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GMS Flash Alert

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India - 2022 Union Budget Makes Adjustments at Margins for Individuals, Employers

India's finance minister, Nirmala Sitharaman, presented the 2022 Union Budget on 1 February 2022.[1]

Income tax rates remain the same, and a cap of 15 percent has been set for the surcharge on long-term capital gains income. Among other measures described in this newsletter are taxability of income arising from transfers of digital assets (including crypto assets, NFTs, etc.) and enabling taxpayers to file updated returns, albeit with additional tax liability.

Below we highlight the key features, in terms of the direct tax measures affecting individuals and their employers. Unless otherwise indicated, the proposed amendments relating to direct taxes will apply from the assessment year ("AY") 2023-24.[2]

WHY THIS MATTERS

This new budget signals stability and "steady-as-she-goes" in terms of its impact on individual taxpayers – including international assignees subject to Indian taxation -- and their employers. High-income earners could experience lower taxation if they incur any capital gains owing to capping the rates of surcharge applicable to specified capital gains.

What is novel is the government's effort to tackle the issue of taxing income from digital assets. Therefore, mobile employees who have such assets must be mindful of the tax consequences when trading or gifting such assets.

Highlights of Budget's Personal Tax Measures

- **Income tax slabs and rates** – Income tax slabs, rates, surcharge, and cess remain unchanged for individuals (for more information, please refer to Annexure: Additional Detail on Key Rates and Slabs below).

- **Surcharge on capital gains** – Surcharge on income tax relating to any long-term capital gains to be capped at 15 percent.

- **Amounts received from employer for reimbursement of COVID-19-related expenses** – Any sum received by an individual for treatment of any COVID-19-related illness of self / family members from the employer / any other person(s) shall not be considered as income in the hands of the recipient. *Ex-gratia* payments received by family members of a deceased person from the employer of such deceased individual (without any monetary limit) / from any other person(s) (up to INR 1 million) within 12 months of the individual's death caused by a COVID-19-related illness shall not be considered as income in the hands of the recipient.

- **Employers' contributions to National Pension Scheme (NPS) deduction** – The deduction for the employer's contribution to the National Pension Scheme (NPS) is increased to 14 percent from 10 percent of specified salary for state government employees with effect from FY 2019-20.

- **Deduction for premiums paid by policy-holder on behalf of disabled dependent** – A deduction in respect of premiums paid for an insurance policy for the benefit of a disabled dependent is now available to the policy-holder (being an individual or member of HUF) even if the annuity / lump sum is to be received by the disabled dependent on attainment of 60 years of age by the policy-holder. Further, such annuity or lump-sum amount received by a disabled dependent on the above-noted policy is not taxable.

- **Disclosure and compliance** – To promote voluntary tax compliance and reduce litigation, a taxpayer has an option to file an updated return disclosing additional income beyond 12 months but within 36 months from the end of the relevant FY (subject to certain conditions viz., such return cannot result in a loss/reduction of income/ increase in refund, such return cannot be filed if the assessment/audit is initiated or completed, etc.). The taxpayer is required to pay additional tax of 25 percent (on aggregate of incremental tax and incremental interest) if such return is filed beyond 12 months but within 24 months from the end of the relevant FY. Additional tax is 50 percent if such return is filed beyond 24 months but within 36 months from the end of the relevant FY.

Taxation of Virtual Digital Assets

- A regime to tax Virtual Digital Assets (VDA) has been introduced. VDA includes crypto-assets, non-Fungible Tokens (NFTs), and other digital assets [excludes currencies as per Foreign Exchange Management Act, 1999 (FEMA)].

- Income from the transfer of VDA, e.g., crypto assets, non-Fungible Tokens, etc., is now subject to tax at 30 percent (plus applicable surcharge and cess) with deduction of only the cost of acquisition. Loss, if any, on transfers of VDA cannot be set-off against any other income/carried forward to the succeeding FY. The transferee is liable to withhold tax at source at one percent on the amount paid to the transferor (subject to conditions) with effect from 1 July 2022. Further, a gift of a VDA from non-specified relatives is also taxable in the hands of the recipient in specific circumstances.

    - To sum up:

        - Income from transfers of virtual digital assets taxable at 30 percent plus surcharge and cess;

        - No deduction for any expenses or losses allowed except cost of acquisition;

- No set-off of loss from transfers of VDA allowed against any other income;
- No carry forward of such losses allowed to succeeding year.
- Receipt of VDA without or inadequate consideration taxable for the recipient
- TDS applicable on transfers of VDA at the rate of 1 percent with effect from 1 July 2022.

Annexure : Additional Detail on Key Rates/Slabs

These rates remain unchanged for the FY 2022-23:

Old Tax Regime - Section 192 of the Act

The net taxable income is taxed based on progressive income tax rates ranging from 10 percent to 30 percent. The tax rates and tax thresholds applicable for the FY 2020-21 are:

Taxable Income (INR)	Tax rate (%)
0 – 250,000*	Nil
250,000 – 500,000	5%
500,000 – 1,000,000	20%
Above 1,000,000	30%

[INR 1 = EUR 0.0112 | INR 1 = USD 0.0132 | INR 1 = GBP 0.0099 | INR 1 = JPY 1.53 | INR 1 = AUD 0.018] (www.xe.com)

*There are special threshold limits for resident senior citizens and resident super senior citizens.

- In the case of a resident individual who is 60 years of age or above, but below 80 years, the basic exemption limit is INR 300,000.
- In the case of a resident individual aged 80 years or above, the basic exemption limit is INR 500,000.
- Rebate from tax of up to INR 12,500 or 100 percent of the tax, whichever is less, is available for a resident individual whose total income does not exceed INR 500,000.
- In addition, tax rates will further increase by the applicable surcharge (subject to marginal relief) where income exceeds the threshold, irrespective of the tax regime. The surcharge applicable for the FY 2021-22 is mentioned further below.
- Health and Education Cess ('Cess') would be applicable as noted further below, irrespective of the tax regime.

New Tax Regime - Section 115BAC of the Act

The Finance Act 2020 read along with Circular No.C1 of 2020, is enabling every employee to indicate to his/her employer as to whether the employer should withhold taxes from salary income as per the Current Provisions (old tax regime) or under the Optional New Tax Regime.

The key features of the Optional New Tax Regime (Section 115BAC of the Act) are as follows:

- The Optional New Tax Regime is introduced by Finance Act, 2020, for individuals with modified tax slabs and rates. On satisfaction of certain prescribed conditions, an individual may opt to compute tax in respect of total income (without considering prescribed exemptions/ deductions), as per the new slab rates, instead of the existing tax regime.

- Net taxable income is taxed based on progressive income tax rates ranging from 5 percent to 30 percent. The tax rates and tax thresholds applicable for the new tax regime are:

Taxable Income (INR)	**Tax rate (%)**
0 – 250,000*****	Nil
250,000 – 500,000	5%
500,000 – 750,000	10%
750,000 – 1,000,000	15%
1,,00,000 – 1,250,000	20%
1,250,000 – 1,500,000	25%
1,500,000 and above	30%

- The choice of the Optional New Tax Regime, comes with a few pre-requisite conditions.

Surcharge

For Individual, Hindu Undivided Family, Association of Persons, Body of Individuals and Artificial Juridical Persons:

Total Income	**Surcharge ***
Exceeds INR 5,000,000 but does not exceed INR 10,000,000	10%
Exceeds INR 10,000,000 but does not exceed INR 20,000,000	15%
Exceeds INR 20,000,000 but does not exceed INR 50,000,000	25%
Exceeds INR 50,000,000	37%

**Subject to marginal relief*

**Further, the surcharge for income tax relating to any long-term capital gains is capped at 15%*

Cess

The Health and Education cess on income-tax is applicable at the rate of 4 percent on income tax (inclusive of surcharge, if any).

FOOTNOTES:

1 For the Budget Speech, see: https://www.indiabudget.gov.in/doc/budget_speech.pdf . For additional Budget documents and information, see: https://www.indiabudget.gov.in/ .

2 For analysis and coverage of the Budget, see the following website provided by the KPMG International member firm in India: "India Union Budget 2022-23: Economy of the resurgent India."

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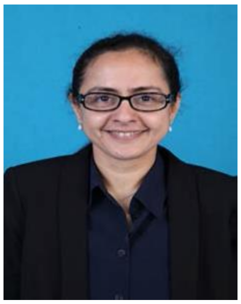
Contact us

For additional information or assistance, please contact your local GMS or People Services professional or the following professional with the KPMG International member firm in India:



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