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INDIA UNION BUDGET 2021-22: KEY HIGHLIGHTS

A curated summary of key takeaways

This year's Union Budget, presented on 1st February 2021, had to shoulder the big burden of a dramatically drop in the Indian GDP owing to the lock down effects of the pandemic. As such, the Governemnt had the delicate job of ensuring economic growth, increasing investor sentiment and overall socio-economic progress of the country. Here are the highlights of the Budget document.



"Stop wishing, start doing"
John Doe

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UNION BUDGET 2020 _ CORPORATE TAX

1. Withholding Tax on Purchase of Goods

- Introduce a new tax withholding provision wherein the buyer while making payment to a resident for purchase of goods having value exceeding INR 5million / EUR 57.500 in the previous year is required to withhold taxes at the rate of 0,1%.
- The said provision is applicable only in cases where the buyer's total sales, gross receipts or turnover from the business carried on by him exceed INR 100 million or EUR 1,15 million during the preceding financial year.
- The above provisions would not be applicable in cases where payment is already subject to WHT or TCS under any other section.
- In case where buyer fails to furnish Permanent Account Number (PAN), then in such cases the WHT rate shall be 5%. Effective from 1 July 2021.

UNION BUDGET 2020 **CORPORATE TAX**

2. Higher Rate of TDS/TCS for non-filer of Return of Income (ROI)

- It is proposed to insert a special provision providing for higher rate of TDS and TCS for the non-filers of income-tax return. Higher rate of TDS to be applied on any sum or income paid or payable to a specified person. Rate of TDS to be higher of twice the rate specified in the Act or 5%.
- With respect to Tax Collected at Source (TCS), the new provisions provide for a higher rate of TCS between twice the rate specified in the Act or 5%.
- The persons covered under this section includes any person who has not filed the ROI for both the two Assessment Years which are immediately before the year in which tax is required to be deducted or collected and the time limit for filing the ROI has expired for both the years. There is another condition that the aggregate of TDS and TCS for each of the 2 previous years is INR 50,000 / EUR 575 or more. Effective from 1 July 2021 and applicable for AY 2022-23 (FY 2021-22) onwards.

3. Relaxation in applicability of Tax Audit Provisions

In order to incentivise non-cash transactions to promote digital economy and to further reduce compliance burden of small and medium enterprises, it is proposed to increase the existing threshold of Tax Audit from INR 50 million to INR 10 million (EUR 575.000 to EUR 1,15 million). Effective from 1 April 2021 and applicable for AY 2021-22 (FY 2020-21) onwards.

4. Reduction in Time Limit for filing Belated/Revised ROI

Proposed that the last date for filing of belated or revised return of income be reduced by three months. Thus, belated or revised returns could now be filed three months before the end of the relevant assessment year or before the completion of the assessment, whichever is earlier. Effective from 1 April 2021 and applicable for AY 2021-22 onwards.

UNION BUDGET 2020 _ CORPORATE TAX

5. Reduction in Time Limit for completing Assessment and Realization in Progression of Returned Income

- Time limit for initiation of scrutiny proceedings have been reduced from 6 months to 3 months from the end of the financial year in which return has been furnished. Further, the time limit for completion of assessment proceedings have been reduced by 3 months. Accordingly, the assessment is proposed to be completed within 9 months from the end of the assessment year.
- With respect to processing of return of income by CPC (Centralized Processing Centre), it is proposed to allow for the adjustment on account of increase in income indicated in audit report but not taken in ROI.
- Further, it is also proposed to reduce the time limit to send intimation under 143(1) (processing of return) from 1 year to 9 months from the end of the financial year. Effective from 1 April 2021 and applicable for AY 2021-22 onwards.

UNION BUDGET 2020 _ CORPORATE TAX

6. Extension of Sunset Period in case of Start-up Tax Holiday

- Under the current regime, 100% profit-linked deduction is granted to eligible start-ups for income earned from eligible business. The deduction is available to start-ups which are incorporated on or after 1 April 2016 but before 1 April 2021.
- Further, exemption is also granted to any long-term capital gains earned by a Taxpayer from transfer of residential property on or before 31 March 2021 subject to utilization of net-consideration from such transfer towards subscription of equity shares in an eligible start-up.
- In order to assist such eligible start-ups, it is proposed to extend the outer limit of incorporation from 31 March 2021 to 31 March 2022.

7. Depreciation on Goodwill Not Permissible

- It is proposed to amend the definition of intangible asset for the purpose of depreciation in order to exclude goodwill from its ambit. In such a scenario, depreciation will not be eligible on either self-generated goodwill or purchased goodwill. Further in case of purchased goodwill on which depreciation has been claimed till 31 March 2021, the written down value (i.e. original cost less depreciation claimed in past) and capital gain shall be computed in the manner prescribed.
- In other cases the cost of acquisition shall be actual purchase price or NIL in case of self-generated goodwill for the purpose of computing capital gains. Effective from 1 April 2021 and applicable for AY 2021-22 onwards.

8. Rationalization of Withholding Tax on Payments made to Foreign Portfolio Investors (FPI)

- Under the current regime, payments to FPIs (other than interest on Rupee Denominated Bonds and Government Securities) attracts withholding tax at a flat rate of 20% without grant of any Treaty Benefits.
- It is now proposed to grant FPIs the benefit to claim treaty benefits to lower the withholding tax, if applicable, subject to the FPI furnishing a Tax Residency Certificate to the payer. Effective from 1 April 2021 and applicable for AY 2021-22 onwards.

9. Faceless Proceedings before ITAT in a Jurisdiction Less Manner

Similar to faceless assessment, appeal and penalty schemes, it is proposed to introduce a faceless scheme for conducting appeal proceedings before ITAT so as to impart greater efficiency, transparency and accountability. Effective from 1 April 2021 and applicable for AY 2021-22 onwards.

10. Change in Procedure for conducting Reassessment and Search Assessment Proceedings

It is proposed that reassessment proceedings can now be initiated by Tax Authority where he has information which suggests that the income chargeable to tax has escaped assessment for relevant assessment year from the following sources as well:

- information flagged in accordance with risk management strategy formulated by CBDT and largely done by computer-based system.
- final objections raised by CAG that assessment of taxpayer has not been made in accordance with provisions of the Act
- Survey or search action on taxpayer on or after 1 April 2021
- Money, bullion, jewellery or other valuable article or thing, books of account or documents seized or requisitioned in case of any other person on or after 1 April 2021 which belongs to or pertains to the taxpayer.

A new procedure is also prescribed for Tax Authority to conduct enquiries, if required and granting an opportunity to taxpayer before issuance of notice for reassessment except in cases of search or requisition. It has been proposed that the time period to issue notice for income escaping assessment be reduced as below:

- Income escaping assessment, the time limit has been reduced to 3 years from 6 years from the end of the Assessment Year
- In specified cases, can be reopened until 10 years

Effective from 1 April 2021 and applicable for AY 2021-22 onwards.

11. Provisional Attachment of Property in cases involving Falsification of Books of Accounts

- In order to curb the practice of claiming GST input tax credit from fake invoices, Finance Act 2020 introduced a penalty provision wherein penalty will be levied on taxpayer making false or omitted entry or any other person who causes such taxpayer to make the false or omitted entry.
- With effect from FY 2021-22, the Tax Authority is now permitted to provisionally attach the Taxpayers property if necessary, during the course of pendency of proceedings regarding imposition of penalty in cases involving falsification/ omission of entries in books of accounts, provided the amount of penalty imposable is likely to exceed INR20m. Effective from 1 April 2021 and applicable from AY 2021-22 onwards.

12. Delayed Remittance of Employee Contribution to Employee Welfare Funds to result in Permanent Disallowance of Deduction

- Currently, there exists a controversy over whether an employer remitting the employee contribution post “due date” would be eligible to claim deduction on payment basis on lines similar to employer contribution.
- It has now been proposed that where an employer is required to deduct certain amount towards employee contribution to labour welfare funds (PF, ESI, etc.) from the employee’s pay and the same is not remitted to the respective fund within the “due date” specified in the relevant legislation, such amount shall not be allowed as a deduction in the hands of the employer, while the contribution at the time of deduction is regarded as income of the employer. Effective from 1 April 2021 and applicable from AY 2021-22 onwards.

UNION BUDGET 2020 _INTERNATIONAL TAX

1. Rationalization of the Provision of Equalization Levy

- It is now clarified that taxation as royalty or fee for technical services under the income tax law would have priority over equalisation levy. In order to be regarded as “online sale of goods” and “online provision of services” for e-commerce supply or service, one or more activities need to be undertaken online. These are, namely:
 - acceptance of offer for sale;
 - placing purchase order;
 - acceptance of purchase order;
 - payment of consideration or
 - supply of goods or provision of services, partly or wholly.
- Consideration received/ receivable for sale of goods and provision of services will be included regardless of whether the e-commerce operator owns the goods or provides the service. A transaction which is subject to equalisation levy shall be exempt under the Act with effect from 1 April 2020.

UNION BUDGET 2020 **_INTERNATIONAL TAX**

2. Rationalization of Minimum Alternate Tax (MAT) Provisions

- Under the current regime, MAT is applicable at the rate of 15% (plus applicable surcharge and cess) on book profit in case tax on the total income of a company computed under normal provisions is less than the 15% (plus applicable surcharge and cess) of book profit. The current scheme of computation of book profit does not provide for any adjustment on account of additional income of past year(s) included in books of account of current year on account of secondary adjustment or APA entered by the taxpayer.
- It is now proposed that where there is an increase in the book profit of the income of a financial year due income of past year(s) on account of secondary adjustment or APA entered by the taxpayer, the Assessing Officer shall re-compute the book profit and tax payable of the past years in the prescribed manner. The taxpayer will have to make an application in this regard to the assessing officer. The procedure and time periods applicable for “rectification proceedings” will be applicable. Effective from 1 April 2021 and applicable from AY 2021-22 onwards.

3. Reduction in Time Limit for Completion of Assessment

Under the current regime, the time limit for completion of assessment proceedings involving transfer pricing reference for Assessment year (AY) 2019-20 and onwards is 24 months from the end of the AY in which income was first assessable. It is now proposed to reduce the time limit for completion of assessment proceedings by 3 months. Accordingly, for AY 2021-22 and onwards, time limit to complete assessments involving transfer pricing reference will be 21 months from the end of the relevant AY.

UNION BUDGET 2020_PERSONAL TAX

1. Incentives for Affordable Rental Housing

Under current regime, deduction is provided in respect of interest on loan taken for a residential house property from any financial institution up to INR 150,000 subject to the condition that the loan has been sanctioned before 31 March 2021 and certain additional conditions. In order to help such first-time home buyers further, it is proposed to extend the outer date for sanction of the loan to 31 March 2022. Effective from 1 April 2022 and applicable for AY 2022-23 onwards

UNION BUDGET 2020_PERSONAL TAX

2. Relaxation for Certain Category of Senior Citizen from Filing Return of Income Tax

In order to provide compliance relief to senior citizens of age 75 or more, it is proposed to provide relaxation to such individuals from filing of return of income, if they have pension income and no other income except interest income from the same bank in which they are receiving their pension income and further subject to other conditions as prescribed. Effective from 1 April 2021 and applicable for AY 2021-22 onwards

UNION BUDGET 2020_PERSONAL TAX

3. Relief from Double Taxation of Income from Notified Overseas Retirement Fund

- Under current regime, individuals who are now residents and had opened retirement funds in foreign countries when they were non-residents in India, face a genuine hardship of mismatch in the year of taxability of withdrawal from retirement funds. At present the withdrawal from such funds may be taxed on receipt basis in such foreign countries, while on accrual basis in India.
- In order to address the issue of mismatch of taxation of income from overseas retirement fund maintained in a notified country, a new provision has been introduced to align the year of taxability between India and such foreign country. Effective from 1 April 2022 and applicable for AY 2022-23 onwards.

UNION BUDGET 2020_ **INDIRECT TAX**

1. Customs

- Sunset clause till 31 March 2023 is introduced for all conditional exemptions which are currently in force unless withdrawn earlier.
- New conditional exemptions shall be valid till 31 March immediately following two years from the date of grant or variation of such exemption (unless otherwise specified or rescinded earlier)
- Bill of entry for import of goods needs to be filed at least a day before the arrival of goods. However, the government can provide different time limit in certain cases, which shall not be later than the end of the day on which the goods have arrived.
- Confiscation of goods where the same have entered for exportation under wrongful claim of refund or remission of duty.
- Penalty of up to five times of the amount of refund may be levied under customs in cases where ITC under GST is claimed on basis of fraudulent invoice and the same is utilized for payment of integrated tax on export.
- Any enquiry or investigation culminating into issuance of notice, has to be completed within two years from the date of initiation of audit, search, seizure or summons, subject to increase by one year by the Principal Commissioner / Commissioner on only establishing sufficient cause.

UNION BUDGET 2020_ **INDIRECT TAX**

1. Goods and Services Tax

- Benefit of zero-rated supplies made to SEZ unit/ developer would be available if the same is made for authorized operations of such SEZ unit/ developer.
- The option of making zero-rated supply on payment of tax and claiming refund of the same shall be available only to notified class of taxpayers or supplies.
- The time limit to realize sale proceeds of goods exported without payment of tax has been linked to Foreign Exchange Management Act, 1999. In case of non-realization of money within the stipulated time, the person has to deposit within 30 days, the refund claimed along with interest.
- CGST Act has been amended to allow ITC only in cases where the same matches with the statement of outward supplies furnished by the supplier in Form GSTR-1.
- GST law has been amended to give effect to interest liability on net tax payment, retrospectively from 1 July 2017.
- The provision mandating furnishing of reconciliation statement duly audited by specified professional has been removed. Post amendment, the registered person shall furnish the annual return which may include a self-certified reconciliation statement.
- GST Council may exempt a class of taxpayers from the requirement of filing the annual return.
- Conclusion of recovery proceeding will not absolve the person from paying penalty on account of seizure and confiscation of goods and conveyances in transit.

UNION BUDGET 2020_OTHER ANNOUNCEMENTS

- To reduce compliance requirements for several companies, the definition of small companies is proposed to be revised by increasing their thresholds for paid up capital to INR 20 Million (EUR 230.000); and turnover to INR 200 Million (EUR 2,3 million).
- To benefit start-ups, it is proposed for One-Person Companies (OPCs) to grow without any restrictions on paid up capital and turnover; allow conversion into any other type of company at any time; reduce the residency limit for an Indian citizen to set up OPCs from 182 days to 120 days; and allow Non-Resident Indians to incorporate OPCs in India.



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