up in the GIFT City for timely settlement of disputes under international jurisprudence.
- Services for global capital for sustainable & climate finance in the country will be facilitated in the GIFT City.

D. Infrastructure Status

- Data Centres and Energy Storage Systems including dense charging infrastructure and grid-scale battery systems will be included in the harmonized list of infrastructure.

E. Venture Capital and Private Equity Investment

- Venture Capital and Private Equity invested more than INR 5.5 lakh crore last year facilitating one of the largest start-up and growth ecosystem. Scaling up this investment requires a holistic examination of regulatory and other frictions. An expert committee will be set up to examine and suggest appropriate measures.

F. Blended Finance

- Government backed Funds NIIF and SIDBI Fund of Funds have provided scale capital creating a multiplier effect. For encouraging important sunrise sectors such as Climate Action, Deep-Tech, Digital Economy, Pharma and Agri-Tech, the government will promote thematic funds for blended finance with the government share being limited to 20% and the funds being managed by private fund managers.

G. Digital Rupee

- Introduction of Central Bank Digital Currency (CBDC) will give a big boost to digital economy. Digital currency will also lead to a more efficient and cheaper currency management system. It is, therefore, proposed to introduce Digital Rupee, using blockchain and other technologies, to be issued by the Reserve Bank of India starting 2022-23.

H. Financial Assistance to States for Capital Investment

- The outlay for 'Scheme for Financial Assistance to States for Capital Investment' is being enhanced from INR 10,000 crore in the Budget Estimates to INR 15,000 crore in the Revised Estimates for the 2021-22.
- For 2022-23, the allocation is INR 1 lakh crore to assist the states in catalysing overall investments in the economy. These loans are over and above the normal borrowings allowed to the states

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Direct Taxation

"Union Commerce and Industry Minister on Tuesday said the Union Budget 2022-23 reflects a visionary framework for holistic and inclusive development of the country."

~Piyush Goyal, Union Commerce & Industry Minister

1. Personal Taxation

a) Tax Rate

There is no change in slab rate, surcharge and education cess except for the following. For details please refer Annexure A.

Rate of Surcharge on LTCG u/s 112 restricted to 15%

- At present Surcharge on Capital Gains on transfer of listed securities taxable u/s 111A & 112A is capped at 15%. While LTCG on other capital assets like Unlisted Shares, Immovable Property etc taxable u/s 112 earned by Individual/HUF/AOP/BOI is subjected to higher Surcharge of 25% or 37% as applicable.
- Now, Finance Bill 2022 has proposed to cap the Surcharge for LTCG u/s 112 to 15% as well.

Applicable w.e.f. Assessment Year (AY) 2023-24.

b) Virtual Digital Assets

New Tax Regime for Virtual Digital Assets (VDA)

- **Tax @ 30%:** It is proposed to introduce Section 115BBH w.e.f. AY 2023-24 which provides for charge of tax on income from transfer of any **virtual digital assets at the rate of 30%.** No deduction for any expenditure (apart from deduction for cost of acquisition) or allowance or set off of any loss shall be allowed while computing income from transfer of such asset. Further, no set off of any loss arising from transfer of virtual digital asset shall be allowed against any income and such loss shall not be allowed to be carried forward to subsequent AYs
- **Definition of Virtual Digital asset:** A new clause (47A) is proposed to inserted in Section 2 to define "Virtual digital asset" as (a) any information or code or number or token (not being Indian currency or any foreign currency), generated through cryptographic means or otherwise. (b) a non-fungible token or any other token of similar nature by whatever name called; (c) any other digital asset as may be notified by the Central Government.
- **Gifting of Virtual Digital assets is taxable:** It is proposed to modify Section 56(2)(x) w.e.f. AY 2023-24 to provide for taxing the gifting of virtual digital assets in the hands of the recipient and accordingly the expression "property" shall include virtual digital asset.
- **TDS on payment for Virtual Digital Assets:** Also, TDS @1% w.e.f July 1, 2022 has been introduced through a new section 194S on transfer of consideration paid/payable/in kind/exchange of another VDA to residents. However, specified persons are exempted for TDS liability.
- **Specified persons means** Individual or HUF having business or profession turnover **less than INR 1 crore** or professional receipts less than **INR 50 lacs or** Individual or HUF not having business or profession.

c) Compliances

Filing of updated Return u/s 139(8A) within 2 years from the end of AY

It is proposed to amend section 139 to provide that:

- Any person, whether or not he has furnished a return u/s 139, for an AY, may furnish an updated return of his income within 24 months from the end of the AY.
- The proposed Section 139(8A) shall not apply, if the updated return, is a return of a loss or has the effect of decreasing the total tax liability or results in refund or increases the refund due.
- A person shall not be eligible to furnish an updated return under the proposed Section 139(8A) in certain circumstances like search-initiated u/s 132 or survey conducted u/s 133A, assessment/ reassessment/ revision proceedings are pending or completed, information under PMLA Act, BMA Act, Benami Property Act, communicated to the person prior to filing of Updated return, etc.
- Such updated return shall be defective unless such return is accompanied by the proof of payment of Additional tax as required under the proposed section 140B.

- Additional Tax @ 25% of aggregate of tax and interest shall be payable if updated return is filed within 12 months from the end of AY. Else additional tax of 50% is payable.

In view of the proposed Section 139(8A) and new section 140B, consequential amendments in section 144, section 153, section 234A and section 234B and 276CC have also been proposed.

Applicable w.e.f. 01.04.2022

d) Incentives / Relaxations

Exemption of amount received for medical treatment and on account of death due to Covid-19

- In order to provide the relief as stated in the press statement dated 25.06.2021, it is proposed to amend Section 17(2) to state that any sum paid by the employer in respect of any expenditure actually incurred by the employee on his medical treatment or treatment of any member of his family in respect of any illness relating to COVID-19 shall not be forming part of "perquisite".

Further, it is proposed to amend Section 56(2)(x) to provide that-

- Money received by an individual, from any person, for expenditure actually incurred by him on his medical treatment or of his family, in respect of any illness related to COVID-19 shall not be the income of such person;
- 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 upto INR 10 Lakhs, 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 shall not be the income of such person.

Applicable with retrospective effect from AY 2020-21

Incentives to National Pension System (NPS) subscribers (State government employees)

- Limit of deduction u/s 80CCD proposed to be increased from the existing 10% to 14% in respect of contribution made by the State Government to the account of its employees.

Applicable with retrospective effect from AY 2020-21

Powers to CBDT to provide relaxation from imposition of fee for late filing of ITRs u/s 234F:

- It is proposed to amend Section 119 to empower CBDT to provide relaxation from provisions of section 234F (fee for delay in filing of ITR) to certain classes of persons by way of general or special orders considering the genuine hardships faced by them in filing return of income.

Applicable w.e.f. 01.04.2022

"Budget is clearly a Booster Shot for Infra Sector across many dimensions. Most important is the 35.4% increase in Infra capex outlay over last year. Takes it to ₹7.5 lakh crores. 5 overarching infra themes (1) "Nurturing growth through public investment" (2) Improving PPP structures (3) Urban Rejuvenation Capacity Building (4) Reform in public procurement & timely payments (5) Support to States for public works & power sector reforms."

Vinayak Chatterjee, Chairman CII National Infrastructure Council and Infrastructure Sector Expert

2. Corporate Taxation

a) Tax Rates

- There is no change in tax rate, surcharge and education cess except for the following. For details please refer Annexure A

Reduction of AMT payable by Co-operative Societies from 18.5% to 15%

- It is proposed to amend section 115JC and 115JF to reduce AMT payable by Co-operative societies from 18.5% to 15%. Applicable w.e.f. AY 2023-24

Rate of Surcharge restricted to 15% on Consortium of Companies

- It is proposed that in case of an Association of persons (AOPs) consisting of only companies as its members, the rate of surcharge shall not exceed 15%. Applicable w.e.f. AY 2023-24.

Rate of Surcharge reduced from 12% to 7% for Co-operative Society having income from INR 1 Cr. To 10 Cr.

- It is proposed to reduce the rate of surcharge from 12% to 7% in case the total income of a cooperative society exceeds INR 1 Cr but does not exceed INR 10 Cr Surcharge at the rate of 12% shall continue to be levied in case of a co-operative society having a total income exceeding INR 10 Cr. Applicable w.e.f. AY 2023-24.

Extension of Date of Commencement for New Manufacturing Companies eligible for lower 15% tax rate

- The provisions of Section 115BAB of the Act provides for concessional tax rate of 15% which is available for newly domestic manufacturing companies commencing manufacturing or production on or before Mar 31, 2023. This date of commencement of manufacturing or production is proposed to be extended to March 31, 2024.

b) Mergers & Acquisitions

Amendments applicable to Successor Entity In Case of Business Reorganizations

- There is a huge time gap between the date of filing of an application for business reorganization with the adjudicating authority / High Court/ Tribunal and date of decision of the Court. During this time, the proceedings under the IT Act are done on the predecessor entity. In the past, the Courts have held that in case the predecessor ceases to exist pursuant to a business reorganisation, then the tax proceedings against predecessor become illegal and void.

- It is proposed to amend Section 170 by inserting sub-section 2(A) (w.e.f. 01.04.2022) to provide that the assessment or other proceedings pending or completed on the predecessor during the pendency of business reorganization, shall be deemed to have been made on the successor. Business reorganization is defined to mean reorganization of businesses involving amalgamation or demerger of one or more persons.

- Further it is proposed to insert Section 170A (w.e.f. 01.04.2022) to provide that in cases where the business reorganisation is effective from a period in respect of which a return is already filed, the successor shall furnish a modified return of income, in prescribed manner, within 6 months from the end of the month in which NCLT order is issued.

- Additionally, a new section 156A has been inserted (w.e.f. 01.04.2022) to provide that where any notice of demand that has been issued under Section 156 is reduced as a result of an Order of an Adjudicating Authority as defined in Section 5(1) of the IBC 2016, the Assessing Officer shall modify the demand in accordance with such order and serve a notice to the taxpayer.

Reduction of Goodwill from Block Of Assets to be Regarded as 'Transfer'

- With effect from AY 2021-22 and onwards, Goodwill is not regarded as a depreciable asset. To enable this, Section 43(6)(C)(ii)(B) provides for reduction of the opening written down value of the Goodwill from the block of asset.
- It is clarified by way of an amendment to Section 50 that such reduction of the amount of goodwill of a business or profession, from the block of asset in accordance with sub item (B) of item (ii) of sub-clause (c) of clause (6) of section 43, shall be deemed to be transfer

Applicable w.e.f. AY 2021-22 and onwards

Amendment to Definition of Slump Sale

- Vide Finance Act 2021, definition of Slump Sale was amended to expand its scope to cover all types of transfers. However inadvertently, there was still a reference to the word "sales" in the definition.
- It is proposed to substitute the word "sales" with the word "transfer" to address any anomaly by way of an amendment to Section 2(42C))

Applicable w.e.f. AY 2021-22 and onwards

c) Start-Ups

Extension of Date of Incorporation for Eligible Start Up for Exemption

- The provisions of Section 80-IAC of the Act provides for deduction of an amount equal to 100% of the profits or gains derived by an eligible start-up for consecutive three assessment years subject to the start-up has been incorporated on or after 1st day of April, 2016 but before 1st day of April 2022.
- It is proposed to amend the provision of section 80-IAC of the Act (w.e.f. 01.04.2022) to extend the outer date for incorporation of the startup from 31.03.2022 to 31.03.2023

d) Withholding Tax

TDS@10% on "benefit or perquisite" arising from business or exercise of profession

- It is proposed to insert section 194R to provide that TDS@10% shall be deducted by any resident person providing a resident any benefit or perquisite exceeding INR 20,000/- convertible into money or not, arising from business or profession. However, the subject section shall not be applicable where the person providing benefit or perquisite is an individual or HUF whose total sales, gross receipts or turnover does not exceed INR 1 crore in case of business or INR 50 lacs in case of profession during the FY immediately preceding the FY in which such benefit or perquisite is given.

Applicable w.e.f 01.07.2022

Rationalization of provisions of TDS on Sale of Immovable Property in light of Stamp duty value.

- Currently Section 194-IA provides TDS at 1% on the consideration paid by the transferee to the transferor whereas Sections 43CA and 50C provide that transferor is subject to capital gains tax at the value of sale consideration or stamp duty value whichever is higher. In order to remove inconsistency, it is proposed to amend Section 194-IA to provide that TDS at 1% shall be deducted on the consideration paid or stamp duty value of the immovable property whichever is higher. In case the consideration paid for the transfer of immovable property and the stamp duty value of such property are both less than INR 50 lakhs, then no TDS is required to be deducted. Applicable w.e.f. AY 01.04.2022

Rationalization of provisions of section 206AB and 206CCA [Higher TDS and TCS for non-filers of ITR] to widen tax-base

- Section 206AB and 206CCA which provides for Higher TDS and TCS respectively for specified persons (non filers of ITR) is proposed to be amended 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 INR 50,000 or more in the said previous year. Applicable w.e.f. 01.04.2022

Application for refund of TDS deposited on payment to non-residents to be made to Assessing Officer (Section 239A)

- A new section 239A is proposed to be inserted which provides that if under a grossing-up arrangement, a person has made deduction of tax when no tax deduction was required, he may file an application for refund of such tax before the Assessing Officer. Existing process of claiming refund by filing an appeal u/s 248 (post deposit of tax) before CIT(A) is replaced. Furthermore, if that person is not satisfied with the order of the Assessing Officer, he may file an appeal against the same before the Commissioner (Appeals) u/s 246A.

Applicable w.e.f. 01.04.2022

Failure to pay TCS to be a prosecutable offence in line with non-payment of TDS

- Currently, failure to pay TDS to Central Govt. is a punishable offence u/s 278A/278AA liable for prosecution. However, similar provisions for offence with respect to TCS are not there in Section 278A/278AA.Therefore, it is proposed to include the offence of failure to pay TCS to be a prosecutable offence u/s 278A/278AA in line with non-payment of TDS.

Applicable w.e.f. 01.04.2022

e) Compliances

Widening of scope of reporting u/s 285B to include persons engaged in Specified Activities

- It is proposed to widen scope of section 285B to include persons engaged in Specified Activities which 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. Section 285A inter alia provides to furnish a statement containing particulars of all payments over INR 50,000/-.

Applicable w.e.f. 01.04.2022

"Very positive budget for infrastructure sector. Capital investments by Public sector will continue to ramp up economic growth. The support to states of around Rs. 1 lakh crore in FY22-23 Along with 50 year interest free loans could be a game changer.

Surety bonds to be allowed in place of Bank Guarantees for all procurement orders by Central ministries- will free up working capital for contractors and developer. As far as highways sector is concerned, PM GatiShakti Master Plan for Expressways to be formulated is a step in right direction to facilitate faster movement of people and goods. The National Highways network expansion to 25,000 km - along with a doubling of allocation to NHAI from 65000 crore to 1.3 lakh crore was the need of the hour.

As an infrastructure focused company I don't think we could have asked for more from the Government. 10/10"

Sanjit Bakshi, Director at Oriental Structural Engineers Pvt. Ltd.

3. International Tax /MNCs

a) Transfer Pricing

TPO's order is now subject to revisionary powers of revenue u/s 263

- It is proposed to grant revisionary powers u/s 263 to PCCIT, CCIT, PCIT, or CIT who is assigned the jurisdiction of transfer pricing, whereby any order passed by Transfer Pricing Officer (TPO) u/s 92CA may be subject to revision if it is considered prejudicial to the interest of revenue.
- Consequential changes are also be made in section 153 inter alia to provide two months time to the Assessing Officer to give effect to the order of TPO consequent to the directions in the revision order.

Applicable w.e.f. 01.04.2022

b) International Tax

Tax incentives to IFSC

To further incentivize operations from IFSC following amendments are proposed:

- Section 10(4E) to be amended to extend exemption to income accrued or arisen to or received by a non-resident as a result of transfer of offshore derivative instruments or OTC derivatives.
- Section 10(4F) to be amended to extend exemption to income of a non-resident by way of royalty or interest, on account of lease of a ship in a previous year, paid by a unit of an IFSC, if the unit has commenced its operations on or before the 31st March, 2024.
- Section 10(4G) to be amended 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 IFSC, to the extent such income accrues or arises outside India and is not deemed to accrue or arise in India.
- Explanation to Section 56(viib) to be amended to provide that specified fund shall also include Category I or a Category II Alternative Investment Fund which is regulated under the International Financial Services Centres Authority Act, 2019.
- Section 80LA(2)(d) to be amended to provide that in addition to the income arising from the transfer of an asset being an aircraft, the income arising from the transfer of an asset, being a ship, which was leased by a unit of the IFSC to any person shall also be eligible for deduction under section (1A) of the said section, subject to the condition that the unit has commenced operation on or before the 31st day of March, 2024. It is also proposed to provide that ship shall have the same meaning as provided under clause (4F) of section 10.

Applicable w.e.f. AY 2023-24

Section 115BBD providing concessional tax rate of 15% on dividend income received by an Indian Company from a specified foreign company abolished.

- To provide parity in the tax treatment in the case of dividends received by Indian companies from specified foreign companies vis a vis dividend received from domestic companies, it is proposed to withdraw section 115BBD of the Act which provides for a concessional rate of tax of 15%.

Applicable w.e.f AY 2023-24

4. Litigation

Litigation management system to be introduced to avoid repetitive appeals by revenue involving identical issues

- Section 158AB proposed to be introduced to provide a procedure that when an appeal is pending on an identical question of law before the jurisdictional High Court or Supreme Court in the assessee's own case or in the case of any other assessee for an AY then a collegium may decide and intimate the CIT or PCIT not to file any appeal before ITAT or HC in such cases which are on the identical question of law. Decision on deferment will be subject to acceptance by the assessee that question of law in its case is identical to the question in another case. Further, it is also proposed to insert sunset clause u/s 158AA that no direction can be made under the said section on or after 01.04.2022.

Applicable w.e.f. 01.04.2022

Amendment to Faceless Assessment Scheme

It is proposed to amend section 144B to provide for the following:

- Allow mandatory personal hearing if it is requested by the taxpayer. The income tax authority shall allow personal hearing through video conferencing or video telephony. (applicable w.e.f . 01.04.2022)
- Subsection(9) which provided that assessment proceedings shall be void if the procedures mentioned in section 144B was not followed is proposed to be omitted from its inception. (applicable retrospectively w.e.f . 01.04.2021)
- Timeline for issuing notification for faceless assessment scheme for transfer pricing assessments, proceedings with Dispute Resolution Panel and proceedings before ITAT extended from March 31, 2022 to March 31, 2024 (applicable w.e.f . 01.04.2022)

Rationalization of provisions relating to assessment and reassessment

- The requirement for approval to issue notice u/s 148 shall not required if the AO has passed an order u/s 148A(d) with prior approval.
- The requirement of approval of specified authority is omitted in respect of inquiries to be carried out by the AO u/s 148A.
- Scope of 'information' available with AO for reopening assessment widened to cover:
  - Any audit objection (as against CAG objection) that the assessment not made in accordance with provisions of Act
  - Exchange of information under tax treaties
  - Information available under scheme for faceless collection of information
- Information requiring action pursuant to order of Tribunal or Court
- In case of search, books of account/ documents/ assets are requisitioned, survey is conducted, AO deemed to have information for reopening upto ten years
- Re-opening upto ten years extended to cover cases where escaped income represented in form of:
  - Expenditure in relation to a transaction, event or occasion; and
  - Entry in the books of account
  - Investment in asset / expenditure incurred in multiple PYs – Notice to be issued for all such PYs (within the ten years' time limit) – where aggregate value exceeds INR 50 lacs.
- No order of assessment or reassessment or recomputation shall be passed by an Assessing Officer below the rank of Joint Commissioner, in respect of an AY to which clause (i) or clause (ii) or clause (iii) or clause (iv) of Explanation 2 to Section 148 apply except with the prior approval of the Additional Commissioner or Additional Director or Joint Commissioner or Joint Director

Applicable w.e.f. 01.04.2022

Clarification that 'Cess' & 'Surcharge' is nothing but tax and needs to be disallowed u/s 40

- It is proposed to insert an Explanation in section 40 retrospectively to clarify that the term "tax" includes and shall be deemed to have always included any surcharge or cess, by whatever name called, on such tax.
- Judicial interpretation allowing cess or surcharge as business expenditure is against legislative intent.

Applicable with retrospective effect from AY 2005-06.

Clarification that disallowance u/s 14A shall be made even if no exempt income is earned during the year.

- Some courts have taken a view that where no exempt income has been earned during a year, no disallowance u/s 14A can be made. This is stated to be against the legislative intent of both section 14A as well as section 37. Accordingly, it is proposed to insert Explanation to section 14A to clarify that the subject provisions shall apply and shall be deemed to have always applied in case where exempt income has not accrued or arisen or has not been received during the previous year relevant to an assessment year and the expenditure has been incurred during the said previous year in relation to such exempt income.

Applicable w.e.f AY 2022-23

Section 68 – Cash Credit - 'Source of Source' to be explained for loan or borrowings also.

- For cash credits u/s 68, at present the requirement of proving source of source only applies to share capital/share premium. Now it is proposed to amend section 68 to provide that the nature and source of any sum, whether in form of loan or borrowing, or any such amount by whatever name called credited in the books shall be treated as explained only if the source of funds is also explained in the hands of the creditor involved. However, this additional onus of proof of explaining the source in the hands of the creditor, would not apply if the creditor is a well-regulated entity, i.e., it is a Venture Capital Fund, Venture Capital Company registered with SEBI.

Applicable w.e.f. AY 2023-24

Clarification u/s 43B - Deduction not allowable on conversion of interest liability into other debt instrument.

- Some courts have taken a view that deduction u/s 43B can be claimed on account of conversion of interest payable on an existing loan into a debenture or any other instrument on the ground that such conversion is a constructive discharge of interest liability and amounts to actual payment. This is stated to be against the intent of legislation. Accordingly, it is proposed to amend Explanations to section 43B to provide that conversion of interest 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.

Applicable w.e.f AY 2022-23.

Rationalisation of Bonus Stripping and Dividend Stripping Provisions

- The present provisions of bonus stripping do no apply to securities and also do not cover the units of AIFs, REITs and InvIT. Further provisions of dividend stripping do not cover the units of AIFs, REITs and InvIT.
- It is proposed to amend section 94(8) (w.e.f. 01.04.2023) relating to bonus stripping to cover securities in addition to units. Further the explanation to 94(8) is proposed to be amended (w.e.f. 01.04.2023) to amend the definition of units to cover the units of AIFs, REITs and InvIT.

Clarification on allowability of expenditure u/s 37(1) for Pharma Cos. & for offence under foreign law

- It is proposed to insert another Explanation to section 37(1) to further clarify that the expression "expenditure incurred by an assessee for any purpose which is an offence or which is prohibited by law", under Explanation 1, shall include and shall be deemed to have always included the expenditure incurred by an assessee, —
  - for any purpose which is an offence 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 offence under any law for the time being in force, in India or outside India

Applicable w.e.f. 01.04.2022

Change in the title of section 179 to "*Liability of directors of private company*" instead of *"Liability of directors of private company in liquidation":*

- Section 179 makes each director of the private company jointly and severally liable for the payment of taxes that cannot be recovered from the private company itself. The title of the section is modified from "*Liability of directors of private company in liquidation*" to "*Liability of directors of private company"* to bring uniformity with the intent of the provisions since they are not conditional upon the company in liquidation

Applicable w.e.f. 01.04.2022

Permissibility of Carry Forward And Set off of Losses Available to Erstwhile Public Sector Undertaking Pursuant to Strategic Disinvestment

- It is proposed to amend Section 79 to provide that provisions of Section 79 shall not apply to erstwhile PSU which has become so as a result of strategic disinvestment provided that the ultimate holding company of such 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 such 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

Applicable w.e.f. 01.04.2022

Power is given to CIT(A) to levy penalty u/s 271AAB, 271AAC, and 271AAD

- In the spirit of making powers of Commissioner of Income Tax (Appeals) [CIT(A)] co-terminus with Assessing Officer, CIT(A) is now empowered to levy penalties u/s 271AAB, 271AAC, and 271AAD, in cases involving undisclosed income in cases of search u/s 132 or otherwise false entry, etc. in the books of accounts.

Applicable w.e.f. 01.04.2022

Penalty u/s 272A increased from INR 100 per day to INR 500 per day

- Section 272A of the Act provides for penalty for failure to answer questions, sign statements, furnish information, returns or statements, allow inspections etc. Based on the recommendation of CAG, the sum of penalty stands increased from INR 100 per day of default to INR 500 per day of the default.

Applicable w.e.f. 01.04.2022

No set-off of losses or unabsorbed depreciation allowed against undisclosed income or suppressed sales detected during search or survey operations

- Proposed to insert section 79A to provide that no set-off of losses or unabsorbed depreciation shall be allowed against undisclosed income, in consequence, to search u/s 132, requisition u/s 132A, or survey u/s 133A other than 133A(2A)

Applicable w.e.f. 01.04.2022

Amendment to enable the assessing officer to pass an order giving effect to the resolution of dispute by the Dispute Resolution Committee (DRC)

- Existing provisions of section 245MA do not contain provisions enabling the assessing officer to pass order giving effect to the order or directions of the DRC (inter alia comprising of initiation of penalty, issuance of notice of demand u/s 156 etc). In this regard, it is proposed to amend section 245MA to enable the assessing officer to pass an order giving effect.

Applicable w.e.f. AY 2022-23

Rationalisation of the provisions of Charitable Trust and Institutions

Cancellation of registration: It is proposed to substitute section 12AB(4) as well as insert the term 'specified violation' by way of Explanation to section 12AB(4) to provide as under:

- A PCIT/CIT can cancel the trust registration if he notices one or more specified violations during any previous year or has received a reference from the AO or case selected as per the board's risk management strategy.

- Scope of cancellation proposed to be enhanced to include inter alia
    - application of income other than for objects for which it is established;
    - non-maintenance of separate books of accounts in respect of incidental business activities or undertaking business activities not incidental to objects of the Trust;
    - the trust or the institution has applied any part of its income from the property held under a trust for private religious purposes which does not ensure for the benefit of the public
    - application of income for the benefit of a particular religious community.
    - activity being carried out which are not genuine or not in accordance with conditions it was subject to.

- Order for the cancellation to be passed within six months from the end of the quarter in which inquiry initiated.

Special tax rate: It is proposed to insert new section 115BBI, which will provide that following incomes of the trusts or institutions shall be chargeable to tax at the special rate of 30%, without allowing any expenditure or allowance or set-off of losses, etc., under the newly proposed section 115BBI:

a) Investment of funds in an unspecified manner
b) The benefit to the specified person
c) Income accumulated or set apart in excess of 15%
d) Deemed income under Section 11(1B) or Section 11(3)
e) Any income which is not included u/s 11(1)(c)

Earlier in the case of (a) and (b), the whole of the exemption was denied for that year irrespective of the amount of default, however, now the amount of default will be taxable @ 30%.

Penalty: It is proposed to insert section 271AAE to provide that if an unreasonable benefit is passed on to a specified person then a penalty equal to 100% of the amount applied in case of first-time default and 200% in case of any subsequent default

Clarification that application will be allowed only when it is paid: In order to remove ambiguity, it is proposed to insert explanation 3 to 10(23C) and Explanation to section 11 to clarify that any amount shall be considered as an application of income in the year in which it is actually paid irrespective of the method of accounting followed.

Tax on accreted income: It is proposed to amend section 115TD to propose that exit tax upon conversion of the charitable institution into a non-charitable institution to be extended to trusts or institutions covered u/s 10(23C) as well.

- Provisions under section 10(23C) and section 12AA/ 12AB (both, concerning the taxability of charitable trusts and institutions) proposed to be aligned
- Applicable w.e.f. AY 2023-24

"To spur large scale domestic manufacturing, Budget 2022 provides for various incentives to the manufacturing sector including extension of the concessional tax regime at 15% for newly incorporated domestic manufacturing companies, replacement of the existing SEZ policy with a new regulation, phasing out of concessions in the imports of capital goods for certain products where sufficient domestic manufacturing capacity is available, all of which will provide the requisite filip to our government's Make in India initiative."

Tushaar Gautam, Chief Executive Officer of Sheela Foam Ltd.

Union Budget 2022-23– A Snapshot

Indirect Taxation

"Budget: trust based governance to build atmanirbhar bharat. Reposes faith in taxpayers, entrepreneurs, investors. Build an open, digital and inclusive India with a 25 year vision. I am proud to be Indian.".

-Uday Kotak
President, CII & CMD (Kotak Mahindra Bank)

1. Amendments in The Central Goods and Services Tax Act, 2017

- A new clause (ba) to sub-section (2) of section 16 is being inserted to provide that input tax credit with respect to a supply can be availed only if such credit has not been restricted in the details communicated to the taxpayer under section 38.
- Further, sub-section (4) of section 16 is being amended so as to provide for an extended time for availment of input tax credit by a registered person in respect of any invoice or debit note pertaining to a financial year upto 30th day of November of the following financial year.
- Clause (b) and (c) of sub-section (2) of section 29 are being amended so as to provide that the registration of a person is liable for cancellation, where:
  - I. A person paying tax under composition scheme has not furnished GSTR-04 for a financial year beyond three months from the due date;
  - II. A person, other than those paying tax under composition scheme (e.g. Regular taxpayers), has not furnished GSTR-3B for such continuous tax period as may be prescribed.
- Sub-section (2) of section 34 is being amended so as to provide for an extended time for issuance of credit notes in respect of any supply made in a financial year, upto 30th day of November of the following financial year.
- Section 37 is being amended so as to:
  - Do away with two-way communication process/matching concept in return filing as referred to in section 42 and/or 43;
  - Provide for an extended time upto 30th day of November of the following financial year for rectification of errors in respect of details of outward supplies furnished GSTR-1;
  - Provide for tax period-wise sequential filing of GSTR 1.
- Section 38 is being substituted for prescribing the manner as well as conditions and restrictions for communication of details of inward supplies and input tax credit to the recipient by means of an auto-generated statement i.e in form GSTR 2B and to do away with two-way communication process/matching concept in return.
- Section 39 is being amended so as to:
  - I. Provide that the non-resident taxable person shall furnish the return i.e. GSTR-5 for a month by 13th day of November the following month;
  - II. Provide an option to the persons furnishing return under proviso to sub-section (1) (e.g. taxpayer opting for QRMP scheme), to pay either the self-assessed tax or an amount that may be prescribed;
  - III. Provide for an extended time upto 30th day of November of the following financial year, for rectification of errors in the return in GSTR-3B;
  - IV. Provide for furnishing of GSTR-1 as a condition before furnishing GSTR-3B.
- Section 41 is being substituted so as to do away with the concept of "provisional claim" of input tax credit.
- Sections 42, 43 and 43A are being omitted so as to do away with two-way communication process/matching in return filing.
- Section 47 is being amended so as to provide for levy of late fee for delayed filing of GSTR-8.
- Section 49 is being amended to allow transfer of amount available in electronic cash ledger to electronic cash ledger of a distinct person;
- Sub-section (3) of section 50 is being substituted retrospectively, with effect from the 1st July, 2017,. so as to provide for levy of interest on input tax credit wrongly availed and utilized.
- Section 54 is being amended so as to:
  - Refund claim of any balance in the electronic cash ledger is delinked with filing of GSTR-3B;

- Provide the time limit for claiming refund of tax paid on inward supplies under section 55 (i.e. to ambassies, UN agencies, etc.) as two years from the last day of the quarter in which the said supply was received;
- Any refund under GST law can be withheld for any outstanding demand under GST law. Earlier only refund of ITC could have been withheld.
- Relevant date for filing refund claim in respect of supplies made to a Special Economic Zone developer or a Special Economic Zone unit will be counted from the due date of filing of GSTR-3B.

- GSTR-8 pertaining to any financial year can be rectified upto 30th day of November of the following financial year.
- Interest rate is amended from 24% to 18% under subsection (3) of section 50, retrospectively from the 1st day of July, 2017.
- Supply of alcoholic liquor license shall be treated neither as supply of goods nor services retrospectively from the 1st day of July, 2017. Any GST already paid is not refundable.
- Supply of incidental product generated during fish meal except fish oil is being treated as exempted supply retrospectively from the 1st day of July, 2017. Any GST already paid is not refundable.

2. Amendments under Customs Act, 1962 / Customs Tariff

- Section 3 is being amended to specifically include the officers of DRI, Audit and Preventive formation in the class of Officers. This amendment has been made to nullify effect of judgment of Hon'ble Supreme Court in the case of M/s Canon India Private Limited [Civil Appeal No. 1827 of 2018].
- Section 5 is amended to explicitly provide power of assignment of functions to officers of customs by the Board or as the case may be by the Principal Commissioner of Customs or Commissioner of Customs.
- Sub-section (4) to Section 5 is being inserted to delineate the criteria which the Board may adopt while imposing limitations or conditions under sub-section (1) or while assigning functions under sub-section (1A). For instance, one of the limitations/conditions that the Board currently imposes on "officers of customs" is that they are required to operate within a specified territorial jurisdiction. However, with the launch of faceless assessments and other trade facilitation initiatives wherein, for instance, a need is felt for the development of industry-specific expertise in assessments the Board may need to confine jurisdiction to certain goods or class of goods.
- Sub-section (5) to Section 5 is being inserted to ensure that wherever necessary, for the proper management of work, two or more officers of customs, can concurrently exercise powers and functions (for example in the case of faceless assessment).
- Section 14 is being amended to include provisions for rules enabling the Board to specify the additional obligations of the importer in respect of a class of imported goods whose value is not being declared correctly, the criteria of selection of such goods, and the checks in respect of such goods. This amendment is a measure to address the issue of undervaluation in imports.
- Section 28H is being amended to make provisions for prescribing appropriate fees by Board relating to application for Advance Ruling and also to give flexibility to the applicant to withdraw his application at any time before a ruling is pronounced as against current timeline of 30 days. Consequently, the sub-section (3) is being omitted.
- **Sub-section (2) under Section 28J** is being substituted so that advance ruling under sub-section (1) of Section 28J is now valid for a period of 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. A proviso is also being inserted to provide that the Advance Rulings in force on the date on which the Finance Bill, 2022 receives assent of the President, the said period of three years shall be reckoned from the date on which the Finance Bill receives assent of the President.

- **Section 110AA** is being inserted with a view to affirm the principle that, wherever, an original function duly exercised by an officer of competent jurisdiction, is the subject matter of a subsequent inquiry, investigation , audit or any other specified purpose by any other officer of customs, then, notwithstanding, such inquiry, investigation, audit or any other purpose, the officer, who originally exercised such jurisdiction shall have the sole authority to exercise jurisdiction for further action like reassessment, adjudications, etc. consequent to the completion of such inquiry, investigation, audit or any other purpose.

- **Section 135AA** is being inserted to protect the import and export data submitted to Customs by importers or exporters in their declarations by making the publishing of such information unless provided by the law, as an offence under Customs Act.

Amendments in Customs Duty rates and removal of exemptions:

i. A comprehensive review of custom duty exemptions has been undertaken and about 350 exemptions are being withdrawn.

ii. Customs tariff structure is being simplified so as to incorporate the duty rates in the tariff and relevant notification are being omitted.

iii. Specific exemptions are proposed for textile/footwear sector for import of specific items to be used in exports.

iv. For details refer https://www.indiabudget.gov.in/doc/memo.pdf

"Budget 2022 is a consistent, balanced and growth-oriented budget with Capex spend allocation rising by 35% which will certainly aid economic recovery. Having said that it is extremely disappointing that there are no specific support provided to the movie / exhibition sector which has been the worst impacted sector from Covid – 19. I continue to hope that Government will look into our demands which are essential for cinema business to reach pre-Covid levels"

Ajay Bijli, Chairman & Managing Director – PVR Limited

Union Budget 2022-23– A Snapshot

Company law, Foreign Exchange Management Act (FEMA) and Securities Law

"We reap what we sow. We are the makers of our fate. The wind is blowing: those vessels whose sails are unfurled catch it and go forward on their sails furled do not catch the wind. Is that the fault of the wind?... We make Our Own Destiny."

~Swami Vivekananda

Proposal for Accelerated Corporate Exit

- Lately, the MCA has come up with various measures, facilitations and dedicated central office for quick formation of Companies, reducing the time period of forming a Company significantly. On similar lines the Government proposes Centre for Processing Accelerated Corporate Exist (C- PACE) to facilitate and speed up the Voluntary Winding up Companies to less than 6 months from 2 years.

Streamlining of IBC Law

- The much-needed step for the timely and faster resolution of debt-ridden companies is proposed to be achieved by the Finance Minister through amendments in the Insolvency & Bankruptcy Code (IBC) structure to promote cross-border insolvency resolutions.

Ease of Doing Business

- The next phase of Ease of Doing Business EODB 2.0 and Ease of Living, to be guided by digitisation of manual processes, integration of the central and state-level systems through technology, a single point access for all citizen-centric services, and a standardization and removal of overlapping compliances.

- Proposal for adoption or linkage with National Generic Document Registration System ('NGDRS') with the 'One-Nation One-Registration Software' to promote uniform registration process for registration and 'anywhere registration' of deeds & documents.

"In addition to the already taken slew measures to boost rural economy, announcements for increasing digital penetration under BharatNet through PPP; Increased outlay on Pradhan Mantri Gram Sadak Yojana (PMGSY); push for fintech and setting up 75 Digital Banking Units (DBUs) in 75 districts by Scheduled Commercial Banks; reducing minimum tax for cooperatives to 15% and reducing surcharge to 7%, etc., will go a long way to promote equitable and economic growth in rural India."

Tarun Sawhney, Managing Director, Triveni Engineering & Industries Ltd

"Budget has been progressive and from a Real Estate industry perspective it has pushed forward on key areas of focus identified by the Government. Increased allocation towards Ministry of Housing & Urban Affairs is a big boost to the revival of the real estate sector. More than 8 million new dwelling in rural, urban areas to be completed under PM Aawas yojana and will greatly benefit the Housing sector. We would have liked the Input Tax Credit issue for realtors to get a mention in the Budget. But it did not happen. We will continue to work towards the same for a better and smooth functioning of the overall sector."

Sahil Vachani, MD & CEO - Max Ventures & Industries Ltd.

ANNEXURE - A

A. Personal Tax

Tax Slab for Individuals/HUFs : -

Tax Slab as per Section 115BAC	Tax Rate
Upto INR 2.5 lakhs	Exempt
INR 2.5 lakhs - INR 5 lakhs	5%
INR 5 lakhs – INR 7.5 lakhs	10%
INR 7.5 lakhs – INR 10 lakhs	15%
INR 10 lakhs – INR 12.5 lakhs	20%
INR 12.5 lakhs – INR 15 lakhs	25%
Above INR 15 lakhs	30%

Tax Slab as per Normal Provision	Tax Rate
Upto INR 2.5 lakhs	Exempt
INR 2.5 lakhs - INR 5 lakhs	5%
INR 5 lakhs – INR 7.5 lakhs	20%
INR 7.5 lakhs – INR 10 lakhs	30%

- No Tax on resident individual having taxable income upto INR 5,00,000 as a result of rebate of INR 12,500 u/s 87A under both Normal Provision and as per section 115BAC
- Section 115BAC is optional and is applicable if the individual/HUF agrees to forego prescribed deductions and exemptions under the Income Tax Act

Surcharge for Individuals/HUFs

Particulars	Tax Rate
Income exceeding INR 50 Lakh but not exceeding INR 1 Crore	10%
Income exceeding INR 1 Crore but not exceeding INR 2 Crore	15%
Income exceeding INR 2 Crore but not exceeding INR 5 Crore	25%
Income exceeding INR 5 Crore	37%

- Currently, Surcharge on Capital Gains on transfer of listed securities taxable u/s 111A & 112A and on dividend income is capped at 15%. Now, Finance Bill 2022 has proposed to cap the surcharge for LTCG u/s 112 to 15% as well.

Cess

- Health & Education cess in all cases remains unchanged at 4%.

ANNEXURE - A

B. Corporate Tax

Basic tax rates for companies are as under :-

Particulars	Tax rates
For domestic companies whose total turnover or gross receipts in the FY 2017-18 does not exceed Rs. 400 Crores	25%
For companies opting for Section 115BA	25%
For companies opting for Section 115BAA	22%
For companies opting for Section 115BAB	15%
For other domestic Companies	30%
MAT (except companies option for Sec 115BAA/115 BAB)	15%
Foreign Companies	40%

Surcharge for companies

Particulars	Domestic Company	Foreign Company
Income exceeding INR 1 crore but not exceeding INR 10 Crore	7%	2%
Income exceeding INR 10 crore	12%	5%

- For companies opting for Section 115BA/115BAA/115BAB Surcharge of 10% would be levied irrespective of the income

Cess

- Health & Education cess in all cases remains unchanged at 4%.

C. Firms and LLP

- Basic tax rate remains at 30% and surcharge rate is 12% where income exceeds INR 1 Crore.
- Health & Education Cess in all cases remains unchanged at 4%.

D. Co-operative Society

Particulars	Tax Rate
Income upto INR 10,000	10%
Income exceeding INR 10,000 but not exceeding INR 20,000	20%
Income exceeding INR 20,000	30%

- Resident Co – operative society has the option to pay Tax @ 22%, if the co- operative Society agrees to forego prescribed deductions and exemptions under the Income Tax Act
- Alternate Minimum Tax on Co-operative Societies has been reduced to 15% from 18.5%.
- Surcharge: 7% if total income exceeds INR 1 Crore and 12% if total income exceeds INR 10 Crores. Surcharge of 10% would be levied irrespective of the income if opting for 115BAD.
- Health & Education Cess in all cases remains unchanged at 4%.

E. AOP/BOI/Artificial Judicial Person

Particulars	Tax Rate
Income upto INR 2.50 Lakh	Nil
Income exceeding INR 2.50 Lakh but not exceeding INR 5 Lakhs	5%
Income exceeding INR 5 Lakh but not exceeding INR 10 Lakhs	20%
Income exceeding INR 10 Lakhs	30%

Surcharge for AOP/BOI/Artificial Judicial Person

Particulars	Tax Rate
Income exceeding INR 50 Lakh but not exceeding INR 1 Crore	10%
Income exceeding INR 1 Crore but not exceeding INR 2 Crore	15%
Income exceeding INR 2 Crore but not exceeding INR 5 Crore	25%
Income exceeding INR 5 Crore	37%

- Currently, Surcharge on Capital Gains on transfer of listed securities taxable u/s 111A & 112A and on dividend income is capped at 15%. Now, Finance Bill 2022 has proposed to cap the surcharge for LTCG u/s 112 to 15% as well.
- It is proposed that in case of an Association of persons (AOPs) consisting of only companies as its members, the rate of surcharge shall not exceed 15%. Applicable w.e.f. AY 2023-24.

Cess

- Health & Education cess in all cases remains unchanged at 4%.

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