Six Key changes made to the Finance Bill, which has now been passed by the Parliament:

1. Updated Return

With the intent to reduce litigation, the Finance Bill proposed to allow the taxpayer to file an updated return of income within 24 months from the end of the relevant assessment year on payment of additional tax. It was also proposed that such a return cannot be filed to increase the loss or reduce the tax liability of the return filed earlier. It is now proposed that a taxpayer can also furnish an updated return for its return of loss within the stipulated time.

Furthermore, the taxpayer would also be required to update the returns for all the subsequent periods where the income is impacted due to updating loss returns for the applicable year.

As per the Finance Bill, persons subjected to search/survey/requisition were ineligible to file an updated return for two years prior to the year of search. It is now proposed to make such persons completely ineligible for any of the previous assessment years.

2. Penalty exposure for the claim of surcharge and cess as expenditure in earlier years

Based on favourable rulings given by various Courts allowing the claim of deduction in respect of surcharge and cess in the Finance Bill, it was clarified that surcharge and cess are akin to tax and therefore not allowable. This amendment was to take effect retrospectively from FY 2004-05.

In cases where the said deduction has been claimed and allowed, it is now proposed to give powers to the tax authority to treat the same as a mistake apparent from the record and rectify the said orders. The limitation period of 4 years for this purpose is proposed to be reckoned from 31 March 2022.

The claim made by the taxpayers can be treated as under-reporting of income for purposes of levy of penalty.

It also offers to grant immunity from the penalty in cases where the taxpayer suo moto applies for such re-computation and makes the tax payments.

3. Taxation of Virtual Digital Asset

The Finance Bill proposed a new scheme to tax income arising on the transfer of Virtual Digital Asset (VDA). The tax in such a case is to be considered at 30%, without any deduction, except the cost of acquisition. It is now explicitly clarified that the same will be allowed only where there is a cost of acquisition. Accordingly, no other deduction would be allowed.

It is further clarified that losses on VDA cannot be set off against income under any provisions of the Act, including that from other VDA.

It is also proposed to include VDA for purposes of transfer.

4. TDS on benefits/perquisites granted in the course of business/profession

It is proposed to provide power to the Central Government to issue guidelines for removing difficulties that may be faced by the taxpayer and authorities in this regard. It is also stated that the taxpayer is to be responsible for ensuring that the required tax to be deducted has been paid.

5. Obligation on successor companies

In the Finance Bill, it was proposed to insert a new Section enabling the tax authorities to give effect to the orders of the competent authority in case of business reorganization, and to modify demands created under various proceedings when these are recast.

It was also proposed to provide for the obligation of the successor to file the modified return of income within 6 months from the end of the month in which the High Court/ National Company Law Tribunal (NCLT) order is issued with respect to business reorganization.

To clarify, it is now categorically brought on the statute that proceedings made on the predecessor during the pendency of business reorganization will remain valid and be deemed to have been made on the successor.

6. Extension of time limit for completion of assessment proceedings for AY 2020-21

The Finance Bill has extended the time limit for completing the assessment proceedings for the Assessment Year (AY) 2020-21 to 30 September 2022 instead of 31 March 2022.