

# INDIA BUDGET 2023-24

**P C GHADIALI AND Co LLP**

## CHARTERED ACCOUNTANTS



# Leveraging Knowledge Creating Value

## KEY CHANGES PROPOSED IN THE INCOME-TAX ACT

- Rates of tax**

Every Individual, HUF, AOP & BOI (New Regime)	Tax Rates
Up to 3,00,000	Nil
3,00,001 to 6,00,000	5.20%
6,00,001 to 9,00,000	10.40%
9,00,001 to 12,00,000	15.60%
12,00,001 to 15,00,000	20.80%
15,00,001 to 50,00,000	31.20%
50,00,001 to 1,00,00,000	34.32%
1,00,00,001 to 2,00,00,000	35.88%
Above 2,00,00,000	39.00%

Every Individual, HUF, AOP & BOI (Old Regime)	Tax Rates
Up to 2,50,000	Nil
2,50,001 to 5,00,000	5.20%
5,00,001 to 10,00,000	20.80%
10,00,001 to 50,00,000	31.20%
50,00,001 to 1,00,00,000	34.32%
1,00,00,001 to 2,00,00,000	35.88%
2,00,00,001 to 5,00,00,000	39.00%
Above 5,00,00,000	42.74%

- Threshold for tax rebate is increased to INR 7 lakh from INR 5 lakh. Accordingly, a tax payer will pay NIL tax upto ₹ 7 lakhs of income for the new regime.
  - Rate of surcharge on income exceeding INR 5 crore reduced from 37% to 25%. Accordingly, the highest rate of tax is reduced from 42.74% to 39% for the new regime.
  - No changes made to the old regime of taxes.
  - Based on the above changes, only selective tax payers claiming high value deductions in the form of HRA or Interest on let-out properties might opt for the Old Regime of Tax.
- In case of AOPs that consist of only companies as their members, the maximum surcharge is restricted to 15%.

- Amount received on maturity of Insurance Policies (other than ULIP) having premium or aggregate premium exceeding ₹ 5 lakhs in a financial year will be taxed (except in case of amount received on the death of the insured person) under Income from Other Sources after permitting a deduction of premium paid. This is applicable for policies issued after 31st March, 2023.
- It is proposed to raise the exemption limit for leave encashment received on retirement by non-government salaried employees to INR 25 lakhs from the current INR 3 lakhs. A separate notification is awaited to give effect to this provision.

### Capital Gains

- Capital gains exemption on reinvestment of Long-term Capital gains in a residential house is currently allowed without any monetary limit. This deduction is now proposed to be capped at ₹ 10 crores.
- Long-term capital gains arising from Market-Linked Debentures (MLD) are currently taxed at 10%. It is proposed to tax such gains as short-term capital gains at normal rates. MLD is a debt security where the returns are linked to market returns on other underlying securities.
- To promote Electronic Gold, conversion of Physical Gold to Electronic Gold Receipt (EGR) or vice versa will not be taxable.
- Cost of acquisition or cost of improvement of a right or an intangible asset for which no consideration is paid shall be treated as NIL and Capital Gain will be computed accordingly.
- Interest on housing loan claimed as deduction while computing taxable income shall not be included in cost of acquisition/improvement for purposes of capital gains. This will prevent tax payers to claim double deduction of payment of Interest on housing loans.
- **Presumptive Taxation**

	Current T/O	Proposed T/O	Rate of Tax
Business	₹ 2 crores	₹ 3 crores if cash receipt < 5% of Turnover	8% of T/O for cash & 6% of T/O for digital receipts or higher based on actuals
Specified Professional	₹ 50 lakhs	₹ 75 lakhs if cash receipts < 5% of Turnover	Rate of tax – 50% of Turnover or higher based on actuals

- **Non-Residents**
  - The premium received towards the issuance of shares to non-resident investors in excess of the specified fair market value is to be taxed in the hands of the company issuing shares. Thereby residents and non-residents will be brought at par. Although the provision is brought about to curb round tripping of money, the provision will have an adverse impact on majority of genuine cases.

- Tax withholding on income in respect of mutual fund units to consider the applicable Double Taxation Avoidance Agreement or 20%, whichever is lower, as against the 20% withholding tax rate provided earlier.
- **Startups**
  - Protection to carry forward and set off of losses in case of change in shareholding by more than 51% is extended from seven to ten years from incorporation.
  - Last date for the incorporation of start-ups eligible for claiming tax holiday is extended to 31 March 2024.
- Procedural amendment made for processing of modified tax return to be submitted by the surviving entity in case of mergers and demergers. The Tax Officer must take the modified return into account when finalising the tax assessment for the year of reorganisation regardless of whether the assessment of the original return is complete.
- For speedy disposal of pending appeals, a new appellate authority (Joint Commissioner [Appeals]) is proposed to be introduced to handle appeals involving a small amount of disputed demand.
- During the course of assessment, to ensure that the inventory is valued in accordance with various provisions of law, it is proposed to enable the Tax Officer to direct the taxpayer to get the inventory valued by a cost accountant and furnish the report of inventory valuation in the prescribed form. This might create a genuine hardship considering most of the inventory might be already sold in the period after the year end and before the assessment.
- The time limit for completion of assessment proceedings from Assessment Year (AY) 2022-23 onwards is proposed to be increased to 12 months from the end of the assessment year.
- In cases where income is offered by a taxpayer on accrual basis in a year but tax on such income is deducted by the payer in the following year(s) at the time of payment, it is proposed to allow the taxpayer to make a claim of such TDS within two years from the end of the year in which such tax is withheld. However, the interest on income-tax refund arising from such a claim is to be allowed only for the period starting from the date of the claim.
- **Taxability of Winnings from Online Gaming**
  - Effective tax rate of 30% on net winnings from online games during the fiscal year (method of computation of net winnings to be prescribed) without any basic slab exemption.
  - The tax is to be deducted on the net winnings in the user account at the end of the FY or at the time of withdrawal from the user account during the FY.
  - Players will now need to provide PAN and other details across the gaming platforms to claim credit for withholding tax and undertake necessary reporting.
  - TDS on winnings from lottery, crossword puzzle, horse race, etc. is to apply on the amount or aggregate of the amounts exceeding INR 10,000 during the FY.

- **TCS Rates**

- Existing rate of 5% TCS on overseas remittance for the purpose of education or medical purposes retained.
- TCS rate increased from 5% to 20% on remittance made for Overseas tour package without basic exemption limit and any other remittance under LRS.

- **Payments to Micro and Small Enterprises and its deduction**

Micro Enterprise – Turnover of upto ₹ 5 crores and Investment upto ₹ 1 crore.

Small Enterprise – Turnover of upto ₹ 50 crores and Investment upto ₹ 10 crores.

- To promote timely payments to MSEs, payments made to them will be allowed as a deduction only on actual payment (and not on booking an invoice) if the payment is not made as per the agreed contract (terms of contract cannot exceed 45 days). In the absence of such agreement, the time limit of payment will be considered as 15 days.
- This will facilitate MSEs to collect their dues in a timely manner especially before the end of a financial year.

- **Claim for amortization of preliminary expenses**

- Procedure to claim deduction on amortization of certain preliminary expenses (in connection with preparation of feasibility report, project report, etc.) being expenses incurred prior to commencement of business or for setting up of a new unit will now have to be done by the assessee or by a concern approved by CBDT. A separate form will be prescribed to claim such expenses.

- **Pay-outs by REITS & InVIT**

- Pay-outs by Infrastructure Investment Trust or Real Estate Investment Trust (REITS) to unitholders out of underlying repayment of debt are now considered as taxable in the hands of unitholders as income from other sources. In case the pay-out is through the redemption of units, then the cost of units redeemed is allowed as a deduction. Currently, taxation of such pay outs was being deferred at the time of redemption and not at the time of pay outs.

- **Tax Refunds**

- Presently the tax officer can adjust tax refunds due to a taxpayer for any year and can be set-off against existing confirmed demand. It is now proposed that the tax officer can withhold any refund if proceedings for assessment or reassessment are pending in a case (subject to the approval of the Principal Commissioner). The refund will be granted after adjustment of any demand once the assessment or reassessment is completed.
- It is also proposed that interest on such adjusted refunds shall not be payable for the period from the date of withholding of refund till the date of completion of assessment.

- **Charitable Trusts**

- Proposed amendments are with respect to utilization of corpus and loan and borrowing of charitable trust/educational institution. These provisions will be effective from FY 2022-23 i.e. A.Y. 2023-24

- Application out of corpus or loans or borrowings before 01.04.2021 should not be allowed as an application of income for charitable or religious purposes when such amount is deposited back or invested into corpus or when the loan or borrowing is repaid.
- If the trust or institution invests or deposits back the amount into corpus or repays the loan within 5 years of application from the corpus or loan, only then such investment/depositing back in to corpus or repayment of loan will be allowed as application for charitable or religious purposes.
- The application of corpus funds or loans or borrowing should comply with the other conditions of the IT Act such that the investment/ depositing back into corpus and repayment of loan can be regarded as application of income.
- It is proposed that eligible donations made by a trust or institution to another trust shall be treated as application only to the extent of 85% of such donation. This is applicable from FY 2023-24.
- It is proposed, in certain cases, to permit (a) provisional registration/ approvals before commencement of activities and (b) direct registration/ approvals. This will be applicable from 01 October 2023.
- In case the application made for approval/ registration is not complete or contains false information, then, such cases shall be regarded as ‘specific violation’ and the Principal Commissioner/ Commissioner can take necessary action including cancellation of the approval/ registration –Effective from 01 April 2023.
- Non filing for registration/ approval with the prescribed timelines shall be deemed that the trust/ institution have been converted into form not eligible for registration/ approval and the provisions of Chapter XII-EB of the IT Act shall be applicable which includes payment of exit tax on the accreted income at maximum marginal rate. This is applicable from FY 2022-23.
- Proposal to clarify that the exemption under section 10(23C) (exemption for income of educational institution) and section 11 and 12 (exemption of educational institution/ religious trust) of the IT Act shall not be available if the return is not filed within the time allowed under section 139(1) of the IT Act i.e. the regular return of income and section 139(4) of the IT Act i.e., belated return of income. This shall come into effect from FY 2022-23.
- These amendments will require the tax payers to monitor the usage of funds and also ensure compliance of the various timelines.



## KEY CHANGES PROPOSED IN GST

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- In cases of transportation of goods, the place of supply will be determined irrespective of the destination of the goods, i.e.:
  - If the recipient is registered, then the location of such person;
  - If the recipient is unregistered, then the location at which such goods are handed over for their transportation.
- Composition dealers will be allowed to supply goods through E-commerce Operators.
- ITC on CSR Expenses has now specifically been blocked – This rule appears to be completely revenue minded and could be challenged in court of law.
- GST returns (GSTR-1/3B/8/Annual Return) cannot be filed beyond a delay of 3 years.
- Manner of Computing interest on delay of GST refunds will be prescribed.
- Minimum threshold for launching prosecution will be increased from INR 1 crore to INR 2 crore except in case of issuance of invoice without supply.
- High Sea Sales or Merchant Trades or Supply of warehoused goods before their clearance for home consumption will be outside the purview of GST w.e.f. 01.04.2017.
- GSTR1 for a period can be filed only if the GSTR1 of the earlier period has been filed.
- Taxpayers with Aggregate Annual Turnover (AATO) of more than 5 crs are mandatorily required to quote 6 digit HSN Code while filing GSTR-1 and Taxpayers with less than 5 crs turnover can quote 4 digit HSN Code while filing GSTR-1.
- GSTR 3B cannot be filed if GSTR 1 of the previous period is not filled.

### GST changes made in the Recent Past

- The government can restrict taxpayer's Input Tax Credit (ITC) if their vendor has not paid tax for the prescribed period or paid less taxes by a certain percentage or taken excess ITC. Hence selecting a vendor with good credentials would be very important.
- Last date to claim ITC and amend sales/pass Credit Notes has been extended from 30th September to 30th November following the end of the relevant financial year.
- **E-invoicing:** E-invoice turnover threshold limit reduced to ₹ 10 Cr. The govt could further reduce the limit to ₹ 5 Cr.
- GST Registration can be cancelled for failure to file a monthly return for a continuous period of 6 months or a quarterly return has not been filed for a continuous period of 2 tax periods.
- Facility of transfer of cash balance in the GST Ledger among GSTINs (one state to another) under the same PAN has been recommended.
- Procedure to justify the claim of ITC for FY 2017-18 & 2018-19 where such ITC did not appear on the GST portal has been prescribed.

- **Refund to unregistered persons:** There is no procedure for claim of refund of tax borne by the unregistered buyers in cases where the contract/ agreement for supply of services, like construction of flat/house and long-term insurance policy is cancelled and the time period of issuance of credit note by the concerned supplier is over. The Council in its 48th GST Meeting recommended amendment in CGST Rules, 2017, along with issuance of a circular, to prescribe the procedure for filing application of refund by unregistered buyers in such cases.



Tax Amount under Old Regime v/s New Regime (For Resident Individual Age Below 60)

Tax as per New Regime vs Old Regime at different levels of income with different levels of deductions

Income Deductions	Tax Regime																		
	7,00,000	7,25,000	7,75,000	8,25,000	8,75,000	9,25,000	9,50,000	10,00,000	10,50,000	11,00,000	11,50,000	12,00,000	12,50,000	13,00,000	13,50,000	14,00,000	14,25,000	14,50,000	15,00,000
25,000	Tax Regime	7,00,000	7,25,000	7,75,000	8,25,000	8,75,000	9,25,000	9,50,000	10,00,000	10,50,000	11,00,000	11,50,000	12,00,000	12,50,000	13,00,000	13,50,000	14,00,000	14,25,000	14,50,000
	New Regime	-	27,500	32,500	37,500	42,500	48,750	52,500	60,000	67,500	75,000	82,500	90,000	1,00,000	1,10,000	1,20,000	1,30,000	1,35,000	1,40,000
50,000	Old Regime	47,500	52,500	62,500	72,500	82,500	92,500	97,500	1,07,500	1,20,000	1,35,000	1,50,000	1,65,000	1,80,000	1,95,000	2,10,000	2,25,000	2,32,500	2,40,000
	New Regime	-	27,500	32,500	37,500	42,500	48,750	52,500	60,000	67,500	75,000	82,500	90,000	1,00,000	1,10,000	1,20,000	1,30,000	1,35,000	1,40,000
75,000	Old Regime	42,500	47,500	57,500	67,500	77,500	87,500	92,500	1,02,500	1,12,500	1,27,500	1,42,500	1,57,500	1,72,500	1,87,500	2,02,500	2,17,500	2,25,000	2,32,500
	New Regime	-	27,500	32,500	37,500	42,500	48,750	52,500	60,000	67,500	75,000	82,500	90,000	1,00,000	1,10,000	1,20,000	1,30,000	1,35,000	1,40,000
1,00,000	Old Regime	37,500	42,500	52,500	62,500	72,500	82,500	87,500	97,500	1,07,500	1,20,000	1,35,000	1,50,000	1,65,000	1,80,000	1,95,000	2,10,000	2,17,500	2,25,000
	New Regime	-	27,500	32,500	37,500	42,500	48,750	52,500	60,000	67,500	75,000	82,500	90,000	1,00,000	1,10,000	1,20,000	1,30,000	1,35,000	1,40,000
1,25,000	Old Regime	32,500	37,500	47,500	57,500	67,500	77,500	82,500	92,500	1,02,500	1,12,500	1,27,500	1,42,500	1,57,500	1,72,500	1,87,500	2,02,500	2,10,000	2,17,500
	New Regime	-	27,500	32,500	37,500	42,500	48,750	52,500	60,000	67,500	75,000	82,500	90,000	1,00,000	1,10,000	1,20,000	1,30,000	1,35,000	1,40,000
1,50,000	Old Regime	27,500	32,500	42,500	52,500	62,500	72,500	77,500	87,500	97,500	1,07,500	1,20,000	1,35,000	1,50,000	1,65,000	1,80,000	1,95,000	2,10,000	2,17,500
	New Regime	-	27,500	32,500	37,500	42,500	48,750	52,500	60,000	67,500	75,000	82,500	90,000	1,00,000	1,10,000	1,20,000	1,30,000	1,35,000	1,40,000
1,75,000	Old Regime	22,500	27,500	37,500	47,500	57,500	67,500	72,500	82,500	92,500	1,02,500	1,12,500	1,27,500	1,42,500	1,57,500	1,72,500	1,87,500	2,02,500	2,10,000
	New Regime	-	27,500	32,500	37,500	42,500	48,750	52,500	60,000	67,500	75,000	82,500	90,000	1,00,000	1,10,000	1,20,000	1,30,000	1,35,000	1,40,000
2,00,000	Old Regime	17,500	22,500	32,500	42,500	52,500	62,500	67,500	77,500	87,500	97,500	1,07,500	1,20,000	1,35,000	1,50,000	1,65,000	1,80,000	1,95,000	2,10,000
	New Regime	-	27,500	32,500	37,500	42,500	48,750	52,500	60,000	67,500	75,000	82,500	90,000	1,00,000	1,10,000	1,20,000	1,30,000	1,35,000	1,40,000
2,25,000	Old Regime	-	17,500	27,500	37,500	47,500	57,500	62,500	72,500	82,500	92,500	1,02,500	1,12,500	1,27,500	1,42,500	1,57,500	1,72,500	1,80,000	1,87,500
	New Regime	-	27,500	32,500	37,500	42,500	48,750	52,500	60,000	67,500	75,000	82,500	90,000	1,00,000	1,10,000	1,20,000	1,30,000	1,35,000	1,40,000
2,50,000	Old Regime	-	-	22,500	32,500	42,500	52,500	57,500	67,500	77,500	87,500	97,500	1,07,500	1,20,000	1,35,000	1,50,000	1,65,000	1,80,000	1,95,000
	New Regime	-	27,500	32,500	37,500	42,500	48,750	52,500	60,000	67,500	75,000	82,500	90,000	1,00,000	1,10,000	1,20,000	1,30,000	1,35,000	1,40,000
2,75,000	Old Regime	-	-	17,500	27,500	37,500	47,500	52,500	62,500	72,500	82,500	92,500	1,02,500	1,12,500	1,27,500	1,42,500	1,57,500	1,72,500	1,87,500
	New Regime	-	27,500	32,500	37,500	42,500	48,750	52,500	60,000	67,500	75,000	82,500	90,000	1,00,000	1,10,000	1,20,000	1,30,000	1,35,000	1,40,000
3,00,000	Old Regime	-	-	-	22,500	32,500	42,500	47,500	57,500	67,500	77,500	87,500	97,500	1,07,500	1,20,000	1,35,000	1,50,000	1,65,000	1,80,000
	New Regime	-	27,500	32,500	37,500	42,500	48,750	52,500	60,000	67,500	75,000	82,500	90,000	1,00,000	1,10,000	1,20,000	1,30,000	1,35,000	1,40,000
3,25,000	Old Regime	-	-	-	17,500	27,500	37,500	42,500	52,500	62,500	72,500	82,500	92,500	1,02,500	1,12,500	1,27,500	1,42,500	1,57,500	1,72,500
	New Regime	-	27,500	32,500	37,500	42,500	48,750	52,500	60,000	67,500	75,000	82,500	90,000	1,00,000	1,10,000	1,20,000	1,30,000	1,35,000	1,40,000
3,50,000	Old Regime	-	-	-	-	22,500	32,500	37,500	47,500	57,500	67,500	77,500	87,500	97,500	1,07,500	1,20,000	1,35,000	1,50,000	1,65,000
	New Regime	-	27,500	32,500	37,500	42,500	48,750	52,500	60,000	67,500	75,000	82,500	90,000	1,00,000	1,10,000	1,20,000	1,30,000	1,35,000	1,40,000
3,75,000	Old Regime	-	-	-	-	17,500	27,500	32,500	42,500	52,500	62,500	72,500	82,500	92,500	1,02,500	1,12,500	1,27,500	1,42,500	1,57,500
	New Regime	-	27,500	32,500	37,500	42,500	48,750	52,500	60,000	67,500	75,000	82,500	90,000	1,00,000	1,10,000	1,20,000	1,30,000	1,35,000	1,40,000
4,00,000	Old Regime	-	-	-	-	-	22,500	27,500	37,500	47,500	57,500	67,500	77,500	87,500	97,500	1,07,500	1,20,000	1,35,000	1,50,000
	New Regime	-	27,500	32,500	37,500	42,500	48,750	52,500	60,000	67,500	75,000	82,500	90,000	1,00,000	1,10,000	1,20,000	1,30,000	1,35,000	1,40,000
	Old Regime	-	-	-	-	-	17,500	22,500	32,500	42,500	52,500	62,500	72,500	82,500	92,500	1,02,500	1,12,500	1,27,500	1,42,500
	New Regime	-	-	-	-	-	17,500	22,500	32,500	42,500	52,500	62,500	72,500	82,500	92,500	1,02,500	1,12,500	1,27,500	1,42,500

Note: This chart does not take into consideration Standard Deduction and HRA deductions for Salaried employees.



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