India's Budget 2024-25 – Key Highlights

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Introduction

India's Union Budget (the "**Budget**") was announced on July 23, 2024, and the Finance Bill, 2024 (the "**Finance Bill**") was tabled in Parliament. The Finance Bill will be discussed in Parliament before its enactment, and it is likely that it will be amended based on these discussions. Once enacted, the income tax proposals in the Finance Bill will become effective on the dates specified therein.

We have summarized some of the key income tax proposals made in the Budget. Note that "1 lac" has been stated as "100,000," and "1 crore" as "10,000,000".

Personal income tax rates

The Finance Bill has introduced a new personal income tax regime to be effective from April 1, 2024, and the below listed tax rates will be applicable to an individual taxpayer under the Income-tax Act, 1961 (the "**IT Act**"), if he/she agrees to let go of all tax deductions or exemptions:

S. No.	Total income	Rate of tax
1.	Up to INR300,000	Nil
2.	INR300,001 to INR700,000	5%
3.	INR700,001 to INR1,000,000	10%
4.	INR1,000,001 to INR1,200,000	15%
5.	INR1,200,001 to INR1,500,000	20%
6.	Above INR1,500,000	30%

The applicable surcharge is as set out below:

S. No.	Taxable Income	Surcharge rate
1.	Above INR5,000,000 but up to INR10,000,000 (including dividend income and capital gains)	10%
2.	Above INR10,000,000 up to INR20,000,000 (including dividend income and capital gains)	15%
3.	Above INR20,000,000 up to INR50,000,000 (excluding dividend income and capital gains)	25%
Additionally, a 4% Health and Education Cess is also levied.		

The revised personal income tax rates appear attractive. However, the final tax calculations may turn out differently if the individual is availing significant tax deductions and exemptions.

Rationalisation and simplification of capital gains tax

The Finance Bill proposes to rationalize and simplify the capital gains regime as set out below, to be effective from today (i.e., July 23, 2024):

(i) there will only be two (2) holding periods: twelve (12) months and twenty-four (24) months, to determine whether the capital gains are long term capital gains ("**LTCG**") or short-term capital gains ("**STCG**"). For all listed securities, the holding period for LTCG will be twelve (12) months and for all other assets, it will be twenty-four (24) months. Therefore, the LTCG holding period for bonds, debentures, and gold will reduce from thirty-six (36) months to twenty-four (24) months, and for unlisted shares and immovable property, it will remain at twenty-four (24) months;

(ii) the rate for STCG on: (a) listed equity shares (on which securities transaction tax ("**STT**") has been paid); and (b) units of equity oriented mutual funds and business trusts (REITs, etc.), is proposed to be increased to 20% from the current rate of 15% because the current rate is perceived to be too low and largely benefiting only high-net-worth individuals. STCG on other assets will continue to be taxed at the applicable rate;

(iii) the rate for LTCG on: (a) listed equity shares (on which securities transaction tax ("**STT**") has been paid); and (b) units of equity oriented mutual funds and business trusts (REITs, etc.), is proposed to be increased to 12.5% from the present rate of 10%; and

(iv) simultaneously with the rationalisation of the LTCG tax rate to 12.5%, the indexation benefit available for real property, gold, and other unlisted assets is now proposed to be removed. This will result in making easy the computation of capital gains for the taxpayer and the tax administration.

An increase in the capital gains tax rates and the removal of indexation benefits will increase the capital gains tax liability in the hands of the taxpayer which, in our view, is quite harsh.

Rates for deduction of income tax at source ("TDS") during the financial year 2024-25 from certain incomes for non-residents

The Finance Bill has proposed that for non-domestic companies (i.e., a foreign company), the TDS on "other income" will be reduced from 40% to 35%.

TDS rates for non-residents on income in the nature of capital gains are set out below:

S. No.	Income	TDS rate for transfers taking	TDS for transfers taking place after July 23, 2024

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		place before July 23, 2024	
1	LTCG on assets in case of non-resident Indians	10%	12.5%
2	LTCG on unlisted securities or shares of a company not being a company in which the public are substantially interested	10%	12.5%
3	LTCG arising from the transfer of a long-term capital asset being an equity share in a company or a unit of an equity-oriented fund or a unit of a business trust (on gains exceeding INR125,000); and where STT has been paid	10%	12.5%
4	LTCG (not being LTCG from the transfer of capital asset, being a unit of the Unit Scheme, 1964 referred to in Schedule I to the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002 or and being an eligible equity share in a company purchased on or after March 1, 2003 and before the March 1, 2004	20%	12.5%
5	STCG on listed shares	15%	20%

Angel tax removed

Section 56(2)(viib) of the IT Act, popularly known as the "Angel Tax" provision, applies when a company in which the public are not substantially interested (i.e., a private company or an unlisted public company) issues shares at a premium and receives consideration that is more than the fair market value ("**FMV**") of the shares. The excess amount received is deemed as income from other sources in the hands of the company. The Finance Bill has proposed to do away with this provision. The amendment will take effect from April 1, 2024.

These measures are welcome. However, at the ground level, Indian companies will continue to receive scrutiny and assessment notices for prior years from the Indian tax authorities seeking justification for share premium amounts received and the valuation method used to calculate the FMV of shares. The tax litigation for prior years is likely to continue.

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Tax on distributed income of domestic company for buyback of shares

The Finance Bill has proposed that the sum paid by a domestic company for purchase of its own shares shall be treated as dividend in the hands of the shareholders who receive the payment from such buyback of shares and shall be charged to income tax in their hands at the applicable rates. No deduction for expenses shall be available against such dividend income while determining the income from other sources. The cost of acquisition of shares which have been bought back would generate a capital loss in the hands of the shareholder as these assets have been extinguished.

The Indian government's rationale is that pay-outs on buyback of shares must be taxed in the hands of the recipients, in line with the current dividend tax regime. As both dividends and buyback of shares are methods for the company to distribute accumulated reserves, they ought to be treated similarly. Additionally, there is an extinguishment of rights for the shareholders who are tendering their shares in the buyback.

These amendments will take effect from October 1, 2024 and will apply to any buyback of shares that takes place on or after this date.

As we see it, the company will pay buyback distribution tax at the rate of 23.296% on the distributed income to the shareholder and the shareholder will then be liable to pay tax at the rate of 34.94% on the distributed income (based on the respective income slab rates) as dividends received.

Rationalisation of TDS rates

The Finance Bill provides that there are various provisions of TDS with different thresholds and multiple rates between 0.1%, 1%, 2%, 5%, 10%, 20%, 30% and above. The Finance Bill has proposed the rationalisation of TDS rates as follows

S. No.	Particulars	Present TDS rate	Proposed TDS rate	With effect from
1	Section 194D - Payment of insurance commission (in case of person other than company)	5%	2%	April 1, 2025
2	Section 194DA - Payment in respect of life insurance policy	5%	2%	October 1, 2024
3	Section 194G – Commission on sale of lottery tickets	5%	2%	October 1, 2024
4	Section 194H - Payment of commission or brokerage	5%	2%	October 1, 2024
5	Section 194-IB - Payment of rent by certain individuals or HUF	5%	2%	October 1, 2024

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6	Section 194M - Payment of certain sums by certain individuals or Hindu undivided family	5%	2%	October 1, 2024
7	Section 194-O - Payment of certain sums by e-commerce operator to e-commerce participant	1%	0.1%	October 1, 2024
8	Section 194F relating to payments on account of repurchase of units by Mutual Fund or Unit Trust of India	Proposed to be omitted		October 1, 2024

This will improve ease of doing business and streamline compliance by taxpayers.

Equalisation Levy

The Finance Act, 2020, provided for an equalization levy (EL) of 2% on the amount of consideration received by an e-commerce operator from e-commerce supply or services.

An "e-commerce operator" means a non-resident who owns, operates, or manages digital or electronic facility or platform for online sale of goods or online provision of services or both. The levy is imposed on the amount of consideration received from: (i) online sale of goods owned by the e-commerce operator; (ii) online provision of services provided by the e-commerce operator; (iii) online sale of goods or provision of services or both, facilitated by the e-commerce operator; or (iv) any combination of the above-mentioned activities.

The Finance Bill has stated that the scope of 2% equalisation levy is ambiguous and leads to a compliance burden. Given this, it has been proposed that the equalisation levy at the rate of 2% shall not be applicable to any consideration received for e-commerce supply or services on or after August 1, 2024.

This is a welcome move and will reduce the compliance burden on e-commerce operators.

Submission of statement by liaison office of non-resident in India

Under Section 285 of the IT Act, a non-resident having a liaison office in India is required to prepare and deliver a statement in respect of its activities in a financial year to the tax assessing officer within sixty (60) days from the end of such financial year. The Finance Bill has proposed that the period within which such a statement is to be filed be henceforth prescribed under the Income-tax Rules, 1962 (the "**IT Rules**"). Further, to ensure better compliance in this respect, it has been proposed that a failure to furnish the statement may attract a penalty of INR1,000 (Indian Rupees One Thousand) for every day for which the failure continues, if the period of failure is up to three (3) months, and INR100,000 (Indian Rupees One Hundred Thousand) in any other case. A new section 271GC in relation to penalties has been proposed. However, the penalty shall not be leviable if the taxpayer

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proves that there was reasonable cause for the failure. The amendment will be effective from April 1, 2025.

Revision of rates of STT

STT was introduced by Finance (No.2) Act, 2004. Recognized stock exchanges, mutual funds (having equity-oriented scheme), insurance companies or lead merchant bankers appointed by the company in respect of an initial public offer, or an initial offer are liable to collect STT and pay the same to the credit of the Central Government within seven (7) days from the end of the month in which STT is collected. The rates of STT have been revised from time-to-time.

Presently, the rate of levy of STT on sale of an option in securities is 0.0625% of the option premium, while the rate of levy of STT on sale of a future in securities is 0.0125% of the price at which such “futures” are traded. Further, the rate of levy of STT on delivery trades in equity shares is 0.1% on both purchase and sale transactions, while in the case of sale of an option in securities where the option is exercised, the rate of levy is 0.125% of the intrinsic price (i.e., the difference between the settlement price and the strike price) and is payable by the purchaser.

There has been an exponential growth of the derivatives (futures and options) market in recent times, and trading in such derivatives accounts for a large proportion of trading on stock exchanges. In view of this exponential growth, the Finance Bill has proposed to increase the rates of STT on: (i) sale of an option in securities from 0.0625% to 0.1% of the option premium, and (ii) on sale of a futures in securities from 0.0125% to 0.02% of the price at which such futures are traded.

The amendments will be effective from October 1, 2024.

Tax incentives to International Financial Services Centre (“IFSC”)

IFSC is a jurisdiction that provides financial services to non-residents and residents, to the extent permissible under the current regulations, in any currency except the Indian Rupee. The IT Act has, over the past few years, provided several tax concessions to IFSC units.

In order to incentivize operations from IFSC, the Finance Bill has proposed to expand the definition of specified funds to include retail funds and exchange-traded funds (“**ETF**”) in IFSC, which will be tax exempt. Specified funds shall now include funds established or incorporated in India in the form of a trust, company, limited liability partnership, or body corporate, which have been granted a certificate as a retail scheme or an ETF and are regulated under the International Financial Services Centres Authority (Fund Management) Regulations, 2022, and satisfy certain prescribed conditions. Similarly, subject to prescribed conditions, any specified income of core settlement guarantee funds that is set up by a recognised clearing corporation in the IFSC, will also be tax exempt.

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Section 94B of the IT Act puts in place a restriction on deduction of interest expense in respect of any debt issued by a non-resident, being an associated enterprise of the borrower. It applies to an Indian company, or a permanent establishment of a foreign company in India, who is a borrower. If such person incurs any expenditure by way of interest or of similar nature exceeding INR10,000,000 (Indian Rupees Ten Million) which is deductible in computing income chargeable under the head "Profits and gains of business or profession," the interest deductible shall be restricted to the extent of 30% of its earnings before interest, taxes, depreciation and amortisation so as to avoid thin capitalisation of a corporate entity. At present, the provisions of this section do not apply to Indian companies or permanent establishments of foreign companies which are engaged in the business of banking or insurance, or such classes of non-banking financial companies as may be notified by the Central Government. The Finance Bill has proposed that the provisions of this section shall not apply to finance companies which satisfy such conditions and carry on such activities as may be prescribed.

These amendments will be effective from April 1, 2024.

This is a welcome move to promote the development of a world-class financial infrastructure in India.

Promotion of domestic cruise ship operations by non-residents

To promote the cruise-shipping industry in India, a presumptive taxation regime is being introduced for non-resident cruise-ship operators along with exemption on income from lease rentals if the foreign company and the non-resident cruise ship operator have the same holding company. For this purpose:

(i) a new Section 44BBC is proposed which will assume that 20% of the total amount received by or paid to the non-resident cruise ship operator for passenger carriage is their profit and gains from business (subject to prescribed conditions);

(ii) the existing Section 44B which governs presumptive taxation for non-resident shipping businesses will no longer apply to the cruise ship business; and

(iii) through a new Section 10(15B), lease rentals paid by a company under the new Section 44BBC will be exempt from income tax for the receiving company if both are subsidiaries of the same holding company. This exemption will be available until Assessment Year 2030-31.

These changes will be effective from April 1, 2025, and will apply to Assessment Year 2025-26 and onwards.

The introduction of Section 44BBC is poised to simplify tax compliance for non-resident cruise ship operators by establishing a presumptive taxation regime and providing lease rental exemptions.

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Amendment to the definition of "specified mutual funds"

The Finance Act, 2023 introduced a special taxation regime for market-linked debentures and "specified mutual funds", as per which gains are taxed as STCG irrespective of the holding period. In this, the applicability requirement was to invest not more than 35% in equity shares. This requirement also affected other funds with less than 35% investment in equity shares, such as ETFs, gold mutual funds, and gold ETFs, and funds of funds. Now, the definition of "specified mutual funds" will be revised to cover mutual funds investing more than 65% of their total proceeds in debt and money market instruments; or (b) funds investing 65% or more of its total proceeds in units of the foregoing mutual funds.

This change will take effect from April 1, 2026, and apply from Assessment Year 2026-27 onwards.

Gifts of shares by companies no more exempt from capital gains

Section 47 of the IT Act excludes transfers of capital assets via gift, will or irrevocable trust from being charged with capital gains. However, transfer of employee stock options (ESOPs) does not enjoy this exclusion. Now, in order to address tax avoidance issues, an amendment will clarify that gifts of shares by companies are not exempt from capital gains tax and only gifts, wills, or irrevocable trusts made by individuals or Hindu undivided families ("**HUFs**") are exempt from capital gains tax. This will ensure that only gifts given out of natural love and affection by individuals and HUFs enjoy exemption from capital gains. This amendment will take effect from April 1, 2025, and will apply to the assessment year 2025-26 and onwards.

The amendment strengthens anti-avoidance measures and prevents tax base erosion by clearly excluding any underhanded dealings disguised as gifts.

Amendment of withholding tax provision on sale of immovable property

Section 194-IA of the IT Act requires tax deduction on payment of consideration for transferring certain immovable property (other than agricultural land). The current provision requires a 1% tax deduction on the consideration or the stamp duty value (whichever is higher), for immovable property transfers if the value is INR5,000,000 (Indian Rupees Five Million) (the "**Threshold**") or more. No tax deduction is required if both consideration and stamp duty are below INR5,000,000 (Indian Rupees Five Million). The current provision was being misinterpreted by taxpayers to mean that the Threshold was for consideration paid by each individual buyer, even if the total property value exceeded the Threshold. This was against legal intent so an amendment will be brought about to clarify that in case of multiple buyers or sellers, the total consideration paid by all buyers to all sellers will be considered for tax deduction purposes. This change will take effect from October 1, 2024.

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The amendment will help bring legislative clarity and reduce consequent litigation.

Direct Tax Vivad se Vishwas Scheme, 2024

The IT Act provides for a mechanism of filing of appeals against orders passed under the proceedings of the IT Act, both by the taxpayer and the tax authorities before the respective appellate forums, such as Joint Commissioner of Income-tax (Appeals), Commissioner of Income-tax (Appeals), the Income-Tax Appellate Tribunals, High Courts and the Supreme Court.

It has been the endeavour of the Central Board of Direct Taxes to provide expeditious disposal of appeals by appellate authorities under its administrative control. One such measure was the Direct Tax Vivaad Se Vishwas Act, 2020 launched for appeals pending as on January 1, 2020. The Scheme got a very encouraging response from the taxpayers and also resulted in garnering substantial revenue for the Indian government.

The pendency of litigation at various levels has been on the rise due to larger number of cases going for appeal than the number of disposals. Keeping in view the success of the previous Vivaad Se Vishwas Act, 2020 and the mounting pendency of appeals at CIT(A) level, the Finance Bill has proposed to introduce a Direct Tax Vivad se Vishwas Scheme, 2024 (the "**Scheme**") with the objective of providing a mechanism of settlement of disputed issues, thereby reducing litigation without much cost to the exchequer. It is proposed that the Scheme shall come into force from the date to be notified by the Indian government. The last date for the Scheme is also proposed to be notified.

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