

An Overview of Direct Tax Proposals



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**DISCLAIMER**

This analysis lists some of the important direct tax proposals made by the Honourable Finance Minister in the Lok Sabha on February 01, 2022. While care has been taken in the preparation of this document it might contain errors for which we should not be held responsible. The information as given in this document provides summarised direct tax proposals and thus should not be relied upon for the purposes of decision making and expert advice should be sought.

Personal Income Tax

- No change is proposed in the basic exemption limit which will remain as under:

Category	Exemption Limit
Senior Citizen above age of 80 years	Rs. 5,00,000
Senior Citizen (in age group of 60-80 Years)	Rs. 3,00,000
General	Rs. 2,50,000

- No change is proposed in the rate of income tax for individual and HUF (not exercising option under Section 115BAC) which will remain as under:

Income range	Rate of Tax
Up to respective exemption limit	NIL
Amount in excess of respective exemption limit up to Rs 5,00,000	5%
Rs 5,00,001 - Rs 10,00,000	20%
Above Rs 10,00,000	30%

- No change is proposed in the rate of income tax for individuals and HUF exercising the option under Section 115BAC, which will remain as under:

Income range	Rate of Tax
Up to Rs 2,50,000	NIL
Rs 2,50,001 – Rs 5,00,000	5%
Rs 5,00,001 - Rs 7,50,000	10%
Rs 7,50,001 – Rs 10,00,000	15%
Rs 10,00,001 – Rs 12,50,000	20%
Rs 12,50,001 – Rs. 15,00,000	25%
Above Rs 15,00,000	30%

- Surcharge is proposed to be levied as under:

In case of income including dividend or income under section 115AD

Income Range	Rate of Surcharge
Rs 50,00,001 - Rs 1,00,00,000	10%
Above Rs 1,00,00,000	15%

In case of income excluding dividend or income under section 115AD

Income Range	Rate of Surcharge
Rs 2,00,00,001 - Rs 5,00,00,000	25%
Above Rs 5,00,00,000	37%

- No change is proposed in Health & Education Cess which will be levied @ 4%.

Corporate Taxation

- No change is proposed in the tax rate for domestic and foreign companies. The proposed rate of tax is as under:

Category	Rate of Tax
Domestic company having total turnover or gross receipt upto Rs 400 crores during previous year 2019-20	25%
Other Domestic Companies	30%
Foreign Companies	40%

- The surcharge is proposed to remain at the same level, as under:

In the case of domestic company whose income is chargeable to tax under Section 115BAA OR 115BAB, the rate of surcharge shall remain same at 10%. In other cases, it will remain same, as under:

Category	Total income between Rs 1 crore to Rs 10 crores	Total income exceeding Rs 10 crores
Domestic	7%	12%
Foreign	2%	5%

- No change is proposed in Health & Education Cess which will be levied @ 4%.
- No change is proposed in the rate of tax in case of the domestic companies exercising option under Section 115BAA (22%) and Section 115BAB (15%) after complying with various conditions as prescribed in the respective sections.
- No change is proposed in the tax rate under MAT.

Firms etc.

Firms

- No change is proposed in the tax rate for firms which will remain @ 30%. The surcharge also remains unchanged @ 12% in case the income exceeding Rs one crore.

Co-operative Societies

- No change is proposed in the tax rate of co-operative societies including those co-operative societies exercising option under Section 115BAD. However, the budget proposes to reduce Alternate Minimum Tax for the cooperative societies from 18.5% to 15%. It is also proposed to reduce the surcharge on co-operative societies from present 12% to 7% for those having total income of more than Rs 1 crore and up to Rs 10 crores.



Profit or Gains from Business & Profession

- ✚ Under Section 37, no deduction or allowance shall be made in respect of any expenditure which is incurred by the assessee for any purpose which is an offence or which is prohibited by law. It is proposed to provide the clarification regarding the expenditure for any purpose which is an offence or which is prohibited by law. Such expenditure shall include amount incurred-
 - (i) 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
 - (ii) to provide any benefit or perquisite, in whatever form, to a person, which is in violation of any law or rule or regulation or guideline; or
 - (iii) to compound an offence under any law for the time being in force, in India or outside India.This amendment will take effect from 1st April, 2022.
- ✚ Section 40 is proposed to be amended to clarify that the amount not deductible on account of “tax” shall include and shall be deemed to have always included any surcharge or cess on such tax, by whatever name called.

This amendment will take effect retrospectively from 1st April, 2005 and will, accordingly, apply in relation to the assessment year 2005-2006 and subsequent assessment years.

Thus all types of cess levied during the aforesaid period shall not be allowed as deduction. Those who have claimed the cess as allowable expenditure shall be liable to pay taxes on such cess.
- ✚ Section 43B is proposed to be amended to provide that conversion of interest payable into debenture or any other instrument by which the liability to pay is deferred to a future date, shall not be deemed to have been actually paid and shall be accordingly disallowed. It will take effect from 1st April, 2023 and will apply from the assessment year 2023-2024 onwards.
- ✚ It is proposed to amend Section 35(1A) to provide that the deduction claimed by the donor with respect to the donation given to any research association, university, college or other institution referred to under this Section shall be disallowed unless such research association, university, college or other institution or company files the statement of donations. This amendment will take effect retrospectively from 1st April, 2021.



Charitable Trusts & Institutions

- ✚ Where the total income of any trust or institution registered under Section 12AA / 12AB exceeds the maximum amount not chargeable to income-tax in any previous year, it is proposed to introduce requirements of audit of the accounts of the trust or institution. It is also proposed that such trust or institution shall keep and maintain books of account and other documents in such form and manner and at such place, as may be prescribed.
- ✚ It is proposed to insert a new section 271AAE to provide for penalty on trusts or institution for passing on any unreasonable benefit to the trustee or any other specified person, equal to amount of income applied by such trust or institution for the benefit of such person where the violation is noticed for the first time during any previous year and twice the amount of such income where the violation is noticed again in any subsequent year.
- ✚ Under the existing provisions of the Act, a trust or institution is required to apply 85% of its income during any previous year. However, if it is not able to apply 85% of its income during the previous year, it is allowed to accumulate such income for a period not exceeding 5 years. Under Section 11(3), if the accumulated income is not applied within 5 years, it shall be taxed in the 6th year. It is proposed to amend the Section so as to provide that it shall be taxed in the last year i.e. the 5th year.
- ✚ It is also proposed to insert a new proviso to Section 10(23C) providing that where the income or part of income or property of any fund or institution or trust or any university or other educational institution or any hospital or other medical institution has been applied directly or indirectly for the benefit of any person referred to in Section 13(3), such income or part of income or property shall be deemed to be income of such person of the previous year in which it is so applied.
- ✚ These amendments will take effect from 1st April, 2023 and will apply from the assessment year 2023-24 onwards.

- Income from transfer of any virtual digital asset is proposed to be taxed at the rate of 30% under newly inserted Section 115BBH. It is further proposed that no deduction in respect of any expenditure (other than the cost of acquisition) or allowance or set off of any loss shall be allowed to the assessee under any provision of the Act 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 computed under any other provision of the Act and such loss shall not be allowed to be carried forward to subsequent assessment years. It will take effect from 1st April, 2023 and will apply from the assessment year 2023-24 onwards

“virtual digital asset” has been proposed to be defined to mean—

(a) any information or code or number or token (not being Indian currency or any foreign currency), generated through cryptographic means or otherwise, by whatever name called, providing a digital representation of value exchanged with or without consideration, with the promise or representation of having inherent value, or functions as a store of value or a unit of account including its use in any financial transaction or investment, but not limited to investment scheme and can be transferred, stored or traded electronically;

(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.

- At present under Section 115BAB, a new manufacturing domestic company, is eligible for tax @ 15% on exercising option and fulfilling the condition that it should be set-up and registered on or after 1st October, 2019, and should have commenced manufacturing or production of an article or thing on or before 31st March, 2023. It is proposed to extend the date of commencement from 31st March 2023 to 31st March 2024. This amendment will take effect from 1st April, 2022 and will, accordingly, apply in relation to the assessment year 2022-2023.
- It is proposed that the provision of Section 115BBD relating to tax @ 15% on dividends received from foreign companies, in which the Indian Company is holding 26% or more of the nominal value of equity share capital, shall not apply to any assessment year beginning on or after the 1st April, 2023.

TDS & TCS

- ✚ Presently, tax is required to be deducted under Section 194-IA on the amount of consideration exceeding Rs 50 lacs paid in case of transfer of an immovable property (other than agricultural land), by the transferee to the transferor irrespective of stamp duty value. It is proposed to amend the Section to provide that TDS is to be deducted at the rate of 1% of such sum paid or credited to the resident or the stamp duty value of such property, whichever is higher.
- ✚ It is proposed to insert a new section 194R providing for deduction of tax at source on any benefit or perquisite provided to a resident in course of a business or profession, in excess of Rs 20,000 during a financial year, whether convertible into money or not. The rate of deduction proposed is 10% of the value or aggregate of value of such benefit or perquisite. The provisions of the said section shall not apply to an individual or a HUF, whose total sales, gross receipts or turnover does not exceed Rs. 1 crore in case of business or Rs 50 lakhs in case of profession during the financial year immediately preceding the financial year. This amendment will take effect from 1 st July, 2022.
- ✚ It is proposed to insert a new Section 194S providing for deduction of tax at source on payment or credit of consideration for transfer of a virtual digital asset @ 1%. This provision shall not apply if the consideration payable by “specified person” does not exceed Rs 50,000 or if the consideration payable by other than “specified person” does not exceed Rs 10,000. Specified person has been defined as (i) an individual or a HUF, whose total sales, gross receipts or turnover does not exceed Rs. one crore in case of business or Rs 50 lakhs in case of profession during the financial year immediately preceding the financial year and (ii) individual or a HUF not having any business income. It has been provided that the requirement of Section 203A (TAN) and Section 206AB (deduction at higher rate for non-filer of return) shall not apply to a specified person. It has been further provided that where the consideration is not paid in cash or paid partly in cash which is not sufficient to meet the TDS liability, the person paying such consideration shall ensure that tax has been paid for such consideration before releasing such consideration. This amendment will take effect from 1 st July, 2022.
- ✚ It is proposed that in case of default in deduction / collection or payment of tax deducted / collected, the interest shall be paid as per the order made by the Assessing Officer for the default. This amendment will take effect from 1st April, 2022.
- ✚ Currently, wherever tax is required to be deducted or collected at source under certain specified sections from a specified person (a person who has not filed his ITR for both the 2 previous years immediately before the previous year in which tax is required to be deducted / collected and the time limit of filing of ITR has already expired), the TDS or TCS rate shall be higher. The time period of non-filing of ITR is proposed to be reduced from 2 previous years to 1 previous year. These amendments will take effect from 1st April, 2022.



Returns

- ✚ The budget proposes a new provision permitting taxpayers to file an Updated Return on payment of additional tax. This updated return can be filed within 24 months from the end of the relevant assessment year. A new sub-section 8A is proposed to be inserted in Section 139 specifying that any person (whether he has furnished a return for any year or not) can furnish an updated return of his income or any other person in respect of which he is assessable.

The sub-section shall not apply, if the updated return is a return of loss or has an effect of decreasing the total tax liability of furnished return or results in any refund or increment of such refund. Updated return shall not be filed if any proceeding for reassessment or revision of income is pending or has been completed for the relevant assessment year.

Further a person is not eligible to furnish updated return for the assessment year and two assessment years preceding to such assessment year in which any search, survey, notice of any seizure etc is initiated.

Additional Tax Applicable

- (i) 25% of aggregate of tax and interest payable, if such return is furnished before completion of twelve months from the end of the relevant assessment year, Or
- (ii) 50% of the aggregate of tax and interest payable if such return is furnished after the expiry of twelve months from the end of the relevant assessment year.




Thus, updated return cannot be filed if no further tax is payable.

Other Provisions

- ✚ At present, under section 80-IAC a deduction of 100% of the profits and gains derived from an eligible business by an eligible start-up is available for 3 consecutive assessment years out of ten years, at the option of the assessee, provided that the eligible start-up is incorporated on or after 1st April, 2016 but before 1st April, 2022 and the total turnover of its business does not exceed Rs. 100 crore. It is proposed to extend the date of incorporation to before 1st April 2023.
- ✚ It is proposed to insert a new section 79A to provide that where consequent to a search, survey etc there is any undisclosed income, no set off of any brought forward losses or unabsorbed depreciation shall be allowed against such undisclosed income while computing the total income for such previous year. (Applicable from assessment year 2022-23 onwards).
- ✚ As per Section 179, tax due of a private company can be recovered from its directors, under certain circumstances where such tax cannot be recovered from the company itself. The section makes each director of the private company jointly and severally liable for the payment of such tax with certain conditions. However, the title of the section refers to the liability of directors of private company in liquidation. It is proposed to amend the title to omit “in liquidation” and to include fee as part of tax dues.
- ✚ It is proposed 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 subject to such conditions, as may be notified by the Central Government shall not be forming part of “perquisite”. This amendment will take effect retrospectively from 1st April, 2020 and will apply from assessment year 2020-2021 and thereafter.
- ✚ It is proposed to amend Section 56 providing that following sum shall not be treated as income of a person:
 - ✚ any sum of money received by an individual, from any person, in respect of any expenditure actually incurred by him on his medical treatment or treatment of any member of his family, in respect of any illness related to COVID-19 subject to such conditions, as may be notified by the Central Government
 - ✚ any sum of money received by a member of the family of a deceased person, from the employer of the deceased person, or from any other person or persons to the extent of Rs 10 lacs, where the cause of death of such person is illness relating to COVID-19 and the payment is, received within twelve months from the date of death of such person, and subject to such other conditions, as may be notified by the Central Government.
- ✚ In order to reduce litigation, it is proposed that if a question of law in the case of an assessee is identical to a question of law which is pending in appeal before the jurisdictional High Court or the Supreme Court in any case, the filing of further appeal in the case of this assessee by the department shall be deferred till such question of law is decided by the jurisdictional High Court or the Supreme Court.



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