

Tax Matters

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Key highlights of the Finance Bill, 2022

After a pandemic-ravaged Financial Year ('FY') 2020-21, the Indian economy witnessed a sharp rebound and recovery in FY 2021-22. Budget 2022-23 is growth oriented and forward looking. Living up to many expectations, the Budget comprises several timely announcements aimed at instilling strong growth in the economy.

The team at JMP Advisors is pleased to summarise below the significant direct tax proposals announced in Budget 2022-23. These proposals are subject to enactment of the Finance Bill, 2022.

➤ Tax Rates

- No amendment is proposed in the base tax rates.
- Surcharge is to be restricted to a maximum of 15% on long term capital gains.
- Rate of Alternate Minimum Tax ('AMT') for co-operative societies is proposed to be reduced from 18.5% to 15%.
- Rate of surcharge for co-operative societies with a total income between INR 10 million and INR 100 million is proposed to be reduced from 12% to 7%.
- The rate of surcharge in case of Association of Persons comprising of only companies as its members is proposed to be restricted to 15%.
- It is proposed to withdraw the concessional rate of tax of 15% applicable to dividends received by an Indian company from a foreign company in which the Indian company holds at least 26% of the nominal value of equity shares.

➤ Taxation of virtual digital assets ('digital assets')

- Income from the transfer of digital assets is proposed to be taxed at the rate of 30%, no other deduction or set-off of losses is to be allowed except the cost of acquisition.
- Loss from the transfer of digital assets is not permitted to be set-off against any other income. No carry forward of losses is permitted.
- Tax is to be withheld at 1% of the consideration payable to a resident for the transfer of digital assets.
- Gift of digital assets is proposed to be taxed for the recipient.

➤ Tax incentives for International Financial Services Centre ('IFSC')

- It is proposed to exempt the following incomes of a non-resident in relation to transactions with units in an IFSC:

- Income from transfer of offshore derivative instruments or over-the-counter derivatives entered into with an Offshore Banking Unit ('OBU');
- Income from royalty or interest on account of lease of a ship paid by an IFSC unit which commences its operations by 31 March 2024;
- Income from portfolio of securities or financial products or funds managed by any portfolio manager in an account maintained with an OBU, to the extent such income accrues or arises outside India;
- Consideration for issue of shares at a price exceeding the fair market value is proposed to be exempt in the hands of specified funds regulated under the IFSC Authority Act, 2019.
- Tax holiday for income earned by an IFSC unit from the transfer of aircrafts that were previously leased by the IFSC unit provided it commences its operations by 31 March 2024 is proposed to be extended to the income from transfer of ships.
- No deduction is proposed to be allowed for cess on income tax in computing business income.
- Time limit for commencement of operations by domestic manufacturing companies in order to avail the concessional tax rate of 15% is proposed to be extended by one year to 31 March 2024.
- Time limit for incorporation of eligible Start-ups in order to avail tax holiday is proposed to be extended upto 31 March 2023.
- It is proposed to provide that any amount paid by the employer in respect of expenditure incurred by an employee for medical treatment for himself or any family member in respect of any illness relating to COVID-19 will not be considered as a perquisite for the employee, subject to conditions which will be notified in due course.
- It is proposed to extend dividend stripping and bonus stripping to units of Business Trusts.
- New provisions are proposed to be introduced to enable taxpayers to update the return of income on payment of additional tax within 3 years from the end of the relevant FY.
- Set off of losses or unabsorbed depreciation is not to be allowed against undisclosed income detected in the course of a survey or search.
- **Dispute Resolution**
 - It is proposed to extend the powers available to the Tax Authorities to revise orders which are erroneous in so far as these are prejudicial to the interests of the Revenue, to cover orders passed by the Transfer Pricing Officer.
 - It is proposed to amend the provisions relating to reopening of tax scrutiny proceedings to align these with the intentions of the Legislature. Further, it is also proposed to expand the definition of the term 'income chargeable to tax escaping assessment'.
 - A new litigation management system is proposed to be introduced to reduce litigation by dissuading Tax Authorities from filing repetitive appeals involving identical issues.

Should you wish to discuss any of the above issues in detail or understand the applicability to your specific situation, please feel free to reach out to us at coe@jmpadvisors.in.

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