Economic Snapshot
Along with the Global economy, the Indian economy was also negatively impacted by an unprecedented health crisis in 2020-21 due to the COVID-19 pandemic. The lockdown measures, imposed to contain the spread of COVID-19 in India, ubiquitously affected employment, business, trade, manufacturing, and services activities. The real Gross Domestic Product (GDP) growth is projected to contract by 7.7 % in 2020-21 as compared to a growth of 4.2 % in 2019-20. GDP growth is expected to rebound strongly in 2021-22 owing to the reform measures undertaken by the Government.

The fiscal and revenue deficits is pegged at 9.5 % of GDP and 7.5 % of GDP respectively in 2020-21. The Government plans to continue on the path of fiscal consolidation to reach a fiscal deficit level below 4.5% of GDP by 2025-2026 with a steady decline over the period. This would be achieved by increasing the buoyancy of tax revenue through improved compliance, and by increased receipts from monetisation of assets, including Public Sector Enterprises and land.

To ensure that the economy is given the required push, the estimates for expenditure in 2021-2022, are ₹34.83 lakh crores. This includes ₹5.54 lakh crores as capital expenditure, an increase of 34.5% over the estimated figure of 2020-2021. The fiscal deficit in 2021-2022 is estimated to be 6.8% of GDP. The gross borrowing from the market for the next year would be around ₹12 lakh crores.

During 2020-21, the growth of monetary aggregates witnessed higher growth as compared to previous few years on account of higher liquidity in the economy.

Amidst the uncertain and shaky global economic environment affected by Covid19, India’s external sector has emerged as a key cushion for resilience. In first half of FY 2020- 21, steep contraction in merchandise imports and stable net service receipts led to a current account surplus of US$ 34.7 billion (3.1 percent of GDP). Balance on the capital account, on the other hand, has been buttressed by robust FDI and FPI inflows. These developments have led to an accretion of foreign exchange reserves that rose to US$ 580.8 billion as on December 25, 2020.

The Contingency Fund of India is being proposed to be augmented from ₹500 crores to ₹30,000 crores through Finance Bill.

STARTUPS
1. **Tax holiday for startups** – Tax holiday for start-ups under S. 80-IAC of IT Act extended to start-ups incorporated till March 31, 2022 (1-year extension).

2. **Capital gain exemption for promoting investment in startups** - Window to avail capital gains exemption by individuals / Hindu Undivided Family (HUFs) on sale of residential property, if sale proceeds are invested in shares of an eligible start-up, has been extended by 1 year (i.e., if the property is transferred by March 31, 2022). Other conditions continue to apply.

3. **Revision in definition of small company under Companies Act 2013**: The definition of “Small Company” has been proposed to be amended to increase paid up capital limit to INR 2 crores (from INR 50 lakhs) and turnover limit to INR 20 crores (from INR 2 crores). The 4x increase in the paid-up capital threshold and 10x increase in turnover will ease compliance and procedural burden for more than 2 lakh companies.

4. **Relaxations in incorporation of One Person Company (OPC)** –
   - **No restriction on paid-up capital and turnover**. (Currently, in case paid-up share capital of OPC exceeds INR 50 lakhs or its average annual turnover of immediately preceding three consecutive financial years exceeds INR 2 crore, then OPC is mandatorily required to convert itself into a private or public company);
Allowing conversion of OPC into any form of company at any time; and
Reduction in residential status threshold for individual shareholder of OPC from 182 days to 120 days; NRIs freely allowed to be shareholder of OPC (Currently: only a natural person who is an Indian citizen and resident in India shall be eligible to act as a member and nominee of OPC. For this purpose, the term “resident in India” means a person who has stayed in India for a period of not less than 182 days during the immediately preceding financial year).

INNOVATION AND RESEARCH & DEVELOPMENT (R&D)
1. National Research Foundation – The proposal to earmark INR 50,000 crores over next 5 years for National Research Foundation (announced by the Finance Minister in July 2019 Budget) is a welcome move. This will ensure that the overall research ecosystem of the country is strengthened with a focus on identified national priority thrust areas.

2. Promotion of digital modes of payment – The budget lays down continued emphasis on promoting digital payments. Towards this endeavor, INR 1,500 crore has been proposed to be earmarked.


SKILLING
- Proposal to earmark INR 3000 crores and realignment of existing scheme of National Apprenticeship Training Scheme (NATS) for providing post-education apprenticeship, training of graduates and diploma holders in Engineering.
- Total budget allocation for Ministry of Education is INR 93,000 crores with a provision of INR 34,300 Cr for National Education Mission.

TECHNOLOGY ADOPTION
Launch of data analytics, artificial intelligence, machine learning driven MCA21 Version 3.0. This Version 3.0 will have additional modules for e-scrutiny, e-Adjudication, e-Consultation and Compliance Management.

FINANCIAL CAPITAL

2. Development of world class Fin-Tech hub at the Gujarat International Finance Tec-City - International Financial Services Centre (GIFT-IFSC) - The government proposes to support the development of world class Fin-tech hub at the GIFT-IFSC.

3. Tax incentives for IFSC – Introduction of tax holiday for capital gains for aircraft leasing companies, tax exemption for aircraft lease rentals paid to foreign lessors; tax incentive for relocating foreign funds in the IFSC; and to allow tax exemption to the investment division of foreign banks located in IFSC.

CORPORATE TAXATION AND TRANSFER PRICING
1. Clarification on Equalisation Levy (EL) –
   - Exemption under S. 10(50) of IT Act will apply from April 1, 2020 (instead of April 1, 2021) on consideration subject to EL
   - EL will not apply on consideration which is taxable in nature of ‘royalty’ and ‘fees for technical services’ under the IT Act read with tax treaty effective April 1, 2020;
   - Online sale of goods / online provision of services to include –
a. acceptance of offer for sale;
b. placing the purchase order;
c. acceptance of the purchase order;
d. payment of consideration; or
e. supply of goods or provision of services, partly or wholly

Even if goods not owned by e-commerce operator (ECO) / services not provided by ECO, EL will still apply on consideration received

2. Depreciation on Goodwill –
   o Amendments have been proposed that goodwill of business/profession would not be considered as a 'depreciable asset' and no depreciation would be allowed on goodwill as an asset. By this amendment, the Apex Court ruling in the case of Smiff Securities Limited holding that goodwill is a depreciable asset, has been overruled.
   o In a case where goodwill is purchased by the taxpayer, such goodwill will be regarded as asset and the purchase price of the goodwill will continue to be considered as cost of acquisition for the computation of capital gains under S.48 of the IT Act (in case of a future event of sale or merger or disposition of goodwill where such goodwill as a capital asset is getting sold). This is subject to the condition that in case depreciation was claimed by the assessee in relation to such goodwill prior to the AY 2021-22, then the depreciation so claimed shall be reduced from the amount of purchase price of the goodwill.
   o The amendment has been made effective AY 2021-22 and hence, it is applicable to current financial year as well.
   o From a transfer pricing standpoint, for a captive entity (operating on a cost-plus model), this may settle litigations around whether depreciation on goodwill should be considered as an operating expense or otherwise for the purpose of determining costs.

3. Exemption from Audits – To incentivise digital transactions and to reduce compliance burden of the taxpayers who are carrying almost all of their transactions digitally, it has been proposed to increase the limit for tax audit for such taxpayers from INR 5 crore to INR 10 crore.

4. Advance tax on dividend - Advance tax liability for dividend income in the hands of shareholders will arise only after declaration of dividend (as it is difficult to estimate dividend income and pay quarterly advance tax all through the year).

5. Late deposit of employees’ contribution to social welfare schemes by employers - Late deposit of such contribution to social welfare schemes shall not be allowed as tax deduction for such employers

TAX ADMINISTRATION

1. Reduction in time limit for re-opening of assessments - Time limit for reopening of assessment has been reduced to 3 years from 6 years. In cases of serious fraud and tax evasion, assessment can be reopened till 10 years (as currently provided in the law) subject to the additional condition that there is evidence for concealment of income of INR 50 lacs or more and that this can be done only with approval of Principal Chief Commissioner of Income tax.

2. Constitution of Dispute Resolution Committee (DRC) – Taxpayer with taxable income up to INR 50 lakh/ disputed income up to INR 10 lakh can approach the committee. DRC will also have power to reduce penalty or provide immunity from prosecution. Taxpayers are not eligible for the scheme where proceedings are initiated on account of search and survey matters or information received under a tax treaty.

3. Faceless hearings at Income-tax Appellate Tribunals (ITAT) – Proposal to establish a National Faceless Income Tax Appellate Tribunal Centre wherein all communication between the Tribunal and the appellant shall be electronic, is a welcome move. Where personal hearing is needed, it shall be done through video-conferencing. A detailed scheme to this effect shall be announced by the
Government in due course. Post the faceless appeals at Tribunal level, the jurisdiction of Tribunal would be dynamic and may not have any relevance and it can be expected that higher degree of consistency shall be there in the rulings pronounced by different benches.

4. **Authority for Advance Rulings (AAR)**
   - It has been proposed that AAR will cease to operate after a date to be notified, to be substituted by one or more Board for Advance Rulings (BAR) set up by Central Government to facilitate more timely disposal of advance rulings (due to the current issue of the office of Chairman and Vice-Chairman remaining vacant often and hence, resulting in prolonged delay in disposal of cases)
   - Every BAR will have 2 members, each being an officer not below the rank of Chief Commissioner
   - Advance rulings by the BAR will not be binding on the taxpayer or the Revenue and can be appealed directly before the High Court by either party. Central Government may also come out with a detailed scheme on passing of advance rulings by the BAR or the appeal mechanism
   - It is currently unclear on how the transition of existing pending cases with AAR to the BAR will take place
   - An appeal against the ruling by BAR can be made to High Court within 60 days from the date of the communication of the ruling with some powers to High Court to allow appeal even after the specified time if there was reasonable cause for delay

**OTHER RELEVANT DIRECT TAX ANNOUNCEMENTS**

1. **Time limit for filing belated or revised income-tax returns** has been further reduced by 3 months for income assessable in relation to AY 2021-22 and onwards. Hence, the last date for filing of belated or revised income-tax returns shall be 3 months before the end of the relevant assessment year or completion of the assessment, whichever is earlier

2. **Slump sale** - Slump sale has been defined under the IT Act to mean the transfer of one or more undertakings as a result of sale for lump sum consideration without value being assigned to individual assets and liabilities in such cases. This has been interpreted in some of the rulings in favour of taxpayer that other means of transfers (including by way of exchange) as provided in the IT Act are excluded. It has now been proposed to widen the definition of 'Slump Sale' to include all types of 'transfers' as defined in section 2(47) of the IT Act. The amendment has been made effective AY 2021-22 and hence, it is applicable to current financial year as well.

3. **Definition of “liable to tax”** - The term 'liable to tax' has been specifically defined to mean that in relation to a person, there is a liability of tax on that person under the law of any country and will include a case where subsequent to imposition of such tax liability, an exemption has been provided.

4. **Tax Deducted at Source (TDS) on purchase of goods** - TDS on purchase of goods by Buyer from resident seller at the rate of 0.1 percent has been introduced-
   - Buyer is defined to mean a person whose sales, gross receipts or turnover from the business carried on by him exceed ten crore rupees during the financial year immediately preceding the financial year in which the purchase of goods is carried out
   - Tax is required to be deducted by buyer, if the purchase of goods by him from the seller is of the value or aggregate of such value exceeding INR 50 lakh in the previous year
   - The above provisions shall not apply if tax is deductible under any other provisions of the IT Act or Tax Collected at Source (TCS) applies; however, to the extent TCS applies as per the provisions of section 206C(1H) of the IT Act (ie TCS on sale of goods) and there is conflict with this proposed TDS provision, then instead of TCS, now TDS provisions would apply.

5. **Higher withholding tax rate / TCS rate proposed for non-filers of income-tax return** - Higher rate shall apply to specified persons (i) who have not filed income-tax returns for last 2 years preceding the relevant financial year in which tax is to be deducted or TCS is to be collected and time limit for filing tax returns has expired (ii) aggregate TDS and TCS amount of such person
is INR 50,000 or more in each of the 2 previous financial years for which return has not been filed (iii) and non-residents not having a permanent establishment in India are excluded from applicability of this provision) and on specified payments. Such higher withholding / TCS rate shall be higher of (i) twice the rate specified under the IT Act / rates in force or (ii) 5 percent.

6. Rationalisation of provisions of Minimum Alternate Tax (MAT)
   o As per current provisions of S.115JB, it does not provide for any adjustment on account of additional income of past year(s) included in books of account of current year on account of secondary adjustment under section 92CE or on account of an Advance Pricing Agreement (APA) entered with the taxpayer under section 92CC.
   o It is now proposed that in cases where past year income is included in books of account during the previous year on account of an APA or a secondary adjustment, the Assessing Officer shall, on an application made to him in this behalf by the assessee, re-compute the book profit of the past year(s) and tax payable, if any, during the previous year, in the prescribed manner.

7. New time limit for regular and best judgement assessments
   Certain changes have been prescribed on the time limit for assessments including transfer pricing. These amendments will take effect from 1st April, 2021.

<table>
<thead>
<tr>
<th>Assessment Year</th>
<th>Time limit to issue Notice u/s 143(2)</th>
<th>No. of months to complete assessment</th>
<th>No. of months to complete assessment (If reference made to the TPO)</th>
</tr>
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<tbody>
<tr>
<td>2020-21 (No change)</td>
<td>6 months from the end of FY in which return is furnished</td>
<td>12 months from the end of the relevant assessment year</td>
<td>24 months from the end of the relevant assessment year (TP Order needs to be filed 2 months prior to Draft Assessment Order)</td>
</tr>
<tr>
<td>2021-22 onwards</td>
<td>3 months from the end of FY in which return is furnished</td>
<td>9 months from the end of the relevant assessment year</td>
<td>21 months from the end of the relevant assessment year (TP Order needs to be filed 2 months prior to Draft Assessment Order)</td>
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INDIRECT TAX PROPOSALS

   o Retrospectively, transactions between persons, other than individuals, and its members/constituents brought into the ambit of ‘supply’ under GST. Consequently, Schedule II, entry 7 relating to the same, is being omitted.
   o Additional condition introduced for ITC availment – claim allowed only when the details of invoice or debit note have been furnished by the supplier in his GSTR1 and such details have been communicated to recipient. Effective date to be notified.
   o Requirement to get accounts audited by an independent Chartered Accountant in Form GSTR-9C is done away with. Consequently, Section 44 of the CGST Act is substituted to provide for filing of the annual return on self-certification basis. Effective date to be notified.
   o Retrospective amendment of Section 50(1) to charge interest only on net cash liability – this was already announced via press release and CBIC circular

   From a date to be notified, Section 16 of the IGST Act is being amended:
   o Zero rating for SEZ recipient only where supplies are for authorised operations
   o Rebate mechanism for zero rated supplies will be restricted to notified suppliers or notified supplies
   o Zero rated refund for goods under LUT to be repaid if proceeds are not realized within time prescribed under FEMA, 1999
3. Customs
   - Mandatory filing of bill of entry in advance i.e., before the date of arrival of conveyance in order to facilitate faster clearance.
   - Introduction of common Customs Electronic Portal facilitating registration, filing of bill of entry, shipping bill, other documents and forms, payment of duty etc. by importer/exporter. Also allows tax officers to services order, summons, notice or any other communication by making it available on the common portal.
   - Agriculture Infrastructure and Development Cess being imposed on import of 25 goods (edibles, gold, silver, cotton, coal, liquor, wine, fermented beverages, fertilizers).
   - Time-limit of two years prescribed for completion of any customs proceedings which would culminate in issuance of notice, which can be further be extended by one year at Commissioner's discretion.
   - Customs (Import of Concessional Rate of Duty) Rules, 2017 amended with effect from 02 February 2021:
     - Job-work of the materials (except gold and jewellery and other precious metals) imported under concessional rate of duty allowed
     - 100% out-sourcing for manufacture of goods on job-work allowed
     - Imported capital goods can be used for specified purpose on payment of differential duty, along interest on the depreciated value
   - Amendments is proposed to be made to the First Schedule of the Customs Tariff Act to create specific tariff lines for certain items. Further, the effective rate of customs (BCD) is sought to be changed for certain products. We have attached the list of products and the indicative changes as per Budget memo for your reference.

SUMMARY OF KEY MEASURES THAT WERE NOT ADDRESSSED
Some of the NASSCOM suggestion that were not addressed in the Union budget 2021-22 are listed below:
1. Extension of 15% corporate tax rate to all new units incorporated in SEZs commencing operations within a prescribed period and create jobs beyond a certain threshold;
2. Deferment of tax liability on Employees Stock Option Plans (ESOP) granted by all start-ups to time of sale of shares. Further, this benefit should be available to all startups, and not just eligible startups;
3. Harmonisation of tax rate for resident investors on unlisted shares issued by recognised start-ups and exemption from Minimum Alternate Tax (MAT) to all recognised startups;
4. Clarifications under Income Tax Act, 1961 to enable smooth Work from Home (WFH). These include clarification that work from home by employees of Special Economic Zones (SEZs) would not affect eligibility of tax holiday available under S.10AA of IT Act, clarification that reimbursements in enabling WFH will not be treated as perquisite for employees & provision of tax deductible WFH allowance, similar to transport allowance, to cover expenditure incurred by employees on purchase of necessary infrastructure/ accessories. However, we expect Ministry of Commerce and Industry to issue certain procedural and operational clarifications soon to enable long term WFH; and
5. Transfer Pricing related suggestions to provide relaxations on account of COVID-19 pandemic.

NEXT STEPS
NASSCOM will soon be submitting a detailed post budget memorandum highlighting concerns and recommendations to strengthen the Budget proposals. Request you to send your inputs at the earliest to tejasvi@nasscom.in and jayakumar@nasscom.in