

India Budget 2022: Enabling India's big leap The Dbriefs Geography Updates Tax series

Hemal Zobia / Jatin Kanabar / Sanjay Kumar / Bela Sheth Mao
2 February 2022

Agenda

- Introduction
- Fiscal position
- Corporate tax
- Personal tax
- Indirect tax
- Questions and answers

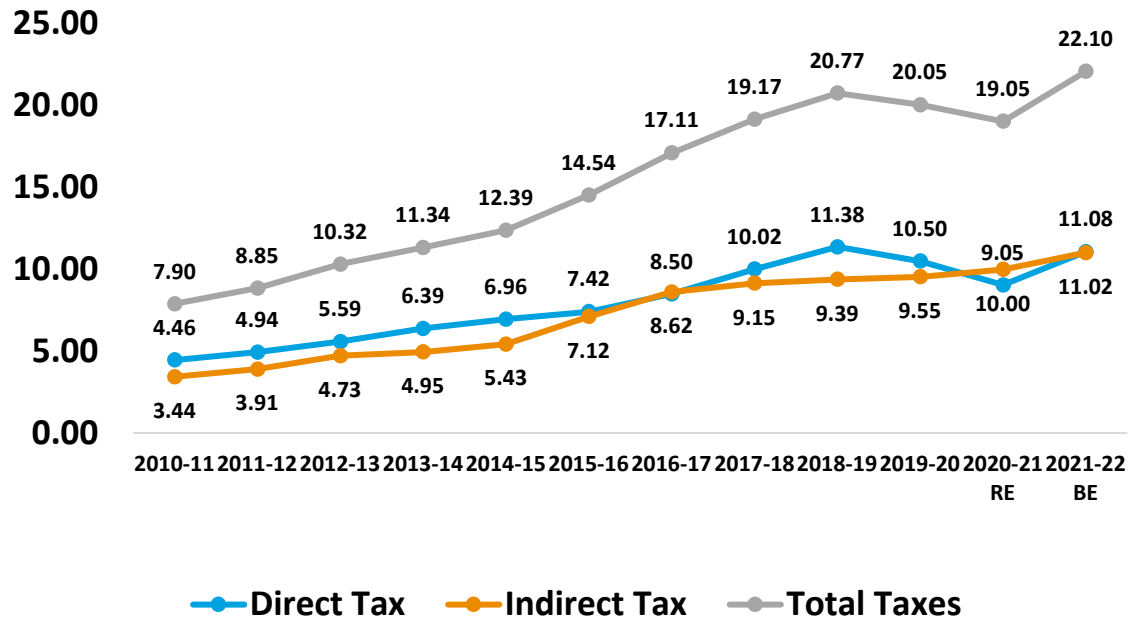
Fiscal position

Fiscal indicators to note

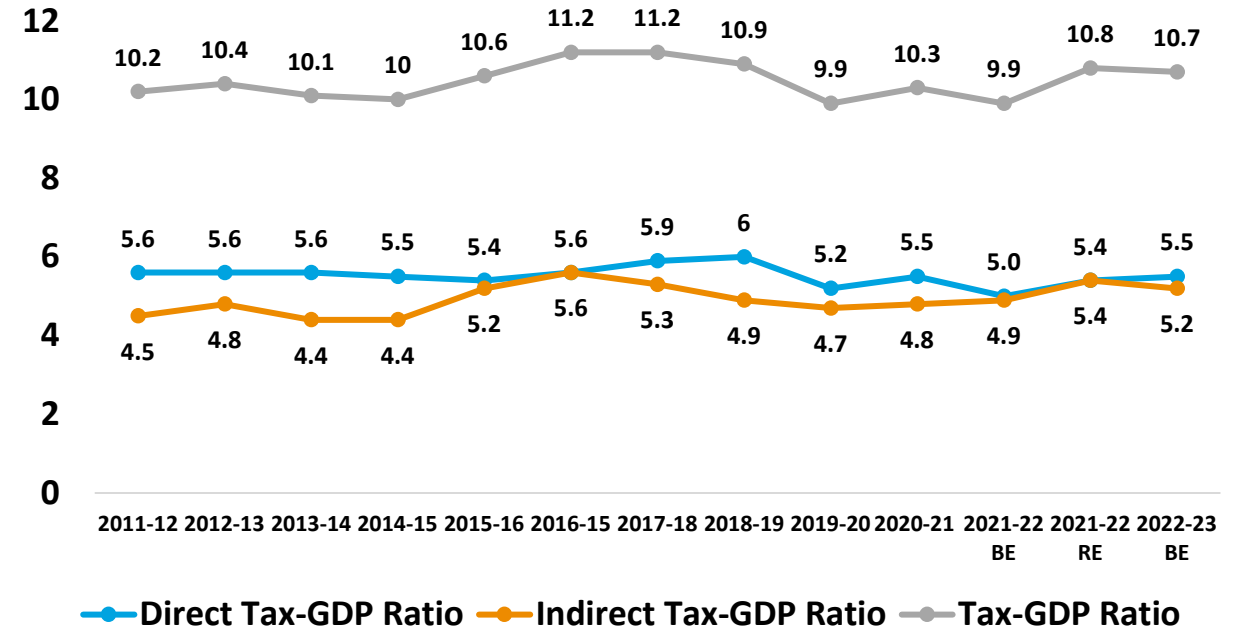
- **GDP growth in FY 2021-22:**
 - Current FY is estimated to be 9.2 per cent
 - Projected GDP growth for FY2022-23 between 8.0 - 8.5 per cent
- **Fiscal deficit:**
 - Current FY estimated to be at 6.9 per cent
 - Estimated to be at 6.4 per cent during the next FY
- **Budget outlay:**
 - Total outlay for the current FY is INR 37.70 trillion (revised estimates), higher than INR 34.83 trillion estimated earlier
 - Next FY estimated at INR 39.45 trillion, a jump by 13.3 per cent over the last year BE
 - FY 2022-23 outlay is estimated to be funded to the extent of 57.9 per cent by total receipts other than borrowings, estimated at INR 22.84 trillion
- **Capital expenditure:**
 - Capital expenditure during the last budget was pegged at INR 5.54 trillion, with a 26 per cent jump over the previous FY
 - Current FY, it is kept at Rs. 7.5, a jump by 35.4 per cent;
- **Merchandise exports:** Proposed to be expanded by 49.7 per cent to US\$ 301.4 billion in April – December 2021, exceeding the pre-pandemic levels
- **Monetary policy:** Fiscal policy was well accommodated through monetary policy; Central Bank, the RBI, kept repo rate unchanged at 4 percent since May 2020
- **INR to USD:** INR averaged at 74.28 for a US dollar during April – December 2021 against 74.63 during April – December 2020

Tax receipts over years

Direct vs indirect tax (INR trillion)

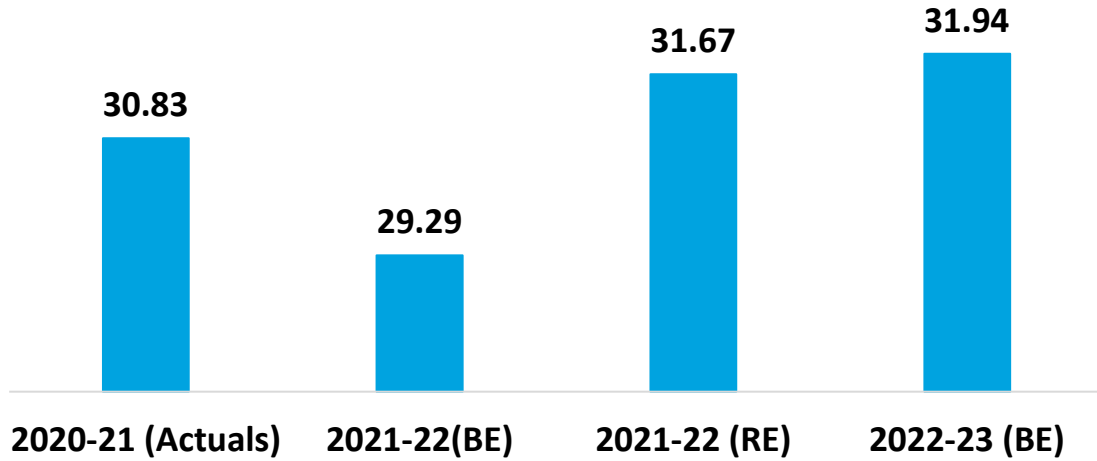


Tax-GDP ratio

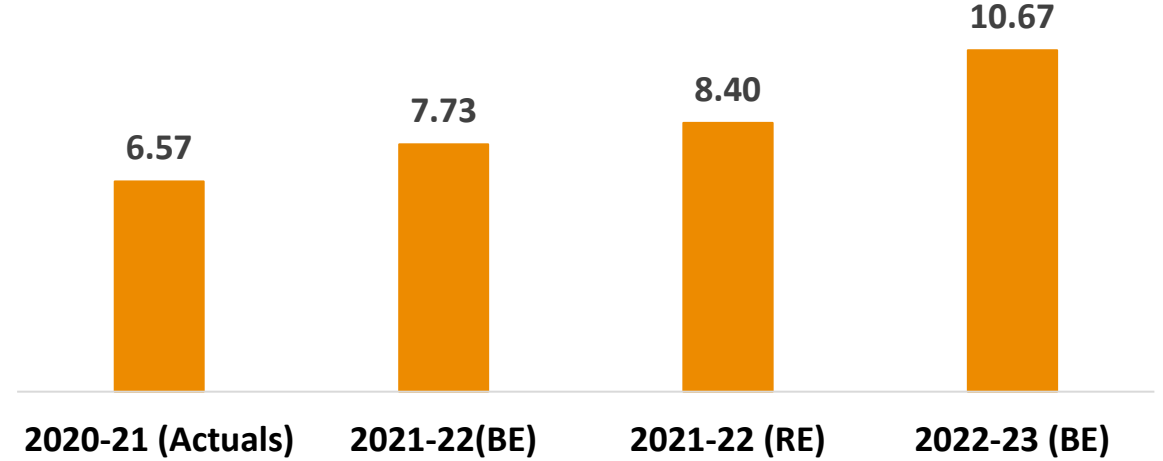


Expenditure over years

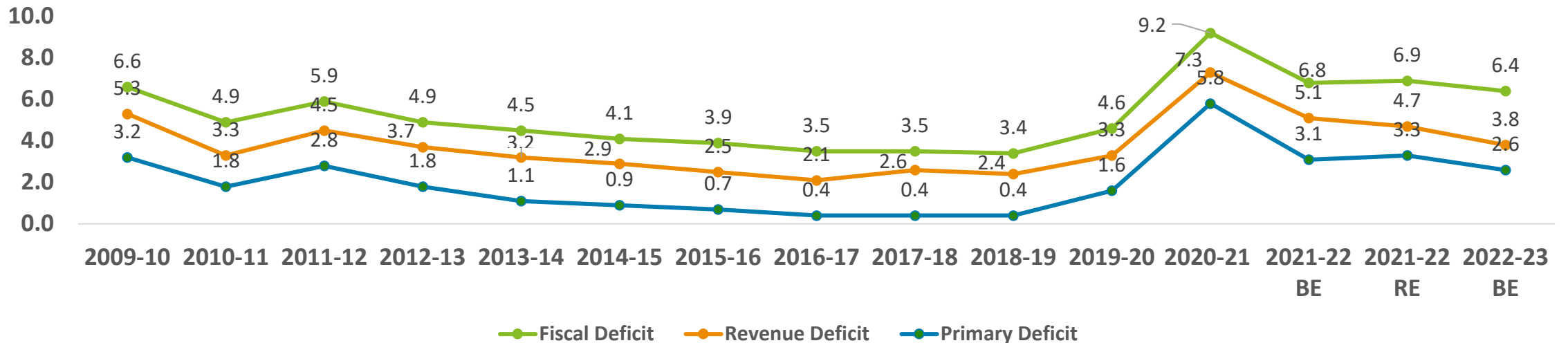
Revenue expenditure (Rs trillion)



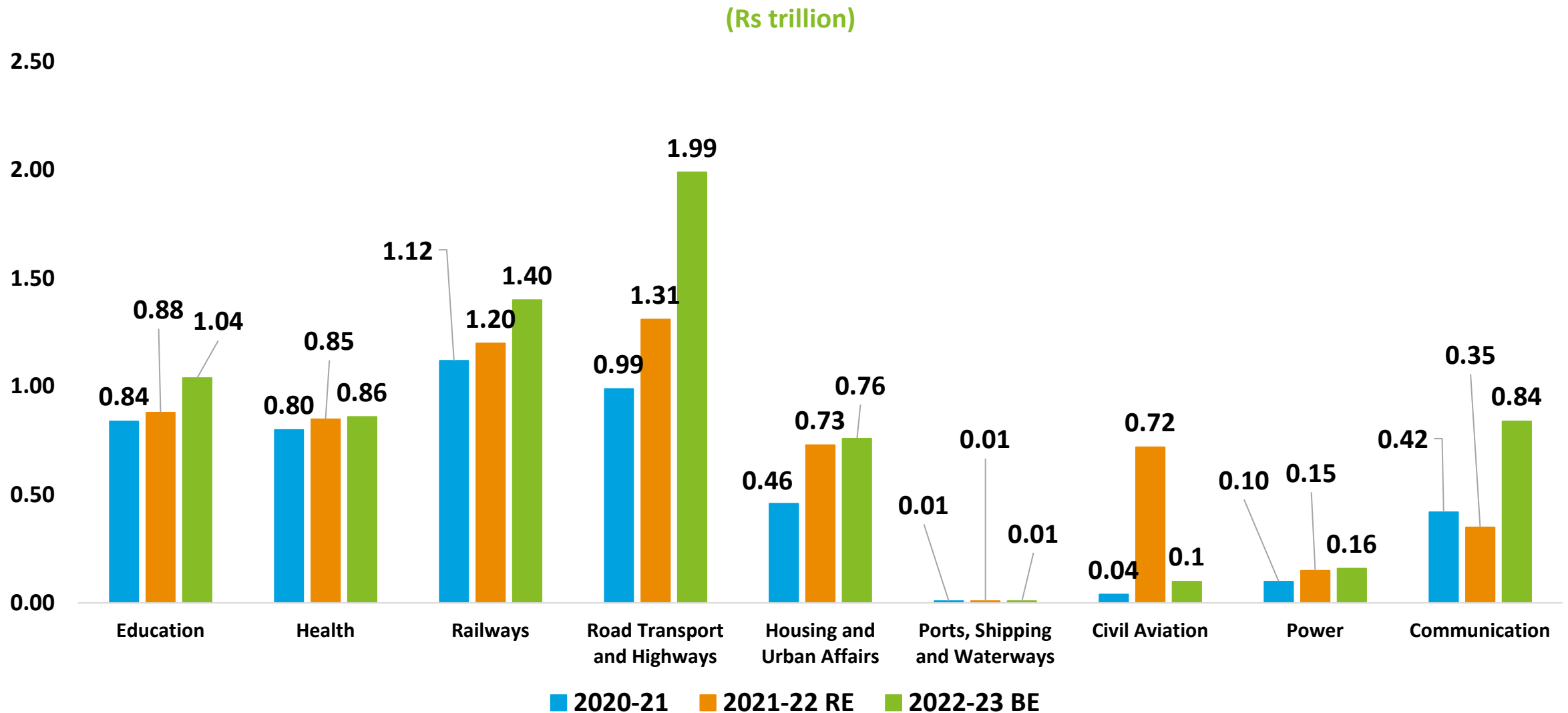
Effective capital expenditure (Rs trillion)



Deficit (% of GDP)

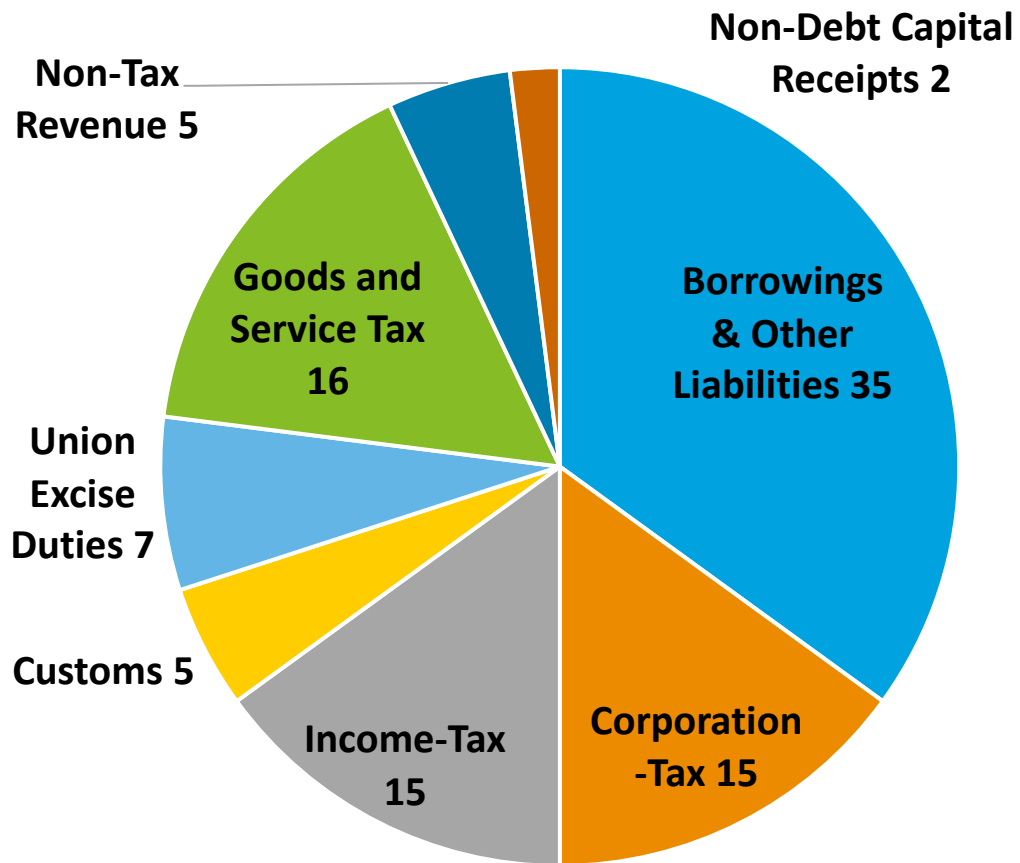


Trends of major items of expenditure

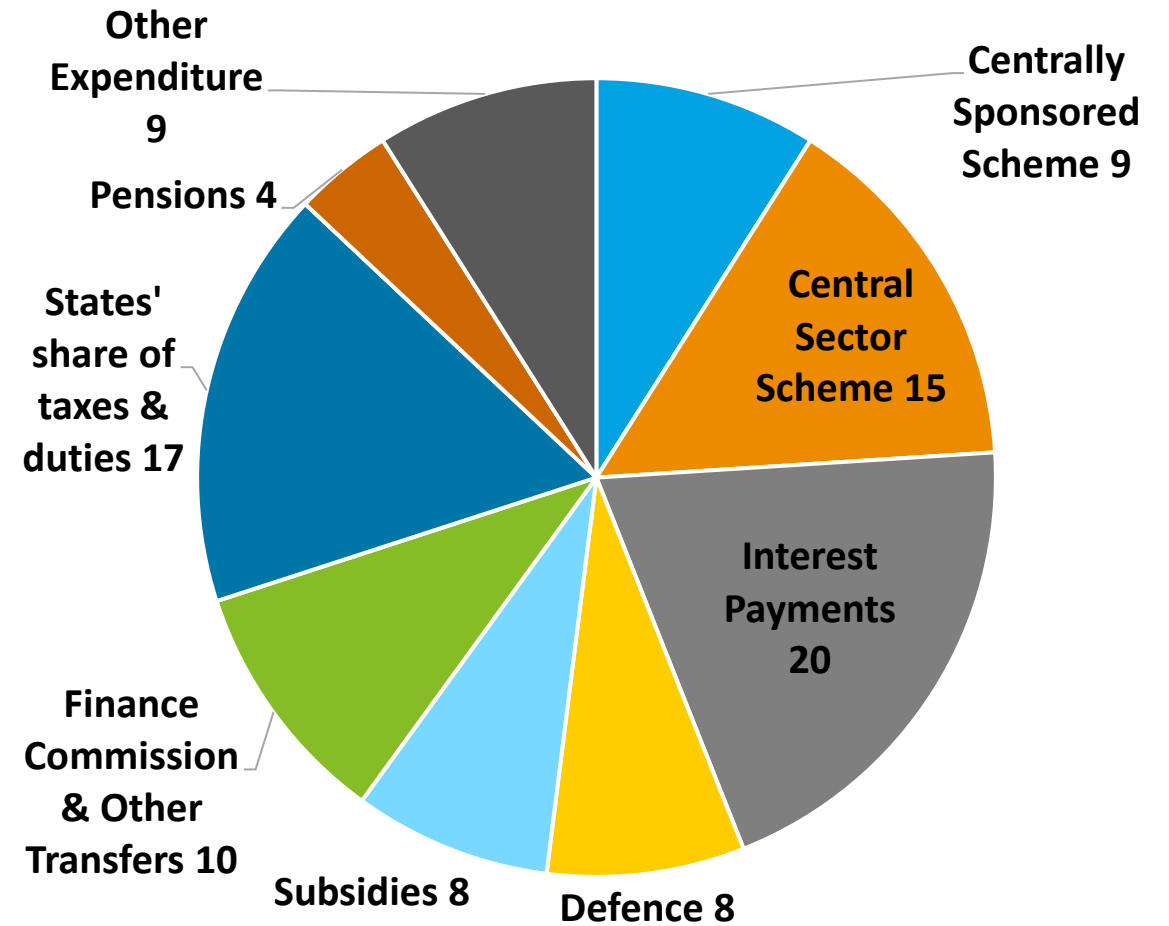


Summary

Rupee comes from 2022-23



Rupee goes to budget 2022-23



Polling question 1

Do you think the budget will give the necessary push to the Indian economy to climb the recovery ladder to pre-pandemic level?

- Yes
- Somewhat
- No
- Don't know

Corporate tax

Corporate tax

Rates and date extensions

- **Corporate tax rates:** no change in corporate tax rates for all classes of taxpayers
 - Companies opting for simplified tax regime to be subjected to ETR of 25.17 per cent ; MAT not applicable
 - New manufacturing domestic companies to be subjected to ETR of 17.16 per cent; MAT not applicable
 - Companies opting be governed by normal regime to be subjected to ETR 34.94 per cent; MAT at ETR of 17.47 per cent
 - Foreign companies to be subjected to ETR of 43.68 per cent; MAT applicable at ETR of 16.38 per cent
 - LLPs to be subjected to ETR of 34.94%; MAT applicable at ETR of 21.55 per cent
- **Surcharge on AOPs :** surcharge on AOPs where all members are companies capped at 15 per cent
- **New manufacturing domestic companies:** timeline extended for commencing manufacturing or production to avail concessional tax rate of 15 per cent (ETR of 17.16 per cent) from 31 March 2023 to 31 March 2024
- **Start-ups:** the date for incorporation of eligible start-ups extended to 31 March 2023 for availing profit linked deduction

Corporate tax

Additional tax incentives to IFSC

- **Offshore banking units of IFSC**
 - Transfer of offshore derivative instruments or over-the-counter derivatives entered with OBUs of IFSCs proposed to be exempted, in addition to existing exemption for non-deliverable forward contracts
 - Income received by a NR, accruing or arising outside India, from portfolio of securities or financial products or funds, managed or administered by any portfolio manager on behalf of such NR in an account maintained with an OBU in an IFSC is proposed to be exempted
- **Royalty or interest on lease of ship**
 - In addition to the existing exemption of royalty or interest income on the lease of aircraft, royalty or interest income on **lease of ship** paid by a unit of IFSC, is proposed to be exempted, if the unit has commenced operations before 31 March 2024
- **Income from transfer of ship**
 - Income from transfer of a ship leased by a unit of the IFSC is proposed to be made eligible for profit linked deduction on similar lines as income from transfer of aircraft, if unit has commenced operations before 31 March 2024
- **Deemed income provisions**
 - Investment by Category I and II AIFs regulated under IFSC Authority Act, 2019 excluded from the applicability of deemed income provisions

Corporate tax

Deductions

- **Treatment of cess and surcharge:** amendment proposed to clarify that the term “tax” includes any surcharge and cess resulting in denial of tax deduction in respect of payment of cess. Amendment is made retrospective with effect from FY 2004-05
- **Expenditure in relation to exempt income:** it is proposed to insert explanation to clarify that expenses incurred for the purpose of earning exempt income can be disallowed even in the absence of any exempt income earned or received by the taxpayer
- **Disallowance of expenses:** it is proposed to specifically disallow the following expenses:
 - For any purpose which is an offence under, or which is prohibited by, any law, in India or outside India; or
 - Any benefit or perquisite, to a person, whether or not carrying on a business or exercising a profession, where acceptance of such benefit or perquisite is in violation of any law or rule or regulation or guidelines, governing the conduct of such person; or
 - To compound an offence under any law, in India or outside India
- **Deduction of interest on actual payment:** it is proposed that, conversion of interest payable into debenture or any other instrument by which liability to pay is deferred to a future date, shall not be deemed to have been actually paid. The deduction will be available only upon actual payment

Corporate tax

Widening the tax base

- **Taxing virtual digital assets:**
 - Income from transfer of VDA to be taxable at the rate of 30 per cent. No expenditure or allowance to be allowed under any provisions while computing income from transfer of VDA. Only cost of acquisition of VDA to be allowed as deduction in computing taxable income
 - Gift of VDA to be covered within the ambit of deemed income provisions
 - Losses arising from transfer of VDA cannot be set off against income computed under any other provision. Carry forward of losses is not allowed
 - Withholding taxes at the rate of 1 per cent will be levied on transfer of VDA
 - VDA proposed to be defined in a broad manner and includes crypto currency as well as Non-Fungible Tokens ('NFTs')
- **Taxation of foreign dividend:** to provide parity in the tax treatment in case of dividends received from specified foreign companies' vis a vis dividend received from domestic companies, it is proposed to withdraw concessional tax rate of 15 per cent, which was erstwhile applicable to dividends from specified foreign companies
- **Bonus stripping:** it is proposed to extend provisions pertaining to bonus stripping to securities as well as units of REITs, INVITs and AIFs
- **TDS on benefit or perquisite of a business or profession:** TDS at the rate of 10 per cent on the value of any benefit or perquisite, to be paid to a resident. This amendment is effective from 1 July 2022

Corporate tax

Assessment/litigation

- **Updated return:** taxpayers can opt to file updated return within 3 years from end of relevant FY after payment of additional tax at the rate of 25 per cent or 50 per cent, as the case may be. No loss can be claimed, or tax liability be reduced by filling updated return. No updated return can be filed in certain specified cases
- **Faceless assessment:**
 - Existing provisions of faceless assessment to be substituted by new provision
 - Erstwhile faceless assessment scheme provided that assessment proceedings shall be void if the prescribed procedure was not followed, which is now proposed to be omitted (retrospectively from FY 2020-21)
- **Reassessment provisions modified:**

Reassessment scope after 3 years up to 10 years expanded to cases where AO has books/documents/evidence which reveal that income chargeable to tax, represented:

 - In the form of an asset; or
 - Expenditure in respect of transaction or any event or occasion;
 - An entry/entries in books amounting to INR 5 million (~ USD 66,650) or more
- **Litigation management:** the tax authorities may defer filling an appeal before High Court/Tribunal if an identical question of law is pending before the jurisdictional High Court or the Supreme Court, in taxpayer's own case or in case of another taxpayer

Corporate tax

Business reorganization

- **Business reorganization**
 - Assessment or other proceedings made on the predecessor during pendency of such reorganization shall be deemed to have been made on the successor
 - Successor permitted to file income tax return within 6 months from end of the month in which order is issued by competent authority
- **Carry forward of tax losses permissible for erstwhile public sector company**
 - Change in shareholding pursuant to strategic divestment to not impact carry forward of tax losses to erstwhile public sector companies, subject to ultimate holding company continuing to hold at least 51 per cent. The amendment is proposed to be effective from FY 2021-22
- **Modifying tax demand issued to IBC companies based on order by competent authority**
 - Tax demands in the name of IBC companies to be modified by tax officer pursuant to the order issued by competent authority

Personal tax

Personal tax

Key amendments

- **No change in applicable income tax rates and deductions**
- **Surcharge on any LTCG capped at 15 per cent to all capital asset**
- **COVID related relief:** the Finance Ministry had released a press statement on 25 June 2021, where it was announced that
 - Income-tax shall not be charged on the amount received by a taxpayer for medical treatment from employer or from any person for treatment of COVID-19 during FY 2019-20 and subsequent years
 - Income-tax exemption shall be provided to ex-gratia payment received by family members of a person from the employer or from other person upon death on account of COVID-19
 - The above exemption shall be allowed without any limit for the amount received from the employer and the exemption shall be limited to INR 1 million/~ USD 13,350 in aggregate for the amount received from any other persons

The above announcements are proposed to be incorporated in the Act

Polling question 2

What would you have liked to see, which is not addressed by budget proposals 2022?

- Clarity on aspects relating to Equalisation Levy/Significant Economic Presence
- Deduction of CSR expenditure incurred for COVID-19
- Expanding the benefit of concessional tax rate of 15 percent to certain sunrise sectors
- Increasing monetary limit for tax deduction relating to new employment
- Incentivizing investments in R&D

Indirect tax

Indirect taxes

Goods and Services Tax (GST)

- **Restriction on GST credit availment and other aspects**

- Further restriction introduced for matching of GST credit for the taxpayer claim GST credit
- No interest applicable on GST credit wrongly availed but not utilized by the taxpayer
- Self-assessed GST credit availed in returns would be liable for reversal along with interest where tax is not paid by the supplier
Re-availment to be allowed on supplier making the payment of tax

- **Taxpayer beneficial announcements**

- Additional time available for availment of GST credit and issuance of credit note for a Financial year from due date from September month end to 30 November of the following year
- Fungibility proposed for cross-utilization of pre-paid GST cash balance across GST registration of distinct person(s)
- Fixation for timeline for refund filings for supplies to SEZ by the taxpayers
- Retrospective amendment made from 1 July 2017 reducing rate of interest on ineligible Input tax credit availed and utilized from 24 per cent to 18 per cent

- **Other Compliance related announcement**

- Provisions relating to cancellation of GST registration proposed to be amended for non-filers of GST returns
- Monthly timelines for filing of GST return by non-resident taxpayer has been preponed to from 20th to 13th

Indirect taxes

Customs law and SEZ regulations

- **Measures towards review and simplification of Customs law**

- Further pruning of customs exemptions by either rescinding exemption notifications or putting validity to certain ongoing exemption
- Gradual phase out of concessional tariff rates offered for capital goods and levy @ 7.5 per cent in case of project imports
- Specific provisions introduced to cast additional obligation on importer in case of specific imports where value of goods is not declared correctly
- Changes made under Import of Goods at Concessional Rate, 2017 to bring automation
- “Tariffication” undertaken to align Customs Tariff duty with Customs effective duty structure for goods in Textiles, chemicals, metals sector, etc.
- Bringing officers of DRI, audit and preventive formation under the ambit of class of officers of Customs to perform various functions under the Customs Act and the rules made thereunder. This change has been brought retrospectively

- **SEZ reforms**

- SEZ Act is proposed to be replaced with a new legislation
- Customs administration of SEZs to be fully IT driven and function on the Customs National Portal – shall be implemented by 30 September 2022

Indirect taxes

Production Linked Incentive (PLI) schemes

- **New PLI Scheme:**

- Scheme for design-led manufacturing to be launched to build a strong ecosystem for 5G as part of the Production Linked Incentive Scheme
- Additional allocation of INR 19,500 crore announced for Production Linked Incentive for manufacture of high efficiency solar modules to meet the goal of 280 GW of installed solar power by 2030

Indirect taxes

Unfinished agenda

- **Unaddressed expectations:**

- Inclusion of petroleum products under the GST framework
- Clarity on admissibility of GST credit for Covid-19 related expenses
- Setting-up of National Appellate Tribunal for advance ruling as a step towards unification of varied advance rulings pronounced by the lower authorities
- Setting-up of GST Appellate Tribunal for filing appeal against the orders passed by the first appellate authorities
- Rationalization of GST rates

Polling question 3

In which areas of tax policy/regulations should measures be taken for increasing the ease of doing business?

- Indirect tax compliances
- GST rate rationalization
- Customs rate reductions
- Globally competitive exports

Questions and answers

Thanks for joining today's webcast.

You may watch the archive on PC or mobile devices via Apple Podcasts, RSS, YouTube.

Eligible viewers may now download CPE certificates. Click the CPE icon at the bottom of your screen.

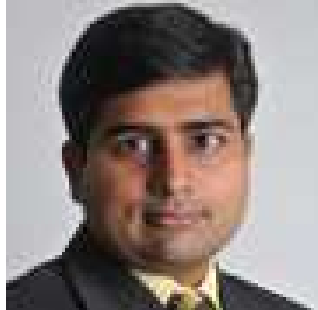


Join us 10 February at 2:00 PM SGT (GMT+8) as our Indirect Tax series presents:

Updates on Regional Comprehensive Economic Partnership (RCEP) and Free Trade Agreements (FTA) related origin documentation audits

For more information, visit www.deloitte.com/ap/dbriefs

Contact information



Hemal Zobia

Tax Partner
Deloitte India
hzobalia@deloitte.com



Jatin Kanabar

Tax Partner
Deloitte India
jakanabar@deloitte.com



Sanjay Kumar

Tax Partner
Deloitte India
kumarsanjay@deloitte.com



Bela Sheth Mao

Tax Partner
Deloitte India
belashethmao@deloitte.com

Glossary

ACT	Income-tax Act,1961	INVIT	Infrastructure Investment Trust
AIF	Alternate Investment Fund	IRA	Indian Revenue Authority
AO	Assessing Officer	LTCG	Long Term Capital Gain
AOP	Association of Persons	NFT	Non Fungible Token
COVID	Coronavirus Disease	NR	Non-Resident
ETR	Effective Tax Rate	OBU	Offshore Banking Unit
FY	Financial Year	REITs	Real Estate Investment Trusts
IBC	Insolvency and Bankruptcy Code	TDS	Tax Deducted at Source
IFSC	International Financial Services Centre	USD	United States Dollar
INR	Indian Rupees	VDA	Virtual Digital Asset



About Deloitte

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited (“DTTL”), its global network of member firms, and their related entities (collectively, the “Deloitte organization”). DTTL (also referred to as “Deloitte Global”) and each of its member firms and related entities are legally separate and independent entities, which cannot obligate or bind each other in respect of third parties. DTTL and each DTTL member firm and related entity is liable only for its own acts and omissions, and not those of each other. DTTL does not provide services to clients. Please see www.deloitte.com/about to learn more.

This communication contains general information only, and none of Deloitte Touche Tohmatsu Limited (“DTTL”), its global network of member firms or their related entities (collectively, the “Deloitte organization”) is, by means of this communication, rendering professional advice or services. Before making any decision or taking any action that may affect your finances or your business, you should consult a qualified professional adviser.

No representations, warranties or undertakings (express or implied) are given as to the accuracy or completeness of the information in this communication, and none of DTTL, its member firms, related entities, employees or agents shall be liable or responsible for any loss or damage whatsoever arising directly or indirectly in connection with any person relying on this communication. DTTL and each of its member firms, and their related entities, are legally separate and independent entities.

© 2022. For information, contact Deloitte Touche Tohmatsu Limited.