

# Mobility: Tax Alert

April 2022



## India

### Indian Fiscal Budget 2022 - Key tax proposals for individuals

#### Executive summary

The Finance Minister of India presented the Finance Bill for the tax year 2022/23 in the Indian Parliament on 1 February 2022. The bill (now Finance Act) has been passed by Parliament with a number of amendments and received assent by the President of India. These amendments are intended to address certain ambiguities arising from proposals contained in the bill. These changes apply for the Indian tax year 2022/23 (1 April 2022 - 31 March 2023), unless specifically provided otherwise

Key amendments impacting individual taxpayers include:

- ▶ Set-off of losses from one Virtual Digital Asset (VDA) against income/gains from the transfer of another VDA
- ▶ Additional clarification provided in connection with withholding tax provisions on benefits and perks arising in the course of business or profession
- ▶ Timeline for completion of income tax audit for tax year 2019-20 extended

#### Set-off of losses from one VDA against income/gains from the transfer of another VDA may not be allowed

Income from the transfer of VDAs is taxable at 30% along with applicable surcharge and losses cannot be set-off against **any other income**. Previously there was some ambiguity as to whether such losses could be set-off.

Amendments have been made in the Finance Bill which may mean that the set-off of losses from one VDA against income/ gains from transfer of another VDA would not be permitted. Also, such losses shall not be allowed to be carried forward to succeeding years.

#### Additional clarification provided in connection with withholding tax provisions on benefits and perks arising in the course of business or profession

Under the Finance Bill proposals, any person providing a benefit or perk to a resident individual, whether convertible into money or not, arising from business or exercise of profession, must before providing such benefit or perk, deduct tax at 10% on the total value of such benefits or perks. No tax deduction at source is required if the value does not exceed INR 20,000 (USD 267) during the tax year.

The Finance Bill also proposed that where there is insufficient cash from which to deduct the tax due (i.e., where the benefit or perk is received partly in cash and partly in kind, or wholly in kind, then the person responsible for withholding must ensure that the applicable taxes are paid before the benefit or perk is provided. The Finance Act has now clarified that such tax should be equal to the withholding tax due irrespective of the employee's marginal tax rate. For example, if the total value INR 100,000 (USD 1,333), then the payer should ensure payment of tax by the payee of INR 10,000 (USD 133) at the 10% rate even if the tax rate applicable to the payee is higher.

#### Filing of updated tax return possible for previously filed return

In accordance with the Finance Bill, taxpayers are to be granted additional time to file an updated tax return to make corrections or report any omissions within 36 months from the end of the tax year, subject to various conditions.

However, the filing of an updated return was not possible for reporting losses.

The Finance Act has now provided that a taxpayer can file an updated return for a tax year even where the previously filed return for that tax year reported a net loss.

#### **Timeline for completion of income tax audit for fiscal year 2019-20 extended**

The Finance Act prescribes that the completion of an income tax audit for the tax year 2019-20 has been extended from 31 March 2022 to 30 September 2022.

#### **Key steps**

The provisions of the Finance Bill have been enacted and received the assent of the President of India. The Finance Act was published in the Official Gazette on 30 March 2022. Hence, these changes shall be applicable for the Indian Fiscal Year 2022/23 (1 April 2022 - 31 March 2023), unless specifically provided otherwise.

EY will continue to monitor these developments. Should you have any questions, we encourage you to contact one of our tax professionals.

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