DIRECT TAX

Tax on virtual digital assets (e.g., bitcoin and other crypto)

- Income from the transfer of **any virtual digital asset** to be taxed at 30 percent, with effect from FY22-23
- No deduction allowed on any expenditure (other than cost of acquisition) or allowance or in setting off-of any loss
- Set-off of losses incurred on transfer of virtual digital asset against any other income is not permitted. Carry forward of such losses to subsequent years is also not permitted
- A gift of virtual digital assets is taxable
- Payment of consideration to a resident on the transfer of virtual digital assets shall be subject to TDS at one percent from 1 July 2022

Reliefs to start-up/ manufacturing companies

- The period of incorporation of start-ups (eligible for tax holiday) extended by a year to 31 March 2023
- New manufacturing companies commencing manufacturing/production upto 31 March 2024 eligible for a lower tax rate of 15% under section 115BAB

Provisions relating to deduction of business expenditure

- Clarification regarding non-deductibility of education cess and surcharge as business expenditure retrospectively from 1 April 2005
- No deduction allowed in respect of expenditure incurred on providing any benefit/perquisite which is in violation of law/regulation/rules/guidelines or to compound an offence, prohibited by law in/outside India
- Provisions of section 14A to apply irrespective of the fact whether income accrued/arisen/received during the year

Change in the rate of tax/surcharge

- Rate of surcharge in the case of certain association of persons to be capped at 15%
- Rate of surcharge in the case of long-term capital gains on transfer of any assets restricted to 15%
- With effect from FY 22-23, concessional tax rate of 15 percent on dividend received by Indian companies from specified foreign companies has been withdrawn

Individual Taxation

- No change in personal tax rates/slabs
- Provisions have been enacted to give effect to the earlier announcements made in respect of COVID-related payments. Any payment received from an employer and/or any other person for medical treatment of COVID-19 is proposed to be fully exempt in the hands of the recipient individual. Further, any ex-gratia payment made to the family members of an employee within 12 months from date of death of such employee on account of COVID-19 is exempt from tax in the hands of the recipient family members without any limit (if paid by the employee of such person) and to the extent of INR 10 lakhs where paid by any other person

TDS/TCS on non-filers at higher rates

- FA 2021 introduced provisions for higher rate of TDS/TCS for a specified person, i.e., non-filers of tax returns for two years
- The definition of specified person has been amended to provide that a "specified person" means a person (excluding non-residents who do not have a PE in India) who has not **furnished** income-tax return in the **previous year (as against the earlier requirement of two years) preceding the financial year** in which tax is required to be deducted/ collected, for which, the time limit for furnishing of original return has expired and the aggregate of TDS and TCS is INR 50,000 or more
- Some exclusions such as TDS on transfer of certain immovable property and rent by individual or HUF have been introduced

Provisions enabling procedure for filing of updated return of income

- Effective 1 April 2022, an updated return of income can be furnished within two years from the end of the relevant AY regardless of whether a return of income was filed previously or not
- Additional income tax payable of 25 percent of 'aggregate tax and interest', if updated return is filed after the expiry of time limit to file belated/revised return but within one year from the end of the relevant AY and 50 percent thereafter. The payment must be made before filing of the updated return
- The updated return is not permissible in specified cases, such as loss return or case of decrease of tax liability/refund or cases where assessment/ reassessment is pending
- Assessment in case of the updated return to be completed within nine months from end of FY in which the updated return is furnished

Rationalisation of provisions relating to taxation of charitable trusts and approved educational institutions/hospitals, etc

- Mandating certain charitable trusts and approved educational institutions/hospitals, etc., to maintain prescribed books of accounts
- Provision (and procedure) for cancellation of registration/approval of charitable trusts and approved educational institutions/hospitals etc., in case of specified violations
- Various procedural and administrative aspects around taxation of charitable trusts and approved educational institutions/hospitals etc., have been streamlined
- Levy of penalty where income of charitable trusts and approved educational institutions/hospitals, etc., is applied for the benefit of the trustees or other specified persons

Onus to prove unexplained cash credits

- Explanation by taxpayer of the nature and source of loan or borrowing or other liability would be considered satisfactory, only if the source of such fund is explained in the hands of the creditor (exception provided for a few SEBI-regulated entities)

Other tax updates

- A person providing any benefit/perquisite arising from carrying out any business or profession u/s 28(iv) to deduct tax at source @ 10% on an amount exceeding INR 20,000
- Surcharge on long-term capital gain (LTCG) is restricted to 15% of tax in respect of transfer of an equity share or a unit of an equity-oriented fund/business trust. The budget proposed to extend the capping of the 15% surcharge on LTCG from any asset. Those taxpayers falling in the income bracket of more than INR 20 million stand to benefit
- Presently, buyers of immovable property are required to deduct tax @ 1% on the sales consideration where the same exceeds INR 50 lakhs. An amendment has been made to deduct such TDS on the stamp duty value where the stamp duty value of the property is more than the actual sales consideration
- Deferment of filing appeal by Revenue for an identical issue involving substantial question of law which is pending before the jurisdictional High Court/Supreme Court
- Prosecution provisions extended for non-compliance of tax collected at source
- No Set off of any loss against undisclosed income detected during search

GOODS & SERVICE TAX

- GST collections more than INR 1 lakh crore consistently since July 2021, with collections reaching the highest ever in January 2022 – upto INR 1.41 lakh crore achieved on account of rapid post-COVID economic growth and nation-wide drive against GST evaders and fake bills
- **Cancellation of GST registration on non-filing of returns –**
  - **<u>For composition dealers:</u>** Where the return required to be filed annually is delayed beyond three months from the due date of furnishing of the said return
  - **<u>For others:</u>** When there is a delay for a "continuous tax period" as maybe prescribed; earlier it was six months
- Amendment to allow transfer of amount available in electronic cash ledger between GST registrations of the same legal entity
- **GST Returns**
  - GSTR-1 not allowed to be filed where returns of any past tax period has not been furnished
  - Rectification of already filed GSTR-1/3B extended to 30 November
  - Filing of GSTR-1 pre-condition to file GSTR-3B
- Time limit to avail input GST credit and issuance of credit notes extended from 30 September to 30 November of the following financial year
- Two-way communication process in return filing (between outward and inward supplies) initially envisaged under GST law now done away with
- Amendment to provide for levy of interest on input tax credit **wrongly availed and utilised** retrospectively from 1 July 2017
- Extended time provided upto November 30 for rectification of errors in TCS return

SPECIAL ECONOMIC ZONES

- SEZ Act to be replaced with a new legislation which will enable states to be partners in the development of the SEZ sector. The new legislation would focus on optimal utilisation of available infrastructure and augmentation of exports

CUSTOMS DUTY

- The changes in customs duties are made mainly with the objective of domestic capacity creation, providing a level playing field to MSMEs, easing the raw material supply-side constraints, enhancing ease of doing business and enabling policy initiatives such as PLIs and phased manufacturing plans
- Around 350 customs exemptions are being withdrawn and more than 40 customs exemptions relating to project imports and capital goods are proposed to be gradually phased out
- Legislative changes are being made to the powers and functions of an officer of customs so as to counter the Supreme Court ruling in the case of Canon India which held officers of the Director of Revenue Intelligence as not to be proper officers to undertake customs proceedings
- Amendment to provide that Advance Ruling under customs to be valid only for 3 years
- Publishing of information submitted by importers and exporters before officers under customs law has now been made an offence under the customs law with an intent to protect such data
- To encourage paperless processing, it is proposed to use a common customs portal to serve notices, orders, etc., and act as a one-point digital interface for trade to interact with customs
- Exemptions are being introduced for duty-free imports by the handicraft, apparel and leather sector when exported within six months
- Customs tariff rates for import of textiles, chemicals and metal are being simplified by aligning the tariff rates with the existing exemption notifications, leading to withdrawal of such exemption notifications
- Import duty on certain inputs for manufacture of mobile phones, chargers and adapters is being reduced to boost domestic manufacture of mobile phones
- A phased manufacturing plan is being introduced for granting exemptions on import of certain inputs for use in the manufacture of wrist wearable devices, hearable devices and smart meters
- Import duty is being reduced on certain chemicals such as sodium cyanide, methyl alcohol and acetic acid
- Anti-dumping duties and CVD on certain steel products are being revoked considering the high cost of steel
- Unblended fuel to be subjected to incremental excise duty of INR 2 per litre to encourage use of blended fuel