

NEWSLETTER NO 29 – UNION AND STATE BUDGET 2023

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INCOME TAX RELATED IMPORTANT AMENDMENTS IN UNION BUDGET 2023:

Maximum amendments would be Applicable from FY 2023-24

- 1. This was fifth full budget presented by FM Mrs Nirmala Sitaraman. It was presented on Feb 1, 2023. She was kind enough to sum it up in 1 hour 27 minutes this time also.**
- The proposed amendments shall be largely applicable from financial year 2023-24, ie, assessment year 2024-25. Amendments related to CGST Act shall be applicable from the date of their notification in the official gazette.
- 2. Lok Sabha passed the Finance Bill, 2023 on Mar 24, 2023 with some changes. President assented on Mar 31, 2023. We are hereby discussing the Finance Act and not the Bill.**
- No change in income tax rates in the old regime.
- Many changes in the **new tax regime** for individuals and HUF – discussed in detail while dealing with Sec 115BAC.
- Sec 2(28CA) added - Besides Commissioner (Appeals), rights to handle certain small appeals has also been given to Joint Commissioner (Appeals) and Additional Commissioner (Appeals).
- Sec 2(42A) – If Gold is converted into Electronic Gold Receipt, then period of holding of physical gold shall be considered for calculation of short term or long term capital gain.



7. Sec 9(1)(viii) amended – wef 5-7-2019, certain gifts/ payments to non-resident were income of prescribed non resident. Wef 1-4-2023, it is amended to include payments to a person not ordinarily resident also.
8. Important: Sec 10(10D) – Benefit of Sec 10(10D) is not available in case unit linked insurance policies issued on or after Feb 1, 2021 if the premium exceeds Rs 2.50 lacs.

Now, benefit of Sec 10(10D) would also not be available in case policies other than ULIP issued on or after Apr 1, 2023 if annual premium exceeds Rs 5 lacs. In case of multiple policies issued on or after Apr 1, 2023, premium exceeds Rs 5 lacs, benefit of Sec 10(10D) would be restricted to policies (other than ULIP) where aggregate premium does not exceed Rs 5 lacs.

9. Another technical amendment - Sec 88 has become redundant now. So, references to Sec 88 under various sections have been deleted.
10. Sec 10(12C) inserted: Any payment received from Agniveer Corpus Fund would be exempt.
11. Sec 10(22B) related to any income of news agency set up in India solely for collection and distribution of news as the Central Government may specify shall not be applicable from AY 2024-25.
12. Important amendments in Sec 10(23C) –
 - For the purpose of calculation of 85% utilization, if any amount is utilized from corpus or loan, then it shall not be treated as utilization. It shall be treated as utilization only in the year of putting it back into corpus fund or repayment of loan.

But, another important amendment is that such repayment to corpus/ bank loan should be within 5 years of its utilization.

Provided that nothing contained above shall apply where the application from the corpus or any loan or borrowing is made on or before the 31st day of March, 2021.



- Further, if any amount is paid to another institution referred to in clauses (iv), (v), (vi) or (via) or registered u/s 12AB, and if it is paid as regular donation (other than corpus donation) then only 85% of amount paid or credited shall be treated as utilization.
- Another very important amendment is related to filing of statements and various forms such as Form 9, 10 etc related to charitable institutions. Those must be filed two months before the due date for filing ITR.

Thus, now Form 9, 10 etc would have to be filed by August 31; Audit report to be filed by September 30 and ITR to be filed by October 31. **This provision is applicable from AY 2023-24 (ie from this audit season only).**

13. Belated return may be filed to claim benefits under 10(23C) and 11/2A:

Amendment in Sec 10(23C) which reads as “in the twentieth proviso, for the words “within the time allowed under that section”, the words, brackets and figures “within the time allowed under sub-section (1) or sub-section (4) of that section” shall be substituted”. Meaning of this appears to me that benefit under clauses (iv), (v), (vi) and (via) would be available even if ITR is filed within time allowed u/s 139(4), ie, belated return. This provision is applicable from AY 2023-24.

This view is confirmed by point no 9.1.c (page 63) of Budget Memorandum. This provision is applicable in case of exemption u/s 11, 12 also – Sec 12A(1)(ba).

14. Sec 10AA: Special provisions in respect of newly established Units in Special Economic Zones –

the deduction/ exemption under this Section shall not be available unless the assessee files its return of income on or before due date u/s 139(1). Also, the proceeds of goods or service should be received within 6 months or such extended period as the competent authority may allow.

15. **Sec 11: Very important amendments** -similar to amendment in Sec 10(23C)

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- If there is shortfall in utilization of 85% of income, various forms such as Form 9, 10 etc related to charitable institutions must be filed two months before the due date for filing ITR.

Thus, now Form 9, 10 etc would have to be filed by August 31; Audit report to be filed by September 30 and ITR to be filed by October 31.

Practically, assessee understands such short utilization only at the time of audit. So, indirectly it means that audit of trusts must be done before August 31. Otherwise, very dangerous financial consequences.

- Sec 11 –amendment in Explanation 4 – Application from corpus or loan or borrowings shall not be treated as application of income for charitable or religious purposes. However, it would be so treated when it is ploughed back. But, now, it must be ploughed back within 5 years of its application. Otherwise, benefit of application would not be available.

Provided that nothing contained here shall apply where the application from the corpus or any loan or borrowing is made on or before the 31st day of March, 2021.

Issue:

Another important issue that may arise out of this is if any loan was taken prior to March 31, 2021 and it was considered as application of income, then repayment of such loan would not be allowed again as application of income. This may be applicable even if earlier application resulted in excess application (more than 100%) and no actual benefit resulted to assessee.

Budget Memorandum point number 2.5 (page 56) says that if loan was taken prior to Mar 31, 2021, its repayment shall not be treated as application.

- **Sec 11 – another important amendment** in Explanation 5 – Amount paid to another trust as corpus donation was not allowed as application of income as per Explanation 2 from AY 2018-19.

Now, it has been stated that in case of regular donation/ payment to another trusts etc which are registered u/s 10(23C) or Sec 12AA/



12AB, then only 85% of such payment would be considered as application of income.

16. Second, third and fourth proviso to Sec 12(2) omitted – it has also lot of impact.

Second proviso stated that where registration has been granted to the trust or institution under section 12AA or section 12AB], then, the provisions of sections 11 and 12 shall apply in respect of any income derived from property held under trust of any assessment year preceding the aforesaid assessment year, for which assessment proceedings are pending before the Assessing Officer as on the date of such registration and the objects and activities of such trust or institution remain the same for such preceding assessment year.

Thus, benefit of registration would be strictly applicable prospectively. So, please ensure that application of registration u/s 12AB or 10(23C) is done on time.

Third proviso stated that no action under section 147 shall be taken by the Assessing Officer in case of such trust or institution for any assessment year preceding the aforesaid assessment year only for non-registration of such trust or institution for the said assessment year.

Fourth proviso stated that provisions contained in the first and second proviso shall not apply in case of any trust or institution which was refused registration or the registration granted to it was cancelled at any time under section 12AA or section 12AB.

17. Sec 10(23C) and Sec 12A – **Combining provisional and regular registration in some cases.**

Earlier, any new registration under clauses (iv), (v), (vi) or (via) was to be made at least one month prior to commencement of year for which registration was sought. Then assessee used to get provisional registration and then it had to apply for regular registration.

But, in many cases where the activities had already commenced, it was creating problem and one had to go through dual process. So, for those



institutions where activities have already commenced, application for regular registration may be made directly.

It has also been brought to the notice that trusts and institutions under both the regimes (ie Sec 10(23C) and Sec 12A) are facing the following difficulties:

- a) Trusts or institutions formed or incorporated during the previous year are not able to get the exemption for that year in which they are formed or incorporated since they need to apply one month before the previous year for which exemption is sought.
- b) Besides trusts or institutions, where activities have already commenced, are required to apply for two registrations (provisional and regular) simultaneously.

In order to ensure rationalisation of the provisions, it is proposed to allow for direct final registration/approval in such cases. To achieve this, following amendments will take effect from 1st October, 2023:

- a) The trusts and institutions under the first regime shall be allowed to make application for the provisional approval only before the commencement of activities under proposed sub-clause (A) of clause (iv) of the first proviso to clause (23C) of section 10 of the Act.
- b) Similarly trusts and institutions under the second regime shall be allowed to make application for the provisional registration only before the commencement of activities under proposed item (A) of sub-clause (vi) of clause (ac) of sub-section (1) of section 12A of the Act.
- c) Similarly trusts and institutions under section 80G regime shall be allowed to make application for the provisional approval only before the commencement of activities under proposed sub-clause (A) of clause (iv) of the first proviso to sub-section (5) of section 80G of the Act.
- d) The trusts and institutions under first regime, which have already commenced their activities, shall make application for a regular



approval under sub-clause (B) of clause (iv) of the first proviso to clause (23C) of section 10 of the Act.

- e) The trusts and institutions under second regime, which have already commenced their activities, shall make application for a regular registration under item (B) of sub-clause (vi) of clause (ac) of sub-section (1) of section 12A of the Act.
- f) The trusts and institutions under section 80G regime, which have already commenced their activities, shall make application for a regular approval under the proposed sub-clause (B) of clause (iv) of the first proviso to subsection (5) of section 80G of the Act.

18. Sec 12AB – there are consequential amendments as discussed above.
19. Sec 115TD – if any trust does not apply for re-registration within time allowed under sub-clause (i) or sub-clause (ii) or sub-clause (iii) of clause (ac) of sub-section (1) of section 12A or for making an application for approval under clause (i) or clause (ii) or clause (iii) of the first proviso to clause (23C) of section 10, then it will be deemed that it is converted into non-charitable trust and tax would be applicable at MMR. This amendment would be applicable from 1-4-2023 ie AY 2023-24.
- Sub-clause (i) – already registered u/s 12AA/ 10(23C) to apply for re-registration.
 - Sub-clause (ii) – renewal of regular registration u/s 12AB/ 10(23C).
 - Sub-clause (iii) –regular registration application by provisionally registered.

20. Very very important amendment – Sec 43B –
- a. Applicable from AY 2024-25.
 - b. Payment to micro and small (not medium) enterprises beyond 15 days/ 45 days (in case of agreement) shall be allowed on payment basis.
 - c. Benefit of payment upto due date for filing return u/s 139(1) is not available for above.

Criteria for classification of MSME:



Category	Investment in plant and machinery or equipment	Turnover
Micro enterprises	< 1 crore	< 5 crore
Small enterprises	< 10 crore	< 50 crore
Medium enterprises	< 50 crore	< 250 crore

To fall in a category, both the conditions must be fulfilled. So, if turnover exceeds Rs 250 crore, it cannot be MSME even if investment is just Rs 50 lacs. Similarly, if investment is 11 crore and turnover is 40 crore, then it would be medium and not small.

Registration shall be done at udyamregistration.gov.in.

Issues:

- Sec 43B – whether interest payable on unsecured loans would be hit by MSME amendment.
 - As an auditor how do we check who are micro and small enterprises? It would be difficult to keep track in subsequent years also and it may become horrendous exercise.
 - As an auditor, we have to report disallowances u/s 43B and subsequent allowances on payment basis.
21. 44AD – If cash receipts do not exceed 5% of gross receipts or total turnover, then, assessee shall be entitled to higher limit of Rs 3 crore instead of Rs 2 crore. Receipt by way of non-account payee cheque/ draft shall be treated as receipts in cash.
22. 44ADA – If cash receipts do not exceed 5% of gross receipts, then, assessee shall be entitled to higher limit of Rs 75 lacs instead of Rs 50 lacs. Receipt by way of non-account payee cheque/ draft shall be treated as receipts in cash.
23. Sec 45(5A) – A flaw seems to have been plucked. Consideration in case of development agreement to include not only cash payment but also by cheque/ draft etc.
24. Sec 47(viid) - Any transfer of a capital asset, being conversion of gold into Electronic Gold Receipt issued by a Vault Manager, or conversion of Electronic Gold Receipt into gold shall not be regarded as transfer.



25. Interesting amendment in Sec 48(ii) - Wef AY 2024-25, cost of acquisition of the asset or the cost of improvement thereto shall not include the deductions claimed on the amount of interest under clause (b) of section 24 or under the provisions of Chapter VIA.

Issue: Does it mean that earlier it was allowed as cost of improvement? Also, does it mean that in case of other capital assets, we can take benefit of interest paid on purchase of that asset?

26. New Sec 50AA. Special provision for computation of capital gains in case of **Market Linked Debenture**—Notwithstanding anything contained in clause (42A) of section 2 or section 48, where the capital asset is a unit of a **Specified Mutual Fund** acquired on or after the 1st day of April, 2023 or a Market Linked Debenture, the full value of consideration received or accruing as a result of the transfer or redemption or maturity of such debenture or unit as reduced by—

- i. the cost of acquisition of the debenture or unit; and
- ii. the expenditure incurred wholly and exclusively in connection with such transfer or redemption or maturity,

shall be deemed to be the capital gains arising from the transfer of a **short-term capital asset**:

Provided that no deduction shall be allowed in computing the income chargeable under the head "Capital gains" in respect of any sum paid on account of securities transaction tax.

"Specified Mutual Fund" means a Mutual Fund by whatever name called, where **not more than thirty five per cent** of its total proceeds is invested in the equity shares of domestic companies.

Thus, if investment in equity is less than 35%, then such units of debt oriented mutual funds would not get benefit of LTCG (ie indexation and lower rate).

27. Sec 54 – Deduction under this Section has been restricted to Rs 10 crore. It means, if capital gain is say Rs 18 crore and new house is purchased for Rs 15 crore, then benefit would be restricted to Rs 10 crore and assessee shall have to pay tax on Rs 8 crore.



28. Sec 54F - Deduction under this Section has been restricted. Acquisition value above Rs 10 crore in case of new house to be ignored. It means, new house is purchased for Rs 15 crore, then calculations shall be done as if new house is purchased for Rs 10 crore and tax would be calculated accordingly.
29. Sec 55 – Scope enlarged so that in case of self generated assets, besides goodwill, trade mark etc, cost in case of any other intangible asset or any other right shall be taken as Nil.
30. Sec 56(2)(viib) – Earlier, if shares were issued by non-public company at more than FMV, then it was income of company if amount was received from any resident. Now, the word ‘resident’ is removed. Thus, now even if share consideration is received from non-resident, it would be taxable.
31. Important – Sec 56(2)(xiii) inserted – where any sum is received under life insurance policy, other than ULIP and Keyman insurance [keyman policy receipts are already taxable in clause (iv)], then such amount received would be taxable. However, deduction of premium paid and not claimed as deduction under any section shall be allowed as deduction.

Issues –

- a. In this case, they have specifically stated that deductions for premiums paid would be allowed as deduction, which is quite logical also. However, it is not so mentioned in case of amount received under ULIP where premium was more than Rs 2.50 lacs.
 - b. Sec 80C is not amended to state that if premium exceeds Rs 2.50 lacs (in case of ULIP) or Rs 5 lacs (in case of other policies), then deduction under this section is not available. In such case, what if premium was eligible for deduction (say Rs 6 lacs), but benefit derived was restricted to the limit of Rs 1.50 lacs? Or it may also happen that due PPF of Rs 1.50 lacs, amount of insurance paid just remained as disclosure and no benefit was derived by assessee? In such case, since maturity amount is taxable, whether deduction of premiums paid would be available?
32. Sec 80CCH inserted - Deduction in respect of contribution to Agnipath Scheme. Contribution by both employer and employee are eligible for



deduction in respect of Agniveer Corpus Fund. This deduction is available in case of new tax regime also.

33. Sec 80G – Changes related to combining provisional and regular registration as in case of 10(23C), 12A have also been incorporated here. In case of direct regular registration, application shall move through regular scrutiny. It shall not be automatic as in case of provisional registration.

- Another politically important amendment and in my opinion, highly required also since those were donations in the name of personal foundations. Names of following three have been removed for deduction u/s 80G:

(ii) the Jawaharlal Nehru Memorial Fund referred to in the Deed of Declaration of Trust adopted by the National Committee at its meeting held on the 17th day of August, 1964;

(iiic) the Indira Gandhi Memorial Trust, the deed of declaration in respect whereof was registered at New Delhi on the 21st day of February, 1985;

(iiid) the Rajiv Gandhi Foundation, the deed of declaration in respect whereof was registered at New Delhi on the 21st day of June, 1991

Issue: But the question is whether it is practically possible to apply for provisional registration u/s 80G if trust is not regularly registered u/s 12A?

34. Sec 80IAC – sunset date for deduction for start ups extended by another one year to Mar 31, 2024.

35. Sec 87A – Provides for rebate of 100% of tax liability (subject to maximum of Rs 25,000) in case of total income upto Rs 7 lac in case of new regime. Also, benefit of marginal relief given.

Rebate of Rs 12,500 in case of old regime continues as it is **without** benefit of marginal relief.

Intention is very clear that Government wants everyone to go for new regime.



Issue: I understand that total income is arrived at after deducting Chapter VIA deductions from gross total income. Does anyone has any source for this? Total income is defined u/s 5 which does not talk about any deductions. Even Section 66 reads as “In computing the total income of an assessee, there shall be included all income on which no income-tax is payable under Chapter VII”.

If total income is considered before chapter VIA deductions, total income can be more than Rs 7 lacs but taxable income is less than Rs 7 lacs due to deduction u/s 80CCH, then it appears that rebate wont be calculated.

36. Sec 88 being redundant deleted and there are some consequential amendments in many sections.
37. Sec 92BA – Certain transactions relating to new manufacturing co-operative societies referred to in Sec 115BAE have been brought within purview of domestic transfer pricing.
38. Sec 115BAC – existing new tax regime as per sub-section (1) has been terminated from AY 24-25 and new tax regime is brought as per sub-section (1A):
 - Earlier new tax regime was applicable to Individual and HUF only. New tax regime which is now introduced wef AY 24-25 is applicable to Individual, HUF, AOP, BOI and Artificial Juridical Person.
 - Basic exemption limit increased to Rs 3 lacs.
 - No of slabs reduced from 6 to 5. New slabs introduced as below:

Sl	Total income (Rs)	Rate of tax (%)
1	Upto Rs 3,00,000	Nil
2	From Rs 3,00,001 to Rs 6,00,000	5%
3	From Rs 6,00,001 to Rs 9,00,000	10%
4	From Rs 9,00,001 to Rs 12,00,000	15%
5	From Rs 12,00,001 to Rs 15,00,000	20%
6	Above Rs 15,00,000	30%

- Maximum surcharge reduced from 37% to 25% where income is more than Rs 5 crore.
- Rebate u/s 87A introduced for new tax regime also and that too upto Rs 7 lacs. For old regime, it is same as upto Rs 5 lacs.



- Marginal relief of rebate given to only new regime and not to old regime.
- Clause (i) of Sub-section (2) of Sec 115BAC substituted wef AY 24-25 and three more deductions allowed for new regime –
 - Standard deduction from salary of Rs 50,000 u/s 16(ia) allowed.
 - Standard deduction from pension upto Rs 15,000 u/s 57(iia) allowed.
 - Employer and employee contribution to Agniveer Corpus Fund u/s 80CCH.
- Provisions of Sec 115BAC(5) which relate to choosing erstwhile new regime by filing Form 10IE shall not be applicable wef AY 24-25.

Sub-sec (6) to Sec 115BAC inserted –

- New tax regime is made default tax regime.
- If a person having business or profession income wants to opt for old regime, he would have exercise such option before **due date** for filing return u/s 139(1). Option once exercised can be only withdrawn once so that assessee cannot exercise the option again. The form for exercising the option is not yet prescribed. However, if assessee ceases to have business/ profession income, then he may exercise the option.
- Assessee not having business or profession income can exercise option along with return of income to be furnished u/s 139(1). It can be changed every year also.
- Please note that all these amendments are for AY 24-25 onwards. For AY 23-24, we have to file returns and exercise options as per erstwhile new regime only.

Issues:

- Assessee had exercised erstwhile new regime – now he would continue to be in new tax regime. What if he opts for old regime – would he be entitled to new regime again?
- Assessee was in old regime – now from AY 24-25, he would by default come in new regime.
- Study new break even points as per our excel sheet.

39. Sec 115BAE inserted – Tax on income of certain new manufacturing co-operative societies @ 15%. Such manufacturing co-operative societies brought at par with companies u/s 115BAB.



40. Sec 115BBJ inserted – Tax on winnings from online games would be chargeable @ 30% and such winnings are separated from Sec 115BB (lotteries, crossword puzzles etc). Under this new Section, manner of calculation of net winnings provided.
41. Sec 115JC (Alternate Minimum Tax by certain persons other than companies) – AMT was not applicable assesses who opted for Sec 115BAC or 115BAD. Now, it wont be applicable for persons paying tax under new tax regime as per Sec 115(1A) or opting for Sec 115BAE also.
42. Sec 115TD (tax on accreted income) – This is already quite a draconian provision as far as trust are concerned. Now, scope of this section has been further enlarged by inserting clause (iii) to Sec 115TD(3). Tax on accreted income would be applicable even if trust fails to apply for re-registration, renewal of registration or regular registration as per clauses (i), (ii) or (iii) of Sec 12A(1)(ac) or first proviso to Sec 10(23C).
43. Scope of Sec 132(2) increased – Authorised may requisition services of any person or entity as may be approved by Principal Chief Commissioner etc. This is over and above earlier police officer or any officer of central government.

Scope of Sec 132(9D) for making reference to estimate fair market value of properties is also increased.

Thus, now officers can take help of other experts from market also.

44. Sec 140B – tax on updated return – swiftly one small change is done in Sec 140B(4) thereby interest u/s 234B shall be computed on assessed tax. Benefit of advance tax paid shall not be given for calculation of interest liability.
45. Sec 142- inquiry before assessment – Sec 142(2A) has been replaced. Earlier, AO could ask for books of accounts to be audited by Chartered Accountant. Now, he can also call for inventory valuation to be done by a Cost Accountant.
46. Sec 148 – Earlier, AO could ask for filing return u/s 148 within such period as may be specified in the notice and generally it used to be around one



month. Now, it is stated that a period of three months from the end of the month in which notice is issued shall be given to file return. Also, further time may also be allowed if application made by assessee. So, there would be sufficient time.

47. Sec 149 – some changes in time limit for issue of notice in search cases.
48. Sec 153 – Wef AY 22-23 onwards, time limit for completion of assessment u/s 143 or 144 increased from nine months to twelve months from end of assessment year. Thus, time limit for AY 22-23 would fall on March 31, 2024.

In case of updated return u/s 139(8A), order u/s 143 or 144 may be made upto 12 months from end of financial year in which such return was furnished.

49. Sec 154(19) inserted to provide for additional time in case of disallowance of sugarcane expenditure for sugar factories in respect of financial years 2014-15 or before.

Sec 154(20) inserted – if any income is declared in an assessment year but TDS is deducted in subsequent year, then on an application made within two years from end of year in which TDS is deducted, credit would be given in relevant AY. It is also clarified that TDS credit won't be given in any other AY.

50. Sec 192A – If payment from PF is taxable, then TDS @ 10% is applicable. However, if PAN was not provided, TDS @ 30% was applicable. This condition of providing PAN has been done away with. Accordingly, even if PAN is not provided, TDS would be @ 20% as per Sec 206AA.
51. Sec 194BA inserted – TDS @ 30% on winnings in online games.
52. Sec 194N – TDS @ 2% is applicable if there is cash withdrawal of more than Rs 1 crore in a FY. For co-operative society, this limit is raised to Rs 3 crore. Its big relief for co-operative societies.

Further, in case of non-filers of returns for 3 years, TDS @ 2% would be applicable on cash exceeding Rs 20 lacs upto Rs 3 crore. TDS @ 5% would be applicable on cash withdrawals exceeding Rs 3 crore.



53. Sec 194R – deduction of tax on benefit or perquisite in respect of business or profession – This section has already lot of difficulty in implementation – Two circulars 12/2022 and 18/2022 have already been issued on this Section. Vide FA 2023, an explanation is added which reads as – For the removal of doubts, it is clarified that the provisions of sub-section (1) shall apply to any benefit or perquisite, whether in cash or in kind or partly in cash and partly in kind."
54. Sec 197 – application for deduction of tax at lower rate may be made under this Section in respect of specified sections. Now, in this list, 194LA (payment of compensation on compulsory acquisition of certain immovable property) is added. Accordingly, application for lower deduction may be made for this section also.

Above amendment may be useful where compensation received is not taxable under Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2023 (RFCTLARR Act)

55. Major changes in TCS u/s 206C(1G) – TCS by authorized dealer on amount received for remittance under Liberalized Remittance Scheme ('LRS') and by seller of overseas tour package. Following are changes wef July 1, 2023:
- General rate of TCS increased from 5% to straight 20%.
 - Earlier, no TCS was applicable in case of LRS upto Rs 7 lacs. It was applicable right from Re 1 only if it was for foreign tour package. But now, basic exemption of Rs 7 would be available only if remittance is for education or medical treatment. In any other case, TCS would be applicable right from Re 1 and that too @ 20%. For example, your son stays in USA and you want to remit say 5 lacs to him, then TCS of Rs 1 lac would be attracted.
 - TCS @ 5% would be applicable in case remittance exceeding Rs 7 lacs if it is for education or medical treatment.
 - TCS @ 0.50% would be applicable if remittance is out of loan from any financial institution and is for pursuing any education. This provision remains unchanged.
56. Sec 206CC – wef July 1, 2023, upper limit of 20% TCS is fixed where PAN not provided.



57. Sec 206CCA – wef July 1, 2023, upper limit of 20% TCS is fixed in case of non-filers of ITR.
58. Sec 241A – provision related to withholding of refund due u/s 143(1) if assessment u/s 143(2) is pending would not be applicable wef Apr 1, 2023. However, this provision is now clubbed in Sec 245. So, no benefit to assessee.
59. Sec 246 has been replaced to provide for the appealable orders before Joint Commissioner (Appeals).
60. Sec 253 – Appeal against order passed by JC (Appeal) shall lie before Tribunal. Someone might have thought that appeal against order of JC (Appeal) would lie before CIT (Appeal), but it is not so.
61. Sec 269SS - provisions of this section shall have effect, as if for the words "twenty thousand rupees", the words "two lakh rupees" had been substituted in the case of any deposit or loan where,—
 - (a) such deposit is accepted by a primary agricultural credit society or a primary co-operative agricultural and rural development bank from its member; or
 - (b) such loan is taken from a primary agricultural credit society or a primary co-operative agricultural and rural development bank by its member.";

Issue – don't know whether this enhanced limit is benefit or loss. It is confirmed hereby that provisions of this Sec is applicable to above societies. So, what about credit co-operative societies now?

62. Similar change as above is done in Sec 269T also.



GST RELATED IMPORTANT AMENDMENTS IN UNION BUDGET 2023:

Some amendments related to CGST and IGST shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Central Goods and Service Tax, 2017

1. Important: Sec 10: Earlier, persons selling goods through e-commerce operators were not allowed to avail composition scheme. Now, it is proposed to delete the word “goods” so that only persons providing service through ECO shall not be entitled to composition scheme.

This shall benefit lot of small vendors who want to do business through ECO.

2. Earlier proviso to Sec 16(2) read as below:

- “Where a recipient fails to pay to the supplier of goods or services or both, other than the supplies on which tax is payable on reverse charge basis, the amount towards the value of supply along with tax payable thereon within a period of one hundred and eighty days from the date of issue of invoice by the supplier, an amount equal to the input tax credit availed by the recipient **shall be added to his output tax liability, along with interest thereon**, in such manner as may be prescribed.

Now, it is proposed that –

where a recipient fails to pay to the supplier of goods or services or both, other than the supplies on which tax is payable on reverse charge basis, the amount towards the value of supply along with tax payable thereon within a period of one hundred and eighty days from the date of issue of invoice by the supplier, an amount equal to the input tax credit availed by the recipient shall be **paid by him along with interest payable under section 50**, in such manner as may be prescribed.

This appears to be a technical amendment to align with Rule 37.



Issue: Does it mean that if there is delay in payment, such tax has to be paid separately?

- **There is one more amendment which says that payment should be 'to the supplier'.**

Issue: if payment is made to court in case of dispute or payment is made to department u/s 79, then whether such payment would be treated as payment to supplier or not? ITC may be disallowed if answer is No.

3. Sec 17(3) – apportionment of credit in case of exempt supply – now it says sale through bonded warehouse as per para 8(a) would be considered for retention.
4. Sec 17(5) – expenses related to CSR would not be eligible for ITC.
5. Important - Sec 23 – applicable retrospectively from July 1, 2027 - Notwithstanding anything to the contrary contained in sub-section (1) of section 22 or section 24, the Government may, on the recommendations of the Council, by notification, subject to such conditions and restrictions as may be specified therein, specify the category of persons who may be exempted from obtaining registration under this Act."

So, if any hospital or education institution is purely engaged in exempt supplies, then they may not be liable for registration only because of RCM u/s 24.

6. Sec 30 – Time limit of 30 days for application for revocation of cancellation is proposed to be relaxed.
7. Time limit of 3 years from due date of filing of return for filing such returns is proposed in following sections:

Sec 37 – GSTR 1

Sec 39 – GSTR 3B

Sec 44 – Annual return

Sec 52 – TCS return by ECO

So, now all above returns could not be filed after 3 years.



8. Sec 54 – refund of tax – Sec 54(6) proposed to be amended – seems to be technical amendment.
9. Sec 56 – calculation of interest on refund – again seems technical amendment whereby department may prescribe manner and conditions for calculation of interest.
10. Sec 62 - **Assessment of non-filers of returns** - Earlier, Where the registered person furnishes a valid return within thirty days of the service of the assessment order under sub-section (1), the said assessment order shall be deemed to have been withdrawn.

Now, such period is proposed to be extended to 60 days with further period of 60 days by paying late fee of Rs 200 per day (100+100) beyond initial 60 days.

11. Sec 109 related to Constitution of Appellate Tribunal and Benches thereof has been replaced. Thus, it appears that Government is planning for some roadmap for setting up Tribunal.
12. Sec 110 related to President and members of Appellate Tribunal, their qualification, appointment, conditions of service, etc has also been substituted.
13. Sec 122 – penalty prescribed for ECO for certain offences.
14. Sec 132 – decriminalization of following offences:
 - (g) obstructs or prevents any officer in the discharge of his duties under this Act;
 - (j) tampers with or destroys any material evidence or documents;
 - (k) fails to supply any information which he is required to supply under this Act or the rules made thereunder or (unless with a reasonable belief, the burden of proving which shall be upon him, that the information supplied by him is true) supplies false information;
15. Sec 138 – amount for compounding of offences is reduced.
16. Sec 158A inserted – Consent based sharing of information furnished by taxable person. Details furnished by taxpayer u/s 25 for registration, u/s 39,



44, 37 (outward supply) may be shared by Govt after obtaining consent of both supplier and recipient as the case may be.

This is quite strange. Who will give consent to share information and why? The above section is notwithstanding contained in Sec 133 (confidentiality of information), Sec 152 (bar on disclosing information), Sec 158 (disclosure of information by public servant).

17. Retrospective exemption to certain activities and transactions in Schedule III to the Central Goods and Services Tax Act.

In Schedule III to the Central Goods and Services Tax Act, paragraphs 7 and 8 and the Explanation 2 thereof (as inserted vide section 32 of Act 31 of 2018) shall be deemed to have been inserted therein with effect from the 1st day of July, 2017.

No refund shall be made of all the tax which has been collected, but which would not have been so collected, had sub-section (1) been in force at all material times.

Para 7 and 8 of Schedule III (which lists activities or transactions which are neither supply of goods or supply of services) are as below:

7. Supply of goods from a place in the non-taxable territory to another place in the non-taxable territory without such goods entering into India

8. (a) Supply of warehoused goods to any person before clearance for home consumption

(b) Supply of goods by the consignee to any other person, by endorsement of documents of title to the goods, after the goods have been dispatched from the port of origin located outside India but before clearance for home consumption.]

Integrated Goods and Service Tax, 2017

1. Sec 2(16) – definition of ‘non-taxable online recipient’ is changed. New definition is "non-taxable online recipient" means any unregistered person receiving online information and database access or retrieval services located in taxable territory.

It appears that definition is more simplified. Also, not much related to our practice.



Sec 2(17) – scope of definition of ‘online information and database access or retrieval services’ has been widened by deleting the words “essentially automated and involving minimal human intervention and”. It would mean services whose delivery is mediated by information technology over the internet or an electronic network (even if those are not automated) would be covered in definition.

2. Sec 12 – place of supply of services where location of supplier and recipient is in India – Proviso to Sec 12(8) deleted which read as –

“Provided that where the transportation of goods is to a place outside India, the place of supply shall be the place of destination of such goods.”

This proviso was inserted wef Feb 1, 2019 and now it is proposed to be omitted since it was creating problems. Cir 184 was also issued to clarify this issue. But after this omission, that circular would also be not relevant as far as this issue is concerned.

The place of supply of services by way of transportation of goods, including by mail or courier to,—

- (a) a registered person, shall be the location of such person;
- (b) a person other than a registered person, shall be the location at which such goods are handed over for their transportation.

3. Sec 13(9) deleted – this in consequential to above amendment in Sec 12(8).

IMPORTANT AMENDMENTS PROPOSED IN MAHARASHTRA BUDGET 2023:

1. Maharashtra State budget was presented by FM Mr Devendra Fadnavis on Mar 9, 2023. Following are important amendments:
2. Amnesty Scheme, 2023 for Goods and Services Tax Department announced:
 - This Amnesty Scheme will be called as ‘Maharashtra Settlement of Arrears of Tax, Interest, Penalty or Late Fee Act, 2023’.
 - This Scheme is applicable on various taxes levied by GST Department before introduction of GST Act and duration of this Amnesty Scheme will be from May 1, 2023 to October 31, 2023.



- Complete waiver of the arrears in cases where arrears are Rs. 2,00,000/- or less per year. As a result small dealers will be benefited in around one lakh cases.
 - Dealers having arrears up to Rs. 50 lakhs or less per statutory order will pay only 20% amount and balance 80% will be waived. As a result medium dealers will be benefited in around eighty thousand cases.
3. Female employees drawing monthly salary up to 25000/- will be exempted from Profession Tax.
 4. The definition of 'Person with Disability' in the Profession Tax Act is proposed to be amended as per definition given in the Rights of the Persons with Disabilities Act, 2016 and hence more persons with disabilities will become eligible for exemption from payment of Profession Tax.
 5. Reduction of VAT rate on ATF from 25% to 18% in Mumbai, Pune and Raigad districts.
 6. No change in stamp duty rates. It was a lot in the news that it would be increased.

Disclaimer:

All efforts have been made to ensure correctness of data. However, readers are advised to confirm from their own sources also. Interpretations given above are our personal opinions at M/s Umesh Agrawal and Associates. We are not responsible for any loss arising due to the above information.

