

NANGIA & CO LLP

NANGIA TAX UPDATE

“Corporate Tax Rate Cut-
Fine Print Analysis”

September , 2019

Taxation Laws (Amendment) Ordinance promulgated by Hon. President of India

A. Reduced tax rate applicable to certain domestic companies (115BAA)

- ❖ Section 115BAA has been inserted to provide that lower tax rate of 22% (plus applicable surcharge and cess) shall be chargeable to domestic companies.
- ❖ Domestic companies have been given an option to pay income tax at the rate of 22%, provided, they do not avail any incentive/exemption (Refer Note 1) offered under the Income Tax Act.
- ❖ Such companies shall not be required to pay any Minimum Alternate Tax (MAT).
- ❖ Total income shall have to be computed without set off of any losses carried forward from earlier years, if such loss is attributable to any of the tax incentives / exemptions (Refer Note 1).
- ❖ Such domestic company shall have to exercise the option to avail concessional rate in the prescribed manner before the due date of filing of return under section 139(1) for AY 2020-21.
- ❖ Once availed, option to pay tax at concessional rate cannot be withdrawn.

B. Reduced rate for manufacturing companies (Section 115BAB)

- ❖ Section 115BAB has been inserted to incentivise new domestic manufacturing companies, incorporated after 1st October, 2019.
- ❖ Such companies have been given an option to pay tax at the rate of 15 per cent, if they forego all exemptions/ incentives (Refer Note 1) available to them under the Act and commence commercial production on or before 31st March, 2023.

- ❖ The manufacturing company:
 - Should not have been formed by splitting up, reconstruction of business already in existence
 - Should not have in use more than 20% second-hand machinery (except imported plant and machinery)
 - Must not use any building previously used as a hotel or convention Centre
 - Must not be engaged in any business other than business of manufacture or production of any article or thing and research in relation to article or thing manufactured by it.
- ❖ Such companies shall not be required to pay any Minimum Alternate Tax (MAT).
- ❖ Total income of the company shall have to be computed without set off of any losses carried forward from earlier years, if such loss is attributable to any of the deductions/ exemptions (Refer Note 1).
- ❖ Domestic Transfer Pricing provisions have been enabled in case of new domestic manufacturing concerns in accordance with section 92BA of the Act.
- ❖ Such domestic manufacturing company shall have to exercise the option to avail concessional rate in the prescribed manner before the due date of filing of return under section 139(1) for AY 2020-21.
- ❖ Once availed, option to pay tax at concessional rate cannot be withdrawn.

C. Amended section 115BA

- ❖ Enabling amendments have been made to Section 115BA (section governing tax on income of manufacturing companies without concessional rates), stipulating that Section 115BA shall be applicable to companies other than those mentioned in Section 115BAA and 115BAB.
- ❖ Where a company exercises option under section 115BAA, option under Section 115BA shall lapse.

D. Amendments in provisions of MAT

- ❖ Domestic companies, whether manufacturing units or otherwise, which have not opted for concessional tax rate can continue to avail exemptions and incentives (Refer Note 1) offered under the Income Tax Act. Such companies have been provided a relief in the form of reduction of MAT rate from existing 18.5 per cent to 15 per cent.

E. Buy Back Tax (section 115QA)

- ❖ A proviso has been added to Section 115QA, professing that the companies that have made public announcement of buy-back before 5th July, 2019 have been exempted from the payment of buy-back tax.

F. Surcharge on super-rich relaxed

- ❖ The Budget of 2019 enhanced the surcharge exorbitantly. In order to provide respite, it has been provided that the enhanced surcharge shall not be apply 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, BOI and AJP.
- ❖ The enhanced surcharge shall also not be applicable to capital gains arising on sale of any security including derivatives, in the hands of Foreign Portfolio Investors (FPIs).

Effective Corporate Tax Rates for FY 2019-20 (AY 2020-21)

TYPE OF COMPANY	OLD EFFECTIVE TAX RATE (INCLUSIVE OF SURCHARGE AND CESS)	NEW EFFECTIVE TAX RATE (INCLUSIVE OF SURCHARGE AND CESS)	ADDITIONAL BENEFITS
Corporates not availing incentives/ exemptions (Refer Note 1) offered under the Income Tax Act	34.94%	25.17%	Companies shall not be required to comply with Minimum Alternate Tax (MAT) provisions
Corporates availing incentives/exemptions (Refer Note 1) offered under the Income Tax Act	34.94%	34.94%	MAT rate shall be reduced from effective rate of 18.5% to 15%
New Manufacturing Companies (incorporated after 1 st October, 2019 and commencing production before 31 st March, 2023) not availing incentives/exemptions (Refer Note 1) offered under the Income Tax Act	29.12%	17.16%	Companies shall not be required to comply with Minimum Alternate Tax (MAT) provisions

Note 1 - List of incentives/exemptions that cannot be claimed where lower rate of tax is claimed

Section	Name
10AA	Special provisions in respect of newly established units in Special Economic Zones
32(1)(iia)	Depreciation
32AD	Investment in new plant or machinery in notified backward areas in certain states
33AB	Tea development account, coffee development account and rubber development account
33ABA	Site restoration fund
35(1)(ii), (iia), (iii), (2AA), (2AB)	Expenditure on scientific research
35AD	Deduction in respect of expenditure on specified business
35CCC	Expenditure on agricultural extension project
35CCD	Expenditure on skill development project
80H to Section 80TT (except section 80JJAA)	Deduction in respect of certain incomes

Nangia's Take

The government has taken a bold and appropriate step, which shall not only go on to revive the Indian economy by increasing the investment in India Inc. but shall also leave more disposable income in the hands of the corporates. The positive attempt, that costs the government 1.45 lakh crores, shall also align the Indian tax rates with the rest of the world, thereby boosting investment, employment and economic activity. Keeping individuals, HUF, AOP, BOI etc. out of the ambit of super-rich-surcharge to the extent their income is from capital gains on sale of equity/equity oriented funds, will encourage a stabilised flow of fund into the capital markets, which is an essential ingredient for the growth of any developing economy. It is indeed a laudable and timely step by the Government to arrest the slowdown and give the much-needed push to set the Indian Economy on the track to becoming a 5 trillion economy by 2024!

About Us

Nangia & Co LLP is a premier professional services organization offering a diverse range of Taxation, Transaction Advisory and Business Consulting services. Nangia & Co LLP has presence currently in Noida, Delhi, Gurugram, Mumbai, Dehradun, Bengaluru, Chennai and Pune. Nangia & Co LLP has been in existence for more than 38 years and has been consistently rated as one of the best advisory firms in India for entry strategy, taxation, accounting & compliances over the past many years.

Quality of our people is the cornerstone of our ability to serve our clients. For this reason, we invest tremendous resources in identifying exceptional people, developing their skills, and creating an environment that fosters their growth as leaders. From our newest staff members through senior partners, exceptional client service represents a dedication to going above and beyond expectations in every working relationship.

We strive to develop a detailed understanding of our clients' business and industry sector to offer insights on market developments and assist our clients develop effective strategies and business models. We have the resources and experience necessary to anticipate and competently serve our clients on issues pertaining to all facets of Tax and Transaction Advisory. We take pride in our ability to provide definite advice to our clients with the shortest turnaround time. The business and tax landscapes have changed dramatically, and the pace and complexity of change continues to increase. We can assist you navigate this shifting landscape.

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