

NewsBites

Thirty Fourth Edition

Greetings!

We are delighted to present our Budget Special news bites.

This News Bites intends to give an overview of the Budget for FY 2021-22 in the sphere of Companies Act, 2013, Direct Tax and other key aspects.

We hope you find this useful. For any feedback you can reach to us at info@sanca.in.

Best Regards,
S A N & CO.
Chartered Accountants

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Income Tax

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Income Tax Proposals

The Finance minister presented Union Budget 2021 in Parliament on 01st February 2021. The focus of the direct tax proposals in the Budget is to further simplify the tax administration, litigation management and ease the compliance of direct tax administration.

Following are few key direct tax proposals:

Rates of income-tax in respect of income liable to tax for the assessment year:

In respect of income of all categories of taxpayers for the assessment year 2021-22, the rates of income-tax have remained same.

Incentives for affordable housing:

1. The eligibility period for claiming of additional deduction of Rs. 1.5 lakh towards interest paid on housing loan taken for purchase of an affordable house is extended from 31st March 2021 to 31st March 2022.
2. The eligibility period for claiming tax holiday by builder's u/s 80 (IBA) of the Income Tax Act for affordable housing projects has been extended by one more year from 31st March 2021 to 31st March, 2022.
3. For promoting supply of affordable rental housing for the migrant workers, a new tax exemption has been announced for the notified affordable rental housing projects.

Impact:

The above proposals seek to increase the supply of affordable housing and thereby help economy as whole to promote the demand and supply of affordable housing units.

Extension of date of incorporation for eligible start up for exemption and for investment in eligible start-up:

1. The eligibility for claiming tax holiday for startups has been extended by one more year from 31st March 2021 to 31st March, 2022.
2. In order to incentivize funding of startups, the Capital Gains exemption for investment in startups has been extended by one more year till 31st March, 2022.

Relaxation for certain category of senior citizen from filing return of income-tax:

Senior citizens having only pension and interest income will be exempted from filing their income tax return. The paying Bank will deduct the necessary tax on their income.

Impact:

The Budget seeks to reduce compliance burden on senior citizens who are of 75 years of age and above.

Rationalization of provisions relating to Tax audit in certain cases:

The Budget proposes to increase the limit for tax audit from Rs. 5 Crore to Rs. 10 Crore for persons who are undertaking 95 per cent of their transaction digitally.

Impact:

This provision is to incentivize digital transaction and to reduce the compliance burden of the person who is carrying almost all the transactions digitally.



Income Tax

image: Freepik.com

Advance tax instalment for dividend income:

The Budget provides that advanced tax liability on dividend income shall arise only after the declaration or payment of dividend.

Impact:

This provision shall help in correct estimation of advance tax liability as the amount of dividend income cannot be estimated correctly by the shareholders for paying advance tax.

Payment by employer of employee contribution to a fund on or before due date:

In order to ensure timely deposit of employee's contribution to these funds by the employers, the budget announced that late deposit of employee's contribution shall never be allowed as deduction to the employer.

Impact:

Employers will be discouraged to delay deposit of the contribution of employees towards various welfare funds which results in permanent loss of interest/income for the employees.

Constitution of Dispute Resolution Committee for small and medium taxpayers:

Dispute Resolution Committee (DRC) shall be constituted wherein anyone with a taxable income up to Rs. 50 lakh and disputed income up to Rs. 10 lakhs shall be eligible to approach the Committee.

Impact:

The DRC shall further reduce litigations of small and medium taxpayers.

Income escaping assessment and search assessments:

The Budget provides reduction in the time-limit for reopening of income tax proceeding for three years from the present six years.

In serious tax evasion cases, where there is evidence of concealment of income of Rs. 50 lakh or more in a year, the assessment can be reopened up to 10 years but only after the approval of the Principal Chief Commissioner.

Impact:

This provision shall ensure that honest taxpayers are relieved from maintaining tax records for a period more than 3 years.

Faceless Proceedings before the Income-tax Appellate Tribunal (ITAT) in a jurisdiction less manner:

Govt proposes to make income tax appellate tribunals faceless by setting up national income tax appellate tribunal centre.

Impact:

This provision is one more step towards government's effort to move to faceless transparent tax proceedings.

Tax incentives for units located in International Financial Services Centre (IFSC):

In order to make location in IFSC more attractive, budget proposes following tax incentive to units located in IFSC:

1. The budget proposes tax holiday for capital gains for aircraft leasing companies and also there will be tax exemption for aircraft lease rentals paid to foreign lessors.

2. Budget also allow tax exemptions on income of the investment division of foreign banks located in IFSC.
3. Income on transfer of non-deliverable forward contracts by non-resident with offshore banking units shall also be exempt.
4. Transfer of assets from foreign fund to AIF fund in IFSC shall not be treated as transfer.
5. Capital gain on transfer of shares of Indian company acquired from offshore funds to be exempt.

Addressing mismatch in taxation of income from notified overseas retirement fund:

NRIs who withdraw from notified overseas fund may be taxed on receipt basis in the foreign countries, while on accrual basis in India. In order to address this mismatch and remove this genuine hardship, it is proposed to insert a new section 89A to the Act.

Impact:

It will provide relief from double taxation to NRIs on accrued retirement money and for claiming relief on tax deducted in India.

Exemption of deduction of tax at source on payment of dividend to business trust in whose hand dividend is exempt:

Any income credited or paid to a business trust by a special purpose vehicle or payment of dividend to any other person as may be notified shall be exempted from deduction of tax at source.

Issuance of zero coupon bond for infrastructure debt fund:

The budget announced tax efficient zero-coupon bonds for infrastructure debt funds in order to encourage debt investment in the infrastructure sector over a period of time.

Pre- filled Income tax return forms:

Budget proposes introduction of prefilled income tax return forms for taxpayers with their data on capital gains from mutual fund/shares, dividend income and interest income received from bank.

Impact:

The government shall seek data on annual financials transaction of taxpayer from various sources like Bank, Brokers, Depositories and make it available in prefilled ITR to ensure such income does not escape disclosure in ITR.

Depreciation on Goodwill:

In case goodwill is purchased, no depreciation shall be allowed in respect of such purchased goodwill. Such purchased price would be considered as the cost of acquisition. Any depreciation charged prior to AY 2020-21 shall be reduced from the purchase price of the goodwill.

This amendment is applicable from AY 2021-22.

Impact:

Goodwill of a business/profession will no longer be considered as a depreciable asset.



Income Tax

TDS on income of Foreign Institution Investor (FII):

The rate of TDS shall be 20% or at tax treaty rate on income of FII from Securities in respect of payee to whom tax treaty is applicable and who has furnished the tax residential certificate.

Capital gain on slump sale:

In case of dissolution or reconstitution of a firm/AOP/BOI, the profit or gains arising from the receipt of money or other assets by the partner / member shall be chargeable to tax as income of the firm / AOP / BOI under the head Capital Gain.

Impact:

The scope of definition of slump sale expanded to include all types of transfers.

Interest on Provident Fund now taxable:

Interest accrued in excess of Rs. 2,50,000/- on any contribution made by employee / individual to a provident fund account is now taxable.

Capital gain on ULIP redemption:

Redemption proceeds from ULIP issued on or after February 01, 2021 shall be taxable under the head Capital Gain, if the aggregate annual premium exceed Rs. 2,50,000/- in any financial year during the term of the ULIP.

New TDS of 0.1% on purchase of goods exceeding Rs. 50 lakhs:

If a person total sales / gross receipt / turnover from business exceeds Rs. 10 Crores during the relevant year and he pays any sum towards purchase of goods exceeding Rs. 50 Lakhs shall be responsible to deduct TDS at the rate of 0.1%. In the absence of PAN, the TDS rate shall be 5%.

This new TDS shall not be applicable if the transaction is already subject to other TDS / TCS provisions.

This new TDS is applicable from February 01, 2021.

Due date for filing Belated & Revised returns:

The due date for filling of Belated & Revised return shall be three months before the end of relevant assessment year or before the completion of the assessment, whichever is earlier.

Stamp duty value for transfer of residential asset:

In case of sale of a residential asset, the safe harbor limit with respect to value adopted for stamp duty purpose for the buyer / seller has been increased from 10% to 20% provided:

1. The consideration towards the sale does not exceed Rs. 2 crores;
2. The sale of residential asset takes place between November 12, 2020 to June 30, 2021;
3. The transfer is first time allotment of the residential asset to the buyer.

THE COMPANIES ACT, 2013

Companies Act, 2013 & Limited Liability Act, 2008

Decriminalization of the Limited Liability Partnership (LLP) Act, 2008:

The decriminalizing of the procedural and technical compoundable offences under the Companies Act, 2013, is completed. Government now proposes to take up decriminalization of Limited Liability Partnership (LLP) Act, 2008.

Impact:

This comes so as to either remove criminality, or to restrict the punishment to only fine, or to allow rectification of defaults through alternative methods.

Revised definition of “Small Company” under Companies Act, 2013:

Finance Minister has revised the threshold for definition of Small Company under Section 2(85) of the Companies Act, 2013: Revised and increased threshold is as follows:

Particulars	Old Threshold	Revised Threshold
Paid Up Share Capital	Not exceeding Rs. 50 Lakhs	Not exceeding Rs. 2 Crores
Turnover	Not exceeding Rs. 2 Crores	Not exceeding Rs. 20 Crores

Further both the criteria above mentioned i.e. Paid Up Share Capital and Turnover shall be fulfilled to cover under the said revised definition of Small Company.

Impact:

This comes with an aim to reduce the burden of compliance and also to lower the burden of penalty for non-compliance for small companies. Further this revised definition intent to include around more than 2 Lakhs additional companies under this said revised definition of Small Company in easing their compliance requirement.

Various incentives for One Person Company (OPC): In order to promote incorporation of OPC, following incentive have been allowed:

1. OPC's can be incorporated without any restrictions and limit on Paid Up Share Capital and Turnover;
2. OPC's can be converted into any other type of company at the time without restriction;
3. Residency limit for Indian Citizen to set up an OPC has been reduced from 182 days to 120 days;
4. Non Resident Indian (NRI's) are also now allowed to incorporate an OPC in India.

Impact:

This comes with an objective to encourage businesses to register as One-person companies as they will not be forced to convert to Private or Public companies which have a greater compliance burden.

Further lower residency requirement will encourage both Residents and Non-Resident Indians (NRI's) to set up an OPC in India.



THE COMPANIES ACT, 2013

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NCLT proceedings under Companies Act, 2013:

Under this budget for 2021-2022, Government intends to further strength the NCLT framework, e-Courts System will be implemented and alternate methods of debt resolution and special framework for MSME's shall be introduced.

Impact:

This step will ensure faster resolution of cases.

MCA21 Version 3.0:

Government will be launching data analytics, artificial intelligence, machine learning driven MCA21 Version 3.0.

This Version 3.0 will have additional modules for e-scrutiny, e-Adjudication, e-Consultation and Compliance Management.

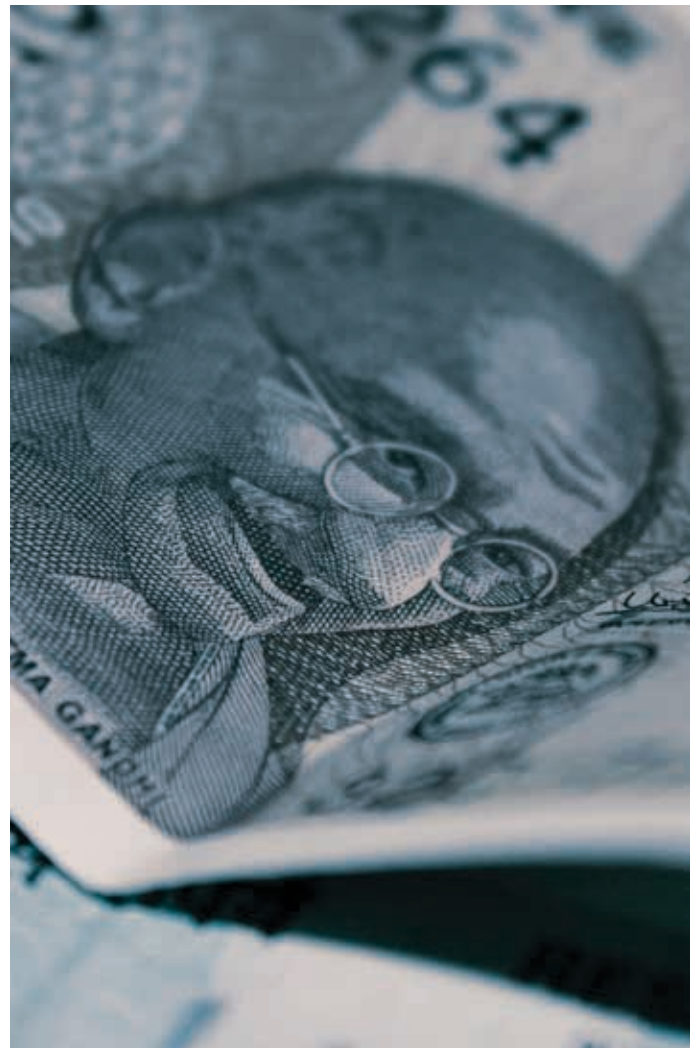


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OTHER KEY PROPOSALS

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Increasing FDI in Insurance Sector:

Insurance Act, 1938 has been amended through this Budget for Financial Year 2021-22, to increase the **permissible FDI limit from 49% to 74%** in Insurance Companies and allow foreign ownership and control with safeguards.

Under this new structure, the majority of Directors on the Board and key management persons should be resident Indians, with at least 50% of Directors being Independent Directors, and specified percentage of profits should be retained as general reserve.

Impact:

This move is aimed at attracting overseas players and flow of capital in the sector benefiting the economy.

Stressed Asset Resolution by setting up a New Structure:

An Asset Reconstruction Company Limited and Asset Management Company would be set up to consolidate and take over the existing stressed debt and then manage and dispose of the assets to Alternate Investment Funds and other potential investors for eventual value realization.

Introduction of Securities Market Code:

Government intends to consolidate the provisions of SEBI Act, 1992, Depositories Act, 1996, Securities Contracts (Regulation) Act, 1956 and Government Securities Act, 2007 into a rationalized single Securities Markets Code.

In order to encourage towards investor protection, Government propose to introduce an investor charter as a right for all the investors in all financial products.

Impact:

This would promote investor protection and also serves in ease in understanding the various laws.

Rs 15,700 crore provided for MSME sector:

Finance Minister has made a provision of Rs 15,700 crore for the MSME sector in the Union Budget 2021-22.

MSME sector was allocated Rs. 7,572 crore in the previous union Budget of 2020-21.

Setting up of Mega Investment Textile Parks:

To enable the textile industry to become globally competitive, attract large investments and boost employment generation, a scheme of Mega Investment Textiles Parks (MITRA) will be launched in addition to the production linked Incentive (PLI) scheme.

This will create world class infrastructure with plug and play facilities to enable create global champions in exports. 7 Textile Parks will be established over 3 years.

Subsidy support to Indian Shipping Companies:

A scheme to promote flagging of merchant ships in India will be launched by providing subsidy support to Indian shipping companies in global tenders floated by Ministries and CPSEs. An amount of 1624 crores will be provided over 5 years.

Privatization of PSU Banks and Insurance Company:

The budget announced privatization of state-run Banks and one general insurance company and also the listing of LIC in FY 2021-22 as part of consolidation in Banking and Insurance sector.

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