

India Union Budget 2022-23

Point of view

Life Sciences



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The life sciences sector continues to be an integral part of the country's economy. The pandemic has reiterated the importance of a strong healthcare infrastructure backed by digital interventions. Given the historically low public expenditure on healthcare in our country, the budget presented today highlighted a landmark move for the sector with announcements on mental health and digital health coming to the forefront. Below are the key announcements for the Sector that the Budget 2022-23 presented:

Key announcements for the sector

- Investments in PLI schemes:** The production linked incentive (PLI) announced by the government in 14 sectors is expected to boost local manufacturing and jobs as it could create as many as 60 lakh jobs and Rs. 30 lakh crore in production over the coming 5 years.
- Continuation of 'Sabka Saath, Sabka Prayas' to augment vaccinations:** With the mantra of 'Sabka Saath, Sabka Prayas', 75% of the adult Indian population has received vaccinations. The FM highlighted that this is expected to continue to increase vaccination doses in the country to produce a more resilient and healthy population.
- Healthcare:** This year while there was a drop of ~45% for medical and public health expenditure due to lower requirement for vaccines, the spend still remains substantial.
 - National Digital Health Ecosystem:** An open platform for the National Digital Health Ecosystem comprising of digital registries of health providers and health facilities, universal access to health facilities and unique health identity is to be rolled out.
 - National Tele Mental Health Program:**
 - A National Tele Mental health program is to be launched to provide better access to quality mental health counselling.
 - This cause will be implemented by a network of 23 mental health centres with NIMHANS being the nodal centre and technological support to be provided by IIIT Bangalore.
 - Capital investments infusion:** The 35% on-year increase in budgetary support to capital expenditure could boost spending on construction of hospitals and healthcare facilities as well as the production of medical machinery
- Tax Proposals**
 - Corporate Tax**
 - It is proposed that a tax deduction will not be allowable from FY 2021-22, for an expenditure that has been incurred to provide any benefit or perquisite to a person (say 'X'), the acceptance of which by X is in violation of any law etc., governing the conduct of X.
 - With effect from 1 July 2022, a withholding tax ('WHT') of 10% is proposed in specified circumstances, on the provision of any benefit or perquisite to a resident (say 'Y'), that arises to Y from its business or profession.

- **Transfer Pricing**
 - Revisionary power of the Revenue Authorities proposed to be amended to include transfer pricing orders passed u/s 92CA of the Act.
 - TP Assessment and DRP proceedings, the date for issuing relevant directions to implement faceless proceedings extended from 31st March 2022 to 31st March 2024
- **Indirect tax**
 - Concessional rate of customs duty benefit removed for 35 identified drugs (BCG vaccine, MMR vaccine, Typhoid Vaccines, Haemophilus Influenzae Type b Vaccine, Pneumococcal-7 Valent Conjugate Vaccine, Rotavirus Vaccine etc.) and for 36 life saving drugs the customs duty exemption has been removed.
 - Customs duty rate on Diagnostic agents for detection of Hepatitis B antigen, Diagnostic kits for detection of HIV antibodies, Enzyme Linked Immuno absorbent Assay kits (ELISA kits) has been increased to 5%
 - Customs health cess is exempted on Surgical needles imported for manufacture of Surgical sutures.
 - The concessional customs duty benefit for R&D project and specified drugs and medicines supplied free of cost to patients will end on 31st March 2023.
 - Amendment in GST law to do away with two-way communication process in return filing and enforcing credit availability to the recipient based on eligibility appearing in system generated GSTR-2B.

Implications for the sector

- **PLI Schemes:**
 - PLI in the pharma sector (encompassing bulk drugs, APIs, biosimilars, medical equipment, etc.) could help reduce costs, leading to lower prices and higher accessibility of medical equipment for end users. Further, this will also help reduce dependency on imports and encourage exports, whilst creating employment for the youth.
- **Vaccines:**
 - Continuation of the vaccination program with the same rigor is expected to lead to an ideal fully vaccinated population. With booster shots and vaccinations for the adolescent population in the next phase, this program is vital for driving consumption and achieving normalcy in day-to-day operations.
- **Healthcare:**
 - Digital interventions via the **National Digital Health Ecosystem** are expected to bring forward a massive change as most of the procedures today - from hospital admissions to insurance claim filing are conducted manually. Moreover, such a digital platform could act like a marketplace between health providers and patients and thus increase access to healthcare.
 - The National Tele Mental Health Program will help reduce the long-standing taboo around mental health and aid mental wellbeing of citizens, thus moving towards a more resilient, healthy, and happy population
 - The inflow of capital investment could be a great boost to the Life Sciences sector, as investments in healthcare facilities like construction of hospitals, manufacturing facilities could create more employment for the youth and decrease dependency on imports.
- **Corporate tax**
 - The Central Board of Direct Taxes had prohibited tax deduction for doctor spends that were violative of *Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations, 2002*. There has been tax litigation on this subject, which has resulted in conflicting jurisprudence. The Budget puts to rest, this controversy, by clarifying that that the aforesaid expenditure would not be tax deductible.

- The proposed amendment is effective from FY 2021-22 and thus, its impact will need to be factored while calculating last advance tax instalment for FY 2021-22. Further, a debate can arise on whether - this change – although prospective – can adversely impact ongoing tax litigation for past years (given the way the budget documents are worded).
- Further, with effect from 1 July 2022, such expenditure etc. would be subject to WHT. While this would increase the overall compliances for the pharma companies, and create issues relating to valuation etc., but, on a brighter side, the past tax litigation may be put to rest.
- **Transfer Pricing**
 - The transfer pricing risk being one of the significant risks faced by inbound / outbound MNCs operating in this sector. Owing to the plethora of information, intangible related challenges, and benchmarking of unique transactions etc., the clarification to cover the transfer pricing orders within the ambit of section 263 could have a significant impact on life science companies.
- **Indirect tax**
 - During last few years, there has been focus on increasing Customs duty rates considering 'Aatmnirbhar Bharat' program. Though the intent of Government is to make India manufacturing hub for all kinds of drugs and medicines, however till our local manufacturing fulfills domestic demand, imports shall continue. These rate increases will lead to increase in drug prices, ultimately impacting treatment cost for patients.
 - The amendment in input tax credit availment provision may have cash flow impact for the taxpayers in case of delayed compliances by vendors and system glitches, if any, while there could be impact on bottom line if vendors don't comply

Incentivizing R&D by additional tax deductions for new drug developments or a structured roadmap intervention supported by strong policies to promote the tele-medicine industry could be areas to be considered in future. However, the massive capital investments only provide confidence and buoyancy to the sector. Overall, the sector seems poised for a fundamental shift and the direction that the government has taken is a positive step towards boosting the life sciences sector.

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