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Amendments to the Finance Bill, 2023



Amendments to Finance Bill, 2023

- Honorable Union Finance Minister has made some amendments to the Finance Bill 2023 that was passed by the Lok Sabha on 24th March 2023. She introduced 64 amendments to the Finance Bill. Some of the important amendments to the Direct Tax proposal of the Finance Bill are as follows.
 - Maximum Marginal Relief prescribed for individuals having taxable income exceeding Rs. 7 Lakh under new tax regime
 - Capital Gains from Debt Mutual Funds to be taxed as Short-Term Capital Gains at normal rate irrespective of holding period
 - Tax on Royalty / FTS incomes of non-resident increased from 10% to 20% u/s. 115A
 - Higher TCS rates in case of no PAN or non-fillers of tax returns capped at 20%
 - Amendments for IFSC / Gift City
 - Amendments for Business Trusts – InviTs and REITs
 - STT on sale of options has been hiked from Rs. 1,700 to Rs. 2,100 on a turnover of Rs. 1 crore and futures contracts has been hiked from Rs. 10,000 to Rs. 12,500 on Rs 1 crore of turnover.

- Some of the important amendments to the GST proposals of the Finance Bill are as follows.
 - Increase in the time for making an application for revocation of cancellation of registration
 - Increase in the time for filing of GST return for enabling deemed withdrawal of best judgment assessment order
 - Section 13(9) of IGST Act, 2017 which provides for the determination of the place of supply of services for transportation of goods to be omitted and default rule to apply
 - Amendments proposed for the Constitution of GST Appellate Tribunal

Marginal relief for individuals having income exceeding Rs. 7 lakh under the new tax regime [S.115BAC]

- Budget 2023 proposed changes in income tax slab of individuals adopting the new tax regime.
- The new tax regime offers rebate of Rs. 25,000 or 100% of income tax which ever is lower to individuals having taxable income upto Rs. 7 Lakh. Resultantly, individuals with taxable income upto Rs. 7 lakh would end up paying zero tax.
- However no marginal relief was prescribed under this section which could lead to a situation where individuals with taxable income slightly above Rs. 7 lakh may pay taxes much higher than the excess of their income over Rs. 7 Lakh, there by making him worse off than an individual having taxable income of Rs. 7 Lakh.
- In order to remove this anomaly, it is proposed to provide marginal relief to the extent incremental income tax liability exceeds incremental income in excess of Rs. 7 Lakh.

Capital Gains from Specified Mutual Fund to be taxed as Short-Term Capital Gain

- Finance Bill, 2023 proposed that capital gain arising from transfer of Market Linked Debentures ('MLDs') (which has underlying principal component in form of a debt security and where returns are linked to market returns on other underlying securities / indices and include any security classified or regulated as a market linked debenture by the SEBI) would be considered as short-term capital asset without any indexation benefit and taxed at normal rates irrespective of the period of holding.
- Now it is proposed to extend such tax treatment to Specified Mutual Fund ('SMF'). SMF is defined to mean a mutual fund of which not more than 35% of total proceeds is invested in equity shares of domestic companies.
- This amendment shall apply to investment made on or after 1 April 2023.
- Primarily this will impact Debt Mutual Fund ('DMF') and currently capital gains arising from transfer of units of DMF that are held for more than 3 years are considered as long-term capital asset and taxed @ 20% with indexation benefits.

[w.e.f 1 April 2023]

Royalty / FTS received by Non-Resident taxable @ 20% [S.115A(1)]

Currently, the tax rates for various incomes of Non – Residents are as below:

1. Royalty Income – 10%
2. Fees for Technical Services – 10%

Amendment- Tax rates are proposed to be raised as under:

1. Royalty Income – 20%
2. Fees for Technical Services – 20%

Non-residents from countries or jurisdiction with which India has Tax Treaties can avail lower treaty rate subject to compliance of treaty eligibility conditions.

[w.e.f. 01 April 2024]

Source: IBEF and investindia

Higher TCS Rate in absence of PAN/ in case of non-filers of return now capped at 20% [S.206CC/206CCA]

Currently TCS is collectible at higher of following rates in absence of PAN and /or in case of non filer of income-tax return:

- i. Twice the rate specified in the relevant provision or
- ii. 5%

Now, It has been proposed to cap the higher rate of TCS to 20%

[w.e.f 1st July 2023]

Amendment of IFSC / GIFT city

1. Tax neutrality proposed for relocation to IFSC of any investment vehicle in which Abu Dhabi Investment Authority ('ADIA') is the direct or indirect sole shareholder or unit holder or beneficiary or interest holder and such investment is wholly owned and controlled, directly or indirectly by ADIA or the Government of Abu Dhabi.

Government is empowered to notify any other funds for such tax neutrality on relocation to IFSC.

[S.47(viia)]

2. Exemption proposed for

- Capital gains arising to a non-resident or unit of an IFSC engaged in the business of leasing of an aircraft on transfer of equity shares of a domestic company engaged in the business of leasing of an aircraft which commences operations on or before 31 March 2026.

Exemption is available if such transfer takes place within a period of ten years beginning from the year of commencement of operations or from the assessment year 1 April 2024 (where the business has already commenced).

[S. 10(4H)]

- Dividend income received by unit of IFSC, primarily engaged in the business of leasing of an aircraft from company which is a unit in IFSC primarily engaged in the business of leasing of an aircraft.

[S. 10(34AB)]

Amendment of IFSC / GIFT city

3. Tax on Dividend income received by a non-resident from a unit in an IFSC, as referred u/s 80LA(1A), reduced to 10% from 20%.
[S.115A]
3. Interest income on borrowing by a foreign company from long term bond or rupee denominated bond issued on or after 1st July 2023 which is listed on IFSC stock exchange taxable at 9%.
[S.194LC]
4. No surcharge and cess on income earned by category III funds located in IFSC from securities referred u/s 115AD(1)(a).

Rationalization of Taxation of Business Trust [S. 115UA / 56(2)(xii)]

- Business Trusts distribute sums by way of interest / dividend / rental income (in case of REIT) / repayment of debt. Repayment of debt to its unit holders did not suffer taxation either in the hands of business trusts nor unit holder. Therefore, Finance Bill, 2023 proposed that any sum received by unit holder from a business trust which is not in the nature of Rental income from REIT or Interest & Dividend received by business trust & is not chargeable to tax in the hands of business trust shall be chargeable to income tax under the head “Income from other source” (IFOS) in the hands of unitholder u/s. 56(2)(xii)

Now it is proposed to provide a mechanism to calculate the income chargeable to tax under IFOS. Income would be calculated after reducing the cost at which the units were issued. The cost of units so reduced would be disregarded while calculating capital gain on transfer of units.

[S. 115UA / 56(2)(xii)]

- Sovereign funds / Pension Fund are exempt from such tax under IFOS
- SPV not required to deduct TDS on interest payment on debentures to business trust

[S. 10(23FC) / S. 194A]

Increase in STT for selling options and future contracts by 25%

Currently, the STT rates are as below:

1. STT on sale of options: 0.05%
2. STT on sale of future contracts: 0.01%

Amendment- STT rates are proposed to be increased as below:

1. STT on sale of options: 0.062%
2. STT on sale of future contracts: 0.125%

[w.e.f. 01 April 2024]

Increase in time for filing of GST returns for deemed withdrawal of Best Judgement Assessment Order

- Presently, the best judgment assessment order issued for non-filing of GST return is deemed to be withdrawn if the relevant return is filed within 30 days of service of the order.
- It is now proposed to increase this time limit to 60 days instead of 30 days.
- Also, a further extension of 60 days shall also be allowed on payment of an additional late fee of INR 100 per day of delay beyond 60 days of the service of the assessment order. However, the liability to pay interest under Section 50(1) and late fee under Section 47 of the Central GST Act 2017, shall continue.

Increase in time for making an application for revocation of cancellation of registration

- Presently, any registered person whose GST registration is cancelled by the proper officer can apply for revocation of the cancellation of GST registration within 30 days from the date of service of the cancellation order.
- Now, it is proposed that any registered person whose registration is cancelled by the proper officer may apply to such officer for revocation of cancellation of the registration in such manner, within such time, and subject to such conditions and restrictions as may be prescribed.
- In the 49th GST Council Meeting, the Council recommended to increase the time limit for applying for revocation of registration cancellation from 30 days to 90 days. Further, the Commissioner or an officer authorized by him on this behalf can give an extension for a further period not exceeding 180 days.

Place of supply of service by way of transportation of goods to be determined based on Default Rule

- Presently, in terms of Section 13(9) of the IGST Act, 2017, the place of supply for services of transportation of goods, other than by way of mail or courier in cases where the location of the supplier of services or location of the recipient of services is outside India is the destination of goods.
- It is now proposed to omit Sub-Section (9) to Section 13 of the IGST Act, 2017.
- Accordingly, now the place of supply of such service shall be determined based on Section 13(2) of the IGST Act, 2017, i.e., the location of the recipient of services.

Constitution of GST Appellate Tribunal

- Principal Bench and the State Benches shall be constituted instead of National Bench or Regional Benches.
- Principal Bench shall be constituted in New Delhi, consisting of the President, a Judicial Member, a Technical Member (Centre), and a Technical Member (State).
- Regional Benches would be set up in every state based on the state's request. State Benches will consist of two Judicial Members, a Technical Member (Centre), and a Technical Member (State).
- Appeals, where one of the issues involved relates to the place of supply, shall be heard only by the Principal Bench.
- Appeals, where the tax or input tax credit or fine, fee, or penalty does not exceed INR 50 lakh and which does not involve any question of law will be heard by a Single Member, whereas, in all other cases, will be heard together by one Judicial Member and one Technical Member.
- Amendments have also been made in Section 110 (Appointment, Qualification and Conditions of Service), Section 114 (Administrative & Financial Powers of President), Section 117 (Appeal to High Court), Section 118 (Appeal to Supreme Court), and Section 119 (Sums due to be paid notwithstanding appeal, etc.) of the CGST Act, 2017.



Thank You

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