India budget 2024

Impact on MNCs



1. Preface

The Indian Finance Minister presented the first budget of the new government on 23 July 2024. At the macro level, the budget lays out a path for a Developed India, with a focus on infrastructure, skill development, manufacturing, energy security, urban development, innovation and research and development and next-generation reforms around labour, land and foreign direct investments, amongst others.

On the tax front, the theme continues to be stability and certainty with no adverse surprises. Moreover, there are a host of welcome simplification and rationalisation measures, which will ease compliances, reduce disputes and bring more certainty in the law. In keeping with the theme of next-generation reforms even in tax, the Finance Minister has announced a new tax code that will be unveiled in six months. The purpose is to make the new tax code concise, lucid, and easy to read and understand.

There are almost 150 proposed amendments and changes. Amongst these myriad changes, which budget proposals impact you, as a MNCs, in doing business with Indian third-party customers or dealing with your Indian subsidiaries and affiliates? We present a concise summary of these key changes for your reference.

2. Budget Highlights

2.1 Doing business with India

2.1.1 Headline rate for foreign companies

The income-tax rate applicable for a foreign company (other than in cases of identified streams of income such as royalty and interest) has been proposed to be reduced from 40% to 35%.

2.1.2. Special regime for shipping companies operating cruise in India

A new section is proposed to include non-residents operating cruise ships (specified companies) under the presumptive income scheme where 20% of the receipts shall be treated as income, and the lease payment to group companies would be exempt from taxation (subject to conditions).

2.1.3 Equalisation levy

The Indian version of the digital services tax was originally introduced in 2016 for advertising and ancillary services provided by foreign companies at the rate of 6% on a gross basis. The digital services tax was expanded in 2020 by bringing sale of goods and services or their facilitation in an online format within its ambit and taxing them at the rate of 2%

It is now proposed to remove this Equalisation Levy (EL) from 1 August 2024.This is a simplification measure, since the expanded provision includes a lot of ambiguity.

The fact that India has removed EL indicates its commitment to implementing Pillar 1 in the future. In any event, the government is committed to give credit for this EL against Pillar 1 taxes in the future.

2.1.4 Global Minimum Tax - Pillar Two

Whilst the budget did not formally comment on the potential introduction of Global Minimum Tax rules in India, the Indian Finance Minister, in a post budget conference, stated that the Indian Government intends to implement Pillar Two rules and a committee has been set up in this regard.



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2.2 Investing in India

2.2.1 Capital Gains Tax

The capital gains tax regime in India is complex with multiple asset classifications and rates. This is because the regime has evolved over time with new asset categories added as businesses have evolved and new instruments and asset classes have been introduced. In order to rationalise the capital gains tax rules, an introduction of a new capital gains regime has been proposed.

Proposed capital gains regime

Sl no.	Particulars	Period of holding		Resident		Non-resident	
A	**Long-term capital gains**	Old	New	Old	New	Old	New
1.	Shares (securities transaction tax [STT] not paid)	24 months	24 months	20%	12.5%	10%	12.5%
2.	Equity shares (STT paid)	12 months	12 months	10%	12.5%	10%	12.5%
3.	Listed bonds and debentures	12 months	12 months	10%	12.5%	10%	12.5%
4.	Units of real estate investment trusts and infrastructure investment trusts	36 months	12 months	10%	12.5%	10%	12.5%
B	**Short-term capital gains**						
1.	Equity shares (STT paid)	12 months	12 months	15%	20%	15%	20%
2.	Unlisted debentures	36 months	Deemed short term	20%	Applicable rates	10%	Applicable rates

- The indexation benefit, which allows transferors to adjust their purchase price for inflation, is removed
- For long-term capital gains on non-residents' sale of unlisted shares (STT not paid), foreign exchange fluctuation benefit can be availed.
- Indexed cost is available for shares not listed on 31 January 2018 and sold in an offer for sale.
- For unlisted debentures or bonds (transfer or redemption), deemed short-term capital gains are taxable at applicable rates.

This is a simplification and rationalisation measure to bring consistency in the law. However, removal of the indexation benefit in case of long-term capital assets is causing concerns with many investors, since they may have to pay tax on nominal gains without any inflation adjustment, albeit at a lower tax rate.

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2.2.2 Buyback Tax

In 2013, the Indian Government introduced special provisions relating to tax on distributed income of a domestic company from the buyback of shares. Herein, the Indian company was subject to buyback distribution tax at the rate of 20% on the distributed income on the buyback of shares.

This scheme of taxation was in line with the then dividend distribution tax (DDT), under which any dividend distribution was taxed in the hands of the distributing Indian company. In 2020, DDT was removed, and the dividend is subsequently taxable in the hands of shareholders.

This year's budget includes an announcement regarding a change in the mechanism by which the buyback is taxed in India, with effect from 1 October 2024. This was in line with the similar regime in place for dividend taxation in India since 2020. Buyback proceeds are now taxable in the hands of the investor as deemed dividend (on a gross basis) rather than earlier being taxable in the hands of the Indian company as buyback tax.

It has been announced that the cost of acquisition of the shares bought back is to be treated as capital loss in the hands of shareholders; it is to be allowed to be set off against the capital gains.

An announcement has been made to treat the taxation of both forms of distribution of accumulated reserves, i.e. dividend and buyback, at par with each other.

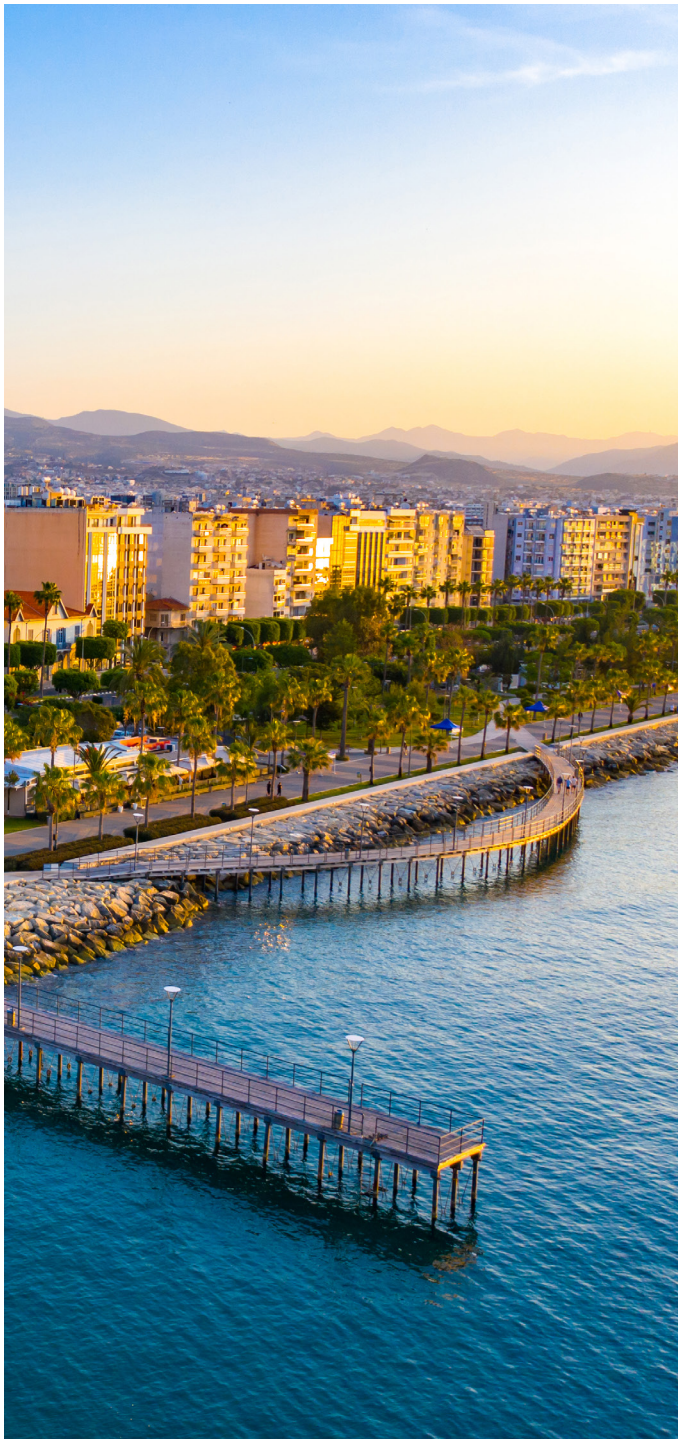
2.2.3 Angel Tax

The angel tax provisions were introduced by the Finance Act, 2012 to tax a company on the issue of shares for a consideration higher than the fair-market value (FMV), as prescribed under the Income tax rules.

It is now proposed to remove the tax for all categories of investors. This will remove the ambiguity and give a boost to the start-up ecosystem in India.

2.2.4 Foreign Investment

The Finance minister has also announced that next generation reforms will also be implemented in various areas. One of them is foreign investment policy. Appropriate steps will be taken for simplification and facilitation of both foreign direct investment into the country and overseas direct investment outside the country. These will be announced in due course.



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3. Cyprus Business Desk in India

India is on the pathway to an economic transformation and its new pro-business environment presents a host of opportunities for foreign investors. Macroeconomic stability, resilience and ability to deal effectively with external shocks and the Indian government's proactive initiatives are making India a large, approachable and investor friendly market.

PwC Cyprus' Business Desk in India acts as a bridge between Cyprus and India. We help our clients overcome increasingly complex issues including financial reporting, tax, deals, regulatory, sustainability and technology solutions. We help businesses operate across borders, enter new markets, and transform their organisations to meet the needs of tomorrow.



Talk to us

Cyprus Business Desk in India



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This budget highlights document is a refined version of the original issued by PwC India, offering a holistic overview for multinational companies operating in India.

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