Tax alert

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

The proposed 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
- 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
- Cost of acquisition rules for intangible assets
- Rationalization of exempt income under life insurance policies
- Increase in time limit for completion of assessment

Budget proposals impacting individual taxpayers

CTR to be the default tax regime
Currently, an individual must choose the CTR for it to apply otherwise. Going forward, however, it is proposed that 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). It is proposed to extend this deduction to individuals choosing the CTR.

Increase in threshold limit for rebate for individuals choosing CTR
It is proposed to increase the rebate from INR 5,00,000 (US$ 6,114) to INR 7,00,000 (US$ 8,560) for individuals choosing CTR.

Change in tax rates for CTR
It is proposed to change the CTR tax rates as follows:

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

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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$ 6,11,396), under the current tax regime and the CTR. It is proposed to reduce the rate of surcharge 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, it is proposed that this provision will also apply to not ordinarily resident individuals.

Taxability of rent-free accommodation provided by employer
It is proposed to rationalize the computation of the taxable value of rent-free accommodation provided to employees. Rules in this regard will be prescribed.

Increase in limit for leave encashment
It is proposed to increase the limit for leave encashment 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). It is proposed to increase this rate from 5% to 20%, without any threshold limit.

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, it is proposed to limit the maximum deduction that can be claimed under these provisions to INR 100 million (US$ 12,22,793).

Conversion of physical gold to Electronic Gold Receipt or vice-versa
It is proposed that 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. It is proposed that such gains will 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
It is proposed that with respect to intangible assets or any other rights, for which no cost of acquisition has been paid, the cost of acquisition shall be 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, it is proposed that 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. It is proposed to increase the time limit to 12 months.

Next steps
Individuals should review the proposed provisions and note those which will be implemented in full.

The provisions of the Bill will not become law until approved by both houses of the Indian Parliament and received assent from the President of India. Once approved, the provisions will apply for the 2023/24 Indian fiscal year (1 April 2023 to 31 March 2024).

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