

BUDGET 2022-23 HIGHLIGHTS



HEALTHCARE, LIFE SCIENCES & PHARMACEUTICALS

About the Firm

Phoenix Legal is a full-service law firm offering regulatory, advisory, transactional and dispute resolution services in different sectors of the economy. The Firm advises a diverse clientele which includes companies, banks and financial institutions, funds, promoter groups, public sector undertakings and individuals, both in India and overseas.

The Firm has its offices in New Delhi and Mumbai. The Firm has the capability to provide seamless services across India. The Firm's offices and all lawyers are equipped with state-of-the-art technology and equipment which enables us to ensure efficient and uninterrupted services to our clients.

Our Philosophy

We are committed to developing strong client relationships, engaging capable and dedicated professionals and investing in technology. Enthusiasm, energy and drive for excellence influence the way we work. We invest time in understanding our client's business which enables us to provide commercially oriented and innovative legal solutions to achieve the client's goals.

We believe that our lawyers are our greatest resource and our philosophy is to attract and retain quality professionals. We encourage entrepreneurship to enable our people to fully realise their potential. Our belief is that our clients will benefit with the success of our people.

A few characteristics which set us apart from a conventional firm are: a high degree of partner involvement and availability; top quality commercially oriented legal advice; attention to detail; and responsiveness.

KEY HIGHLIGHTS OF THE UNION BUDGET 2022-2023 ON HEALTHCARE AND PHARMACEUTICAL INDUSTRY

The Union Budget, 2022-23 was presented by the finance minister, Ms. Nirmala Sitharaman before the Parliament on February 01, 2022.

The budget did not include much expected propositions of pharmaceutical and medical device industry, such as extensive budget allocations and subsidies/incentives for R & D. However, the overall big plans such as to extend relaxations to start ups, proposal of national digitization of health records/system, announcement of national tele mental health campaign and support to newer businesses through proposed blended finance route is expected to bring about positive impact and activities in the industry.

The key highlights relevant to the healthcare and pharmaceutical industry are briefly set out below.

- ***Budget Allocation***

INR 86,200 crores has been allocated as a budget for the pharmaceutical and healthcare sector. The allocation has been hiked by a negligible increase of 0.2% as compared to the budget allocation of 2021-22.

- ***Rationalization and Reduction of custom duty on chemicals/inputs impacting Pharmaceutical and Healthcare industry***

- The budget proposes following changes in custom duty rates concerning pharmaceutical and healthcare industry:
- Reduction of custom duties on some of chemicals and raw materials used for producing drugs. For example, acetic acid which is used in manufacturing vitamins, antibiotics, etc.
- With effect from May 01, 2022, the custom tariff for the following will be incorporated in the Customs Tariff Schedule itself instead of prescribing them through various exemption/concessional notifications:
 - (a) Lactose/ lactose syrup (used as a filler or binder while manufacturing medicines), ethyl alcohol (used as a disinfectant/ antiseptic) and sulphur (used for curing skin disorders).
 - (b) Specific instruments and appliances like tonometer, tubular needles etc. (used in medical, surgical, dental or veterinary sciences), other medical equipment and medical related goods like defibrillator etc. (used in medical, surgical, dental or veterinary sciences), mechano-therapy appliances, orthopedic appliances and

breathing appliances other than protective masks not having replaceable filters or mechanical parts.

- In line with 'Make in India' objective, some important changes in the basic custom duty (BCD) with respect to medical devices and drugs were announced by way of omission and rationalization of entries as set out below.
 - (a) BCD exemption on artificial kidney and parts for manufacture of artificial kidney to be withdrawn immediately.
 - (b) The prescribed end date for withdrawal of BCD exemption on goods used for research and development purpose in pharmaceutical and bio- technology sector to be March 31, 2023.
 - (c) BCD exemption on lifesaving drugs/medicines including their salt, diagnostic kits to be rationalized and accordingly 35 items will be removed from List III of Entry 166 and 36 items to be removed from List IV of Entry 158. Certain items from Chapter 38 to be shifted from List IV to List III.
- Increase the custom duty on sodium cyanide, X Ray Machines and parts used in manufacture of X Ray Machines to be effective from February 02,2022.
- Withdrawal of Health Cess on surgical needles imported for manufacture of surgical sutures made effective from February 02,2022.

- ***Income Tax***

- No Business deduction from April 1, 2022 on freebies and largesse offered to doctors by pharmaceutical companies.
- Health and Education Cess is imposed as an additional surcharge on the taxpayer for funding specific government welfare programs. It was clarified that any surcharge or cess on income and profits is not allowed to be claimed as deduction in the form of business expenditure. This clarification has been made applicable retrospectively from the assessment year 2005-06.

- ***Blended Finance***

The Government will promote a blended finance mechanism wherein the government's share will only be 20% and the funds shall be managed by private fund managers. This is likely to broaden the scope for manufacturing, research, development and innovation in the pharmaceutical sector paving way for start-ups and employment opportunities.

- ***National Digital Health Ecosystem***

- The Ayushman Bharat Digital Mission (ABDM) introduced by PM Narendra Modi in September 2021, aimed at creating a seamless online platform that would enable interoperability within the digital health ecosystem. ABDM now connects the digital health solutions of hospitals across the country with each other. Every citizen of India is now required to get a digital health ID and their health record shall be digitally protected.
- Accordingly, Ms. Nirmala Sitharaman officially launched an open platform for National Digital Health Ecosystem under ABDM, comprising of an exhaustive list of digital registries of health providers and health facilities, unique health identity, consent framework, and universal access to health facilities. An amount of INR 200 crore has been allocated for this purpose.
- The Government has also introduced a National Tele Mental Health Programme for addressing mental health issues of its citizens.

- ***Healthcare Missions and Central Sector Schemes***

There has been an increase of almost 7% in the allocation of annual budget towards the National Health Mission compared to the last budget. Although no specific allocation of budget has been announced for production of Covid-19 vaccinations for health care and front line workers under this mission, there are some positive announcements on the overall health care scheme. These specifically are:

- The Pradhan Mantri Swasthya Suraksha Yojana has been allocated INR 10,000 crores and the budget allocation for the health infrastructure was increased to INR 978 crore.
- The Pradhan Mantri Ayushman Bharat Health Infrastructure Mission has received a significant increase in budget allocation this year. INR 4176 crores of the allocated budget is proposed to be transferred to the states for supporting wellness centres, setting up of integrated public health labs and critical care hospital blocks in districts with a population of more than 5 lakh.
- Mission Shakti, Mission Vatsalya, Saksham Anganwadi and Poshan Maah 2.0 are three schemes which were launched to provide integrated benefits to women and children. Among these, Saksham Anganwadis are new generation anganwadis that have better infrastructure, audio-visual aid powered by clean energy and provide improved environment for early childhood development. This year the budget proposes to upgrade two lakh anganwadis.



Jatin Arora
Partner

Professional Experience

Jatin is a qualified lawyer in India and has over 22 years of wide-ranging experience in indirect tax including GST, Customs, Excise, Service Tax and VAT laws. Jatin started his career as an independent counsel in the High Courts and various tribunals and thereafter worked with Big 4 consulting firms like PwC and Deloitte. He has been working with both Indian and foreign multinational companies across sectors viz., healthcare and pharmaceuticals, hospitality, manufacturing, oil & gas, power, auto OEMs and component manufacturers, telecom, IT & ITeS, consumer, retail and wholesale, real estate, infrastructure, and EPC etc.

Jatin has extensively worked on the GST regime and advised various companies on their transition to the GST regime; structured global supply chains considering local and global trade aspects; helped set up businesses in various parts of India by undertaking locational analyses. He has worked with industry associations on matters involving industry specific ramifications and advised on representations to the Government and GST Council. He has handled multiple Special Valuation Branch investigations, matters before Directorate of Revenue intelligence, notices issued by Director General of GST, Anti Profiteering investigations besides handling adjudication and appellate matters and routine notices issued by the authorities at various levels.



Ritika Ganju
Partner

Professional Experience

Ritika is a Partner based in the Delhi office of Phoenix Legal. She has over 15 years of experience in advising, assisting and representing multinational companies across various business sectors. Her practice areas include corporate and commercial advisory and transactions, including M & As, foreign investment, joint ventures, restructuring and advisory on general corporate and regulatory laws.

As a special area of practice, Ritika has been advising pharmaceutical and healthcare companies on industry related regulations on multiple issues, which range from general compliance to sophisticated advisory such as that on clinical trials. She has been active on forums associated with pharmaceutical and healthcare industry.

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