Amendments to the Taxation Laws (Amendment) Bill, 2019

The Taxation Laws (Amendment) Bill, 2019 was introduced in Lok Sabha by the Minister of Finance, Ms. Nirmala Sitharaman, on November 25, 2019.[1] The Bill replaces the Ordinance promulgated in September 2019. It amends the Income Tax Act, 1961 (IT Act), and the Finance (No. 2) Act, 2019. The Bill provides domestic companies with lower tax rate options, if they do not claim certain deductions. It also amends certain provisions regarding levy of surcharge on capital gains.

During the consideration of the Bill in Lok Sabha, the Minister of Finance moved a few amendments to the Bill. Lok Sabha passed the Bill with these amendments on December 2, 2019.[2] We summarise the major changes made through these amendments in the table given below.

Table 1: Comparison of the Bill introduced in Lok Sabha with the amended Bill passed by Lok Sabha

Bill introduced in Lok Sabha	Bill as passed by Lok Sabha after amendments
New income tax rate options for domestic companies	
Currently, for domestic companies with annual turnover of up to Rs 400 crore, the income tax rate is 25%. For other domestic companies, the tax rate is 30%. The Bill provides domestic companies with an option to pay income tax at the rate of 22%, provided they do not claim certain deductions under the IT Act. These include deductions provided for: (i) newly established units in Special Economic Zones (SEZs), (ii) investment in new plant or machinery in notified backward areas, (iii) expenditure on scientific research, agriculture extension, and skill development projects, (iv) depreciation of new plant or machinery (in certain cases), and (v) various other provisions in the IT Act under Chapter VI-A.	No change.
The Bill provides new domestic manufacturing companies with an option to pay income tax at the rate of 15%, provided they do not claim the deductions specified above. These new companies must be set up and registered after September 30, 2019, and start manufacturing before April 1, 2023. New manufacturing companies will not include companies: (i) formed by splitting up or reconstruction of an existing business, (ii) engaged in any business other than manufacturing or production, and (iii) using any plant or machinery previously used in India (except under certain specified conditions). The Bill clarifies that certain businesses will not be considered as manufacturing businesses. These include businesses engaged in: (i) development of computer software, (ii) printing of books, (iii) production of cinematograph film, (iv) mining, and (v) any other business notified by the central government.	No change.
Provisions for companies opting for the new tax rates	
A company can choose to opt for the new tax rates in the financial year 2019-20 (i.e. assessment year 2020-21) or in any other financial year in the future. Once a company exercises this option, the chosen provision will apply for all subsequent years. The Bill provides that the new options will become invalid for companies in certain cases. If companies choosing a new option do not follow certain conditions, they cannot exercise the new option for that year and subsequent years. In some cases, companies for whom the 15% tax rate option becomes invalid can opt for the 22% tax rate option.	The amendments clarify the conditions which the companies opting for the new tax rates are required to follow. On violation of these conditions, the new options will become invalid for such companies.
Domestic companies pay surcharge at 7%, if income is between one crore rupees and Rs 10 crore, and at 12%, if income is more than Rs 10 crore. Companies opting for the new rates have to pay a 10% surcharge.	No change.

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Minimum Alternate Tax	
Minimum Alternate Tax (MAT) is the minimum amount of tax required to be paid by a company, in case its normal tax liability after claiming deductions falls below a certain limit. This limit is calculated as a certain percentage (i.e. MAT rate) of the company's book profit. The Ordinance reduced the MAT rate from 18.5% to 15% with effect from the assessment year 2020-21 (i.e. financial year 2019-20). The Bill amended this provision by specifying that the reduced MAT rate will apply with effect from the financial year 2020-21.	The amendments make the reduced MAT rate effective from the assessment year 2020-21, i.e. the financial year 2019-20. Note that this is same as the provisions of the Ordinance.
The Ordinance specified that the provisions regarding payment of MAT under the IT Act will not apply to companies opting for the new tax rates. The Bill added that the provisions regarding MAT credit under the IT Act will also not apply to such companies. MAT credit is the amount of additional tax a company is required to pay as MAT, in excess of its normal tax liability (as per the other provisions of the IT Act). This MAT credit can be used by a company to pay tax in the future (within a 15-year period).	No change.
Surcharge on capital gains	
A surcharge is levied on top of the tax paid on income. This surcharge is applicable at the rate of: (i) 10% of tax, for income between Rs 50 lakh and one crore rupees, (ii) 15% of tax, for income between one crore rupees and two crore rupees, (iii) 25% of tax, for income between two crore rupees and five crore rupees, and (iv) 37% of tax, for income more than five crore rupees. The Bill separates surcharge on capital gains from that on all other income. Income excluding capital gains will be subject to surcharge as per the above slabs. Capital gains will also be subject to surcharge as per the above slabs, if the total income does not exceed one crore rupees. Otherwise, a flat 15% rate of surcharge will be applicable for capital gains. Note that this provision of the Bill is applicable only to certain cases: (i) investments by foreign institutional investors, and (ii) investments by domestic persons in securities where the securities transaction tax is paid.	No change.
Tax on buy-back of shares	
Buy-back of shares refers to a company purchasing its own shares. When such purchase generates income for the company (because of an increased share price in comparison to the original issue price), the company is required to pay 20% tax on the income so generated. The Bill exempts certain listed companies from this requirement. These are companies which made a public announcement regarding buy-back of shares before July 5, 2019 (as per the provisions of the Securities and Exchange Board of India (Buy-back of Securities) Regulations, 2018).	The amendments also exempt the companies which made such an announcement on July 5, 2019.

Sources: The Taxation Laws (Amendment) Bill, 2019 as introduced in Lok Sabha and as passed by Lok Sabha; PRS.

[1] The Taxation Laws (Amendment) Bill, 2019, As introduced in Lok Sabha, Ministry of Finance, November 25, 2019, http://164.100.47.4/BillsTexts/LSBillTexts/Asintroduced/362_2019_LS_Eng.pdf.

[2] The Taxation Laws (Amendment) Bill, 2019, As passed by Lok Sabha, Ministry of Finance, December 2, 2019, http://164.100.47.4/BillsTexts/LSBillTexts/PassedLoksabha/362-C_2019_LS_Eng.pdf.