

Income Tax Proposals in Finance Bill (Budget) 2022 in India

1. Changes under the head Rates of Income Tax, Cesses and Surcharges, chapter- II, applicable from April 01, 2022 - Assessment year 2023-2024

- (i) “No changes” for any type of assessee against the Income tax rates
- (ii) “Reduction” for non-corporate assessee against the Alternate Minimum Tax (AMT)-Section 115JC
 - (a) For a Co-operative society from 18.5% to 15%.
 - (b) For any type of assessee against an unit as located in International Financial Services Centre (IFSC) where the incomes are received in convertible foreign exchange from 18.5% to 9%.
- (iii) “Reduction” in rates of the surcharge
 - (a) For a Co-operative Society where income is between 1 crore and 10 crore from 12% to 7%. Hence “no reduction” in surcharge where income is exceeding 10 crore.
 - (b) For an any type of assessee against long Term capital gains section 112 from 25 % / 37% to 15%
- (iv) “Abolition” of the concessional rate of Income tax- Section 115BBD
 - Now concessional rate of Income tax @ 15% is abolished against receipt of dividend incomes by a resident of India from the dividend paying specified foreign company

2. Changes under the head Incomes from Salary-section 17, applicable from April 01, 2020 - Assessment year 2021-2022

- “Perquisites” are not to be treated as income in the hands of the employees where any sum is paid by employer for the expenditures

against the illness under the head Covid-19 for the purpose of medical treatment of the employee or his family.

3. Changes under the head of Profit and gains from Business or Profession

- (i) Any expenditure is “not” allowed against the “exempted incomes” where the incomes are “not” accrued, arise or received during the previous year relevant to the assessment year **applicable from April 01, 2022- AY. 2023-2024**
- (ii) Any expenditure is “not” allowed against the “incomes” as incurred on the activities which are offensive or prohibited under the law in India and outside India “both” **explanation to Section 37(1) applicable from April 01, 2022 - Assessment year 2023-2024**
- (iii) “Deduction” is not allowed in the hands of donor where donee is a research association, university, college or other institution as referred under the clause (ii) or clause (iii) or the company referred in **Section 35(1)** in clause (ia) has not filed the statement of “all” donations as received from all donors **applicable from April 01, 2021 - Assessment year 2022-2023**
- (iv) “Deduction” is not allowed against the expenditures under the head Income tax, cesses and surcharges **applicable from April 01, 2005 - Assessment year 2006-2007**
- (v) “Deduction” is not allowed against the payment of “deferred interest” through conversion of interest into debentures or any other instruments, **section 43B, applicable from April 01, 2022 - Assessment year 2023-2024**
- (vi) “Extension” of time is allowed from **March 31, 2023 to March 31, 2024** for concessional rate of Income tax @ **15%** to the “new manufacturing companies” against commencement of manufacturing or production of articles/things, **section 115BAB, applicable from April 01, 2022 - AY. 2023-2024**

4. Changes under the head of Capital Gain, “New” explanation under, section 50, applicable from April 01, 2021 - Assessment year 2022-2023

- Goodwill of a business or profession is treated as “deemed transfer” where goodwill is “reduced” from the block of assets.

5. Changes under the head of Income from Other Sources, section 56(2)(x)

(i) Amount as received for medical treatment or on account of death due to COVID-19 is not to be treated as income. Hence this receipt is exempted from treating as income under the head income from other sources. However followings important features are to be considered **applicable from April 01, 2020 - Assessment year 2021-2022**

(a) **100%** amount is not to be treated as income where amount is received from “any person” for expenditures on illness under the head Covid-19 against medical treatment of a person or his family.

(b) **100%** amount is not to be treated as income where amount is received by a family member of the “diseased employee” from the “employer” against death of employee due to Covid-19.

(c) Maximum **10** Lakhs is not to be treated as income where amount is received by a family member of the “diseased person” from the “any person” against death of the person due to Covid-19. Moreover the amount should also be received within **12** months from the death of the person.

(ii) Now value of the “gift” or any transfer for “inadequate consideration” is to be treated as income under the head income from the other sources where the gift or transfer is made under the head “Virtual Digital Assets” (VDA). **Applicable from April 01, 2022 - Assessment year 2023-2024**

6. Changes relating to Exemptions and deductions, applicable from April 01, 2022 - Assessment year 2023-2024

(i) Now “exemptions” are allowed against the incomes of a non-resident of India where the incomes of a non-residents are from a unit as existed at

International Financial Services Centre (IFSC) these incomes are as below:-

- (a) Against the incomes from a transfer of offshore derivative instruments or over the counter derivatives as entered with an Offshore Banking Unit.
 - (b) Against the incomes from royalty or interest on account of lease of ship as paid by the unit as located at IFSC where commercial operation is also commenced up to **March 31, 2024**.
 - (c) Against the incomes from portfolio of the securities, financial products, funds, as managed or administered by any portfolio manager on behalf of a non-resident of India against the account as maintained with an Offshore Banking Unit. However the income should be accrued or arises “outside India” and also not to be “deemed” to accrue or arise in India.
- (ii) Now “deduction is increased” against investment in National Pension System (NPS) by the state government as employer on account of the employee from **10% to 14%, section 80CCD (2), applicable from April 01, 2020 - Assessment year 2021-2022**
 - (iii) Now “deduction is extended” from **March, 31 2022 to March, 31 2023** against the date of incorporation of the eligible start-up under **section 80IAC, applicable from April 01, 2022 - Assessment year 2023-2024**
 - (iii) Now “deduction is allowed” against the incomes of the Offshore Banking Units or IFSC. This deduction is now also permitted against transfer of assets as “ship”. This deduction was earlier permitted for transfer of assets as “aircraft” only, **section 80LA, applicable from April 01, 2022 - Assessment year 2023-2024**

7. Changes relating to Trust and other such Institutions, section 10(23C) (iv)/(v)/(vi)(via), 11/12, applicable from April 01, 2022 - Assessment year 2023-2024

- (i) “Now” procedures and conditions for availing exemption under 1st regime like under section 10(23C) (iv)/(v)/(vi)(via) have been brought at par with the 2nd regime exemption like under section 11 /12 for the following purposes.
 - (a) For the ensuring the effective monitoring and implementation over 1st regime and 2nd regime
 - (b) For the bringing consistency in the provisions of the 1st regime and 2nd regime
 - (c) For the providing clarity on the taxation under certain circumstances under 1st regime and 2nd regime.
- (ii) “Books of accounts” are required to be maintained under 1st regime and 2nd regime. However books of accounts are yet to be prescribed.
- (iii) “New Penalty” @ 100% for the “1st time” violation and 200% for the “subsequent” time violation for passing an unreasonable benefit to the trustee or the specified persons, **section 271AAE**
- (iv) “Mandatory reference” to the Principal Commissioner or Commissioner (PCIT/CIT) is required for the cancellation of registration or for approval by the AO.
 - (a) The PCIT / CIT is required to pass an order in writing against cancellation of the registration of the trust or institution “after” allowing a reasonable opportunity of being heard against the “specified violation”
 - (b) “Specified violation” is to include the followings
 - (ba) Where any income of the trust or institution has been applied “other than” for the objects

- (bb) Where earned income of the trust or institution is from profits and gains of the business which is “not incidental” for attending the main objects
- (bc) Where “separate” books of the accounts are “not maintained” by the trust or institution for the business which is “incidental” for attending the main objects
- (bd) Where the trust or institution has applied any part of its income from the property as held under the trust or institution for “private religious purposes” which is “not providing” the benefit to the general public
- (be) Where the trust or institution is established for the charitable purpose “after” the commencement of this Act and also has applied any part of its income for the benefit of “any particular religious community or caste”
- (bf) Where any activity is being carried out by the trust or institution
 - For “not genuine” purpose or
 - Not being carried out in accordance with all or any of the conditions subject to which it was registered
- (bg) Where the trust or the institution has not complied the requirement of “any other law” and the order, direction or decree, by whatever name called and also holding the non-compliance as occurred.

8. Changes relating to updated Income Tax Return (ITR) “new” section 139(8A) and 140-B applicable from April 01, 2022 - Assessment year 2023-2024

- (i) Now filling of “updated ITR” is permitted within 2 years from the end of relevant assessment year where ITR filler has forget to include “any

income” at the time of filling of “original” ITR or original ITR has not been filed

- (ii) (a) “Penalty” under the head an “additional tax” @ 25% is to be paid on the amount of tax and interest payable against updated ITR within 12 months from the end of relevant Assessment year
- (b) “Penalty” under the head an “additional tax” @ 50% on the amount of tax and interest payable against updated ITR within 24 months from the end of relevant Assessment year
- (iii) Filing of the updated ITR is “not permitted” in the following circumstances.
 - (a) Where updated ITR is with the “negative income” (loss)
 - (b) Where “decrease in the tax liability” comparative to the original ITR.
 - (c) Where “increase in the refund” of the tax
 - (d) Where “search and seizure” has already been initiated under section 132 or books of account, other documents or any assets are requisition under section 132A “against the assessee”
 - (e) Where survey has already been conducted under section 133A “other than” a survey for TDS under section 133(2A) “against the assessee”
 - (f) Where notice has already been issued due to search under section section 132 or requisition has already been made under section 132A “against any other person”
 - (g) Where an updated return has “already been filed”
 - (h) Where any proceeding for assessment or reassessment or re-computation or revision of income is pending or has already been completed for the relevant assessment year
 - (i) Where AO has information in his possession against the “person” for the relevant AY under the Prevention of Money Laundering Act

(PMLA), 2002 or the Black Money Act, 2015 or the Prohibition of Benami Property Transactions Act, 1988 or The Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976 and the same has been communicated to the “person” prior to the date of filing of updated return

- (j) Where Information for the relevant assessment has already been received under an agreement as referred in the **section 90 or 90A** of the Act against the “person” and same has already been communicated to the “person”, prior to the date of his filing of updated return
 - (k) Where the “prosecution proceedings” under **Chapter XXII** have already been initiated for the relevant AY against the “person”, prior to the date of his filing of updated return
- (iv) The updated return is to be accompanied by proof of payment of the followings.
- (a) Income tax
 - (b) Additional tax (As penalty @ **25% or 50%** as case may be)
 - (c) Penal Interest under **section 234A, B and C**
 - (d) Fee for late filling under **section 234F**
- (v) The “Net tax payable” is to be computed “after” taking into account the followings.
- (a) The amount of any “already paid” as Income tax
 - (b) The amount of any “already deducted/collected” as TDS and TCS
 - (c) The amount of any “already claimed” as tax relief under **section 89/90/90A/91**
 - (d) The amount of any “already tax credit claimed” as to be set off under **section 115JAA/ 115JD**

(vi) Now in view of the proposed insertion of the “new section” **139(8A) and 140-B** the consequential amendments are also made in the different sections like **144, 153, 234A, 234B and 276CC**.

(vii) “Time limit” under **section 153** for completion of assessment, reassessment and re-computation is being amended to provide that where an updated return is furnished under **section 139(8A)** an order of assessment under **section 143/144** may be made at any time “before” the expiry of **9** months from the end of the financial year in which the updated return is to be filed.

9. Changes relating to Assessment Proceedings

(i) **Disclosure for source of source by the lender under section 68, applicable from April 01, 2022 - Assessment year 2023-2024**

(a) Now “lender” is required to disclose the nature and source of source to the borrower against the loans, borrowings or other liabilities as outstanding in the hands of the “borrower”

(b) Now “borrower” is required to disclose the nature and source of source to the Income tax department (as and when as required) against the loans, borrowings or other liabilities as outstanding in the hands of the “borrower”

(ii) **Retention of books of accounts or other documents under section 132(8), applicable from April 01, 2022 for Assessment year 2023-2024**

- Now provisions for retention of books of accounts or other documents are also applicable for the assessment, reassessment or re-computation under **section 143(3) 144 or 147**.

(iii) **Scrutiny assessment of an association or institution under section 143(3) applicable from April 01, 2022 - Assessment year 2023-2024**

- Now assessment order is not to be passed by the AO against any association or any institution under **section 10(21), 10(22B), 10(23A)**

and 10(23B) where return has already been filed under section 139(4C) “without” giving effect of the following provisions of the section 10

- (a) Unless the AO has “already” intimated to the centre government or any prescribed authority about the contraventions under section 10(21), 10(22B), 10(23A) and 10(23B)
- (b) Where the approval as granted to the association or institution has “already” has been withdrawn or notification has “already” been rescinded
- (iv) **Reference by the AO to Principal Commissioner of Income Tax (PCIT) or Commissioner of Income Tax (CIT), section 10(23C)(iv)/(v)/(vi)/(via),10(23C) and 12AB(4) applicable from April 01, 2022 - Assessment year 2023-2024**
 - Now AO is mandatory required to sent a reference against any specified violation under section 10(23C) or 12AB(4) to the PCIT or CIT for withdrawing any approval or registration of any fund or institution as referred under “before” withdrawing any approval or registration
- (v) **Income tax authority for the survey under section 133A, applicable from April 01, 2022 - Assessment year 2023-2024**
 - Now the Income tax authority for the purposes of conducting a survey is changed to a subordinate to the Principal Director General of Income Tax (PDGIT) or the Director General of Income tax (DGIT) or the PCIT or the CIT as to be specified by the Board.
- (vi) **The Procedure for Faceless assessment has been substituted under section 144B applicable from April 01, 2022 - Assessment year 2023-2024**
- (vii) **Approval by the AO under section 148**

- (a) Now AO is not required to get further approval where AO has “already” passed an order under section 148A(d) with the prior approval of the specified authority
- (b) Further AO shall be deemed to have information against the survey under section 133A (5) for expenditure on any event, function or occasion.
- (viii) **Order by the AO “New” Section 148B, applicable from April 01, 2022 - Assessment year 2023-2024**
- Now AO is not permitted to passed an order for assessment, reassessment or re-computation where AO is below the rank of Joint Commissioner “except” with the prior approval of the Additional Commissioner, Additional Director, Joint Commissioner or Joint Director against the assessment in case of search, survey or requisition to enable the Income tax department to reduce avoidable inaccuracies.
- (ix) **Notice by the AO under section 149, applicable from April 01, 2022 - Assessment year 2023-2024**
- Now AO is permitted to issue a notice under section 148 for the relevant Assessment year “after” 3 years but “before” 10 years from the end of the relevant Assessment year “without” any possession of the books of accounts, other documents or evidences which are needed for the incomes chargeable to tax. The list of such items is as below:-
 - (a) Any “asset”
 - (b) Any “expenditure” for a transaction, event or occasion
 - (c) Any “entry” in the books of accountsbut amount of asset, expenditure or entry as individual or in aggregate should be minimum Rs. 50 lac as likely escaped incomes

(x) **Additional power to the AO for giving effect of the order competent authority “New” section 156A applicable from April 01, 2022- Assessment year 2023-2024**

- Now AO is permitted for “giving effect” the order of respective competent authority and also to “modify the demands” as created during the proceedings in IBC by NCLT or Supreme Court

(xi) **Order by Transfer Pricing Officer (TPO) under section 92CA, applicable from April 01, 2022 - Assessment year 2023-2024**

- Now an order to be passed by TPO under section 92CA is also “additionally” to include the revision under section 263 by the PCIT or CIT.

(xii) **Assessment order for merger or acquisition under section 170 applicable from April 01, 2022 - Assessment year 2023-2024**

- Now assessment or any other proceedings as pending to be completed on the “predecessor” against business under merger or acquisition shall be deemed to have been made on the “successor”.

(xiii) **Assessment order for merger or acquisition under “new” section 170A, applicable from April 01, 2022 for Assessment year 2023-2024**

- Now effect of order as to be issued by respective tribunal or the High court against the business reorganization shall be inforceable for filing of “modified return” of Income tax for the period between the “date of effective” of the order and the “date of issue” of the final order.

10. New Provisions relating to Virtual Digital Assets (VDA) (Crypto Currencies, NFT Etc.) “New” section-115BBH, applicable from April 01, 2022 for Assessment year 2023-2024

- (i) Now income tax is to be levied on the VDA (Crypto Currencies, NFT etc.) The important features are followings :-

- (a) Incomes from the VDA transactions are to be charged for the Income tax @ 30% (flat).
 - (b) "Incomes" on the VDA transactions are to be computed "after" deduction of cost of acquisition "only". Hence any "other expenses" are not allowed for deduction against the VDA incomes.
 - (c) "Losses" on the VDA transactions are not to be set off against any head of the incomes in "current" assessment year.
 - (d) "Losses" on the VDA transactions are not to be set off against any head of the incomes in "next" assessment years.
- (ii) The term VDA is being defined under section 2(47A)
 - (iii) The term "gift of VDA" is being included as "property" under section 56(2)(x)
 - (iv) TDS @ 1% is to be deducted against the payment by the purchaser for VDA transactions under "new" section 194-S
 - (a) TDS @ 1% is to be deducted against the payment by the purchaser for VDA transactions to the "resident seller" on the "cash transaction"
 - (b) TDS @ 1% is to be deducted against the payment by the purchaser for VDA transactions to the "resident seller" on the "non cash transaction"
 - (c) TDS @ 1% is to be deducted against the payment by the purchaser for VDA transactions to the "resident seller" on the "wholly or partly" in kind or against the exchange between of 2 VDA
 - (d) Applicability of the provisions of TDS under section 203A (TAN) and 206AB are not applicable on the "specified person"

- (da) The term “specified person” to include an individual or HUF “only” where total sales, gross receipts or turnover from the business or profession is not exceeding Rs. 1 crore or Rs. 50 lacs respectively during the Financial year (FY) immediately preceding to the FY where the VDA transaction is completed.
- (db) Applicability of the provision under section 203A (TAN) and 206AB are also not applicable on the individual or HUF where incomes are “not” under the head “Business and Profession”.

Hence these TDS provisions are not applicable on the incomes under the head “non Business and Profession”

- (e) TDS @ 1% is not to be deducted against the payment by the purchaser for the VDA transactions on the followings:-
 - (da) Where sale consideration to be paid by the “specified person” is not exceeding “50 thousands” in cash or in kind during the entire financial year.
 - (db) Where sale consideration to be paid by the “non specified person” is not exceeding “10 thousands” in cash or in kind during the entire financial year
- (f) TDS @ 1% is to be deducted under section 194-S where TDS is also liable to be deducted under section 194-O. Hence section 194-S is superseding the section 194-O.

11. Changes relating to TDS section-194, applicable from April 01, 2022 for Assessment year 2023-2024

- (i) Now TDS @ 1% is to be deducted against transfer of immovable property (non agricultural land) to a resident on “stamp duty” value or “actual transaction” value whichever is higher where the amount is exceeding 50 lac under section 194-I
- (ii) TDS @ 10% on the benefits and perquisites in kind under “new” section 194-R

- (a) Now TDS @ 10% is applicable “before” provision of any benefit or perquisite “in kind” to a resident relating to a business or profession
- (b) TDS under is not applicable in the following circumstances.
 - (ba) Where aggregate value of the benefits and perquisites to a resident is not exceeding Rs. 20 thousand during the financial year
 - or
 - (bb) Where an individual or HUF whose total sales, gross receipts or turnover is not exceeding Rs. 1 Cr relating to business or Rs. 50 lacs relating to profession during the financial year immediately preceding the financial year in which the benefit or perquisite is provided
- (iii) “Changes” under the section 206AB
 - (a) Now the sections 194-IA, 194-IB and 194-M have been added in the “list of exclusion” for the purpose of “special provision” of the TDS.
 - (b) Now the requirement for “increased rate” of TDS and TCS on the assessee whose return of income is not filed for the previous assessment year (AY) is “reduced” from 2 AY to 1 AY under section 206AB and 206CCA

12. Changes relating to Set off and Carry forward of losses section-79, applicable from April 01, 2022 for Assessment year 2023-2024

- (i) Now under “new” section 79A an assessee is not permitted to set off the brought forwards losses (BFL) or unobserved depreciation under section 32(2) against the “undisclosed income” found during search and seizure under section 132 or 132A or survey under section 133A “except” survey for TDS under section 133A(2A)

- **Definition of “undisclosed incomes” includes the followings:-**

(a) Any income of the previous year as represented wholly or partly in money, bullion, jewellery or other valuable article or thing or any “entry in the books” of account or other documents or transactions found during a search or a requisition made under **section 132A** or survey conducted under **section 133A** “except” survey for TDS under **section 133A(2A)**

Or

(aa) Undisclosed incomes which were “not recorded” in the books of account or other documents maintained in the “normal course” for the previous year “on or before” the date of the search and seizure or survey.

Or

(ab) Undisclosed incomes which were “not disclosed” to the PCIT or CIT “on or before” the date of search and seizure or survey

(b) Undisclosed incomes as represented wholly or partly as “entry against expenses” as recorded in the books of accounts or other documents as maintained in “normal course” for the previous year and also these expenses are found as false or fake.

13. Changes relating to refund against TDS “already” deposited “new” section 239A, applicable from April 01, 2022 for Assessment year 2023-2024

(i) Refund against TDS “already” deposited

(a) Now deductor of the TDS is permitted to file an application with the AO within **30** days from the date of deposit of TDS for refund of TDS “already” deposited where TDS was not to be deducted and also not to be deposited.

(b) However deductor of the TDS is not permitted to file an application where TDS has “already” been deducted and deposited under the head payment of interest under **section 195**

(ii) Appeal with CIT-Appeals against the order of the AO

- (a) AO is required to pass to an order for allowing or rejecting the application within 6 months from the end of month in which application for refund is received.
- (b) The deductor of TDS is also permitted to file an appeal with the CIT-appeal under section 246A where the deductor is not satisfied with the order of AO
- (c) However the deductor of TDS is not permitted to file appeal under section 248 where tax is paid to the central government.

14. Changes relating to penalties and prosecution applicable from April 01, 2022 for Assessment year 2023-2024

- (i) A fund or institution, university or other education institution, university or medical institution, trust or institution under section 10(23C) (iv) (v) (vi) (via) and 11 respectively is responsible to pay the following penalty for violation of the provisions of the Income Tax Act, 1961
 - (a) “New” penalty @ 100% against the incomes as applied directly or indirectly for the benefits of the “specified person” as referred under section 13(3) where violation is noticed “1st time” during the previous year.
 - (b) “New” penalty @ 200% against the incomes as applied directly or indirectly for the benefits of the “specified person” as referred under section 13(3) where violation is noticed again in the “subsequent” previous year.
- (ii) “Increased” penalty from Rs. 100 to Rs. 500 every day till the failure continues under section 272A(2) for failure to answer any question, sign statements, furnish information, returns or statements, and allow inspections etc.
- (iii) “Punishment” with prosecution for failure to furnish a return of the incomes under section 139(8A).
- (iv) “Punishment” with prosecution under section 276BB for failure to pay TCS

15. Changes relating to the Miscellaneous Provisions

- (i) “Increased” the scope of **section 94** under the head “bonus stripping” by way of inclusion of the securities or units and also to include units of a business trust like Infrastructure Investment Trust, Real Estate Investment Trust or Alternative Investment Funds
- (ii) Now CBDT is permitted to issue any order or instruction under **section 234F** for any “general” relief or relaxation
- (iii) Now AO is required to pass the “final order” within **1** month from end of month in which order of Dispute Resolution Committee (DRC) under **section 245MA** is received by the assessee
- (iv) “Extension” for date of issuance of direction under **section 144C** for the faceless regime for Dispute Resolution Panel (DRP) from **March 31st 2022** to **March 31st 2024**.

Published By



CA. Satish Agarwal

B.com (Hons) FCA

+919811081957

9/14 (First Floor) East Patel Nagar, New Delhi- 110008

Email: satishagarwal307@yahoo.com

Website: www.femainindia.com

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