

Summary of Amendments to the Finance Bill, 2022

On 1 February 2022, the Finance Minister presented the Union Budget 2022-23 in the Lok Sabha¹. On 24 March 2022, the amendments were proposed to the Finance Bill, 2022 and a notice of such amendments was introduced in the Lok Sabha. The Lok Sabha has passed the Bill with the amendments. Key amendments are summarised as follows:

Direct Tax

Topic	Provisions of the Finance Bill 2022	Proposed amendments to the Finance Bill 2022
Taxation of Virtual Digital Asset (VDA) – Section 115BBH	-	It is proposed that notwithstanding anything contained in any other provisions of the Act, the newly introduced provisions of Section 115BBH(1) would apply. Further, the definition of 'transfer' under Section 2(47) is proposed to apply to any VDA, whether it is a capital asset or not.
	No deduction in respect of any expenditure (other than <u>cost of acquisition</u>) is to be allowed to the taxpayer in computing the income from the transfer of VDA.	It is proposed to add the words 'if any' after the words 'cost of acquisition' so that only if there is a cost of acquisition, a deduction would be allowed.
	No set-off of loss from the transfer of the VDA shall be allowed against income computed under any ' <u>other</u> ' provision of the Act.	It is proposed to remove the word 'other' so that loss cannot be set-off against income under <u>any</u> provision of the Act including income from other VDA.
	A transaction in respect of which tax has been deducted under Section 194S on payment on transfer of VDA, such transaction shall not be liable to deduction or collection of tax at source under any other provisions of this Chapter.	This provision is now omitted. Therefore, such transactions would be subject to other TDS/TCS provisions.
Meaning of specified fund	-	One of the conditions for eligibility of 'Specified fund' as defined under Section 10(4D) is that all the units of such

<p>– Section 10(4D)</p>		<p>fund other than unit held by a sponsor or manager are held by <u>non-residents</u>.</p> <p>It is proposed that the above condition shall not apply where any unit holder or holders, being a non-resident during the previous year when such unit or units were issued, becomes resident² in any previous year subsequent to that year, if the aggregate value and number of units held by such resident unitholder or unitholders do not exceed 5 per cent of the total units issued and fulfills such other conditions as may be prescribed.</p>
<p>Succession to business – Section 170</p>	<p>Where there is a <u>business reorganisation</u>, assessment or reassessment or other proceedings, made on the predecessor during the course of pendency of such reorganisation, shall be deemed to have been made on the successor and all the provisions of this Act shall apply accordingly.</p>	<p>It is proposed that where there is <u>succession</u>, assessment or reassessment or other proceedings made or <u>initiated</u> on the predecessor during the course of pendency of such <u>succession</u>, shall be deemed to have been made or <u>initiated</u> on the successor and all the provisions of this Act shall apply accordingly. The words 'business reorganisation' is proposed to be substituted with 'succession'.</p> <p>Correspondingly, the definition of 'business reorganisation' is proposed to be removed. Further corresponding amendment is also proposed in the definition of the term 'pendency' to replace the term 'business reorganisation' with 'succession'.</p>
<p>Effect of order of Tribunal or Court in respect of business reorganisation – Section 170A</p>	<p>A new Section 170A introduced to enable for the entities going through a business reorganisation, for filing of modified returns for the period between the date of effectivity of the order and the date of issuance of a final order of the competent authority.</p> <p>The term 'business reorganisation' is defined to have the same meaning as assigned to it in clause (i) of the Explanation to Section 170(2A).</p>	<p>For the meaning of the term 'Business reorganisation', the Finance Bill referred to Section 170(2A). Since Section 170(2A) has proposed to be amended to remove the reference to the term 'Business reorganisation', the same term is now proposed to be defined under Section 170A.</p> <p>Further, the term 'successor' is proposed to be defined as all resulting companies in a business reorganisation, whether or not the company was in existence prior to such business reorganisation.</p>
<p>TDS on Benefit or Perquisite – Section 194R</p>	<p>The Finance Bill proposed to introduce a new set of TDS provisions under Section 194R dealing with deduction of tax on benefit or perquisite in respect of business or profession.</p>	<p>Now powers are proposed to be provided to the CBDT with prior approval of the Central Government to issue guidelines for the purpose of removing difficulty arising in giving effect to provisions of Section 194R. Such guidelines would be laid before each house of the Parliament and shall be binding on income tax authorities as well as persons providing any such benefit or perquisite.</p>
<p>Provisions for filing of updated return – Section 139(8A)</p>	<p>A person shall not be eligible to furnish an updated return for the assessment year relevant to the previous year in which such search is initiated or survey is conducted or requisition is made and <u>two</u> assessment years</p>	<p>The term 'two' years is proposed to be replaced by the term 'any'. Thus, now a person shall not be eligible to furnish an updated return for any AY preceding to the AY in which search is initiated or survey is conducted or requisition is made.</p>

² Under Section 6(1) or 6(1A)

	preceding such assessment year.	
	-	It is proposed that even in the case of loss return, an updated return can be filed provided such return was originally filed on time. However, the taxpayer will require to file updated returns for all subsequent years where loss or unabsorbed depreciation or MAT/AMT tax credit are impacted as a consequence of updating the loss return for the applicable year.
Time limit for completion of the assessment, reassessment and recomputation – Section 153(1)	-	With effect from 1 April 2021, the time limit for completion of assessment under Section 143/144 for AY 2020-21 is proposed to be reduced from 21 months to 18 months.
Time limit for completion of assessment in certain search or requisition cases – Section 153B(1)	-	In a case where search or requisition was executed during the financial year commencing from 1 April 2020 or in case of other person referred to in Section 153C, the books of account or document or asset seized or requisitioned were handed over under Section 153C to AO having jurisdiction over such other person during the financial year commencing on 1 April 2020, the assessment in such cases for AY 2021-22 shall be made on or before 30 September 2022.
Penalty for underreporting and misreporting of income in case of surcharge or cess – Section 155	-	It is proposed that AO can treat deduction claimed and allowed in respect of any surcharge or cess in any earlier year as under-reported income for the purpose of levy of penalty under Section 270A. The AO can recompute the total income and to apply Section 154, the time limit of 4 years is to be calculated from 31 March 2022. No penalty can be levied if the taxpayer makes an application to the AO requesting recomputation of income and pays taxes within the specified time.
Procedure where an identical question of law is pending before High Courts or Supreme Court – Section 158AB	The principal commissioner or commissioner shall on receipt of communication from collegium direct AO to make an application to Appellate Tribunal or jurisdictional High Court within a period of <u>60 days from the date of the receipt of the order of CIT(A)</u> or within a period of 120 days from date of receipt of the order of the Appellate Tribunal.	It is proposed that the principal commissioner or commissioner shall on receipt of communication from the collegium, <u>notwithstanding anything contained in Section 253(3)³ and 260A(2)(a)⁴</u> , direct the AO to make an application to Appellate Tribunal or jurisdictional High Court <u>within a period of 120 days from the date of receipt of the order of CIT(A) or Appellate Tribunal</u> . A non-obstante clause relating to Section 253(3) and 260A(2)(a) is proposed to be introduced. Further period for filing of an application by AO to the Appellate Tribunal or to the jurisdictional High Court is proposed to be increased upto 120 days from the date of receipt of the order of CIT(A). Further where no acceptance is received from the taxpayer that the question of law in the other case is

³ Every appeal to the Tribunal shall be filed within sixty days of the date on which the order sought to be appealed against is communicated to the taxpayer or to the Principal Commissioner or Commissioner

⁴ Appeal to High Court is to be filed within one hundred and twenty days from the date on which the order appealed against is received by the taxpayer or the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner

		<p>identical to taxpayer's case, the PCIT or CIT can proceed with the filing of an appeal, <u>notwithstanding the limitation period prescribed for filing of appeal before the Appellate Tribunal or High Court.</u></p> <p>An appeal shall be filed within a period of <u>60 days to the Appellate Tribunal</u> or <u>within 120 days to the High Court</u> from the date on which the order of the jurisdictional High Court or the Supreme Court in the other case is communicated to the Principal Commissioner or Commissioner.</p>
Removal of exemption from Section 56(2)(x)(c) for certain persons	-	<p>Exemption from the applicability of Section 56(2)(x)(c) is proposed to be removed where any sum of money or any property has been received by the following persons:</p> <ol style="list-style-type: none"> the author of the trust or the founder of the institution any person who has made a substantial contribution to the trust or institution⁵ where such author, founder or person is a Hindu undivided family, a member of the family any trustee of the trust or manager (by whatever name called) of the institution any relative of any such author, founder, person, member, trustee or manager any concern in which any of the persons above has a substantial interest.
Definition of 'Books or books of account' – Section 2(12A)	-	<p>The definition of 'Books or books of account' is proposed to include accounts in the written form or in electronic form or in digital form or as printouts of data stored in such electronic form or in digital form.</p>

Indirect tax

Customs Act, 1962

Topic	Provisions of the Finance Bill 2022	Proposed amendments to the Finance Bill 2022
Protection of data	<p>A new section 135AA is proposed to be inserted to prescribe punishment with imprisonment of six months or fine upto INR 50,000 or both for publication of any information relating to:</p> <ul style="list-style-type: none"> the value or classification or quantity of goods entered for export or import, or details of exporter or importer <p>Immunity from prosecution if publication of information is required under any law.</p> <p>Exception applies to publication made by or on behalf of the Central Government.</p>	<p>Scope of publication of any information is elaborated.</p> <p>Publication of any information includes :</p> <ul style="list-style-type: none"> information that is furnished to customs by an exporter or importer under the Customs Act, 1962 relating to the value or classification or quantity of goods entered for export or import, along with identity of persons involved or in a manner that leads to disclosure of such identity. <p>Immunity from prosecution if publication of information is:</p> <ul style="list-style-type: none"> required under any law by special authorisation of exporter or importer <p>Exception applies to :</p> <ul style="list-style-type: none"> publication made by or on behalf of the Central Government; data sourced from any publication made by or on behalf of Central Government for analysis of trends

⁵ Any person whose total contribution up to the end of the relevant previous year exceeds 50 thousand rupees

		in India's international trade and dissemination thereof
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Customs Tariff Act, 1975

Topic	Provisions of the Finance Bill 2022	Amendments to the Finance Bill 2022
Standard rate of duty for tariff items 2903 44 00 and 2903 45 00 prescribed	Standard rate of duty for certain tariff entries in Chapter 29 to the First Schedule to the Customs Tariff Act, 1975 is proposed to be 7.5 %.	Scope of tariff entries expanded to include tariff items 2903 44 00 and 2903 45 00.

Central Excise Act, 1944

Topic	Provisions of the Finance Bill 2022	Amendments to the Finance Bill 2022
Date for amendment of Fourth Schedule specified	Certain tariff entries in Chapter 27 to the Fourth Schedule to the Central Excise Act, 1944 are proposed to be substituted.	1 May 2022 is the date proposed for the amendment to be effective.