

India Union Budget 2022-23

Point of view

Energy and Natural Resources



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Key announcements for the sector

Direct Tax

- No change proposed in the corporate tax rates
- Surcharge on long-term capital gains for HNIs proposed to be restricted to 15% under all circumstances
- Last date for commencement of manufacturing or production for newly incorporated companies has been extended from 31st March 2023 to 31st March 2024 to be eligible to claim lower corporate tax rate of 15 percent
- Surcharge and Cess not allowable as business expenditure while computing taxable income
- Allowing taxpayers to update the past income tax return within 2 years from the end of the relevant assessment year by voluntary payment of additional tax
- Section 94 providing for anti-abuse provisions with regard to bonus and dividend stripping has been amended to include securities (including units of InvIT/ REIT/ AIFs) within its ambit
- It has been clarified that the disallowance under section 14A can be made even in cases where exempt income has not accrued or arisen or received and the expenditure has been incurred in relation to such exempt
- Conversion of accrued interest into debenture or any other instrument by which liability to pay is deferred to a future date, shall not be deemed to have been actually paid under section 43B
- Lapse of brought forward tax losses under section 79 shall not be applicable to an erstwhile public sector company provided that its ultimate holding company continues to hold, directly or indirectly, at least fifty-one per cent of the erstwhile public sector company
- Beneficial tax rate of 15% on dividend received from foreign companies has been scrapped in order to provide parity in the tax treatment in case of dividends received from domestic companies
- It has been clarified that for the purposes of section 50 for computing capital gains on depreciable assets, reduction of the amount of goodwill from the block of asset shall be deemed to be transfer
- Nature and source of any unexplained cash credits can also be questioned for the creditor who has provided the loan to assessee-company, except in case where creditor is a well-regulated entity such as FVCI, etc.
- Procedure provided to reduce the amount in the outstanding demand register in case of business reorganization through Court or Tribunal or an Adjudicating Authority as defined in IBC, 2016
- Provisions introduced for filing of modified return by the successor entity in case of business reorganizations

- Rationalization of TDS provisions on sale of immovable property under section 194-IA to provide for taxes withholding on sum actually paid or stamp duty value, whichever is higher
- Section 206AB and 206CCA have been amended to provide that the earlier requirement of two years has been reduced to one year by amending the meaning of “specified person”
- Simplified and better user-friendly processes have been proposed to be put in place for undertaking faceless schemes for assessment/ re-assessment proceedings
- Timeline for devising ground process/ IT structure for conducting faceless proceedings for transfer pricing matters, DRP and Appellate Tribunal related appeals and procedures have been extended till 31st March 2024
- Provisions relating to assessments and re-assessments have been rationalized, some approval and timelines related aspects have also been amended
- Provisions introduced for prosecution against persons failing to pay tax collected at source similar to provisions applicable in case failure to pay tax deducted at source

Indirect Tax

- **Central Excise**
 - Increase of excise duty by Rs. 2/litre on Petrol and Diesel, intended to be sold to retail consumers without blending of ethanol/methanol and biodiesel respectively from 01st October 2022.
 - Change in Central Excise Tariff for Petroleum Crude from 2709 20 00 with 2709 00 10 to align with Customs Tariff
- **Customs Duty**
 - **Legislative changes**
 - The scope of the definition of 'proper officer' has been enhanced whereby the officers of Directorate of Revenue Intelligence, officers of Customs (Preventive) and audit officers are being specifically included in the class of officers of Customs.
 - Adjudication to be done by jurisdictional assessing officer i.e., any other officer of customs who is causing inquiry, investigation, or as the case may be, audit, transfer along with a report in writing along with relevant documents to the proper officer having jurisdiction for adjudication.
 - Advance Ruling will be valid for three years or till there is a change in law or facts on the basis of which the advance ruling has been pronounced, whichever is earlier.
 - New section 135AA in the Customs Act, so as to make punishable the publishing of information relating to the value or classification or quantity of goods entered for export from India, or import into India, or the details of the exporter or importer of such goods, unless required so to do under any law for the time being in force
 - The Special Economic Zones Act is proposed to be replaced with new legislation that will enable the states to become partners in 'Development of Enterprise and Service Hubs'. Specific focus on the IT drive compliances is placed
 - All imports to be handled under the one IT network (ICEGATE) including SEZ
 - Tariffisation of the customs duty rate by incorporating the effective duty rate in Customs Tariff Act; thus, reducing the number of exemption notifications.
 - Amendment in **Customs Import of Goods at Concessional Rate of Duty (IGCR) Rules, 2017**
 - Introduction of end-to-end automation in the entire process such as submission of all details electronically through a common portal
 - Standardizing and notifying various forms
 - Transaction based permissions and intimations are being done away with

- For effective monitoring of the use of goods for the intended purposes, a monthly statement is being proposed which is to be submitted by the importer on the Common Portal

- **Changes in Customs Duty**

- Tariff rate on “Coal, Lignite and Peat” falling under Heading “2701, 2702 and 2703” has been reduced to 5% through the First Schedule to the Customs Tariff Act. However, concessional BCD rate of 1% will continue on these goods.
- Removal of exemption from BCD on import of kerosene by IOCL, HPCL, BPCL and IBP company limited for ultimate sale through the public distribution system.
- Extension of concessional rate of duty on import of scrap of Iron or Steel including stainless steel up to 31st March 2023 (Effective BCD: 2.5%)
- Concessional rate of BCD of 2.5% is introduced for import of Fuel oil, Straight run fuel oil, Low sulphur wax residue, Vacuum residue, Slurry (2710 19), vacuum gas oil
- Removal of antidumping duties on various steel products imported from China and other countries
- Phased withdrawal of exemption on import of goods required for use in high voltage power transmission projects falling under Chapter 84 of any other chapter (specific goods will attract BCD from 01st April 2022 and 01st April 2023)
- Withdrawal of exemption provided to parts and raw materials for the manufacture of goods required for off-shore oil exploration
- Withdrawing the concept of Essentiality Certificate required for goods required for use in connection with petroleum operation. List 33 has been pruned and aligned with the HS code.
- Specific provision enacted for levying duty of 7.5% on surplus goods which are imported under the Essentiality Certificate
- Phased withdrawal of exemption from BCD on parts for wind operated electricity generator
- Phased withdrawal of exemption of concessional rate of 5% available for setting up crude refinery (few entries from 01st April 2022 and remaining from 01st April 2023)
- Withdrawal of the exemption on machinery for renovation or modernisation of power generation plant from 01st April 2022
- Increase in effective BCD on photovoltaic cell not assembled in modules or made up to solar panels from 0% to 25% from 01st April 2022
- Increase in effective BCD on photovoltaic cells assembled in modules or made up to solar panels increased from 0% to 40% from 01st April 2022
- Phasing out concessional rates of customs duty for import of capital goods under Project Imports Scheme gradually and applying a moderate tariff of 7.5% (project registered till 30th September 2022 will enjoy benefit till 30th Sept 2023)

- **Goods and Services Tax**

- **Simplification and improving compliance**

- Specific amendments are brought to align the existing input tax credit reconciliation mechanism followed by GSTN (GSTR-2B) with the restriction on input tax credit in specific cases (i.e., removing the two-way reconciliation process)
- Extension in timeline up to 30 November of subsequent FY to which invoice or debit note pertains
- For availment of ITC
- Issuance of credit note against invoices
- Rectification of error in details furnished in GSTR1
- Sequential filing of GST returns and provisions for cancellation of registration in case of non-filers

- Introduction of new Section 49(12) under the Goods and Services Tax Act to state that the GST Council may specify the restriction on utilisation of input tax credit against the output tax liability forcing the taxpayer to pay GST in cash despite having an Input tax credit balance.
- Retrospective amendment to levy interest for the wrong availment of input tax credit only if the input tax credit is utilized

Sectoral announcements

- **Energy Transition and Climate Action** along with Productivity Enhancement and Investment, Sunrise Opportunities are one of the four pillars of Gol 25-year vision for '*Amrit Kaal*'.
- **Battery swapping policy and inter-operability standards** to be formulated. and land resources will be provided for battery swapping to allow for setting up of charging stations at scale. Private sector shall be encouraged to develop innovative business models for "Battery- or Energy-as-a-Service".
- Additional allocation of Rs. 19,500 cr. for PLI for **manufacturing of high-efficiency solar PV modules**, with priority to fully integrated manufacturing units from polysilicon to solar PV modules. Last year's PLI scheme had a budget provision of Rs 4500 cr.
- **Sustainable and climate finance:**
 - **Sovereign Green Bonds** to be issued in 2022-23 for mobilizing resources for green infrastructure.
 - Services for global capital for sustainable and climate finance in the country will **be facilitated in the GIFT City**.
 - Gol will promote **thematic funds** including climate action involving **blended finance for sunrise sectors** with the government share being limited to 20% and the funds being managed by private fund managers.
- **Energy Storage Systems** including dense charging infrastructure and grid-scale battery systems will be included in the **Harmonized Master list of Infrastructures (HMI)** and will get infrastructure status.
- Increased use of public transport to be promoted in urban areas, with a focus on **Electric Vehicles (EVs)**, governance solutions, special mobility zones with zero fossil-fuel policy.
- Vibrant Village Program for border villages to include provisioning of **Decentralized Renewable Energy (DRE)** aimed at providing enhanced financial support for setting up of distributed renewables.
- **5-7% biomass pellets will be co-fired in thermal power plants** resulting in CO₂ savings of 38 MMT annually.
- **Energy efficiency and energy saving measures** to be promoted in commercial buildings through Energy Service Company (ESCO) business model.
- Four pilot projects to be set up, to test techno-commercial viability of **coal gasification** and **conversion of coal into chemicals**.
- A graded rate structure will be introduced through calibration of customs duty rates to facilitate **domestic manufacturing of electronic smart meters**.
- States will be allowed a **fiscal deficit** of 4% of GSDP of which 0.5% will be **linked to power sector reforms**, with the aim of improving operational and economic efficiency of State Discoms.
- **Additional differential excise duty on unblended fuel** of Rs. 2/litre from 01st October 2022.
- **Customs duty to be reduced on certain critical chemicals** namely methanol, acetic acid and heavy feedstocks for petroleum refining, which will help reduce raw material costs for industries. Duty will be increased on sodium cyanide for which adequate domestic capacity exists.
- Expanded scope for the **single-window portal for all green clearances** and tracking of the process through Centralized Processing Centre-Green (CPC-Green).

Other relevant announcements

- **Infrastructure:** Gati Shakti Plan involves a higher spend on infrastructure including transport and logistics, supported by energy transmission infrastructure.
- **Railways:** Four hundred new-generation Vande Bharat Trains with better energy efficiency and passenger riding experience will be developed and manufactured during the next three years.
- **SEZs:** The Special Economic Zones Act will be replaced with a new legislation to enable the states to become partners in 'Development of Enterprise and Service Hubs'.
- **Green Energy and Clean Mobility Systems** feature as sunrise opportunities for assisting in modernizing the country. For this, there is focus on light-touch regulations, facilitative actions to build domestic capacities, and promotion of R&D.
- Implementation of **Ken-Betwa river-linking project** to be taken up, with irrigation benefits to nine lakh hectare farmland. Will generate 103 MW of **hydro power** and 27 MW of **solar power** and provide drinking water to 62 lakh people. Involves allocations of Rs. 4,300 cr in RE 2021-22 and Rs. 1,400 cr. in 2022-23 for an estimated total cost of Rs. 44,605 cr.
- **Circular Economy transition for used oil waste** apart from other end-of-life products and material is indicated. Intended to boost production of biodiesel from Used Cooking Oil (UCO) and provide an alternative means of energy.
- **Childcare:** Two lakh Saksham Anganwadis, or rural childcare centres, across India will be upgraded to have better infrastructure and audio-visual aids, powered by clean energy.

Key implications

- **Additional fiscal space** of 0.5% of GSDP shall be tied to **power sector reforms** such as improvement in metering and billing efficiency, timely payment of dues and subsidies by state government, adoption of emerging technologies and introduction of competition in distribution. The step is aimed to help improve the financial sustainability of State Discoms.
- **Battery swapping policy:**
 - Standardizing battery swapping infrastructure and recognising the energy-as-a-service model will accelerate economies of scale in charging infrastructure, increase adoption of EVs in public transportation and also encourage innovations to use energy more efficiently.
 - Introduction of policy on battery swapping will be beneficial especially for E-2W and E-3W categories since swapping aims at minimizing stop time for EV vehicle owners and promotes sustainable battery management practices. A detailed policy on the same will further help the sector to accelerate growth, especially when establishment of charging infrastructure has been one of the bigger bottlenecks for EV penetration.
 - It would promote entrepreneurship in the areas of battery swapping, ESCO services, energy management systems, etc. and encourage businesses engaged in delivery services and car aggregation to incorporate EVs into their fleet.
 - The measures will encourage replacement of old petrol/diesel vehicles and promote sustainable public transport.
- Awarding **infrastructure status to Energy Storage Systems** can be a vital step in accelerating the deployment of grid-scale battery energy storage systems, which is an important enabler for grid integration of RE. This move will help legitimize energy storage systems as part of core power infrastructure and channelize credit availability towards such projects.
- **Additional PLI allocation for high-efficiency solar modules** is aimed at improving manufacturing self-reliance in critical sectors as solar energy. This step is likely to improve the domestic content in solar power projects while keeping costs competitive with international suppliers. The last Solar PLI witnessed bids

being received to double the allotted capacity, thus the inclination of the industry is already visible in this area. This additional budget allocation is a welcome step.

- The focus on infrastructure and logistics with highway additions and logistics parks being added will enable both **better connectivity** and **energy access**, and also **energy demand enhancement**. Additionally, reduced customs duty for capital goods/ project imports will aid in development of large energy projects.
- **The Vibrant Village** Program can ensure access to electricity in remote areas and help develop RE capacity to meet a portion of large-scale target of 500 GW by 2030.
- **Coal-to-chemicals** pilot projects will tap into generation of chemical feedstocks such as ammonia and methanol for industrial use and reduce dependence on natural gas imports. These pilots will also help in ascertaining commercial feasibility of such projects.
- Gol has expressed its intent to encourage **fuel blending** and has set the target of blending 20% ethanol in petrol by 2025 and 5% biodiesel in diesel by 2030. The increased excise duty on unblended fuel will further incentivise bio-fuel blending. Additionally, encouraging fuel blending will help reduce the oil import bill.
- Reduced customs duty on imported chemicals including methanol and feedstocks for petroleum refining may have a **significant bearing on production of green hydrogen domestically**, since green methanol is a derivative of green hydrogen.
- **Extension of timelines for applicability of lower corporate tax rate** for manufacturing / power generation companies will boost Gol's 'Make in India' agenda and will further push the clean energy agenda.
- **Rationalization of proposed GST amendments** may simplify and improve compliances.
- Withdrawal of exemption / phasing out concessional rates of customs duty for import of capital goods may entail **additional cost of capital goods / respective machinery**.

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