

# Union Budget 2022-23

**Powering sustained growth**

Financial services | Key proposals



# Agenda

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# 01

## Foreword



# Foreword



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## Roadmap for 25 years of India's Amrit Kaal

Amidst the raging pandemic and mutating Covid-19 variants, India's sharp recovery of the economy is reflected in the estimated robust economic growth of 9.2% for the fiscal year 2021-22. India is gaining momentum and opening up a new path by forging a futuristic and inclusive vision for the next 25 years. Budget 2022 lays the foundation and gives a blueprint to elevate India's growth story under India's 'Amrit Kaal'.

Although the expectations from the Finance Minister were immense across stakeholders, the direction is based on four macro themes *viz.*, (i) development of modern infrastructure, (ii) enhanced focus on digital ecosystem (including digital assets), (iii) energy transition & climatic action, (iv) technology advancement.

Responding to the need to provide much needed impetus to develop modern infrastructure, the proposed plan is driven by seven engines *viz.* roads, railways, airports, ports, mass transport, waterways, and logistics infrastructure for economic transformation, seamless multimodal connectivity and logistics efficiency. Given the increasing digital transformation, the budget focuses on numerous digital infrastructure proposals, including the introduction of taxation of virtual digital assets, RBI digital rupee, digital banking and payment systems, digitisation of land and health records, e-passport, etc., to create a robust digital ecosystem and an efficient management system.

To encourage participation from foreign players in the International Financial Services Centre (IFSC), certain tax exemptions have been provided to non-residents. With continued commitment to promote Atmanirbhar Bharat, beneficial tax rates for newly incorporated manufacturing companies and tax holiday benefit to start-ups is proposed to be extended by a year. Reduction in surcharge rate on long-term capital gains (LTCG) is a welcome move for investors. With minimal tax amendments, the budget focuses on providing tax clarifications in line with the legislative intent.

Overall, the policy proposals, regulatory announcements and tax amendments impacting various sectors demonstrates the Government's intent for developing a modern and digital infrastructure to boost India's growth trajectory in the 25-year-long leadup to India@100.

# 02

## Policy proposals





## Banking, capital markets and insurance

- Central Bank Digital Rupee is to be introduced using blockchain and other technologies from FY23
- A total of 75 Digital Banking Units are to be set up in 75 districts by Scheduled Commercial Banks
- Financial support for digital payment ecosystem is to be continued to promote the use of economical and user-friendly digital payment platforms
- All post offices are to become part of the core banking system in the year 2022 to enable financial inclusion and access to post office accounts through net banking, mobile banking and ATMs, including online transfer of funds between post office accounts and bank accounts
- The public issue of LIC is expected shortly



## Private equity and IFSC

- Government to set up an expert committee for the holistic examination of regulatory and other hurdles and suggest measures for scaling up venture capital and private equity investments in India
- Government to promote privately managed thematic funds focusing on sectors such as climate action, deep-tech, digital economy, pharma and agri-tech by contributing upto 20%
- World-class foreign universities and institutions are to be allowed in Gujarat International Finance Tec-City (GIFT City), free from domestic regulations, except those by the International Financial Services Centres Authority to facilitate availability of high-end talent for financial services and technology
- International Arbitration Centre is to be set up in the GIFT City for timely settlement of disputes under international jurisprudence

## Experts speak



- India joins a handful of countries (including the US, China, UK, France, etc.) to announce the launch of the Central Bank Digital Currency, which has significant potential for fulfilling public policy objectives, maintaining economic stability, and providing people with a convenient, safe and reliable payments system
- Setting up of an International Arbitration Centre in the IFSC and allowing world-class foreign universities and institutions in the IFSC will be instrumental in improving its standing among the financial centres of the world





## Real estate, Infrastructure and SWFs

- Infrastructure status is accorded to 'Data centres' and 'Energy Storage Systems' (including dense charging infrastructure and grid-scale battery systems)
- INR 480,000m is allotted towards Pradhan Mantri Awas Yojana (PMAY)
- 8m houses are to be completed under PMAY in FY23 for identified eligible beneficiaries
- Expert Committee is to be formed for making recommendations on development policies for urbanisation
- Modernisation of building bye-laws, Town Planning Schemes and Transit Oriented Development is to be implemented
- States are encouraged to adopt Unique Land Parcel Identification Number to facilitate IT-based management of land records
- 'One-Nation One-registration software' for uniform process for registration of deeds and documents is to be implemented
- Special Economic Zones Act, 2005 is to be replaced with new legislation with participation of States
- PLI Scheme of INR 195,000m is announced for manufacturing of high-efficiency modules
- Green Bonds are to be issued for deployment in public sector projects to reduce carbon intensity
- 'PM GatiShakti' Master Plan for Expressway is to be formulated in FY23. National Highways network is to be expanded by 25,000 kms in FY23
- Contracts for implementation of Multimodal Logistics Parks for four locations under Public Private Partnership (PPP) mode are to be awarded in FY23
- 100 PM GatiShakti Cargo Terminals for multimodal logistics facilities are to be developed during the next three years
- National Ropeways Development Programme is to be taken up on a PPP model. Contracts for eight ropeway projects for a length of 60 kms are to be awarded in FY23

## Experts speak



- The structural trend of migration from rural to urban gets a boost with focus on urban planning and transit-oriented development. The proposal to digitise the land records would bring much-needed transparency and enhance the confidence of various participants in the real estate sector. An accelerator to data centres and few other sectors has been provided by granting them infrastructure status





## Start-up and venture capital

- A fund with blended capital, raised under the co-investment model, is to be facilitated through the National Bank for Agricultural and Rural Development to finance startups for agriculture and rural enterprises
- Startups are to be promoted to facilitate 'Drone Shakti' through varied applications and for Drone-As-A-Service
- Digital Ecosystem for Skilling and Livelihood - the DESH-Stack e-portal - is to be launched
- Defence research and development (R&D) is to be opened up for industry, startups and academia with 25% of defence R&D budget earmarked



## Regulatory

- Necessary amendments are to be made to the Insolvency and Bankruptcy Code (IBC) to enhance the efficacy of the resolution process and facilitate cross-border insolvency resolution
- A Centre for Processing Accelerated Corporate Exit (C-PACE) is to be established to facilitate and speed up (from two years to less than six months) voluntary winding up of companies

## Experts speak



- With measures such as establishing C-PACE, India takes a step further towards progressing on its 'ease of doing business' agenda



# 03

## Sector-wise tax proposals





## Banking, capital markets and insurance

### VDA's

- New provisions are to be introduced for taxing Virtual Digital Assets (VDAs):
  - A VDA is defined to mean, *inter alia*, any information or code or number or token generated through cryptographic means or otherwise
  - Gains arising on the transfer of VDAs are to be taxed at the rate of 30% (plus applicable surcharge and cess)
  - No deduction for any expenditure except for cost of acquisition or allowance is to be allowed
  - Set off and carry forward of loss on transfer of VDAs is not to be allowed
  - Receipt of VDAs at a price lower than the fair market value is to result into a taxable income in the hands of the recipient subject to specific exclusions
  - Withholding tax at 1% to apply on consideration for payment to a resident (subject to some exclusions), even where consideration is wholly/ partly in kind
  - The withholding provisions are to be effective from 1 July 2022

### Bonus stripping

- Anti-abuse provisions in relation to bonus stripping are amended to include shares

### Deduction on payment of interest only on actual payment

- Conversion of outstanding interest liability into debentures or any other instrument are not to be treated as actual payment of interest and hence are not deductible under section 43B of the Income-tax Act, 1961 (the Act)

### Insurance and pension

- Deduction in respect of maintenance (including medical treatment) of a differently abled dependent is extended to any scheme of life insurance providing for payment on the subscriber attaining the age of 60 years or more. Furthermore, such amount received by the dependent during their lifetime is not to be taxable
- The limit of deduction of employer's contribution to National Pension System in respect of State Government employees is enhanced to 14% of salary instead of 10% with retrospective effect from 1 April 2020



## Real estate, infrastructure and SWFs

### Withholding tax on transfer of immovable property

- Tax to be withheld on acquisition of immovable property is to be calculated at 1% of consideration or stamp duty value, whichever is higher (currently, the Act does not take into account the stamp duty value), provided such amount on which tax is to be withheld is more than INR 5m

### Extension of sunset date for applicability of concessional tax rate for manufacturing and power generation companies

- The time limit for commencement of operations to be eligible for a lower rate of 15% is to be extended from 31 March 2023 to 31 March 2024

### InvITs, REITs and AIFs

- Anti-abuse provisions in relation to dividend stripping and bonus stripping are amended to include units of Real Estate Investment Trusts (REITs), Infrastructure Investment Trusts (InvITs) and Alternative Investment Funds (AIFs)

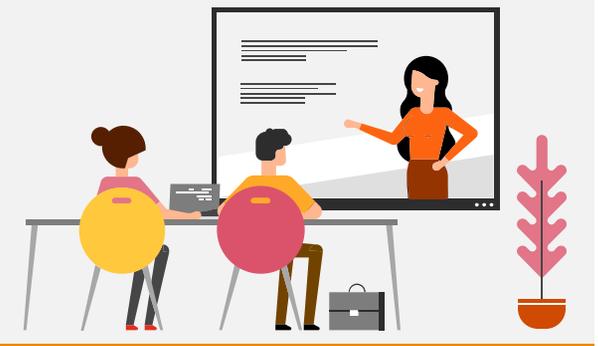
### SWF and PF exemption

- Sovereign Wealth Funds (SWFs) and Pension Funds (PFs) should now be eligible to claim exemption on specified income arising on investments made in additional sectors such as data centres and energy storage systems (including dense charging infrastructure and grid-scale battery systems)

## Experts speak



- The tax proposals are tinkered with some amendments to rationalise withholding provisions and plug the loophole around bonus or dividend stripping for REITs, InvITs and AIFs





## Start-ups and venture capital

- Surcharge on LTCG across all asset classes is to be capped at 15% (reduced from current rate of 37% in certain cases)
- Tax holiday to be extended for start-ups incorporated up to 31 March 2023 (currently 31 March 2022)
- Tax is to be withheld at 10% on any benefit or perquisite (>INR 20,000) whether convertible into money or not, provided to a resident arising from their business or profession (effective from 1 July 2022)



## IFSC

- Income of a non-resident on transfer of offshore derivative instruments or over-the-counter (OTC) derivatives entered into with an offshore banking unit of an IFSC is to be exempt from tax subject to the fulfilment of conditions, as may be prescribed
- Provisions of section 56(2)(viib) of the Act not to apply on issuance of shares to Category I or Category II AIFs in the IFSC
- Exemption to be made available on income received by a non-resident from a portfolio of securities or financial products or funds, managed or administered by a portfolio manager in the IFSC, in an account maintained with an offshore banking unit in IFSC. Such exemption is to be available to the extent such income accrues or arises outside India and is not deemed to accrue or arise in India

### Ship leasing

- Income by way of royalty or interest, on account of lease of a ship paid to non-residents is to be exempt from tax if the IFSC unit commenced operations on or before 31 March 2024
- Capital gains on the transfer of ship leased by an IFSC unit to any person are to be eligible for 100% deduction, if the IFSC unit commenced operations on or before 31 March 2024

## Experts speak



- For divestments by employees or founders of start-ups, the capping of surcharge rate brings parity with listed securities
- While the withholding on benefits or perquisites may have been intended to bring within its ambit a variety of industries, the impact of the same on the stock options offered by various start-ups to their merchants or vendors needs to be evaluated. Furthermore, the GST aspects on such benefits needs to be addressed
- Tax exemption to non-residents from OTC derivatives or Offshore Derivative Instruments issued by IFSC banking Units will help deepen the capital markets in the GIFT City and in domestic exchange
- Tax proposals for ship leasing industry are a welcome view and will prompt Indian shipping companies who have migrated overseas to return to India

# 04

## Litigation and general tax proposals



## Litigation

- The tax department to defer filing of appeals before the Income-tax Appellate Tribunal and High Court where an identical question of law is pending before the jurisdictional High Court or Supreme Court in any matter. Decision on such deferment to be subject to acceptance by taxpayer
- In case of a loan or borrowing, explanation regarding source of funds of the creditor is to be satisfactorily provided to the tax department. The current provisions restrict this requirement only in respect of share application money, share capital, share premium or any such amount
- The existing provision on assessment to be treated as non-est if specified procedures for faceless assessment are not followed is to be omitted retrospectively from 1 April 2021
- Scope of reassessment to be extended to cover information available to the tax department from any audit objections, information received under Double Taxation Avoidance Agreements, faceless collection of information, etc.
- Time limit for reassessment of ten years to be extended to any income represented by an entry in the books of account or expenditure in respect of a transaction or an event that has escaped assessment



## General tax proposals

### Tax rates

- Basic tax rates remain unchanged
- Surcharge rate for Association of Persons (where members are only companies) is to be capped at 15%
- Benefit of lower tax rate (currently 15%) on dividend received by Indian company from specified foreign company is to be withdrawn from 1 April 2022
- Updated tax returns are allowed to be filed in certain situations up to two years from the end of the relevant assessment year, subject to payment of additional taxes (25% to 50% of income tax and interest)

## Experts speak



- The Government continues to promote the agenda of simplification of the tax system and reduction of litigation. Towards this end, provisions relating to deferment of appeals to be introduced and clarifications to be provided on various litigious issues, thereby paving the way for much-needed tax certainty. Furthermore, some of the tax proposals will ensure voluntary compliance by taxpayers on one hand, and also boost tax revenues in a less-litigation prone environment
- Deletion of the provision treating the assessment as non-est in case the specified procedures are not followed may result in increased litigation as the validity of such assessment orders may be challenged at various appellate levels
- Expansion of the scope of reassessment should be reconsidered so as to provide certainty on closure of tax assessments within a defined timeframe



## General tax proposals

- Disallowance of expenditure under section 14A of the Act is to apply irrespective of quantum of exempt income earned during the year
- Amounts received for COVID related illness or death are to be exempt from deemed income provisions, subject to certain conditions
- Scope of disallowance under section 37 of the Act is to be expanded to include:
  - expenses for offences or compounding under any law in or outside India; and
  - provision of benefit or perquisite where acceptance by a recipient violates any law, rule, regulation or guideline governing the conduct of the recipient
- Surcharge and cess are not to be allowed as a business expenditure (effective retrospectively from 1 April 2005)
- Provisions relating to withholding or collection of tax at a higher rate under section 206AB of the Act and section 206CCA of the Act, respectively, are to be rationalised:
  - Carve outs extended to sections 194-IA (acquisition of immovable property), 194-IB (rent) and 194M (works contract) of the Act
  - Higher withholding taxes to apply if tax return not filed for preceding one year (currently two years)

### Business reorganisations

- Any tax proceedings on the predecessor during the pendency of business reorganisation to be deemed to have been made on the successor and all other tax provisions to apply to the latter
- Modified return is to be filed by the successor for giving effect to an order of business reorganisation, within six months
- Mechanism is to be provided for the modification of tax liabilities in accordance with the order of business reorganisation under the IBC

### Transfer Pricing

- Timeline for introduction of Faceless Scheme in electronic mode for transfer pricing assessment and assessment proceedings with the Dispute Resolution Panel to be extended till 31 March 2024 (from current deadline of 31 March 2022)

# 05

## Indirect tax





## Key indirect tax proposals

- Compulsory sequential filing of GST returns is proposed
- Time limit for availing of ITC, issuance of credit notes etc., for an FY are to be extended by two months
- Stringent provisions are proposed for availing and utilising ITC. The buyer has to reverse ITC if the vendor has not paid tax with interest
- Retrospective amendment proposed to make interest applicable at 18% on ITC wrongly availed and utilised



## Experts speak



- The budget proposals ensure that all filings are done, and partial compliance shall not be accepted by the GST Network
- The industry has already challenged the original provision restricting availing ITC. The proposed amendment might aggravate the situation further
- The proposal relating to interest on ITC wrongly availed is in line with the erstwhile service tax law
- Bringing VDAs under the tax net creates ambiguity on the applicability of GST to such assets



# 06

## Glossary



Abbreviation	Particulars
Act	Income-tax Act, 1961
AIFs	Alternative Investment Funds
AOP	Association of Persons
AY	Assessment Year
ATM	Automated Teller Machine
C-PACE	Centre for Processing Accelerated Corporate Exit
FM	Finance Minister
FY	Financial Year
GST	Goods and Services Tax
GIFT City	Gujarat International Finance Tec City
HC	High Court
IBC	Insolvency and Bankruptcy Code, 2016

Abbreviation	Particulars
IFSC	International Finance Service Centre
INR	Indian Rupee
InvIT(s)	Infrastructure Investment Trust(s)
ITC	Input Tax Credit
LIC	Life Insurance Corporation of India
LTCG	Long-term Capital Gains
NABARD	National Bank for Agricultural and Rural Development
ODIs	Offshore Derivative Instruments
OTC	Over-the-counter
PF(s)	Pension Fund(s)
PMAY	Pradhan Mantri Awas Yojana

Abbreviation	Particulars
PE	Private Equity
PPP	Public Private Partnership
PLI	Production Linked Incentive
REIT(s)	Real Estate Investment Trust(s)
RBI	Reserve Bank of India
R&D	Research and Development
SC	Supreme Court
SEZ	Special Economic Zone
SWF(s)	Sovereign Wealth Fund(s)
VC	Venture Capital
VDA	Virtual Digital Assets

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