Bill Summary

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. 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.

- **22% tax rate for domestic companies:** Currently, domestic companies with annual turnover of up to Rs 400 crore pay income tax at the rate of 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%, if they do not claim certain deductions under the IT Act. These include deductions provided for: (i) newly established units in Special Economic Zones, (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.

- **15% tax rate for new domestic manufacturing companies:** New domestic manufacturing companies can opt to pay income tax at the rate of 15%, provided they do not claim the deductions specified above. They should be set up and registered after September 30, 2019, and should start manufacturing before April 1, 2023. These will not include companies: (i) formed by splitting up or reconstruction of an existing business, (ii) engaged in any business other than manufacturing, and (iii) using any plant or machinery previously used in India (except under certain specified conditions).

- The Bill specifies certain businesses which will not be considered as manufacturing businesses. These include: (i) development of computer software, (ii) mining, (iii) printing of books, (iv) production of cinematograph film, and (iv) any business notified by the government.

- **Applicability of new tax rates:** Companies can choose to opt for the new tax rates starting the financial year 2019-20 (i.e. assessment year 2020-21). Once an option is chosen, it will apply for all the subsequent years. If companies choosing a new option do not follow certain conditions, they cannot exercise the new option for that year and the subsequent years. In some cases, companies for whom the 15% tax rate option becomes invalid can opt for the 22% tax rate option.

- **Surcharge on tax payable at new rates:** Currently, domestic companies with income between one crore rupees and Rs 10 crore are required to pay a 7% surcharge on tax. Those with an income of more than Rs 10 crore are required to pay a 12% surcharge on tax. The Bill provides that companies opting for the new tax rates are required to pay a 10% surcharge on tax.

- **Minimum Alternate Tax (MAT):** The Bill reduces the MAT rate from 18.5% to 15% with effect from the financial year 2020-21. MAT rate is the minimum percentage of book profit that a company is required to pay as tax, in case its tax liability falls below this limit after claiming deductions. The Bill specifies that MAT provisions, including MAT credit, will not apply for the domestic companies opting to pay tax at the new rates.

- **Surcharge on capital gains:** Tax and surcharge are levied on capital gains arising from transfer of securities in certain cases. These include: (i) capital gains to foreign institutional investors from securities (other than the units purchased in foreign currency), and (ii) capital gains to individuals (and certain other persons) from certain short-term and long-term securities which are liable to securities transaction tax (these securities are equity shares in companies, units of equity oriented funds, and units of business trusts).

  In these cases, 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 allows deduction of capital gains (as specified above) from the total income when the total income exceeds two crore rupees. Further, in such cases, after deducting capital gains, if the revised total income is less than or equal to two crore rupees, surcharge will be levied at a flat rate of 15% of tax.

- **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).

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