



Key amendments to the Finance Bill, 2022 – Enacted

Union Budget 2022-23



The Finance Bill, 2022 (Amended Bill) was passed by the Lok Sabha on 25 March 2022 with amendments to the original Bill that was tabled before the Lok Sabha on 1 February 2022.

Key highlights



- 01** Penal consequences to claim deduction of cess or surcharge in prior years have been prescribed with certain exceptions.
- 02** Clarifications have been provided on taxation of Virtual Digital Assets (VDA).
- 03** Conditions prescribed to file updated income-tax return in certain cases.
- 04** For succession of business, validity of assessment or other proceedings on the predecessor have been extended to the successor.
- 05** New time limits prescribed to reduce the quantum of pending litigations.
- 06** Timelines for completion of assessment proceedings extended in certain cases.
- 07** Definition of 'books or books of account' expanded to include documents kept in electronic or digital form.
- 08** Central Board of Direct Taxes (CBDT) empowered to issue guidelines to remove difficulties in implementation of withholding tax on benefit or perquisite paid to a resident.

The amendments have been made with the intention to address the ambiguities arising from the wordings of the proposals as contained in the Bill and to bring clarity and certainty for the benefit of the taxpayers.

Tax & Regulatory amendments

Providing tax certainty



Penal consequences to claim deduction of cess or surcharge in prior years with certain exceptions

In the original Bill, the term 'tax' was proposed to be clarified to include any surcharge or cess for the purpose of disallowance from business profits [with effect from assessment year (AY) 2005–06].

Now, in the Amended Bill, it is proposed to deem the deduction taken in past years with respect to surcharge or cess as an under-reported income (for penalty purposes). The Tax Officer is also empowered to pass the necessary rectification order and to recompute the income of taxpayers in respect to such claims. The time limit of four years to process this rectification will begin from 1 April 2022.

However, no penalty is to be levied if a suo-moto application in a prescribed form is made by the taxpayer for re-computation of income, without claiming deduction for surcharge or cess and on payment of appropriate taxes (if any) within the prescribed time.

Clarifications on taxation of VDA

In the original Bill, a scheme for the taxability of VDA was introduced, taxing the income at 30% (plus surcharge and cess) without any deduction of expenditure or allowance (other than cost of acquisition) or set-off of any losses.

Now, in the Amended Bill, the following key changes have been made:

- Definition of 'transfer' is to apply to VDAs, regardless of whether VDAs are considered as capital assets.
- Loss from transfer of VDA cannot be adjusted against any income (including income from the transfer of another VDA).

Ease of doing business



Conditions to file updated income-tax return in certain cases

In the original Bill, to encourage voluntary tax compliance, a new section was inserted that allows taxpayers to furnish the updated income-tax returns within 24 months from the end of the relevant AY after paying 25% or 50% as additional tax.

Now, in the Amended Bill, the following key changes have been made:

- Updated income-tax return can be filed where the original income-tax return computing 'loss' becomes an income-tax return computing 'income'.
- Where the updated income-tax return for a particular year results in the reduction of carry forward of losses, Minimum Alternate Tax credit, or unabsorbed depreciation, then the updated income-tax return is to be filed for subsequent years to show roll forward effect.

- Updated income-tax return cannot be filed for any of the years preceding the year in which search is initiated and survey is conducted.

Succession of business – validity of assessment or other proceedings on predecessor extended to the successor

In the original Bill, a new provision was inserted to extend the validity of assessments or other proceedings to the successor (originally made on the predecessor) in case of 'business reorganisation'. A new section was also inserted to enable modification of income-tax returns by the successor.

Now, in the Amended Bill, the scope of the above new provision is expanded to cover business succession. Furthermore, a modified tax return can now be furnished by all resulting entities (successors) in a business reorganisation regardless of whether they were in existence before such business reorganisation.

New time limits to reduce the quantum of pending litigations

In the original Bill, a new section was inserted to reduce the quantum of pending litigations. Tax authorities were mandated not to file appeals in respect of identical questions of law pending before the jurisdictional High Court or Supreme Court, whether in the taxpayer's own case or in that of another taxpayer, subject to specified conditions.

Now, in the Amended Bill, to give effect to the above section, new timelines with respect to filing of appeals or application for deferment of appeal have been made.

Timelines for completion of assessment proceedings extended in certain cases

In the Amended Bill, the following changes have been made.

- Assessment proceedings for AY 2020–21 to be now completed by 30 September 2022 (original timeline was 31 March 2022).
- Assessment proceedings for AY 2021–22 to be completed by 30 September 2022 for certain search matters.

Definition of 'books or books of account' expanded to include documents kept in electronic or digital form

In the Amended Bill, the definition of 'books or books of account' will also include documents kept in electronic or digital form or as printouts of data stored in such electronic or digital form.

CBDT empowered to issue guidelines to remove difficulties in implementation of withholding tax on benefit or perquisite paid to a resident

In the original Bill, a new section was inserted to provide that any benefit or perquisite arising to a resident during the course of business or exercising of profession would be subject to withholding tax @ 10%.

In the Amended Bill, the CBDT has been empowered to issue guidelines to remove difficulties in implementation of the said provisions with certain approvals.

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