



# UNION BUDGET 2023

## Summary of Direct Tax Proposals

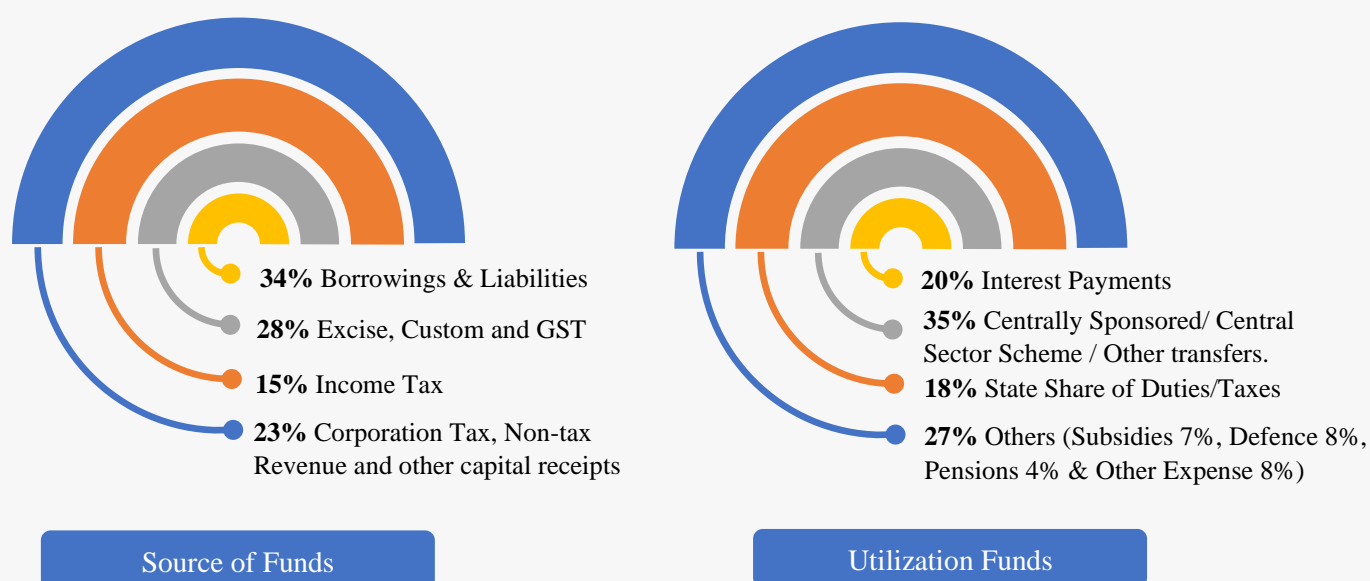
## Union Budget 2023

The Finance Minister (“FM”) has presented the Budget 2023 today with the focus on seven priorities. The FM has laid down budget proposals with a vision for strong and stable Macro-Economic environment, creating opportunities for citizen, Growth and Job Creation. The FM has not made major changes on the existing direct tax structure but still 120 tax amendments are proposed in the fine print.

### A. Key Budget Highlights

- Target Fiscal Deficit to be below 4.5% by 2025-26.
- Fiscal Deficit for FY24(BE) is estimated at 5.9%.
- Fiscal Deficit of 3.5% of GSDP allowed to state.
- Increase capital investment outlay by 33.4% to Rs. 10 Lakh crore.
- GST Monthly revenue continues to remain around Rs. 1.5 Lakh crore.
- Sufficient Foreign Exchange Reserve to cover 9 months of Imports.
- Simplification of Indirect Taxes to deliver Higher Export, Higher Domestic Manufacturing, More Value addition in Economy; and Green Energy and Mobility.
- Twinkle tax benefits & deductions under New Tax Regime of Personal Income Tax. No changes in tax rates and deduction under old tax regime.
- Various tax amendments are proposed in the fine print of budget impacting tax procedures & compliance.

### B. Source and Utilisation of Funds



## Budget Proposals relating to Direct Tax

### 1. Change in Tax Rate and Tax rebate upto income of Rs. 7 Lacs under new tax regime

- With effect from assessment year 2024-25, following changes in the tax rates has been proposed under section 115BAC of the Act [relating to new tax regime]

Tax Rate	Existing Taxable Income Slab	Proposed Taxable Income Slab
Nil	Up to 2,50,000	Up to 3,00,000
5%	From 2,50,001 to 5,00,000	From 3,00,001 to 6,00,000
10%	From 5,00,001 to 7,50,000	From 6,00,001 to 9,00,000
15%	From 7,50,001 to 10,00,000	From 9,00,001 to 10,00,000
20%	From 10,00,001 to 12,50,000	From 12,00,001 to 15,00,000
25%	From 12,50,001 to 15,00,000	-
30%	Above 15,00,000	Above 15,00,000

- From assessment year 2024-25 onwards, an assessee, being an individual resident in India whose income is chargeable to tax under new tax regime, shall now be entitled to a rebate of 100 per cent of the amount of income-tax payable on a total income not exceeding Rs 7 lakh.
- Highest surcharge rate on new tax regime to be reduced from 37% to 25%.
- Extending benefit of standard deduction under new tax regime for salaried class and pensioners

*[Effective from assessment year 2024-25]*

### 2. Increasing threshold limits for presumptive taxation schemes

It is proposed to increase the threshold limits for presumptive scheme in section 44AD and section 44ADA of the Act on fulfilment of certain conditions.

Applicable Sections	Related to	Existing limit	Proposed Limit
Section 44AD	Small Businesses	Rs. 2 Crore	Rs. 3 Crore
Section 44ADA	Small Professionals	Rs. 50 Lakhs	Rs. 75 Lakhs

#### Additional Conditions:

- where the amount or aggregate of the amounts received during the previous year, in cash, does not exceed five per cent of the total turnover or gross receipts
- the receipt 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.
- provision of section 44AB of the Act relating to tax audit shall not apply to the person, who declares profits and gains for the previous year in accordance section 44AD or section 44ADA of the Act, as the case may be.

*[Effective from assessment year 2024-25]*

### 3. Relief to Co-operative Societies

- Relief to sugar co-operatives from past demand relating to AYs prior to 2016-17 *[Effective from 1st April 2023]*
- Increasing threshold limit for co-operatives to withdraw cash without TDS from existing limit of Rs. 1 Crore to Rs. 3 Crore *[Effective from 1st April 2023]*
- Increase in limit to Rs. 2 Lacs u/s 269SS and 269T for Penalty for cash loan/ transactions against primary co-operatives *[Effective from 1st April 2023]*
- 15% concessional tax to promote new manufacturing co-operative society** : It is proposed to insert a new section 115BAE to the Act in which concessional tax regime is being provided for the new manufacturing cooperative societies. The time for commencing manufacturing or production is 31st March 2024. *[Effective from assessment year 2024-25]*

#### 4. Relief to Start-ups

- In order to align period of seven years with the period of ten years contained in Section 80-IAC(2) of the Act, the time period for benefit of carry forward losses of eligible start-ups is proposed to be increased from seven years to ten years under proviso of Section 79(1) of the Act. *[Effective from Assessment Year 2023-24]*
- Extension of date of incorporation to 1st day of April 2024 for eligible start-up for exemption under section 80-IAC of the Act. *[Effective from Assessment Year 2023-24]*

#### 5. Tax Benefits under Agnipath Scheme, 2022

- Allow deduction of contribution made to Agniveer Corpus Fund account; and
- Exempt from tax for any payment received by Agniveer or his nominee, from the Agniveer Corpus Fund

Proposed amendments in Clause (12C) in section 10, clause (1) of section 17 and section 80CCH

*[Effective from Assessment Year 2023-24]*

#### 6. Exemption to development authorities etc. by inserting new section 10(46A)

It is proposed to amend the Act so as to exclude income of a body or authority or Board or Trust or Commission, not being a company, from the scope of clause (46) of section 10 of the Act and insert a new clause (46A) in section 10 of the Act for their income.

The new clause (46A) proposes to exempt any income arising to a body or authority or Board or Trust or Commission, not being a company, which has been established or constituted by or under a Central or State Act with one or more of the following purposes, namely: -

- (i) dealing with and satisfying the need for housing accommodation;
- (ii) planning, development or improvement of cities, towns and villages;
- (iii) regulating, or regulating and developing, any activity for the benefit of the general public; or
- (iv) regulating any matter, for the benefit of the general public, arising out of the object for which it has been created.

It is also required to be notified by the Central Government in the Official Gazette for the purposes of this clause.

*[Effective from assessment year 2024-25]*

#### 7. Allowability of expenditures on making timely payments to Micro and Small Enterprises

Any sum payable by the assessee to a micro or small enterprise beyond the time limit specified in section 15 of the Micro, Small and Medium Enterprises Development (MSMED) Act 2006 shall be allowed as deduction only on actual payment. It is proposed to include payments made to such enterprises within the ambit of section 43B of the Act.

*[Effective from Assessment Year 2024-25]*

#### 8. Ease in claiming deduction on amortization of preliminary expenditure under Section 35D

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.

*[Effective from assessment year 2024-25]*

#### 9. Capital Gain on Conversion of Gold to Electronic Gold Receipt and vice versa

In order to promote the concept of Electronic Gold Receipt (EGR), it is proposed to exclude the conversion of physical form of gold into EGR and vice versa by a SEBI registered Vault Manager from the purview of 'transfer' for the purposes of Capital gains.

It is also proposed that the cost of acquisition of the EGR for the purpose of computing capital gains shall be deemed to be the cost of gold in the hands of the person in whose name Electronic Gold Receipt is issued, and the holding period for the purpose of capital gains, would include the period for which gold was held by the assessee prior to its conversion into EGR. Similarly, provision for conversion from gold to EGR is also proposed.

*[Effective from assessment year 2024-25]*

### **10. Limiting the roll over benefit claimed under section 54 and section 54F**

It is proposed to impose a limit on the maximum deduction that can be claimed by the assessee under section 54 and 54F to Rs. 10 crore. It has been provided that if the cost of the new asset purchased is more than Rs. 10 crore, the cost of such asset shall be deemed to be ten crores. This will limit the deduction under the two sections to Rs. 10 crore.

*[Effective from assessment year 2024-25]*

### **11. Special provision for taxation of capital gains in case of “Market Linked Debentures”**

‘Market Linked Debentures’ are listed securities. They are currently being taxed as longterm capital gain at the rate of 10% without indexation.

In order to tax the capital gains arising from the transfer or redemption or maturity of these securities as short-term capital gains at the applicable rates, it is proposed to insert a new section 50AA in the Act to treat the full value of the consideration received or accruing as a result of the transfer or redemption or maturity of the “Market Linked Debentures” as reduced by the cost of acquisition of the debenture and the expenditure incurred, as capital gains arising from the transfer of a short term capital asset.

*[Effective from assessment year 2024-25]*

### **12. TDS and taxability on net winnings from online games**

- Various amendments are proposed to bring in specific provisions regarding TDS and taxability of online games due to its different nature, being easily accessible via the Internet and computer resources with a variety of playing options and payment options.
- Also proposed to deduct tax under section 194B and 194BB of the Act by applying the threshold of Rs 10,000/- per annum rather than existing threshold of per transaction.

*[Effective from assessment year 2024-25]*

### **13. Facilitating TDS credit for income already disclosed in the return of income of past year**

In order to remove this difficulty, it is proposed to insert a new section 155(20) of the Act. This new sub-section applies where any income has been included in the return of income for any assessment year and tax has been deducted at source on such income in a subsequent financial year. In such a case:

- the assessee can make application in the prescribed form to the Assessing Officer within two years.
- Assessing Officer shall amend the order of assessment or any intimation allowing credit of such tax deducted at source
- the provisions of section 154 of the Act shall be reckoned from the end of the financial year in which such tax has been deducted.
- Credit of such tax deducted at source shall not be allowed in any other assessment year.

Amendment has also been proposed in section 244A of the Act to provide that the interest on refund arising out of above rectification shall be for the period from the date of the application to the date on which the refund is granted.

*[Effective from 1st day of October, 2023]*

#### 14. TDS on payment of accumulated balance due to an employee

It is proposed that in case of failure to furnishing of PAN by the person relating to payment of accumulated balance due to him, tax will be deducted at the rate of 20% as in other non-PAN cases in accordance with section 206AA of the Act, instead of at the maximum marginal rate.

*[Effective from the 1st day of April, 2023]*

#### 15. Increasing rate of TCS of certain remittances

In order to increase TCS on certain foreign remittances and on sale of overseas tour packages, amendment is proposed in sub-section (1G) of section 206C of the Act.

S. No.	Type of remittance	Present rate	Proposed rate
(i)	For the purpose of any education, if the amount being remitted out is a loan obtained from any financial institution as defined in section 80E.	0.5% of the amount or the aggregate of the amounts in excess of Rs. 7 lakh.	No Change
(ii)	0.5% of the amount or the aggregate of the amounts in excess of Rs. 7 lakh.	5% of the amount or the aggregate of the amounts in excess of Rs. 7 lakh.	No Change
(iii)	Overseas tour package	5% without any threshold limit.	20% without any threshold limit.
(iv)	Any other case	5% of the amount or the aggregate of the amounts in excess of Rs. 7 lakh.	20% without any threshold limit.

*[Effective from 1st July, 2023]*

#### 16. Preventing permanent deferral of taxes through undervaluation of inventory

In order to ensure that the inventory is valued in accordance with various provisions of law, it is proposed to amend section 142 of the Act relating to Inquiry before assessment to ensure the following:-

- to enable the Assessing Officer to direct the assessee to get the inventory valued by a cost accountant, nominated by the Tax Authorities
- to provide for payment of expenses incidental to such inventory valuation
- to provide that except where the assessment is made under section 144 of the Act, the assessee will be given an opportunity of being heard
- to amend section 153 of the Act, so as to exclude the period for inventory valuation through the cost accountant for the purposes of computation of time limitation.
- the power to make rules for the form of prescription of report of inventory valuation and the particulars which such report shall contain.

*[The amendments in section 142 and 153 of the Act will take effect from assessment year 2023-2024. The amendment in section 295 of the Act will take effect from 1st April, 2023]*

#### 17. Rationalisation of exempt income under life insurance policies

It is proposed to tax income from insurance policies (other than ULIP for which provisions already exists) having premium or aggregate of premium above Rs 5,00,000 in a year.

- Income is proposed to be exempt if received on the death of the insured person.
- This income shall be taxable under the head “income from other sources”.
- Deduction shall be allowed for premium paid, if such premium has not been claimed as deduction earlier.
- The proposed provision shall apply for policies issued on or after 1st April, 2023. There will not be any change in taxation for policies issued before this date.

*[Effective from assessment year 2024-25]*



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

It has been observed that some assesseees have been claiming double deduction of interest paid on borrowed capital for acquiring, renewing or reconstructing a property. Firstly, it is claimed in the form of deduction from income from house property under section 24, and secondly while computing capital gains on transfer of such property this same interest also forms a part of cost of acquisition or cost of improvement under section 48 of the Act.

In order to prevent such double deduction, it is proposed to insert a proviso after clause (ii) of the section 48 so as 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.

*[Effective from assessment year 2024-25]*

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

Currently, there is no penal provision for the submission of a false self-certification by the account holder, which in turn leads to furnishing of an incorrect statement under section 285BA. Therefore, it is proposed to introduce a provision for penalizing false self-certification in the Act.

It is proposed to insert a new sub-section 285BA(2) which shall provide 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 imposed on such institution, in addition to the penalty leviable on such financial institution in the said section, if any. Further, the reporting financial institution may recover the amount so paid on behalf of the account holder or retain out of any moneys that may be in its possession or may come to it from every such reportable account holder.

*[Effective from the 1st day of April, 2023]*

## **20. Bringing the non-resident investors within the ambit of section 56(2)(viib) to eliminate the possibility of tax avoidance**

It is proposed to include the consideration received from a non-resident also under the ambit of clause (viib) of Section 56(2) by removing the phrase 'being a resident' from the said clause. This will make the provision applicable for receipt of consideration for issue of shares from any person irrespective of his residency status.

*[Effective from assessment year 2024-25]*

## **21. Rationalisation of the provisions of Charitable Trust and Institutions**

### **▪ Depositing back of corpus and repayment of loans or borrowings**

It is proposed to provide that application out of corpus or loans or borrowings before 01.04.2021 should not be allowed as application for charitable or religious purposes when such amount is deposited back or invested in to corpus or when the loan or borrowing is repaid.

It is further proposed to provide that if the trust or institution invests or deposits back the amount in to corpus or repays the loan within 5 years of application from the corpus or loan, then such investment/depositing back in to corpus or repayment of loan will be allowed as application for charitable or religious purposes.

It is also proposed to provide that where the application from corpus or loan did not satisfy the conditions specified, the repayment of loan or investment/depositing back in to corpus of such amount will not be treated as application. *[Effective from assessment year 2023-24]*

### **▪ Treatment of donation to other trusts**

In order to ensure intended application toward charitable or religious purpose, it is proposed that only 85% of the eligible donations made by a trust or institution to another trust shall be treated as application only to the extent of 85% of such donation. *[Effective from assessment year 2024-25]*

- **Combining provisional and regular registration in some cases**

In order to ensure rationalisation of the provisions, it is proposed to allow for direct final registration/approval in following cases:

- Trusts or institutions formed or incorporated during the previous year; and
- Trusts or institutions, where activities have already commenced.

*[Effective from 1st day of October, 2023]*

- **Specified violations under section 12AB and fifteenth proviso to clause (23C) of section 10**

Amendments are proposed to provide that the “specified violation” shall also include the case where the application for registration/approval is not complete or it contains false or incorrect information. *[Effective from 1st day of April, 2023]*

- **Trusts or institutions not filing the application in certain cases**

It is proposed to amend the provisions of section 115TD of the Act to provide that the provisions of Chapter XII-EB (relating to taxability of built up corpus/wealth through exemptions being converted into non-charitable organisation) shall be applicable if any trust or institution fails to make an application for registration / approval / renewal, within the period specified. Upon violation of these, it shall be deemed to have been converted into any form not eligible for registration or approval in the previous year in which such period expires.

It is further proposed that principal officer or the trustee and the specified person shall also be liable to pay the tax on accreted income. *[Effective from assessment year 2023-24]*

- **Alignment of the time limit for furnishing the form for accumulation of income and tax audit report**

The due date for furnishing form 9A and form 10 is same as the due date of furnishing the return of income. The trusts are also required to furnish audit report in form 10B/10BB one month before the due date for furnishing return of income. The auditors are required to report the details of form 10/9A in the audit report. Since the due date for furnishing form 9A/10 is one month before the due date of furnishing the ITR, auditors find it difficult to report.

In order to rationalise the provisions, it is proposed to provide for filing of Form No. 10A/9A at least two months prior to the due date of furnishing the return of income. *[Effective from assessment year 2023-24]*

- **Denial of exemption where return of income is not furnished within time**

It is proposed to clarify that the exemption under section 11, 12 and sub-clause (iv)/(v)/(vi)/(via) of clause (23C) of section 10 of the Act will be available only if the return of income has been furnished within the time allowed under section 139 of the Act. *[Effective from assessment year 2023-24]*

Disclaimer

While every care has been taken in the preparation of this publication to ensure its accuracy at the time of publication, LABHYANSH assumes no responsibility for any errors which despite all precautions, may be found therein. Neither this bulletin nor the information contained herein constitutes a contract or will form the basis of a contract. The material contained in this document does not constitute/ substitute professional advice that may be required before acting on any matter.