

India

# India Passes Finance Act 2023: Debt Mutual Funds Lose Long-term Capital Gains Tax Benefit, Other Key Amendments

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The Finance Bill 2023 was recently passed by the Lok Sabha (lower house) and the Rajya Sabha (upper house), incorporating changes in the Finance Bill introduced by the Finance Minister on 1 February 2023 (see [Union Budget 2023: India Proposes Changes to Individual Income Tax Regime, Tax on Winnings from Online Games \(3 February 2023\)](#)). The key amendments, in respect of income tax, in the Finance Act 2023 are as follows.

## Marginal relief to resident individuals opting for new scheme

A rebate will be available to resident individuals opting for the new individual income tax scheme if the total income during the previous year did not exceed INR 700,000. Furthermore, the amended Finance Act provides a marginal rebate to resident individuals whose income marginally exceeds INR 700,000.

## Clarity on capital gains from debt mutual funds

Debt mutual funds lose their long-term capital gains (LTCG) tax benefit if less than 35% is invested in equity instruments. Hence, any income or gain from sales, redemptions or maturities from these funds will be considered short-term capital gains and taxed at the applicable tax slab of the investor, regardless of the investment's holding period.

## Change in tax rates on specified income

The amended Finance Act provides the following tax rate changes:

- a concessional tax rate of 10% on dividends (normally 20%) received from an International Financial Services Centre (IFSC) Unit by a non-resident or foreign company; and
- royalty and fees for technical services received by a non-resident or foreign company are to be taxed at 20% (previously 10%).

## Applicability of tax deduction at source (TDS) on online gaming winnings from 1st April 2023

The Finance Act brought forward the applicability of the 30% TDS on winnings from online gaming from 1 July 2023 to 1 April 2023.

## Expansion of meaning of original funds for providing exemption from capital gains

An investment vehicle in which the Abu Dhabi Investment Authority is the direct or indirect sole shareholder, unit holder, beneficiary or interest holder and such investment vehicle is wholly owned and controlled, directly or indirectly, by the Abu Dhabi Investment Authority or the government of Abu Dhabi shall be eligible for exemption on the transfer of capital assets to the resultant fund formed in India.

## Exemption from capital gains on transferring interest in a joint venture (JV)

The transfer of interest in a JV by a public sector company in exchange for shares in a foreign company shall not be considered as transfer and hence is exempted from capital gains tax.

## Unit of IFSC may opt for tonnage tax scheme after claiming income-based deduction

The Finance Act allows a unit of an IFSC that has claimed the income-based deduction benefit to make an application to opt for a tonnage tax scheme within 3 months from the date such income-based deduction benefit ceases.

## Additional benefits for offshore banking units

Section 80LA previously provided a deduction of 100% of the income from any 5 consecutive assessment years and a deduction of 50% of the income from offshore banking units for the subsequent 5 assessment years. However, the amended Finance Act increased the deduction from 50% to 100% for the subsequent 5 assessment years.

## No surcharge and cess on income from securities held by specified fund

In respect of income from securities held by a specified fund referred to in section 10(4D), no surcharge and cess shall be levied on income tax calculated on the same. This amendment shall be applicable from 1 April 2023.

## Tax to be collected at source if remittance under liberalized remittance scheme is made within India

Tax collection at source (TCS) shall be applicable in relation to remittance under the Liberalized Remittance Scheme (LRS), even if the remittance is made within India, at the rate of 20% with effect from 1 July 2023.

## Maximum rate of TCS shall be 20%

The maximum rate of TCS has been capped at 20% in case of persons not having a valid permanent account number (PAN) and non-filers of returns of income.

## Introduction of new rate of TDS

Tax shall be deducted at the rate of 9% on sums paid by way of interest on money borrowed from a source outside India by issuing a long-term bond or rupee denominated bond, which is listed only on a recognized stock exchange located in an IFSC, on or after 1 April 2023.

## Exemption on income received by non-resident from portfolio of securities

Income received by a non-resident from a portfolio of securities or financial products or funds, managed or administered by any portfolio manager on behalf of such non-resident, in an account maintained with an offshore banking unit in any IFSC is exempt from income tax.

## Benefits in respect of shares of a domestic company engaged in aircraft leasing

With effect from 1 April 2023, the Finance Act exempts income earned by a non-resident or a unit of an IFSC on the transfer of shares of a domestic company engaged in aircraft leasing, subject to the fulfilment of certain conditions.

The dividend received by an IFSC unit engaged in aircraft leasing business shall be exempt, provided that the company paying the dividend is also an IFSC unit engaged in aircraft leasing business.

## Taxability of specified sum received from business trust

The Finance Act provides that a "specified sum" shall be computed as per the computation mechanism provided in the Act, in order to bring the sums received by a unit holder from a business trust into the ambit of taxation. Further, with effect from 1 April 2023, the cost of acquisition of a unit shall be reduced by any sum received from the business trust, subject to specified conditions.

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