

# TAX CHAT - Updates



Monthly Newsletter from SSJCO

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Dear Madam / Sir,

We will now be entering a last month of this financial year 2022-23. The Hon'ble Finance Minister presented the Budget 2023 including Finance Bill 2023 on 1st February, 2023. There are few substantive amendments and large number of procedural amendments. More and more regulatory supervision is proposed to be imposed on charitable entities. The consistent year on year amendments coupled with changes in audit reports have made it challenging for small charitable organizations to comply with the same moreso when they do not have a proper administrative staff.

We have discussed the proposed amendments in our Study Note "The Finance Bill 2023 - Ek Samiksha" which has been circulated earlier. We once again compliment the Finance Minister for not tinkling with rates of taxes in Finance Bill, 2023. No extra income tax burden for any individual has been proposed. Some concession in income tax has been proposed to a class of individuals. Consistency is must in tax proposals. An emphasis has been provided on New Tax Regime for individuals. We are including herewith a note on tax calculation under Old Regime v/s New Regime (prepared by Ms. Sonakshi Jhunjunwala).

Also, in this February 2023 edition of Tax Chat, we are attempting to summarize the direct tax updates in this month.

Trust you will find this edition useful and as in all these years, we will be happy to receive your valuable inputs for improvement.

Happy Reading!

Stay Safe, Connected & Updated

With Regards,

Team - S S Jhunjunwala & Co.

**Contents:**

Circulars, Notifications and  
Others under Income Tax ... 02 - 12

**Article:**

Tax Calculation under Old Regime  
v/s New Regime ... 13 - 19

Action Points for the Month  
of March 2023 ... 20

Story for the Month ... 21



**Happy Holi**

**Circulars, Notifications and Others:**

*(Compiled by: Ms Sonakshi Jhunjhunwala)*

**1. Revenue impact of International Tax Reform better than expected: OECD Press Release dated 18th January, 2023:**

OECD Centre for Tax Policy and Administration conducted a webinar on the Economic Impact Assessment of the Two-Pillar Solution. As per the new estimates, the proposed global minimum tax would result in annual global revenue gains of around USD 220 billion, or 9% of global corporate income tax revenues, a significant increase over the OECD's previous estimate of USD 150 billion in additional annual tax revenues attributed to the minimum tax component of Pillar Two. Pillar One is now expected to allocate taxing rights on about USD 200 billion profits to market jurisdictions annually, leading to annual global tax revenue gains of between USD 13-36 billion, based on 2021 data. OECD found out that low and middle-income countries are expected to gain the most as a share of existing corporate income tax revenues. Further work is being carried out to model the impact of Pillar Two at the jurisdiction-group level, including the impact of QDMTTs. The current results are preliminary and a full economic impact analysis as well as a detailed methodology will be released in the coming months.

**2. OECD Releases Administrative Guidance on the Globe Anti-Base Erosion Model Rules (Pillar Two):**

OECD released Technical Guidance for implementation of Global Minimum Tax (GMT), includes guidance on the recognition of the United States' minimum tax - GILTI under the GloBE Rules and on the design of Qualified Domestic Minimum Top-up Taxes (QDMTT). The Technical Guidance also includes more general guidance on the scope, operation and transitional

elements of the GloBE Rules to allow Inclusive Framework (IF) members that are in the process of implementing the rules to reflect this guidance in their domestic legislation in a coordinated manner and also responds to stakeholder feedback on technical issues, such as the collection of top up tax in a jurisdiction in a period where the jurisdiction has no GloBE income, and the treatment of debt releases and certain tax credit equity structures. The OECD Press Release issued in this regard states that the Agreed Administrative Guidance for Pillar Two GloBE Rules, will ensure coordinated outcomes and greater certainty for businesses as they move to apply the global minimum corporate tax rules from the beginning of 2024.

### **3. OECD Releases Manual on the handling of Multilateral Mutual Agreement Procedures and Advance Pricing Arrangements enhancing Tax Certainty:**

OECD releases Manual on Handling of Multilateral Mutual Agreement Procedures [MAPs] and Advance Pricing Arrangements [APAs], (the MoMA), as a part of Forum on Tax Administrations' (FTA) tax certainty work programme and produced jointly by members of FTA MAP Forum. MoMA intends to act as a guide to multilateral MAP and APA processes from both - legal and procedural perspective. It also intends to provide tax administrations and taxpayers with information on operation of these procedures and suggest different approaches based on practices of jurisdictions, without imposing binding rules. It clarifies that the MoMA complements and does not affect the requirements, best practices or procedures established by the FTA MAP Forum in connection with Action 14 minimum standard. It further, outlines actions and cooperation expected from taxpayers to allow tax administrations to consider MAP and APA cases multilaterally. It also allows tax administrations to assess whether implementation of any approach is appropriate considering circumstances of their own MAP and APA programmes and processes and the unique features of each case. It allows tax administrations to consider whether the guidance therein may be incorporated in their domestic guidance on MAP or APA processes to provide additional clarity. It states that although taxpayers and tax administrations should consider these approaches while looking at MAP or APA processes, the MoMA clarifies that *"it may not always be possible to apply an approach as described in this Manual or that there may be situations where application may not be appropriate"*. The MoMA also highlights that *"It is also recognized that all references to timeframes for various steps in multilateral MAP or APA processes in this Manual are indicative and should only be treated as aspirational by jurisdictions"*.

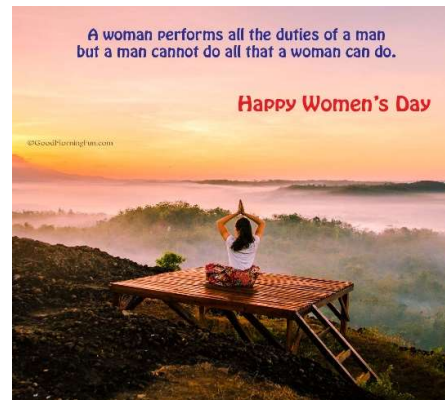
**4. Frequently asked Questions (FAQs) on E-Verification Scheme, 2021: Press Release dated 1st February, 2023:**

Income Tax Department releases FAQs on e-Verification Scheme 2021, providing general guidance in understanding its procedures and processes. It briefly explains e-Verification Scheme and clarifies that it is totally different from e-Verification of returns. It specifies on process of responding to notice for e-verification, size of attachments while furnishing responses and implications where explanation provided against E-Verification notice is not found satisfactory. It reiterates that the scheme does not allow for any physical hearing by the Prescribed Authority and all responses are to be filed online, however there is provision for video conference facility in exceptional case, which is still under development. It also clarifies on provisions related to filing of Updated Return under Section 139(8A) of the Income Tax Act, states that the facility of filing an updated return can also be viewed as an opportunity to disclose the earlier missed income and pre-empt further proceedings under the Act. It further differentiates e-Verification Scheme from scrutiny assessment/reassessment, also lists down possible reasons for difficulties faced in filing responses to the notice under Section 133(6) of the Income Tax Act.

**5. Finance Bill, 2023: On 1st February, 2023:**

The Hon'ble Finance Minister presented the Finance Bill 2023 in paperless form before the Parliament on 1st February, 2023.

The Finance Bill 2023 has proposed various amendments to the Income Tax Act, 1961.



Some of the amendments proposed are as under:

- a. Enhanced limits for presumptive taxation for MSMEs and Professionals at Rs. 3 cr & Rs.75 lacs turnover, respectively
- b. New Cooperatives into manufacturing to enjoy lower tax rate of 15%
- c. Relaxation in TDS on cash withdrawal in cooperative sector

- d. Startups to be allowed carry forward of losses on change in shareholding for 10 years
- e. Extends the date of incorporation for start ups for income-tax benefits upto Mar 31, 2024
- f. Reducing litigations in income tax - 100 joint commissioner to dispose of pending appeals
- g. Propose to limit capital gains exemption on investment in residential housing to Rs.10 Cr.
- h. Online Gaming TDS threshold of Rs.10,000 to be removed
- i. Extension of period for relocation of funds into IFSC upto Mar'25
- j. EEE status to Agniveer Fund
- k. Conversion of gold into electronic gold receipts and vice versa not to be treated as capital gains
- l. Major announcements on Personal Income-tax:
  - 1. Rebate limit increased to 7 Lakh INR in the New Tax Regime
  - 2. Proposes to reduce the number of slabs to 5 and increase the exemption limit to 3 Lakhs (0-3 lakhs - NIL, 3-6 lakhs 5%, 6-9 lakhs 10%, 9-12 lakhs 15%, 12-15 lakhs 20%, above 15 lakhs 30%) under the New Tax Regime
  - 3. Highest surcharge to be reduced from 37% to 25%, resultant reduction in MMR to 39% in the New Tax Regime
  - 4. New income tax regime to become default tax regime but taxpayers allowed to take benefit of the old regime
- m. Proposes to amend sub-section (3) of Section 92D by providing that instead of the current period of 30 days, a period of 10 days (from the date of receipt of a notice issued in this regard, either by the AO or CIT(A)) will be available for an assessee to furnish the TP report during the course of proceedings of the Act. Assessee may, on application, extend the period of 10 days by a further period not exceeding 30 days.

- n. Proposes widening of scope of Sec. 9 to cover gifts from resident to 'not ordinarily resident'
- o. Proposes increasing TCS from 5% to 20% for certain classes of overseas remittance
- p. Proposes to insert a proviso to Section 196A(1) to provide for TDS at the rate lower of 20% or DTAA rate where Tax Residency Certificate (TRC) is furnished
- q. Expands the definition of 'perquisite' u/s 28 of the Act to cover benefits received in cash.
- r. Proposes to categorically amend Section 271C and 276B to provide for penalty and prosecution in consequence of default in TDS under Section 194S
- s. Proposes to insert a new sub-section (4A) to Section 10AA to provide that the deduction shall be available if the proceeds from sale of goods or provision of services is received in, or brought into, India in convertible foreign exchange within 6 months from the end of the previous year or, within such further period as the 'competent authority' may allow. Competent Authority is Reserve Bank of India or such authority as authorized under any law for regulating payments and dealings in foreign exchange.
- t. Proposes amendments in Sections 10(23C) and 11 to restrict the exemption of charitable trusts and institutions on donations made to other charitable trusts and institutions. As per the proposed amendment, only 85% of the donation amount shall be allowed for exemption.
- u. Proposes to include Section 194LBA in the list of sections falling under the purview of Section 197 for lower or Nil TDS
- v. Proposes to insert a new clause (vb) in the section 92BA to include the transaction between the Cooperative society and the other person with close connection within the purview of 'specified domestic transaction'.
- w. Proposes to amend Section 55 to provide for cost of acquisition or improvement of 'any other intangible assets' and 'any other right' as Nil.

- x. Proposes to amend Section 142 to empower AO to direct the assessee for inventory valuation by a Cost Accountant, nominated by PCCIT or CCIT or PCIT or CIT. It also proposes to provide that except in the case of best judgment assessment, the Assessee will be given an opportunity of being heard in respect of any material gathered on the basis of such inventory valuation which is proposed to be utilized for assessment. It proposes to amend Section 153 to exclude the period for inventory valuation through the cost accountant for the purposes of limitation period.

**6. 4,861 ITRs filed by taxpayers below age of 18 years; paid Rs. 6.31 crores gross taxes: CBDT: Press Release, dated 6th February, 2023:**

The Union Minister of State for Finance, Shri Pankaj Chaudhary, in a written reply to a question in the Lok Sabha has stated that 2,09,06,829 Income tax Returns (ITRs) filed by individuals (between the age of 18 to 35 years) during FY 2022-23 till 31st January 2023.

He also stated that for those below the age of 18 years, 4,861 ITRs filed were by individuals during FY 2022-23 till 31st January 2023. The Minister stated that this category of taxpayers paid Rs 6.31 crore gross taxes as per ITRs filed, before the claim of refund.



**7. Centralised Processing of Equalisation Levy Statement Scheme, 2023: Notification S.O. 614(E) No. 03/2023/F.NO. 370142/1/2023-TPL, dated 7th February, 2023:**

Central Board of Direct Taxes has notified the 'Centralised Processing of Equalisation Levy Statement Scheme, 2023'. The Scheme requires every assessee or e-commerce operator to furnish the Equalisation Levy Statement under Section 167(1) of the Finance Act, 2016 within the time stipulated under Rule 5(2) of Equalisation levy Rules, 2016. The Scheme further provides that and assessee or e-commerce operator may:

- (i) furnish the Statement or a revised Statement at any time before the expiry of two years from the end of the financial year in which the

specified services was provided or e-commerce supply or services was made or provided or facilitated or

- (ii) furnish a Statement in response to notice sent by the AO under Section 167(3) in accordance with Rule 6

The Scheme provides for the manner in which the Statement is required to be processed and also the cases where the CIT (CPC) may declare a Statement as invalid. The Scheme gives discretion to the CIT (CPC) to adopt appropriate procedure for processing of Statements and to decide the order of priority for processing of the Statements based on administrative requirements. The Scheme also makes it abundantly clear that no assessee or e-commerce operator shall be required to appear personally or through authorised representative before the Centre in connection with any proceedings and provides that a written or electronic communication in the specified format shall be sufficient compliance of the query received from the Centre.

**8. ITR Forms 1 to 6 for AY 23-24 Notified: Notification No 04/2023/F. No. 370142/51/2022-TPL, dated 10<sup>th</sup> February, 2023:**

CBDT vide powers conferred under clause 'eebb' of section 245 of the Income Tax Act, 1961 through Income-tax (First Amendment) Rules, 2023 amending Rule 12 of the Income Tax Rules, 1962, have notified the ITR Forms (ITR1 to ITR6, ITR-V and Income Tax Return Acknowledgement) for AY 2023-24.

**9. Direct Tax Collections for FY 2022-23 upto 10th February, 2023: Press Release, dated 11<sup>th</sup> February, 2023:**

The provisional figures of Direct Tax collections up to 10th February, 2023 continue to register steady growth. Direct Tax collections up to 10th February, 2023 show that gross collections are at Rs. 15.67 lakh crore which is 24.09% higher than the gross collections for the corresponding period of last year.

**10. Handling of Re-assessment cases for AY 13-14 to AY 15-16: CBDT Instruction dated 13<sup>th</sup> February, 2023:**

CBDT issues Instruction pursuant to CBDT Instruction No. 1/2022 dated 11<sup>th</sup> May, 2022 (issued subsequent to Hon'ble SC ruling in Ashish Agarwal). CBDT had in Para 7.1 of the earlier Instruction stated that the information or material for initiating reassessment proceedings is required to be provided within 30 days but no notices could be issued for AYs 2013-14 to AY 2015-16 if the income



escaping assessment amounts to or is likely to amount to less than Rs.50 lakh. Thus, in order to reduce the compliance burden, CBDT had instructed that the information and material may not be provided for the three AYs if the income escaping assessment amounts to or is likely to amount to less than Rs. 50 lakh. Now, with specific reference to Para 7.1, CBDT directs that since data/information regarding quantum of escapement and/or relevant information would be available with the Assessing Officers/Jurisdictional Assessing Officers, necessary action for disposal of cases can be taken as per the law after examining the relevant facts. CBDT requested all concerned PCCIT and PDGIT to monitor and ensure that this task is completed by 06<sup>th</sup> March, 2023. CBDT also instructed Directorate (Systems) separately to ensure that necessary procedure to be followed is available on ITBA Module.

**11. Singapore releases budget for the year 2023, increases tax rates for non-residents from 22% to 24%: Date 13<sup>th</sup> February, 2023:**

On February 13, 2023, the Inland Revenue Authority of Singapore (IRAS) revised its directives regarding Individual Income Tax rates, indicating a rise in the highest marginal personal income tax rates applicable for the year of assessment (YA) 2024 (income year 2023).

The updated rates include a new maximum rate of 23% on income amounting to Singapore Dollars (SGD) 500,000 and a further 24% on income exceeding SGD 1 million, resulting in the following tax brackets:

<i>Income Range</i>	<i>Tax Rates</i>
up to SGD 20,000	0%
SGD 20,001 to 30,000	2%
SGD 30,001 to 40,000	3.5%
SGD 40,001 to 80,000	7%
SGD 80,001 to 120,000	11.5%
SGD 120,001 to 160,000	15%
SGD 160,001 to 200,000	18%
SGD 200,001 to 240,000	19%
SGD 240,001 to 280,000	19.5%
SGD 280,001 to 320,000	20%

SGD 320,001 to 500,000	22%
SGD 500,001 to 1,000,000	23%
over SGD 1,000,000	24%

In addition to new rates, the Individual Income Tax rate for non-resident individuals, excluding employment income and specific income taxable at lower withholding rates, has been raised from 22% to 24%.

The objective is to ensure consistency between the non-resident income tax rate and the highest marginal income tax rate for resident individuals. Meanwhile, non-resident employment income is subject to a fixed rate of 15% or the progressive resident tax rates, whichever results in a higher tax amount.

Source: *Guidance on Individual Income Tax Rate*

- 12. ITR Form 7 for AY 23-24 Notified: Notification G.S.R 95(E), NO. 5/2023/F NO. 370142/2/2023-TPL, dated 14<sup>th</sup> February, 2023:**

CBDT notified ITR-7 for AY 2023-24.

- 13. CBDT notifies Income Tax Forms for AY 2023-24 well in advance: Press Release, dated 15<sup>th</sup> February, 2023:**

CBDT stated that the ITR forms will come into effect from 1st April, 2023 and have been notified well in advance in order to enable filing of returns from the beginning of the ensuing Assessment Year.

In order to facilitate the taxpayers and to improve ease of filing, no significant changes have been made to the ITR Forms in comparison to last year's ITR Forms. Only the bare minimum changes necessitated due to amendments in the Income Tax Act have been made.

In order to further streamline the ITR filing process, not only have all the ITR forms been notified well in time this year, no changes have been made in the manner of filing of ITR Forms as compared to last year. The notified ITR Forms will be available on the Department's website at [www.incometaxindia.gov.in](http://www.incometaxindia.gov.in)

- 14. Follow Instruction No. 7 of 2017 carefully for revision/rectification if revenue audit objection is accepted: CBDT: Instruction F. No. 246/06/2023, dated 16<sup>th</sup> February, 2023:**

The Central Board of Direct Taxes (CBDT) has requested all tax officers to ensure that the procedure prescribed in Instruction no. 7/2017 is followed scrupulously and remedial action is taken after due application of mind. Instruction no. 7/2017 prescribes the procedures for invoking section 263/154 if a revenue audit objection is accepted.

In accordance with the said procedure, the Principal Commissioner of Income Tax (PCIT) must determine whether the order in question, which prompted the objection, requires revision under Section 263. This decision should be based on the facts of the case and will depend on whether the objection is acceptable.

If Pr. CIT chooses not to use section 263, the Assessing Officer (AO) is obligated to evaluate the case's facts and take the appropriate action based on his independent judgment. The board observed that the AO is frequently using section 154, even in cases where there is no mistake apparent from records or where action under section 263/147 is necessary. This leads to unfavorable judgments at the appellate stage, which could have been avoided.

Thus, the CBDT has requested all field authorities to ensure that the procedure prescribed in Instruction No. 7/2017 is followed scrupulously and remedial action is taken under the appropriate section of the Income-tax Act after due application of mind.

**15. CBDT notifies new audit reports to be furnished by charitable or religious trusts and other institutions: Notification No. 7/2023, dated 21<sup>st</sup> February, 2023:**

The Central Board of Direct Taxes (CBDT) has notified new Form 10B and Form 10BB that are required to be furnished by charitable or religious trusts, institutions, universities, or other educational institutions under section 10(23C) and section 12A.

The existing Rules 16CC and 17B of the Income-tax Rules, 1962 have been substituted vide *Income-tax amendment (3rd Amendment) Rules, 2023* to expand the scope of information that is required to be reported in Form 10B and Form 10BB.

Form 10B is a report of the audit of the accounts of a fund or institution or trust or any university or other educational institution or any hospital or other

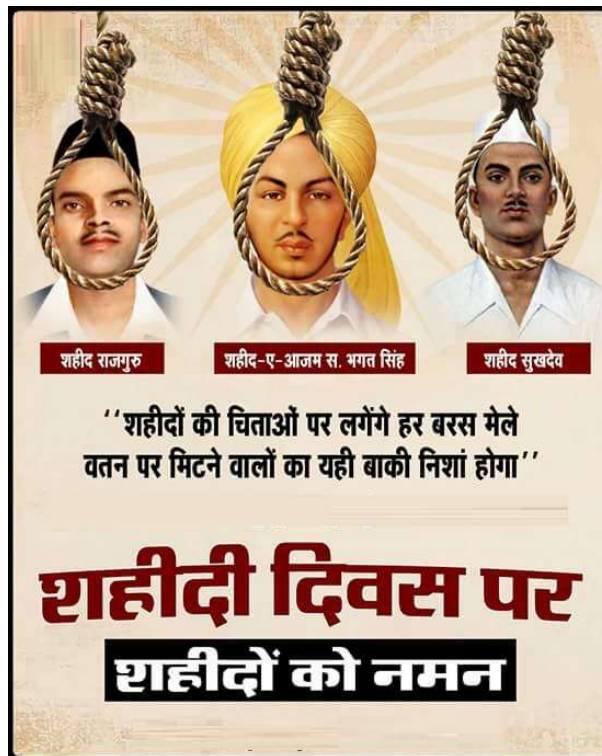
medical institution which is required to be furnished under clause (b) of the 10th proviso to section 10(23C).

Form 10BB is a report of the audit of the accounts of a trust or institution which is required to be furnished under sub-clause (ii) of section 12A(1)(b).

**16. The Central Government hereby notifies following Specified Pension Fund as eligible under section 10(23FE) of the Income Tax Act, 1961:**

<i>Sl. No</i>	<i>Name of the Entity</i>	<i>Notification No. and date</i>	<i>Period for which income is notified as exempt</i>
1	California Public Employees Retirement System (PAN: AAATC6038J)	Notification S.O. 400(E) [No. 2/2023/F.No.500 /PF5/S10(23FE)/FT&TR -II-PART(1)], dated 25 <sup>th</sup> January, 2023	This notification shall come into force from the date of its publication in the Official Gazette.

The terms and conditions have been prescribed.



# ARTICLE:

## Tax Calculation under Old Regime v/s New Regime

*(by Ms. Sonakshi Jhunjunwala)*

The New Tax Regime was introduced by The Finance Act, 2020 with effect from A.Y. 2021-22 by way of inserting a new section 115BAC under the Income Tax Act, 1961 (the Act). This was applicable to individuals and Hindu Undivided Family (HUF).

Earlier, Taxation Law Amendment Act, 2019 with effect from A.Y. 2020-21 introduced New Tax Regime for Domestic Companies. In this Note we are restricting ourselves to New Regime u/s 115BAC of the Act which was originally applicable to individuals and HUF.

The overall scheme of New Tax Regime as introduced then was as under:

1. A concessional rate of tax has been provided as compared to Old Regime.
2. When opting for New Regime, certain exemptions and deductions are not allowed in computing the total income. Very few concession / exemptions have been continued to be allowed.
3. Old Regime will be a default regime and a person opting for a New Regime has to fill up a form before filing a return of income.
4. In case the taxpayer has a business income, then options once selected can be changed only once thereafter. In all other cases the decision of whether or not to opt for the New Tax Regime can be taken year on year.
5. Once New Tax Regime is opted, the provisions of AMT will not apply to the taxpayers.
6. Correspondingly, it is provided that the provisions relating to carry forward and set off of AMT credit shall also not apply.

*Thus, the eligible taxpayer opting for New Tax Regime, gets exemption from AMT and will not be entitled to get set off of unabsorbed accumulated AMT credit.*

Finance Bill, 2023 has proposed certain further amendments to make it more lucrative. Assuming all the proposed amendments will be enacted, the new scheme will have following features:

1. The amended New Tax Regime will be applicable from A.Y. 2024-25.
2. The New Tax Regime will cover not only the individual and HUF but also Association of Person (other than cooperative societies), Body of Individual and Artificial Judicial Person.
3. The number of slabs of rate of tax has been reduced from 6 to 5 to reduce the tax on income level between Rs. 7,50,000/- to Rs. 15,00,000/-.  
(Please refer table below:)

<b>Income Slab</b>	<b>Existing Rate of Tax</b>	<b>Proposed Rate of Tax</b>
Upto ₹ 2,50,000/-	Nil	Nil
Rs. 2,50,001 to Rs. 3,00,000	5%	Nil
Rs. 3,00,001 to Rs. 5,00,000	5%	5%
From ₹ 5,00,001 to ₹ 6,00,000	10%	5%
From ₹ 6,00,001 to ₹ 7,50,000	10%	10%
From Rs. 7,50,001 to Rs. 9,00,000	15%	10%
From ₹ 9,00,001 to ₹ 10,00,000	15%	15%
From Rs. 10,00,001 to Rs. 12,00,000	20%	15%
From ₹ 12,00,001 to ₹ 12,50,000	20%	20%
From Rs. 12,50,001 to Rs. 15,00,000	25%	20%
₹ 15,00,001 and above	30%	30%

4. New Tax Regime will be considered as default option. Thus, if any taxpayer wants to go in Old Regime, he has to make an application in the prescribed form opting for the Old Regime.

One may choose to continue under the Old Tax Regime in a manner to be prescribed.

- If one has income from “business or profession”, option of continuing under old regime, once exercised can be withdrawn only once. After such withdrawal, no further switching over to old regime will be allowed.
- If there is no business income, choice can be made year on year.

5. Rebate u/s 87A of the Act is increased to Rs. 25,000/- i.e. rebate is proposed to be available to a resident individual if his total income does not exceed Rs. 7,00,000/-
  
6. Following deduction / concessions will be allowed under the New Tax Regime:
  - i) Standard deduction u/s 16(ia);
  - ii) Deduction for family pension u/s 57(ia);
  - iii) Deduction as per proposed Section 80CCH for contribution to Agniveer Corpus Fund; and
  - iv) Deduction u/s 80JJA (for new employment)
  
7. The following exemptions/ deductions will not be allowed under the New Tax Regime:
  - i) Leave travel concession as contained in clause (5) of section 10;
  - ii) House rent allowance as contained in clause (13A) of section 10;
  - iii) Some of the allowance as contained in clause (14) of section 10;
  - iv) Allowances to MPs/MLAs as contained in clause (17) of section 10;
  - v) Allowance for income of minor as contained in clause (32) of section 10;
  - vi) Exemption for SEZ unit contained in section 10AA;
  - vii) Deduction for entertainment allowance and employment/professional tax as contained in section 16;
  - viii) Interest under section 24 in respect of self-occupied or vacant property referred to in sub-section (2) of section 23. (Loss under the head income from house property for rented house shall not be allowed to be set off under any other head and would be allowed to be carried forward as per extant law);
  - ix) Additional depreciation under clause (ia) of sub-section (1) of section 32;
  - x) Deductions under section 33AB, 33ABA and 32AD;
  - xi) Various deduction for donation for or expenditure on scientific research contained in sub-clause (ii) or sub-clause (ia) or sub-clause (iii) of sub-section (1) or sub-section (2AA) of section 35;
  - xii) Deduction under section 35AD or section 35CCC;
  - xiii) Any deduction under chapter VIA (like section 80C, 80CCC, 80CCD, 80D, 80DD, 80DDB, 80E, 80EE, 80EEA, 80EEB, 80G, 80GG, 80GGA, 80GGC, 80IA, 80-IAB, 80-IAC, 80-IB, 80-IBA, etc). However, deduction under subsection (2) of section 80CCD (employer contribution on account of employee in notified pension scheme), section 80JJAA (for new employment) and sub-section (2) of proposed section 80CCH

(Central Government contribution to Agniveer Corpus Fund) can be claimed.

8. The rate of surcharge is reduced at the highest slab of total income exceeding Rs. 5 crores from 37% to 25%.

The rates of surcharge are as under:

Existing		Proposed		
Income at which surcharge is leviable	Rate of surcharge under old and new regime	Income at which surcharge is leviable	Rate of surcharge under old regime	Rate of surcharge under new regime
Above Rs. 50 lakhs but upto Rs. 1 crore	10%	Above Rs. 50 lakhs but upto Rs. 1 crore	10%	10%
Above Rs. 1 crore but upto Rs. 2 crore	15%	Above Rs. 1 crore but upto Rs. 2 crore	15%	15%
Above Rs. 2 crore but upto Rs. 5 crore	25%	Above Rs. 2 crore but upto Rs. 5 crore	25%	25%
Above Rs. 5 crores	37%	Above Rs. 5 crores	37%	25%

The surcharge rate in the highest tax bracket is proposed to be restricted to 25% (as opposed to current rate of 37%), reducing the effective tax rate to 39%. However, the reduced surcharge rate is applicable only for individuals and HUFs opting for the New Tax Regime, and the highest effective tax rate under the Old Regime continues to be 42.74%.

Surcharge on income by way of dividend or income chargeable under section 111A or any long term capital gain shall continue to not exceed 15 percent.

The above rate of surcharge is applied on the tax amount. Provisions for marginal relief are provided. The surcharge is leviable on the total tax on crossing of the threshold of the total income provided. Thus, if an individual has a total income above Rs. 5 crores, surcharge at the rate of 37% (now proposed to 25% under New Tax Regime) is on the total tax on the income irrespective of different slabs of surcharge at different level.

The Health and Education Cess shall continue to be levied at the rate of 4% of income tax and surcharge.

The tax rate under the old regime is untouched.



Individuals having Total Income	F.Y. 2023-24			
	Under Old Regime		Under New Regime (as proposed)	
	Rate of Surcharge	Effective tax rate	Rate of Surcharge	Effective tax rate
Above Rs. 15 lakhs upto Rs. 50 lakhs	Nil	31.20%	Nil	31.20%
Above Rs. 50 lakhs upto Rs. 1 crore	10%	34.32%	10%	34.32%
Above Rs. 1 crore upto Rs. 2 crore	15%	35.88%	15%	35.88%
Above Rs. 2 crore upto Rs. 5 crore	25%	39.00%	25%	39.00%
Above Rs. 5 crore	37%	42.74%	25%	39.00%

9. We are giving herein below some of the examples of working under different scenario considering hypothetical parameters:

Annual Income: Rs. 7.5 lakh		
Particulars	Old Regime	New Regime
Taxable Income	7,50,000	7,50,000
Standard deduction	50,000	50,000
Deductions claimed	2,00,000	0
Net taxable income	5,00,000	7,00,000
<b>Tax on that</b>	<b>0</b>	<b>0</b>

Annual Income: Rs. 10 lakh		
Particulars	Old Regime	New Regime
Taxable Income	10,00,000	10,00,000
Standard deduction	50,000	50,000
Deductions claimed	2,50,000	0
Net taxable income	7,00,000	9,50,000
<b>Tax on that</b>	<b>54,600</b>	<b>54,600</b>

Annual Income: Rs. 25 lakh		
Particulars	Old Regime	New Regime
Taxable Income	25,00,000	25,00,000
Standard deduction	50,000	50,000
Deductions claimed	4,25,000	0
Net taxable income	20,25,000	24,50,000
<b>Tax on that</b>	<b>4.37 lakh</b>	<b>4.52 lakh</b>

<b>Annual Income: Rs. 60 lakh</b>		
<b>Particulars</b>	<b>Old Regime</b>	<b>New Regime</b>
Taxable Income	60,00,000	60,00,000
Standard deduction	50,000	50,000
Deductions claimed	8,50,000	0
Net taxable income	51,00,000	59,50,000
<b>Tax on that</b>	<b>14.69 lakh</b>	<b>16.99 lakh</b>

<b>Annual Income: Rs. 6 crore</b>		
<b>Particulars</b>	<b>Old Regime</b>	<b>New Regime</b>
Taxable Income	6,00,00,000	6,00,00,000
Standard deduction	50,000	50,000
Deductions claimed	24,50,000	0
Net taxable income	5,75,00,000	5,99,50,000
<b>Tax on that</b>	<b>2.43 crore</b>	<b>2.29 crore</b>

10. Thus it is stated that one cannot categorically say whether the tax payable will be more in the Old Regime or under the New Regime. One should calculate the tax under both the schemes and then decide. The reason being, it is an inter play of three parameters, namely,

- Level of total income;
- Amount of deductions and exemptions available;
- Applicable rate of surcharge;

Depending upon the facts of each case it has to be worked out and then decided. On income tax website the calculator has been provided for calculation of tax under both the tax regimes.

11. We have made an attempt to calculate break even under both the tax regimes considering the rate of tax, total income and level of deduction / exemption under both the tax regime where the tax payable under both the tax regime would be would be similar.

<b>Total Income in New Regime</b>	<b>Tax as per New Regime (incl. Surcharge &amp; Cess)</b>	<b>Deduction at which the tax under both regime will break-even</b>	<b>Total Income in Old Regime</b>	<b>Tax as per Old Regime (incl. Surcharge &amp; Cess)</b>
2,50,000	NIL	NIL	2,50,000	NIL
5,00,000	NIL	NIL	5,00,000	NIL
7,00,000	NIL	2,00,000	5,00,000	NIL
10,00,000	<b>62,400</b>	2,62,500	7,37,500	<b>62,400</b>

12,00,000	<b>93,600</b>	3,12,500	8,87,500	<b>93,600</b>
15,00,000	<b>1,56,000</b>	3,75,000	11,25,000	<b>1,56,000</b>
50,00,000	<b>12,48,000</b>	3,75,000	46,25,000	<b>12,48,000</b>
1,00,00,000	<b>30,88,800</b>	3,75,000	96,25,000	<b>30,88,800</b>
5,00,00,000	<b>1,91,10,000</b>	3,75,000	4,96,25,000	<b>1,91,10,000</b>
7,50,00,000	<b>2,88,60,000</b>	68,56,751	6,81,43,249	<b>2,88,60,000</b>
10,00,00,000	<b>3,86,10,000</b>	90,46,551	9,09,53,449	<b>3,86,10,000</b>

12. While presenting the Finance Bill, 2020, the Hon'ble Finance Minister has stated that "I will cut the rate substantially. To start with, a few exemptions will be there and gradually we will go on reducing the rate and removing exemptions."

Now in February 2023, in response to a query on new personal income tax regime, the Hon'ble Finance Minister stated that we want to make the new tax regime, which is without exemption, attractive enough for people to think this will be the best option. But if there are people who think that being in the exemption regime, which is the old regime, benefits them, they are welcome to continue. But the ultimate aim is to make the new regime attractive.

13. An issue has been raised as to at the time of deducting TDS, the payer has to follow which tax regime?

Shri Sanjay Malhotra in post budget interview, in reply to certain questions says:

**Question:** Since the new tax regime becomes the default regime, will there be any impact on tax deducted at source (TDS)?

**Answer:** TDS rates are not dependent on which scheme you opt for. TDS rates would not be impacted irrespective of the scheme, either old or new regime, **chosen by taxpayers."**

**Conclusion:**

In this note, we are not commenting on which scheme is good and which scheme is not good, whether the logic applied for the New Tax Regime is correct or not.

The point which we want to convey is please calculate the tax year on year on both the tax regimes and whichever is beneficial may be applied.



## Action Points under Income Tax Act, 1961

### For the Month of March 2023:

<b>7<sup>th</sup> March</b>	TDS Payment for February 2023
<b>15<sup>th</sup> March</b>	Advance Tax Final Installment for F.Y. 2022-23
<b>15<sup>th</sup> March</b>	Due date for payment of whole amount of advance tax in respect of A.Y. 2023-24 for assessee covered under presumptive scheme of section 44AD / 44ADA
<b>31<sup>st</sup> March</b>	Individual and HUF to deduct TDS on House Rent payable exceeding Rs. 50,000/- per month where TDS is not deducted under any other provisions - Section 194IB
<b>31<sup>st</sup> March</b>	Country-By-Country Report in Form No. 3CEAD for the previous year 2021-22 by a parent entity or the alternate reporting entity, resident in India, in respect of the international group of which it is a constituent of such group
<b>31<sup>st</sup> March</b>	Country-By-Country Report in Form No. 3CEAD for a reporting accounting year (assuming reporting accounting year is 1 <sup>st</sup> April, 2021) by a constituent entity, resident in India, in respect of the international group of which it is a constituent if the parent entity is not obliged to file report under section 286(2) or the parent entity is resident of a country with which India does not have an agreement for exchange of the report etc.
<b>31<sup>st</sup> March</b>	Uploading of statement (Form 67) of foreign income offered to tax and tax deducted or paid on such income in previous year 2021-22, to claim foreign tax credit [if return of income has been furnished within the time specified u/s 139(1) or section 139(4)]

## दान की महिमा

बहुत समय पहले एक राजा था। वह अपनी न्यायप्रियता के कारण प्रजा में बहुत लोकप्रिय था। एक बार वह अपने दरबार में बैठा ही था कि अचानक उसके दिमाग में एक सवाल उभरा। सवाल था कि मनुष्य का मरने के बाद क्या होता होगा ? इस अज्ञात सवाल के उत्तर को पाने के लिए उस राजा ने अपने दरबार में सभी मंत्रियों आदि से मशवरा किया। सभी लोग राजा की इस जिज्ञासा भरी समस्या से चिंतित हो उठे। काफी देर सोचने विचारने के बाद राजा ने यह निर्णय लिया कि मेरे सारे राज्य में यह ढिंढोरा पिटवा दिया जाए कि जो आदमी कब्र में मुरदे के समान लेटकर रात भर कब्र में मरने के बाद होने वाली सभी क्रियाओं का हवाला देगा, उसे पांच सौ सोने की मोहरें भेंट दी जाएंगी।

राजा के आदेशानुसार सारे राज्य में उक्त ढिंढोरा पिटवा दिया गया। अब समस्या आई कि अच्छा भला जीवित कौन व्यक्ति मरने को तैयार हो ? आखिरकार सारे राज्य में एक ऐसा व्यक्ति इस काम को करने के लिए तैयार हो गया, जो इतना कंजूस था कि वह सुख से खाता पीता, सोता नहीं था। उसको राजा के पास पेश किया गया। राजा के आदेशानुसार उसके लिए बढ़िया फूलों से सुसज्जित अर्थी बनाई गई। उसको उस पर लिटाकर बाकयदा श्वेत कफन से ढक दिया गया और उसे कब्रिस्तान ले जाया गया। घर से जाने पर रास्ते में एक फकीर ने उसका पीछा किया और उससे कहा कि अब तो तुम मरने जा रहे हो, घर में तुम अकेले हो। इतना धन तुम्हारे घर में ही कैद पड़ा रहेगा, मुझे कुछ दे दो। कंजूस के बार बार मना करने पर भी फकीर ने कंजूस का पीछा नहीं छोड़ा और बार-बार कुछ मांगने की रट लगाए रहा।

कंजूस जब एकदम परेशान हो गया तो उसने कब्रिस्तान में पड़े बादाम के छिलकों के एक ढेर में से मुट्ठी भर छिलके उठाए और उस फकीर को दे दिए। बाद में कंजूस को एक कब्र में लिटा दिया गया और ऊपर से पूरी कब्र बंद कर दी गई। बस एक छोटा से छेद सिर की तरफ इस आशा के साथ कर दिया गया कि यह इससे सांस लेता रहे और अगली सुबह राजा को मरने के बाद का पूरा हाल सुनाए। सभी लोग कंजूस को उस कब्र में लिटाकर चले गए।

रात होने पर एक सांप कब्र पर आया और छेद देखकर उसमें घुसने का प्रयत्न करने लगा। यह देखकर कब्र में लेटे कंजूस की घबराहट का ठिकाना न रहा। सांप ने जैसे ही घुसने का प्रयत्न किया तो उस छेद में बादाम के छिलके आड़ बनकर आ गए।

सुबह होते ही राजा के सभी नौकर बड़ी जिज्ञासा के साथ कब्रिस्तान आए और जल्दी ही कब्र को खोदकर कंजूस को निकाला। मरने के बाद क्या होता है, यह हाल सुनाने के लिए कंजूस को राजा के पास चलने को कहा। कंजूस ने राजा के नौकरों की बात को थोड़ा भी नहीं सुना। वह पहले अपने घर गया और अपनी तमाम धन संपत्ति को गरीबों में बांट दिया। सब लोग कंजूस की अचानक दान करने की इस दयालुता को देखकर हैरान में पड़ गए। उनके मन में कई सवाल उठने लगे। अंत में कंजूस को राज दरबार में पूरा हाल सुनाने के लिए राजा के सामने पेश किया गया। कंजूस ने बीती रात, सांप व बादाम के छिलकों के संघर्ष की पूरी कहानी कह सुनाई और कहा, महाराज, मरने के बाद सबसे ज्यादा दान ही काम आता है। दान करना ही सब धर्मों से श्रेष्ठ है।

This Tax Chat is prepared only for information of our clients and colleagues in the office. In this Tax Chat an attempt has been made to summarize various changes / development in Direct Tax Law during previous months.

The information is of a general nature and is not intended to address specific facts and circumstances. Specific guidance may be obtained before acting on the same.

If you need full text of circular, notification, press release, etc., we will be happy to provide the same on hearing from you. We have compiled the information from Taxmann and Taxsutra websites and mails.

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**Happy Ram Navmi**