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Key Highlights

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Union Budget 2023-24

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Direct Tax Proposals

The much-awaited Union Budget 2023 is out, and it can be said that budget is focused towards growth and continues on its path of boosting capital spending which would in turn lead to job creation and push to the much needed infra. On corporate tax side there may not be substantial amendments, but personal taxation was a key focus in this budget. Some of the key budget amendments on the direct tax side are as follows:

Personal Tax Regime

As we are aware, a new income tax regime for Individuals and HUF was introduced couple of years back. Even though the tax slabs where better than the old regime, this scheme was not a success as no deduction were allowed under the scheme. To make the scheme attractive and ensure maximum participation certain steps are proposed in the Budget only for new tax regime:

1. The overall slabs have been restructured from earlier 6 to now 7.
2. Basic exemption limit is hiked from INR 2.5 lakh to INR 3 lakh.
3. Rebate under section 87A has been hiked from INR 5 lakh to INR 7 lakh (applicable for individuals having income upto INR 7 Lakhs)
4. Standard deduction introduced in new tax regime for salaried and pensioners.
5. Further, the new income tax regime becomes default tax regime. However, the individuals will have an option to continue with the old income tax regime.
6. Highest rate of Surcharge reduced from 37% to 25% in the new regime. Accordingly, highest tax rate for incomes above 5 Crs would now be 39% instead of 42.73% earlier. Thus, even HNIs would also find the new tax regime attractive.

All in all, it seems that Government is looking to discourage old regime and may even dismantle it in couple of years.

New Tax Slabs for New Regime

Income	Tax Rate
Upto 3,00,000	NIL
3,00,001 – 6,00,000	5%
6,00,001 – 900,000	10%
9,00,001-12,00,000	15%
12,00,001-15,00,000	20%
Above 15,00,000	30%

Capping of deduction for investment in house property

As per the existing tax regime, any long-term capital gains earned by an individual or HUF from sale of property or specified long term capital asset was exempt if the net capital gains amount or the net sale consideration was invested in a new residential property. There was no monetary limit for such deduction.

It is now proposed that such deduction would be restricted to an amount of INR 100 million (INR 10 crs). This will have an impact on HNI's and UHNI's who have high value residential property and were looking to swap it for new property. These provisions would be applicable from Financial Year 2023-24 onwards.

Start-up Reliefs

As per the existing tax laws, eligible start-ups were granted a deduction of 100% of the profits for any 3 consecutive tax years out of 10 years from the year of incorporation. One of the key conditions to claim this deduction was that start-up should be incorporated on or before 1 April 2023. To further the development of start-ups eco-system in India, the period for incorporation has been extended from 1 April 2023 to 1 April 2024.

Additionally, in order to claim set-off of losses, there is a condition under the law which requires atleast 51% shareholders who were holding shares in the year of loss should continue to hold the shares in the year when such losses are set-off. Start-ups were provided a relaxation in respect of non-applicability of such condition if the loss was incurred in first 7 year of operations. This period has now been extended to 10 years which provides further relief to start-ups.

Increase in Tax Collection as Source (TCS) Rates

Couple of year back, provisions of TCS were introduced on certain foreign remittances like Liberalized Remittance Scheme, Overseas Tour Package, Education loan, etc. The purpose of introduction of TCS was to track the LRS and bringing it in the reporting net.

It is now proposed to increase the TCS rates from 5% to 20% for Overseas Tour Package and Liberalised Remittance Scheme. These provisions would apply from July 1, 2023. While this would not affect the overall costs since the TCS is creditable like TDS against your taxes, this would affect the cash flow of the individual.

Taxation of Market Linked Debentures

Many hybrid securities which combined the features of debt securities and exchange traded derivatives were currently taxed as 10% without indexation. This was mainly the case with market linked debentures.

Given that these are like derivative instrument, to align the taxation with derivative products, it is proposed to treat capital gains from redemption or transfer of such Market Linked Debentures as Short-Term Capital Gains @ 30%++. Further, Market Linked Debentures have been defined very widely to include any security by whatever name called which has an underlying principal component in form of a debt and returns are linked to market returns on other underlying securities or indices and include any securities classified or regulated as a market linked debenture by SEBI.

Correspondingly, amendment has also been brought under the withholding tax provisions wherein earlier relaxation from withholding was provided in case of interest earned from listed securities. Such relaxation has now been removed and interest on all kinds of securities would be liable to withholding tax at 10%
(plus applicable cess and surcharge).

Conclusion

On an overall basis, this Budget seems to have more in store from a direct tax perspective for Individuals taxpayers rather than corporates. One of the major reliefs that one can consider is no change in taxation of capital gains regime as was widely speculated. On the Corporate tax side few of the expectations such as extending the time period for starting manufacturing activities for new manufacturing companies, proposals on minimum corporate tax rate in line with OECDs Pillar 2 project, reducing the compliance burden on account of TDS and TCS were conspicuously absent.

Indirect Tax Proposals

All eyes were on the Hon'ble Finance Minister as she presented her last full Union Budget before the 2024 elections. While the Indirect Tax proposals in the Budget Speech were primarily limited to Customs Duty rate changes, the details, as always, lie in the fine print.

On the GST front, the perplexity around claiming Input Tax Credit (ITC) on account of expenditure incurred for Corporate Social Responsibility (CSR) has been clarified by disallowing ITC on such expenditure. Furthermore, to curb the inordinate delay and to ensure regular compliance by taxpayers, an outer time limit of three years has been introduced for filing GST returns. While the unregistered suppliers and composition dealers have been allowed to trade on e-commerce platforms, an obligation has been cast on the e-commerce operators to ensure there is no contravention of provisions by such suppliers, otherwise they could be penalized to the extent of the tax amount.

The GST Council recommendations in relation to GST implications on supply of goods where supplier and recipient are located outside India and supply of warehoused goods before clearing for home consumption have been implemented retrospectively to avoid unnecessary litigations in line with the decision taken in 48th GST Council meeting.

Similarly, the interpretation issues over the taxability of electronic services qualifying as Online Information Database Access and Retrieval (OIDAR) services appears to have been settled by omitting the conditions of 'essentially automated' and 'involving minimal human intervention'. This has widened the scope of OIDAR services. Furthermore, such services would now attract GST in India even if the same are received by unregistered persons for the purposes of business, commerce, or profession. Such a widened scope could see an increase in registrations by foreign entities engaged in providing various electronic services in India.

On the other hand, the Customs proposals are largely aligned to the government's vision of 'Make in India' by boosting domestic manufacturing, enhancing domestic value addition, and encouraging green energy and mobility. Accordingly, the reduction in the number of Basic Customs Duty (BCD) rates on goods, other than textiles and agriculture, is a welcome move as it further simplifies the overall Customs Duty rate structure in the country. The BCD rate exemptions should provide an impetus to electronic goods, automobiles, petrochemicals, and precious metal sectors. The legislature seems to have also rectified an unintended miss whereby the two-year validity on exemptions shall not apply inter alia to schemes under the Foreign Trade Policy, Multilateral & Bilateral Trade Agreements, re-imports and temporary imports, and to goods imported as gifts or personal baggage.

However, a lot more was expected from the Budget, and this was an opportune time to clarify the roadmap for the Development of Enterprise and Service Hubs (DESH) scheme and GST Tribunals, measures to streamline the GST administration through investigations, scrutiny etc., to introduce an automated standardized Customs Special Valuation Branch (SVB) procedure, as well as to extend a one-time amnesty both under Customs and GST Laws to reduce litigation.

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