

# BUDGET

## ANALYSIS 2023

**KKGS and Co**  
**Chartered Accountants**



We are glad to present the Budget analysis of FY 2023-24. Our Budget analysis focuses on Direct Tax and Indirect tax amendments.

Unless otherwise specified all amendments are applicable effective 01 April 2023.

We hope you shall find this analysis useful and we also solicit your feedback to improvise upon our service portfolio.

### **Our Offices:**

- 1 Plot No.22, Abhi -Ani Terrace, RF - 6, First Floor, Gangai Amman Koil 4th Street, Vadapalani, Chennai - 600026.
  - 2 Door No. 10/19, Kumaran Rice Mill, KasimajorpuramNannagaram Road, Courtallam, Tenkasi - 627802.
  - 3 Door No. 33-14-5b, Kadiyalavari Street, Sitaramapuram, Vijayawada - 520002.
- Phone:** 044 - 43805316  
**Email:** [www.kkgsandco.com](http://www.kkgsandco.com)  
[somug@kkgsandco.com](mailto:somug@kkgsandco.com)  
[kamaleshak@kkgsandco.com](mailto:kamaleshak@kkgsandco.com)  
[Jhansiu@kkgsandco.com](mailto:Jhansiu@kkgsandco.com)

# KKGS BUDGET ANALYSIS 2023

## I. Amendments in Direct Tax

### A. Tax Rates

- Tax Rates for Individuals and HUFs - No Change in Tax Rates as per Old Tax Regime
- Tax Rate for Individuals and HUFs or AOP [other than a cooperative society] or BOI, or an artificial juridical person–New Regime.

#### Existing Tax Rates

SN	Total income	Tax Rate
1	Up to 2,50,000	Nil
2	2,50,001 to 5,00,000	5%
3	5,00,001 to 7,50,000	10%
4	7,50,001 to 10,00,000	15%
5	10,00,001 to 12,50,000	20%
6	12,50,001 to 15,00,000	25%
7	Above 15,00,000	30%

#### Revised Tax Rates

SN	Total income	Rate of tax
1	Up to 3,00,000	Nil
2	3,00,001 to 6,00,000	5%
3	6,00,001 to 9,00,000	10%
4	9,00,001 to 12,00,000	15%
5	12,00,001 to 15,00,000	20%
6	Above 15,00,000	30%

### B. Surcharge:

SN	Total income	Rate
1	Up to 50 Lakhs	Nil
2	50 Lakhs to 1 Crore	10%
3	1 Crore to 2 Crore	15%
4	2 Crore to 5 Crore	25%
5	Above 5 Crores	25%

The maximum rate of surcharge on tax payable on dividend income or capital gain referred to in Section 111A, Section 112, Section 112A or Section 115AD shall be 15%.

### C. Income tax Rebate

- Assessee opting for old regime will continue to avail rebate on Income tax of INR 12,500 or actual tax whichever is less, if the income is less than INR 5 lakhs.
- Assessee opting for new regime shall avail rebate on Income tax of INR 25,000 or actual tax whichever is less, if the income is less than INR 7 Lakhs.

## *D. Special Rate for Cooperative Society Sec 115BAE*

- Income from Manufacturing – 15%
- Short term Capital gains on transfer of non depreciable assets – 22%
- Any other Income other than manufacturing – 22% and no deduction or allowance in respect of any expenditure
- Excessive profits as per 92BA relating to Specified Domestic Transaction as determined by AO is taxed at 30%
- A flat surcharge of 10% is leviable.
- AMT and AMT Credit provisions are not applicable

### **Conditions for the Cooperative society.**

- Registered on or after 01 Apr 2023 and commenced manufacturing on or before 31 Mar 2024
- Not formed by splitting up or reconstruction of any existing business
- No usage of Second hand Plant and Machinery
- Society not to be engaged in any other activity other than manufacturing, research and distribution of manufactured products
- Other generic deductions and weighted deductions shall not be available
- Society to file a form before filing the IT Return
- Option once exercised shall remain forever.

### **Tax Rate for Income from Online Games 115BBJ**

- Net winnings from online games are to be taxed at 30%. Consequential amendment has been made in Sec 115BB to exclude Income from Online games. Computer Resource, Internet and Online game defined.

## Scope of Income and Exemption

- Eff 01 Apr 2023, Not Ordinary Residents shall also pay tax besides Non residents on Gift Income received from Residents– Sec 9 Income deemed to accrue or arise in India.
- Exemption u/s 10AA by SEZ Units shall be allowed only if the ITR is filed within the due date. SEZ Unit can claim an exemption only if it realises its receivables from Export turnover within 6 months from the end of the financial year or a specified period. Convertible foreign exchange and Export Turnover are defined.
- Maturity proceeds from Life Insurance policies (other than ULIP) where premium payable exceeds INR 5 Lakhs in any year shall no longer be exempt from Income tax. Receipt of maturity proceeds upon death and upon completion of term shall continue to be exempt if the yearly Insurance premium is less than INR 5 Lakhs.
- Receipts by registered Agniveers or their nominees from Agniveer Corpus funds are exempt from tax
- Exemptions are no longer available for:
  - i) Income of News agencies functioning solely for the collection and distribution of news. - 10(22B)
  - ii) Income of the North-Eastern Development Finance Corporation Ltd. – 10(23BBF)
- An Exemption is available for AIF category III located in IFSCs subject to specified conditions including that the Fund should be registered with SEBI regulations. It is proposed to amend the explanation to include that those Funds registered with 'Financial Services Centres Authority (Fund Management) Regulations, 2022' are also eligible for claim exemption. - 10(4D)
- An Exemption is available for NR on income accrued/received from specified derivative products. It is proposed to exempt the “distribution of income on offshore derivative instruments” provided that distributed incomes shall be exempt only to the extent of income offered to tax by the offshore banking unit. - 10(4E).
- The following redundant exemptions, in view of the FYs mentioned in the respective clauses, are to be removed:
  - i) The Income of Credit Guarantee Fund Trust for Small Industries and Small Industries Development Bank of India from 1 April 2002 to 31 March 2007 – 10(23EB)
  - ii) Income of a person resident in the district of Ladakh up to 31 March 1988 – 10(26A)
  - iii) income capital asset transfer of a power generation or transmission or distribution undertaking, where such transfer before the 01 April 2006 – 10(41)
  - iv) Income of the National Financial Holdings Company Limited till 31 March 2014 – 10(49)
- Income of a Body or Authority or Board or Trust or Commission established by Central or State Act for dealing in Housing accommodation, Planning, development or improvement of cities, towns and villages and other welfare activities for the benefit of general public is exempt u/s 10(46A)

## **Rationalisation of Strategic Disinvestment and enabling provision to carry forward losses.**

- Definition of Strategic Disinvestment is widened to include shareholdings by PSUs besides Central and State Governments (presently, it is only shareholdings by Central and State Governments) to enable the amalgamated Company to carry forward the Unabsorbed depreciation and accumulated losses.
- Dilution of stake below 51% condition is applicable only when the original stake was above 51% and dilution in control can happen either individually or collectively by Central or State or PSUs.

## **Deduction towards Agniveer Corpus fund wrt to Agnipath Scheme – Sec 80CCH**

- Contribution made by an Individual assessee to his Agniveer Corpus Fund and the contribution made by the Central government shall qualify for Deduction under both old Regime and New Regime of taxation.
- Contribution made by the Central Government to Agniveer Corpus fund towards the account of an Agniveer shall be taxed as Salaries in the hands of the Agniveer.

## **Removal of specified funds from 80G deduction eligibility wrt donation**

- Following funds have been removed from being eligible for Donation contribution to claim deduction u/s 80G
  - (a) The Jawaharlal Nehru Memorial Fund
  - (b) The Indira Gandhi Memorial Trust and
  - (c) The Rajiv Gandhi Foundation

## **Tax Deducted at Source / Taxes collected at Source**

- TDS on withdrawal from Employee's Provident Fund Scheme in respect of non furnishing of PAN cases stand reduced to 20% from maximum marginal rate - Sec 192A.
- Taxes shall be deducted at rates in forces while effecting payments towards Interest on Securities (including securities held in demat form and listed in recognized stock exchange in India)– Sec 193.
- Scope of Tax deduction under section 194B widened to include gambling, betting and all other winnings not specifically covered earlier and the threshold limit is INR 10,000.

# KKGS BUDGET ANALYSIS 2023

## Insertion of new section 194BA

- ✓ Tax on the income by way of winnings from online games deductible at the rate of 30% along with a surcharge applicable with effect from 01 July 2023.
- ✓ The withdrawal from the user account shall be taxable at the time of such withdrawal and the balance of net winnings available in the user account if any, shall be taxed at the end of the financial year.
- ✓ In the case where the winnings are wholly or partly in kind, the payer shall ensure that tax has been paid in respect of the net winnings before disbursal.
- ✓ Threshold limit is INR 10,000 per year per recipient
- The threshold limit for TDS u/s 194N at 2% while drawing cash from Bank for a Cooperative society alone is enhanced from INR 1 Crores to INR 3 Crores
- TDS as per section 194R relating to receipt of benefit or perquisite in respect of business or profession at the rate of 10% shall be applicable irrespective of the modes of payment i.e., party or fully in kind or Cash irrespective of whether it is convertible into money or otherwise.
- TDS on income from units held by non-residents shall be lower of the following:
  - DTAA rates subject to production of Tax Residency Certificate and
  - 20%
- Income from Units of a Business trust under section 194LBA shall also apply for lower or nil deduction of tax u/s 197.

## Taxes collected at Source

- TDS and TCS at higher rates respectively as per section 206AB and 206CCA, exclude non-residents who do not have a permanent establishment in India and person who is not required to furnish the return of income as notified by the Central government

## Changes in TCS Rates – Sec 206C

- Every authorised dealer who receives an amount for remittance out of India under the Liberalised Remittance Scheme or a seller of overseas tour program package shall now be liable to collect the tax at the rate of 20% instead of 5%, if it is for a purpose other than for education or medical treatment - 206C(1G)
- Present and proposed TCS rates are portrayed below effective 01 Jul 2023.

SN	Description	Existing Rate	New Rates
1	Repayment of Educational Loan	0.50% if amount exceeds INR 7 Lakhs	
2	Education and Medical treatment	5% if amount exceeds INR 7 Lakhs	
3	Overseas tour package	5% without threshold limit	20% without threshold limit
4	Any other case	5% if amount exceeds INR 7 Lakhs	20% without threshold limit

## **Allowances and Disallowances**

- Mode of receipt of Benefits or Perquisites in respect of Business or Profession shall be either party or fully in cash or in kind or in the form of a benefit irrespective of whether they are convertible into money or not to bring them under tax net.
- Assessee shall submit a statement of expenditure to Income tax authorities to qualify for claiming deduction u/s 35D
- The definition of NBFC is to be specified by the Central Government and currently is being defined in the respective sections Sec 43B (Interest payable to NBFC) and 43D (Income of Public financial institutions).
- Amount due to MSME units remaining unpaid beyond the time limit specified in the MSME Act stand permanently disallowed despite subsequent payment. – Sec 43B
- It is provided that provisions of tax audit shall not be applicable to an Assessee who offers income in accordance with presumptive taxation basis of business (Sec 44AD or Profession Sec 44ADA) – Sec 44AB.
- Increase of threshold limit for opting for presumptive taxation basis in case of (44AD and 44ADA)
  - i. Sec 44AD Business is from ₹ 2 crores to ₹ 3 crores and
  - ii. Sec 44ADA Profession from ₹ 50 lakhs to ₹ 75 lakhs.
- Limitation on interest deduction under sec 94B, on borrowings from non-resident associated enterprises is presently not applicable to Banking companies and such a benefit is extended to notified NBFCs as well.

## **269SS - Mode of taking or accepting certain loans, deposits and specified sum**

- Permissible limit increased from INR 20,000 to INR 2,00,000 where a deposit is accepted/ loan is taken by a primary agricultural credit society or a primary cooperative agricultural and rural development bank from its member.
- “Co-operative bank”, “primary agricultural credit society” and “primary co-operative agricultural and rural development bank” shall have the meanings as in Explanation to sub-section (4) of section 80P.

## **269T - Mode of repayment of certain loans or deposits**

- Permissible limit increased from INR 20,000 to INR 2 Lakhs where a deposit is paid by/ loan is repaid to a primary agricultural credit society or a primary cooperative agricultural and rural development bank by its member.

## **Set off and Carry forward of Business Losses**

- No set-off or carry forward of loss is allowed in respect of the year in which presumptive taxation is opted by Non Residents engaged in exploration of mineral oils and operation of aircrafts.
- Section 72AA is amended to allow carry forward of accumulated losses and unabsorbed depreciation in the case of amalgamation of one or more banking company with any other banking institution or a company consequent to a Strategic Disinvestment, provided such amalgamation happens within 5 years of Strategic Disinvestment. - Retrospective amendment from 01 Apr 2022.

## **Startup Related**

### **Startups to carry forward 10 years losses despite change in shareholding beyond 51% - Sec 79**

- Losses of eligible startups only upto 7 years since incorporation were eligible to be carried forward despite change in shareholding beyond 51% has now been increased to 10 years.

### **Sunset clause for eligible start-up extended from 2023 to 2024. The**

- The sunset clause for incorporation of Eligible start up extended from 31 March 2023 to 31 March 2024 for claiming deduction u/s 80 IAC

## **Charitable Trusts and other Institutions**

- Trust and Institutions under the first regime, Second Regime and 80G regime shall apply for provisional approval only if the activities are not commenced as on the date of application and if activities are already commenced, they shall apply only for Regular approvals.
- The application shall be disposed off within 6 months from the end of the month in which application is made and regular approval is valid for a period of 5 years. – Effective from 01 Oct 2023.



## **Assessment Proceedings / Income tax Authorities / Penalty**

### **Section 132 – Powers of IT Authorities**

- The IT Authorities may require the services of any other person or entity besides police officials to assist them in undertaking Search operations.
- To undertake valuation of property, valuation Reference shall be given to any other person or entity or valuer registered under law as approved by the superior IT Authorities.
- Power to call for information and to inspect registers of Companies have been extended to Joint Commissioner (Appeals) besides Commissioner (Appeals). – Sec 133 and 134.
- A proviso has been introduced to ratify the direction or amendment made by the Central government upto 31 March 2022 in respect of the powers to collect information in the faceless jurisdiction.

### **Initiation of Audit and Valuation of Inventories by IT Authorities**

- IT Authorities were empowered to initiate the Audit of accounts of Assesseees by a Chartered Accountant to validate the correctness of accounts and other reasons. The powers shall now also be extended to undertake valuation of Inventories by Cost Accountants.

### **Time limit to file ITR u/s 148 firmed up to 3 months**

- Time limit to furnish Return of Income under section 148 is restricted to 3 months from the end of the month in which notice is issued and additional time granted by the AO in pursuant to the application made by the Assessee. Return filed post expiry of the time limit shall not be considered as IT Return filed u/s 139.
- Rectification of Assessment order in respect of Income offered in a year and Taxes deducted in subsequent year.
- The AO shall revise the Assessment order on an application made by the Assessee in respect of an Income declared in a year for which taxes were deducted in the subsequent year. Such request shall be made within 2 years from the end of the financial year in which the taxes were deducted. The time limit for passing Rectification order of 7 years shall be reckoned from the end of the year in which taxes were deducted.

## **Time limit for responding to TP Notices**

- Section - 92D Maintenance of Transfer pricing documentation in respect of International transactions or Specified Domestic transactions now requires furnishing any information or document within a period of 10 days from the date of receipt of a notice issued instead of 30 days, - Retrospective from 01 Apr 2022.

## **Assessment proceedings under Business reorganisation**

- In the case of Business reorganisation in pursuant to the IBC Proceedings, the successor shall file a modified return within 6 months from end of the month in which the Business reorganisation order was passed.
- If any assessment or reassessment proceedings have already been completed, the AO shall modify the Assessment order modifying the Income and Tax. If such proceedings are pending, the AO shall consider the modified return and pass orders accordingly.

## **Interest payable while filing Updated Return**

- Interest payable under section 234B of the IT Act towards shortfall in payment of Advance tax in respect of an Updated Income tax return is clarified to be payable only on the shortfall i.e., Assessed tax less Advance tax – Amendment of Clarificatory in nature and retrospective from 01 Apr 2022.

## **Interest on refunds**

- Consequential amendment, effective from 01 Oct 2023, in respect of an application made by the assessee u/s 155(20) for calculating interest at the rate of 0.50% pm from the date of such application to the date on which the refund is granted.
- While calculating additional interest payable on Income tax refund, the period from the date on which refund was withheld by the AO as per sec 245(2) till the date on which such assessment or reassessment is made shall be excluded.

## Appealable orders before Joint commissioner (Appeals)

- Sec 246 dealing with appeal functions of Deputy Commissioner (Appeals) stands substituted with Joint Commissioner (Appeals) and the appealable orders shall be as follows:
  - a. an order being an intimation u/s 143(1), 200A(1), 206C(6A)
  - b. an order u/s 143(3), 144, 147, 201, 206CB(1)
  - c. an order imposing a penalty under Chapter XXI
  - d. an order under section 154 or section 155 amending any of the orders mentioned above
- No appeal possible, if such order is passed by an income-tax authority above the rank of Deputy Commissioner
- Any appeal referred above and pending before the Commissioner (Appeals) may be transferred to the Joint Commissioner (Appeals) and can be continued as such. Similarly, from Joint Commissioner (Appeals) to Commissioner (Appeals). In such transfers the appellant shall be given an opportunity of being reheard.
- Disposal of appeal may be faceless for more transparency and accountability.
- Provisions of section 241A relating to withhold refunds repealed and rationalised with Sec 245 which enables the AO to setoff refunds against taxes payable. Sec 245 is integrated deal with both withholding of refunds and Setting off refunds against tax dues.
- 245D Settlement of Cases - to rectify any mistake apparent from the record, the time-limit for amending any such order or filing of rectification application under sub-section (6B) expires on or after the 1st day of February, 2021, but before the 1st day of February, 2022, the time-limit shall be extended to the 30th day of Sep 2023. (**wref 01 Feb 2021**)
- Sec 271C amended so as to provide that a person shall be liable to pay penalty for failure to ensure payment, in addition to failure of payment, of whole or any part of tax as required under the provisions. Also requires, as penalty, a sum equal to the amount of tax which such person failed to pay or ensure payment of.
- Section 271C of the Act has provisions for penalty for failure to deduct tax at source and Section 276B of the Act makes provisions for prosecution for failure to pay tax to the credit of Central Government hence consequential amendments in Sec 271C have been made with respect to sec 194R and 194S and in 276B with respect to sec 115-O, 194B, 194R and 194S
- New section 194BA relating to winnings from online game and corresponding amendments in Sec 271C and 276B have been made.

## **271FAA -Penalty for furnishing inaccurate statement of financial transaction or reportable account**

- Imposition of penalty of fifty thousand rupees for furnishing inaccurate information in the statement of financial transaction or reportable account.
- Authority imposing penalty shall be the same as the income tax authority u/s 285BA(1).
- Additionally pay a sum of five thousand rupees for every inaccurate reportable account and the reporting financial institution shall be entitled to recover the sum so paid on behalf of such reportable account holder or to retain, equivalent amount out of any moneys that may be in its possession.

**Section 276A** provides for punishment for non-compliance of the provisions of subsections (1) and (3) of section 178 (Company in Liquidation) however no proceeding shall be initiated under this section on or after 1st April, 2023.

- Contribution made by the Central government to the Agniveer Corpus fund in respect of an Agniveer shall be considered as Salaries for Agniveers and a corresponding deduction is also available for self and central Government contribution

## II. GST Amendments

- Person who are compulsorily required to undertake GST registration and engaged exclusively in the business of supplying goods or services or both are not liable to tax or wholly exempt from tax under the Act shall not undertake GST registration.  
– Retrospective amendment 01 Jul 2017.
- Registered persons supplying goods through ecommerce operators shall also opt for composition Levy.
- ITCs in respect of expenditure incurred towards Corporate Social Responsibility provisions shall not be claimed as eligible ITC
- Interest on GST refund shall be paid from the date of submission of application till the date of refund, if the delay exceeds 60 days.
- Penalty on E commerce operators who permit ineligible persons from effective sales through their platform shall be higher of the following:
  - INR 10,000
  - Tax ought to have been avoided
- Certain specific offences have been decriminalised and monetary threshold for initiation of prosecution enhanced from INR 100 Lakhs to INR 200 Lakhs.
- Persons involved in issuing fake invoices are not eligible to compound the offence and the amount of compounding of certain offences have been minimised.
- Supply of Goods from a non taxable territory to another non taxable territory without goods entering into India is exempt retrospectively from 01 Jul 2017
  - High Sea Sales is exempt retrospectively from 01 Jul 2017
  - No refund in respect of any taxes paid towards the above exemptions retrospectively.

Thank You

## TAX PLANNING

Those who **PLAN**

YOU

TAX

Those who **DON'T**

YOU

TAX

Give us the opportunity to help you plan well for your future.