

# India Union Budget 2023

**Ushering in India's decade**

Financial services – Key proposals



# Agenda

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01

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Foreword

# Foreword



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## **Vision towards achieving an empowering and inclusive economy**

In the midst of the global economic slowdown resulting from the Ukraine conflict and continued effects of the pandemic, the Indian economy has been recognised as a 'Bright Star' by the world with an estimated growth rate of 7% in the current year - notably the highest among the major world economies.

Budget 2023 lays the foundation for the Prime Minister's vision of India@100 by adopting seven priorities, namely, Inclusive Development, Reaching the Last Mile, Infrastructure and Investment, Unleashing the Potential, Green Growth, Youth Power and Financial Sector. The focus continues to be on increasing the capital investment outlay to enhance growth potential and job creation.

Several policy reforms have been introduced relating to the overall economic sustainability, agricultural automation, integrated digitisation (including focus on AI excellence and simplification of the KYC process), start-up ecosystem and certain priority sectors such as Green Growth. Certain steps such as review by an expert committee of the harmonised list of infrastructure sub-sectors, setting up of a single window registration system for GIFT IFSC and permitting IFSC Banking Units of foreign banks to provide acquisition financing should further encourage foreign investment participation.

The tax proposals focus on improving and simplifying various provisions to ease the compliance burden on the taxpayers such as expediting disposal of appeals, introduction of common income-tax return form, etc. To encourage green energy and exports, it is proposed to reduce the custom duty rates on various goods (including EV batteries) and raw materials. Widening of deemed income tax provisions to cover within their ambit any primary investments made by non-residents at an excessive premium and change in taxation of unitholders of business trusts for certain distributions could potentially impact the deals ecosystem.

Broadly, this budget focuses on stabilising policies, reforms and propels continuous efforts of the current government's vision towards prosperous and inclusive India to facilitate sustainable economic growth.



# 02

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## Economic indicators



## Global economy

- The global economy and advanced economies are projected to grow at 2.7% and 1.1%, respectively, in 2023 against the backdrop of global monetary tightening.
- Emerging market economies are projected to grow at 3.7% in 2023.



## Indian economy

- Private consumption stood at 58.4% of GDP in Q2FY23 on release of pent-up demands and revived consumer sentiments.
- Private investment estimate remains upbeat at INR 3.3tn for H1FY23 (INR 2.6tn for H1FY22).



## Outlook for Indian economy

- India's GDP growth for FY24 is projected at 6.5% in real terms.
- While the global economic outlook is expected to be subdued, Indian economic growth in FY24 is expected to be brisk driven by vigorous credit disbursal, solid domestic demand, capital investments and buoyant tax collections.
- Slowing global demand is likely to push down global commodity prices, thereby improving India's current account deficit in FY24.

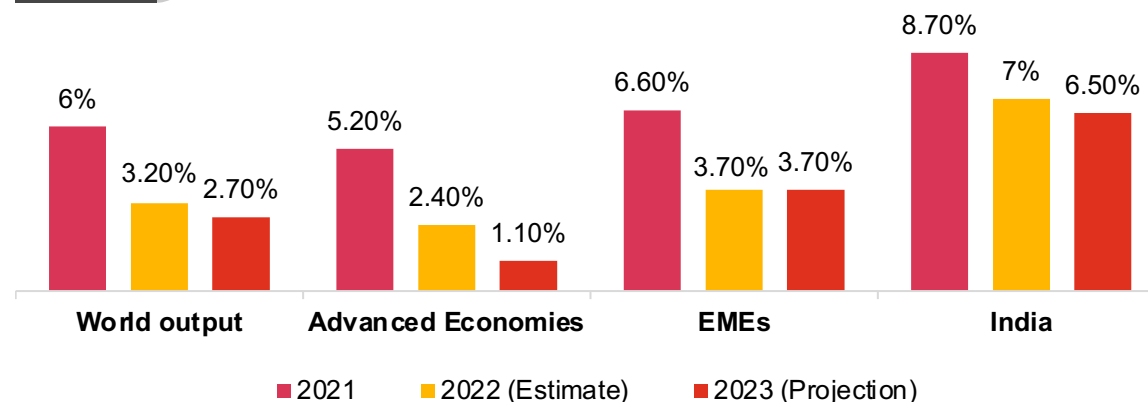


## Headwinds for Indian economy

- Persistent global headline inflation may result in continued global monetary contractions.
- Flight of global capital to traditional safe-haven market of the US due to higher bond yields.
- Accelerated appreciation of USD against INR may add to domestic inflationary pressures.



## Figure 1: GDP growth rates



Source: World Economic Outlook, IMF, Economic Survey 2022-23, NSO  
(Note: Data for India is presented on a fiscal year basis, remaining on calendar year basis, i.e. 2021 = FY 2021-22)



## Capital markets

- Despite turmoil in global capital markets, Indian capital markets fared better.
- Compared to FY22, the number of IPOs increased by 37%. Similarly, the number of IPOs by SMEs almost doubled while funds raised increased by almost three times.
- Net FPI inflows decreased to USD 29bn in H1FY23 from USD 65bn in H1FY22; no significant change in net FDI inflows in H1FY23 as compared to H1FY22.



## Banking sector

- Continuous improvement in asset quality is demonstrated by the declining GNPA ratio:
  - Banking sector GNPA ratio decreased from 8.2% in March 2020 to 5% in September 2022 and is projected to drop further to 4.9% by March 2023.
  - NBFC GNPA ratio decreased from 7.2% in June 2021 to 5.9% in September 2022.
- Under IBC, 69% of the distressed assets were settled up to September 2022 with realisation around 178% of the liquidation value.
- Credit growth (YoY) of non-food bank credit accelerated to 15.3% in December 2022, with broad-based growth across sectors.
- NBFC credit also picked up momentum with an aggregate outstanding amount of INR 31.5tn as of September 2022.



## Asset management

- Net AUM of all mutual funds increased (YoY) by 8.1% to INR 40.4tn at the end of November 2022.



# 03

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## Policy proposals





## Banking, NBFCs and capital markets

- It is proposed to amend the Banking Regulation Act, 1949; Banking Companies Act, 1970; and RBI Act, 1934 to improve governance and investors' protection.
- National Financial Information Registry to be set up to serve as the central repository of financial and ancillary information for efficient flow of credit, promoting financial inclusion and fostering financial stability.
- SEBI to strengthen standards for education in NISM to build the capacity of functionaries and professionals in the securities market.
- Public consultation to be brought to the process of regulation-making and subsidiary directions to be issued to facilitate optimum regulation in the financial sector.
- Financial sector regulators to review and simplify the existing regulations and to ease and reduce the cost of compliance.
- Time limits to be laid down to decide the applications under various regulations.
- Financial sector regulators to develop KYC system based on risk-based approach instead of the 'one size fits all approach'.
- Cities to be incentivised to improve their credit worthiness for municipal bonds.



## PE, start-ups and VCs

- Three centers to be set up in educational institutes to promote AI-based solutions in agriculture, health and sustainable cities.
- Agriculture accelerator fund proposed to be set up for encouraging innovative start-ups in rural areas enabling modern technologies to transform agricultural practices, increase productivity and profitability.
- Digital Public Infrastructure proposed to be set up for the growth of the agri-tech industry and start-ups.

## Experts speak



- With the financial sector being one of the seven priorities, the slew of measures proposed should lead to a significant broadening of participation by various stakeholders.





## RE, Infra and SWFs

- An expert committee to review Harmonised Master List of infrastructure for recommending changes suitable for 'Amrit Kaal'.
- Capital investment of INR 350bn is allotted towards energy transition, net zero objective and energy security.
- Viability Gap Funding support to be provided for energy storage systems with capacity of 4,000MWH.
- Cities to be transformed into 'sustainable cities of tomorrow' by undertaking urban planning reforms.
- The National Housing Bank to manage the set up of Urban Infrastructure Development Fund (initial allocation of INR 100bn p.a.) through use of priority sector lending shortfall.
- Capital outlay of INR 2,400bn for railways and INR 750bn for the logistics sector is projected.
- Focus to be increased on reviving and improving regional air connectivity through additional airports, heliports, etc.
- National Green Hydrogen Mission of INR 197bn to be launched to reduce carbon dependence and emissions and to achieve an annual production of 5MMT by 2030.
- 'GOBARdhan' scheme to be introduced to establish 500 new 'waste to wealth' plants at a total investment of INR 100bn to promote a circular economy.

## Experts speak



- Policy announcements should provide a fillip to the infrastructure and allied sectors. A review of the Harmonised Master List from a futuristic perspective is a welcome step.





## GIFT/ IFSC

- Government to set up a single window IT system for registration and approval from the IFSC Authority, SEZ Authority, GSTN, RBI, SEBI and IRDAI.
- IFSCA Act to be amended for introducing statutory provisions for arbitration, ancillary services and avoiding dual regulation under the SEZ Act, 2005.
- ODI regulated by the IFSC Authority to be recognised as valid contracts.
- IFSC Banking Units of foreign banks permitted to undertake acquisition financing.
- Government to set up a subsidiary of EXIM Bank in the IFSC for undertaking trade re-financing.
- Government to facilitate setting up of data embassies in the IFSC for countries looking for digital continuity solutions.



## Other regulatory proposals

- National Data Governance Policy to be brought in to encourage innovation and research by start-ups and academia which will enable access to anonymised data.
- One-stop solution to be established for updating identity and address using DigiLocker service and Aadhaar.
- PAN to be used as a common identifier for all digital systems of specified government agencies facilitating ease of doing business.
- 'Unified Filing Process' system to be set up for submission of the same information to different agencies.
- Scope of documents available in DigiLocker to be expanded to enable more Fintech innovative services.

## Experts speak



- The slew of measures introduced for the IFSC regime promote ease of doing business and should enhance business activities undertaken therefrom.
- The vibrant Fintech sector continues to garner attention in the budget announcements. New proposals such as simplification of KYC, access to wider set of documents in digital locker, set up of credit public infrastructure etc. will further provide the boost and enable the players to better serve the underserved markets.





# 04

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## Direct tax proposals



## Banking, NBFCs and capital markets

- Gains on transfer, redemption or maturity of market-linked debentures deemed to be short-term capital gains.
- Notified NBFCs to be excluded from the applicability of thin capitalisation norms.
- Withholding tax exemption on interest paid on listed bonds and debentures to be discontinued.
- Penalty of INR 5,000 to be levied on Reporting Financial Institutions on inaccurately submitting the statement of financial transaction due to false or inaccurate information furnished by the account holders which can be later recovered from such account holders.
- Carry forward of accumulated losses and unabsorbed depreciation to be permitted in case of amalgamation of one or more banking company with any other banking institution or a company subsequent to a strategic disinvestment (amalgamation to take place within five years of disinvestment).
- Withholding tax on income in respect of units of a mutual fund paid to non-residents to be changed from 20% to lower of (i) 20% or (ii) rate as per the applicable Double Taxation Avoidance Agreement.



## Experts speak



- New framework for taxation of market-linked debentures could result in a paradigm shift for investment in these instruments.
- Amendments aiming to bring certain NBFCs at par with banks is a move in the right direction.





## PE, start-ups and VCs

- Tax holiday to be extended for eligible start-ups incorporated up to 31 March 2024 (currently 31 March 2023).
- Relaxation to be provided for carry forward and set off of losses for eligible start-ups in case of change in shareholding, if such loss is incurred within ten years from the date of incorporation (currently seven years).
- Cost of acquisition for self-generated intangibles to be Nil.
- Receipt of excessive share premium from non-residents (earlier applicable only from residents) by closely held Indian companies to be taxable except in certain cases.
- No extension proposed for concessional tax rate under section 194LC of the Act, on interest paid by Indian companies or a business trust on monies borrowed after 30 June 2023.
- No extension proposed for concessional tax rate under section 194LD of the Act for interest income arising to FPIs on rupee-denominated bonds or government securities after 30 June 2023.



## Experts speak



- Extension of the sunset clause and the period of carry forward of losses of start-ups are support measures that will further boost the start-up economy.
- Possible tax impact on excessive share premium from non-residents at premium may complicate funding structures.





## RE, Infra and SWFs

- Certain distributions (e.g. repayment of loan by SPVs) by REITs or InvITs to be chargeable to tax as 'income from other sources' in the hands of unitholders. If such distribution is by way of redemption of units, then the cost of acquisition of units redeemed to be deductible:
  - No tax exemption to be available to SWF or PF, since 'income from other sources' is not included under section 10(23FE) of the Act.
  - Any redemption of units within three years of investment held by SWF or PF may result in withdrawal of exemption under section 10(23FE) of the Act.
- Unit holders would be permitted to obtain Nil withholding tax certificate (section 197 of the Act) with respect to distribution of income by REITs or InvITs.
- Exemption under section 54 or section 54F of the Act in case of long-term capital assets to be restricted to INR 100m.
- Benefit of double deduction for interest on borrowed capital for property (both on on-going basis and on sale) to be removed.
- On transfer of development rights under a specified agreement, it is clarified that with effect from FY 2023-24, any consideration received by cheque or draft or by any other mode shall be considered while calculating capital gains.

## Experts speak



Amendments to a well settled REITs or InvITs tax regime intend to plug loopholes, however, further amendments/ clarifications would be required to avoid unwarranted hardships and litigation.





## GIFT/ IFSC

- Income received by non-residents upon distribution of income on ODI entered into with an OBU of an IFSC to be exempt from tax as long as the amount is charged to tax in the hands of OBU.
- Sunset clause for tax neutral relocation of assets of the Offshore Fund to the IFSC to be extended from 31 March 2023 to 31 March 2025.
- Definitions of 'Specified Fund', 'Resultant Fund' and 'Investment Fund' to be amended to align the tax regime of the funds in the IFSC with the IFSCA (Fund Management) Regulations, 2022.



## Experts speak



The exemption provided to non-residents on distribution of income on ODI will go a long way in bringing P-notes business to IFSC and also lead to shifting of trading desk of banks to IFSC.







## Litigation

- Timeline to complete assessment proceedings to be increased from nine months to twelve months from the end of the AY (relevant for assessments of AY 2022-23 onwards).
- Joint Commissioner (Appeals) level to be created to handle certain appeals involving small amounts of disputed demand.
- Revenue can now file cross objections with ITAT where the taxpayer files an appeal with ITAT against an assessment order passed in consequence of DRP directions.
- Withholding tax credit for income offered to tax in earlier years can now be claimed within a period of two years from the end of the FY in which tax was deducted.
- The Tax Officer to assess or reassess the total income as per the modified return filed pursuant to business reorganisation in cases where the assessment or reassessment is completed or pending completion.
- Penalty and prosecution provisions to be introduced for non-compliance of withholding tax provisions with respect to providing benefit or perquisite arising from business.



## Experts speak



- Proposal for introduction of Joint Commissioner (Appeals) is a pragmatic step to tackle the massive pendency of appeals at the first appellate level.
- Revenue's ability to file cross objections against the DRP directions maybe a back-door entry leading to prolonged litigation.





## Other key tax proposals

- Maximum rate of surcharge under new tax regime to be capped at 25% (earlier 37%). Accordingly, maximum tax rate capped at 39% (earlier 42.744%).
- Winnings from online games to be taxed at 30%. Taxes to be withheld on net winnings at the time of withdrawal or at the end of the FY (to be computed in a prescribed manner).
- Any sum received from any life insurance policies (other than Unit Linked Insurance Policy), issued on or after 1 April 2023, having premium or aggregate of premium above INR 0.5m in a year to be taxable. However, any sum received on death of the person to remain exempt:
  - Deduction to be allowed for premium paid in the computation of income, if deduction of such premium has not been claimed under any other provisions of the Act.
- Taxability and withholding pertaining to benefits or perquisite in the course of business also extended to benefit or perquisite provided in cash.
- TCS rate to be increased from 5% to 20% for LRS payments (except for payments made for education and medical purposes) with effect from 1 July 2023.
- Benefit of carry forward and set off of losses and depreciation for strategic divestment expanded to include public sector companies (subject to conditions).
- Time limit to furnish the transfer pricing documentation during assessment proceedings reduced to 10 days (from existing 30 days) which can be further extended by another 30 days.



# 05

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## Indirect tax proposals



## Indirect tax proposals

### Goods and Service Tax

- Input tax credit to not to be eligible on CSR expenses.
- New section to be introduced to enable sharing of the information of registered persons by GSTN with other systems in a manner to be prescribed.
- Threshold for initiating prosecution is increased from INR 10m to INR 20m except for offences related to issuance of fake invoices. Strict penal actions to be applicable for the issuance of fake invoices.
- OIDAR provisions amended - Scope of taxability of B2C transactions by overseas suppliers potentially expanded.
- Penal provisions to be introduced for e-commerce operators entailing greater onus on them for better compliance.

### Customs

- Customs duty exemption to be provided on the import of prescribed capital goods and machinery for manufacture of lithium ion cells used in batteries in EV.
- Duty concession to continue on lithium ion cells used in the manufacture of EV batteries and mobile handsets for one year.
- Solar power plants and solar power projects to be excluded from Project Imports benefit.

## Experts speak



- Indirect tax proposals in the budget are aligned with key strategic priorities including Make in India, climate change and ease of doing business. Introduction/continuance of customs exemptions and concessions in the green energy and renewable space is a welcome move for the industry.
- Disallowance of input tax credit on CSR expenditure may have a regressive impact.





**06**

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# Glossary

| Abbreviation     | Particulars  |
|------------------|--|
| <b>Act</b>       | Income-tax Act, 1961   |
| <b>AI</b>        | Artificial Intelligence  |
| <b>AUM</b>       | Asset under Management   |
| <b>AY</b>        | Assessment Year  |
| <b>B2C</b>       | Business-to-consumer   |
| <b>CSR</b>       | Corporate Social Responsibility                                  |
| <b>DRP</b>       | Dispute Resolution Panel   |
| <b>EV</b>        | Electronic Vehicles  |
| <b>FDI</b>       | Foreign Direct Investment  |
| <b>FY</b>        | Financial Year   |
| <b>GNPA</b>      | Gross Non-Performing Assets                                      |
| <b>GSTN</b>      | Goods and Service Tax Network                                    |
| <b>IBC</b>       | Insolvency and Bankruptcy Code, 2016                             |
| <b>IFSC</b>      | International Finance Service Centre                             |
| <b>IFSCA Act</b> | The International Financial Services Centres Authority Act, 2019 |
| <b>IMF</b>       | International Monetary Fund                                      |

| Abbreviation | Particulars   |
|--------------|---|
| <b>INR</b>   | Indian National Rupee                                     |
| <b>InvIT</b> | Infrastructure Investment Trust                           |
| <b>IPO</b>   | Initial Public Offerings                                  |
| <b>IRDAI</b> | Insurance Regulatory and Development Authority of India   |
| <b>ITAT</b>  | Income Tax Appellate Tribunal                             |
| <b>KYC</b>   | Know Your Customer  |
| <b>LRS</b>   | Liberalised Remittance Scheme                             |
| <b>MMT</b>   | Million Metric Tonne                                      |
| <b>MWH</b>   | Megawatt Hour   |
| <b>NBFC</b>  | Non-banking Financial Company                             |
| <b>NISM</b>  | National Institute of Securities Markets                  |
| <b>NSO</b>   | National Statistical Office                               |
| <b>OBU</b>   | Offshore Banking Unit                                     |
| <b>ODI</b>   | Offshore Derivative Instruments                           |
| <b>OIDAR</b> | Online Information Database Access and Retrieval services |
| <b>PAN</b>   | Permanent Account Number                                  |

| Abbreviation | Particulars                            |
|--------------|--|
| <b>PE</b>    | Private Equity                         |
| <b>PF</b>    | Pension Funds                          |
| <b>RBI</b>   | Reserve Bank of India                  |
| <b>REIT</b>  | Real Estate Investment Trust           |
| <b>SEBI</b>  | Securities and Exchange Board of India |
| <b>SEZ</b>   | Special Economic Zone                  |
| <b>SME</b>   | Small and Medium Enterprise            |
| <b>SPV</b>   | Special Purpose Vehicle                |
| <b>SWF</b>   | Sovereign Wealth Fund                  |
| <b>TCS</b>   | Tax collected at source                |
| <b>UIDF</b>  | Urban Infrastructure Development Fund  |
| <b>US</b>    | United States                          |
| <b>USD</b>   | United States Dollar                   |
| <b>VCs</b>   | Venture Capitals                       |
| <b>YoY</b>   | Year-on-Year                           |

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