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UNION BUDGET 2025

Analysis of Tax Proposals



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M&A, VDAs, Business Trusts and Startups



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Overview

- 1) *M&A | No more evergreening of losses through amalgamation*
- 2) *Decrypting the Virtual Digital Asset (VDA) related proposals*
- 3) *Rationalisation in taxation of REIT / InVIT*
- 4) *Sunset date for incorporation of startups extended*

The article below provides analysis of the key tax proposals from Budget 2025, highlighting their impact on various sectors.

- 1) **Crypto-Asset Taxation:** *The Finance Bill, 2025 (FB 2025) aims to introduce a new reporting requirement in relation to crypto-assets, in line with India's commitment with respect to OECD's Crypto Asset Reporting Framework. FB 2025 proposes expanding the definition of Virtual Digital Assets (VDAs) to include a new category, and mandating reporting requirements for this new category of VDA.*
- 2) **Amalgamation and Loss carry forward:** *FB 2025 proposes limiting the carry-forward of unabsorbed business losses in amalgamations to only the remaining period of the original eight-year carry-forward period. Businesses undergoing restructurings should assess the impact of this proposal on their restructurings.*
- 3) **Business Trusts Taxation:** *FB 2025 seeks to address a tax anomaly in taxation of Business Trusts (Real Estate Investment Trust and Infrastructure Investment Trust) by extending special tax rates to long-term capital gains on specified assets, such as listed shares, which were previously excluded.*
- 4) **Start-up Incentives:** *To support the growing startup ecosystem, FB 2025 has proposed to extend the incorporation cutoff date for startups to avail the profit-linked tax deduction, to 31 March 2030, thereby incentivising the startup sector.*

Union Budget 2025 has announced certain key measures, to improve the ease of doing business in India, to attract foreign investment, and provide a fillip to the household

consumption capacity. Further, the much-anticipated announcement regarding the new income-tax law has also created significant interest in the tax fraternity. While the rejig

of tax slabs has been the buzzword around this budget, Finance Bill 2025 (**FB 2025**) also contains several essential proposals to amend the extant Income-tax Act, 1961 (**IT Act**). Some of the proposals are discussed below:

1. **M&A | No more evergreening of losses through amalgamation**

1.1. IT Act provides that the unabsorbed business losses can be carried forward for 8 financial years succeeding the year in which the loss is incurred. In the case of amalgamation, IT Act provides that subject to the satisfaction of certain conditions, the unabsorbed business losses of the amalgamating company shall be regarded as the business loss of the amalgamated company for the year in which the amalgamation is effected – while this helps in incentivising the revival of loss-making/financially non-viable businesses (for instance, by way of amalgamation of such distressed business with a profitable business), it could also potentially lead to unintended evergreening of losses from the income-tax standpoint. Notably, a similar benefit (i.e. elongated period for carry forward of unabsorbed business losses) is not available in the case of demergers.

1.2. FB 2025 has proposed to end the fresh life of 8 years for carried forward of business losses, by providing that in case of amalgamation, unabsorbed business losses will be allowed for only the remainder period (i.e. the period remaining out of the 8 years from the year in which the business loss is incurred). This is proposed to apply to any amalgamation which is ‘effected’ on or after 1 April 2025. Notably, the

term ‘effected’ is not clarified and hence, there can be some ambiguity as to what shall be considered as ‘effected’ – whether the date when the conditions of amalgamation are satisfied or the ‘Appointed Date’ of amalgamation as provided in scheme or when the amalgamation order is received and filed with the prescribed authorities. One hopes that this aspect is clarified during the passage of FB 2025 in the Parliament. Nonetheless, taxpayers in the midst of corporate restructurings should consider the impact of this proposal on their restructurings.

1.3. Further, what is also worth highlighting is that the Hon’ble Finance Minister, in her budget speech, announced that *“Requirements and procedures for speedy approval of company mergers will be rationalized. The scope for fast-track mergers will also be widened and the process made simpler.”*. One should keep a close eye on the developments in this space of corporate restructuring also.

2. **Decrypting the Virtual Digital Asset (VDA) related proposals**

2.1. IT Act provides that any gains arising from the transfer of a VDA (a defined term which includes cryptocurrencies and other similar assets) are taxable in the hands of the transferor at a flat rate of 30% (plus applicable surcharge, cess).

2.2. In the past few years, crypto-assets have assumed great significance – at a global level, authorities and regulators are interested in crypto-assets as these assets are understood to have the potential to be transferred and held without interacting with traditional financial intermediaries, which can

result in lack of clarity as to the location of crypto-asset holdings. This also increases the difficulty of verifying whether associated tax liabilities are appropriately reported and assessed, which can pose a significant risk to global tax transparency.

- 2.3. As per the FAQs released by the Government in relation to FB 2025 [Q.9 of the FAQ No. 23], (i) India has been included in the list of 52 "Relevant" jurisdictions for the purpose of CARF and (ii) the G20 Leader's New Delhi Declaration called for the swift implementation of the CARF.
- 2.4. In light of specific features of crypto-assets, the OECD has developed the 'Crypto Asset Reporting Framework' – a new global transparency framework for the development of automatic exchange of information in relation to transactions in crypto-assets in a standardised manner with the jurisdictions of residence of taxpayers.
- 2.5. In line with this, FB 2025 has proposed to amend the IT Act (a) to amend the definition of VDA to widen the definition of VDA by including "any crypto-asset being a digital representation of value that relies on a cryptographically secured distributed ledger or a similar technology to validate and secure transactions" within its ambit (Proposed New VDA Category) and (b) to introduce a new reporting requirement in relation to this Proposed New VDA Category – detailed rules in relation to this reporting requirement and due diligence procedure will be notified by the Government in due course.

3. Rationalisation in taxation of REIT/ InVIT

- 3.1. The IT Act provides a special taxation regime for Real Estate Investment Trusts (REITs) and Infrastructure Investment Trusts (InVITs) (collectively referred to as 'Business Trust'). Under this regime, any interest, dividend, and rental income (for InVITs) is tax-exempt for the Business Trust and taxable in the hands of investors on a pass-through basis. Conversely, capital gains are taxable at the Business Trust level and tax-exempt for investors.
- 3.2. Currently, a Business Trust is taxed at the maximum marginal rate (MMR) on capital gains. However, certain specified income streams taxable at special rates, such as short-term capital gains on the sale of listed equity shares and units of equity-oriented funds and Business Trusts (Specified Assets), have been excluded from the applicability of MMR. This benefit has not been extended to long-term capital gains arising from the sale of Specified Assets.
- 3.3. FB 2025 proposes to address this anomaly by extending this carve-out to long-term capital gains on Specified Assets as well.

4. Sunset date for the incorporation of startups extended

- 4.1. IT Act provides profit-linked deduction to an 'eligible startup' for 3 consecutive years (to be opted by the startup out of its first ten years of incorporation). 'Eligible Start-up' is defined to mean a company or a LLP engaged in eligible business (a defined expression) that fulfils the following conditions, namely:

(a) it is incorporated on or after 1 April 2016 but before the 1 April 2025 (Incorporation Cutoff Date); (b) its business turnover does not exceed INR 100 crores in the relevant financial year for which deduction is claimed; and (c) it holds a certificate of 'eligible business' from the Inter-Ministerial Board of Certification. [**Note:** "Eligible business" means a business carried out by an eligible start-up engaged in innovation, development or improvement of products or processes or services or a scalable business model with a high potential of employment generation or wealth creation.]

- 4.2. The startup ecosystem has evolved significantly in India in the past few years. In line with the Government's continued efforts to promote startups, FB 2025 has proposed to extend this

benefit for another period of five years by extending this Incorporation Cutoff Date to 1 April 2030 – this is likely to give a further boost to the booming startup sector in India.

Conclusion

Overall, the Union Budget 2025 is a forward-looking budget. One hopes that the amendments proposed in the income-tax law vide FB 2025 lead to the continued growth of the Indian economy, increase in foreign inward investment, employment generation and drive consumption forward. Further, the announcement regarding the new income-tax law is also significant – one should keep a close watch on the new law and how it will impact businesses and corporations going forward.



“If money help a man to do good to others, it is of some value; but if not, it is simply a mass of evil, and the sooner it is got rid of, the better.”

— *Swami Vivekananda*

“The line between firmness and harshness, between strong leadership and bullying, between discipline and vindictiveness is very fine, but it has to be drawn. Unfortunately, the only line prominently drawn in our country today is between the 'heroes' and the 'zeros'. On one side are a few hundred 'heroes' keeping nine hundred and fifty million people down on the other side. This situation has to be changed.”

— *A.P.J. Abdul Kalam*