

KEY AMENDMENTS OF BUDGET 2024

SECTOR: TECHNOLOGY





TAX PROPOSALS

Direct Tax Amendments

Abolishment of Angel Tax

Angel Tax as imposed by the Finance Act, 2012 is proposed to be abolished, and thus, the same will not be applicable from 1 April 2024.

Rationalisation of Tax on Capital Gains

Proposed to rationalise capital gains by aligning the period of holding and the tax rates for various classes of assets. The period of holding has been standardised as long-term assets, short-term assets and deemed short-term assets depending on the nature of the asset and the period of holding. Similarly, the tax rates have been standardised at 12.5% and 20%. We have tabulated below the tax rates and the periods of holding for financial instruments.

Particulars	Period of holding [Short-term / Long-term]		Tax Rates			
	Existing	Proposed	Existing - STCG	Proposed - STCG	Existing - LTCG	Proposed - LTCG
Listed Equity Shares / Units of Equity-oriented Mutual Funds	Less than or Equal to 12 Months / More than 12 months	No Change	15%	20%	10%	12.50%
Unlisted Shares	Less than or Equal to 24 Months / more than 24 months	No Change	Applicable rates	Applicable rates	10%/20%**	12.50%
Listed Bonds / debentures	Less than or Equal to 12 Months / more than 12 months	No Change	Applicable rates	20%	10%	12.50%
Unlisted Bonds / debentures	Less than or Equal to 36 months / more than 36 months	Deemed Short Term***	Applicable rates	Applicable rates	20%	Applicable rates

**10% without indexation and 20% with indexation.

***Unlisted debentures/ bonds are proposed to be brought under the purview of section 50AA of the IT Act, and accordingly deemed to be short-term capital assets.

Further, the benefit of indexation as provided for the computation of any long-term capital gain has been removed.

The above tabulated proposals are proposed to be given effect immediately, i.e., with effect from 23 July 2024.

Abolishment of EL of 2% Applied by Finance Act, 2016

The imposition of Equalisation Levy (EL) by the Finance Act, 2016 amended by Finance Act, 2020 of 2% on the consideration received or receivable by an e-commerce operator from the supply of goods or services is being withdrawn, and thus, the same will not be applicable from 1 August 2024.





- **Reduction of TDS Rates for E-Commerce Operators (Section 194-O)**

The Finance Bill proposes to reduce the withholding tax rate under section 194O of the IT Act from 1% to 0.1% in case of payments made in respect of certain sums by an e-commerce operator to the e-commerce participant with effect from 1 October 2024.

- **Reduction in Tax Rates for Foreign Corporates**

It is proposed that the tax rate applicable to foreign companies, foreign banks, foreign reinsurance branches, etc. will be reduced from 40% to 35% (excluding applicable surcharge and cess).

- **Buyback of Shares by Companies**

It is proposed to tax the sum paid by a domestic company for the purchase of its shares as dividends in the hands of shareholders and shall be charged to tax under the head as 'income from other sources' at applicable rates. Further, no expenses can be claimed against the said dividends. However, it has been proposed to grant relief to the extent of the cost of acquisition of such shares bought back at the time of subsequent sale of balance shares held by the shareholder. Since the income is proposed to be taxed as dividends, a corresponding amendment has been made in section 194 of the IT Act whereby the said income will be subject to the withholding of tax at source @ 10%. This amendment will be effective from 1 October 2024.

- **Clarificatory Amendment Related to ESOPs Taxability**

Amendments have been proposed to section 47 of the IT Act to clarify that capital gains exemptions shall apply only to gifts given by individuals and HUF. Employee Stock Ownership Plans (ESOPs) given by companies to employees will be taxable.

- **Declaration of Foreign Assets**

Sections 42 and 43 of the Black Money Act, 2015 establish penalties for residents, excluding those not ordinarily resident in India, who fail to disclose foreign income and assets in their income tax returns. To avoid penalties under these sections, residents and ordinary residents must declare all foreign assets and income in their tax returns. An amendment is proposed to declare foreign assets (excluding immovable property) in returns if aggregate value exceeds INR 20 lakh, effective from 1 October 2024.

- **Introduction of New Settlement Scheme**

To provide relief to the taxpayers, it is proposed to introduce a new scheme - 'Vivad se Vishwas Scheme, 2024' for the settlement of pending appeals. The proposed date from which the scheme will be notified is yet to be specified.

Indirect Tax Amendments

- **Relaxation in Claim of ITC of Tax Paid Under Allegation of Fraud, etc.**

Provisions relating to the claim of ITC have been amended to allow the ITC where liability to pay arose due to fraud, etc., for periods starting from fiscal year 2024-25 and onwards.

- **Relaxations Pertaining to the Last Date for Claiming ITC for the Past Period**

The time limit for the availment of the input tax credit (ITC) for fiscal years 2017-18 to 2020-21 has been extended up to 30 November 2021, provided the same is availed in GSTR 3B filed up to 30 November 2021.

- **Time of Supply for Tax Payable Under Reverse Charge**

In cases, where tax is payable under reverse charge by the recipient, to determine the time of supply, the date of issue of self-invoice by the recipient is also included in the list of dates, the earlier of which would be the time of supply.

- **Common Time Limit for Issuance of Demand Notices**

The timeline for issuing Show Cause Notice (SCN) has been unified at 42 months from the due date of filing the annual return from FY24-25 onwards, instead of the present time limit of 33/54 months, depending on whether fraud is involved, under the new section 74A.

- **Provisions to Regularise Common Business Practices**

Section 11A is inserted in the CGST Act to empower the Government to regularise non-levy or short-levy of central tax due to any general practice prevalent in trade.

- **Conditional Amnesty for Fiscal Years 2017-18 to 2019-20**

Section 128A is inserted in the CGST Act to provide for waiver of interest and penalty for demands for the period 1 July 2017 to 31 March 2020, subject to the payment of tax liability by a date to be notified. No refund will be available where interest and penalty have already been paid.





CUSTOMS NOTIFICATIONS

- Exemption from GST compensation cess has been proposed on imports in SEZ units/ Developers for authorised operations with retrospective effect from 1 July 2017
- Customs notification 25/1999 had exempted Customs Duty on certain Capital goods/ machinery used by the IT industry subject to actual user conditions. The exemption had been extended from time to time. The Budget 2024-25 has further extended such exemptions up to 31 March 2029 from the earlier validity up to 30 September 2024
- The Notification No.45/2005-Customs dated 16 May 2005 which provides exemption from Special Additional Duty levied under Section 3(5) of CTA on goods cleared from SEZ to DTA will lapse on 30 September 2024
- The Notification No.30/2004-Customs dated 28 January 2004 which provides for exemption from BCD to second-hand computers/ accessories and peripherals received as donations by schools, and charitable institutions will lapse on 30 September 2024

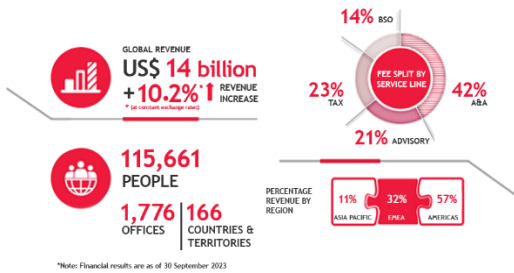
UPDATES FROM DECISIONS OF 53rd GST COUNCIL MEETING

- **Corporate Guarantee** [Effective from 26 October 2023]
The deemed value provisions for Corporate Guarantees (CGs) apply only if the related party receiving the CG is in India and only if the recipient is not eligible for claiming full ITC. Further, the value of supply would be deemed as 1% of the value of the guarantee per annum or the value charged, whichever is higher, instead of the earlier provisions of valuing it at higher of 1% of the value of the guarantee or the value charged.
- **Input Service Distributor (ISD)** [Effective date to be notified]
The provisions pertaining to the mandatory Input Service Distributor (ISD) mechanism will be effective from the date to be notified. The revised procedures for the distribution of ITC by ISD have been prescribed.
- **Export Realisations** [Effective from 10 July 2024]
In the case of services exported under a Letter of Undertaking, the time limit to receive remittance for the value of such services now also has a reference to the period allowed under the Foreign Exchange Management Act, 1999, including the extensions granted by the Reserve Bank of India, in addition to the previous time limit of one year or the extension granted by the Commissioner (if any).
- **Valuation of Supply of Import of Services from a Related Person** [Clarification effective from 1 July 2017]
Where the foreign affiliate provides services to the related domestic entity, which is eligible to claim full ITC, the value of such supply of services declared in the (self) invoice by the domestic entity may be deemed as open market value. Further, where full ITC is available to the recipient and no invoice is issued, the value may be deemed to be declared as Nil.
- **Taxability of ESOP / ESPP / RSU of foreign holding company provided by a company to its employees** [Clarification effective from 1 July 2017]
The cost reimbursement by an Indian entity to overseas group entities towards ESOP/ESPP/RSU's allotted to Indian employees is towards the transfer of 'securities' which is neither 'goods' nor 'services' and hence will not be liable to GST. However, any additional fee, markup or commission charged by the overseas group entity in this regard would be treated as consideration for the import of services and liable to GST under RCM.



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