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India
Budget proposals on personal taxation

Overview

The 2017 Union Budget, presented by India's Finance Minister on 1 February 2017, contains a number of measures that would affect individuals. The following highlights the most significant proposals.

Highlights

Change in slab rates: The tax slabs for income tax would remain unchanged, but there would be a minor reduction in the tax rate for the first slab. The existing and proposed tax slabs are as follows:

Existing slab rates		Proposed slab rates	
Slab of Income (INR)	**Rate of Tax (%)**	**Slab of Income (INR)**	**Rate of Tax (%)**
Up to 250,000	Nil	Up to 250,000	Nil
250,001 – 500,000	10%	250,001 – 500,000	5%
500,001 – 1,000,000	20%	500,001 – 1,000,000	20%
Above 1,000,001	30%	Above 1,000,001	30%

The basic exemption limit for resident individuals who are at least 60 but under 80 years of age would remain INR 300,000 and for a resident individual who is 80 years or older at INR 500,000.

The education cess would continue to be payable at a rate of 3% of the total tax.

The rebate available for resident individuals in the first slab would be capped at INR 2,500 for total income up to INR 350,000 instead of INR 5,000 for total income of INR 500,000.

New surcharge introduced: The surcharge payable on income tax for taxpayers with taxable income exceeding INR 10 million would remain at 15% and, hence, the maximum marginal tax rate would stay at 35.535%. A surcharge of 10% of the tax has been proposed on income for taxpayers with income exceeding INR 5 million, but not exceeding INR 10 million.

Restriction on set-off of house property loss: There currently is no restriction on the setting off of losses incurred on the rental of residential property or a deemed let-out property (such as losses arising on account of interest payable on a residential loan) against other income. The budget proposes to restrict the set off of losses to INR 200,000 per year, but any excess could be carried forward for set off against income from house property over the following eight tax years.

Claim of foreign tax paid in cases of dispute: In cases where a foreign tax credit was not allowed due to a dispute about foreign tax paid, the taxpayer would be permitted to furnish the relevant documents to the tax officer within six months from end of the month in which the dispute was settled, and the tax officer then would be required to rectify the tax order and grant the tax credit.

Withholding of tax on rental income: Individuals who pay rent to residents exceeding INR 50,000 per month would be required to withhold a 5% tax on the payment once a year.

Limitation on cash transactions: To discourage cash transactions, a penalty would be imposed on the recipient of cash in respect of cash transaction(s) exceeding INR 300,000 or more; the penalty would be equal to the amount of cash received.

Tax compliance:

- A time limit for a taxpayer to amend his/her tax return would be reduced from two years from the end of the tax year to one year from the end of the tax year; and
- A mandatory fee would be levied where a taxpayer fails to file his/her tax return within one year from the end of the tax year (currently, the assessing officer has discretion to impose a penalty of INR 5,000), as follows:
    - INR 5,000 if the return is filed after the due date (i.e. 31 July) but by 31 December following the end of the tax year; and
    - INR 10,000 in all other cases.

However, fee would be limited to INR 1,000 if the taxpayer’s total income does not exceed INR 500,000.

Deloitte’s view

The following observations can be made about the budget proposals:

- Although the budget measures would result in a minor tax savings due to the reduction in the tax rate from 10% to 5%, the tax outflow for persons earning income exceeding INR 5 million and up to INR 10 million would increase due to the 10% surcharge.
- The restriction on the setoff of housing property losses would increase the tax cost of individuals who rent out their houses and claim a deduction of interest paid on the mortgage.
- The government has demonstrated its resolve to curb the use of “black money.”
- The mandatory fee for delay in filing of the tax return should be an impetus for individuals to file in a timely manner.

The budget measures still must be approved by both houses of parliament and receive the assent of the president of India. Once approved, the provisions would apply from the India tax year 2017-2018 (1 April 2017 to 31 March 2018), unless otherwise stated.

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Global Reward Updates:
Netherlands: Favorable tax treatment of stock options for employees of innovative start-ups

Key Points to Know

Dutch lawmakers have approved the Netherlands' 2017 Tax Plan, which will impact the stock option regime for innovative startups and aspects of personal taxation, including for internationally mobile employees. Key updates include:

As of January 1, 2018, only 75% of an individual's taxable gain from the exercise of stock options of up to EUR 50,000 will be considered Dutch taxable wages, if certain conditions are met. The remaining gain will be considered tax-free.

To qualify for the favorable tax treatment:

- The employer must be granted a valid "R&D declaration" in the year which the options are granted.
- Individuals must exercise the stock option no earlier than 12 months after the grant date and no later than 5 years after the grant date.
- The favourable treatment can only be claimed if the EU- legislated "de-minimis ceiling" for state-aid is not exceeded on an individual-by-individual basis.

Overview

The 2017 Tax Plan, approved by votes in both the Dutch Lower and Upper House, will impact the stock option regime and aspects of personal taxation beginning January 1, 2018. The new law aims to provide start-up companies with more flexibility in rewarding employees, and also allows those companies to offer lower fixed salaries, leading to cost savings.

Main Changes

The following are the main changes to be aware of:

Favorable Tax Treatment of Stock Options: Beginning on January 1, 2018, individuals may treat only 75% of the gain from exercise of a stock option, rather than the full gain, as Dutch taxable wages, on up to EUR 50,000 of stock option gains. The remaining 25% of the gain from exercise of a stock option will be considered non-taxable in the Netherlands. Therefore, the maximum amount of tax-exempt stock option gain per year is EUR 12,500. This favourable treatment is only available if the required conditions are met.

Required Conditions: The favorable tax treatment of stock options is subject to the following criteria:

- The employer must be granted a valid "R&D declaration" in the year in which the options were granted; based on our interpretation of the proposed legislation, the "employer" is the Dutch tax agent, though the shares may be granted by a non-Dutch "affiliated entity";
- The individual must exercise the stock option no earlier than 12 months after the grant date and no later than 5 years after the grant date; and

- The favourable treatment can only be claimed if the EU- legislated de-minimis ceiling for state-aid is not exceeded on an individual-by-individual basis.

Deloitte's view

For "innovative start-up" companies operating in the Netherlands, the proposed favorable tax regime presents an argument to select an employee stock option plan over other equity plans when implementing a long-term incentive scheme. Employees could begin to benefit from the favourable scheme in January 2018 if the first stock option grants are made between January 2013 and January 2017, respecting the 12 month to five years period between grant and exercise. Additionally, based on our interpretation of the proposed legislation, employees could claim the tax favorable treatment in January 2018 for grants made under an existing scheme from 2013, considering the maximum 5 year holding period prior to exercise. No special statement or agreement should be needed upon grant of the options to indicate that the awards are designed to fall within the favorable tax regime.

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