

HIGHLIGHTS OF FINANCE ACT, 2023

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Source: The Finance Act, 2023

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Changes in Tax Rates

Changes in Tax Rates

- In the alternate tax regime under Section 115BAC(1A), the basic exemption limit shall be INR 3,00,000 and for every additional INR 3,00,000 of income, the next slab rate will be applicable. The highest slab rate of 30% shall continue to apply to income above INR 15,00,000.
- The alternate tax regime of Section 115BAC shall also apply to Association of Persons (AOP)[(other than a co-operative society], Body of Individuals (BOI), and Artificial Juridical Persons (AJP).
- Under the new tax regime, the highest surcharge rate of 37% on income above INR 5,00,00,000 has been reduced to 25%.
- The threshold limit for total income eligible for rebate under Section 87A has been increased from INR 5,00,000 to INR 7,00,000 for assessees opting for the new tax regime.

Changes in Tax Rates

- Standard deduction from salary income and deduction from family pension is extended to employees who opt for New Tax Regime.
- The new tax regime under Section 115BAC is the default tax regime.
- Marginal rebate under section 87A shall be allowed in the new tax regime under Section 115BAC(1A) where total income marginally exceeds INR 7,00,000.
- Tax rate under Section 115A has been reduced from 20% to 10% on the dividend income received by a non-resident or a foreign company from a unit in an IFSC as referred to in section 80LA(1A).
- Tax rate on royalty income and fees for technical services has been increased from 10% to 20%.

Changes in Tax Rates

- A new section 115BAE has been inserted to provide a reduced tax rate of 15% (plus surcharge of 10% and cess) to manufacturing co-operative societies established on or after April 1st, 2023, and commencing production on or before March 31st, 2024 [provided that specified incentives or deductions are not availed].
- Section 115BBJ has been inserted to levy the tax at the rate of 30% on any winning from online gaming. A consequential amendment has been made to Section 115BB to exclude winning from online games from its scope.
- Consequential amendments have been made to Section 115JC and Section 115JD to provide an exemption from the provisions of AMT on opting for the new tax scheme of Section 115BAE or Section 115BAC(1A).
- A consequential amendment has been made to Section 92BA to give a reference to the new tax scheme of Section 115BAE.

Changes in Tax Rates

- No surcharge and health and education cess shall be levied on the tax calculated on income from securities held by the specified fund referred to in Section 10(4D).

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Amendments w.r.t. Deductions and Exemptions

Amendments w.r.t. Deductions and Exemptions

- Receipts from life insurance policies issued on or after April 1st, 2023 shall be considered as income from other sources if the premium payable for any of the previous years during the term of such policy exceeds Rs. 5 lakhs. The exemption for receipts in the event of the insured person's death shall remain unchanged.
- To avail a deduction under Section 10AA, the assessee must submit a return of income on or before the due date specified under Section 139(1) and ensure timely inward remittance of proceeds.
- Income distributed on the offshore derivative instruments (ODI) entered into with an offshore banking unit of an IFSC shall be exempt from tax under Section 10(4E).

Amendments w.r.t. Deductions and Exemptions

- The exemption under Section 10(22B) to news agencies has been withdrawn.
- Tax exemption under Section 10(46A) extended to non-corporate entities (Such as bodies, authorities, boards, trusts, or commissions), established by a Central or State Act for the purpose of providing housing, planning urban development, and regulating activities for the benefit of the public.
- Section 10(26AAA) has been amended retrospectively to allow an exemption to:
 - ✓ A Sikkimese woman who married a non-Sikkimese and an Individual who was or his specified ancestors were domiciled in Sikkim.
 - ✓ Any other individual whose name does not appear in the Register of Sikkim Subjects but it is established that such individual (or his father or husband or paternal grand-father or brother from the same father) was domiciled in Sikkim on or before 26-04-1975.

Amendments w.r.t. Deductions and Exemptions

- A new clause 46B has been inserted in Section 10 to provide exemption to income of specified credit guarantee trust/funds.
- Scope of exemption under Section 10(4G) has been expanded to include any income received by a non-resident from specified activity carried by the specified person.
- A new Section 10(4H) has been inserted to allow exemption in respect of capital gains arising from the transfer of equity shares of a domestic company engaged in the aircraft leasing business in IFSC.
- A new clause (34B) has been inserted in Section 10 to allow exemption in respect of dividend income earned by an IFSC unit involved in the aircraft leasing business. The exemption is allowed if the company providing the dividend is also an IFSC unit and engaged in the aircraft leasing business.

Amendments w.r.t. Deductions and Exemptions

- Section 80LA(1) has been amended to increase the deduction from 50% to 100% allowed to a scheduled and overseas bank for balance 5 years.
- Section 80-IAC has been amended to extend the outer date for the incorporation of a start-up company or LLP from 31-03-2023 to 31-03-2024.
- Section 10(23FE) has been amended to provide that sum referred to in Section 56(2)(xii) shall be exempt from tax in the hands of specified foreign funds.

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Tax Benefits to Agniveers

Tax Benefits to Agniveers

- Receipts from the 'Agniveer Corpus Fund' by a person enrolled under the 'Agnipath Scheme 2022' shall be exempt from tax under Section 10(12C).
- A new deduction under Section 80CCH has been introduced, which provides deductions to Individual enrolled in Agnipath Scheme. The deduction shall be equal to the amount of contributions made to the Agniveer Corpus Fund. This deduction shall also be available under the new tax regime of Section 115BAC.
- The Central Government's contribution to the Agniveer Corpus Fund account of an individual enrolled in the Agnipath Scheme shall be considered as salary in accordance with the provisions of Section 17. A corresponding deduction shall be allowed under Section 80CCH for the same.

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Amendments w.r.t. Income
from Business or Profession

Amendments w.r.t. Income from Business or Profession

- It is clarified that the benefit or perquisite can be in cash or in kind for taxability under Section 28 and for deduction of tax at source under Section 194R.
- The proviso to Section 35D(2)(a) has been substituted to allow a deduction for certain expenditures based on a statement furnished in the prescribed manner. The condition that the activity is to be carried out by a concern approved by the Board has been removed.
- A new clause (h) has been added to Section 43B to provide that any sum payable to a micro or small enterprise beyond the time limit specified in Section 15 of the MSMED Act 2006 shall be allowed as a deduction on a payment basis.
- The classification of NBFCs into a Deposit-taking NBFC or a Systematically Important Non-deposit-taking NBFC has been removed, and the powers have been given to the central government to notify the NBFC for the purpose of Section 43B.

Amendments w.r.t. Income from Business or Profession

- The classification of NBFCs into a Deposit-taking NBFC or a Systematically Important Non-deposit-taking NBFC has been removed, and the powers have been given to the central government to notify the NBFC for the purpose of Section 43D.
- The turnover threshold for opting for the presumptive taxation scheme under Section 44AD and Section 44ADA has been increased to Rs. 3 crores and Rs. 75 lakhs, respectively, where 95% of the amount received are in non-cash mode.
- The consequential amendments have been made under section 44AB to remove the tax audit requirement for persons opting for such presumptive schemes.
- Where a non-resident assessee declares presumptive income under Section 44BB or Section 44BBB in any previous year, no set off of unabsorbed depreciation and brought forward loss shall be allowed to the assessee for such previous year.

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Amendments w.r.t. Capital Gains

Amendments w.r.t. Capital Gains

- The transformation of physical gold into Electronic Gold Receipts and vice versa by a Vault Manager registered with the Securities and Exchange Board of India (SEBI) shall not be considered as a transfer for purposes of capital gains taxation.
- A new Section 50AA has been inserted to deal with the taxation of Market Linked Debentures and specified mutual funds.
- A proviso has been added to Section 48(ii) to provide that where a deduction is claimed for the interest payments under Section 24(b) or Chapter VI-A, it shall not be a part of the cost of acquisition/improvement of the capital asset.
- The maximum limit has been introduced for the deduction allowable under Section 54 and Section 54F.
- The cost of any intangible assets and rights, for which no consideration has been paid for acquisition, shall be considered nil.

Amendments w.r.t. Capital Gains

- A clarificatory amendment has been made in Section 45(5A) by providing that for computing the full value of consideration from the transfer of a capital asset under a joint development agreement, the consideration received by cheque or draft or by any other mode shall also be included.
- No tax shall be imposed on the transfer of capital assets in connection with the relocation of an offshore fund to an International Financial Services Centre (IFSC). The deadline for this relocation has been extended to 31-03-2025.
- A new clause (xx) has been inserted in Section 47 to provide that transfer of an interest in a JV by a public sector company in exchange for shares in a company incorporated outside India by the government of a foreign state, shall not be treated as a transfer for the purpose of capital gains.

Amendments w.r.t. Capital Gains

- A new sub-section (2AI) has been inserted in Section 49 to provide that the cost of acquisition of the interest in the JV shall be deemed to be the cost of acquisition of shares acquired by the Public Sector Company in exchange from a company incorporated outside India by the government of a foreign state.
- Explanation 1 and Explanation 2 have been inserted in Section 48(ii) to provide that sum received by a unit holder from a business trust shall be reduced from the cost of acquisition of the unit if such sum is not charged to tax in the hands of the unit holder or business trust.

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Amendments w.r.t. Charitable & Religious Trusts

Amendments w.r.t. Charitable & Religious Trusts

- Trusts and institutions that have initiated their activities must apply directly for regular registration, rather than provisional registration.
- The second, third and fourth proviso to Section 12A(2) allows trusts and institutions to claim an exemption under sections 11 and 12 for the previous year in which application for registration is made even though registration is granted in the subsequent year. However, under the new registration rules amended by the Finance Act 2023, provisional registration must be applied before the commencement of the activities. So, no exemption shall be available for the years before the registration.
- The donations made by one trust or institution to another registered or approved trust or institution shall be deemed to be an application up to 85% of the donated amount.

Amendments w.r.t. Charitable & Religious Trusts

- In order to claim the accumulation of income, trusts or institutions must file Form 9A and Form 10 at least two months prior to the deadline for filing the return of income.
- The exemption under Section 10(23C) or Section 11 or Section 12 shall be allowed if the return of income is furnished within the time allowed under Section 139(1) or Section 139(4) and not Section 139(8A).
- The utilization of corpus, loans or borrowings by a charitable or religious trust prior to 01-04-2021 will not be considered an application for charitable or religious purposes if the amount is subsequently deposited back into the corpus or the loan is repaid.
- The repayment of a loan or investment into the corpus will only be considered an application for charitable or religious purposes if it occurs within 5 years of the initial utilization.

Amendments w.r.t. Charitable & Religious Trusts

- The submission of an application for registration containing false, inaccurate, or incomplete information is considered a designated violation and may result in the revocation of the registration of trusts or institutions.
- An amendment has been made in Section 11(7) to give reference of the newly inserted clause (46A) in Section 10 and clause (23EC) of Section 10.
- The amendments, similar to those in Section 11/12/12A/12AB, have been made to the provisions for exemptions granted to educational institutions, hospitals, and other charitable or religious institutions falling under the approval category of Section 10(23C).
- The provisions for tax on accreted income as specified in Section 115TD have been extended to trusts or institutions, if they fail to apply for re-registration.

Amendments w.r.t. Charitable & Religious Trusts

- The Jawaharlal Nehru Memorial Fund, Indira Gandhi Memorial Trust, and Rajiv Gandhi Foundation have been excluded from the list of eligible funds for deductions under Section 80G.
- Trusts or institutions seeking approval under Section 80G must file a provisional approval application if they have not commenced their activities. They can apply directly for regular approval if they have already commenced their activities.

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Amendments w.r.t. Assessment & Appeals

Amendments w.r.t. Assessment & Appeals

- Section 142(2A) has been amended to empower the Assessing Officer to require a cost audit of inventory before assessment.
- Return in response to a notice under Section 148 shall be furnished within 3 months from the end of the month in which such notice is issued or within such further time as may be allowed by the Assessing Officer on a request made in this behalf by the assessee.
- Where search related information is available after 15th March of any financial year, an additional period of 15 days shall be allowed for the issuance of the notice, for assessment/reassessments etc., under Section 148 of the Act.
- Specified authority for granting approval for issuance of notice under Section 148 and Section 148A shall be Principal Chief Commissioner or Principal Director General or Chief Commissioner or Director General, where more than three years have elapsed from the end of the relevant assessment year.

Amendments w.r.t. Assessment & Appeals

- The time limit for completing the scrutiny and best judgment assessment has been extended from 9 months to 12 months, starting from Assessment Year 2022-23.
- A new appellate authority of the Joint Commissioner (Appeal) has been introduced for specific categories of taxpayers to speed up the resolution process in appeal proceedings. Consequent amendments have also been made in the relevant provisions.
- The provisions of Section 241A (withholding of refund) and Section 245 (set-off of refund) have been merged into the substituted provisions of Section 245.
- Two provisos have been inserted in Section 244A to provide that the interest shall be payable on a refund arising due to a rectification order allowing TDS credit of earlier years and no additional interest shall be payable on the amount of refund for the period for which the refund is withheld.

Amendments w.r.t. Assessment & Appeals

- Consequential amendments have been made to sub-section (11A) of Section 155 to insert a reference to Section 10AA to allow the Assessing Officer to amend the assessment order if the export earning is not realised in India within the permitted period.
- Two new sub-sections have been inserted to Section 155 to provide the mechanism to recompute the income after allowing a deduction for differential sugarcane price paid in subsequent years by the cooperative sugar factories, and to provide the mechanism to amend the assessment order and allow the TDS credit for income already disclosed in the return of income of the past year.
- Assessee can file an appeal against the penalty orders imposed by the Commissioner (Appeals) under Sections 271AAB, 271AAC, and 271AAD and revision orders passed by the Principal Chief Commissioner or Chief Commissioner under Section 263. The amendment also allows for the filing of a memorandum of cross-objections in all cases that are appealable to the Appellate Tribunal.

Amendments w.r.t. Assessment & Appeals

- Powers are given to the Joint Commissioner (Appeals) to levy penalties under certain provisions.
- Time limit for disposing of pending rectification applications by "Interim Board for Settlement" has been extended. If the time-limit for amending an order by it or for making an application to it expires on or after 01-02-2021 but before 01-02-2022, such time-limit shall stand extended to 30-09-2023.
- Where any direction has been issued to give effect to faceless schemes and e-proceedings before the expiry of the limitation period, the relevant provisions are amended to empower Central Government to amend or modify such directions at any time by notification in the Official Gazette.
- Meaning of Deputy Commissioner (Appeals) in Section 2(19B) has been amended.

Amendments w.r.t. Assessment & Appeals

- The amendment has been made to Section 132 to allow the authorized Officer to receive assistance from approved professionals, such as digital forensic experts and registered valuers, during the search and seizure process.

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**Amendments w.r.t. Set-off
and Carry Forward of Losses**

Amendments w.r.t. Set-off and Carry Forward of Losses

- The definition of 'strategic disinvestment' in Section 72A has been modified to include the sale of shares by the Central or State Governments, or by a public sector company in another public sector company resulting in a reduction of its shareholding below 51% and transfer of control to the buyer.
- Section 72AA is amended to allow the carry forward of accumulated losses and unabsorbed depreciation in the case of the amalgamation of a banking company with another banking company within five years of the strategic disinvestment.
- Eligible startups will be able to set off and carry forward losses incurred during their first ten years of incorporation, even if there has been a change in shareholding, as long as all shareholders continue during the relevant period. The previous time limit of seven years has been increased to ten years.

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Amendments

w.r.t. TDS & TCS

Amendments w.r.t. TDS & TCS

- The rate of TCS for foreign remittances under LRS (either in India or out of India) has been increased from 5% to 20% (except in case of remittance for medical treatment and education).
- With effect from 01-07-2023, TCS rate shall not be more than 20%, in case collectee does not provide PAN to collector or he is a non-filer.
- In case of TDS under Section 192A in respect of EPF withdrawal, the rate shall be 20% instead of the maximum marginal rate even if the recipient does not provide his PAN.
- The exemption from TDS available on interest payments on listed debenture has been removed. However, an exemption is given on the interest payable by SPV to the business trust.
- The threshold limit for TDS under Section 194N has been raised from INR 1 crore to INR 3 crore for recipients who are cooperative societies.
- It is clarified that for TDS under Section 194R the provision would apply to the benefits or perquisites wholly in cash, in kind, or partly in cash and partly in kind.

Amendments w.r.t. TDS & TCS

- Section 194B has been amended to exclude from its scope the winning from online games.
- Section 194B and Section 194BB have been amended to fix the threshold limit of Rs. 10,000 for a financial year for a single payment or in the aggregate.
- TDS under new Section 194BA on winning from online gaming shall apply without any threshold benefit. The tax will be deducted either upon withdrawal or at the end of financial year.
- Sections 206AB and 206CCA have been amended to exclude certain persons from the scope who are not required to file a return of income and are notified by the government.
- The higher rate of TDS under Section 206AB shall not apply where the tax is deducted under Section 194BA.
- The rate of tax under the double taxation avoidance agreements shall be considered for deduction of tax under Section 196A.

Amendments w.r.t. TDS & TCS

- Section 197 has been amended to include Section 194LBA in its scope. Thus, unit holders receiving income from business trusts can obtain lower or nil deduction certificates
- For certain income paid to non-residents or foreign companies, TDS will be deducted at a rate of 20% or the rate specified in a tax treaty, whichever is lower. This relief will be available if the payee provides a tax residency certificate.
- From 01-04-2023, tax shall be deducted under Section 194LC at the rate of 9%, in respect of money borrowed from outside India by long term bond or rupee-dominated bond on or after 01-04-2023, listed in recognized stock exchange located in an IFSC.

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Amendments w.r.t. penalties
and prosecutions

Amendments w.r.t. Penalties and prosecutions

- A penalty of Rs. 5,000 will be imposed on financial establishments for submitting inaccurate information in reportable account as a result of incorrect information provided by account holders. The financial institution has the right to recover the fine from the account holder.
- Section 271C and Section 276B have been amended to provide for penalty and prosecution where deductor fails to ensure that tax has been paid under Section 194R, Section 194S and Section 194BA.
- Certain acts of liquidators have been decriminalized under Section 276A with effect from 01-04-2023.

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Other Amendments

Other Amendments

- Clause (xii) has been inserted to Section 56(2) to provide that any specified sum received by unit holder of business trust during the previous year, with respect to units held at any time during the previous year shall be taxed under the head "Income from other sources". The taxability shall arise if the sum received is not in the nature of income referred to in Section 10(23FC)/(23FCA) and not taxable in the hands of the business trust under Section 115UA(2).
- Section 56(2)(viib) has been amended to make it applicable to share application money/premium received from any person, regardless of their residential status.
- Section 9 has been amended to provide that gifts received by a not ordinary resident in India shall also be deemed to accrue or arise in India.
- Section 92BA has been amended to include the transaction between the cooperative society (opting for an alternate tax regime under section 115BAE) and the other person with a close connection within the purview of 'specified domestic transaction'.

Other Amendments

- Central Govt. will prescribe a uniform method for the valuation of perquisites arising from rent-free or concessional accommodation provided by an employer to an employee.
- Primary Agricultural Credit Societies (PACS) and Primary Co-Operative Agricultural and Rural Development Banks (PCARD) can now accept deposits or offer loans to their members in cash up to Rs. 2 lakhs. This increased limit of Rs. 2 lakh also applies to the repayment of these loans or deposits.
- The provisions for thin capitalization in Section 94B will not apply notified NBFCs.
- The interest calculation for updated tax returns will be based on the difference between the assessed tax and the advance tax claimed in the earlier returns, if any.

Other Amendments

- Section 92D has been amended to shorten the deadline for submitting information or documents in tax proceedings related to international or domestic transactions from 30 days to 10 days.
- Section 170A has been substituted to lay down the procedure for completion of assessment or reassessment after the filing of the modified return.
- New Section 115V(2) has been inserted that an IFSC unit which has availed deduction under Section 80LA can make an application to opt for tonnage tax scheme within three months from the date the deduction under Section 80LA ceases.
- The International Financial Services Centres Authority has made the International Financial Services Centres Authority (Fund Management) Regulations, 2022 to regulate fund management entities. A corresponding amendment have been made in Sections 115UB, 56(2)(viib), 47(viiad), 10(4D) to provide that the AIFs should be regulated under the said regulation.

Other Amendments

- Section 88 is a redundant provision which has been removed from the Act. Consequential amendments have been made to Sections 80C, 80CCC, 80CCD, 54EA, 54EB, 54EC, 54ED, 111A and 112.
- The meaning of original fund with respect to Section 47(viiac) and Section 47(viiad) has been expanded.

Thank You