Broadening Horizons Services Pvt Ltd

2023 Mobility Budget Alert

Introduction

The Finance Minister ('FM') presented the 2023 Union budget proposals before the Parliament on February 1, 2023. The budget was largely focused on inclusive development, fiscal consolidation and ease of doing business in India.

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, 2023.

Key budget proposals

- Incentivising the gross income regime

The FM had introduced the gross income regime, commonly known as the new tax regime, for individual taxpayers in the 2020 Finance Bill. The FM has now proposed the following further changes to make the gross income regime more attractive:

Gross income regime to be set as default

The FM has proposed to set the gross income regime as the default tax regime for taxpayers. However, it is proposed that taxpayers will still have the option to elect the net income regime, if they choose to do so.

Enhancement of rebate limit

The FM has proposed that resident taxpayers opting for the gross income regime and having an annual taxable income upto a maximum of INR 700,000 would be eligible to a tax rebate of INR 25,000 or 100 percent of tax, whichever is lower. This would mean that any resident taxpayer under the gross income regime would have Nil tax liability so long as their taxable income is INR 700,000 or below.

Standard Deduction claim

The FM has proposed to extend the benefit of the standard deduction of INR 50,000 to salaried taxpayers under the gross income regime.

Changes to the tax slab structure

The FM has proposed changes to the tax slab structure for taxpayers under the gross income regime. The revised tax slabs are as under:

Income	Proposed Tax rate
Upto INR 300,000	Nil
INR 300,001 to INR 600,000	5 percent
INR 600,001 to INR 900,000	10 percent
INR 900,001 to INR 1,200,000	15 percent
INR 1,200,001 to INR 1,500,000	20 percent
INR 1,500,001 and above	30 percent

Reduction in maximum surcharge rate

The FM has proposed to reduce the maximum surcharge rate for taxpayers under the gross income regime from 37 percent to 25 percent, thereby, reducing their Maximum Marginal Rate from 42.74 percent to 39 percent.

With these proposed changes, a salaried taxpayer falling under the gross income regime would see a reduction in their overall tax liability. As examples, a salaried taxpayer having an annual taxable income of INR 2 million would be able to save taxes of INR 39,000 and a salaried taxpayer having an annual taxable income of INR 60 million would save taxes of INR 2.2 million. These proposals would lead to substantial savings for taxpayers and therefore, are welcome proposals.

These proposals also highlight the government's direction to further move towards gross income basis of taxation, which would ultimately reduce return processing time as well as litigation.

- <u>Increase in leave encashment statutory limit</u>

Leave encashment received by an individual at the time of retirement or resignation is eligible for exemption as per the prescribed rules and monetary limits. Presently, the overall monetary limit is INR 300,000.

Keeping in mind the increasing salary standards in India, the FM has proposed to increase the statutory exemption limit from INR 300,000 to INR 2.5 million. This would lead to substantial relief to salary taxpayers, especially those who are retiring, and therefore, is a welcome proposal.

- <u>Widening and deepening the tax base for capital gains</u>

Cap on exemption in case of reinvestment

Presently, taxpayers enjoy an exemption on capital gains tax arising from sale of a residential house property and other specified assets, where the sale proceeds or gains from such sale are reinvested in a residential house property. There is no prescribed exemption cap and, as such, taxpayers do not pay tax on such transactions so long as the new property value exceeds the value of the asset sold or capital gains from sale of the asset, as the case may be.

The FM has now proposed to cap the exemption by limiting the value of the new property purchased in the exemption formula to INR 100 million or the cost of the new residential property, whichever is lower. This proposal would impact high income class of taxpayers as it would limit their tax exemptions in case of high value property transactions and therefore, it is not a welcome proposal.

Taxation of capital gains on Market Linked Debentures (MLDs)

MLDs as generally held by taxpayers for more than 12 months and, as such, long-term capital gains on sale or redemption of such debentures are presently taxed at a gross rate of 10 percent.

The FM has now proposed that all gains on sale or redemption of MLDs would be classified as short-term capital gains, regardless of the period of holding, and be taxable at the progressive slab rates of the taxpayer. Therefore, the tax rate could be as high as 42.74 percent under net income regime or 39 percent under gross income regime. This proposal would make investment in MLDs less attractive going forward, and therefore, is not a welcome proposal.

Cost of acquisition for computing capital gains

The FM has proposed that, in order to eliminate double deduction, taxpayers would not be eligible to include any past claimed deduction towards interest on borrowed capital while computing the cost of acquisition or cost of improvement for determining taxable capital gains. With this proposal, taxpayers will need to track all past tax filings to ensure a double deduction is not claimed by them. They would also need to keep relevant records available for any audit that may be conducted by the authorities. This would make capital gains calculations an arduous process.

The FM has further proposed that in order to remove any lacuna in the computation of capital gains on sale of intangible assets/any other right, the cost of acquisition would be considered as Nil.

- Relief towards tax year mismatch for tax withholding

Presently, in many cases, a taxpayer loses tax withholding credit where they have offered an income to tax based on accrual principles, but the payer of the income withholds taxes in a subsequent year on payment basis.

The FM has now proposed to provide relief to taxpayers by allowing them to make an application to the assessing officer to allow credit for such withholding taxes. It has been proposed that, in order to claim the relief, the application would need to be filed within 2 years from the end of the tax year in which the taxes are withheld and that the officer would then provide relief by issuing a rectification for the impacted year. The amendment is proposed to be effective from October 1, 2023 and detailed guidelines and the prescribed form for claim of relief are expected to be issued before then.

- Taxation of Life Insurance Policy schemes

Presently, income from insurance policies (other than Unit Linked Insurance Policy) are exempt from tax, subject to satisfaction of certain conditions. There is no monetary limit to the amount of exemption a taxpayer can claim, and this makes insurance policy planning a favourable and preferred investment tool for taxpayers.

The FM has now proposed to grandfather the exemption available to policies issued on or before March 31, 2023. Further, for any policy issued on or after April 1, 2023, the taxpayer would enjoy such exemption only where the aggregate annual premium payable for all life insurance policies held by a taxpayer does not exceed INR 500,000. It should be noted that the exemption limitation would not apply in case of death of the policyholder.

This proposal will impact middle and high income class of taxpayers who relied on these policies to secure their future to earn tax free income. Therefore, this is not a welcome proposal.

- Other miscellaneous proposals

Tax collection for foreign remittances

The FM has proposed that, with effect from July 1, 2023, the rate of Tax Collection at Source on foreign remittances under the Liberalised Remittance Scheme, other than medical and education purposes, would be increased from 5 percent to 20 percent.

Taxability of income from online gaming

The FM has proposed to introduce a new provision to tax the income from online gaming at a rate of 30 percent. Based on this, the tax withholding on such income would also apply at the rate of 30 percent. However, in order to give time for compliance, tax withholding is proposed to apply with effect from July 1, 2023.

Tax treaty rates for tax withholding

The FM has proposed that, for non-resident taxpayers, in case of income from certain mutual funds, tax withholding would apply at the tax rate prescribed under the applicable tax treaty or 20 percent, whichever is lower, subject to the taxpayer furnishing a foreign tax residency certificate.

Provisions relating to assessment and appeal proceedings

The FM has proposed the following:

- Increasing the time limit for completion of assessments from 9 to 12 months, retrospectively with effect from April 1, 2022.
- Extending the time limit for completion of ongoing assessments/reassessments in specified search and seizure cases by 12 months.
- Reducing the load on appellate authorities by introducing another appellate authority at the level of Joint/Additional Commissioner (Appeals). This would be the lowest appellate authority but will have powers and responsibilities on par with Commissioner (Appeals).

Threshold limits for presumptive taxation schemes

The FM has proposed to increase the threshold limits for eligibility to participate in presumptive taxation schemes for certain resident taxpayers, provided their annual cash turnover/receipts does not exceed 5 percent of total turnover. The eligibility limits have been increased to INR 30 million for eligible business taxpayers and INR 7.5 million for eligible professional taxpayers.

Conclusion

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

We recommend the clients to 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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