India Union Budget 2021-22

Global transition to growth

#Budget2021

February 2021

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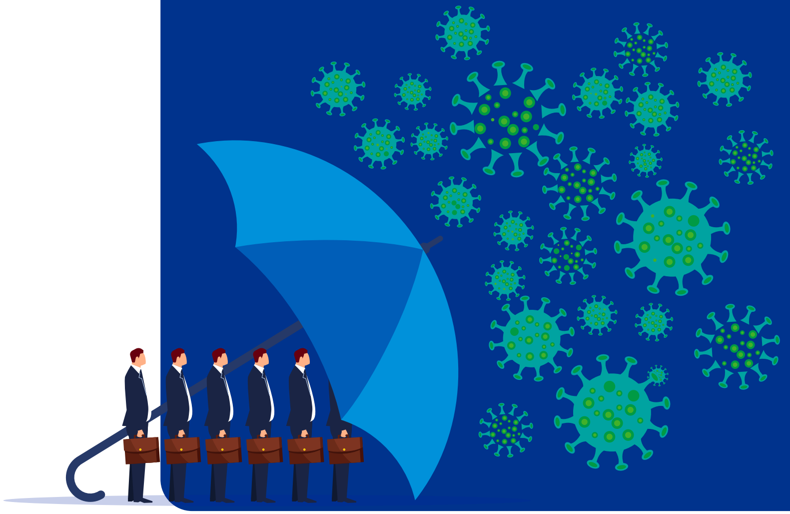
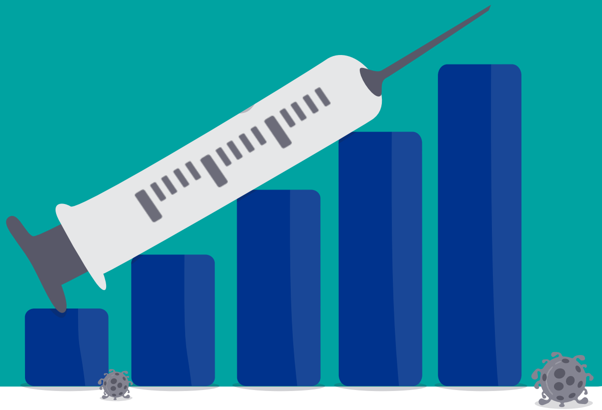
Backdrop

- **Unprecedented times - Once in a century pandemic**



- **Risks to economy, health and lives**
  - Global economy expected to contract **by 3.5% in 2020** (IMF Jan 2021 estimates)
  - Lives lost: **100 million+** infection cases with over 2 million deaths

- **Opportunity to reset the economy through reforms and sectoral focused approach**
  - Global economy expected to grow by **4.5%-5.5% in 2021**
  - Optimism on account of vaccine roll-outs
  - Global Supply chain realignment



Economic Survey - State of Indian Economy

After a record contraction of 23.9% in Q1, a V-shaped recovery in Indian economy with a comparatively modest 7.5% decline in GDP in Q2

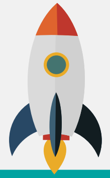
GDP expected to contract around **7.7%** for FY 2020-21

India to emerge as the fastest growing economy (as per IMF) in FY 2021-22 with real GDP expected to grow around **11.0%**

Headline CPI inflation averaged **6.6%** in 2020-21 (Apr-Dec) and stood at **4.6%** in December 2020 driven by rise in food inflation

Fiscal deficit is likely to overshoot Budget Estimate

India is only emerging market to be FII inflow positive in 2020



Start-ups are faring better amidst the pandemic – a record number of around **12 start-ups** made it to the unicorn list last year

Measures to boost India Investments

- FDI in Insurance increased from 49 percent to 74 percent
- Permanent Institutional framework introduced to develop the Bond Market
- Setting up Development Financial Institution (DFI) to mobilise funds for long term financing
- Single Securities Market Code to consolidate existing regulations (like SEBI Act, SCRA, etc)
- Debt Financing of InVITs and REITs by FPI
- Asset Reconstruction and Management Company to be set up for Stressed Assets
- Loan size of above INR 20 lakhs by specified NBFC to be now covered under SARFAESI
- Additional re-capitalisation of INR 20,000 Cr of PSB - Privatisation of two PSBs and one Insurance Company proposed
- World class Fin-Tech hub at GIFT-IFSC proposed

Tax Proposals in relation to dividends

Advance tax liability on dividend income to trigger only after declaration/ payment

Tax withholding on dividends/ interest earned by FPI- tax treaty benefit available

No withholding tax on dividend income payable to REIT/InVITs

Key Announcements

Key takeaways - M&A, Deals, Investments

- Interaction of treaty and the words “liable to tax” in section 2
- Goodwill depreciation regime overhauled
  - Goodwill not a recognised depreciable asset, impacting IRRs of even concluded deals
  - Memorandum casts doubts on past depreciation claims on merger goodwill
  - Acquired goodwill also not depreciable on a go forward basis
  - Cost of acquisition stepped up on a non depreciable basis
  - Treatment of other intangibles
  - Impact on control deals
- Slump sale regime amended – to impact slump exchange transactions.

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Relaxation for SWFs and Pension Funds

- Permit investment through Hold Co.
  - Hold Co. to be domestic company registered on or after 1 April 2021
  - Minimum 75% investment in infra company(s)
- Permit investment in NBFC - IDF / IFC
  - NBFC - IDF / IFC to have minimum 90% lending to infra entity(s)
- AIF can invest up to 50% in non eligible investments
  - SWF / PF may invest in Cat I and II AIF having 50% investment in eligible infra company
  - Allow Cat I and II AIF to invest in InvIT

However, exemption will be proportionate in above cases if agg. investment/ lending in infra co is less than 100%

- No loans or borrowings for the purpose of making investment in India;
- ‘Cannot undertake commercial activity’ condition removed; instead can appoint ED/Dir to monitor investments though cannot participate in day-to-day operations;
- Liable to tax’ defined to mean subject to tax and subsequently exempt.

Additional Impetus to IFSC

Safe harbor conditions

- Safe harbor conditions for fund as well as fund manager to be further relaxed, if fund manager in IFSC

Aircraft leasing

- Aircraft lease rentals income of non-resident from IFSC unit to be exempt
- Income arising to unit set-up in IFSC from transfer of aircraft/aircraft engine eligible for 100% tax deduction for a block of 10 years out of 15 years

Investment division Offshore banking unit

- Tax exemption from transfer of:
  - ✓ Indian securities (other than shares of Indian companies)
  - ✓ Certain securities listed on IFSC stock exchange
  - ✓ Offshore securities
  - ✓ Income from securitisation trust which is chargeable under the head “profits and gains of business or profession”
- Dividend, Interest – rate of tax - 10%
- Capital gains on Indian equity – rate of tax - 15% (short-term)/ 10% (long-term)
- Income on transfer of non-deliverable forward contracts entered by non-resident with offshore banking unit exempt

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Additional Impetus to IFSC

Relocation of offshore funds

- Transfer of capital asset from offshore fund to resultant fund not a transfer
- Corresponding benefit granted to unitholder of offshore fund
- In case exemption on transfer of shares of an Indian Company exists then the same to continue in hands of the investor as if the relocation had not taken place
- Carry forward of losses (if any) in books of Indian Company not impacted due to relocation.

Offshore fund

- Fund not resident in India and resident of a tax treaty country
- Fund and its activities are subject to investor protection regulations
- Any other conditions as may be prescribed

Resultant Fund

- Fund established as trust, company or LLP; and
- Registered as Cat I, II or III AIF in IFSC

Compliances related

- Due dates changed for following –

Provision	Current Timeline	Proposed revised timeline
Re-opening of audits	5/7 years from end of financial year	4 years from end of financial year
Income escaping assessment (represented in the form of an asset) exceeds / likely to exceed Rs. 50 lakhs or more		11 years from end of financial year

- Withholding to be applied at 0.1 per cent (5 per cent in the absence of Permanent Account Number) on purchase of goods from payments to resident seller in specified cases
- Stringent TDS provisions proposed in case of payments to persons (except non-resident not having permanent establishment in India) who have not filed returns for past years
  - Higher of twice the applicable rate or five percent;
  - If PAN not available, higher of twice the applicable rate or five percent or rate as per section 206AA would be applicable.

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Miscellaneous

Due date of filing of belated/revised return, issuance of scrutiny notice and completion of audit reduced by three months

Faceless ITAT scheme to be introduced on the same line as faceless appeal scheme

Partnership restructuring regime overhauled

Authority for Advance Ruling to be discontinued and to be replaced by Board of Advance Ruling (BAR)

- Orders of the BAR appealable before high court
- Applications pending at the specified date to be decided by BAR

Equalisation Levy

Royalty/FTS

- Clarified that tax on Royalty/FTS and Equalisation levy are mutually exclusive effective April 1, 2020
- EL shall not apply if consideration is chargeable to tax as Royalty/FTS

Scope of online sale of goods/online provision of services

- Scope of online sale of goods/ online provision of services would include instances where one or more of the following activities are carried out online:
  - ✓ Acceptance of offer for sale; or
  - ✓ Placing or acceptance of purchase order; or
  - ✓ Payment of consideration; or
  - ✓ Supply of goods or provision of services, partly or wholly
- Consideration' under EL provisions clarified to include value of goods or services, regardless of ownership or facilitation by e-commerce operator

Thank you

Sunil Badala
Partner & Head, BFSI Tax
e-mail: sunilbadala@kpmg.com

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