Newsflash:
Key Amendments passed in the Finance Act 2023 vis-s-vis Original Finance Bill 2023

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Newsflash

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1.0 BACKGROUND:

The Finance Bill (referred as the "Original Finance Bill") was introduced in the Lok Sabha on 1st February 2023. On 24th March, 2023, the Lok Sabha has passed the revised Finance Bill 2023 with over 60 amendments pertaining to the Income Tax Law and the Indirect tax laws such as Customs and Goods and Services tax (GST). Consequently, the Finance Act 2023 received the assent of the President on 31st March, 2023. For ease of reference, the Revised Finance Bill 2023, which received the presidential assent is referred to as Finance Act 2023.

In this Newsflash, we have provided a brief overview on some of these key amendments made in the Finance Act 2023 vis-à-vis Original Finance Bill presented on 1 February 2023.

2.0 KEY DIRECT TAX AMENDMENTS TO THE FINANCE ACT 2023:

Sr. No.	Provision as per the Original Finance Bill 2023/ Existing Provisions	Changes in the Finance Act 2023
1.	**Change in Tax Rate for Dividend, Royalty and Fees for Technical Services received by Non-Residents u/s 115A**	
	Section 115A of the Income Tax Act, 1961 (hereinafter referred to as 'the IT Act') provides the tax rate applicable on payments in the nature of dividend, interest, royalty and fees for technical services made to non-residents (including a foreign company).	
	The existing provisions of Section 115A of the IT Act provides the following: ➢ Section 115A(1)(a)(A) provides for a tax rate of **20%** with regards to dividend income received by a non-resident. **Section 115A(1)(b)(A) and (B)** provides for a tax rate of **10%** with regards to payment of **Royalty or Fee for Technical services** respectively received by a non-resident or a foreign company from Government or Indian concern provided that such royalty or fees is not connected to any Permanent Establishment or a fixed place of such non-resident in India.	The Finance Act 2023 has made the following changes: ➢ A new proviso is inserted in Section 115A(1)(a)(A) which provides a **concessional rate of 10%** for dividend received from a unit in an **International Financial Services Centre (IFSC)**. ➢ The concessional tax rate of 10% u/s 115A(1)(b)(A) and (B) pertaining to Royalty and Fees for Technical Services **received by non-residents or foreign company** would be enhanced to **20%**.

2.	**Extending the scope of Section 50AA pertaining to Taxability of capital gains to Specified Mutual Funds**	
	The Original Finance Bill 2023 inserted Section 50AA which provided for special provisions for computation of capital gains arising from Market Linked Debentures. As per Section 50AA, the capital gains arising from sale, transfer, redemption or maturity of market linked debenture (MLD) on or after 1 April 2023 would be deemed to be short-term capital gain irrespective of the period of holding and subject to tax as per the marginal slab rates. Further, the said section provided that for the purpose of computing such gains, the full value of the consideration received or accruing as a result of the transfer or redemption or maturity of the "Market Linked Debentures" as reduced by the cost of acquisition of the debenture and the expenditure incurred wholly or exclusively in connection with transfer or redemption of such debenture would be considered. **Thus, no indexation benefit could be claimed u/s 50AA in respect of such capital gains.**	The coverage of section 50AA has been further expanded to include the units of specified mutual funds, wherein **not more than 35% of the total proceeds are invested in equity shares of domestic companies**. **Thus, any gain or income arising on transfer, redemption or maturity of units of such specified mutual funds, acquired on or after 1 April 2023, will also be considered as short-term capital gains, and taxable at the applicable slab rate of the investor, irrespective of the period of holding. Further, indexation benefit would not be available in case of such short-term capital gain**.
3.	**Marginal relief u/s 87A for total income marginally exceeding Rs. 7 lakhs for taxpayers opting for new tax regime**	
	The Original Finance Bill 2023 proposed the new tax regime u/s 115BAC wherein a resident individual whose income is subject to tax u/s 115BAC shall be entitled to a rebate of 100% of income tax payable or Rs. 25,000 whichever is lower provided the total income of said person does not exceed Rs. 7 lakhs. Thus, no tax would be payable where the total income of the taxpayer is upto Rs. 7 lakhs owing to the rebate u/s 87A of the IT Act.	In addition to such enhanced threshold for rebate, the Finance Act 2023 has further extended such rebate where the total income of the taxpayer marginally exceeds the threshold of Rs. 7 lakhs. Accordingly, a marginal relief would be available to taxpayer where his total income is exceeding Rs. 7 lakhs and the income tax payable on the total income exceeds the total income over Rs. 7 lakhs. Such relief would be determined by way of computing the difference between the income tax liability on the total income (before rebate u/s 87A) and the total income over Rs. 7 lakhs. The calculation of such tax liability after marginal relief or rebate available u/s 87A would be computed as follows: **Step 1:-** Calculate the total tax liability on the total income (before rebate u/s 87A) as Amount A **Step 2:-** Calculate the amount of total income over Rs. 7 lakhs as Amount B

		Step 3:- Calculate the positive difference between Amount A over Amount B as marginal relief or rebate u/s 87A **Step 4:-** Reduce the amount of marginal relief as computed in Step 3 from the total tax liability as computed in Step 1 to arrive at the net tax liability.
4.	**Extension of 100% Tax Deduction u/s 80LA of IT Act**	
	Section 80LA of the IT Act provides for 100% deduction to IFSCs, and scheduled bank, foreign incorporated banks having Offshore Banking Unit in a Special Economic Zone (SEZ) on certain incomes of Offshore Banking Units and IFSCs. Such 100% deduction would be available for 5 consecutive years beginning with the year when permission is obtained under SEBI Act or Banking Regulation Act and thereafter restricted to 50%.	The Finance Act 2023 has inserted a proviso exempting 100% of the income earned for the assessment years commencing on or after 1st April 2023**.**
5.	**Preponing the TDS applicability u/s 194BA on Winnings from online gaming from 1st July 2023 to 1st April 2023**	
	The Original Finance Bill 2023 proposed to amend Section 194B of IT Act to exclude online games from the purview of the said Section. Further, a new section 194BA u/s IT Act was proposed to be introduced **with effect from 1st July 2023** for deducting TDS @ 30% on net winnings from online games.	As per the Finance Act 2023, section 194BA under IT Act shall be in force from the **1stApril, 2023 (instead of 1st July 2023)** and accordingly, section 194B of IT Act shall be inapplicable for net earnings on online gaming from 1st April 2023.
6.	**Applicability of TDS rate of 9% for Interest on a long-term or rupee-denominated bond listed on a recognised stock exchange located in an IFSC u/s 194LC of IT Act**	
	Section 194LC of the IT Act provides for deduction of TDS @ 5% on payments made by any Indian company or Business Trust with regards to interest on borrowing in foreign currencies or issue of long-term infrastructure bonds or rupee-denominated bonds during the specified period. Such TDS rate of 5% was reduced to 4% in case where such long term bonds or rupee denominated bonds are listed on a recognized stock exchange in IFSC.	The Finance Act 2023 provides for deduction of TDS @ 9% in respect of money borrowed from foreign sources by way of issuance of any long term bond or rupee denominated bond on or after 1st July 2023, which is listed only on a recognised stock exchange in IFSC.

7.	**Higher rate of TDS u/s 206AB for non-filers would not be applicable to TDS u/s 194BA for net winnings from online gaming**	
	Section 206AB of the IT Act provides for higher rate of TDS for specified persons [who are non-filers of income-tax returns for the previous year immediately preceding the financial year in which tax is to be deducted and the aggregate of TDS in his case is Rs. 50,000 or more in the said previous year] for the specified sections in which tax is required to be deducted. Tax shall be higher of the followings rates: (i) twice the rate specified in the relevant provision of the IT Act; or (ii) twice the rate or rates in force, or (iii) the rate of 5%, as the case may be Section 206AB exclusively provided for a list of sections (such as Section 192, Section 194B, etc.) in case of which the higher TDS rate under the said section would not be applicable.	The Finance Act 2023 has added to the list of exceptions u/s 206AB, the section pertaining to deduction of TDS on net winnings from lottery (section 194BA). Accordingly, TDS would be deducted at 30% u/s 194BA even if the deductee is a non-filer of return.
8.	**Higher rate of TCS u/s 206CC and 206CCA for non furnishing of PAN and non-filers of tax return would be restricted to 20%**	
	Section 206CC of the IT Act provides for higher rate of TDS where the collectee has not provided PAN or Aadhar to the collector. Tax shall be higher of the followings rates: (i) twice the rate specified in the relevant provision of the IT Act; or (ii) twice the rate or rates in force, or (iii) the rate of 5%. Section 206CCA of the IT Act provides for higher rate of TCS for specified persons [who are non-filers of income-tax returns for the previous year immediately preceding the financial year in which tax is to be collected and the aggregate of TDS/TCS in his case is Rs. 50,000 or more in the said previous year] for the specified sections in which tax is required to be deducted. Tax shall be higher of the followings rates: (i) twice the rate specified in the relevant provision of the IT Act; or (ii) the rate of 5%.	The Finance Act 2023has inserted a proviso to both Section 206CC and Section 206CCA of the IT Act to provide that w.e.f. 1st July 2023, the rate of TCS under both such sections shall not exceed 20% even if the collectee has not furnished PAN or is a non-filer of tax return.

9.	Extending the scope of Section 206C(1G) pertaining to TCS for remittance made under Liberalised Remittance Scheme (LRS) outside India to include remittances under LRS within India	
	The Original Finance Bill 2023 proposed certain amendments to Section 206C(1G) pertaining to applicability of TCS for remittances under LRS made outside India.	The Finance Act 2023 has now expanded the scope of Section 206C(1G) to include LRS made within India. Accordingly, TCS u/s 206C(1G) would be applicable even in cases remittance is made under LRS within India for instance, remittance made to IFSC Gift City.
10.	**Tax Exemption u/s 10(4H) on Capital gains arising to any non-resident or IFSC unit from transfer of equity shares of IFSC unit engaged in aircraft leasing business**	
	-	The Finance Act 2023inserted a new clause 4H u/s 10 of IT Act exempting capital gains on shares of a domestic company primarily engaged in aircraft leasing business in IFSC provided it commences its operations on or before 31st March 2026. However, such tax exemption on capital gains would be restricted to those shares which are transferred within a period of 10 years from the date of commencement of operations. Where the operations are commenced on or before 1st April 2024, the period of 10 years would be computed from 1st April 2024. Further, the IFSC unit would derive its meaning as referred to in Section 80LA(1A) of the IT Act.
11.	**Tax Exemption u/s 10(4G) on income received by non-resident from specified activities**	
	-	The Finance Act 2023 inserted a new clause 4G u/s 10 of IT Act exempting income received by a non-resident from portfolio of securities or financial products or funds managed or administered by any portfolio manager on behalf of such non-resident in account maintained with an Offshore Banking Unit in any IFSC [as referred to in Section 80LA(1A)]. However, the tax exemption would be restricted to the extent such income accrues or arises outside India and is not deemed to accrue or arise in India.
12.	**Tax on distribution by business trusts to its unit holders**	
	The Original Finance Bill 2023 proposed to insert section 56(2)(xii) to provide that the income chargeable to income-tax under the head "Income from Other Sources" shall also include any sum received by a unit holder from a business trust, which	The Finance Act 2023 has inserted section 56(2)(xii) as under: (xii) any specified sum received by a unit holder from a business trust during the previous year, with

	(a) is not in the nature of income as referred to in section 10(23FC) i.e., interest and dividend and section 10(23FCA) i.e., rental income of the IT Act; and (b) is not chargeable to tax under section 115UA(2) i.e., the total income of the business trust which is charged to tax at the MMR. It was also proposed that where the sum received by a unit holder from a business trust is for redemption of unit or units held by him, the sum received shall be reduced by the cost of acquisition of the unit or units to the extent such cost does not exceed the sum received. Further, the provisions of section 115UA relating to tax on the income of unit holder and business trust shall not apply in respect of any sum proposed to be taxed under section 56(2)(xii) which is received by a unit holder from a business trust.	respect to a unit held by him at any time during the previous year. Explanation – For the purpose of this clause, "specified sum" shall be computed in accordance with the following formula, namely – Specified Sum = A-B-C (which shall be deemed to be zero if sum of B and C is greater than A), where A = aggregate of sum distributed by the business trust with respect to such unit, during the previous year or during any earlier previous year or years, to such unit holder, who holds such unit on the date of distribution of sum or to any other unit holder who held such unit at any time prior to the date of such distribution, which is, - (a) not in the nature of income referred to in clause (23FC) or clause (23FCA) of section 10 and (b) not chargeable to tax under sub-section (2) of section 115UA; B = amount at which such unit was issued by the business trust; and C = amount charged to tax under this clause in any earlier previous year.

3.0 KEY INDIRECT TAX AMENDMENTS TO THE FINANCE ACT 2023:

Sr. No.	Provision in the Original Finance Bill 2023	Change in the Finance Act 2023
1.	**Amendment of Section 23 of the CGST Act pertaining to Persons not liable for GST registration**	
	To eliminate the overlapping effect, Section 23 of the CGST Act was proposed to be substituted retrospectively with effect from 01 July 2017 to exempt persons from compulsory registration in terms of Section 22(1) or Section 24 if they are exempted from registration under Section 23(1) of the CGST Act i.e. engaged in wholly exempt supplies or undertaking supplies which are not liable to tax.	Instead of substitution of the entire Section 23 of the CGST Act, a retrospective amendment to sub-section (2) of Section 23 is approved which provides power to the Government to specify the categories of persons by way of a notification who may be exempted from obtaining registration and which would have an overriding effect on anything contained in Section 22(1) or Section 24 of the CGST Act.
2.	**Amendment in relation to revocation of cancellation of registration**	
	No amendments were proposed in the Original Finance Bill 2023	Amendment of Section 30(1) of CGST Act is approved to change the existing timelines for making an application for revocation of

		cancellation of registration where the registration is suo-moto cancelled by the proper officer. Timelines in existing Section 30(1) – within 30 days from the date of service of cancellation order and extendable by 30 days by Assistant Commissioner/Joint Commissioner and further 30 days by the Commissioner Timelines approved as per amendment to Section 30(1) - within such time and subject to such conditions and restrictions as may be prescribed
3.	**Enhancement in timelines in relation to withdrawal of assessment order for non-filers of returns**	
	No amendments were proposed in the Original Finance Bill 2023	Amendment to Section 62(2) of the CGST Act is approved to enhance the time-limit to file pending returns for deemed withdrawal of assessment order determining the tax liability on best judgement basis from 30 days of service of the said order to 60 days of service of the order. Further, a proviso is being inserted to provide for a further period of 60 days subject to payment of an additional late fee of INR 100 per day of delay beyond 60 days of the service of the assessment order.
4.	**Substitution of sections pertaining to constitution of appellate tribunal and its benches, members of appellate tribunal, their qualification, appointment, conditions of service etc.**	
	No amendments were proposed in the Original Finance Bill 2023	The Finance Act 2023 substitutes entire Section 109 and 110 of the CGST Act which deal with constitution of appellate tribunal and its benches, members of appellate tribunal, their qualification, appointment, conditions of service etc.
5.	**Omission of specific provision of Place of Supply in relation to services of transportation of goods when supplier or recipient is located outside India**	
	No amendments were proposed in the Original Finance Bill 2023	Sub-section (9) of Section 13 of the IGST Act is being omitted which provides for the place of supply in case of services of transportation of goods (other than by mail or courier) to be the destination of such goods where the location of supplier or location of recipient is outside India.
6.	**Amendment of rates in relation to GST Compensation Cess**	
	No amendments were proposed in the Original Finance Bill 2023	Schedule to the GST (Compensation to States) Act 2017 is being amended as under:

		<table><tr><th>Description of goods</th><th>Compensation Cess Rate (Existing)</th><th>Compensation Cess Rate (Finance Act 2023)</th></tr><tr><td>**Pan Masala**</td><td>135% ad valorem</td><td>51% of Retail sale price per unit</td></tr><tr><td>**Tobacco and manufactured tobacco substitutes, including tobacco products.**</td><td>INR 4,170 per thousand sticks or 290% ad valorem or a combination thereof, but not exceeding INR 4,170 per thousand sticks plus 290% ad valorem.</td><td>INR 4,170 per thousand sticks or 290% ad valorem or a combination thereof, but not exceeding INR 4,170 per thousand sticks plus 290% ad valorem or 100% of retail sale price per unit</td></tr></table>
7.	**Insertion of new Section 65A in the Customs Act, 1962**	
	No amendments were proposed in the Original Finance Bill 2023	The Finance Act 2023 has inserted a new section 65A after Section 65 of the Customs Act, 1962 pertaining to Goods brought for operations in warehouse required to have ordinarily paid IGST and GST Compensation Cess on imported goods which are to be deposited under MOOWR Regulations and shall be applicable from the notification date.
8.	**Changes in Customs Duty rates by way of amendment of Schedule I (Import Tariff) of the Customs Tariff Act, 1975**	
	<table><tr><th>Tariff item</th><th>Description of goods</th><th>Unit</th><th>Standard rate</th><th>Preferential Rate</th></tr><tr><td>1904 20</td><td>Prepared foods obtained from unroasted cereal flakes or from mixtures of</td><td></td><td></td><td></td></tr><tr><td>1904 20 10</td><td>With millet content 15% or</td><td>Kg.</td><td>30%</td><td></td></tr></table>	<table><tr><th>Tariff item</th><th>Description of goods</th><th>Unit</th><th>Standard rate</th><th>Preferential Rate</th></tr><tr><td>1904 20</td><td>Prepared foods obtained from unroasted cereal flakes or from mixtures of unroasted cereal flakes and roasted cereal flakes or swelled cereals</td><td>Kg.</td><td>30%</td><td></td></tr></table>

190 4 20 90	more by weight Other	Kg.	30%	
293 3 59 50	Bispyribac -sodium (ISO)	Kg.	7.5%	
690 7 40 00	Furnishing ceramics	m^2	15%	

1904 20 10 1904 20 90	With millet content 15% or more by weight Other	Kg.	30%	
2933 59 50	Bispyribac-sodium (ISO)	Kg.	10%	
6907 40 00	Finishing ceramics	m^2	15%	

9.	Increase in Customs Duty rates in relation to non-portable X-ray generators and apparatus, portable X-ray machines etc.

No amendments were proposed in the Original Finance Bill 2023 in relation to Chapter 90. However, the existing rates as per Schedule I of Customs Tariff Act, 1975 is as under:

Tariff item	**Description of goods**	**Unit**	**Standard rate**	**Preferential Rate**
902 2 14 10	X-ray generators and apparatus (non-portable)	u	10%	
902 2 14 20	Portable X-ray machine	u	10%	
902 2 14 90	Other	u	10%	

The approved changes in the rates as per the Finance Act 2023 is as under:

Tariff item	**Description of goods**	**Unit**	**Standard rate**	**Preferential Rate**
9022 14 10	X-ray generators and apparatus (non-portable)	u	15%	
9022 14 20	Portable X-ray machine	u	15%	
9022 14 90	Other	u	15%	

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