Tax alert

April 2023

India

Indian Fiscal Budget 2023 - Key tax proposals impacting individuals and employers

Executive summary

The Finance Minister of India presented the Finance Bill for the fiscal year 2023/24 ('the Bill') in the Indian Parliament on 1 February 2023, proposing changes to tax laws which would be effective from 1 April 2023 (unless specifically mentioned otherwise). The Finance Bill has received President's assent on 31 March 2023 and is henceforth referred as Finance Act 2023 ('the Act').

The changes announced in the Act are intended to drive forward the Government's aim to maintain tax stability, reduce the compliance burden and provide targeted tax reliefs. The changes would impact both domestic and internationally mobile employees.

The key amendments which would impact individual taxpayers and employers include:

- Concessional tax regime (CTR) to be the default tax regime
- Standard deduction for individuals choosing CTR
- Increase in threshold limit for rebate for individuals choosing CTR
- Grant of marginal relief under CTR
- Change in tax rates for CTR
- Reduction in surcharge under CTR
- Taxability of gifts to not ordinarily resident individuals
- Taxation of rent-free accommodation provided by employer
- Increase in limit for leave encashment
- Increase in tax collection rate on certain foreign remittances
- Limit specified for exemption for reinvestment of capital gain to purchase residential property
- Conversion of physical gold to Electronic Gold Receipt or vice-versa
- Taxation of capital gain for market linked debentures
- Taxation of capital gain for specified mutual funds
- Cost of acquisition rules for intangible assets
- Rationalization of exempt income under life insurance policies
- Increase in time limit for completion of assessment

Changes in the Act impacting individual taxpayers

CTR to be the default tax regime
Currently, an individual must choose the CTR for it to apply otherwise. Going forward, the CTR will be the applicable tax regime unless the individual concerned has chosen otherwise.

Standard deduction for individuals choosing CTR
Currently, salaried individuals receive the standard deduction of INR 50,000 (US$ 611). Such standard deduction would now be extended to individuals choosing the CTR.

Increase in threshold limit for rebate for individuals choosing CTR
The rebate limit has been increased from INR 500,000 (US$ 6,114) to INR 700,000 (US$ 8,560) for individuals choosing CTR.

Grant of marginal relief under CTR
Under the Act, marginal relief shall be extended to individuals choosing CTR, where net taxable income exceeds INR 700,000 (US$ 8,560).

Change in tax rates for CTR
The CTR tax rates will be as follows:

Income (in US$*) – Approximately	Existing rate (%)	Proposed rate (%)
Up to 3,057	NIL	NIL
3,058 - 3,668	5%	NIL

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3,669 - 6,114	5%	5%
6,115 - 7,337	10%	5%
7,338 - 9,171	10%	10%
9,172 - 11,005	15%	10%
11,006 - 12,228	15%	15%
12,229 - 14,674	20%	15%
14,675 - 15,285	20%	20%
15,286 - 18,342	25%	20%
Above 18,342	30%	30%

*1 US$ = INR 81.78

Reduction of surcharge under CTR

Under existing law, the surcharge is applicable at a rate of 37% to individuals who have taxable income in India of more than INR 50 million (US$ 611,396), under the current tax regime and the CTR. The rate of surcharge has been reduced from 37% to 25% for individuals choosing the CTR. The maximum marginal rate accordingly will reduce from 42.744% to 39% where the CTR is chosen.

Taxability of gift to not ordinarily resident individuals

Currently, if a non-resident individual receives any sum of money in excess of INR 50,000 (US$ 611) from a person resident in India (without any consideration), it is considered taxable income received by the individual concerned. In order to extend the tax base, this provision will also apply to not ordinarily resident individuals.

Taxability of rent-free accommodation provided by employer

The computation of the taxable value of rent-free accommodation provided to employees has been rationalized. Rules in this regard will be prescribed.

Increase in limit for leave encashment

The limit for leave encashment is increased from INR 300,000 (US$ 3,668) to INR 2.5m (US$ 30,570).

Increase in tax collection rate on certain foreign remittances

Currently, if a person transfers any funds from India to another country except for the purpose of medical treatment and education, then tax is due at 5% on the amount transferred (subject to a specified threshold). The tax rate is increased from 5% to 20%, without any threshold limit. The tax would now be levied on all remittances made under Liberalized Remittance Scheme and not just remittances made out of India. The change would be effective from 01 July 2023.

Limit specified for exemption for reinvestment of capital gain to purchase residential house property

Under existing rules, an individual is allowed full or proportionate relief for capital gains (without any monetary limit) earned from sale of residential property and long term-assets, provided such capital gains are reinvested in the purchase of a new residential property. The primary objective of the current provisions was to mitigate the acute shortage of residential housing, and to give impetus to house building activity. However, it has been observed that huge deductions have been claimed by high-net-worth individuals under these provisions, by purchasing expensive residential properties. In order to restrict such transactions, the maximum deduction that can be claimed under these provisions has been restricted to INR 100 million (US$ 1,222,793).

Taxation of capital gain for specified mutual funds

Currently, in case of mutual funds where the fund value invested in equity shares of domestic companies is less than 65%, the capital gains on redemption thereof is considered as taxable at 20% with indexation benefits (where the mutual fund is held for a period of three years). Under the Act, mutual funds which will invest fund value upto 35% in the equity shares of domestic companies will be considered as short-term capital asset and taxable at applicable slab rates. This would result in an additional tax outflow for the investors.

Conversion of physical gold to Electronic Gold Receipt or vice-versa

Any conversion of physical gold to the Electronic Gold Receipt (EGR) or EGR to physical gold shall not be considered a 'transfer' for capital gains tax purposes. In such cases, the date of acquisition of the new asset would be considered to be the date when the original asset was purchased.

Taxation of capital gain for market linked debentures

Currently, market linked debentures (returns linked to market) are taxed as long-term capital gains at the rate of 10% without indexation. Such gains will now be considered to be short term capital gains and computed by reducing the acquisition cost from the full value of the consideration.

Cost of acquisition of intangible assets

Intangible assets or any other rights, for which no cost of acquisition has been paid, the cost of acquisition shall now be considered as nil at the time of transfer or conversion, for the purpose of calculating the taxable income arising thereon.

Rationalization of exempt income under life insurance policies

Currently, income received from life insurance policies (other than a Unit Linked Insurance policy) is exempt from tax subject to meeting certain conditions. The intent was subsidizing the risk premium for an individual's life. However, it has been observed that high-net worth individuals have maximized such relief in their favor by investing in life insurance policies having high payment on maturity. In order to curb such practices, income received from insurance policies, issued on or after 1 April 2023 (other than unit linked policies), having premium or aggregate premium exceeding INR 500,000 (US$ 6,114) in a year, will be taxable (except in the case of death).

Increase in time limit for completion of assessment

Currently, an assessment must be completed by the revenue authorities within 9 months from end of the financial year in which the tax return was filed. The time limit will now be extended to 12 months.

Next steps

Individuals should review the new provisions and note those which will be implemented in full.

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