



Tax alert: India Budget 2024: Changes to capital gains

22 August 2024

The Finance Minister of India presented the Finance (No. 2) Bill, 2024 on 23 July 2024 proposing changes, amongst others, to the tax laws. The Finance (No. 2) Bill, 2024 and the subsequent proposed amendments received the assent of the president on 16 August 2024. The personal income-tax changes aim to lower the rates under the new regime, simplify capital gains rules and reduce litigation.

In a nutshell

The taxation of capital gains has been rationalised and simplified. This includes parity between resident and non-resident categories, a lower tax rate for long-term capital gains in certain scenarios, removal of indexation provisions (except for land and / or building in certain cases) and a simplified holding period. Most of the new capital gains provisions shall apply for transfers made on or after 23 July 2024.



Long-term capital gains

- Tax rate to be set at 12.5% irrespective of asset class.
- Indexation benefit has been withdrawn except for land and/or building acquired before 23 July by resident individuals or HUF.



Short-term capital gains

Tax on equity shares, units of business trust and units of equity-oriented funds listed in India increased to 20% from the present rate of 15%.



Change in holding period

To qualify as a long-term asset the holding period of some assets such as units of unlisted business trust, debt mutual funds (other than Specified Mutual Fund) and gold, will now be 24 months instead of 36 months.



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Key changes to income under the head Capital Gains

- The thresholds for classifying assets as long-term have been simplified. For listed securities (such as equity shares, equity-oriented mutual funds¹, units of business trust listed in India), it is 12 months and for all the other assets, it is 24 months. In the case of shares listed outside India, the period of holding is at 24 months for it to qualify as long-term asset.
- All long-term capital gains for all categories of assets will now be taxed at a flat rate of 12.5%² without indexation, except for land and/or building acquired before 23 July 2024. Previously, the tax rate was 10% for certain securities such as listed equity shares, units of business trust, units of equity-oriented mutual funds and listed bonds subject to satisfaction of certain conditions and 20% with indexation for other assets. Further, the capital gains on transfer of equity shares and units of equity-oriented mutual funds listed in India will now be exempt up to INR 125,000 as against the earlier limit of INR 100,000.
- Short-term gains from the transfer of listed equity shares, units of business trust and units of equity-oriented mutual funds will now be taxed at 20% which was earlier taxed at 15%. Other short-term gains will remain subject to taxation according to slab rates.
- **Immovable property:** The indexation benefit which adjusted the cost of assets for inflation has now been withdrawn except for land and/or building acquired before 23 July 2024, by an individual resident or Hindu Undivided Family (HUF). On transfer of land and / or building on or after 23 July 2024 and acquired before 23 July 2024, taxpayers shall have an option to pay tax at the lower of (i) 20% on capital gains with indexation, or (ii) 12.5% on capital gains without indexation.
- Bonds and debentures not listed in India, units of specified mutual funds³ and market-linked debentures will continue to be taxed at applicable slab rates irrespective of the holding period.
- All above provisions shall apply to transfers from 23 July 2024.

Buyback will now be taxed as dividend

Buyback proceeds will be considered dividend income and taxed in the hands of shareholders at the respective slab rates from 1 October 2024 in contrast to the existing provisions where Indian companies are taxed. Non-residents need to evaluate the benefits under the respective Double Taxation Avoidance Agreement (treaty).

¹ Holding period of equity oriented fund shall be 12 months irrespective of whether it is listed or unlisted.

² Except Specified Mutual Funds (acquired on or after 1 April 2023) and Market Linked Debentures, covered by section 50AA.

³ Specified Mutual Fund as defined under section 50AA. The definition will undergo a change from 1 April 2025.

Currently, "Specified Mutual Fund" means a Mutual Fund by whatever name called, where not more than thirty five per cent of its total proceeds is invested in the equity shares of domestic companies"

Definition of Specified Mutual Fund applicable from 1 April 2025 onwards:

"Specified Mutual Fund" means,—

- (a) a Mutual Fund by whatever name called, which invests more than sixty-five per cent. of its total proceeds in debt and money market instruments; or
- (b) (b) a fund which invests sixty-five per cent. Or more of its total proceeds in units of a fund referred to in sub-clause (a)"

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