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Key amendments to the Finance (No. 2) Bill, 2024

7 August 2024

This document summarises the significant direct tax amendments to the Finance (No. 2) Bill, 2024 as passed by the Lower house of the Parliament today. These proposals are subject to the passage of the Finance (No. 2) Bill by the Upper house and Presidential assent, after which the Finance Bill will become law. Further, the direct tax proposals in the Finance (No. 2) Bill, 2024 are effective from Financial Year ('FY') 2024-25 unless otherwise stated. References to sections are to sections in the Income-tax Act, 1961 ('the IT Act') unless otherwise stated.

I. Capital gains

1. Computation of capital gains in case of immovable property *[Sections 48, 112]*

i. It is proposed to provide the benefit of indexation to the cost of acquistion in respect of Long Term Capital Assets in the nature of immovable property.

ii. The amendment proposes to retain the benefit of indexation in respect of immovable property i.e land or buillding or both, acquired before 23 July 2024 by resident Individuals or HUFs. Tax payable on such gains will be lower of -

   a. 12.5% tax on Long Term Capital Gains ('LTCG') computed without indexation or
   b. 20% tax on LTCG computed with indexation.

iii. The aforesaid amendment is applicable only for the purpose of computing the tax on LTCG. Thus, any Long Term Capital Loss arising after giving effect to the indexation will not be allowed to be set off or carried forward to subsequent years.

2. Taxation of unlisted securities / shares held by non-residents or foreign companies *[Section 112]*

i. It was earlier proposed that in case of non-resident shareholders or foreign companies, LTCG on the sale of unlisted securties or shares of a private company before 23 July 2024 will be liable to tax at 10% without giving the benefit of foreign exchange fluctuation and indexation.

ii. There was ambiguity on the taxability of sale of unlisted securties or shares of an unlisted company on or after 23 July 2024. It is now clarified that such cases will be subject to tax on LTCG at 12.5% without giving the benefit of foreign exchange fluctuation and indexation.

II. Withholding Taxes

1. Withholding tax on salary *[Sections 192(2B)]*

i. It was earlier proposed to allow credit of tax deducted or tax collected on any income (other than salary) against the tax required to be deducted from salary income. However, the langugage used in the Finance Bill was inconsistent with the announcement in the Finance Minister's speech.

ii. It is now clarified to allow credit of tax deducted or tax collected on any income (other than salary) against the tax required to be deducted from salary income.

Should you wish to discuss any of the above issues in detail or understand the applicability to your specific situation, please feel free to reach out to us at coe@jmpadvisors.in.

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