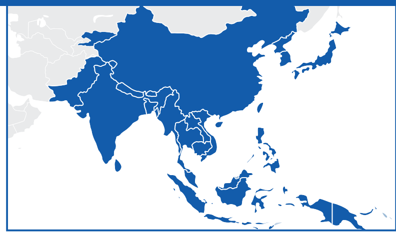

India Tax Update: Corporate tax slashed for domestic companies and new domestic manufacturing companies and other fiscal reliefs

Salient features announced vis-a-vis Taxation Laws (Amendment) Ordinance 2019

Background:

A few days ago, on India's independence day, the Prime Minister unveiled his ambition to see India become a "$5 Trillion" economy by the year 2025. The statement came at a time when India's GDP growth rate has been pushed down to 5% in April to June 2019, its slowest in six years. To achieve the ambitious goal set by Modi 2.0 for the year 2025, it was imperative that the government needed to think out of the box.

In this white paper, we would like to discuss the latest slew of measures announced by Honourable Finance Minster Nirmala Sitharaman on the morning of 20th September, 2019.

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What are these measures that will promote growth and investment in India?

- New provision inserted in the income tax act with effect from fiscal year 2019-20, that allows any domestic company to pay income tax at the rate of 22% subject to condition they will not avail any incentive or exemptions. Effective tax rate to be 25.17% inclusive of surcharge & cess.
- Manufacturing companies set up after October 1, 2019 to get an option to pay 15% tax. Effective tax rate for new manufacturing companies to be 17.01% inclusive of surcharge & cess. Such companies shall not be required to pay Minimum Alternate Tax or MAT (tax on book profits).
- Listed companies that have announced buyback before July 5, 2019, tax on buyback of shares will not be charged.
- Higher surcharge will also not apply on capital gains on sale of security including derivatives held by Foreign Portfolio Investors (FPIs).
- Enhanced surcharge will not apply to capital gains arising on equity sale or equity-oriented funds (liable to Securities Transaction Tax).
- To provide relief to companies availing of concessions and benefits, a MAT relief by reducing it from 18% to 15%.
- Scope of CSR 2% spending by companies has been expanded to include government, PSU incubators and public funded education entities, IITs.

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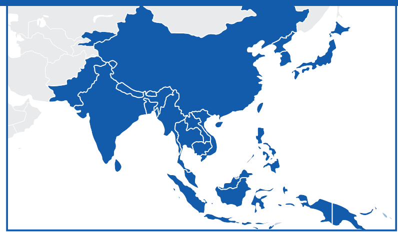

Having said the above, before investing in a company in India, one needs to look at a host of factors before taking the final investment decision. It is necessary to study the impact of tax and foreign exchange laws in order to build a strong investment strategy and achieve an optimum tax structure. Few questions that may impact your group's investment strategy are listed below:

- Whether the proposed activity is to be carried out jointly with a JV partner in India or as a 100% wholly owned entity?
- Whether the proposed Indian entity will make use of any Intellectual Property owned by any other group entities?
- Whether the proposed business shall be closely held or shall be listed on stock exchanges at a future date?
- In what manner shall the operations be funded?
- What is the expected horizon period for the investment?
- Whether profits are to be distributed to the parent or to be reinvested in India?

After considering these factors, it may so happen that forming Limited Liability Partnership (LLP) maybe more tax efficient and easy to manage than investing in a closely held company, it could also turn out to be vice – versa.

Conclusion:

Our view is that Team Modi 2.0 does not lack ambition and they possess the will to take bold steps. Modi 2.0 means business. The last few days have seen a number of moves by the Finance Ministry to boost investment and support the industry, the latest one being slashing of corporate tax. The rate cut for manufacturing companies will give a boost to government's 'Make in India' initiative. It will also encourage investments into capital markets. Sitharaman said that the tax revenue forgone by the government on account of the latest measures would be INR 1.45 lakh crore ($20 Billion) annually.

Your next steps

For more information on this unprecedented taxation ordinance and other investment incentives and opportunities for doing business in India, please contact MGI Worldwide's Tax Experts at **C.R. Sharedalal & Co.** in Gujarat, India:

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