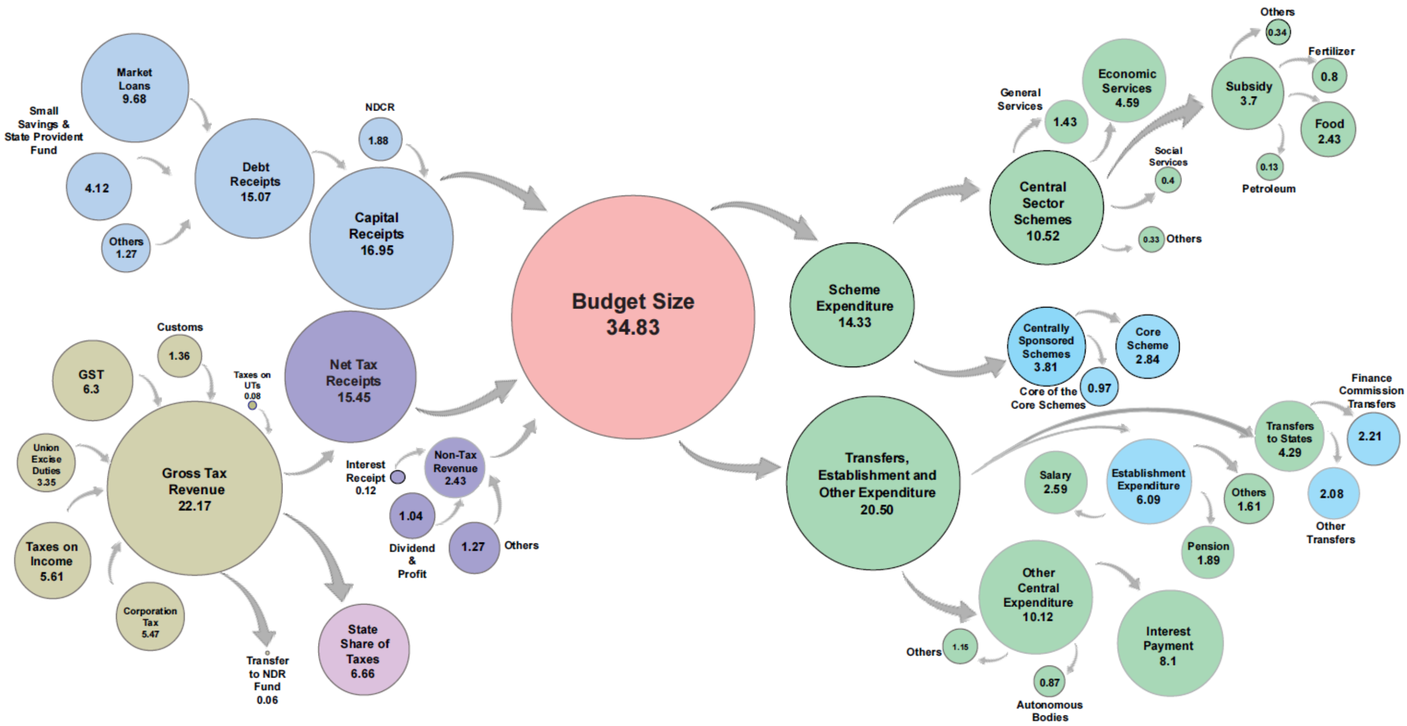
BUDGET'2021

towards self-reliant India

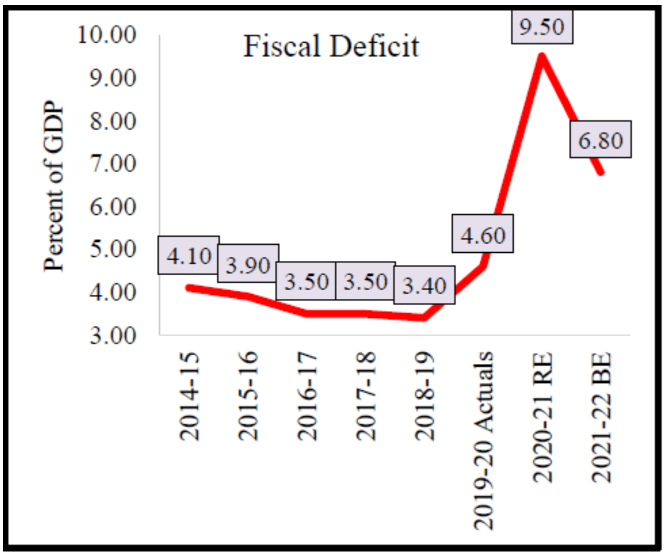
The Union Budget 2021-22 was presented by the Hon'ble Finance Minister Nirmala Sitharaman on 1st February 2021 in the Parliament. This year's Budget lays focus on the six pillars for reviving the economy - Health and Wellbeing, Physical and Financial Capital and Infrastructure, Inclusive Development for Aspirational India, Reinvigorating Human Capital, Innovation and R&D, and Minimum Government Maximum Governance.

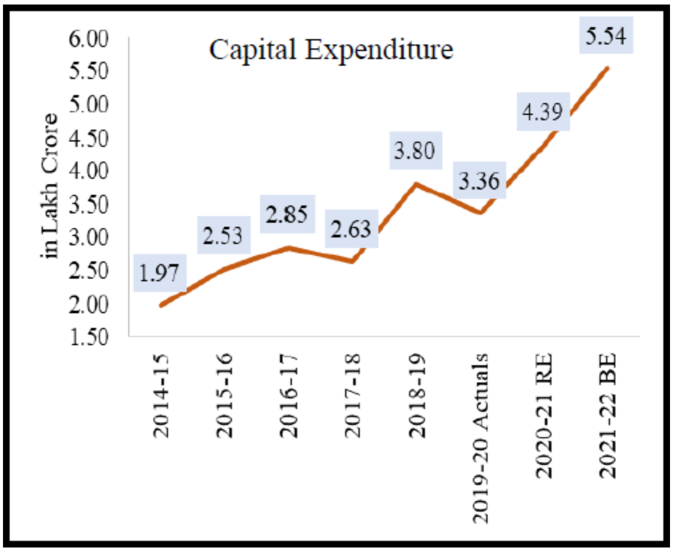
The overall capital expenditure for FY 2021-22 is planned for Rs.5.54 lakh crore. Further, the Budget outlay for Health and Wellbeing is estimated to be Rs.2,23,846 crore for FY 2021-22, which is a rise by 137% Y-o-Y basis. The increased allocation is expected to expand and strengthen existing national health institutions, National Centre for Disease Control (NCDC), Health Emergency Operation Centers and mobile hospitals. Another major highlight was the increase in the FDI limits in the insurance sector from 49% to 74%. The government plans to divest two PSUs as well as one insurance company. Several regulations around the securities market are proposed to be merged as a single code. Several direct taxes and indirect taxes amendments were also proposed.

BUDGET PROFILE



Key Economic Factors:





- FY22 gross expenditure seen at Rs 34.83 lakh crore.
- FY21 fiscal deficit expected at 9.5% of GDP and FY22 fiscal deficit target at 6.8% of GDP.
- The overall capital expenditure for FY 2021-22 is expected at Rs.5.54 lakh crore.

Key Tax Announcements made by the Finance Minister are as under:

Direct Tax Proposals

1. The individual and corporate tax rates for FY 2021-22 (AY 2022-23) left unchanged. No changes in income tax slabs, deductions and exemptions in Budget 2021.

2. **Turnover Limit for Tax Audits:** The limit for tax audits under section 44AB has been increased from Rs 5 crore to Rs 10 crore (only where 95% of payments are digitised).

3. **IT relaxation for senior citizens of 75 years age and above:** It has been proposed to exempt the senior citizens from filing income tax returns if pension income and interest income are their only annual income source. However, Section 194P has been newly inserted to enforce the banks to deduct tax on such senior citizens.

4. **Relaxations to NRI:** There is a proposal to notify rules for removing hardship for double taxation.

5. **PF Interest Taxability in Certain Cases**: Interest earned from Provident Fund contributions above Rs 2.5 lakh in a year will now be taxed at the normal rates. This will only apply to the employee's contribution and not that of the employer.

6. **Disallowance of PF contribution:** In case the employee's PF contribution was deducted but not deposited by the employer or late deposited by employer, it will not be allowed as a deduction for the employer.

7. **Depreciation on Goodwill:** The budget proposed an amendment in the Income Tax Act to specify that: Block of depreciable assets won't include goodwill of a business or profession. In case it was included in the block of depreciable assets, the tax department will specify a method for calculating capital gains arising out of its transfer. The amendment will also specify changes for certain other instances.

8. **Amendment to Section 44ADA:** Section 44ADA applied to all the assessees being residents in India. Now onwards, it applies only to the resident individual, Hindu Undivided Family (HUF) or a partnership firm, other than LLP.

9. **Tax incentives to startups:** The tax holiday for startups has been extended by one more year up to 31st March 2022.

10. **Section 80EEA deduction extended:** The affordable housing additional deduction has been extended till 31st March 2022.

11. **Affordable Rental Housing Projects:** It is proposed to allow deduction under section 80-IBA of the Act to rental housing project to help migrant labourers and to promote affordable rental. Further, it is proposed to extend affordable housing project approval timeline to 31st March 2022 from 31st March 2021.

12. **Relief to Small Trusts:** In order to reduce compliance burden on the small charitable trusts running educational institutions and hospitals, the Budget proposes to increase the limit on annual receipts for these trusts from present Rs.1 Crore to Rs. 5 Crore for non-applicability of various compliances.

13. **Tax Incentive to IFSC**: In order to promote International Financial Services Centre (IFSC) in GIFT City, the Budget proposes more tax incentives which include tax holiday for Capital gains from incomes of aircraft leasing companies, tax exemption for aircraft lease rentals paid to foreign lessors, tax incentives for relocating foreign funds in the IFSC and to allow tax exemption to the investment division of foreign banks located in IFSC.

14. **Exemption for LTC Cash Scheme:** Value in lieu of any travel concession or assistance received by, or due to, an individual shall also be exempt under clause 5 of section 10 subject to fulfilment of prescribed conditions. Amount of exemption shall not exceed Rs. 35,000 per person or 1/3 of specified expenditure, whichever is less.

15. **Advance Tax on dividend income:** Advance tax will henceforth be applicable on dividend income only after its declaration.

16. **Pre-filing of returns to be forefront:** Pre-filling will be allowed for salary, tax payments, TDS, etc. Further, details of capital gains from listed securities, dividend income, etc. will be prefilled.

17. **Reduction in time for IT Proceedings:** Except in cases of serious tax evasion, assessment proceedings in the rest of the cases shall be reopened only up to 3 years, against the earlier time limit of 6 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 upto 10 years but only after the approval of the Principal Chief Commissioner.

18. **Constitution of 'Dispute Resolution Committee':** Those assessed with a taxable income of up to Rs.50 lakh (for small and medium taxpayers) and any disputed income of Rs.10 lakh can approach this committee under section 245MA.

19. **National Faceless Income Tax Appellate Tribunal Centre:** Provision is made for faceless proceedings before the Income Tax Appellate Tribunal (ITAT) in a jurisdiction less manner.

20. **TDS/TCS at Higher rate for ITR non-filers:** A new section 206AB/206CCA are proposed for providing higher rates of TDS/TCS for non-filers of income-tax return. The TDS/TCS rates in these sections shall be higher of-

    - Twice the rate specified in the relevant provision of the Act; or
    - Twice the rate or rates in force; or
    - The rate of 5%

    Taxpayers will be required to keep track of return filing status of their vendors; this will be extra compliance burden. This section shall not apply where the tax is required to be deducted under sections 192, 192A, 194B, 194BB, 194LBC or 194N of the Act. *(w.e.f. 1st July 2021)*

21. **TDS on Purchase of Goods**: It is proposed to provide for TDS by person responsible for paying any sum to any resident for purchase of goods *w.e.f. 1st July 2021*. The rate of TDS is 0.1%.

- It is also proposed that the tax is only required to be deducted by those person (i.e "buyer") whose total sales, gross receipts or turnover from the business carried on by him exceed Rs. 10 crore during the previous financial year.

- Tax is required to be deducted by such person, if the purchase of goods by him from the seller is of the value or aggregate of such value exceeding Rs. 50 lakh in the previous year.

- It is clarified that, if on a transaction a TDS or tax collection at source (TCS) is required to be carried out under any other provision, then it would not be subjected to TDS under this section. It is also proposed that in case PAN is not provided, the TDS shall be deducted @ 5%.

22. **Safe Harbour Limit Revised:** to boost the demand in the real-estate sector and to enable the real-estate developers to liquidate their unsold inventory at a lower rate to home buyers, it is proposed to increase the safe harbour threshold from existing 10% to 20% under section 43CA of the Act.

23. **Incentives for Foreign Investments**: To attract foreign investment into infrastructure sector, the Budget proposes to relax certain conditions relating to prohibition on private funding, restriction on commercial activities and direct investment in infrastructure. In order to allow funding of infrastructure by issue of zero coupon bonds, the Budget proposes to make notified infrastructure debt funds eligible to raise funds by issuing tax efficient zero coupon bonds.

Indirect Tax Proposals:

A. GST Changes:

1. One major change in GST in the Finance Bill 2021 is **No GST Audit** is required for annual reconciliation statement (GSTR-9C), Section 35(5) of the CGST Act is being omitted w.e.f. future date. Also proposed for filing of the annual return on self-certification basis by the registered taxpayers. (Amendment to Section 44 of the CGST Act)

2. **GST on Club/ Association:** New section introduced to clarify governments stand on GST on AOP/ Societies etc. Section is introduced to ensure levy of tax on activities or transactions involving supply of goods or services by any person, other than an individual, to its members or constituents or vice-versa, for cash, deferred payment or other valuable consideration. (clause (aa) to Section7(1) of the CGST Act w.e.f. 1st July, 2017). This shall however be subject to the exemption (upto Rs. 7,500/month/member) in respect of housing societies.

3. **ITC Mechanism:** Input tax credit on invoice or debit note may be availed only when the details of such invoice or debit note have been furnished by the supplier in the statement of outward supplies and such details have been communicated to the recipient of such invoice or debit note. This amendment seems to be a backing up for Rule 36(4). (new clause (aa) introduced in Section 16(2)).

4. **Interest on Net Liability:** Proviso under Sec 50(1) is substituted retrospectively from 1st July 2017, so as to charge interest on net cash liability. In other words, the interest shall not be computed on the tax paid by utilizing the input tax credit

5. **Seizure and Confiscation:** Section is being amended so as make seizure and confiscation of goods and conveyances in transit a separate proceeding from recovery of tax. (Amendment to Sec 74)

6. **Filing of Appeal for detention/sizer of goods:** No appeal shall be filed against an order made under Sec 129(3), unless a sum equal to 25% of penalty has been paid by the appellant. (Proviso inserted in Sec 107(6)).

7. **Penalty for E Way Bill Default:** (Sec 129 (1))
   - Now for release of goods/vehicle in case of default of E way bill, penalty equal to 200% (earlier it was 100%) is payable.
   - Earlier for release of goods, tax was also required to be paid. Now same can be paid along with GSTR 3B.
   - Time limit of 7 days for notice and 7 days for order provided in act. Earlier no such time limit in the act.
   - If vehicle is also detained, same can be released by transporter, now on payment of penalty or Rs 1 lakhs, whichever is lower.

8. **Avoid Error in GSTR-1:** An explanation to sub-section (12) of section 75 of the CGST Act is being inserted to clarify that "self-assessed tax" shall include the tax payable in respect of outward supplies, the details of which have been furnished under section 37, but not included in the return furnished under section 39, i.e. liability declared in GSTR 1 but not included in GSTR 3B will be considered as "self-assessed tax" thereby permitting initiation of recovery proceedings without following the process of adjudication.

9. **Export condition for supply to SEZ:** Section 16 of the IGST Act is being amended so as to:
   - Zero rate the supply of goods or services to SEZ unit only when the said supply is for authorised operations;
   - Restrict the zero-rated supply on payment of integrated tax only to a notified class of taxpayers or notified supplies of goods or services; and
   - Link the foreign exchange remittance in case of export of goods with refund. Further, it has been proposed to recover the refunds in the context of export of goods if foreign exchange remittance is not received within thirty days after the expiry of the time limit prescribed under the Foreign Exchange Management Act, 1999.

B. Customs Changes:

1. **Few of the items on which Customs Duty Rates are revised are as follows:**
   - Reduced duty on copper scrap from 5% to 2.5%
   - Basic and Special additional excise duty on petrol and high-speed diesel oil (both branded and unbranded) is reduced
   - Increased duty on solar inverters from 5% to 20%
   - Raised duty on solar lanterns from 5% to 15%
   - The basic customs duty on gold and silver reduced.
   - The department will rationalise duty on textile, chemicals and other products
   - The revised rates will be applicable from 2nd February 2021 onwards.

2. New tariff items under 2404 11 00 and 2404 19 00 have been inserted in accordance with upcoming HS 2022 nomenclature. Further, NCCD of 25% is prescribed on these tariff items with effect from 1st January 2022.

3. Agriculture Infrastructure and Development Cess (AIDC) has been newly imposed on petrol and diesel at Rs. 2.5 and Rs.4 per litre respectively.

4. Regarding agricultural products, the customs duty is increased on cotton, silks, alcohol, etc.

5. Exemption of Social Welfare Surcharge on the value of AIDC imposed on gold and silver. Therefore, these items would attract surcharge at the normal rate, only on value plus basic customs duty.

6. The exemption on import of leather will be withdrawn as they are domestically produced.

7. A new initiative called 'Turant Customs' will be introduced for faceless, paperless, and contactless customs measures.

Company Matters:

1. To decriminalize the Limited Liability Partnership (LLP) Act, 2008.

2. Easing Compliance requirement of Small companies by revising their definition under Companies Act, 2013 by increasing their thresholds for Paid up capital from "not exceeding Rs. 50 Lakh" to "not exceeding Rs. 2 Crore" and turnover from "not exceeding Rs. 2 Crore" to "not exceeding Rs. 20 Cr".

3. Promoting start-ups and innovators by incentivizing the incorporation of One Person Companies (OPCs):
   - Allowing their growth without any restrictions on paid up capital and turnover
   - Allowing their conversion into any other type of company at any time,
   - Reducing the residency limit for an Indian citizen to set up an OPC from 182 days to 120 days and
   - Allowing Non Resident Indians (NRIs) to incorporate OPCs in India.

4. To ensure faster resolution of cases by:
   - Strengthening NCLT framework
   - Implementation of e-Courts system
   - Introduction of alternate methods of debt resolution and special framework for MSMEs

5. Launch of data analytics, artificial intelligence, machine learning driven MCA21 version3.0 in FY21-22.