

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, 2023. 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.

- No change is proposed in the basic exemption limit (for tax payers not exercising option under Section 115BAC) 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%

- Changes are proposed in the rate of income tax for individuals and HUF exercising the option under Section 115BAC, which will be as under:

Proposed New Tax Regime		Existing New Tax Regime	
Income	Tax Rate (%)	Income	Tax Rate (%)
0-3 Lakhs	NIL	0-2.5 Lakhs	NIL
3-6 Lakhs	5%	2.5-5 Lakhs	5%
6-9 Lakhs	10%	5-7.5 Lakhs	10%
9-12 Lakhs	15%	7.5-10 Lakhs	15%
12-15 Lakhs	20%	10-12.5 Lakhs	20%
Above 15 Lakhs	30%	12.5-15 Lakhs	25%
-	-	Above 15 Lakhs	30%

- It is proposed that tax payers opting under Section 115BAC shall not pay any tax up to income of Rs. 7 lakhs on account of rebate under Section 87A. It will be 100% of amount of income tax payable on a total income not exceeding Rs 7 lakhs.
- Standard deduction under Section 16(ia) is proposed to be available under the New Tax Regime in case of Salaried employees only.
- Deduction in respect of income in the nature of family pension as provided under clause (iia) of section 57 is proposed to be available under new regime.

Personal Income Tax

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

- In case of individual and HUF (exercising option under Section 115BAC), the maximum rate of surcharge is proposed not to exceed 25%.
- No change is proposed in Health & Education Cess which will be levied @ 4%.
- Tax under new tax regime (Section 115BAC) is proposed to be made the default option. Accordingly, those who want to continue to opt for Old Tax Regime will have to opt for such option.

As per budget speech, the limit of Rs. 3 lakh for tax exemption on leave encashment on retirement of non-government salaried employees is proposed to be increased to Rs. 25 lakhs.

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. No change is proposed in Alternate Minimum Tax and surcharge on co-operative societies.

- 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 up to Rs 400 crores during previous year 2020-21	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.

✚ **Ensuring timely payments to MSMEs under Section 43B –**

Section 43B is proposed to be amended to provide that any sum payable by an assessee to a micro or small enterprise beyond the time limit specified under Section 15 of MSME Development Act, 2006 shall be allowed on actual payment. Section 15 of the MSME Act mandates payments to micro and small enterprises within the time as per the written agreement, which cannot be more than 45 days. If there is no such written agreement, the section mandates that the payment shall be made within 15 days. It is further proposed that benefit of payment made up to the due date of furnishing the return of income will not be available to aforesaid amount.

✚ It is proposed to amend section 43B and section 43D of the Act, to substitute the words, “a deposit taking non-banking financial company or systemically important non-deposit taking non-banking financial company”, for the words “such class of non-banking financial companies as may be notified by the Central Government in the Official Gazette in this behalf”.

✚ **Ease in claiming deduction on amortization of preliminary expenditure -**

Section 35D relating to amortization of certain preliminary expenses is proposed to be amended to provide that the assessee shall furnish a statement containing the particulars of preliminary expenditure in connection with (i) preparation of feasibility report, (ii) preparation of project report, (iii) conducting marketing survey or any other survey necessary for the business of the assessee; and (iv) engineering services related to the his business, within such period, to such income-tax authority, in such form and manner, as may be provided by rules.

✚ **Threshold limit of Presumptive Taxation increased –**

The limit of total turnover or gross receipt prescribed under Section 44AD for taking benefit of presumptive taxation is proposed to be Rs 3 crores in case where the amount or aggregate of the amounts received during the previous year, in cash, does not exceed 5% of total turnover or gross receipt. In case where the amount or aggregate of the amounts received during the previous year, in cash, exceeds five per cent of total turnover or gross receipt, the existing limit of Rs 2 crores shall remain same.

✚ **Threshold limit of Presumptive Taxation increased -** The limit of gross receipt prescribed under Section 44ADA for taking benefit of presumptive taxation is proposed to be Rs 75 lacs in case where the amount or aggregate of the amounts received during the previous year, in cash, does not exceed 5% of gross receipt. In case where the amount or aggregate of the amounts received during the previous year, in cash, exceeds five per cent of gross receipt, the existing limit of Rs 50 lacs shall remain same.

Further requirements for Presumptive Taxation-

It is further proposed that the receipt by a cheque drawn on a bank or by a bank draft, which is not account payee, shall be deemed to be the receipt in cash for the purpose of Section 44AD and Section 44ADA.

No Tax audit in case of Presumptive Taxation

It is proposed that Section 44AB relating to tax audit will not apply in case of person who declares profits and gains for the previous year in accordance with the provisions of Section 44AD or Section 44ADA.

Set Off of losses in case of Presumptive Taxation –

It is proposed that where an assessee declares profits and gains of business for any previous year in accordance with the provisions of presumptive taxation under Section 44BB and Section 44BBB, no set off of unabsorbed depreciation and brought forward loss shall be allowed to the assessee for such previous year.

Capital Gains

- ✚ Presently Section 45(5A) provides that on the capital gain arising to an assessee (individual and HUF), from the transfer of a capital asset, being land or building or both, under a Joint Development agreement (JDA), the capital gains shall be chargeable on the stamp duty value of his share, as increased by the consideration received in 'cash'. It is proposed to amend the provisions of Section 45(5A) so as to provide that the full value of consideration shall be taken as the stamp duty value of his share as increased by any consideration received in cash or by a cheque or draft or by any other mode.
- ✚ A new clause is proposed to be inserted in Section 47 to provide that any transfer of a capital asset, being physical gold to the Electronic Gold Receipt (EGR) issued by a Vault Manager or such EGR to physical gold shall not be considered as 'transfer' for the purpose of capital gain. It is also proposed that the cost of acquisition of the EGR for the purpose of computing capital gains under Section 49 shall be deemed to be the cost of gold in the hands of the person in whose name EGR is issued and the holding period for the purpose of capital gain shall include the period for which the Gold was held by the assessee prior to conversion into the EGR and similarly the holding period for the purpose of capital gain shall include the period for which the EGR was held by the assessee prior to conversion into the Gold.
- ✚ The existing provisions of Section 54 and Section 54F allows deduction on the Capital gains arising from the transfer of long-term capital asset if an assessee, within a period of one year before or two years after the date on which the transfer took place purchased any residential property in India, or within a period of three years after that date constructed any residential property in India. It is proposed to restrict the maximum amount of deduction that can be claimed by the assessee under Section 54 and Section 54F to Rs 10 crores. It has been proposed that if the cost of the new asset purchased is more than Rs 10 crores, the cost of such asset shall be deemed to be Rs 10 crores. This limit of Rs 10 crores will also apply if the amount is deposited as required under these sections.
- ✚ It is proposed to insert a new Section 50AA to treat the capital gain arising on the transfer or redemption or maturity of the "Market Linked Debentures" as short term capital gain. It is further proposed that STT paid shall not be allowed as a deduction. "Market Linked Debenture" means a security having principal component in the form of a debt security and where the returns are linked to the market returns and is classified or regulated as a market linked debenture by SEBI.
- ✚ It is proposed to insert a proviso after clause (ii) of the Section 48 so as to provide that the cost of acquisition or the cost of improvement for the purpose of computing capital gains shall not include the amount of interest claimed as deduction under Section 24 or Chapter VIA

Tax in Certain Special Cases

- ✚ It is proposed to insert a new Section 115BAE so as to provide that new manufacturing co-operative society set up on or after 1st April, 2023, which commence manufacturing or production by 31st March, 2025 and do not avail of any specified incentive or deduction, may opt to pay tax at a concessional rate of fifteen per cent. It is also proposed that the provision of Section 115JD (relating to Alternate Minimum Tax) shall not apply in case of option under Section 115BAE.
This amendment will take effect from 1st April, 2024 and will, accordingly, apply in relation to the assessment year 2024-2025 and subsequent assessment years.
- ✚ It is proposed to amend Section 115BB to exclude income from winnings from online games from the purview of the said section from the Assessment year 2024-25, since it is proposed to introduce section 115BBJ to tax winnings from online games from that assessment year.
- ✚ It is proposed to insert a new section 115BBJ with regard to tax on winnings from online games to provide that where the total income of an assessee includes any income by way of winnings from any online game, the income-tax payable shall be the aggregate of—
 - the amount of income-tax calculated on net winnings from such online games during the previous year, computed in the prescribed manner, at the rate of thirty per cent; and
 - the amount of income-tax with which the assessee would have been chargeable had his total income been reduced by the net winnings referred to above;

Returns

- ✚ It is proposed to amend Section 140B relating to Updated Return to provide that interest payable under section 234B shall be computed on an amount equal to the assessed tax as reduced by the amount of advance tax, the credit for which has been claimed in the earlier return, if any.
This amendment will take effect retrospectively from 1st April, 2022.

- ✚ Presently, TDS under Section 192A is deducted at maximum marginal rate in case the person fails to furnish his PAN. It is proposed that tax will be deducted at a rate of 20% in cases where the deductee fails to provide a PAN, just like in other non-PAN cases under section 206AA of the Act.
- ✚ It is proposed to omit clause (ix) of the proviso to section 193 which provides that no tax is to be deducted in the case of any interest payable on any security issued by a company, where such security is in dematerialized form and is listed on a recognized stock exchange in India in accordance with the Securities Contracts (Regulation) Act, 1956 (32 of 1956) and the rules made thereunder.
- ✚ Section 194B relating to winning from lottery and crossword puzzle is proposed to exclude winnings from online games beginning July 1, 2023, which will be covered under new section 194BA.
- ✚ With effect from July 1, 2023, a new section 194BA is proposed to be inserted to provide for TDS on online games on net winnings in the user account on online games at the end of the financial year. If a withdrawal is made from a user account during the financial year, income tax on net winnings is proposed to be deducted at the time of the withdrawal. Furthermore, income tax will be deducted on the remaining amount of net winnings in the user account at the end of the financial year. It is also proposed that if the net winnings are entirely in kind or partly in cash and partly in kind, but the part in cash is insufficient to meet the liability of deduction of tax in respect of the entire net winnings, the person responsible for paying shall, before releasing the winnings, ensure that tax has been paid in respect of the net winnings.
- ✚ **Relief from special provision for higher rate of TDS/TCS for non-filers of income-tax returns**
It is proposed to amend the definition of the “specified person” in sections 206AB and 206CCA of the Act so as to exclude a person who is not required to furnish the return of income for the assessment year relevant to the said previous year and who is notified by the Central Government in the Official Gazette in this behalf.
- ✚ Rate of TCS under Section 206C on sale of overseas tour programme and Remittance out of India under the Liberalized Remittance Scheme of the Reserve Bank of India (other than for the purpose of education or medical treatment) is proposed to be increased from present 5% to 20%.
- ✚ At present, tax under Section 194N is deducted if the cash withdrawal exceeds Rs 1 crore. This amount is proposed to be increased to Rs 3 crores if the payee is co-operative society.

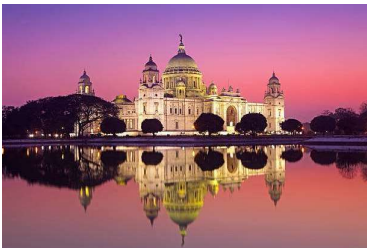


Other Provisions

- ✚ At present, exemption under Section 10(10D) is available on the sum received under a life insurance policy, including bonus on such policy, provided that the premium payable for any of the years during the terms of the policy does not exceed 10% of the actual capital sum assured. It is proposed to withdraw the exemption in case of certain policies issued on or after 01.04.2023. it is proposed to tax income from insurance policies (other than ULIP) having premium or aggregate of premium above Rs 5,00,000 in a year. Income is proposed to be exempt in case of death claim only. In case of ULIP, exemption is not available presently if the aggregate premium exceed Rs 2,50,000 in any of the year.
- ✚ In view of proposed withdrawal of exemption, as above, the amount so received is proposed to be taxable under the head “income from other sources” under Section 56(2)(xiii). It is proposed to allow deduction for premium paid, if such premium has not been claimed as deduction earlier. **The income computation will be complicated if the premium is claimed as deduction earlier because the tax payer will be required to keep track of premium paid vis-à-vis deduction claimed.**
- ✚ At present Section 56(2)(viib) provides that where a company, not being a company in which the public are substantially interested, receives, in any previous year, from any person **being a resident**, any consideration for issue of shares that exceeds the face value of such shares, the aggregate consideration received for such shares as exceeds the fair market value of the shares shall be chargeable to income-tax under the head ‘Income from other sources’. It is not applicable to nonresidents. It is proposed to bring non residents under the ambit of this provision.
- ✚ At present, Section 79 provides that loss is allowed to be set off in case of eligible start up, only if it has been incurred during the period of 7 years beginning from the year in which such company is incorporated. This period of 7 years is proposed to be increased to 10 years.
- ✚ The existing provisions of the Section 80-IAC provides for a deduction to an eligible start-up provided it is incorporated on or after 1st day of April, 2016 but before 1st day of April 2023. It is proposed to extend the period of incorporation of eligible start-ups to 1st day of April 2024.
- ✚ As per Section 92D(3), the Assessing Officer or the Commissioner (Appeals) may during the course of any proceedings under the Act require such person to furnish any information or document, as provided under rule 10D of the Rules, within a period of 30 days from the date of receipt of a notice issued in this regard which, on an application by the assessee, may be extended by additional period of 30 days. This time limit of 30 days (normal and extended) is proposed to be reduced to 10 days in both cases

Other Provisions

- ✚ It is proposed to amend Section 9 so that any sum of money received by a **not ordinarily resident**, exceeding Rs 50,000 without consideration from a person resident in India shall be considered as income deemed to accrue or arise in India.
- ✚ Section 142 is proposed to be amended to provide that the Assessing Officer with previous approval of PCCIT or CCIT or PCIT or CIT may direct the assessee to get the inventory valued by a Cost Accountant nominated by authorities who will furnish the report in prescribed form. Prior to this direction, assessee shall be given a reasonable opportunity of being heard.
- ✚ A new subsection is proposed to be inserted in Section 155 facilitating TDS credit for income already disclosed in ITR of any earlier year. In case where any income has been included in the ITR for any assessment and tax on such income has been deducted at source and paid to the credit of the Central Government in a subsequent financial year, the Assessing Officer shall, on an application made by the assessee in such form, as may be prescribed, within a period of two years from the end of the financial year in which such tax was deducted at source, amend the order or any intimation allowing credit of such TDS in the year in which the income is taxed. It is proposed that the period of 4 years under Section shall be reckoned from the end of the financial year in which such tax has been deducted.
- ✚ It is proposed to insert a new proviso to sub-section (1) of section 10AA of the Act to provide that no deduction under the said section shall be allowed to an assessee who does not furnish a return of income on or before the due date specified under sub-section (1) of section 139. It is also proposed to insert a new sub-section to provide that the deduction under section 10AA of the Act shall be available to such unit, if the proceeds from sale of goods or provision of services is received in, or brought into, India by the assessee in convertible foreign exchange, within a period of six months from the end of the previous year or, within such further period as the competent authority may allow in this behalf.
- ✚ **Donation made to other Charitable Trusts**
It is proposed that only 85% of the eligible donations made by a trust to any other trust shall be considered as application towards charitable and religious purpose.
- ✚ It is proposed to amend Section 244A(1A) to provide that where proceedings for assessment or reassessment are pending, the additional interest shall not be payable to the assessee under this sub-section, for the period beginning from the date on which such refund is withheld by the Assessing Officer, in accordance with and subject to provisions of sub-section (2) of section 245, till the date on which the assessment or reassessment pending in such case, is made.

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