

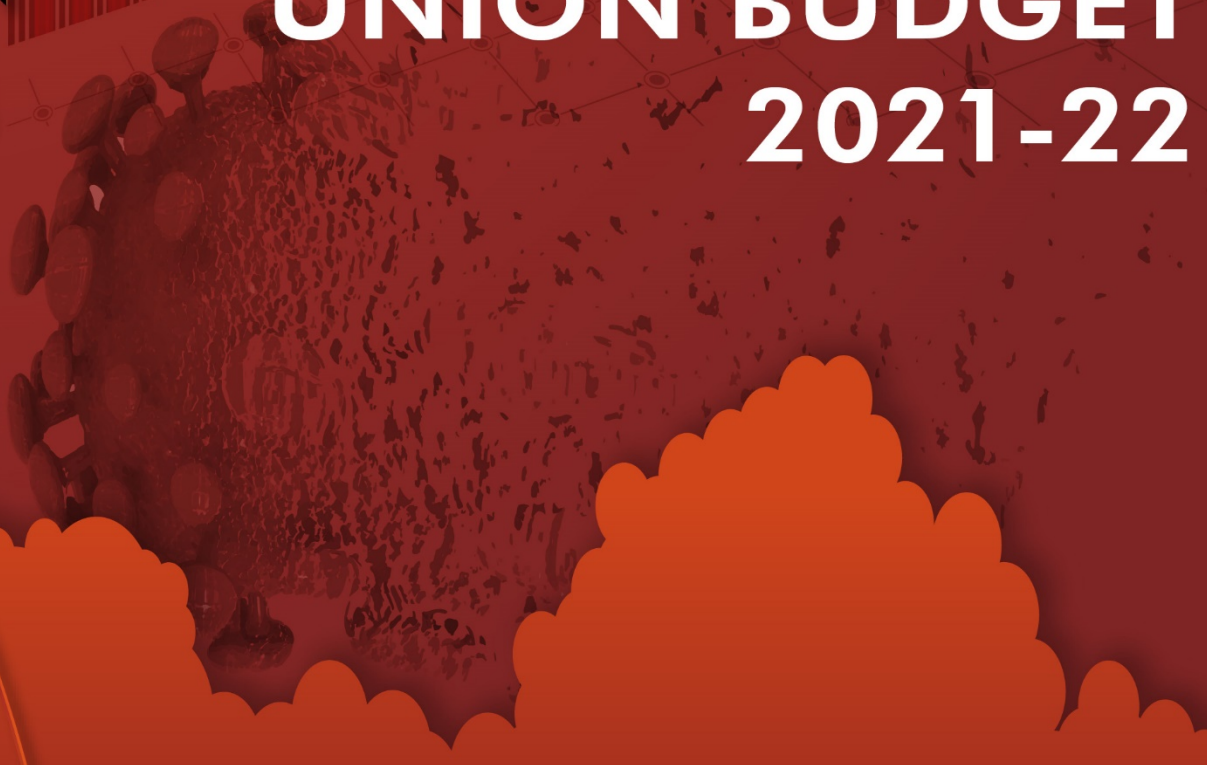


d h r u v a

HIGHLIGHTS FOR FINANCIAL SERVICES INDIA'S UNION BUDGET 2021-22



UNION BUDGET 2021-22



Key Policy Announcements

- FDI limit to be increased from 49% to 74% in Insurance Companies. Majority of Board of Directors and KMPs to be resident Indians
- Asset Reconstruction Company Limited and Asset Management Company to be set up to take over existing stressed debt of banks and dispose them off to AIF/ other investors
- Debt Financing of InvITs and REITs by FPIs to be allowed
- SEBI Act, 1992, Depositories Act, 1996, Securities Contracts (Regulation) Act, 1956 and Government Securities Act, 2007 to be consolidated into a single Securities Markets Code
- Permanent institutional framework for Corporate Bond Market to be created
- Minimum loan size eligible for debt recovery under SARFAESI Act to be reduced to INR 2 million for NBFCs with minimum asset size of INR 1 billion
- NBFCs to be allowed to extend invoice financing to MSMEs to enhance their economic and financial stability

Direct Tax Proposals

Proposals for Financial Services sector

Withholding tax

- Tax withholding on payments to FPIs to be restricted to Tax Treaty rates
- Dividend income received by REIT/ INVIT from specified SPVs not to be subjected to tax withholding. This amendment is slated to be effective retrospectively from April 1, 2020

Zero Coupon Bonds

- Notified Infrastructure Debt Funds to be allowed to issue Zero Coupon Bonds

Abu Dhabi Investment Authority/ Sovereign Wealth Funds/ Pension Funds

- Tax exemption for Abu Dhabi Investment Authority/ Sovereign Wealth Funds/ Pension Funds extended to:
 - Investments made into a domestic holding company set up and registered after April 1, 2021 which in turn will have a minimum 75% investment in infrastructure entities
 - Investments in NBFC-IDF/ IFC provided it should have minimum 90% lending to infrastructure entities
 - Investment in Category I / II AIF with minimum 50% (earlier 100%) investment in specified infrastructure entities or InvIT
- Exemption to be prorated if investment by AIF / holding company / lending by NBFC-IDF/ IFC to infrastructure entities/ InvIT is less than the aforesaid thresholds
- Government to prescribe rules for calculation of aforesaid thresholds
- Exemption not available if investments in India are made out of direct or indirect loans and borrowings. Loans and borrowings specifically defined
- Condition for not undertaking commercial activity replaced by non-participation in day to day operations of investee:
 - Relaxation provided with respect to monitoring mechanism for investment protection including right to appoint Directors or appointment of Executive Directors
- Pension Funds who may be 'liable to tax' but entitled to exemption in home country also eligible for tax exemption on qualifying investments

Safe harbour rules for fund management

- Government to notify relaxation of tax residency related conditions for eligible Offshore Fund/ Fund Manager, where Fund Manager is located in IFSC and commences operations on or before March 31, 2024

Tax Incentives for IFSC

- Exemption from capital gains taxation extended to investment division of Offshore Banking Unit located in IFSC which:

- has been granted Category III AIF registration by SEBI
- has commenced operations on or before March 31, 2024
- Exemption from capital gains taxation arising to a specified Offshore Fund (Original Fund) and its investors/ shareholders, from transfer of assets to Resultant Fund in IFSC on account of relocation, before March 31, 2023
 - Resultant Fund to be SEBI registered Category I, II or III AIF located in IFSC
 - Consideration for transfer of assets to be discharged by way of issue of proportionate shares or units or interest in the Resultant Fund
 - Subsequent capital gains arising to non-resident investors on account of sale of shares of an Indian company by Resultant Fund, also exempt, if such gains were not chargeable to tax but for relocation
 - Losses of underlying Indian company not to lapse on account of such relocation
- Tax exemption for non residents earning royalty income from lease of aircraft to IFSC unit (which has commenced operations on or before March 31, 2024)
- Income from transfer of aircraft or aircraft engine leased by an IFSC unit to a domestic company (engaged in aircraft operation business), prior to such transfer, shall be eligible for eligible for profit linked tax holiday
 - IFSC Unit should have commenced operations on or before March 31, 2024
- Tax exemption provided to non resident earning income from transfer of non-deliverable forward contracts entered with an Offshore Banking Unit of an IFSC

Other proposals

Widening the scope of 'slump sale' definition

- Scope of 'slump sale' enlarged to include transfer of undertaking by any means including an 'exchange' where no cash consideration is involved
- This amendment is slated to be effective from April 1, 2021 and would be applicable from AY 2021-22 onwards

Taxation on dissolution / reconstitution of the specified entity

- Receipt of any capital asset or money by a specified person (partner, member, etc.) at the time of dissolution or reconstitution of the specified entity (firm, AOP, BOI, etc.) taxable as capital gains in the hands of specified entity
- Capital asset distribution up to capital balance of partner/member taxable in the hands of specified entity. FMV of capital asset distributed deemed to be full value of consideration
- Other Asset/cash distribution in excess of capital balance taxable in the hands of specified entity
- Revaluation of any asset/self-generated goodwill to be ignored
- This amendment is slated to be effective from April 1, 2021 and would be applicable from AY 2021-22 onwards

Depreciation on goodwill not to be allowed

- Goodwill no longer eligible for depreciation irrespective of the mode of its acquisition
- If a 'block of asset', which includes goodwill is transferred, rules would be prescribed to determine, the written down value and the computation of short-term capital gains
- Where depreciation on goodwill has been obtained, the cost of acquisition for the acquirer (for the purpose of computing capital gains in the future) will be the amount of purchase price as reduced by the amount of depreciation so obtained upto AY 2020-21
- This amendment is slated to be effective from April 1, 2021 and would be applicable from AY 2021-22 onwards

Indirect Tax Proposals

GST – Key legislative changes

Central Goods and Services Tax Act, 2017

Applicable from enactment of the Finance Bill (unless otherwise prescribed)

- Additional condition proposed for availment of credit stipulates that the details of the invoice/debit note must be furnished by the supplier in the statement of outward supplies (GSTR-1) and such details should have been communicated to the recipient of such invoice /debit note.
 - As a result of the amendment, the recipient per se cannot take a credit if the supplier has not reported the details of the invoice in its returns. Rule 36(4) of the CGST Rules however provides for an additional 5% credit of matched invoices. Since Section 43A (which is notwithstanding Section 16 (2) of the CGST Act) is yet to be notified, there is a contradiction between the amendment and Rule 36(4).
- The mandatory requirement of undertaking Annual Audit for specified persons is done away with and is replaced by a self-certified reconciliation statement to be submitted along with the annual return. This appears to be applicable for the financial year 2020-21 onwards. The due date for filing of annual report for FY 2020-21 onwards is to be prescribed.
- Interest on net cash liability to be paid instead of on gross liability [with retrospective effect from July 1, 2017].
- For the purposes of initiating “recovery of tax” proceedings for self-assessed tax, the term self assessed tax shall include tax on outward supplies declared in GSTR-1, however not declared in GSTR-3B.
- Provisional attachment of property, including bank accounts, to protect revenue interest was restricted to only non-filers, unregistered dealers, summary assessment and SCN's. It is proposed to be extended to all situations of assessments, inspection, search, seizure, arrest, demands and recovery. The provision has also been extended to any person who retains the benefit of a transaction covered under specified situations (cases of invoicing without supply and vice-versa, credit without receipt of supply, incorrect distribution of credit etc.).
- The powers of the commissioner are proposed to be extended to call for any information (by order) relating to any matter dealt with in connection with the CGST Act, which was earlier

restricted to statistical information for notified cases. Information collected cannot be used for proceedings without granting opportunity of being heard.

Integrated Goods and Services Tax Act, 2017

Applicable from enactment of the Finance Bill (unless otherwise prescribed)

The following amendments are proposed to be introduced under the IGST Act:

- The benefit of Zero-rate for supplies made to SEZ will be available only for authorized operations.

With respect to zero-rated supplies, the option of payment of IGST and claiming refund has been restricted to specified class of persons or class of goods or services which may be notified.

Glossary of Terms

Abbreviation	Meaning
AIF	Alternative Investment Fund
AOP	Association of Persons
BOI	Body of Individuals
CGST	Central Goods and Services Tax
FDI	Foreign Direct Investment
FPI	Foreign Portfolio Investment
IFSC	International Financial Service Centre
InVIT	Infrastructure Investment Trust
KMP	Key Management Personnel
LLP	Limited Liability Partnership
MSME	Micro, Small & Medium Enterprises
NBFC	Non-Banking Financial Company
NBFC-IDF	Non-Banking Financial Company - Infrastructure Debt Fund
NBFC-IFC	Non-Banking Financial Company - Infrastructure Finance Companies
REIT	Real Estate Investment Trust
SARFAESI Act	Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002
SCN	Show-cause notice
SEBI	Securities and Exchange Board of India
SEZ	Special Economic Zone
SPV	Special Purpose Vehicle

ADDRESSES**Mumbai**

One World Center, 11th floor,
Tower 2B, 841, Senapati Bapat Marg,
Elphinstone Road (West),
Mumbai 400013
Tel: +91 22 6108 1000 / 1900

Ahmedabad

B3, 3rd Floor, Safal Profitaire,
Near Auda Garden,
Prahladnagar, Corporate Road,
Ahmedabad - 380 015
Tel: +91-79-6134 3434

Bengaluru

Prestige Terraces, 2nd Floor
Union Street, Infantry Road,
Bengaluru 560 001
Tel: +91-80-4660 2500

Delhi / NCR

101 & 102, 1st Floor, Tower 4B
DLF Corporate Park
M G Road, Gurgaon
Haryana - 122 002
Tel: +91-124-668 7000

Pune

305, Pride Gateway,
Near D-Mart, Baner,
Pune - 411 045
Tel: +91-20-6730 1000

Kolkata

4th Floor, Unit No 403, Camac Square,
24 Camac Street, Kolkata, West Bengal
– 700016
Tel: +91-33-66371000

Singapore

Dhruva Advisors (Singapore) Pte. Ltd.
20 Collyer Quay, #11-05
Singapore 049319
Tel: +65 9105 3645

Dubai

WTS Dhruva Consultants
U-Bora Tower 2, 11th Floor, Office 1101
Business Bay P.O. Box 127165
Dubai, UAE
Tel: + 971 56 900 5849

CONTACTS**Dinesh Kanabar (Mumbai)**

Chief Executive Officer
dinesh.kanabar@dhruvaadvisors.com

Mehul Bheda (Ahmedabad)

mehul.bheda@dhruvaadvisors.com

Ajay Rotti (Bengaluru)

ajay.rotti@dhruvaadvisors.com

Vaibhav Gupta (Delhi / NCR)

vaibhav.gupta@dhruvaadvisors.com

K. Venkatachalam (Pune)

k.venkatachalam@dhruvaadvisors.com

Aditya Hans (Kolkata)

aditya.hans@dhruvaadvisors.com

Mahip Gupta (Singapore)

mahip.gupta@dhruvaadvisors.com

Nimish Goel (Dubai)

nimish.goel@dhruvaadvisors.com

Disclaimer:

This information contained herein is in summary form and is therefore intended for general guidance only. This publication is not intended to address the circumstances of any particular individual or entity. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation. This publication is not a substitute for detailed research and opinion. Before acting on any matters contained herein, reference should be made to subject matter experts and professional judgment needs to be exercised. Dhruva Advisors LLP cannot accept any responsibility for loss occasioned to any person acting or refraining from action as a result of any material in this publication.

©Copyright Dhruva Advisors LLP.