



Union Budget 2022

Updates

Customs Act / Customs Tariff



Customs

Changes in Customs Act, 1962

Legislative Changes

- The definition of **'Proper Officer'** is modified to state that assignment of functions shall be done under updated Section 5. Also, definition of **'classes of officer of customs'** is amended to include the officers of **DRI, Customs (Audit) and Customs (Preventive)**.
- Section 5 is amended to provide power of assignment of function to 'officers of customs' by the Board. This amendment has been proposed to overcome to the judgement of **Supreme Court in Canon India Private Limited Vs Commissioner of Customs**. Also, Board can assign functions considering territorial jurisdiction, goods or class of goods etc.
- Both the above amendments have a retrospective effect.

Legislative Changes

- **Board is empowered to make rules specifying additional obligation of importers, in respect of imported goods whose value is not being declared correctly.**
- Advance Ruling provisions are amended to prescribe **appropriate fees for filing advance ruling application**. Also flexibility is given to **withdraw the application at any time before a ruling is pronounced from the current 30 days' time period**.
- The advance ruling obtained shall be **valid for a period of three years or till there is a change in law/facts**, on the basis of which the advance ruling has been pronounced, **whichever is earlier**.



Changes have been made in definitions of proper officer, officer of customs, and power of such officers, to include officers of DRI, customs (preventive), and customs (audit) with retrospective effect.

With an objective to curb undervaluation, Board is now empowered to make rules prescribing additional obligations on importers.

Customs

Changes in Customs Act, 1962

Legislative Changes

- **New Section 110AA** is inserted to provide that wherever, **an original function is exercised by an officer** and the same is the **subject matter of a subsequent inquiry, investigation, audit etc.** by any other officer, then the **officer who originally exercised such jurisdiction shall have the sole authority to take further action like re-assessment, adjudications, etc.**
- A new provision is inserted to protect the **import and export data** submitted to Customs by importers/exporters in their declarations by making the **publishing of such information, as an offence under Customs Act**, unless provided by the law.

Changes in IGCR 2017

- IGCR 2017 has been amended to provide the following:
 - (A) **Bringing automation** by way of submitting all details electronically through customs common portal
 - (B) Procedure to claim the notification benefit is being simplified by **standardizing the various forms and doing away with need of transaction-based permissions/intimations**
 - (C) **Submission of monthly statement** (earlier quarterly statement) by the importer on the Common Portal.



Publishing of import and export data of Customs is made a punishable offence under Customs Act unless specifically permitted.

Changes made under IGCR 2017 to bring automation and to remove the need of transaction-based permissions for claiming exemption under the said Rules.

Customs

Changes in Customs Act, 1962

Legislative Changes

- **New Section 110AA** is inserted to provide that wherever, **an original function is exercised by an officer** and the same is the **subject matter of a subsequent inquiry, investigation, audit etc.** by any other officer, then the **officer who originally exercised such jurisdiction shall have the sole authority to take further action like re-assessment, adjudications, etc.**
- A new provision is inserted to protect the **import and export data** submitted to Customs by importers/exporters in their declarations by making the **publishing of such information, as an offence under Customs Act**, unless provided by the law.

Changes in IGCR 2017

- IGCR 2017 has been amended to provide the following:
 - (A) **Bringing automation** by way of submitting all details electronically through customs common portal
 - (B) Procedure to claim the notification benefit is being simplified by **standardizing the various forms and doing away with need of transaction-based permissions/intimations**
 - (C) **Submission of monthly statement** (earlier quarterly statement) by the importer on the Common Portal.



Publishing of import and export data of Customs is made a punishable offence under Customs Act unless specifically permitted.

Changes made under IGCR 2017 to bring automation and to remove the need of transaction-based permissions for claiming exemption under the said Rules.

Customs

Validity of customs duty concessions

Sunset of customs duty concessions rate on 31 March 2024

- Capital goods used by IT/electronics industry (Not. 25/2002 dated 01.03.2002)

This notification exempts the specified goods falling under Chapters 69, 82, 84, 85 or 90 from whole of BCD when imported for use in manufacture of specified goods. Amongst other the notification includes capital goods required for manufacturing of:

- a) *PCB and PCB assemblies*
- b) *Resistors*
- c) *Electronic components*
- d) *Capacitors*
- e) *Loud-Speakers*
- f) *Mobile Hand sets, Lithium Ion Cell for use in manufacture of Battery of Mobile Hand sets, chargers/adapter of mobile handsets*

- Raw materials and parts for use in manufacturing electronic items (Not. 25/1999 dated 28.02.1999)

This notification provides concessional duty on inputs when imported for use in manufacture of specified goods. Amongst other the notification includes capital goods required for manufacturing of:

- a) *PCB*
- b) *LED Displays, Liquid crystal displays*
- c) *Connectors, Switches Relays*
- d) *Loudspeakers, microphones*

Project imports

Concessional BCD rate on project imports would continue to be levied at applicable rates for the projects registered until 30 September 2022 under project imports until 30 September 2023.

New projects registered after 30 September 2022 under project imports will attract a BCD rate of 7.5 percent.

The projects registered under project imports would attract a BCD rate at 7.5 percent from 1 October 2023.

Customs

Tariff changes

SWS levy rationalisation and clarification

- Social welfare surcharge payable would be nil in cases where the aggregate of customs duties (which form the base for computation of SWS) is zero even though SWS has not been exempted. This has been done to overcome the judgement pronounced by the Supreme Court in the matter of Unicorn Industries vs. Union of India

Revocation of anti-dumping duty on specified steel products

- Anti-dumping levy has been revoked on import of the following goods:
 - (a) Straight length bars and rods of alloy steel originating in or exported from China
 - (b) High-speed steel of non-cobalt grade originating in, or exported from Brazil, China, and Germany.
 - (c) Flat rolled product of steel, plated or coated with alloy of aluminum and zinc originating in, or exported from China, Vietnam, and Korea Republic

AIDC and health cess levy rationalization

- Various notifications have been amended to provide exemption of AIDC and health cess, besides the applicable BCD, to remove ambiguity.

Tariff changes to align with HSN 2022 complementary changes

- Amendments have been proposed to align the Indian tariff with the complementary amendments to the HS 2022 published by WCO. These complementary amendments include minor changes across chapters in the tariff, with an aim to bring greater clarity. Further, new tariff entries are introduced by accommodating requests from different ministries and departments.

Others



Other changes

Rescission of obsolete notifications

About 17 notifications have been rescinded; some of these have become obsolete or redundant; for some, their validity had expired.

Clarification

It has been clarified that for an EV kit to be eligible for duty benefits available to a CKD form of an EV (including commercial, passenger, and two-wheeled electric vehicles), each individual component in the kit need not be in a disassembled form.

Further, it has been clarified that even if some components are missing in the EV kit, the benefit of a concessional rate of duty available to CKD/SKD kits would still be available (provided that the kit as presented has the essential character of an EV).

SEZ

Proposed reforms in SEZ, along with reforms in customs administration of SEZ. Reforms expected by 30 September 2022.

Proposed to replace existing law governing SEZs with a new legislation to enable States to become partners in 'Development of Enterprise and Service Hubs'.

Government will also undertake reforms in customs administration of SEZs with a view to promote ease of doing business. Welcome move – though no express light yet as to what may be expected from the new draft SEZ Act (change in treatment on domestic sale from SEZ to DTA, relaxed WFH norms, removal of forex requirement for service supplies to DTAs etc.)

Focus expected to shift from export to employment and economic promotion – in line with Baba Kalyani – led panel recommendations.

Rates



Customs

Increase in customs duty rates to encourage domestic manufacturing

Description of goods	Up to 1 February 2022	From 2 February 2022
Goods used in manufacturing static converters of automatic data processing machines: PCBA, transformer, battery, and copper enameled wires	Nil	Applicable rate
Specified goods for public mobile radio trunked service and its parts	Nil	Applicable rate
C-block compressors and crankshafts used in manufacturing refrigerator compressors	5%	7.5%
Over-load protector and positive thermal coefficient used in manufacturing refrigerator compressors	5%	10%

Customs

Increase in customs duty rates to encourage domestic manufacturing

Description of goods	Up to 31 March 2022	From 1 April 2022
Transformers, reactors, circuit breakers, etc.	7.5%	Applicable rate
Smart Meters	15%	25%
Printed Circuit Board Assembly of Smart Meters	10%	20%
Parts/sub-parts, components for use in manufacture of broadband modem	Nil	Applicable rate
Parts/ sub-parts, components and accessories for use in manufacture of routers other than PCBA, charger.	Nil	Applicable rate

Customs

Reduction in customs duty rates on inputs required for domestic manufacturing

Description of goods	Up to 31 March 2022	From 1 April 2022
Camera lens for use in manufacturing a camera module for cellular mobile phone	10%/15%	2.5%
Specified parts for use in manufacturing transformers for chargers/adapters	10%/15%	5%
Copper/aluminium-based copper clad laminate for use in manufacturing PCB/MCPCB	5% / 7.5%	Nil
Electric insulators of any material	10%	7.5%
Insulating fittings for electrical machines etc.	10%	7.5%

PMP – Make in India boost



Customs

PMP for wrist wearable devices (commonly known as smart watches) to promote indigenous manufacturing

S. No.	CTH	Commodity	From	To			
				2022-23	2023-24	2024-25	April 2025 onwards
The following parts (s. no. 1 to 7) used for manufacturing wearable devices fall under tariff item 8517 62 90 of the customs tariff:							
1.	8517 79 10	Printed circuit board assembly	NIL	NIL	10%	15%	15%
2.	8544	Charging cable	10%	NIL	5%	10%	15%
3.	39, 73, 85	Specified parts of wearable devices	Per CTH	NIL	5%	10%	15%
4.	8507 60 00/ 8507 80 00	Battery	15%	NIL	5%	10%	15%
5.	8517 79 90	Display assembly	NIL	NIL	NIL	5%	10%
6.	8501	Vibrator motor	10%	10%	10%	10%	10%
7.	Any chapter	Parts, sub-parts, and raw materials for use in manufacturing the s. no. 1 to 6 above	Per CTH	NIL	NIL	NIL	NIL
8.	8517 62 90	Wrist wearable devices	20%	20%	20%	20%	20%

Note: IGCR conditions shall apply for the items in s. no. 1 to 7 above.

Customs

PMP for hearable devices to promote indigenous manufacturing

S. No.	CTH	Commodity	From	To			
				2022-23	2023-24	2024-25	April 2025 onwards
The following parts (s. no. 1 to 6) used for manufacturing hearable devices fall under sub-headings 8518 21, 8518 22, 8518 29, or 8518 30 of the customs tariff:							
1.	8518 90 00	PCBA for hearable devices	10%	NIL	10%	15%	15%
2.	8544	USB cable	10%	15%	15%	15%	15%
3.	73, 74, 85	Specified parts of hearable devices	Per CTH	NIL	5%	10%	15%
4.	8507 60 00/ 8507 80 00	Battery	15%	NIL	5%	10%	15%
5.	8518 90 00	Speaker assembly (pre-assembled speaker driver with protective mesh, but not including PCBA or battery)	10%	NIL	NIL	5%	10%
6.	Any chapter	Parts, sub-parts, and raw materials used in manufacturing s. no. 1, 3, 4, and 5 above	Per CTH	NIL	NIL	NIL	NIL
7.	8518 21, 8518 22, 8518 29 and 8518 30	Hearable devices	15%	20%	20%	20%	20%

Note: IGCR conditions shall apply for the items in s. no. 1 to 6 above.

Customs

PMP for smart meters to promote indigenous manufacturing

S. No.	CTH	Commodity	From	To			
				2022-23	2023-24	2024-25	April 2025 onwards
The following parts (s. no. 1 to 6) used for manufacturing smart meters fall under tariff item 9028 30 10 of the customs tariff:							
1.	9028 90 10	Assembled/populated PCB for smart meters	7.5%	20%	20%	20%	20%
2.	8517 69 90	Communication module	10%	NIL	NIL	5%	10%
3.	8536 49 00	Relay	10%	5%	10%	10%	15%
4.	8517 71 00	Antenna	NIL	NIL	NIL	5%	10%
5.	8524 11 00/ 8524 91 00	LCD and backlight for LCD	15%	NIL	5%	10%	10%
6.	8506 50 00	Battery	10%	NIL	5%	10%	10%
7.	Any chapter	Parts, sub-parts, and raw materials used in manufacturing s. no. 1 to 6 above	Per CTH	NIL	NIL	NIL	NIL
8.	9028 30 10	Smart meters	15%	25%	25%	25%	25%

Note: IGCR conditions shall apply for the items in s. no. 1 to 7 above.

Direct Tax

- *Corporate tax rate card*
- *Tax incentives and promoting voluntary tax compliance*
- *Litigation management*
- *Assessment related proposals*
- *Taxation regime for Virtual Digital Assets (VDA)*
- *TDS related proposals*
- *Deductions related proposals*
- *Business re-organization related proposals*



Corporate tax rate card

Type of company*	Income up to INR 10 million		Income above INR 10 million and up to INR 100 million		Income above INR 100 million	
	Normal provisions	MAT	Normal provisions	MAT	Normal provisions	MAT
Domestic company: Normal rate	31.2%	15.6%	33.38%	16.69%	34.94%	17.47%
Domestic company: Turnover up to INR 4 billion in FY20-21	26%	15.6%	27.82%	16.69%	29.12%	17.47%
Domestic company: Does not avail tax incentives or exemptions	25.17%	Not applicable	25.17%	Not applicable	25.17%	Not applicable
Domestic company: New manufacturing company (set up on or after 1 March 2016) - Does not avail tax incentives/exemptions	26%	15.6%	27.82%	16.69%	29.12%	17.47%
Domestic company: New manufacturing company (set up on or after 1 Oct 2019) - Does not avail tax incentives/exemptions	17.16%	Not applicable	17.16%	Not applicable	17.16%	Not applicable
Foreign company	41.6%	15.6%	42.43%	15.91%	43.68%	16.38%

No change in tax rate except surcharge rationalization in certain cases

Tax incentives and promoting voluntary tax compliance

Tax Incentives

Extending the sunset clause for eligible new manufacturing companies

- Period of commencement of manufacturing or production by eligible new manufacturing domestic companies extended by a year to 31 March 2024.

Extending the sunset clause for eligible new manufacturing companies

- The period of incorporation of start-ups (eligible for tax holiday) extended by a year to 31 March 2023.

Promoting voluntary tax compliance

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.

Highlights



Extension of sunset clause for eligible start-ups and new domestic manufacturing companies by a year

Provisions introduced to enable filing of the updated return of income upon payment of 'additional income tax'

Litigation management

Procedure where an identical question of law is pending before the jurisdictional High Court or the Supreme Court

- Effective 1 April 2022, the litigation management measures are introduced to reduce litigation/appeal on identical question of law.
- Applicable when an appeal by the revenue is pending on any identical question of law in case of the same taxpayer or another taxpayer before the jurisdictional High Court or the Supreme Court or in a special leave petition.
- Collegium of two or more CCIT or PCIT or CIT to decide if filing an appeal needs to be deferred.
- Tax authorities to file an application with the relevant appellate authority for deferral of appeal filing until the identical question of law becomes final in the other case.
- Acceptance of taxpayer that question of law pending is identical is a prerequisite

Other proposal(s)

- Where an order is passed by the AO for a default in the deduction/collection or in payment of TDS/TCS, interest for such default is to be paid in accordance with the AO's order.

Highlights



Revenue's appeal deferred until identical question of law is decided by the jurisdictional High Court or the Supreme Court

Computation of interest on failure to deduct/collect or pay TDS/TCS per AO's order

Assessment related proposals

Amendments to re-assessment provisions

- Requirement to seek fresh approval from a “specified authority” before issuing a notice for the return of income or providing the opportunity to be heard done away with in certain scenarios
- The scope of information suggesting that income chargeable to tax has escaped assessment has been enhanced to include the following:
 - Any audit objection, or
 - Any information received from a foreign jurisdiction under an agreement
 - Information collected under faceless scheme notified for specified provisions
 - Information that requires action in consequence of an order of a tribunal or court
- Restrictions on re-opening assessments in search, survey, and requisition cases for three years, immediately preceding the year of search or survey, have been removed retrospectively from 1 April 2021.
- Reassessment scope after three years up to 10 years has been expanded to cases where AO has books and documents that reveal income escaping assessment is represented in the form of:
 - An asset; or
 - Expenditure with respect to a transaction/event or occasion, or
 - An entry in books amounting to INR 5 million or more

Scheme for faceless proceedings

- Faceless proceedings before DRP, TP proceedings and the tribunal has been deferred to 31 March 2024.
- The Faceless Assessment scheme is proposed to be revamped, owing to challenges faced by the administration and taxpayers

Highlights



Reassessment provisions rationalised

Faceless assessment proceedings revamped

Taxation regime for Virtual Digital Assets (VDA)

Virtual digital assets

- 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.

Taxation on gift

- A gift of virtual digital assets is taxable.

TDS

- 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.



Highlights

Virtual digital assets have been defined to include cryptocurrency, non-fungible tokens. Other digital assets to be notified by the central government

TDS related proposals

TDS on benefit or perquisite

- Provision of benefits or a perquisite exceeding INR 20,000 to a resident during a financial year (in the course of business or profession) to be subjected to TDS at the rate of 10 percent.
- Where cash part is inadequate to cover TDS liability, the provider of the benefit or perquisite needs to ensure that the tax has been paid by the recipient of the benefit or perquisite.
- The provisions do not apply to certain individuals or HUF.
- This amendment will take effect from 1 July 2022.

Refund of tax withholding under net of tax contracts

- Application for refund of tax withheld on NR payments (for net of tax contracts where tax is borne by the payer) and paid to the government on or after 1 April 2022, to be made to the AO
- An order passed by the AO, pursuant to the above, can be appealed to CIT (appeals).

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

Highlights



TDS proposed on benefit or perquisite

Refund of TDS in gross-up contracts can be requested from AO

Only preceding year's return filing relevant for applicability of higher TDS/TCS rates in case of non-filers

Deductions related proposals

Other proposals

- It is clarified that provisions for disallowance of expenditure related to exempt income will apply, even in cases where no exempt income has accrued or arisen or been received during a year.
- To provide that conversion of interest payable into debenture or any other instrument shall not be construed as actual payment and thus, will not be considered as eligible for deduction.
- It is clarified that deduction will not be allowed for expenditure incurred for a purpose that is an offence under any law; or for compounding of an offence under any law; or for providing any benefit or perquisite to a person where acceptance of such benefit or perquisite violates any law.

Treatment of cess and surcharge

- It is clarified with retrospective effect from FY 2004-05 that “tax” includes surcharge or cess and is not an allowable business expenditure

Highlights



Clarifications proposed for various deductions

Surcharge and education cess to be disallowed retrospectively

Business re-organization and related proposals

Business re-organisation

- Successor entity to be enabled to file modified return within six months from the end of the month of issuance of the order.
- Any proceedings made on predecessor during pendency of business re-organisation to be deemed to be made on the successor.
- The amendments are proposed to be effective from FY21-22.

Clarificatory amendments

- Reduction of goodwill from block of assets to be treated as transfer for purpose of capital gains.
- Definition of 'slump sale' amended to substitute the word 'sales' with 'transfer.'

Highlights



Litigation management in case of succession

Clarificatory amendment proposed for goodwill and slump sale