lawstreetindia All rights
reserved

Experts react to Budget 2021-22 proposals !

Feb 01,2021

"Considering we are still battling the Corona virus, it is no surprise that this year's budget focused on improving healthcare and infrastructure. Health allocation jumped 137% for 2021-22 compared with allocated budget in 2020-21. On the infrastructure side-National Asset Monetizing Pipeline launched to monitor asset monetization process, highway and road works announced in Kerala, Tamil Nadu, West Bengal and Assam, Vehicle Scrapping Policy to phase out old and unfit vehicles, 100% electrification of railways are some of the significant announcements made in the budget.

Besides these two areas, at a cursory glance, a few interesting announcements and initiatives will be the completion of the strategic disinvestment of BPCL, Air India, Shipping Corporation of India, Container Corporation of India, IDBI Bank, Pawan Hans among others, for which, in some cases, would also require legislative amendments. The leasing of aircraft seems to be a good move to boost the airline sector. Adoption of new technology will continue being a focus or perhaps only increase with the increase in digitalisation. While the Finance Minister did not tinker with the income tax slabs and no major announcements were made on the Direct Tax front, from a citizen point of view, senior citizens above the age of 75 will be much relieved with the doing away of income tax returns, subject to fulfilment of certain conditions.

Another interesting development is on the side of reopening of tax assessment, the time limit of which has been reduced to three years from earlier six years (except in case of serious tax evasion cases, wherein, the assessment can be reopened up to ten years). Some relief for higher income tax payers as no Covid cess was announced for them as earlier debated in the section of news.

Another much awaited welcome step is that the Government has decided to set up an asset reconstruction company that will take over the bad loans of banks, giving them flexibility to finance the economic recovery.

From a sectoral focus, the Government has touched upon several interesting initiatives towards:

1. Disinvestment: Apart from the disinvestment in identified companies, the privatisation of the two public sector banks and one general insurance company, the disinvestment of LIC through initial public offering (IPO) is definitely a big move. While it will help raise revenue for the Government, it is expected to improve efficiency and provide momentum to privatisation. It will be interesting to see which would be the next list of companies for strategic sale identified by Niti Aayog, as announced in the budget.

2. Banking and finance: The Hon'ble FM's announcement towards further infusion of Rs. 20,000 crore for public sector banks will certainly help boost the functioning of public sector banks. A welcome move is the introduction of bad banks which will aim to deal with non-performing assets of the financial sector. However, time will tell if the bad banks have effectively shifted the toxic assets of a bank to infuse fresh growth stimulus.

3. Capital Markets and AIFs: One of the big announcements towards boosting investor attention is the increase in FDI limit to 74% from 49% in the insurance industry. A welcome change, this will allow more participation of foreign JV partner/s along with Indian key management personnel. All in all, this move will help increase capital inflow in insurance companies and allow insurance companies to grow and expand. Additionally, there have been several measures to make it easy for foreign investors to invest in India's infrastructure projects such as the proposal to make dividend payments to REIT (estate investment trusts) and InvIT's (Infrastructure investment trusts) exempt from TDS. This too, will instill more investor interest allowing further development and issues of newer ReITs and InvITs.

4. Corporates, businesses and start-ups: The FM touched upon plans to unveil and consolidate provisions of the Sebi Act, Depositories Act, Securities Contracts Regulation Act, and the Government Securities Act. These, of course, will be much anticipated. Safeguarding the gig economy and platform workers has been in the works for a while and Budget 2021 has aimed to address this matter through social security measures. Start-ups and small businesses will certainly welcome the extension of 1 year exemption on capital gains on investments, the decriminalization of the LLP Act to improve ease of doing business and the removal of the threshold limits of paid-up share capital for a one person company. With the support extended to individuals, we will certainly see a spike in NRIs setting up One Person Companies (OPCs). On a cautionary note, businesses will need to be more vigilant towards the deposit of employee's contribution to PF. Nevertheless, if the proposals are implemented in letter and spirit, this move will provide more confidence and clarity to investors and stakeholders.

5. Dispute resolution: The Government has proposed the setting up of conciliatory mechanism for quick resolution of contractual disputes, plans to strengthen the NCLT framework and setting up of the e-court system for faster resolution of bad debts. Towards this, there is much debate on how effective the faceless dispute resolution panel may actually be.

All in all, the Budget 2021 aims to support the economy, ease the way of doing businesses and instill confidence in SMEs and MSMEs need more support in order to sustain and thrive. Towards this, the implementation of the six pillars that the Budget proposal for 2020-2021 rests upon will be critical. Needless to say, a look at the fine print is important for more in-depth understanding."

Prem Rajani

Managing Partner, Rajani Associates

lawstreetindia All rights reserved

"The Union Budget 2021-22 proposals seem to be doing a balancing act, especially to neutralize the impact that the Covid-19 pandemic has had on India's economy. The proposals sought to set up National Asset Monetisation Policy to boost brownfield projects along with FPI Investments in REITS and INVITs, disinvestments in PSUs and facilitating setting up of fintech hubs. Reduction of limitation period of opening assessments to 3 years will minimize uncertainty in transactions (specially in the case of merger & acquisitions). Public interest is also being catered to through widespread labour reforms, digital payments being given prominence and streamlining of governance issues in major government departments, without much on the personal tax front and special packages for industry revival. All in all, the Budget proposals seem to push growth through reforms that boost private investment while laying emphasis on healthcare, infrastructure and human capital."

Arunabh Choudhary

Partner, Juris Corp

- The budget has many positive features. The revision of the definition of small companies under the Companies Act 2013 might ease some of the compliance burdens and costs on companies whose capital currently between INR 50,00,000 and INR 2,00,00,000/-.

- Extension of tax holidays for start-ups is another positive development.

- Exemption from TDS from Dividend Tax will improve investment sentiment.

- Permitting investment by NRI's in One Person Company is another positive development.

- The Finance minister has also hinted during her speech that a Unified Securities Market Code will be created, and it will interesting to follow how this develops.

Apurv Sardeshmukh

Partner, Legasis Partners

"The budget to a large extent remains a non-event and this budget was no different. Focus on infra and healthcare, ease of doing business augurs well for the economy in the long run. No negative news was taken positively by the markets. "

Vivek Sadhale

Co-Founder, LegaLogic Consulting

Commendable effort by the Hon'ble Finance Minister to tide over the economy through these difficult times. Her focus has been on reinstating the path to economic growth whilst maintaining fiscal prudence. Some progressive measures include divestment and monetisation of assets, liberalization of FDI in insurance sector, consolidation of securities law and increase in health spend. As expected, on the direct tax side, there have been no big tax breaks. Tax proposals primarily focus on offering tax certainty on some vexed issues, rationalizing and streamlining existing tax provisions and alleviating compliance burden for the small taxpayer.

Gouri Puri

Partner, Shardul Amarchand Mangaldas & Co.

If one were to go by the sharp jump in capital market indices and in particular Bank stocks, the Banking sector is clearly thrilled with the announcements by the Finance Minister. Major announcements related to Banking sector, insurance sector, IFSC and asset monetizing vehicles like REITS, InVITs and Infra funds. A special asset reconstruction company focused on taking over NPAs of PSU banks will certainly help improving the health of affected banks. In order to mobilize funds for this purpose, apart from government capitalizing the ARCs, this should ideally be coupled with relaxation in foreign investments in the ARC trusts and open it up to various classes of investors other than FPIs. Increase in FDI limit in insurance from 49% to74% will be at par with the FDI norms for private sector banks. The limit was already increased for insurance intermediaries last year. The hike will help the under penetrated sector to scale up and increase penetrate.

A major thrust is proposed to be given to IFSC in the GIFT city in Gandhinagar in the form of extending tax holiday currently available to other businesses to aircraft leasing companies. Global aircraft leasing companies currently use vehicles in certain countries like Ireland to lease air-craft, the change will hopefully encourage leasing companies to house operations in IFSC. Further currently if offshore funds from other countries were to relocate to IFSC the shift would trigger huge tax cost. The proposal to make such relocations tax neutral will make such a shift attractive provided SEBI makes appropriate changes in FPI regulations to make it seamless from regulatory perspective.

Rationalizing TDS on dividends for FPIs to reduce it to treaty rates ranging from 5 to 15% depending on the country of residence of FPI from current rate of 20% will certainly provide a big cash flow relief for FPIs.

Sunil Gidwani

Partner, Nangia Andersen LLP

lawstreetindia All rights reserved

The Hon'ble Finance Minister, Ms. Nirmala Sitharaman, presented the Union Budget 2021-22 in the Parliament today. It was the first digital budget in the history. The focus of the Budget emphasised on the Atmanirbhar India. The Hon'ble FM has laid special and specific focus on the much needed sectors like education, health care, infrastructure, manufacturing, farmers/agriculture, etc. The Budget rests on six pillars:

- Health and well-being;
- Physical and financial capital and infrastructure;
- Agriculture;
- Inclusive development of human capital;
- Innovation and R&D;
- Minimum Government; Maximum Governance

Fiscal consolidation, while remaining one of the top priorities, has been balanced / maintained by the Hon'ble FM. Fiscal deficit has been pegged at 6.8% which is still noteworthy considering the unprecedented pandemic outbreak and the ramp up in the government expenditure to support and revive the economy. Special emphasis has also been given to ReITs and InvITs as well as financial restructuring to ensure that the country receives foreign investments. An additional step in this direction is to increase FDI in insurance sector to 74% (from existing 49%). While the stakeholders are still perusing the fine print, the initial reaction by the stakeholders seems to be very positive.

Key tax and regulatory highlights are summarised hereunder:

- Minimum Government; Maximum Governance: this is no longer just a cliché. Several amendments have been proposed to increase the business community, foreign investors as well as overall stakeholders confidence. Relaxations provided on this front include:
  - One person company ('OPC'):
    - Increase in threshold in share capital and turnover for eligibility as OPC;
    - Non-residents allowed to incorporate OPC;
    - Residency criteria revised from 182 days to 120 days for ascertaining OPC.
  - Time limit to reopen the past assessments reduced from six years to 3 years and in case of serious tax evasion, where there is evidence of concealment of income, the cases can be reopened upto 10 years only if such concealment is INR 50 lakhs or above;
  - Introduction of faceless ITAT appellate Scheme and setting up of National Faceless ITAT Centre;

- Tax administration – transparency, ease in compliance, etc:
  - Tax audits – threshold increased from INR 5 crore to INR 10 crore for business having more than 95% digital transactions;
  - FPIs will enjoy the lower withholding tax rate under the DTAA on dividend income;
  - Advance tax to be paid on dividend income only on declaration or receipt of such income;
  - Pre-filled income tax return will now also include capital gains on listed securities, interest income from banks / post office, etc;
  - No ITR filing for senior citizens earning interest and pension income;
  - Dividend payment to ReITs and InvITs exempt from TDS;
  - For NRIs returning back to India – rules will be notified to remove hardship and rationalise tax on the accrued income in their foreign retirement account;
  - Extension of additional deduction of INR 1.5 lakhs on loans for the affordable housing upto March 31, 2022. Tax holiday also extended by one year i.e. upto March 31, 2022 for the affordable housing projects;

- Certain other important amendments that have been proposed are:
  - The introduction of the definition 'liable to tax' is likely to cause up some stir on account of the various interpretation that could arise especially considering taxability of the stateless person u/s 6(1A) of the Income tax Act, 1961 ('the Act');
  - The term 'block of assets' u/s 2(11) of the Act has been amended to exclude goodwill of a business or profession from within its ambit. Section 32 has been correspondingly amended as well. Hence, no depreciation will now be available even if the goodwill has been paid for. Further, section 55 of the Act has been amended to provide that in case the goodwill has been paid for, then the said purchase price would be considered as the cost of such asset. Where depreciation has been claimed in the earlier years, the same will be adjusted against the cost of such goodwill. This amendment is likely to have far reaching implications;
  - Certain income are exempt u/s 10 of the Act. Certain amounts which have been subjected to equalisation levy were exempted u/s 10(50) of the Act. The Finance Bill provides that where any amount which is chargeable to income tax as royalty or FTS will not get covered within the ambit of section 10(50) of the Act. As a result, such royalty and FTS will continue to be taxable u/s 9(1)(vi) of the Act read with relevant Article in the DTAA (and not as equalisation levy).

Further, it has been provided in the explanatory memorandum that suitable amendments will be made to section 163 of the Finance Act 2016 so as to exclude any income chargeable to tax as royalty or FTS from within the ambit of equalisation levy;

  - Dispute Resolution Committee (DRC) has been set up to further reduce litigation in the direct tax area. A small taxpayer having income upto INR 50 lakhs and disputed income upto INR 10 lakhs is eligible to approach the DRC. This is another step to provide certainty to the taxpayers in the direct tax domain;
  - Boost to start ups and innovators:
    - Tax holiday to start ups extended by one more year;
    - Capital gain exemption for investments in eligible start-ups.

lawstreetindia All rights
reserved

- IFSC – Government plans to make the IFSCs a global financial hub; in addition to the incentives already provided to units located in the IFSC, the Hon'ble FM further proposed as under:
  - Tax holiday on capital gains as well as rental income for aircraft leasing companies;
  - Tax incentive to foreign funds relocating in the IFSC;
  - Tax exemption to investment division of foreign banks.

It must be acknowledged and a special mentioned that even despite the tax collection and revenue pressure on the government, the Hon'ble FM has succeeded to provide a fine balance and walk the tightrope. It must be noted that there have been no additional taxes levied on individuals as well as corporates – no increase in base tax, surcharge or cess. No COVID cess on super rich as was widely being discussed pre budget. Such measures are bound to further increase confidence in the government policies and will bring certainty amongst the taxpayers.

Uday Ved

Partner, KNAV

Hailed as the most crucial Budget of India in recent years, the Union Budget 2021-22 has come in the backdrop of the largest GDP contraction that India has suffered post-Independence due to the COVID-19 pandemic. In a significant departure from the tradition, this year's Budget was not printed and was only made available in a digital format. This Budget focused on higher spending, healthcare expenditure with Rs. 35,000 crore on Covid-19 vaccine development, infrastructure development and public sector bank privatisation. But ironically, the experts' speculations seem to have turned true as Nirmala Sitharaman's first budget of the decade didn't have much hype for the common man.

Presenting the Union Budget for 2021-22, FM said that the Budget proposals for this financial year rest on six pillars — health and well-being, physical, financial capital and infrastructure, inclusive development for aspirational India, reinvigorating human capital, innovation and R&D and minimum government and maximum governance. Significant announcements included a slew of hikes in Customs duty to benefit 'Make in India', proposal to disinvest two more PSBs and a general insurance company, and numerous infrastructure pledges to poll-bound States. FM, in her speech, announced a push to the textile industry, a new cess on agriculture development – Rs 2.5 per litre on petrol and Rs 4 per litre on diesel. Insurance Act amendment is also proposed to increase FDI limit from 49 to 74% with safeguards, while, the LIC IPO will be introduced in 2021.

In significant changes to the taxation process, FM announced the scrapping of income tax return for senior citizens having pension and interest income only, new rules for removal of double taxation for NRIs, and a reduction in the time period of tax assessments among other measures. Start-ups will get an extension in their tax holiday for an additional year. FM also announced that the advance tax liability on dividend income shall arise after declaration or payment of dividend. On GST front, the FM said that record GST collections have been made in the last few months. She said several measures have been taken to further simplify the GST. The capacity of GSTN system has been announced. Deep analytics and artificial intelligence have been deployed to identity tax evaders and fake billers, launching special drives against them. The Finance Minister assured the House that every possible measure shall be taken to smoothen the GST further and remove anomalies such as the inverted duty structure.

Benchmark stock indices Nifty and Sensex gave a thumbs up to government's 'expansionary budget' as FM Sitharaman chose the path of additional borrowing instead of taxing the super-rich or raising taxes on high-income individuals. Market response to the budget reflects growth optimism. But, this Budget may not bring cheer to pandemic-hit aam aadmi. The common man was eyeing some income tax benefits from this budget as Covid-19 has burnt their pockets in over a year. While no changes were made to the personal income tax, only senior citizens were offered benefit. Under the proposal, those above the age of 75 will no longer have to file IT returns. Moreover, a Covid-19 cess that was much speculated to be enforced to revive the economy in post-coronavirus world did not find mention in the Union Budget 2021-22.

In nutshell, though this budget may be considered as growth oriented and visionary one amidst the situation when India is slowly emerging from the Covid-19 crisis and the economy is gradually returning to normal, but the present situation of the economy and taxation system was requiring lot more for the aam aadmi. People had been anticipating tax incentives to increase spending and reinvigorate household consumption demand, and other benefits to grapple with the woes of the Covid-19 pandemic. Also, it is time that we strive to maintain stability of provisions and systems under GST, as frequent changes cause disruptions in business operations as well as increasing confusions in trade. Though, Centre and States are quite receptive to resolve GST issues, but certain level of steadiness is also required.

Bimal Jain

Executive Director, A2Z Taxcorp LLP