



A2Z TAXCORP LLP

Tax and Law Practitioners

Key Highlights of Union Budget 2023

Changes under the Income Tax Law



**INCOME
TAX**



INCOME TAX LAW

Direct Tax

This Budget, being the the first Budget in Amrit Kaal, hopes to build on the foundation laid in the previous Budget, and the blueprint drawn for India@100.

The economic agenda for achieving this vision focuses on three things:

- ❖ facilitating ample opportunities for citizens, especially the youth, to fulfil their aspirations;
- ❖ providing strong impetus to growth and job creation;
- ❖ strengthening macro-economic stability.

The provisions of Finance Bill, 2023, relating to direct taxes seek to amend the Income-tax Act, 1961 (“**the IT Act**”), to continue reforms in direct tax system through tax reliefs, removing difficulties faced by taxpayers and rationalization of various provisions.

With a view to achieving the above, the various proposals for amendments are organized under the following heads:—

- (A) Rates of Income-tax;
- (B) Socio economic welfare measures;
- (C) Ease of compliance;
- (D) Widening and deepening of tax base/Anti-Avoidance;
- (E) Improving compliance and Tax administration;
- (F) Rationalisation of Provisions; and
- (G) Others.

Following amendments have been proposed under Income Tax Laws in the Finance Bill, 2023:

1. Changes in Section 115BAC (New Tax Regime) with effect from AY 2024-25:

- a. New subsection (1A) is proposed to be inserted in section 115BAC of the IT Act to prescribe tax rates in respect of the total income of a person, being an individual or Hindu undivided family or *association of persons [other than a cooperative society], or body of individuals*. The new rates are as follows-

Sl. No.	Total Income	Rate of Tax
1.	Upto Rs.3,00,000	Nil
2.	From Rs.3,00,001 to Rs.6,00,000	5 per cent
3.	From Rs.6,00,001 to Rs.9,00,000	10 per cent
4.	From Rs.9,00,001 to Rs.12,00,000	15 per cent
5.	From Rs.12,00,001 to Rs.15,00,000	20 per cent
6.	Above Rs.15,00,000	30 per cent

- b. Sub-section (2) of Section 115BAC of the IT Act is proposed to be amended to provide that following deductions are allowed under new tax regime viz.
- Section 80CCH(2) [contribution by CG to the account of an assessee in the Agniveer Corpus Fund],
 - Section 16(i) [Standard Deduction upto Rs. 50000],
 - Section 57(iia) [in the case of income in the nature of family pension, a deduction of a sum equal to thirty-three and one-third per cent of such income or fifteen thousand rupees, whichever is less.]
- c. A new proviso is inserted in sub section 3 of section 115BAC of the IT Act—*“If there is a depreciation allowance in respect of a block of assets which has not been given full effect prior to the assessment year beginning on the 1st day of April, 2024, corresponding adjustment shall be made to the written down value of such block of assets as on the 1st day of April, 2023 in the manner as may be prescribed”*.
- d. A new sub section (6) is inserted in section 115BAC of the IT Act—*“Nothing contained in sub- section (1A) shall apply to a person where an option is exercised by such person, in the manner as may be prescribed, for any assessment year, and such option is exercised,—*
- (i) on or before the due date specified under subsection (1) of section 139 for furnishing the return of income for such assessment year, in case of a person having income from business or profession, and such option once exercised shall apply to subsequent assessment years; or*

(ii) along with the return of income to be furnished under sub-section (1) of section 139 for such assessment year, in case of a person not having income referred to in clause (i):

Provided that the option under clause (i), once exercised for any previous year can be withdrawn only once for a previous year other than the year in which it was exercised and thereafter, the person shall never be eligible to exercise the option under this subsection, except where such person ceases to have any income from business or profession in which case, option under clause (ii) shall be available.”

Hence, a person having income from business or profession who opted out from the new tax regime shall be able to opt-in only once. However, a person not having income from business or profession shall be able to exercise the option every year.

Note: The rates given in sub-section (1A) of section 115BAC of the IT Act are the default rates. In other words, the income-tax payable in respect of the total income of the person shall be computed as per new rates only unless the person exercises an option under sub-section (6) of section 115BAC (Old Regime).

Further, the maximum surcharge rate will be reduced from 37 per cent to 25 per cent in the new tax regime.

2. Increase in Rebate under section 87A:

In Section 87A of the IT Act, a proviso shall be inserted with effect from the AY 2024-25 to give effect that under new tax regime, now onwards an individual who is a resident in India will be entitled to a rebate of 100% of the amount of income-tax payable on a total income not exceeding Rs 7 lakh.

3. Tax on income of certain new manufacturing co-operative societies:

A new section 115BAE is inserted to provide a new manufacturing co-operative society set up on or after April 01, 2023, which commences manufacturing or production on or before March 31, 2024 and does not avail any specified incentive or deductions, may opt to pay tax at a concessional rate of 15% for assessment year 2024-25 onwards. Surcharge would be at 10% on such tax.

4. Increasing threshold limits for presumptive taxation schemes for eligible business:

In section 44AD of the IT Act, in the Explanation, in clause (b), after sub-clause (ii), the following provisos shall be inserted with effect from the AY 2024-25 namely :—

‘Provided that 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 of such previous year, this sub-clause shall have effect as if for the words “two crore rupees”, the words “three crore rupees” had been substituted:

Provided further that for the purposes of the first proviso, the 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.’.

Hence, it is proposed to provide that under section 44AD of the IT Act, for eligible business, 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, a threshold limit of three crore rupees will apply.

5. Increasing threshold limits for presumptive taxation schemes for specified professionals:

In section 44ADA of the IT Act, after subsection (1), the following provisos shall be inserted with effect from the AY 2024-25, namely:—

‘Provided that in case of an assessee where the amount or aggregate of the amounts received during the previous year, in cash, does not exceed five per cent. of the total gross receipts of such previous year, this sub-section shall have effect as if for the words “fifty lakh rupees”, the words “seventy-five lakh rupees” had been substituted:

Provided further that for the purposes of the first proviso, the 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.’.

Hence, it is proposed to provide that under section 44ADA of the IT Act, for professions referred to in sub-section (1) of section 44AA of the IT Act, where the amount or aggregate of the amounts received during the previous year, in cash, does not exceed five per cent of the total gross receipts, a threshold limit of seventy-five lakh rupees will apply.

6. Decriminalisation of section 276A of the IT Act:

In section 276A of the Income-tax Act, after the proviso, the following proviso shall be inserted, namely:—

“Provided further that no proceeding shall be initiated under this section on or after April 1, 2023.”

Section 276A of the IT Act, provided prosecution of liquidator for non-compliance with Section 178, now, it is proposed to amend section 276A wherein no fresh prosecution shall be launched under this section on or after April 1, 2023.

7. Tax on winnings from online games:

(a) A new section 115BBJ is inserted with effect from the AY 2024-25 to provide for taxability of Online Gaming as follows-

“Notwithstanding anything contained in any other provisions of this Act, where the total income of an assessee includes any income by way of winnings from any online game, the income-tax payable shall be the aggregate of—

(i) the amount of income-tax calculated on net winnings from such online games during the previous year, computed in the manner as may be prescribed, at the rate of thirty per cent.; and

(ii) the amount of income-tax with which the assessee would have been chargeable had his total income been reduced by the net winnings referred to in clause (i).”

(b) New section 194BA is inserted with effect from July 1, 2023, to provide for deduction of TDS as follows-

“(1) Notwithstanding anything contained in any other provisions of this Act, any person responsible for paying to any person any income by way of winnings from any online game during the financial year shall deduct income-tax on the net winnings in his user account, computed in the manner as may be prescribed, at the end of the financial year at the rates in force:

Provided that in a case where there is a withdrawal from user account during the financial year, the income-tax shall be deducted at the time of such withdrawal on the net winnings comprised in such withdrawal, as well as on the remaining amount of net winnings in the user account, computed in the manner as may be prescribed, at the end of the financial year.

(2) In a case 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.”

Hence, deduction of tax at source on net winnings in the user account at the end of the financial year is prescribed in the Finance Bill, 2023 at 30 per cent.

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.

Net winnings shall be computed in the prescribed manner.

8. Increasing threshold limit for co-operative societies to withdraw cash without TDS:

In section 194N of the IT Act, after the second proviso, the following proviso shall be inserted with effect from AY 2023-24, namely:—

“Provided also that where the recipient is a co-operative society, the provisions of this section shall have effect, as if for the words “one crore rupees”, the words “three crore rupees” had been substituted.”

It is proposed to amend section 194N of the IT Act by inserting a new proviso to provide that, the co-operative society can withdraw cash without TDS upto the limit of 3 crore.

9. Rationalisation of exempt income under life insurance policies:

Amendment in the section 10(10D) of the IT Act, for the sixth proviso, the following provisos shall be substituted with effect from AY 2024-25, namely:—

“Provided also that nothing contained in this clause shall apply with respect to any life insurance policy other than a unit linked insurance policy, issued on or after the 1st day of April, 2023, if the amount of premium payable for any of the previous years during the term of such policy exceeds five lakh rupees:

Provided also that if the premium is payable by a person for more than one life insurance policy other than unit linked insurance policy, issued on or after the 1st day of April, 2023, the provisions of this clause shall apply only with respect to those life insurance policies other than unit linked insurance policies, where the aggregate amount of premium does not exceed the amount referred to in the sixth proviso in any of the previous years during the term of any of those policies:

Provided also that the provisions of the fourth, fifth, sixth and seventh provisos shall not apply to any sum received on the death of a person:”

That is, after the enactment of the amendment in Section 10(10D), while ULIPs having premium payable exceeding Rs. 2,50,000/- have been excluded from the purview of clause (10D) of section 10 of the IT Act, all other kinds of life insurance policies are still eligible for exemption irrespective of the amount of premium payable.

Hence,

- i. Inserted a new proviso (sixth proviso) to clause (10D) of the section 10 of the IT Act to provide that nothing contained in this clause shall apply with respect to any life insurance policy (other than a unit linked insurance policy) issued on or after the April 1, 2023, if the amount of premium payable for any of the previous year during the term of such policy exceeds five lakh rupees.
- ii. Inserted a new proviso (seventh proviso) to clause (10D) of section 10 of the IT Act to provide that if the premium is payable by a person for more than one life insurance policy (other than unit linked insurance policy), issued on or after the April 1, 2023, the provisions of this clause shall apply only with respect to those life insurance policies (other than unit linked insurance policies), where the aggregate amount of premium does not exceed the amount referred to in the sixth proviso in any of the previous years during the term of any of those policies;
- iii. Amend the existing sixth proviso (new proposed eighth proviso) to clause (10D) of section 10 of the IT Act to provide that the provisions of the fourth, fifth, sixth and seventh provisos shall not apply to any sum received on the death of a person.

10. Taxability of life insurance policy under Income from Other Sources:

New Clause inserted in section 56(2) of the IT Act, , with effect from AY 2024-25, namely:

—

“(xiii) where any sum is received, including the amount allocated by way of bonus, at any time during a previous year, under a life insurance policy, other than the sum,—

(a) received under a unit linked insurance policy;

(b) being the income referred to in clause (iv), which is not to be excluded from the total income of the previous year in accordance with the provisions of clause (10D) of section 10, the sum so received as exceeds the aggregate of the premium paid, during the term of such life insurance policy, and not claimed as deduction under any other provision of this Act, computed in such manner as may be prescribed.”

The Finance Bill, 2023, has inserted clause (xiii) in sub-section (2) of section 56 of the IT Act to provide where any sum is received (including the amount allocated by way of bonus) at any time during a previous year, under a life insurance policy, which is not

exempt under clause (10D) of section 10 of the IT Act, the sum so received as exceeds the aggregate of the premium paid during the term of such life insurance policy shall be chargeable to income-tax under the head "Income from other sources". If the premium paid had been claimed as deduction in any other provision of the IT Act such premium will not be reduced from sum so received. Computation mechanism shall be prescribed. This would not apply to ULIP or Keyman insurance policies whose taxation is governed by other existing provisions of the IT Act.

11. Limiting the roll over benefit claimed under section 54 and section 54F:

In Section 54(1) of the IT Act, second proviso has been inserted with effect from AY 2024-25, namely:-

"Provided also that where the cost of new asset exceeds ten crore rupees, the amount exceeding ten crore rupees shall not be taken into account for the purposes of this sub-section."

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

Further, it is to be noted that similar amendment is proposed under section 54F of the IT Act.

12. Relief to sugar co-operatives from past demand:

New sub-sections (19) and (20) are inserted under Section 155 of the IT Act, to provide that in the case of a sugar mill cooperative, where any deduction in respect of any expenditure incurred for the purchase of sugarcane has been claimed by an assessee and such deduction has been disallowed wholly or partly the Assessing Officer shall, on the basis of an application made by such assessee in this regard, recompute the total income of such assessee for such previous year. The Assessing Officer shall allow such deduction to the extent such expenditure is incurred at a price which is equal to or less than the price fixed or approved by the Government for that previous year.

13. Tax holiday extended for startups for 1 more year:

In section 80-IAC of the Income-tax Act, in the Explanation, in clause (ii), in sub-clause (a), for the figures “2023”, the figures “2024” shall be substituted.

To promote the development of start-ups in India and to provide them with a competitive platform, it is proposed to amend the provisions of section 80-IAC of the IT Act so as to extend the period of incorporation of eligible start-ups to April 1, 2024.

14. Carry forward of losses for eligible start-ups extended from seven year to ten years:

In section 79 of the Income-tax Act, in sub-section (1), in the proviso, for the word “seven”, the word “ten” shall be substituted.

So, the carried forward losses of eligible start-ups shall be considered for set off, if such loss has been incurred during the period of ten years beginning from the year in which such company was incorporated.

15. Period of tax benefits to funds relocating to IFSC, GIFT City extended till March 31, 2025:

In order to further incentivize operations from IFSC, it is proposed to amend clause (b) of the Explanation to clause (viiad) of section 47 of the IT Act so as 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 March 31, 2025.

16. TDS rate to be reduced from 30 per cent to 20 per cent on taxable portion of EPF withdrawal in non-PAN cases:

Since many low-paid employees do not have PAN and thereby TDS is being deducted at the maximum marginal rate in their cases under section 192A. Hence, it is proposed to omit the second proviso to section 192A of the IT Act, so 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 IT Act, instead of at the maximum marginal rate.

17. Income from Market Linked Debentures to be taxed:

It is proposed to insert a new section 50AA in the IT 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 wholly or exclusively in connection with transfer or redemption of such debenture, as capital gains arising from the transfer of a short term capital asset.

Since, variety of hybrid securities that combine features of plain vanilla debt securities and exchange traded derivatives are being issued through private placements and listed on stock exchanges. It is seen that such securities differ from plain vanilla debt securities. 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.

18. Increase in limit for exemption on leave encashment:

The limit of Rs. 3 lakh for tax exemption on leave encashment on retirement of non-government salaried employees was last fixed in the year 2002, when the highest basic pay in the government was Rs. 30,000/- per month. In line with the increase in government salaries, It is proposed to increase this limit to Rs. 25 lakh.

Hope the information will assist you in your Professional endeavours. In case of any query/information, please do not hesitate to write back to us.

[This space has been intentionally left blank]



Thank You

.....

About us:

A2Z Taxcorp LLP is a boutique Indirect Tax firm having its offices at New Delhi and Guwahati specializing in GST, Central Excise, Custom, Service Tax, VAT, DGFT, Foreign Trade Policy, SEZ, EOU, Export – Import Laws, Free Trade Policy, etc. It is a professionally managed firm having a team of experienced and distinguished Chartered Accountants, Company Secretary, Lawyers, Corporate Financial Advisors and Tax consultants to provide various services like litigation and representation, transaction advisory, diagnostic reviews/ health checks, audit defense & protection, retainership & compliance, configuration of tax efficient business model etc. Its clientele consists mainly of Foreign MNC, large/mid-sized Indian companies which includes exporters, FMCG, consumer durables, automobiles, aerated beverages, ceramic tiles, real-estate, hospitality, etc.

Thanks & Best Regards,

Bimal Jain

FCA, FCS, LLB, B. Com (Hons)

Author of a book on Goods and Services Tax, titled, "GST Law and Commentary (with Analyses and Procedures)" [7th Edition]

Email: bimaljain@a2ztaxcorp.com

Connect With Us:



Our Address:

A2Z TAXCORP LLP

Tax and Law Practitioners

Flat No. 34B,
Ground Floor, Pocket – 1,
Mayur Vihar Phase-1
Delhi – 110091 (India)
Tel: +91 11 42427056
Web: www.a2ztaxcorp.com

2C, 2nd Floor, City Trade Centre,
A.T. Road, Guwahati - 781001
Email: info@a2ztaxcorp.com

DISCLAIMER: The views expressed are strictly of the author and A2Z Taxcorp LLP. The contents of this weekly newsletter are solely for informational purpose. It does not constitute professional advice or recommendation of firm. Neither the author nor firm and its affiliates accepts any liabilities for any loss or damage of any kind arising out of any information in this weekly newsletter nor for any actions taken in reliance thereon.