



**Luthra *and* Luthra**

LAW OFFICES INDIA

## **TAX LAW UPDATE**

# **KEY CHANGES PROPOSED IN THE FINANCE BILL, 2023**

(Presented in the Lok Sabha on February 01, 2023)



## INDEX

Sr No	Heading	Page No
<b>DIRECT TAX</b>		
A	<a href="#">Tax rates</a>	3-4
B	<a href="#">Individual tax – key changes</a>	4
C	<a href="#">Corporate tax – key changes</a>	4-5
D	<a href="#">Start-ups – key changes</a>	6
E	<a href="#">Other key changes</a>	6-7
<b>INDIRECT TAX</b>		
F	<a href="#">Customs – key changes</a>	8-9
G	<a href="#">GST – key changes</a>	9-10
H	<a href="#">Excise – key changes</a>	10
I	<a href="#">Central Sales Tax</a>	10
J	<a href="#">Disclaimer</a>	10



## DIRECT TAX

### A. Tax Rates

#### For Individuals

- No change in tax rates under "old regime"
- New slab rates prescribed under "new regime"
- Maximum surcharge capped at 25% (instead of 37%) under "new regime"
- Full rebate allowed for individuals having taxable income upto INR 7 lakhs (increased from INR 5 lakhs) under "new regime"

Taxable income	Existing effective Tax Rate under new regime	Proposed Effective TaxRate under new regime	Remarks
Up to INR 5 lakhs	NIL (after considering rebate)	NIL (after considering rebate)	No change
INR 5 Lakhs to INR 7 Lakhs	10.40%	NIL (after considering rebate)	<b>Effective reduction of 10.40%</b>
INR 7 lakhs to INR 7.5 Lakhs	10.40%	10.40%	No change
INR 7.5 Lakhs to INR 9 Lakhs	15.60%	10.40%	<b>Effective reduction of 5.20%</b>
INR 9 Lakhs to INR 10 Lakhs	15.60%	15.60%	No change
INR 10 Lakhs to INR 12 Lakhs	20.80%	15.60%	<b>Effective reduction of 5.20%</b>
INR 12 Lakhs to INR 12.5 Lakhs	20.80%	20.80%	No change
INR 12.5 Lakhs to INR 15 Lakhs	26%	20.80%	<b>Effective reduction of 5.20%</b>
INR 15 Lakhs to INR 50 Lakhs	31.20%	31.20%	No change
INR 50 lakhs to 1 crore	34.32%	34.32%	No change
INR 1 crore to INR 2 crore	35.88%	35.88%	No change
INR 2 crore to INR 5 crore	39%	39%	No change
Above INR 5 crore	42.74%	39%	<b>Effective reduction of 3.74%</b>



## For Companies

- No change in tax rate
- Benefit of reduced tax rate of 25% will remain available to domestic companies with turnover up to INR 400 crores during Financial Year 2021-22 (presently available for companies with turnover up to INR 400 crores during Financial Year 2020-21).

## B. Individual tax – key changes

- **Increase in presumptive taxation threshold for professionals:** The threshold amount for presumption taxation of specified professionals is increased to INR 75 Lakhs (from INR 50 Lakhs) provided cash receipts do not exceed 5% of total gross receipts.
- **Increase in presumptive taxation threshold for professionals:** The threshold amount for **Increase in presumptive taxation threshold for eligible business under section 44AD:** The threshold amount for presumption taxation of eligible business is increased to INR 3 crores (from INR 2 crores) provided cash receipts do not exceed 5% of total gross receipts.
- **Gifts to not-ordinarily resident:** Gift of any sum of money or a property situated in India, on or after April 01, 2023, by a person resident in India to a person who is

not-ordinarily resident in India, shall be deemed to be liable to tax in India (subject to prescribed exemptions).

- **Upper cap on deduction under section 54 and 54F:** The maximum deduction that can be claimed under section 54 and 54F against long term capital gains is capped at INR 10 crores.
- **Interest on borrowed capital for acquiring, renewing or reconstruction of property:** Interest on borrowed capital for acquiring, renewing or reconstruction of property shall not form part of cost of acquisition or cost of improvement for the purpose of capital gains.
- **Life Insurance policies having premium in excess of INR 5 lakhs per year:** Income from life insurance policies (other than unit linked policies) issued after April 01, 2023 and having premium exceeding 5 lakhs will be taxable as “Income from Other sources” after allowing deduction for premium paid (but not claimed as deduction). However, any amount received on death shall remain exempt from taxes.

## C. Corporate tax – key changes

- **Intangible Assets:** Cost of acquisition and cost of improvement for any intangible



asset or any right shall be deemed to be NIL for the purpose of computing capital gains. Earlier similar amendment was made for goodwill and now it is extended to all intangible assets.

- **Deduction on payment to Micro and Small Enterprises (MSME):** Any sum payable to MSME beyond the time limit prescribed in section 15 of Micro, Small and Medium Enterprises Development Act, 2006 ("**MSMED**") shall be allowed as deduction only on actual payment. As per the MSMED, payments to MSME shall be made within the prescribed time in the written agreement or 15 days (if there is no written agreement) or 45 days, whichever is earlier. The said sum will be allowed only in the year of actual payment even if the same is paid before the due date of filing the tax return for the year in which expense was accrued.
- **Issuance of shares to non-residents:** Presently, any amount received by an Indian company on issue of shares to a resident in excess of the fair market value of such shares is taxable in the hands of Indian company. The scope of the aforesaid provisions is expanded to include issue of shares to non-residents as well.
- **Amortization of preliminary expenses:** Presently, preliminary expenses in the nature of feasibility

report, project report etc. are allowed to be amortized if the work in relation to the same is carried out by the assessee himself or by a concern approved by the Central Board of Direct Taxes ("**CBDT**"). The aforesaid condition is relaxed to remove the approval requirement from CBDT for the concern carrying out the work and the assessee will now only be required to file a statement of the such expenditure in the prescribed manner.

- **Tax withholding on payment of interest to resident on listed securities:** Presently, tax withholding provisions are not applicable on payment of interest to residents on listed securities (like debentures) in dematerialized form. The said exemption from tax withholding is withdrawn to avoid under reporting of interest by recipient.
- **Time limit for furnishing transfer pricing documentation:** Time limit for furnishing transfer pricing documentation during scrutiny proceedings is reduced to 10 days (from existing time limit of 30 days) from date of receipt of notice. The said time period may be extended to 30 days on application by the assessee. Earlier, it could have been extended to 60 days (from 30 days).



## D. Start-ups – key changes

- **Carry forward and set off of losses:** Losses are allowed to be carried forward and set off in future years only if at least 51% shareholding in the year of set-off remains same with the last date of the year to which the loss belongs. Eligible start-ups are presently given a relaxation from continuity in 51% shareholding provided all the shareholders of the start-ups on the last date of year of loss continue to hold those shares on the last date of year of set-off (irrespective of percentage holding). The time period of this relaxation is extended to 10 years (from presently applicable limit of 7 years) from date of incorporation of the start-up.
- **Extension of sun-set clause for deduction under section 80-IAC:** Presently, deduction under section 80-IAC is available to Eligible Start-ups incorporated on or before April 01, 2023. The aforesaid sun-set clause is extended and Eligible start-ups can continue to claim deduction under section 80-IAC if they are incorporated on or before April 01, 2024.

## E. Other key changes

- **Benefit of tax treaty on income from units of mutual funds:** Presently, taxes are required to be withheld at the rate of 20% (plus applicable surcharge and cess) on

payment of income from units of Mutual Funds to a non-resident. It is now provided that in case of non-residents eligible to claim treaty benefits, taxes are required to be withheld at the rates prescribed under tax treaty or 20%, whichever is lower.

- **Tax collection at source (“TCS”) on overseas tour package and remittance under Liberalised Remittance Scheme (LRS):** TCS rate of 20% is prescribed for remittances under LRS (other than for the purpose of education and medical treatment) and overseas tour packages without any threshold limit. These provisions are applicable from July 01, 2023.
- **Conversion of Gold to electronic gold receipt and vice versa:** Conversion of 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’ for the purpose of capital gains. The cost of acquisition of the original asset shall be deemed as the cost of acquisition of converted asset (i.e. physical gold or Electronic Gold receipt as the case may be) and the period of holding of the original asset shall be included while computing the holding period of the converted asset.
- **Taxation of Market Linked Debentures:** Any capital gains



derived on Market Linked Debentures shall be deemed as short-term capital gains (irrespective of period of holding) and will be taxable at applicable tax rates. 'Market linked Debenture' is defined as a security by whatever name called, which has an underlying principal component in the form of a debt security and where the returns are linked to market returns on other underlying securities or indices and include any securities classified or regulated as a Market Linked Debenture by Securities and Exchange Board of India.

- **Tax withholding on winnings from online games:** Tax withholding is prescribed on winnings from any online games at the rate of 30%. The taxes are required to be withheld in the prescribed manner either at the time of withdrawal or on the balance at the end of financial year. Online game for this purpose is defined to mean game that is offered on the internet and is accessible by a user through a computer resource including any telecommunication device.
- **Time limit for completion of assessment:** Time limit for completion of assessment proceedings extended to 12 months (from 9 months) from the

end of assessment year for scrutiny proceedings for Assessment Year 2022-23 and later years.

- **Inventory valuation:** The Assessing Officer is now empowered to direct the assessee for inventory valuation by a cost accountant and use the material gathered under the same for assessment. This period of inventory valuation will be excluded for counting limitation for completion of assessment.



## INDIRECT TAX

### F. Customs - key changes

- Changes in the Basic Customs Duty:

S.No.	Commodity	From	To
<b>Gems and Jewellery Sector</b>			
1	Articles of precious metals	20%	25%
2	Imitation Jewellery	20% or Rs. 400 per kg., whichever is higher	25% or Rs. 600 per kg., whichever is higher
3	Silver Dore	6.1%	10%
<b>Electrical Goods</b>			
4	Electric Kitchen Chimney	7.5%	15%
	Heat Coil for use in the manufacture of Electric Kitchen Chimneys	20%	15%
5	Camera lens and its inputs/parts for use in manufacture of camera module of cellular mobile phone	2.5%	Nil
6	Specified parts for manufacture of open cell of TV panel	5%	2.5%
<b>Automobiles and Toys</b>			
7	Bicycles	30%	35%
8	Toys and parts of toys (other than parts of electronic toys)	60%	70%
9	Vehicle (including electric vehicles) in Semi-Knocked Down (SKD) form.	30%	35%
10	Vehicle in Completely Built Unit (CBU) form, other than with CIF more than USD 40,000 or with engine capacity more than 3000 cc for petroleum vehicle and more than 2500 cc for diesel-run vehicles, or with both	60%	70%
11	Electrically operated Vehicle in Completely Built Unit (CBU) form, other than with CIF value more than USD 40,000	60%	70%
<b>Agricultural Products and By Products</b>			
12	Denatured ethyl alcohol for use in manufacture of industrial chemicals	5%	Nil
<b>Petrochemicals</b>			
13	Naphtha	1%	2.5%



	Capital goods		
14	Specific capital goods/machinery for manufacture of Lithium ion cell for use in battery of electrically operated vehicle (EVs)	As applicable	Nil

- **Extension of end date of exemption from Basic Customs Duty:**

S.No	Commodity	Extension
1	Ferrous waste and scrap	Nil (up to 31.03.2024)
2	Raw materials for use in manufacture of CRGO steel	Nil (up to 31.03.2024)
3	Lithium-ion cell for use in the manufacture of battery or battery pack of cellular mobile phone	5% (up to 31.03.2024)
4	Lithium-ion cell for use in the manufacture of battery or battery pack of electrically operated vehicle (EVs) or hybrid motor vehicle	5% (up to 31.03.2024)
5	Solar tempered glass for use in the manufacture of solar cell or solar module	Nil (up to 31.03.2024)
6	Raw material and parts (including Dredger) for use in the manufacture of ships/vessels	Nil (up to 31.03.2025)
7	Specified Drugs, medicines, diagnostics kits or equipment, bulk drugs used in manufacture of drugs or medicines	5% (up to 31.03.2025)

- To further augment the domestic manufacturing of mobile phones, customs duty on camera lens and its inputs/parts for use in manufacture of camera module of cellular mobile phone has been exempted.
- The exemption from Special Additional duty of Customs to goods cleared from SEZ and brought to any other place in India has been extended for a period of one year, i.e., upto 31<sup>st</sup> March 2024.

## G. Goods and Services Tax – key changes

- **Amendment related to Online Information and Database Access or Retrieval services (“OIDAR services”):** The definition of OIDAR services has

been amended to eliminate the condition of ‘essentially automated and involving minimum human intervention’. This in effect will significantly

enhance the scope of the taxability of OIDAR services as services involving human intervention have been made taxable.

- **Penal provision for Electronic Commerce Operators:** The CGST Act has been amended to provide for penal provisions on Electronic Commerce Operators in case of contravention of provisions relating to supplies of goods made through them by unregistered persons or composition taxpayers.
- **Restriction on availing ITC:** The Input Tax Credit on goods or services or both received by a taxable person which are used or intended to be used for activities relating to his obligations under corporate social responsibility under the Companies Act, 2013 has been restricted.
- The value of supply of warehoused goods, supplied before the clearance for home consumption, is to be included in the value of "exempt supply" for the purposes of computing ITC reversals.

## H. Excise – key changes

- **Exemption on blended compressed natural gas:** Blended CNG has been exempted from Excise Duty equivalent to the GST paid on biogas/ compressed biogas contained in such blended CNG.

- **Increment in NCCD rate on cigarettes:** NCCD rates have been increased on cigarettes of varying descriptions by 16%.

## I. Central Sales Tax

- CST Act has been amended to provide for settlement of inter-state disputes by the CESTAT. These disputes were previously adjudicated by the Central Sales Tax Appellate Authority.

## J. Disclaimer

This alert provides general information about the key tax proposals contained in the Union Budget 2023. The alert is meant for general guidance and no responsibility for loss arising to any person acting or refraining from acting as a result of any material contained in this alert will be accepted by Luthra & Luthra Law Offices India. It is recommended that professional advice be taken based on the specific facts and circumstances. This alert does not substitute the need to refer to the original pronouncements.



Luthra and Luthra  
LAW OFFICES INDIA

## Team



**AJINKYA G MISHRA**



**MAYANK AGGARWAL**



**RAJIV K LUTHRA**



**SANJEEV SACHDEVA**



**SUMIT MANGAL**



**VIKAS SRIVASTAVA**

## Offices



### NEW DELHI

1st and 9th Floors, Ashoka Estate,  
24 Barakhamba Road, New Delhi - 110 001  
T: +91 11 4121 5100  
F: +91 11 2372 3909  
E: delhi@luthra.com



### MUMBAI

20th Floor, Indiabulls Finance Center,  
Tower 2 Unit A2, Elphinstone Road,  
Senapati Bapat Marg, Mumbai - 400 013  
T: +91 22 4354 7000 / +91 22 6630 3600,  
F: +91 22 6630 3700  
E: mumbai@luthra.com



### BENGALURU

3rd Floor, Onyx Centre, No. 5,  
Museum Road, Bengaluru - 560 001  
T: +91 80 4112 2800 / +91 80 4165 9245  
F: +91 80 4112 2332  
E: bengaluru@luthra.com



### HYDERABAD

1st Floor, Plot No. 8-2-619/1, Road No. 11,  
Banjara Hills, Hyderabad - 500 034  
T: +91 40 6620 6662  
E: hyderabad@luthra.com