

# UNION BUDGET 2021-22

...announced on 1<sup>st</sup> February 2021

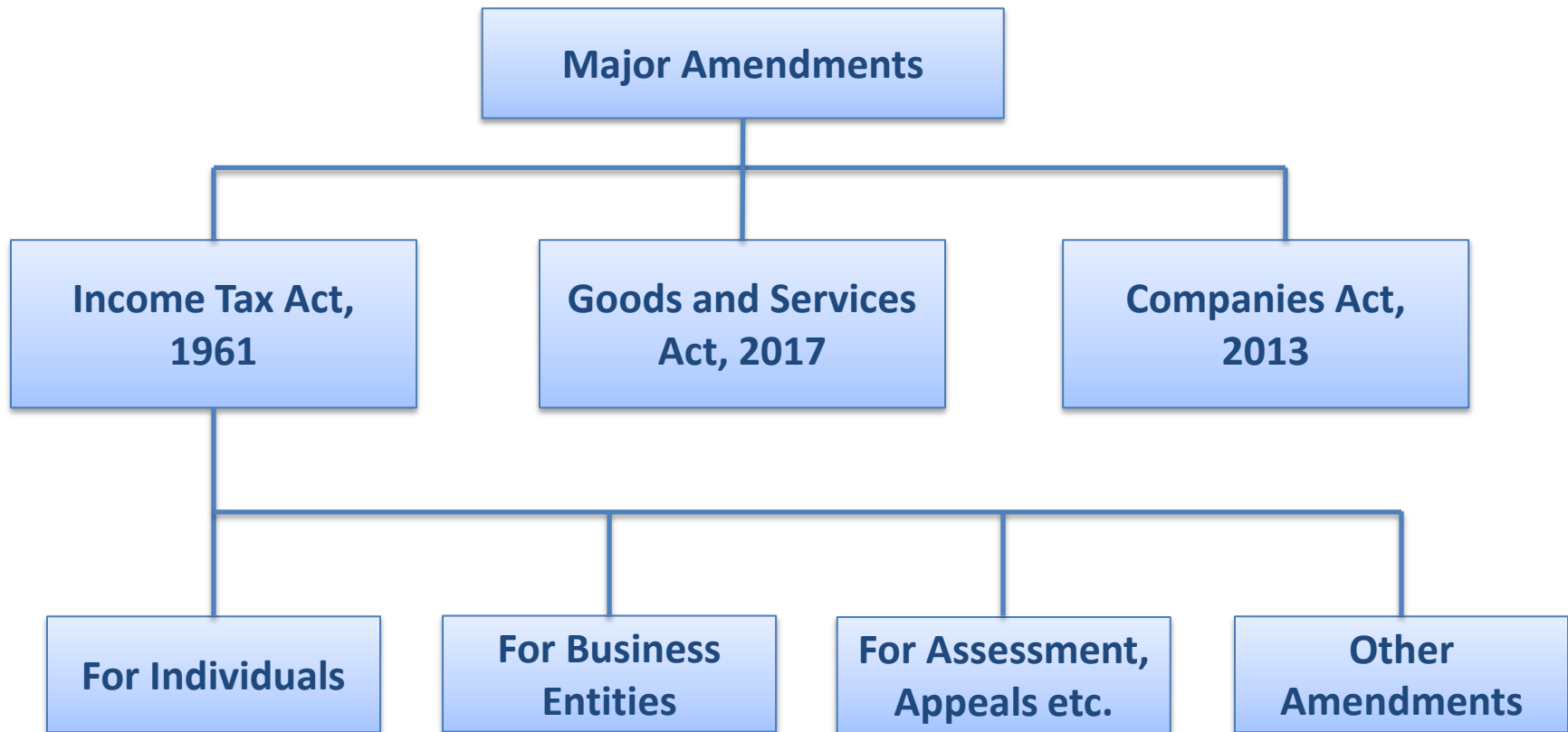


# Introduction

- The Union Budget of India, also known as Annual Financial Statement under Article 112 of the Constitution of India, is presented by the Hon'ble Finance Minister of India, on the first day of February each year that chalks out the govt. receipts, expenditures, amendments in various laws and significant proposals for growth of the Nation.
- The first union budget of Independent India was presented by RK Shanmukham Chetty on 26<sup>th</sup> November 1947.
- Amid COVID-19 situation, the budget for the FY 2021-22 came as never seen before, in non-paper form and was presented by current Finance Minister Hon'ble Nirmala Sitharaman in the parliament at 11:00 am.
- The union budget 2021-22 visions to make India self-reliant and a USD 5 trillion economy.



# Highlights of the Budget 2021-22



# Income Tax Act, 1961

# Income Tax Act, 1961

## ❖ For Individual Taxpayers

### a. No change in tax slab rate for individual taxpayers.

### b. Amendment in section 10(5):

- For those who could not avail LTC exemption for block 2018-2021 due to COVID-19;
- Applicable for AY 2021-22 only;
- On expenditure made:
  - between 12 Oct'20 to 31 Mar'21
  - on goods and services chargeable to GST @12% or more
  - via any mode other than cash;
- Exemption restricted to higher of INR 36,000 per family member and (lower of 1/3<sup>rd</sup> of expenditure or LTC actually received).

### c. Amendment in section 139:

- Relief to taxpayer above age of 75 years for opting not to file ITR, provided:
  - His only income is pension and/or interest
  - He gives a declaration to bank receiving pension
  - He has only one bank account;
- Applicable from 1<sup>st</sup> April 2021.



# Income Tax Act, 1961

*d. Extension of period for deduction of int. on loan for residential HP (sec 80EEA):*

- Extended by one year i.e., up to 31<sup>st</sup> March 2022;
- Hence, applicable for loans taken between 1 Apr'19 to 31 Mar'22;
- Subject to maximum amount of INR 1,50,000/- (and other conditions).

*e. No exemption for interest on PF in certain condition:*

- No exemption of interest on PF accrued to the extent it relates to employee's contribution in excess of INR 2,50,000 deposited in a previous year;
- **Aims to curb loophole of Tax Planning**

*f. No interest on short payment or failure to pay Advance Tax (sec 234C):*

- No interest shall be charged on short payment or failure to pay advance tax if:
  - It is on account of dividend income [other than that referred to in Sec 2(22) (e)]
  - Taxpayer has paid full tax in subsequent advance tax after the dividend is declared or distributed.

*g. Withdrawal of exemption for ULIP(s) (sec 10(10D)):*

- Exemption for amount received from ULIPs issued on/after 1<sup>st</sup> Feb'21;
- Applicable on ULIPs having annual premium in excess to INR 2,50,000;
- The threshold limit shall include aggregate of all ULIPs issued on one taxpayer's name;
- **Amount received from such ULIPs on death shall be exempt**

# Income Tax Act, 1961

## ❖ For Business Entities

### a. No change in tax slab rate for business entities.

### b. Increase in threshold limit for Tax Audit under section 44AB:

- Threshold limit raised from INR 5 Crore to INR 10 crore, provided;
  - The cash receipts of the assessee < 5% of the total aggregate receipts;
  - The cash payments of the assessee < 5% of the total aggregate payments;
- Applicable from AY 2021-22 onwards;
- Aims at promoting digital economy and reducing compliance burden of some business entities.



### c. Insertion of section 194Q-TDS on purchase of goods, *read with sec 206AA(1):*

- Applicable from 1<sup>st</sup> July 2021;
- Tax required to be deducted @0.1% on purchase of goods, provided:
  - The total sales/gross receipts of the buyer exceeds INR 10 Crore in the FY immediately preceding the year of purchase
  - **Value of goods purchased exceeds INR 50 Lakh;**
  - **No Tax u/s 194Q shall be deducted if TDS/TCS is deductible/collectible under any other section of the Act; (other than 206C(1H)).** Practically, TCS under section 206C(1H) become irrelevant because TDS is to be deducted and deposited, Expenses booked or paid whichever is earlier (as per second proviso)
- As per **section 206AA(1)**, if PAN is not furnished by the seller, tax shall be deducted @5% u/s 194Q.

# Income Tax Act, 1961

**d. Disallowance of delay in payment of PF and ESI from due dates:**

- It has been clarified that provisions of section 43B will not apply anymore for determining the due date under **section 36(1)(va)** for payment of employee's contribution of PF and ESI from the due dates;
- No deduction shall be allowed if employee's contribution of PF and ESI has not been deposited within due date specified under section 36(1)(va), even before due date of filing of return under section 139(1).

**e. Extension of last date for deduction to affordable housing projects (sec 80IBA):**

- Deduction of 100% of profit from affordable housing projects to the companies if:
  - The project is approved by competent authority after 1<sup>st</sup> July 2016 to 31<sup>st</sup> March 2022(extended from 31<sup>st</sup> March 2021)

**f. No amortization of purchased goodwill (sec 32):**

- Purchased goodwill is not to be treated as a depreciable asset anymore;
- Cost of acquisition of the goodwill shall be continued in the books form AY 2021-22, but:
  - Such cost shall be reduced by the amount w/off (depreciation) prior to AY 21-22;
- Cost of acquisition shall be used to compute capital gain under section 48
- Cost of self generated goodwill shall be, as earlier, taken as NIL.



# Income Tax Act, 1961

## g. Insertion of section 206AB and 206CCA- higher rate of TDS & TCS respt. on non-filing of ITR:

- The two new sections provide for higher rates of TDS and TDS for **non-filers of ITR**;
- TDS or TCS rate shall be **highest** of:
  - 2 times of rate specified; *or*
  - Actual rate in force; *or*
  - 5%
- Applicable if:
  - a person has **not filed ITRs for the 2 PYs** immediately before the PY in which tax is required to be deducted/collected, provided:
    - The time limit under sec 139(1) has **expired**
  - The aggregate of **TDS/TCS is  $\geq$  INR 50,000 in both** of the said 2 PYs.
- Not applicable if TDS is u/s:
  - 192-Salaries
  - 192A- PF
  - 194B and 194BB- winning from lottery etc. and horse races respt.
  - 194LBC-income received from a securitization trust
  - 194N- cash withdrawal in excess of INR 20 Lakh.



# Income Tax Act, 1961

## h. Exemption of dividend to Business Trust :

- Any dividend paid to a business trust by special purpose vehicle or any other person shall be **exempt**.

## i. Non-applicability of presumptive taxation for LLPs(sec 44ADA):

- Presumptive taxation u/s 44ADA is applicable to individual, HUFs, and Partnership firms **excluding LLPs**.

## j. Extension of deduction period for eligible startups (sec 80IAC):

- Eligible startups are allowed to take deduction of 100% of profits of any 3 consecutive years out of 10 years at their option, provided
  - The startup is incorporated between 1<sup>st</sup> April 2016 to 31<sup>st</sup> March 2021
- The period of incorporation of eligible startups have now been extended by one year i.e., to 31<sup>st</sup> March 2022.

# Income Tax Act, 1961

## ❖ For Assessments, Appeals etc.

### a. Reduction in time limit for filing belated/revised return [sec139(4) and sec 139(5)]:

- Applicable from AY 2021-22;
- **Earlier**, time limit for belated/ revised return was earlier of:
  - End of relevant AY or
  - completion of assessment;
- **Now**, time limit for belated/ revised return was earlier of:
  - 3 months before the end of relevant AY(31<sup>st</sup> December) or
  - completion of assessment;
- **Impact:**
  - Last date for all return is 31<sup>st</sup> December instead of 31<sup>st</sup> March
  - Late fee of INR 10,000 becomes irrelevant.



### b. Relaxation for treating ITRs as defective/invalid [(sec 139(9))]:

- Applicable from AY 2021-22;
- **Earlier**, ITRs were treated as:
  - **Defective**, if Certain conditions are not met;
  - **Invalid**, if defective return could not be rectified within 15 days of receiving intimation
- **Now**, CBDT notifies class of assessee whose return will not be treated as defective/invalid even if certain conditions are not complied with.

# Income Tax Act, 1961

c. Reduction in the time limit for completion of assessment u/s 143(3) or 144:

- Applicable from AY 2021-22;
- The time limit prescribed u/s 153 for completion of an assessment by IT Dept. u/s 143(3) or 144 is to be **completed within 9 months from the end of relevant AY**

d. Reduction in time limit for issuance of notice u/s 143(2):

- Applicable from AY 2021-22;
- Reduced from 6 months to **3 months from the end of FY in which return is furnished**

e. Reduction in time limit for issuance of notice u/s 143(1):

- Applicable from AY 2021-22;
- Reduced from 1 year to **9 months from the end of FY in which return was furnished**

**NOTE: Practically there is no reduction in time limits for points c, d and e above, because now the last date of filing of return is 31st December.**

f. Discontinuance of The Income Tax Settlement Commission (ITSC):

- ITSC discontinued from 1<sup>st</sup> Feb'21;
- Pending application are either to be:
  - Withdrawn by assessee and continued before the AO; or
  - Transferred to an Interim Board
- The scheme of Interim Board will be notified by the CG on or before 31<sup>st</sup> March 2023.



# Income Tax Act, 1961

## g. ITAT proceedings to be made faceless:

- Applicable from 1<sup>st</sup> April 2021;
- Directions in this regard to be issued by the CG before 31<sup>st</sup> March 2023;
- Faceless scheme of conducting IT assessments and first appellate body has been extended to second appellate body, i.e. ITAT

## h. Dispute Resolution Committee for small assessee (sec 245MA):

- Constitution of a Dispute Resolution Committee has been proposed by Budget 2021-22, where:
  - The disputes of small assesseees are to be resolved
  - Returned income is not more than INR 50 Lakh;
  - Proposed addition is not more than INR 10 Lakh
  - Matter does not relate to provisions of:
    - Detention; or
    - Prosecution; or
    - Conviction.
- Applicable from AY 2021-22;
- Scheme in this regard is to be issued by the CG before 31<sup>st</sup> March 2023



# Income Tax Act, 1961

## ❖ Other Amendments.

### a. Pre-filling of returns:

- **Currently**, pre-filled details of salaries, interest income, TDS, tax payments etc. are available to an assessee;
- **Proposed**, pre-filled details of capital gains from listed securities and dividend income etc. will be made available to an assessee

### b. Increase in exemption limit of small charitable trusts [sec 10(23C)]:

- Exemption limit of annual receipts has been raised from INR 1 crore to INR 5 crore for small charitable trusts running hospitals and schools
- Note that consolidated turnover is to be taken for an assessee for computing the annual receipts

### c. Disallowance of set off of deficit to Charitable Institutions:

- No set off or deduction of any excess application of any of the preceding PY shall be allowed to a charitable institution for the purpose of computation of income during the PY

### d. Rationalization to avoid double claim as application of funds by Trusts:

- Any voluntary contribution received by the trusts registered u/s 10(23C)/11/12A/12AB, to specifically use it as corpus, will now be eligible for claim as application, if
  - Such amount is invested in modes mentioned u/s 11(5)

# Income Tax Act, 1961

- Applications by these trusts from loans/borrowings shall be considered as application of income only at the time of repayment of loan
- The amendment shall come into effect from AY 2022-23

## e. Revision of definition of slump sale (sec 2):

- As per the revision in definition of slump sale u/s 2 (24C), now, exchange or consideration in any form (including in kind) for transfer of an undertaking shall make it a slump sale;
- Now, the definition covers all types of transfers as mentioned u/s 2(47)

## f. Clarification on provisions of Equalization Levy (inserted via Finance Act 2020):

- Clarified that transaction considered as payment for Royalty or FTS as per IT Act or DTAA shall *not* be covered for chargeability under the provisions of Equalization Levy
- W.r.t. e-commerce, following activities shall be considered as online sale or provision of service:
  - Acceptance of offer for sale
  - Placing and acceptance of PO
  - Payment
  - Supply partly or wholly
- Equalization Levy shall be applicable irrespective of the fact whether the non-resident e-commerce operator owns the goods or not, or facilitates the services or not

# Goods and Services Tax, 2017



# Goods and Services Act, 2017

## a. Omission of GST Audit section 35(5):

- **Earlier**, taxpayers were required to upload a copy of annual accounts reconciliation statement certified by a CA/CMA in form GSTR-9C;
- **Now**, a self-certified reconciliation statement along with annual financial statements shall be uploaded
- **Impact:**
  - **Mandatory audit of accounts u/s 35(5) of the CGST Act, 2017 has been eradicated**
  - **Upload of reconciliation statement by a professional has been revoked**

## b. Interest on net liability- proviso in sec 50(1):

- Proviso amended retrospectively from 1<sup>st</sup> July 2017, so as to charge interest on net cash liability

## c. Seizure and Confiscation:

- Amendment in section 74 of the CGST Act, 2017
- To make seizure and confiscation of goods and conveyances in transit a separate proceeding from recovery of tax

## d. Insertion of section 107(6)-detention/seizure of goods:

- A proviso is being inserted, that says:
  - no appeal shall be filed against an order made under Sec 129(3) unless a sum equal to **25% of penalty (raised from 10% of Tax Liability)** has been paid by the appellant

# Goods and Services Act, 2017

*e. Deletion of term “Tax”, no relief to taxpayer:*

- **Earlier**, a taxpayer was liable to pay 100% of Tax (+Penalty for the same amount) for getting the conveyance and goods released;
- **Now**, penalty has been raised to 200% from 100%
- **Impact:**
  - **There is no relief of removal of term “Tax” as the taxpayer is still liable for 200% penalty**

*f. Omission of section 129(2):*

- conveyance and goods detained by the officer cannot be released on execution of bond and bank guarantee as security
- penalty imposed by the officer **will have to be paid in cash** by the taxpayer

*g. Amendment in section 129(4):*

- No opportunity of being heard will be given to the assessee for the tax and interest portion for release of goods
- **Now**, the assessee is being called for Penalty only



# Goods and Services Act, 2017

## h. Amendment in section 129(6):

- **Earlier**, if person does not pay tax and penalty within 14 days of seizure, the conveyance and goods detained were liable for confiscation as per section 130
- **Now**, the conveyance/goods detained/seized shall become liable to be sold in the manner prescribed, if:
  - The payment of imposed penalty is not made within 15 days from the date of receipt of order imposing such penalty
- Transporter can pay *lower* of the following for release of conveyance:
  - Penalty imposed; or
  - INR 1,00,000



## i. Clarification on Self-Assessed Tax:

- Spectrum of the term self-assessed tax is widened;
- Self-assessed tax will not only include the tax payable as per return u/s 39 but *it will also include* the outward supplies shown as per the statement of outward supplies u/s 37;
- recovery can be initiated by the officer for both tax payable and outward supply liability;
- tax liability can straightaway be recovered under section 79 (recovery of arrears)

# Goods and Services Act, 2017

## j. Amendment in Section 16(3) of the IGST Act, 2017:

- **Earlier**, the exporters had to opt either of the following:
  - To export *with payment* of IGST and claim refund thereof; or
  - to export *without payment* of Tax under LUT and claim refund thereof.
- **Now**, only notified class of taxpayer/goods/services are eligible to claim refund in case the supplies are made **with** payment of tax.
- **Impact:**
  - Not everyone making supplies with payment of IGST may be eligible for claiming refund
  - most of the taxpayers will have to export without payment of tax and claim refund of the accumulated ITC as per Sec 54 of the CGST Act, 2017
- The proviso to Sec 16(3) mandates the collection and realization of sales proceeds otherwise the refund claimed needs to be deposited back in the treasury of the government along with the interest u/s 50



# Companies Act, 2013

# Companies Act, 2013

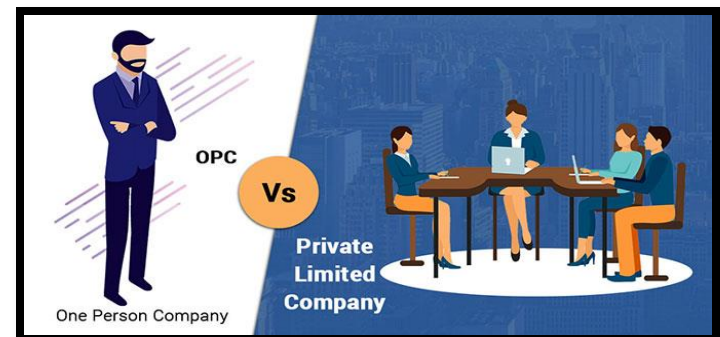
## a. Revision of definition of small companies:

- The threshold for definition of small companies have been changed as follows:
  - **Paid up capital:** from “not exceeding INR 50 Lakh” to “not exceeding INR 2 crore”
  - **Turnover:** from “not exceeding INR 2 crore” to “not exceeding INR 20 crore”



## b. Incentivizing incorporation of OPCs:

- No restriction on paid up capital and turnover so as to allow their growth;
- Allowing to convert into any other type of company at any time;
- Reducing the residency limit for an Indian citizen to incorporate an OPC **from 182 days to 120 days**
- Allowing NRIs to incorporate OPCs in India



# Thank You!!

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