

Budget Circular
Finance Bill, 2023

JAIN SARAOGI & CO.
CHARTERED ACCOUNTANTS

DIRECT TAX

The Hon'ble Finance Minister has presented The Finance Bill, 2023 on 01.02.2023. The broad proposals are set out as below:

▪ **Rates of Income tax**

There is no change in the rate of Corporate Income-Tax.

There is no change in the rate of Personal Income-Tax under the Old Tax Regime.

However, the following slab structure has been proposed for Personal Income-Tax under the New Tax Regime which are as follows:

Upto Rs. 3,00,000	-	Nil
From Rs. 3,00,001 to Rs. 6,00,000	-	5%
From Rs. 6,00,001 to Rs. 9,00,000	-	10%
From Rs. 9,00,001 to Rs. 12,00,000	-	15%
From Rs. 12,00,001 to Rs. 15,00,000	-	20%
Above Rs. 15,00,001	-	30%

Further a deduction of Rs. 50,000 under Section 16(ia) shall be available under the New Tax Regime in case of Salaried employees only.

Furthermore, the New Tax Regime under Section 115BAC shall be available to an individual or Hindu undivided family or association of persons [other than a co-operative society], or body of individuals, whether incorporated or not, or an artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2.

New Tax Regime has been made the default option. Accordingly, those who want to continue to opt for Old Tax Regime will have to opt for such option every year.

▪ **Surcharge on Income Tax**

There is no change in Surcharge on Income Tax except the following:

- In cases where the income of the individual or HUF or association of persons [except in case of an association of persons consisting of only companies as its members], or body of individuals, under the New Tax Regime, having a total income (excluding the income by way of dividend or income under the provisions of sections 111A, 112 and 112A of the Act) exceeding Rs. 5 Crore the surcharge will be at the rate of 25%.

▪ **Rebate under Section 87A**

An assessee, being an individual resident in India whose income is chargeable under the 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. 7,00,000.

▪ **Deeming provision under Section 9 in case of gift to Not Ordinarily Resident**

It is proposed to amend clause (viii) of sub-section (1) of section 9 of the Act so as to extend this deeming provision to sum of money exceeding fifty thousand rupees, received by a not ordinarily resident, without consideration from a person resident in India and the same shall be considered to be income deemed to accrue or arise in India.

▪ **Ease in claiming deduction on amortization of preliminary expenditure**

It is proposed to amend section 35D of the Act so as 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.

▪ **Promoting timely payments to Micro or Small Enterprises under Section 43B**

It is proposed to insert a new clause (h) in section 43B of the Act to provide that any sum payable by the assessee to a Micro or Small Enterprise beyond the time limit (being 45 days with written agreement and 15 days without any written agreement) specified in section 15 of the Micro, Small and Medium Enterprises Development (MSMED) Act 2006 shall be allowed as deduction only on actual payment. However, it is also proposed that the proviso to section 43B of the Act shall not apply to such payments thereby effectively meaning the benefit of making payment upto the due date of furnishing of return of income shall not be available and would be allowed only on actual payment.

▪ **Increasing threshold limits for presumptive taxation schemes**

The following changes to the threshold limits for presumptive taxation schemes:

- Under section 44AD of the Act, for eligible business, where the amount or aggregate of the amounts received during the previous year, in cash, does not exceed 5% of the total turnover or gross receipts, a threshold limit of Rs. 3,00,00,000 will apply.
- Under section 44ADA of the Act, for professions referred to in sub-section (1) of section 44AA of the Act, where the amount or aggregate of the amounts received during the previous year, in cash, does not exceed 5% of the total gross receipts, a threshold limit of Rs. 7,00,000 will apply.

▪ **Conversion of Gold to Electronic Gold Receipt and vice-versa not to be considered as transfer under Section 47**

It is proposed to insert a new clause in section 47 of the Act so as to provide that any transfer of a capital asset, being physical gold to the Electronic Gold Receipt issued by a Vault Manager or such Electronic Gold Receipt to physical gold shall not be considered as 'transfer'. Further the holding period and cost of acquisition shall be considered with respect to the earlier form of the asset.

▪ **Double detection of interest on borrowed capital for property**

In order to prevent the double deduction of interest on borrowed capital for acquiring, renewing or reconstructing a property, 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.

▪ **Limit on claim of deduction from Capital Gain under Section 54 and 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. 10,00,00,000. It has been provided that if the cost of the new asset purchased is more than Rs. 10,00,00,000, the cost of such asset shall be deemed to be Rs. 10,00,00,000.

▪ **Cost of acquisition in case of Intangible Assets or any other right for Capital Gains**

It is proposed to amend the provisions of sub-clause (1) of the Clause (b) of the sub-section (1) and clause (a) of sub-section (2) of section 55 so as to provide that the 'cost of improvement' or 'cost of acquisition' of a capital asset being any intangible asset or any other right (other than those mentioned in the said sub-clause or clause, as the case may be) shall be 'Nil'.

▪ **Bringing the non-resident investors within the ambit of section 56(2)(viib)**

Section 56(2)(viib) of the Act, inter alia, provides that where a company, not being a company in which the public are substantially interested, receives, in any previous year, from any person being a resident, any consideration for issue of shares that exceeds the face value of such shares, the aggregate consideration received for such shares as exceeds the fair market value of the shares shall be chargeable to income-tax under the head 'Income from other sources'. In the above Section, the words "being a resident" is being removed from the said clause and accordingly the provision shall also apply to the consideration received from a non-resident going forward.

▪ **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 polices issued before this date.

▪ **Set-off of losses of Startups under Section 79**

It is proposed to amend the proviso to sub-section (1) of section 79 of the Act so that the carried forward loss of eligible start-ups shall be considered for set off under this proviso, if such loss has been incurred during the period of ten years beginning from the year in which such company was incorporated.

▪ **Extension of date of incorporation for eligible start up for exemption**

It is proposed to amend the provisions of section 80-IAC of the Act to extend the period of incorporation of eligible start-ups to 31st March, 2024.

▪ **Reduction of time for furnishing of information or documents referred in respect of International Transaction or Specified Domestic Transaction**

It is proposed to amend sub-section (3) of section 92D of the Act to provide that,-

(i) the Assessing Officer or the Commissioner (Appeals) may, in the course of any proceeding under the Act, require any person referred to in clause (i) of sub-section (1) of section 92D of the Act i.e., who has entered into an international transaction or specified domestic transaction, to furnish any information or document referred therein, within a period of ten days from the date of receipt of a notice issued in this regard; and

(ii) the Assessing Officer or the Commissioner (Appeals) may, on an application made by such person who has entered into an international transaction or specified domestic transaction, extend the period of ten days by a further period not exceeding thirty days.

▪ **Facilitating TDS credit for income already disclosed in the return of income of past year**

It is proposed to insert a new sub-section (20) in section 155 of the Act. This new sub-section applies where any income has been included in the return of income furnished by an assessee under section 139 of the Act for any assessment year (hereinafter referred to as the “relevant assessment year”) and tax has been deducted at source on such income and paid to the credit of the Central Government in accordance with the provisions of Chapter XVII-B 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 from the end of the financial year in which such tax was deducted at source. Then Assessing Officer shall amend the order of assessment or any intimation allowing credit of such tax deducted at source in the relevant assessment year. It has been further provided that the provisions of section 154 of the Act shall, so far as may be, apply thereto, and the period of four years specified in sub-section (7) of that section shall be reckoned from the end of the financial

year in which such tax has been deducted. Further, credit of such tax deducted at source shall not be allowed in any other assessment year.

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

It is proposed to omit clause (ix) of the proviso to section 193 of the Act which provides that no tax is to be deducted in the case of any interest payable on any security issued by a company, where such security is in dematerialized form and is listed on a recognized stock exchange in India in accordance with the Securities Contracts (Regulation) Act, 1956 (32 of 1956) and the rules made thereunder.

▪ **Increase of rate of TCS under Section 206C(1G) in specific cases**

Person	Nature of transaction	Monetary limit	When	Rate
Authorized Dealer	Remittance out of India from a buyer being a person remitting such amount out of India under the Liberalized Remittance Scheme of the Reserve Bank of India (Other than for education loan or education or medical treatment)	Any Amount	At the time of debiting the amount payable by the buyer or at the time of receipt of such amount from the said buyer	20%
Seller of an overseas tour program package	Person who purchases such package	Any Amount		20%

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

It is proposed to amend the definition of the “specified person” in sections 206AB and 206CCA of the Act so as 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.

▪ **Introduction of Joint Commissioner (Appeals)**

A new authority for appeals is being proposed to be created at Joint Commissioner/ Additional Commissioner level to handle certain class of cases involving small amount of disputed demand. Such authority has all powers, responsibilities and accountability similar to that of Commissioner (Appeals) with respect to the procedure for disposal of appeals.

▪ **Specifying time limit for bringing consideration against export proceeds into India**

It is proposed to insert a new proviso to sub-section (1) of section 10AA of the Act to provide that no deduction under the said section shall be allowed to an assessee who does not furnish a return of income on or before the due date specified under sub-section (1) of section 139.

It is proposed to insert a new sub-section to provide that the deduction under section 10AA of the Act shall be available for such unit, if the proceeds from sale of goods or provision of services is received in, or brought into, India by the assessee in convertible foreign exchange, within a period of six months from the end of the previous year or, within such further period as the competent authority may allow in this behalf.

▪ **No Interest on Refund withheld**

It is proposed to amend sub-section (1A) of section 244A by inserting a proviso that in case of an assessee where proceedings for assessment or reassessment are pending, the additional interest shall not be payable to the assessee under this sub-section, for the period beginning from the date on which such refund is withheld by the Assessing Officer, in accordance with and subject to provisions of sub-section (2) of section 245, till the date on which the assessment or reassessment pending in such case, is made.

▪ **Donation made to other Charitable Trusts**

It is proposed that only 85% of the eligible donations made by a trust to any other trust shall be considered as application towards charitable and religious purpose.

GOODS & SERVICES TAX

- **Option for Composition Levy by persons supplying goods through electronic commerce operator**

Clause (d) of sub-section (2) and Clause (c) of sub-section (2A) in section 10 of the CGST Act is being amended so as to remove the restriction imposed on registered persons engaged in supplying goods through electronic commerce operators from opting to pay tax under the Composition Levy.

- **Computation of period of delay**

Section 56 of the CGST Act is being amended so as to provide for an enabling provision to prescribe manner of computation of period of delay for calculation of interest on delayed refunds.

- **De-criminalization of few offences and Compounding of offences**

Sub-section (1) of section 132 of the CGST Act is being amended so as to decriminalize offences specified in clause (g), (j) and (k) of the said sub-section and to increase the monetary threshold for launching prosecution for the offences under the said Act from one hundred lakh rupees to two hundred lakh rupees, except for the offences related to issuance of invoices without supply of goods or services or both.

Further, first proviso to sub-section (1) of section 138 of the CGST Act is being amended so as to simplify the language of clause (a), to omit clause (b) and to substitute the clause (c) of said proviso so as to exclude the persons involved in offences relating to issuance of invoices without supply of goods or services or both from the option of compounding of the offences under the said Act. It further seeks to amend sub-section (2) so as to rationalize the amount for compounding of various offences by reducing the minimum as well as maximum amount for compounding.

- **Time Limit for filing of various returns from the due date**

Restrictions in filing the GSTR-1, GSTR-3B, GSTR 8 and GSTR-9 beyond 3 years from the due date of filing such return/statement.

THANK YOU

JAIN SARAOGI & CO.
CHARTERED ACCOUNTANTS

1 Crooked Lane, Kolkata (West Bengal) 700069

Ph : +91-33-22484130 | M: +91-9836184131

Branches : Ranchi (Jharkhand) & Guwahati (Assam)

Email : info@jainsaraogi.com | Website : www.jainsaraogi.com

Disclaimer:

This document has been prepared solely for information purposes and does not constitute a solicitation to any class of persons to act on the basis of opinions expressed in this publication. The information contained herein is subject to change without prior notice with the change in regulations. While every effort has been made to ensure the accuracy and completeness of information contained in this document, we assume no responsibility for any errors or omissions of information. This document is for private circulation only intended for clients of Jain Saraogi & Co.