

India Union Budget 2022-23

Point of view

Media and Entertainment



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Key announcements for the sector

The FY2022-23 Budget was lukewarm for the media and entertainment but there was enough to spur creativity and innovation. Some of the key sector related proposals included:

- Animation, visual effects, gaming and comic (AVGC) promotion task force is proposed to be set up to recommend ways to increase youth employment and build domestic capacity for serving domestic markets and the global demand.
- Having a 'One Class, One TV Channel' formation with 200 PM e-Vidhya channels for classes one to 12 in regional languages is a welcome move. Such policies will need e-content across mobile phones, TV, radio, as well as digital teachers disseminating information to the rural districts.
- Further, adoption of central backed digital currencies (CBDCs) is expected to spearhead digital inclusion in payments as well as entertainment sector – boosting eSports and gaming sectors.

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

Corporate tax

Extension of timelines for beneficial provisions

- Last date for commencement of manufacturing / production for availing lower corporate tax rate of 15 per cent is extended by 1 year to 31 March 2024
- Last date for incorporation of eligible start-up company for claiming deduction under special regime is extended by 1 year to 31 March 2023

Reporting compliance

- Income-tax reporting requirement applicable to film producers relating to payments in excess of INR 50,000 is now extended to persons involved in other activities such as event management, documentary production, production of programmes for telecasting on television or over the top platforms or any other similar platform, sports event management and other performing arts

Updated return of income

- The taxpayer is now provided with an option to file updated/ fresh return within two years from the end of the relevant assessment year
 - Additional tax of 25 per cent (on aggregate of incremental tax and interest) is to be paid if such return is filed within 1 year from end of the relevant assessment year. Additional tax of 50 per cent is to be paid if such return is filed after 1 year
 - Updated return cannot be filed where the updated return is a return of a loss or results in refund, increase in refund or decrease in total tax liability or when assessment/reassessment proceedings are initiated or completed, etc.

Faceless Assessment scheme

- The clause that made assessment non-est when procedure is not followed is deleted retrospectively
- Timeline for introducing faceless schemes for assessments involving transfer pricing, international taxation matters and tribunal appeals is proposed to be extended till 31 March 2024
- Role of different units (assessment unit, verification unit, review unit and technical unit) is to be coordinated through National Faceless Assessment Centre
- Personal hearing shall be allowed through video conferencing where variation is proposed

Taxation of Virtual Digital Assets (VDA)

- The gains arising from transfer of VDA shall be taxed at 30 per cent. In the computation of gains, no deduction for any expenses or set-off/carry forward of losses shall be allowed except cost of acquisition
- TDS at the rate of 1 per cent shall apply on payment for transfer of VDA to a resident w.e.f. 1 July 2022

Business deduction and computation

- Explanation is inserted with effect from 1 April 2005 clarifying that surcharge and cess are included within the meaning of the term 'tax', and shall not be allowed as deduction while computing business income
- It is clarified that expenditure incurred for any purpose "which is an offence/prohibited by law" will include offence/prohibition or compounding of any offence under any law, whether in India/outside India and the same shall not be allowed as deductible expenditure
- Deduction of an expenditure incurred in relation to an exempt income shall not be allowed even in case where exempt income has not been accrued or earned during the year

Other key proposals

- Concessional tax rate of 15 per cent on dividend income from eligible foreign companies is to be phased out from FY 2022-23
- Surcharge on long term capital gains for all assets is reduced from 37 per cent to 15 per cent
- Surcharge on taxation of Association of Persons is reduced from 37 per cent to 15 per cent
- TDS at the rate of 10 per cent shall apply to any benefit or perquisite (in excess of INR 20,000) arising from a business or profession to a resident
- Filing of appeal before Tribunal / High Court may be deferred by the tax department if an identical question of law is pending before jurisdictional High Court / Supreme Court and the tax payer gives his/her acceptance thereon
- Any sum received from employer towards expenses on treatment of COVID-19 for the employee or family members of employee shall not be taxable in the hands of employee
- Loan or borrowing or any such sum credited in the books shall be treated as unexplained unless the lender explains the nature and source of such funds to the satisfaction of the tax authorities
- Set-off of losses and unabsorbed depreciation shall not be allowed against undisclosed income identified during a search or survey

Custom Duty

- BCD on wood in chips or particles, used in manufacture of paper, paperboard and newsprint (falling under tariff items 4401 21 00 and 4401 22 00) is being increased from NIL to 5 per cent with effect from 1 April 2023
- BCD on recovered (waste and scrap) paper or paperboard imported for manufacture of paper, paperboard or newsprint (falling under sub-heading 4707) is being increased from nil to 2.5 per cent with effective from 2 February 2022

- Customs duty exemptions on capital goods being gradually withdrawn:
 - Automatic sunset clause in customs duty exemption notifications pertaining to capital goods has now been activated with a sunset date ranging from 31 March 2023 to 31 March 2024;
 - Project import duty rate of 7.5 per cent from 30 September 2023

Goods and Services Tax

- Input tax credit ('ITC') can be availed only if such credit has not been restricted in the details communicated to the tax payer under section 38
- Time limit extended by 2 months (up to 30 November) with respect to transactions of previous financial year:
 - Availment of credit;
 - Issuance of credit note;
 - Rectification of details reported in periodic monthly return;
 - Rectification / omission of TCS details.
- Powers granted to:
 - Impose restriction on utilisation of balance in Electronic Credit Ledger ('ECL');
 - Provide for prescribing the maximum proportion of output tax through ECL;
 - Block the credit in specified cases;
 - Extend the scope of withholding of or recovery from refunds in respect of all types of refund.
- Section 38 to be amended to prescribe the manner, conditions and restrictions for communication of details of inward supplies and ITC to the recipient by means of an auto-generated statement and to do away with two-way communication process in return filing
- Omission of section 42, 43 and 43A of the CGST Act to do away with two-way communication process in return filing
- Retrospective amendment for applicability of interest only if wrongly availed credit is utilised
- Transfer of Balance in Cash Ledger (CGST and IGST) permitted between distinct persons.

Implications for the sector

While movie theatres, exhibitions, and cinema halls were intermittently shut down over the year, OTTs and online gaming platforms continued to have a stellar rise. Overall, the industry is struggling with lower footfalls and lower advertisement revenues. Given the growth challenges faced by the industry, the industry had pinned significant hope for financial support from the budget. However, the budget had a muted outlook towards the sector with no sops provided in the form of reduced GST/taxes, licences, etc.

However, there were some positives namely with the introduction of digital currencies and CBDC (e-Rupee) that could boost online transactions and online economy. Also, the digital inclusion in the education sector also means catering to the content creation for 200 TV channels. The digital university creation with personalised content in various ICT formats in a hub and spoke model is expected to spur innovation via close coordination amongst telecom, broadcast and OTT players. Clarity on 5G timelines sets the ball rolling for specific content creation in AR/VR, holographic representations, online gaming, autonomous vehicles, smart cities, and smart industrial use cases. The task force around animation, visual effects, gaming and comic (AVGC) could give boost to possibilities relating to metaverse and for enabling a digital economy which is virtual yet inclusive to India's growth. A progressive tax regime, predictable regulatory framework will not only lay the path for investments in the sector but also employ youth within the digital India framework.

KPMG in India contact

Girish Menon

Partner and Head

Media and Entertainment

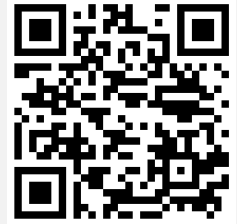
E: gmenon@kpmg.com

Himanshu Parekh

Partner and Head of Tax

Western India

E: himanshuparekh@kpmg.com



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KPMG Assurance and Consulting Services LLP, Lodha Excelus, Apollo Mills Compound, NM Joshi Marg, Mahalaxmi, Mumbai - 400 011
Phone: +91 22 3989 6000, Fax: +91 22 3983 6000.

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