Introduction

The Finance Minister ('FM') presented the 2022 Union budget proposals before the Parliament on February 1, 2022. The budget was largely focused on capital expenditure and initiatives by the Government with an aim towards the next 25 years of growth.

In the following paragraphs, we have summarised the key direct tax proposals impacting the global mobility space. Unless specified, the budget proposals would be effective from April 1, 2022.

Key budget proposals

- Scheme for taxation of Virtual Digital Assets

The FM has proposed tax provisions relating to taxability of Virtual Digital Assets ('VDAs'). The definition of VDAs is fairly broad and is proposed to include digital currencies, NFTs and other digital assets, as may be specified.

As such, it is proposed that income from transfer of VDAs would be taxed at a flat rate of 30 percent, and only the cost of acquisition would be allowed as a tax deduction. No other deductions are proposed to be allowed.

Additionally, it has been proposed that any gift of VDAs would be taxed in the hands of the recipient. The gift will be valued at the fair market value of the VDAs gifted. However, the overall gift exemption limit of Rs 50,000 per annum available under the law will continue to apply.

The FM has further proposed that loss from sale of VDAs would not be allowed to be set off against any other income or carried forward to future years and that no other losses would be allowed to be set off against income from VDAs.

Additionally, the FM has also proposed that, subject to threshold limits, a tax withholding of 1 percent would be applicable at the time of transfer of VDA to a resident taxpayer. For non-resident taxpayers, tax would need to be withheld at applicable rates under the broad non-resident withholding provisions.

Since the scope of income provisions have not been amended, we expect that international travelers, who do not trigger residency in India, would not be taxable in respect of any such income so long as the income arises, accrues and is received outside India.

- Exemption for COVID related payments

In continuation of the government's COVID relief commitment made in June 2021, the FM has proposed to amend the law to include the following exemptions:

- Any amount received by a family member of a deceased employee, upto Rs 1 million, provided the payment is received within 12 months of death.
- Any amount received by an individual from any person in respect of expenditure actually incurred on medical treatment for self or family, for an illness related to COVID, subject to specified conditions.

These provisions are retrospectively proposed to apply from April 1, 2020.

- Updated tax return scheme

In order to give an opportunity for taxpayers to report undisclosed income, the FM has proposed to introduce an updated return scheme where a taxpayer would be allowed to file a tax return within 2 years from the end of the assessment year.

The tax return form and other filing/reporting particulars are yet to be prescribed. However, an updated return would not be allowed to be filed in the following cases:

- Where the updation leads to a loss return or a refund claim.
- Where the updation decreases the tax liability of the previously filed return.
- Where an updated return has already been filed.
- Where any proceeding for that year is ongoing or completed.
- Where the department is in possession of the specified undisclosed income.

It is also proposed that the taxpayer would need to make an additional tax payment along with the regular tax, interest and late fees payable, as follows:

- 25 percent of tax and interest where the updation takes place within 1 year from the end of the assessment year.
- 50 percent of tax and interest where the updation takes place within 2 years of from the end of the assessment year.

For determining the aforesaid additional tax payment, the taxpayer would be eligible to consider only foreign tax credit, tax withheld and advance tax paid against the additional income being reported and not those that are already claimed under a previously filed return. A proof of tax payment would also need to be filed along with the updated return, failing which the return would be treated as defective.

- Other miscellaneous proposals

Surcharge cap on long-term capital gains

The FM has proposed to limit the surcharge applicable to long-term capital gains to a maximum 15 percent. This will benefit high income earners who were earlier paying surcharge of 25 or 37 percent.

Annuity payments for disabled dependents

The FM has proposed that the tax deduction available towards the premium under any scheme for annuity payments to differently abled dependents be extended even to the amounts deposited under a scheme that provides for payment of annuity or lumpsum upon the taxpayer attaining the age of 60 years.

Higher tax withholding rate amendments

The FM has proposed to reduce the non-filing period for higher tax withholding rate from 2 years to 1 year. Further, the FM has proposed that the higher tax withholding rate provisions would not apply to individuals towards tax withholding required for transactions of sale of immovable property and payment of rent.

TDS on sale of immovable property

The FM has proposed to rationalize tax withholding provisions on sale of immovable property by proposing tax withholding on the higher of the stamp duty value or actual sale consideration.

Faceless assessment scheme

The FM has proposed to set-up a National Faceless Assessment Centre with specific responsibility units within the same to streamline the faceless assessment scheme.

Penalty relaxation

The FM has proposed to empower the Central Board of Direct Taxes to not levy late tax return filing fees to certain class of taxpayers in case of genuine hardship.

Conclusion

The budget proposals will be ratified only after both the Houses of Parliament and the President give their assent.

As such, measures to increase the scope of tax, reporting of undisclosed income and rationalisation of provisions were the focus points of the budget proposals.

While there isn't a large impact of the proposals to the global mobility space, clients may consider evaluating the impact of these proposals and take action, as required.

About us

Broadening Horizons is a specialty services company providing expatriate tax, social security and exchange control advisory and compliance services.

It has specially designed service packages for employers with cross-border employee population as well as individuals.

Broadening Horizons partners with international expatriate tax firms for delivering mobility services and therefore, can provide cross-border services and solutions.

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