

# INDIA UNION BUDGET 2022 HIGHLIGHTS

## KEY TAX PROPOSALS



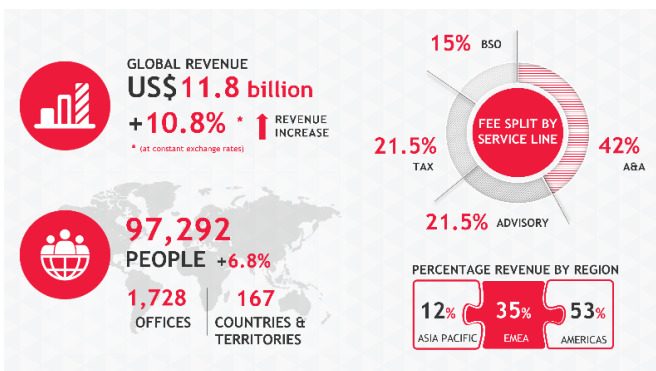
While the Hon'ble FM has not changed the tax rate for corporate or individual taxpayers, some key amendments from this year's Budget announcements are detailed below:

- A new provision has been introduced to enable a taxpayer to file an updated tax return, irrespective of whether he has filed a return for that assessment year. This return can be filed within 24 months from the end of the assessment year. It gives a one-time window to taxpayers to correct any discrepancy or omissions in their tax returns & declare such additional income which may have been missed while filing the earlier tax return. This is subject to the condition that updated tax return inter alia should not be a loss return or decrease the tax liability/increase the refund. An additional tax of 25% (for returns filed within 12 months from end of the assessment year) or 50% (for returns filed beyond 12 months but before 24 months) on the tax & interest due on the additional income will be payable. While such an amendment will facilitate ease of compliance to taxpayers in a litigation free environment, it will also bring additional revenue in the hands of the tax department.
- The Government has proposed to tax income arising on transfer of Virtual Digital Assets (VDA) at a flat rate of 30% (plus applicable surcharge and cess) with no deduction of expenses (except cost of acquisition). Further, any loss arising from such transfer will neither be permitted to be set off against any other income in the same year or subsequent years. To keep track of such transactions, the Government has also proposed TDS @ 1% on transfer of such VDA (including exchange). Gift of VDA is also proposed to be taxed in the hands of the recipient in accordance with the provisions of section 56(2)(x). It may however be stated that there are several open issues which may require to be addressed pursuant to these amendments.
- To provide relief to individuals, it is proposed that any amount received by individuals towards medical expenditure related to COVID shall be exempt from income tax. Similarly, any amount received by a family member of a deceased person on account of COVID, shall be fully exempt from tax if such amount is received from the employer. If such amount is received from any other person, the exemption is restricted to ten lakh rupees. As per the announcement, employers are also not liable to deduct TDS on payment of any perquisites to employees related to COVID-19 illness. This amendment is applicable retrospectively from 1 April 2020 onwards.
- The long-drawn litigation between tax authorities and taxpayers on allowability of surcharge and cess as a business expense has been brought to a closure. It is clarified that the term "tax", shall include any surcharge or cess, by whatever name called, and therefore shall not be deductible in the hands of the taxpayer. The clarification has been made applicable with retrospective effect from 1 April 2005. Since the amendment is retroactive, it may result in fresh proceedings against those taxpayers who have claimed and have been granted deduction of such cess in earlier years.
- Benefit of surcharge cap of 15% presently applicable to long-term capital gains (LTCG) on listed securities under section 112A of the IT Act has been proposed to be extended to LTCG on all assets (as against higher surcharge of 25%/37%) while LTCG tax rate of 20% remains unchanged on such assets.
- To incentivise GIFT IFSC, multiple exemptions have been proposed on income earned by non-residents i.e. income from transfer of Offshore Derivative Instruments (ODI) or Over-the-counter Derivatives of an Offshore Banking Unit (OBU) of IFSC, royalty or interest on account of lease of a ship paid by a unit of IFSC, income received from portfolio of securities or financial products/ funds managed by or administered by a portfolio manager in an account maintained with an OBU in IFSC subject to certain conditions. Exclusion of Category I and Category II AIFs under IFSC from gift tax provisions on issuance of shares above fair market value (FMV) by venture capital undertaking.
- Eligible start-ups incorporated before 31 March 2022 are eligible for a tax holiday under section 80-IAC of the IT Act. Further new domestic manufacturing company commencing commercial production on or before 31 March 2023 are eligible for a concessional tax rate of 15% u/s 115BAB provided it does not avail any specified incentives or deductions. In view of the pandemic, incorporation threshold of eligible start-ups and commercial production commencement threshold of domestic manufacturing companies have been extended to 31 March 2023 and 31 March 2024 respectively.
- Customs duty exemptions on certain Capital goods, Project imports and more than 40 other notifications are proposed to be gradually phased-out. This is expected to encourage domestic investment and local value additions.

- The current Special Economic Zones Act and Rules which impose restrictions in location/area, tax exemptions, sales to domestic market, large export obligations, etc. seem to have caused loss of interest for fresh investment and employment generation. The Finance Minister has announced that this law is sought to be replaced with a new legislation, factoring the present-day needs.
- In the backdrop of buoyant GST revenues, budget proposals signal continuation of the policy that seeks to strike a balance between facilitation and enforcement.
  - **Input Tax Credit (ITC) on procurements:** One of the major areas of dispute under GST law has been the claim of ITC on procurements. There have been numerous instances where the Courts had intervened, citing technology challenges and complexity in compliances. The Government now proposes an amendment of law to bring-in clarity and plug loopholes. Consequently, the law may become stringent on ITC claims. The Government will also be empowered to restrict ITC in some circumstances.
  - **Working capital management:** Companies having operations in multiple States have been facing working capital strains when they are not able to utilise cash balance (as appearing in 'electronic cash ledger' in the GST portal) in one state to discharge GST liability in another state. This restriction is proposed to be removed, at least for the portion of GST payable to the Central Government (i.e., CGST and IGST).
- The Hon'ble Supreme Court had recently held that Show Cause Notices (SCN) issued by the officers of Director General of Revenue Intelligence (DRI) are not valid owing to they not being 'proper officer'. The relevant provisions under the Customs Law have been proposed to be amended retrospectively to include such officers and their subordinates to investigate and issue SCN under the Act. To avoid any future disputes regarding jurisdiction, the Central Board of Indirect Taxes and Customs is proposed to be empowered to assign any functions to any officer of customs (including DRI) to act as 'proper officer'. This would set to rest a plethora of litigations arisen on account of the Supreme Court judgment.

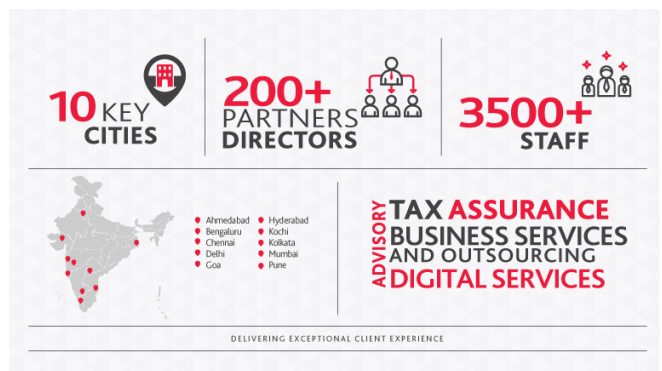
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