

Union Budget 2022 (Income Tax Proposals)



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Shared at

Gurgaon Branch of NIRC of ICAI
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BUDGET 2022

- Presented on 1st February 2022
- Brings stability in tax regime with no major change
- Emphasis on Infra development, Digitization
- 83 Amendments in Income Tax

TAX RATES - SURCHARGE

- **Co-operative Societies:**
 - Changed from 12% if TI > 1 Cr to:
 - 7% if TI is > 1 Cr but < 10 Cr
 - 12% if TI > 10 Cr
- **LTCG – capped to 15% if case of:**
 - Dividend, S. 111A & 112A (existing)
 - S. 112 – all LTCG

TAX RATES

■ AMT

- *Co-operative Societies* - Reduced from 18.5% to 15%
 - *Units in IFSC* - Reduced from 18.5% to 9%
- Abolishing of s. 115BD - concessional rates of tax on dividend from specified foreign company @15%

UPDATED RETURN

- New sub-section 139(8A) w.e.f 1st April 2022
- Within 24 months from end of relevant AY
- Not allowed if:
 - Updated Return is a return of loss
 - Effects in decrease of tax liability if ITR already filed u/s 139(1)/(4)/(5)
 - Results in refund / increase in refund

UPDATED RETURN

- Not allowed if:
 - Search u/s 132 or requisition u/s 132A
 - Survey u/s 133A (except 133A(2A))
 - Notice issued in case of other person due to s. 132 / 132A
 - An updated return already filed
 - Any proceeding for assessment or reassessment or recomputation or revision is pending or completed
 - Information for that AY is there u/s 90 / 90A and communicated to him

UPDATED RETURN

- Not allowed if:
 - AO has information about such person to be under Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976 or PBPT, 1988 or the PMLA, 2002 or the Black Money Act, 2015 and the same has been communicated to him, prior to the date of furnishing of updated return
 - Any prosecution proceedings under Chapter XXII have been initiated before filing updated return
 - *Any other as notified*

UPDATED RETURN

- Tax to be paid before filing return otherwise would be defective u/s 139(9). To be paid as per section 140B.
- Tax, interest & additional tax to be paid
- If no ITR filed earlier, fee for delay also to be paid
- Additional Income-Tax:
 - *25% of tax & interest if ITR within 12 months*
 - *50% of tax & interest if ITR from 12 to 24 months*
- S. 153 amended - assessment u/s 143 / 144 may be made at any time before expiry of 9 months from end of FY in which such updated return was furnished

CLARIFICATIONS

- Expl. 3 added to s. 40 – surcharge and cess are included in tax – change w.e.f. AY 2005-6
- Expl added to S. 14A - provisions of s. 14A shall apply and shall be deemed to have always applied in a case where the exempt income, has not accrued or arisen or has not been received and expenditure has been incurred during the said year in relation to such income not forming part of the TI

CLARIFICATIONS

- Expl. 3 added to s. 37 – expenditure for any purpose which is an offence or which is prohibited by law shall include and shall be deemed to have always included expenditure:
 - *for any purpose which is an offence under, or which is prohibited by, any law for the time being in force, in India or outside India;*
 - *to provide any benefit or perquisite, in whatever form, to a person, whether or not carrying on a business or exercising a profession, and acceptance of such benefit or perquisite by such person is in violation of any law or rule or regulation or guideline, as the case may be, governing the conduct of such person; or*
 - *to compound an offence under any law for the time being in force, in India or outside India.*

COVID-19 RELIEF

- Press statement on 25th June 2021
- Any sum paid by employer of any expenditure actually incurred by employee on his or any member of his family on medical treatment of any illness relating to COVID-19 - not “perquisite”. (w.r.e.f. 1.4.2020).
- Exemption in s. 56(2)(x) for any sum of money received:
 - *by individual, from any person, for any expenditure actually incurred by him on his or his family member for medical treatment of any illness related to COVID-19 subject to certain conditions*
 - *by a member of family of a deceased person where cause of death of such person is illness relating to COVID-19 and payment is, received within 12 months from date of death of such person, subject to certain conditions:*
 - from the employer of deceased person (without limit)
 - Sum received from any other person(s) till Rs.10 L,

COVID-19 RELIEF - FAMILY

- Same as per Explanation 1 to s. 10(5):
 - *Spouse and children of the individual; and*
 - *Parents, brothers and sisters of the individual or any of them, wholly or mainly dependent on the individual.*

DEDUCTIONS

- Benefit u/s 80CCD(2) for investment in NPS extended to SG Employees - limit of deduction increased from 10% to 14% in respect of contribution made by SG w.e.f. AY 2020-21
- S. 80DD - available during lifetime, i.e., upon attaining age of 60 years or more of the individual or member of HUF in whose name subscription to scheme has been made and where payment or deposit has been discontinued.
 - *Provisions of sub-section (3) shall not apply to amount received by dependant, before his death, by way of annuity or lump sum by application of the condition referred to in the proposed amendment*

VIRTUAL DIGITAL ASSETS (VDA)

- S. 115BBH inserted to charge tax on VDA including crypto currency, NFT etc. w.e.f. AY 2023-24. It provides for:
 - *Income from VDA tax @ 30%.*
 - *Income mean Sale consideration less cost of acquisition.*
 - *No other expense allowed.*
 - *No loss shall be set off against any other income.*
 - *Loss from VDA not be allowed to be carried forward.*
 - *Tax needs to be paid even if no other income is earned*
- “virtual digital asset” is defined u/s 2(47A)
- Gift of VDA taxable in s. 56 (2) (x)

VDA – DEFINITION – S. 2(47A)

- Any information or code or number or token (not being Indian currency or foreign currency), generated through cryptographic means or otherwise, by whatever name called, providing a digital representation of value exchanged with or without consideration, with the promise or representation of having inherent value, or functions as a store of value or a unit of account including its use in any financial transaction or investment, but not limited to investment scheme; and can be transferred, stored or traded electronically
- non-fungible token or any other token of similar nature, by whatever name called
- any other digital asset, as CG may notify

VDA - TDS

- S. 194 S inserted on transfer of VDA to resident @ 1% of consideration at earlier of payment or credit w.e.f. 1.7.2022
- Where consideration for transfer of virtual digital asset is:
 - *wholly in kind or in exchange of another virtual digital asset, where there is no part in cash; or*
 - *partly in cash and partly in kind but the part in cash is not sufficient to meet the liability of deduction of tax in respect of whole of such transfer*
- Person responsible for paying such consideration shall ensure that tax has been paid before releasing consideration for transfer of VDA

VDA - TDS

- Provisions of s. 203A [TAN] and 206AB not to apply to a specified person.
- Specified person means an individual or HUF :
 - *Not having PGBP income*
 - *If having business income - whose total sales, gross receipts or turnover from the business or profession **is less than** Rs. 1 crore or Rs. 50 lacs respectively during the FY immediately preceding the FY in which such VDA is transferred*

VDA - TDS

- No TDS u/s 194 S in case:
 - Payable by a specified person – less than Rs 50,000 during FY; or
 - Payable by any person other than a specified person less than Rs 10,000 during FY
- If tax deducted u/s 194 S, then no other TDS or TCS
- Where TDS is u/s 194 O as well as s. 194S, then 194S shall prevail.

TDS

- S. 194 - IA amended:
 - TDS @ 1% of sum paid or credited to the resident or **the stamp duty value** of such property, whichever is higher from 1.4.2022
- S. 206AB:
 - S. 194-IA, 194- IB and 194 M excluded
 - 2 year reduced to 1 year

TDS – S. 194R

- S. 194R inserted from 1.4.2022 for providing to a **resident**, any **benefit or perquisite**, whether convertible into money or not, arising from carrying out of business or profession by such resident:
 - *before providing such benefit or perquisite* - TDS @ 10%
 - *If value or aggregate of value exceeds Rs. 20000/- per person in FY.*
 - *If in kind, payer to ensure tax is paid before releasing benefit*

ASSESSMENT / APPEAL

- S. 68 – source of source required for – loan or borrowing or any such amount w.e.f. AY 2023-24.. Gift, sales !!!
- Procedure for Faceless assessment u/s 144B substituted
- S. 170 amended to provide that assessment or other proceedings pending or completed on the predecessor in the event of a business reorganisation - deemed to have been made on successor.
- S. 170A inserted - effect of order of tribunal or court in respect of business reorganization by order of HC, NCLT in IBC for filing of modified return – within 6 months from end of the month in which order passed.

S. 148/ 148A

- Proviso u/s 148 inserted - no approval required where AO, with prior approval of specified authority, has passed an order u/s 148A(d).
- Information with AO for purposes of. S. 148/148A means:
 - *any audit objection that assessment has not been made in accordance with the provisions of this Act; or*
 - *any information received under an agreement referred to in s. 90 / 90A; or*
 - *any information made available to AO under the scheme notified u/s 135A (e-Verification scheme, 2021 dt. 13.12.2021); or*
 - *any information which requires action in consequence of the order of a Tribunal or a Court*

S. 148/ 148A / 149

- For search & surveys reopening changed from 3 to 10 AYs
- S. 149 – 10 Yr limit for income escaping tax \geq Rs. 50 L for:
 - *An asset*
 - *Expenditure in respect of a transaction/event/occasion.*
 - *Entry(ies) in the books of accounts.*
- Asset & Expenditure in aggregate 50 L – Notice to be issued for each such year
- Entry(ies) – not in aggregate in all 10 years.. But specific year only

S. 148/ 148A / 149

- In case of survey u/s 133A(5) for expenditure on event, function or occasion, AO shall deem to have information u/s 148 – can open upto 10 years if 148A /149 satisfied
- S. 148A not applicable if AO has received any information under the scheme notified u/s 135A (e-Verification scheme, 2021 dt. 13.12.2021)
- S. 148B inserted – prior approval for passing order of Adl CIT/ Adl DIT /JCIT/ Jt. DIT in case of search and survey cases

TRUSTS & INSTITUTIONS

- Procedures & conditions for exemption u/s 10(23C)(iv) / (v) / (vi) / (via) [1st regime] has been brought at par (rationalised) with exemption u/s 11 /12 [2nd regime] by:
 - *ensuring their effective monitoring and implementation;*
 - *bringing consistency in provisions of 2 regimes; and*
 - *providing clarity on taxation in certain circumstances*
- *Books of accounts to be maintained in both regime*
- S. 115TD (Taxation of accreted income) would also apply to any trust u/s 10(23C) as it is applicable to trust u/s 12A

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The screenshot shows the homepage of ExpertsPanel.in. At the top, there is a dark blue navigation bar with the site logo 'ExpertsPanel.in' on the left, a search bar with a dropdown menu set to 'Questions' and a search icon, and several utility icons on the right: a hamburger menu, a share icon, a group of people icon, a question mark icon, a magnifying glass icon, and a key icon. Below the navigation bar is a banner image showing hands working on a laptop and documents, with the text 'A Place to Share Knowledge for and by Professionals in Law, Tax, Accounts, Finance'. Below the banner is a horizontal menu with 'Recent Questions' highlighted in blue, followed by 'Articles', 'Presentations', 'Videos', and 'Notifications'. The main content area is divided into three columns. The left column is titled 'All Categories' and lists: 'Goods and Services Tax (GST)' (10,845), 'Income Tax' (9,466), 'Corporate Matters/LLP' (3,044), 'Audit & Assurance and Accounting Standards' (208), and 'Bank / Insurance / Stock / Debtors Audit' (60). The middle column is titled 'Recent Questions' and shows two questions. The first question is 'Q. In case of sale of derivative/ futures whether full sale & purchase of transactions need to be shown or profit or loss?' with 1 answer and 5 views, answered by 'CA PRAMOD JAIN'. The second question is 'Q. How I file income tax return?' with 0 answers and 11 views. The right column contains an 'Ask a question:' form with a text input field and a 'Next' button, and a profile card for 'CA Pramod Jain' with a photo and the text 'Concept by CA Pramod Jain'.

CA. Pramod Jain

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