

Legal Update – Income Tax Act, 1961 and Finance Act, 2019

Introduction

To arrest slowdown in the economy and boost growth, the President of India, Ram Nath Kovind has cleared an ordinance to give effect to amendments in the Income Tax Act, 1961 and the Finance Act, 2019. The ordinance is called Taxation Laws (Amendment) Ordinance, 2019 and comes into effect immediately.

Key changes

- The government slashed basic corporate rate tax to 22% from 30% for domestic companies that don't avail any exemption/incentive.
- The effective tax rate for these companies shall be 25.17% inclusive of surcharge and cess. Also, such companies shall not be required to pay Minimum Alternate Tax ('MAT').
- To boost manufacturing and the 'Make-in-India' initiative, the government has slashed corporate tax rate to 15%, from 25%, for domestic companies incorporated on or after 1st October 2019 making fresh investment in manufacturing.
- The option to pay income tax at the rate of 15% is available to companies which do not avail any exemption/incentive and commence their production on or before 31st March, 2023.
- The effective tax rate for these companies shall be 17.01% inclusive of surcharge & cess. Also, such companies shall not be required to pay MAT.
- A company which does not opt for the concessional tax regime and avails the tax exemption/incentive can continue to pay tax at the pre-amended rate. After expiry of their tax holiday/exemption period, these companies can opt for the new concessional tax regime.
- To provide relief to companies which continue to avail exemptions/incentives, the government has reduced the rate of MAT to 15%, from 18.5%.
- To increase the flow of funds into capital markets, the government rolled back increased surcharge introduced in this year's Budget on capital gains arising on sale of equity share in a company or a unit of an equity oriented fund or a unit of a business trust liable for securities transaction tax, in the hands of an individual, HUF, AOP (Association of Persons), BOI (Body of Individuals) and AJP (Artificial Juridical Person).
- The enhanced surcharge will also not apply to capital gains arising on sale of any security including derivatives, in the hands of Foreign Portfolio Investors (FPIs).
- To provide relief to listed companies that had announced share buyback before 5th July 2019, the government exempted such companies from buyback tax announced in the Budget.

Conclusion:

Towards the decision pertaining to tax cuts, the Centre will have to bear revenue loss of INR 1.45 trillion annually. The tax cut is expected to encourage businesses to invest more at a time economic growth rate has slowed down to a six-year low of 5% in the June quarter.

The move is a lift for Prime Minister Narendra Modi who was facing increasing pressure to relight once-stellar economy after five consecutive quarters of slowing growth saw India this year lose its status as the fastest-expanding major economy to China.

The announcement sent shares soaring more than five percent in Mumbai witnessing the biggest jump in 10 years while the rupee and firmed against the dollar.

The revised tax rate of MAT will pave the way for new investments from startups and MSMEs, creating a robust ancillary ecosystem.

Bringing tax-friendly laws, including reducing corporate tax, have been a long-standing demand of India Inc. These stated amendments are indeed landmark announcements and would certainly help in reviving the growth in the Indian economy.

Disclaimer: This legal update has been sent to you for information purposes only. The information and/or analysis contained in this update do not constitute legal advice and should not be acted upon in any specific situation without appropriate legal advice. Should you have any queries in relation to any of the information set out herein or on other areas of law, please feel free to contact us at the below credentials.

NEW DELHI

81/1, Adchini
Sri Aurobindo Marg,
New Delhi - 110017
T: (+91) (11) 6638 7000
E: newdelhi@hsalegal.com

MUMBAI

Construction House, 5th Floor
Walchand Hirachand Marg,
Ballard Estate,
Mumbai - 400001
T: (+91) (22) 4340 0400
E: mumbai@hsalegal.com

BENGALURU

Aswan, Ground Floor
15/6 Primrose Road
Bengaluru - 560001
T: (+91) (80) 4631 7000
E: bengaluru@hsalegal.com

KOLKATA

14 S/P, Block 'C' First Floor,
Chowringhee Mansions,
30 Jawaharlal Nehru Road,
Kolkata - 700016
T: (+91) (33) 4035 0000
E: kolkata@hsalegal.com