JANUARY 2023

NewsBites

Fifty-Eighth 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 2023-24 in the sphere of Direct Tax, Regulatory and Indirect Tax proposals.

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

Best Regards,
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Chartered Accountants

BUDGET 2023-24

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Income Tax

Key Highlights of Union Budget 2023 about Direct Tax and Regulatory Proposals

For Individuals:

- With effect from assessment year 2024-25, the tax slabs for new personal tax regime shall be as follows:

Existing		Proposed	
Slabs (INR)	Rates	Slabs (INR)	Rates
0 - 250,000	Nil	0-300,000	NIL
250,001-500,000	5%	300,001-600,000	5%
500,001-750,000	10%	600,001-900,000	10%
750,001-1,000,000	15%	900,001-1,200,000	15%
1,000,001-1,250,000	20%	1,200,001-1,500,000	20%
1,250,001-1,500,000	25%	Above 1,500,000	30%
Above 1,500,000	30%		

- New Personal Tax Regime to be extended to cover Association of Persons (AOPs) (other than a co-operative society), Body of individuals and artificial judicial persons.
- Income limit for rebate of income tax increased from Rs. 5 lacs to Rs. 7 lacs in new income tax regime.
- Under new tax Regime, the existing surcharge at the rate of 37% on the aggregate of income exceeding five crore rupees shall be restricted to 25%. Highest effective tax rate now 39% from 42.7%.
- The benefit of standard deduction extended to the new tax regime. Each salaried person with an income of Rs 15.5 lakh or more will thus stand to benefit by Rs 52,500.
- New modified tax regime proposed to be treated as default tax regime. Tax payers have the option to select old tax regime.
- The tax exemption on leave encashment on retirement of non-government salaried employees to be hiked to ₹ 25 lakh from ₹ 3 lakh.
- However, there are no changes in old tax regime.
- In case of AOPs that consist of only companies as their members, the maximum surcharge is restricted to 15%.

For Companies, LLPs and Firms:

Income-tax rates (including surcharge, health, and education cess) for companies (domestic and foreign), firms, limited liability partnerships to remain unchanged. This includes rates for minimum alternate tax and alternative minimum tax.

For MSME

Increasing threshold limits for presumptive taxation schemes:

- The presumptive taxation limit to Micro enterprises with a turnover of ₹ 2 crore and certain professionals with a turnover of ₹ 50 lakh enhanced to ₹ 3 crores and ₹ 75 lakh respectively, to the taxpayers whose cash receipts are no more than 5%. A receipt of amount or aggregate of amounts by a cheque drawn on a bank or by a bank draft, which is not account payee, shall be deemed to be the receipt in cash.

Promoting timely payment to MSME:

- To support MSMEs in timely receipt of payments, payments made to MSMEs beyond the time limit specified in the MSME Act, to be allowed as deduction in income tax only when payment is made.
- If the payment is made after the end of the previous year, it is to be allowed only in the subsequent year even if it is paid before the due date of filing the tax.
- Revamped Credit Guarantee Scheme for MSMEs from 1 April 2023 through inclusion of INR 90bn in corpus. Additional collateral-free guaranteed credit of INR 2 lakh crore.
- Entity Digi Locker is to be set up for use by MSMEs towards storing and sharing documents online securely, with various authorities, regulators, banks and other business entities.

For Start ups

- Foreign funding in start ups shall be subject to angel tax as non resident have been brought under the purview of Section 56 (2) VII B of the Income Tax Act .The premium collected on the shares allotted shall be subject to tax in the hands of the start-up. Alternative investment funds registered with SEBI, however, continue to be exempted from angel tax.
- For claiming tax holidays, (tax deduction of 100% profit in a block of 3 years in first 10 years of incorporation) the budget proposed an extension of date of incorporation by one year i.e., from 31st March 2023 to 31st March 2024.
- The benefit of carry forward of start-up losses on change of shareholding to be extended to 10 years of incorporation from the current 7 years. This will boost the country's emergency start-up and help it achieve its five trillion-dollar vision.
- The benefit of the concessional corporate tax rate of 15% extended till 31st March 2024 for newly incorporated manufacturing companies.

For Cooperatives

- Companies Act to be amended to ensure cash loans and cash transactions of less than 2 lacs do not attract penalties for primary cooperatives.
- Co-operatives can withdraw cash up to Rs 3 crore in a year without being subjected to TDS on such withdrawal.
- New cooperative society formed after April 1, 2023 which commences manufacturing by March 31, 2024, and does not avail of any specified incentive or deduction, will be allowed to pay tax at a concessional rate of 15%, similar to what is available to new manufacturing units.
- The budget has also provided an opportunity to the sugar cooperatives to claim the payments made to cane farmers for the period prior to the assessment year 2016-17 as expenditure. This is expected to provide sugar cooperatives a relief of almost Rs 10,000 crore.

For International Financial Services Centre:

- Over the past few years several tax concessions have been provided to units located in the International Financial Services Centre (IFSC) under the Act to make it a global hub of the financial services sector.
- In order to further incentivize operations from IFSC, it was proposed to extend the date for transfer of assets of the original fund, or of its wholly owned special purpose vehicle, to a resultant fund in case of relocation to 31st March 2025 from current limitation of 31st March 2023.

Income Tax

- To remove the double taxation, it was proposed to amend clause (4E) of section 10 to provide exemption to any income distributed on the offshore derivative instruments, entered with an offshore banking unit of an International Financial Services Centre as referred to in sub-section (1A) of section 80LA, which fulfils conditions. It has also been provided that exempted income shall include only that amount which has been charged to tax in the hands of the IFSC Banking Unit under section 115AD.

GIFT IFSC (International Financial services centres authority)

To enhance business activities in Gujarat International Fin-Tech International Financial Services Centre (GIFT IFSC), the following measures are to be taken:

- Delegating powers under the Special Economic Zones Act, 2005 (SEZ Act) to the IFSCA to avoid dual regulation.
- Setting up a single window IT system for registration and approval from International Financial Services Centre Authority (IFSCA), SEZ authorities, GSTN, RBI, SEBI and IRDAI.
- Permitting acquisition financing by IFSC Banking Units of foreign banks.
- Establishing a subsidiary of EXIM Bank for trade re-financing.
- Amending the IFSCA Act for statutory provisions for arbitration and ancillary services and avoiding dual regulation under the SEZ Act.
- Recognising offshore derivative instruments as valid contracts.
- For countries looking for digital continuity solutions, setting up of their data embassies in GIFT IFSC to be facilitated.

Other Key Tax Proposals

Prevention of double deduction claimed on interest on borrowed capital for acquiring, renewing, or reconstructing a property.

- To prevent double deduction, it is proposed to provide that the cost of acquisition or the cost of improvement shall not include the amount of interest claimed under section 24 or Chapter VIA.

Gift received by Not-Ordinarily Resident:

- Sum of money exceeding fifty thousand rupees, received by a not ordinarily resident, without consideration from a person resident in India shall also be deemed to accrue or arise in India and accordingly will be taxable.
- This amendment will take effect from 1st April, 2023 and will accordingly apply to assessment year 2024-25 and subsequent assessment years.

Rationalisation of exempt income under life insurance policies

- Where aggregate of premium for life insurance policies issued on or after April 1, 2023, is above ₹Rs 5 lakh, the income earned on maturity of policy shall be taxed .
- Income from only those policies with aggregate premium up to ₹5 lakh shall be exempt.
- The new proposal will, however, not impact taxation of unit-linked insurance plans (ULIPs), term insurance and old policies issued till 31st March 2023.

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20% TCS on Remittance of funds outside India :

- TCS is applicable on foreign remittance through the Liberalised Remittance Scheme and on sale of overseas tour package.

  To increase TCS on certain foreign remittances and on sale of overseas tour packages, amendment is proposed as under:

The current and proposed TCS rates are:

(I) Overseas tour package.

- Present Rate is 5% without any threshold limit,
- Proposed Rate is 20% without any threshold limit.

(II) Any other case (other than foreign education)

- Present Rate is 5% of the amount or the aggregate of the amounts more than Rs. 7 lakhs,
- Proposed Rate is 20% without any threshold limit.

The taxpayer can claim credit of the TCS paid at the time of filing of Income Tax Return. This amendment will take effect from 1st July 2023.

TDS and taxability on net winnings from online games

- The earlier threshold for Deduction of tax (TDS) on winning from online gaming on the amount or aggregate of the amounts exceeding ten thousand rupees during the financial year shall not be applicable;
- Gambling or betting of any form or nature whatsoever" to be covered within its scope.
- With effect from 1st July 2023, deduction of tax at source (TDS) shall be on net winnings in the user account at the end of the financial year. In case there is withdrawal from user account during the financial year, the income-tax shall be deducted at the time of such withdrawal on net winnings comprised in such withdrawal. In addition, income-tax shall also be deducted on the remaining amount of net winnings in the user account at the end of the financial year.
- Where the net winnings are wholly in kind 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 the net winnings, the person responsible for paying shall, before releasing the winnings, ensure that tax has been paid in respect of the net winnings.

TDS Rate of EPF withdrawals reduced to 20% from 30%

The requirement of tax deduction at maximum marginal rate of 30% on EPF withdrawal within 5 years of opening of account for non-PAN holders has been removed to provide relief to income earners at lower income slabs - such individuals shall now be subject to TDS at 20%.

Extending the scope for deduction of tax at source to lower or nil rate

- Sums on which tax is required to be deducted under section 194LBA (TDS on interest income of non-resident unit holders) shall also be eligible for certificate for deduction at lower rate. This amendment will take effect from 1st April 2023.

Income Tax

Removal of exemption from TDS on payment of interest on listed debentures to a resident

- Removal of exemption from TDS on payment of interest on listed debentures to a resident to avoid under reporting of this income by recipient.

Alignment of provisions of section 45(5A) with the TDS provisions of section 194-IC

- It has been noticed that the taxpayers are inferring that any amount of consideration which is received in a mode other than cash, i.e., cheque or electronic payment modes would not be included in the consideration for the purpose of computing capital gains chargeable to tax under sub-section (5A) of section 45.
- This is not in accordance with the intention of law as is evident from the provisions of section 194-IC of the Act which, inter alia, provides that tax shall be deducted on any sum by way of consideration (other than in kind), paid to the deductee in cash or by way of issue of a cheque or draft or any other mode.
- Accordingly, it is proposed to amend the provisions of section 45 to provide that the full value of consideration shall be taken as the stamp duty value of his share as increased by any consideration received in cash or by a cheque or draft or by any other mode.

Reducing the time provided for furnishing TP report.

- Current provision states that as per section 92D of the Act, the Assessing Officer, or the Commissioner (Appeals) may during any proceedings under the Act require such person to furnish any information or document, within a period of 30 days from the date of receipt of a notice issued in this regard. It has been further provided that on an application made by the assessee the time of 30 days may be extended by an additional period of 30 days.
- The budget proposed that time to furnish transfer pricing documentation is reduced from 30 days to ten days.
- The transfer pricing officer may extend the same by another 30 days at his or her discretion.
- This will take effect from 1st April 2023.

Penalty for furnishing inaccurate statement of financial transaction or reportable account.

- It is proposed that if there is any inaccuracy in the statement of financial transactions submitted by a prescribed reporting financial institution and such inaccuracy is due to false or inaccurate information submitted by the account holder, a penalty of five thousand rupees shall be imposable on such institution, in addition to the penalty leviable on such financial institution in the said section, if any.
- It is also proposed that if a person files inaccurate statement knowingly or realises the inaccuracy after filing of statement of financial transaction and fails to inform and furnish correct statement within period of 10 days penalty of Rs. 50,000 would be levied to person filing statement.

Facilitating TDS credit for income already disclosed in the return of income of past Year.

- It is proposed in cases where income is offered by a taxpayer based on accrual in a year but tax on such

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income is deducted by the payer in the following year(s) at the time of payment, it is proposed to allow the taxpayer to make a claim of such TDS within two years from the end of the year in which such tax is withheld. However, the interest on income-tax refund arising from such a claim is to be allowed only for the period starting from the date of the claim.

Relief from special provision for higher rate of TDS/TCS for non-filers of income-tax returns

- There may be certain persons who are not required to furnish the return of income. It is not the intention to include such persons in the category of non-filers. Hence, to provide relief in such cases, it is proposed to amend the definition of the "specified person" to exclude a person who is not required to furnish the return of income for the assessment year relevant to the said previous year and who is notified by the Central Government in the Official Gazette in this behalf.

Ease in claiming deduction on amortization of preliminary expenditure.

- Section 35D of the Act provides for amortization of certain preliminary expenses which are incurred prior to the commencement of business or after commencement, in connection with extension of undertaking or setting up of a new unit.
- This includes expenditure in connection with preparation of feasibility report, project report etc. To ease the process of claiming amortization of these preliminary expenses it is proposed to amend section 35D to remove the condition of activity in connection with these expenses to be carried out by a concern approved by the Board.
- Instead, the assessee shall be required to furnish a statement containing the particulars of this expenditure within prescribed period to the prescribed income-tax authority in the prescribed form and manner.
- This amendment will take effect from 1st April 2023 and will accordingly apply to the assessment year 2024-2025 and subsequent assessment years.

Conditions for claiming income tax deduction by SEZs:

- For AY 2024–25 and onwards, SEZ units can claim income tax deduction only if:

  – they file their return of income within the prescribed due date, and

  – proceeds from the export of goods or services are received in India within six months from the end of the previous year or such further period as may be allowed by the RBI or the proceeds are credited to a bank account maintained outside India with approval from the RBI.

Miscellaneous proposals:

- It is proposed to clarify that for computing capital gains from the transfer of capital assets under Joint Development Agreements, the total consideration shall be the full stamp duty value of the land and building as increased by the amount received in cash or cheque or any other mode.
- The time limit for completion of assessment proceedings from Assessment Year (AY) 2022–23 onwards is proposed to be increased from 9 months to 12 months from the end of the AY.

Income Tax

- It is proposed to withdraw the exemption available to news agencies set up in India solely for the collection and distribution of news.
- It is proposed to restrict the maximum deduction for long-term capital gains upon investing in residential property to INR 10 crores.
- Non-residents engaged in oil and gas and power sector opting for presumptive taxation at 10% are not to be allowed set-off of losses and unabsorbed depreciation as per books against the income computed on presumptive basis.

Good Governance

- **Make AI in India:** Three Specialized AI centres to be set up in educational institutions for AI based solution in agriculture, health, and sustainable cities.
- **National Data Governance Policy** to be introduced to enable access to anonymized data for research by start-ups and academia.
- **Vivad se Vishwas I**: Less stringent contract execution for relief to MSMEs affected during the covid period.
- **Vivad se Vishwas II**: Easier and standardized settlement scheme for faster settlement of contractual disputes of government and government undertakings.
- **Phase 3 of E-courts** to be launched for effective administration of justice.
- **Entity DIGI Locker** to be set up for use by business enterprises and charitable trusts for facilitating secure online storing and sharing of documents with business ecosystem.
- **Setting up of 100 labs** for 5G services-based application development to tap employment potential and business opportunities.
- **R&D grant for Lab Grown Diamonds (LGD)** sector to

Goods & Services Tax

Key Highlights of Budget 2023 about Indirect Tax

ITC on CSR Expenses:

- Input tax credit (ITC) to not be available in respect of goods or services or both which are used or intended to be used for activities relating to obligations under corporate social responsibility under section 135 of the Companies Act, 2013.
- **Taxability of certain specified transactions:**
  - W.e.f. 1 February 2019, the following transactions were treated as outside the purview of GST:
    - Supplies of goods from a place outside the taxable territory to another place outside the taxable territory (i.e Merchant Trade).
    - High sea sales.
    - Supply of warehoused goods before their home clearance.
  - An explanation is now inserted to treat the aforesaid supply outside the ambit of GST w.e.f. 1 July 2017.
  - No refund is to be available if any tax has been paid on such supplies during 1 July 2017 to 31 January 2019.

Place of Supply:

- In cases of transportation of goods, the place of supply will be determined irrespective of the destination of the goods, i.e.-
  - If the recipient is registered, then the location of such person.
  - If the recipient is unregistered, then the location at which such goods are handed over for their transportation.

Decriminalisation of offenses under GST:

- Minimum threshold for prosecution under GST is raised from INR 10 Crores to INR 20 Crores except for the offense of issuance of invoices without the supply of goods or services or both.
- The compounding amount range is reduced as follows:
  - Minimum from 50% to 25%
  - Maximum from 150% to 100%
- The following offenses are to be decriminalised:
  - Obstruction or preventing any officer in the discharge of his or her duties.
  - Tampering or destruction of material evidence or documents.
  - Fail to supply the information required under law or supplying false information.

Time limit for filing GST returns:

- A maximum time limit of three years from the due date is provided to the taxpayer up to which the following tax returns for a tax period can be filed:
  - Details of outward supplies (Form GSTR-1)
  - Form GSTR-3B
  - GST Annual Return and Reconciliation Statement (Forms GSTR-9 and 9C)
  - TCS Return (Form GSTR-8)

Goods & Services Tax

Penal provisions for e-commerce operators:

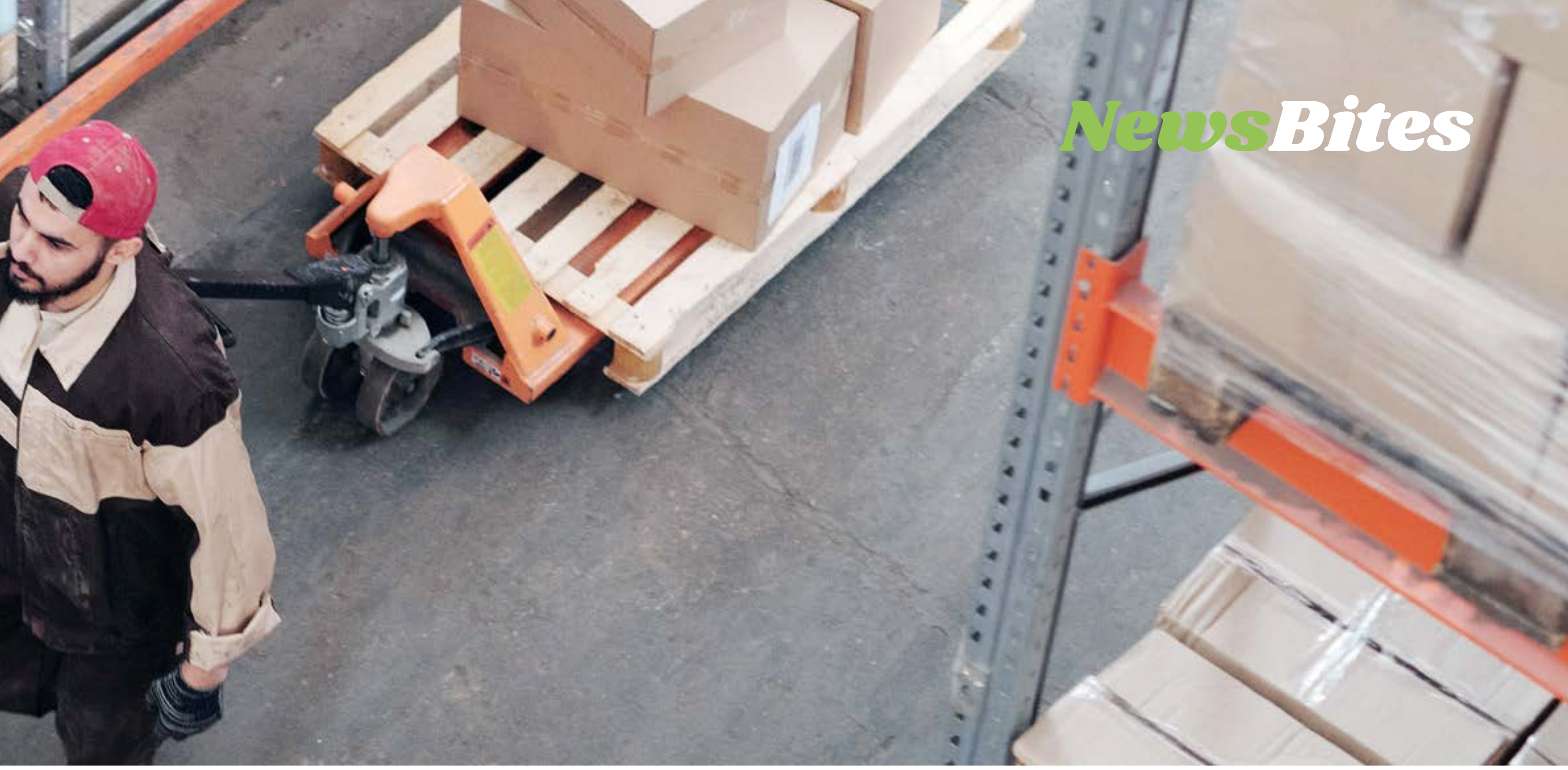
Specific penal provisions are prescribed in case of contravention of the following:

- Allows a supply of goods or services through it by an unregistered person other than a person specifically exempted from registration; or
- Allows an inter-State supply by a person who is not eligible to make such inter-State supply; or
- Fails to furnish the correct details in the TCS return (Form GSTR-8) of any outward supply of goods effected through it by a person exempted from obtaining registration.

A penalty of INR 10,000 or an amount equivalent to the amount of tax involved had such supply been made by a registered person other than a person paying tax under section 10 of the Central Goods and Services Tax Act, 2017 (composition dealer), whichever is higher.

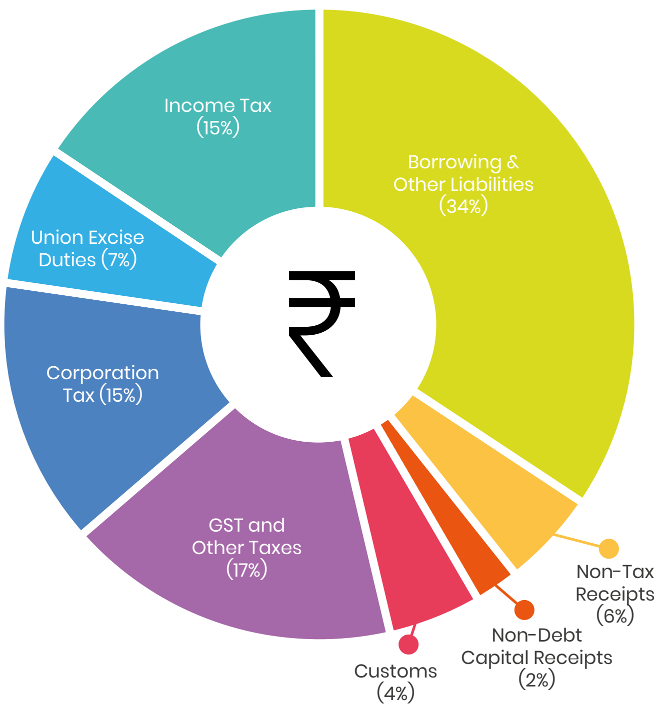
Other GST proposals:

- The scope of Online Information and Database Access or Retrieval services is widened by omitting the condition of rendering the said supply as 'essentially automated' and 'involving minimal human intervention'.
- The value of supply of warehoused goods to any person before clearance for home consumption will be considered for the computation of value of exempt supply for the purpose of reversal of common ITC.
- Consent-based sharing of information in relation to GST registration, GST returns, e-invoice, e-way bills or other details, furnished by the taxpayer, with such other systems, as may be notified.
- Composition scheme is now allowed for registered persons engaged in supplying goods through electronic commerce operators.

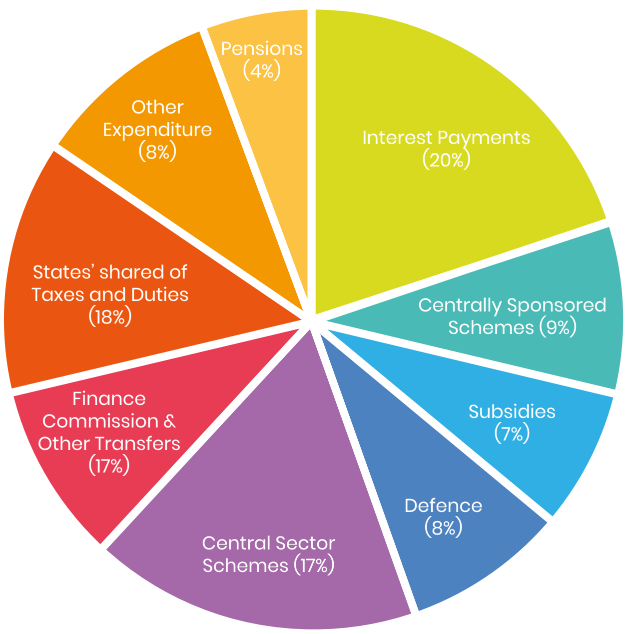


Allocation of Receipts and Payment

Rupee comes from



Rupee goes to



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