

Nangia Andersen LLP



Finance bill 2023 approved with amendments - Highlights

March 2023



01 Non-applicability of surcharge and cess for Specified Funds in IFSC

- The Finance Bill (Lok Sabha) has inserted a proviso to remove the burden of surcharge and cess on income from securities earned by a Specified Fund as defined in section 10(4D). Specified Fund is defined to mean a Category III AIFs and investment banking division of an offshore banking unit in IFSC.
- This benefit will bring the taxation of Specified Fund in IFSC at par with the tax rates under the tax treaty.

02 Tax exemption extended to holding company/beneficiary of the offshore Fund on relocation to IFSC

- The Finance bill extended the timeline for tax neutral relocation of offshore Funds to IFSC to March 2025. The definition of 'Original Fund' currently includes offshore investment funds.
- The Finance Bill (Lok Sabha) has amended to expand the definition of 'Original Fund' to include an investment vehicle, in which Abu Dhabi Investment Authority (ADIA) is the direct or indirect sole shareholder or unit holder or beneficiary or interest holder and such investment vehicle is wholly owned and controlled, directly or indirectly, by ADIA or the Government of Abu Dhabi, or any other Fund notified by the Central Government in the Official Gazette.

03 Tax holiday for IBUs

- Prior to 2019, IBUs were provided a tax holiday to the extent of 100% of such income for 5 consecutive years from the date of RBI registration and 50% for next 5 years. The Finance Act (No. 2), 2019, provided a tax holiday of 100% of income for 10 consecutive years out of 15 years for units in IFSC (including IBUs).
- The Finance Bill (Lok Sabha) amended the provision to provide IBU set-up prior to 1 April 2020, tax holiday in parity with other IBUs of 100% of the profits for the balance period of 10 years.

04 Tax exemption on income of non-resident accruing or arising outside India, received in IFSC

- The Finance Bill (Lok Sabha) has amended Section 10(4G) providing exemption on income of a non-resident from portfolio of securities or financial products or funds managed, administered by a portfolio manager on behalf of non-resident, provided such income is accrued or arise (deemed to) outside India and received in the bank account of IFSC banking unit (IBU).

05 Tax exemption on distribution of income from ODIs issued by IBU

- Presently, the income arising on transfer of ODIs entered with the IBUs is exempt in the hands of the investors. The Finance bill provided further an exemption on income distributed on ODI entered with an IBU in the hands of the investors, provided the same is chargeable to tax in the hands of the IBU.
- The Finance Bill (Lok Sabha) has amended to remove the condition of 'chargeability in the hands of IBU' for the investors to earn tax exemption on distribution of income.

06 Concessional tax rate on dividend income distributed by unit in IFSC

- Post introduction of Dividend Distribution tax, dividend income received by shareholder (resident and non-resident) from a unit in IFSC were subject to tax at 20% in their hands.
- The Finance Bill (Lok Sabha) amended the provision to provide a concessional rate of 10% (plus applicable surcharge and cess) in the hands of the non-resident shareholders on dividend income received from a unit in IFSC.

07 Lower tax rates on interest income on specified bonds listed in IFSC exchange on or after 1 July 2023

- Presently, a concessional rate of 4% on interest income earned by non-residents from long-term bonds or rupee denominated bonds (issued before 1 July 2023), listed in IFSC exchange. The Finance Bill did not provide further extension to the concessional rate of tax as per Section 194LC.
- The Finance Bill (Lok Sabha) provides for a lower rate of 9% on interest income with respect to long-term bonds or rupee denominated bonds (issued on or after 1 July 2023), listed in IFSC exchange. Concessional rate of 4% continues for bonds issued prior to 1 July 2023.

08 Further tax incentives for Aircraft and Ship leasing companies in IFSC

- The Finance Bill (Lok Sabha) has inserted a new section providing exemption to non-residents or another IFSC unit engaged in aircraft leasing from income earned as capital gains on sale of equity shares of a unit in IFSC subject to the following conditions:
 - Operations of domestic company engaged primarily in the business of aircraft leasing commenced on or before 31 March 2026;
 - And capital gains are earned within 10 years from the year of commencement of operations or AY 2034-35, whichever is later.
- The Finance Bill (Lok Sabha) has inserted a new section providing exemption to a IFSC unit engaged in aircraft leasing on dividend income received from another IFSC unit engaged in aircraft leasing.
- The Finance Bill (Lok Sabha) has inserted a proviso providing Ship leasing companies an option to opt for tonnage tax scheme within 3 months from the end of the tax holiday period.

09 Benefit under New Tax Regime – Increase in Marginal Relief [Section 115BAC]

- As per section 87A of the Act, rebate upto ₹ 12,500 is allowed to a resident individual whose total income does not exceed ₹ 5,00,000;
- The Finance Bill 2023 proposed to amend Section 87A by inserting a new proviso wherein a resident individual whose income is chargeable to tax under new regime i.e., section 115BAC (1A) of the Act, shall now be entitled to a rebate upto ₹ 25,000 if the total income does not exceed ₹ 7,00,000 to allow a higher rebate;
- Under the new personal tax regime, a relief has been provided for taxpayers where income exceeds ₹ 7,00,000 but tax on income exceeding ₹ 7,00,000 is more than the incremental increase in income.

10 Specified income of non-residents – Increase in tax rates [Section 115A]

- There was no change proposed by the finance minister with respect to changes in rate(s) of tax for FTS/ Royalty income during her speech while presenting the Finance Bill 2023;
- However, the Finance Bill (Lok Sabha) has brought the changes in the tax rates under Section 115A viz. the 10% special tax rate on royalty income and fees for technical services earned by a non-resident or a foreign company has now been increased to 20%.

11 Scope expanded to cover specified mutual funds [Section 50AA]

- The Finance Bill 2023 proposed to insert a special provision by way of Section 50AA for the computation of capital gains arising from the transfer or redemption or maturity of Market Linked Debenture ('MLD');
- The provisions of the proposed section also provided that the capital gains arising therefrom shall be deemed to be a short-term capital gain, irrespective of the period of holding;
- The Finance Bill (Lok Sabha) has further expanded the scope of Section 50AA by including "Specified Mutual Funds" as well;
- The specified mutual fund has been defined as a mutual fund by whatever name called, where not more than 35% of its total proceeds is invested in the equity shares of domestic companies;

12 TCS rate to apply even if the remittance under LRS is made within India [206C(1G)]

- The Finance Bill (Lok Sabha) has amended Section 206C(1G)(a) to omit the words "out of India" to expand the scope of the provision to the remittance made under LRS, even within India. Thus, where the remittance is made under LRS to the GIFT city, the new rates of TCS shall apply.

13 Maximum rate of TCS restricted to 20% [206CC & 206CCA]

- The Finance Bill (Lok Sabha) has inserted a proviso to Section 206CC(1) and Section 206CCA(1) to provide that the rate of TCS under Section 206C shall not exceed 20% even if the collectee does not furnish his PAN or is a non-filer.

14 Changes in MOOWR [Section 65A, Customs Act]

- The Finance Bill (Lok Sabha) has inserted Section 65A in the Customs Act;
- In terms of the new provision, goods imported under the Manufacturing & Other Operations in Warehouse Scheme shall not be eligible for duty deferment of Integrated Goods and Service Tax ('IGST') and Compensation Cess ('Cess'). Earlier, in terms of the provisions and scheme customs duty including IGST and Cess were required to be discharged at the time of clearance of goods for home consumption. Now only BCD shall be allowed to be deferred.
- Importers shall be required to file Bill of Entry ('BOE') for home consumption instead of BOE for warehousing;
- The said amendment would not be applicable on the goods already warehoused prior to the date on which the said provision would be made effective;
- The Government may notify specific goods, importers, exporters and industries to be exempted from the applicability of this amendment;
- The amendment shall be applicable from the date to be notified.

15 Legislative changes in Goods and Services Tax ('GST')

- Finance Bill, 2023 has proposed to retrospectively amend registration related provisions from July 1, 2017 to provide that persons specified for compulsory registration in terms CGST Act need not obtain registration if engaged exclusively in the business of supplying exempt goods/ services. The Finance bill (Lok Sabha) restricted the said amendment to category of persons (who are not required to obtain registration) that may be notified by the Government on the recommendation of GST council;
- Time limit to apply for revocation of cancellation of registration removed. Further, Finance Bill (Lok Sabha) provided power to prescribe time limit. Earlier time limit was 30 days from the date of service of cancellation order;
- Time limit to furnish valid return on service of assessment order in relation to non-filers of returns extended from 30 days to 60 days from the service of assessment order. Further, time limit of 60 days may further be extended by 60 days subject to payment of late fee and interest;
- Provisions related to constitution of Appellate Tribunal & Benches modified to provide for:
 - Power to Government to establish GSTAT for hearing appeals against the orders passed by Appellate Authority/ Revisional Authority
 - Jurisdiction/ Power and Authority of GSTAT to be exercised by Principal Bench & State Benches
 - Principal Bench to be constituted in New Delhi which shall consist of the President, a Judicial Member, a

- Technical Member (Centre) and a Technical Member (State)
 - Power to constitute State Benches on request of States at such places and with such jurisdiction as may be recommended by the GST Council, which shall consist of two Judicial Members, a Technical Member (Centre) and a Technical Member (State)
 - Principal Bench would have exclusive jurisdiction in case one or more of the issues relate to Place of Supply
 - Qualification, Appointment and Conditions of service of President and Members of Appellate Tribunal
- Provisions specifying the place of supply of services of ‘transportation of goods, other than by way of mail or courier’ where location of supplier or location of recipient is outside India has been deleted.

16 Legislative changes in Goods and Services Tax ('GST')

S.No	Description of supply of goods or services	Tariff item, heading, sub heading, Chapter, or supply of goods or services, as the case may be	The maximum rate at which goods and services tax compensation cess may be collected	
			From	To
(1)	(2)	(3)	(4)	(4)
1.	Pan Masala	2106 90 20	One hundred and thirty-five per cent. Ad valorem	Fifty-one per cent. of retail sale price per unit
2.	Tobacco and manufactured tobacco substitutes, including tobacco products	24	Four thousand one hundred and seventy rupees per thousand sticks or two hundred and ninety per cent. ad valorem or a combination thereof, but not exceeding four thousand one hundred and seventy rupees per thousand sticks plus two hundred and ninety per cent. ad valorem.	Four thousand one hundred and seventy rupees per thousand sticks or two hundred and ninety per cent. ad valorem or a combination thereof, but not exceeding four thousand one hundred and seventy rupees per thousand sticks plus two hundred and ninety per cent. ad valorem or hundred per cent. of retail sale price per unit

Explanation to the Schedule inserted to define term "retail sale price".

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