



India Union Budget 2023-24

Point of view

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Technology

- Government vision for the *Amrit Kaal* includes technology-driven and knowledge based economy
- DigiLocker service initiatives:
 - Reconciling and updating identity and address of individuals, maintained by various government agencies
 - An entity DigiLocker to be set up for MSMEs, for storing and sharing documents with various authorities, regulators, banks and other business entities
- Government to set up 100 labs for developing applications using 5G services, covering smart classrooms, precision farming, health care applications etc.
- Phase-3 of the E-Courts project will be launched with an outlay of INR 7,000 crore
- PAN will be used as a common identifier for digital systems of specified government agencies

Listed below are the bullet points on Direct Tax, Transfer Pricing and Indirect tax proposals for Tech sector POV document.

Proposals specifically impacting Technology sector

1. 'Benefit' or 'Perquisite' which are taxable as business income clarified to include cases where such benefit or perquisite is received in kind (non-cash) as well – clarification in line with TDS on benefit or perquisite introduced last year
2. Tax holiday for units in Special Economic Zone:
 - Allowed only if the return of income is filed within the applicable due date;
 - Definition of 'export turnover' for the purposes of determining amount of tax holiday clarified to mean consideration which is received in, or brought into, India by the taxpayer in convertible foreign exchange within 6 months from the end of the relevant previous year
3. Consideration received towards issue of shares which is in excess of the FMV of shares issued is now taxable in the hands of the Indian company even where such consideration is received from a non-resident investor/ shareholder
4. Eligible start-ups:
 - Extension of timeline for incorporation by 1 year i.e., up to 31 March 2024
 - Extension of carry forward of losses in case of change in shareholding by 3 years i.e., allowed up to 10 years as against existing 7 years
5. Similar to Goodwill, cost of acquisition (where no consideration is paid) and cost of improvement of any intangible assets or any rights proposed to be 'Nil' for the purposes of computing capital gains on transfer of such intangibles.

Dispute Resolution and Litigation

1. Introduction of the authority of Joint Commissioner of Income-tax (Appeals) to reduce burden of Commissioner of Income-tax (Appeals) and handle appeals involving small amount of disputed demand. JCIT(Appeals) to have similar powers as that of Commissioner (Appeals) and will handle appeals of such nature as will be notified by the CBDT
2. Time limit for completion of assessment for AY 2022-23 and subsequent AYs extended by 3 months
3. Time limit to furnish Transfer Pricing report in TP proceedings reduced to 10 days from the existing 30 days; up to 30 days of additional time can still be sought with the TP Officer
4. Scope of appealable orders before the Income Tax Appellate Tribunal extended to include penalty orders passed by the Commissioner of Income-tax (Appeals) in certain cases involving penalty for false entry, penalty for unexplained cash credits, unexplained investments, unexplained money, etc.
5. Filing of cross objections before the Income Tax Appellate Tribunal now allowed in all cases against which an appeal can be made to the Appellate Tribunal, including where the taxpayer files an appeal to the Appellate Tribunal against an order of the Assessing Officer in consequence of an order of the Dispute Resolution Panel
6. Framework introduced to enable assessment or reassessment of the surviving entity based on the modified return to be filed by such surviving entity pursuant to any business re-organisation
7. Penalty and prosecution provisions for failure to deduct or pay TDS extended to cover cases of default in TDS on any benefit or perquisite, TDS on payment on transfer of virtual digital asset and TDS on income by way of winnings from any online games.

Other general proposals impacting Technology sector

1. No change in corporate tax rates
2. Payment to MSMEs beyond the time limit specified under the MSMED Act to be allowed only on payment basis
3. Mechanism introduced to seek credit of TDS suffered in subsequent year against income offered in an earlier year, subject to separate application to be made by the taxpayer within 2 years from the end of the relevant previous year in which the TDS is suffered
4. Proposal to allow deduction towards preliminary expenses incurred before the commencement of business or in connection with setting-up of a new unit or extension of an existing undertaking based on statement of expenditure to be furnished by the Taxpayer in prescribed form and manner.

Goods and Services Tax

1. Input tax credit restricted on goods/services for activities undertaken as part of CSR obligations
2. Value of exempt supplies would include supply of warehoused goods to any person before clearance for home consumption, thereby leading to certain credit restrictions. The value of exempt supplies is to be prescribed
3. Coverage of OIDAR amended to:
 - include supplies to all unregistered recipients, irrespective of whether used for personal or business consumption
 - exclude condition of service being “essentially automated and involving minimal human intervention”, thereby expanding scope of OIDAR services
4. Place of supply for transportation of goods outside India, shall be determined as per the default place of supply for goods transportation services, and not on the basis of destination
5. Penalty proposed to be introduced on e-commerce operators (up to the amount of tax involved) who allows:
 - supply of goods/ services made through it by unregistered persons (other than specified)
 - inter-state supply effected by unregistered person or composition taxpayers

6. Suppliers of goods making supplies through e-commerce operators, now are eligible to opt for composition scheme as well
7. Increase in monetary threshold (from one crore to two crores) for launching prosecution for offenses, except for offences related to issuance of invoices without supply of goods or services or both
8. Certain offences such as obstructing/ preventing officer in-charge of duty, tampering with evidence or supplying false information, have now been decriminalised
9. Registered person cannot file GST returns/ statements, beyond the period of three years from due date of filing of such return
10. Retrospective application with effect from 1 July 2017, given to following transactions, already included in Schedule III of CGST Act i.e. those that are neither supply of goods nor a supply of services:
 - Supply of goods from a place in the non-taxable territory to another place in the non-taxable territory
 - Supply of warehoused goods to any person before clearance for home consumption
 - Supply of goods by way of high sea sales

It has also been clarified that where tax has already been paid in respect of such transactions/ activities during the period from 1 July 2017 to 31 January 2019, no refund would be available.

Customs

1. Settlement commission provided a timeline of 9 months to dispose of applications
2. Rationalisation of custom duty rate structure carried out, with a number of basic custom duty rate reductions on various goods
3. Continued incentivisation of domestic value addition
 - Basic custom duty on camera lens for camera module and input/ sub parts for lens of camera module of mobile phone is being reduced from 2.5% to NIL
 - Exemption from BCD is being provided for palladium tetra amine sulphate for manufacture of parts of connectors
 - Basic custom duty on parts for specified parts for manufacture of open cell of TV panel is being reduced from 5% to 2.5%
 - Concessional basic custom duty rate for lithium-ion cell for use in the manufacture of battery or battery pack of cellular mobile phone, is proposed to be extended till 31 March 2024
4. Separate classifications introduced to align products under international standards with Indian Standards (Chemicals); specific entries for flat panel display modules
5. Linking of IGCR, 2022 with duty reductions / exemptions (Denatured ethyl alcohol, chemicals, seeds, electronic goods, TV panels).

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