



Tax alert: Key amendments to Finance (No.2) Bill, 2024

7 August 2024

Key amendments to the Finance (No.2) Bill, 2024: The same has been listed for passing in Lok Sabha and would subsequently be placed before Rajya Sabha. Post clearances from both Houses, the Bill would become an Act on receipt of President's assent.

Background:

The Finance (No.2) Bill, 2024 (FB 2024) was presented by the Hon'ble Finance Minister (FM) on 23 July 2024. After considering different representations from various stakeholders, certain amendments to FB 2024 have been suggested, which has now been listed for passing in Lok Sabha.

Key highlights of the amendments FB 2024 (FB 2024 amendments) in relation to Income-tax Act, 1961 (ITA) are as follows:

- **Grandfathering of indexation benefit for resident Individuals and HUFs¹ on transfer of Property²:**

FB 2024 has proposed that indexation benefit shall be discontinued for long-term capital gains (LTCG) earned on or after 23rd July 2024.

It is now proposed to also insert a proviso to section 112(1)(a) of the ITA³ to provide that in case of transfer of a long-term capital asset, being Property, a resident individual or a resident Hindu Undivided Family (HUF) 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, in cases where:

- The subject Property is acquired before 23 July 2024 and,
- such Property is transferred on or after 23 July 2024.

- **Long-term capital gains on sale of unlisted securities/shares by a non-resident taxpayer**

Section 112(1)(c)(iii) of the ITA is proposed to be amended to tax long-term capital gains earned by non-resident taxpayer on sale of unlisted securities or shares of a company not being a company in which public are substantially interested, without giving effect to the first and second provisos⁴ to section 48 of the ITA⁵, as follows:

- 10% for sale of such shares before 23 July 2024; and

¹ Hindu Undivided Family

² Being land or building or both

³ Section 112 of the ITA relates to tax on long-term capital gains

⁴ First and second provisos relate to foreign exchange fluctuation and indexation benefit, respectively

⁵ Section 48 of the ITA relates to mode of computation of capital gains

— 12.5% for sale of such shares on or after 23 July 2024.

- **Rectification of anomaly under section 192 of the ITA for credit of tax deducted at source (TDS) and tax collected at source (TCS) against tax on salary income**

Section 192(2B) of the ITA provided for consideration of income under any other head and TDS, if any, deducted thereon to be taken into account for the purposes of making the deduction under section 192(1) of the ITA, subject to certain conditions.

FB 2024 has proposed to amend section 192(2B) of the ITA to expand the scope of the said section to include any TDS or TCS under the provisions of Chapter XVII-B or Chapter XVII-BB of the ITA, as the case may be, to be taken into account for the purposes of TDS under section of section 192(1) of the ITA relating to TDS on salary income.

It is now also proposed to amend the proviso to section 192(2B) of the ITA to state that the tax deductible from salaries [under section 192(1) of the ITA] can be reduced in following cases:

- (i) where there is loss under the head 'Income from House Property' and
- (ii) TDS in accordance with other provisions of Part B of Chapter XVII of the ITA (relating to collection and recovery of tax) and TCS in accordance with provisions of Part BB of Chapter XVII of the ITA.

Comment:

FB 2024 once passed by Lok Sabha, will be placed before Rajya Sabha and thereafter, once passed by the Rajya Sabha, will become an Act after the President's assent.

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