

India Union Budget 2022-23

Point of view

Technology



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Key announcements for the sector

The technology sector has seen a sustained global interest in view of its catalyst role as well for the larger economy. Leveraging this momentum, the Government has given an investor-friendly budget to help attract billions for capital formation. Technology investments have had a multiplier effect on the overall economy acting as levers for further growth and tapping efficiencies.

Some of the technology related initiatives highlighted in Budget 2022 included:

- Technology as an enabler for AtmaNirbhar Bharat: The government continues its laser sharp focus on the electronics manufacturing by cutting the custom duties – thereby placing India more competitively in the global value chains.
 - The taxation on new manufacturing units catering to this are eligible for a 15% tax.
- Technology to help bridge the rural-urban divide: Scheduled commercial banks to setup 75 digital banking units across 75 districts in the country to support the massive demand for digital payments.
- Launch of digital currency by RBI using blockchain technologies and continuation of financial support to digital payments will further enhance the digital inclusiveness of the nation and support use of various tech services to drive the digital proliferation
- The setting up of a world-class Digital University and the DESH-Stack e-portal for upskilling, reskilling and cross-skilling will place India as a global hub for talent with a special focus on deep tech areas
- The budget laid specific focus on use of artificial intelligence and drone technology to modernise and streamline processes across sectors such as education, banking, transport and infrastructure. Under the Drone Shakti project, the government plans to encourage use cases with varied applications for drones, including drones as a service.
- Recognizing the criticality of digital infrastructure, the budget accorded data centres the status of 'infrastructure'
- Platform led approach creating a digital society of the future – Introducing e-Passports with embedded chips on a portal; customs national portal for risk-based checks for SEZs to facilitate ease of doing business with trust based governance; interlinking MSME portals such as Udyam, e-Shram, NCS and ASEEM to enable G2C, B2C, and B2B services; DESH portal for skilling and livelihood; setting up of green single window clearances through PARIVESH portal; launching of National Digital Health platform with digital registries are all initiatives in this regard.
- Supportive and light touch regulatory policies for new technologies: Battery swapping sand charging station policy frameworks are expected to boost EV/ mobility startups and companies; artificial intelligence, space, genomics, green energy, clean mobility, fintech, blockchain, pharmaceuticals and biotech, agri-drones and semi-conductors will be given specific support for building domestic capacities.

Some of the details around other direct and indirect taxation proposals impacting the sector are listed below:

Direct Tax Proposals

- New section proposed to give option to the taxpayers to file updated/ fresh return within two years from the end of the Assessment Year with the following conditions:
 - Such updated/ fresh return should not result in reduction of income or increase in refund
 - Such updated/ fresh return cannot be filed if assessment is initiated or any proceedings are pending
 - Additional tax of 25% on incremental tax and interest to be paid where the updated/ fresh return is filed within one year for the end of the Assessment Year. Additional tax of 50% in other cases
- Income generated from transfer of Virtual Digital Assets (VDA) taxable at 30%:
 - only cost of acquisition allowed as deduction
 - No set off / carry forward shall be allowed in respect of loss on transfer
 - Gift of VDA is also taxable
- Last date for incorporation of 'eligible' start-up for claiming tax holiday proposed to be extended by one year to 31 March 2023
- Surcharge on long-term capital gains proposed to be capped at 15% as against the earlier highest rate of 37% on all kinds of long-term capital assets
- Concessional tax rate of 15% on dividend income from foreign companies proposed to be removed
- Retrospective amendment proposed from AY 2005-06 to clarify that the term 'tax' includes surcharge or cess, and therefore cess paid on income-tax will not be an allowable expenditure
- Proposal to clarify that expenditure incurred in relation to an exempt income shall not be allowed as deduction irrespective of whether any exempt income is accrued, arisen or received during the relevant year
- **Dispute Resolution and Litigation**
 - Filing of appeal before Tribunal/ High Court could be deferred by the tax department if an identical issue is pending before jurisdictional High Court / Supreme Court in the case of same / different taxpayer.
 - Revisionary powers proposed to be amended to include transfer pricing orders passed by the Transfer Pricing Officer if such orders are considered to be prejudicial to the interests of Revenue.
 - Date for issuing relevant directions for the implementation of the faceless assessment for Transfer Pricing (including DRP proceedings), International Taxation and Tribunal appeals extended from 31st March 2022 to 31st March 2024

Goods and Service Tax

- Time limit for following activities pertaining to supplies made in a Financial Year extended from due date of filing return of September to 30th November following the end of the financial year:
 - Availment of Input Tax Credit ('ITC') on invoice
 - Issuance of credit note / debit note for supplies
 - Rectification of GSTR-1 / 3B return
- Eligible ITC can now be claimed on 'self-assessment' basis as against 'provisional basis'
- ITC restricted only to 'eligible' credits as appearing in Form GSTR-2B
- Transfer of Balance in Cash Ledger (CGST and IGST) permitted between distinct persons
- Retrospective amendment effective from July 1, 2017 to provide for levy of interest only when ITC is both - availed and utilized (and not only on availment)
- Interest on undue or excess claim of ITC / undue or excess reduction in output liability proposed to be reduced retrospectively from July 1, 2017 to 18%

Special Economic Zone (SEZ)

- SEZ Act proposed to be replaced with new legislation
- Corresponding changes to be introduced in Customs administration of SEZ, introduction of risk-based intervention and usage of common EDI platform

Customs

- Amendment to the definition of 'Proper Officer' to include officers of the Directorate of Revenue Intelligence (DRI) as proper officers, irrespective of any decision of a Tribunal / Court in this regard
- Applicability of Advance Ruling restricted to three years from the date of the ruling, or till there is a change in law or facts, whichever is earlier
- Changes proposed in the rate of custom duty for some of the items, including withdrawal of concessional rate of duty
- Sunset date of 31 March 2023 introduced in relation to concessional rate of customs duty on import of raw materials and parts / capital goods used in manufacture of electronic items

Implications for the sector

Positive Boosters:

Budget 2022 has very profoundly set the foundation of digital growth for India. The budget underpins the role of technology sector in achieving the digital vision of the nation. The Budget 2022 recognized the potential of artificial intelligence, geospatial systems and drones, semiconductors, space imaging, genomics, green energy and clean mobility systems in sustainable development and modernization of the nation.

Further, some of the welcome proposals that will go a long way in supporting the sun rise sector of Technology include:

- The proposal to introduce option to file an updated/ fresh return of income and deferral of filing of appeal by the tax department where an identical question of law is already pending is aimed at reducing litigation
- There is a proposal to replace the Special Economic Zone, Act with new legislation; the details of the same are yet to be issued
- The intent of the changes in the Customs Act is to promote Atmanirbhar Bharat policy and to incentivize local manufacturing through gradual phasing of customs duty exemptions.
- Supporting start up ecosystem through continued exemptions
- Concentrated effort to reduce the digital divide, increase digital literacy and enhance the talent pool across deep tech areas,

However, the budget also included some proposals which would either adversely impact the sector or need further clarification:

- The proposal to remove concessional tax rate on dividend from foreign companies will impact taxpayers with outbound investment and overseas expansion.
- Further, proposed changes in terms of availing ITC based on vendor declaration and extension of timelines for availing credit will increase compliance burden for the taxpayers.
- Furthermore, contrary to expectations, no clarification has been provided on the availability of tax holiday benefits to SEZ units in case where the employees work from home/ outside of the SEZ units.

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