In brief

The Government promulgated the Taxation Laws (Amendment) Ordinance 2019, announcing key changes to corporate tax rates in the Income-tax Act, 1961 (Act). While existing domestic companies have been provided an option to pay tax at a concessional rate of 22%, new domestic companies set up on or after 1 October 2019, and commencing manufacturing before 31 March 2023, would have the option to pay tax at 15%. However, the reduced tax rates come with consequential surrender of specified deductions/incentives. No minimum alternate tax (MAT) would be applicable in either of these options. Companies that do not opt for the concessional tax rates will continue to enjoy the benefit of such specified deductions/incentives, and where applicable, be subject to MAT at 15%.

In detail

Tax applicable for certain domestic companies [section 115BAA]

- Any domestic company has an option to pay tax at 22%, subject to the following conditions:
  - The total income is computed without claiming prescribed deductions or set-off of loss [See note 1 for the computation mechanism].
  - The option needs to be exercised within the prescribed time for filing the return of income (ROI) under section 139(1) of the Act for assessment year (AY) 2020-21 or subsequent AYs.
- Once exercised, such option cannot be withdrawn for the same or subsequent AYs.

(with effect from AY 2020-21)

Tax rate applicable for certain domestic manufacturing companies [section 115BAB]

Any domestic manufacturing company has an option to pay tax at 15%, subject to the following conditions:
- The total income is computed without claiming prescribed deductions or set-off of loss [See note 1 for the computation mechanism].
- Such company
  - Is incorporated on or after 1 October 2019, and commences production on or before 31 March 2023.
  - Is not formed by splitting up or reconstruction of business already in existence (exception provided for undertaking formed as a result of re-establishment, reconstruction or revival of business referred to in section 33B of the Act).
  - Does not use plant and machinery previously used for any purpose in India and no depreciation has been claimed on the same (relaxation up to 20% allowed).
  - Does not use any building previously used as a hotel or convention centre.
  - Is not engaged in any business other than the manufacture or

---

1 The Taxation Laws (Amendment) Ordinance, 2019 No. 15 of 2019, comes into force with immediate effect.
2 Excluding surcharge and cess
production of an article or thing and research in relation to or distribution of such article or thing manufactured or produced by it.

- The option needs to be exercised before the due date as per section 139(1) of the Act for furnishing the first of the return of income for any previous year starting from AY 2020-21 or subsequent AYs.

- Once exercised, such option cannot be withdrawn for the same or subsequent AYs.

- Provisions similar to section 80IA(10) of the Act are made applicable for transactions between connected parties which has the effect of producing more than ordinary profit that might be expected to arise.

- Domestic transfer pricing provisions under section 92BA of the Act is being made applicable to such transactions. The corresponding amendment has been made in section 92BA of the Act to consider such transactions as specified domestic transactions (SDT) in order to bring it within the ambit of transfer pricing provisions.

(with effect from AY 2020-21)

**Minimum Alternate Tax [section 115JB]**

- Companies exercising the option under sections 115BAA or 115BAB of the Act have been excluded from the applicability of MAT.

- Tax rate under section 115JB of the Act has been reduced from 18.5% to 15%.

**Surcharge rates specified for sections 115BAA or 115BAB –**

For the purpose of advance tax the applicable surcharge rate on incomes chargeable to tax under sections 115BAA or 115BAB of the Act shall be at 10%.

**Amendments to existing section 115BA**

- Corresponding amendments made to section 115BA of the Act to provide that it would apply to companies other than those mentioned in sections 115BAA and 115BAB of the Act.

- For a person exercising option under section 115BAB of the Act, the option under section 115BA of the Act may be withdrawn.

**Grandfathering of buy-back tax [section 115QAA]**

Tax on buy-back of shares (being shares listed on a recognised stock exchange) not applicable for shares for which the public announcement was made before 5 July 2019.

**Amendments on applicability of the enhanced surcharge rates on certain incomes**

- The surcharge rate of 25%/37% introduced by the Finance (No.2) Act, 2019, shall not apply to capital gains arising on sale of equity share in a company or a unit of an equity oriented fund or unit of business trust referred to in sections 111A or 112A of the Act.

- The enhanced surcharge rate of 25%/37% shall also not apply to the income of foreign institutional investors (FIIs) from securities as referred to in section 115AD of the Act.

Note 1: Prescribed manner of determining total income for the purpose of section 115BAA or section 115BAB

The total income of the company should be computed:

- Without claiming deduction under the following provisions:
  - Section 10AA of the Act relating to SEZ.
  - Additional depreciation allowance under section 32(1)(iia) of the Act.
  - Section 32AD of the Act – Deduction for investment in new plant and machinery in notified backward States.
  - Section 33AB of the Act – Tea/ coffee/ rubber development allowance.
  - Section 33ABA of the Act – Site restoration fund.
  - Sections 35(1) (ii), (iia), (iii) and 35(2AA), (2AB) of the Act – certain scientific research expenditure.
  - Section 35AD of the Act – Deduction in respect of expenditure on specified business.
  - Section 35CCC of the Act – Expenditure on agricultural extension project.
  - Section 35CCD of the Act – Expenditure on skill development project.
  - Deduction under Part C of Chapter VIA other than section 80JJAA of the Act (deduction in respect of employment of new employees).

- Without set-off of any loss carried forward from an earlier year to the extent that such loss is attributable to any of the deduction mentioned above. However, it would be deemed that full effect of the loss has already been given and no further
**Tax Insights**

- deduction would be allowed for such loss in future.
- By claiming depreciation other than additional depreciation under section 32(1)(iia) of the Act determined in such manner as may be prescribed.

**Snapshot**

<table>
<thead>
<tr>
<th>Particulars</th>
<th>Section 115BA</th>
<th>Section 115BAA</th>
<th>Section 115BAB</th>
<th>Others</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicable from</td>
<td>AY 2017-18&lt;sup&gt;3&lt;/sup&gt;</td>
<td>AY 2020-21</td>
<td>AY 2020-21</td>
<td>-</td>
</tr>
<tr>
<td>Type of company</td>
<td>Domestic company engaged in manufacturing/ production</td>
<td>All domestic companies</td>
<td>Domestic company engaged in manufacturing/ production</td>
<td>Any domestic company</td>
</tr>
<tr>
<td>Eligibility (start date)</td>
<td>Set-up and registered on or after 1 March 2016</td>
<td>No specific requirement</td>
<td>Set-up and registered on or after 1 October 2019 (manufacturing to commence by 31 March 2023)</td>
<td>-</td>
</tr>
<tr>
<td>Allowability of prescribed deduction/ loss</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>Yes</td>
</tr>
<tr>
<td>Basic tax rate</td>
<td>25%</td>
<td>22%</td>
<td>15%</td>
<td>25%/30%</td>
</tr>
<tr>
<td>Surcharge</td>
<td>7%/ 12%</td>
<td>10%</td>
<td>10%</td>
<td>7%/ 12%</td>
</tr>
<tr>
<td>Cess</td>
<td>4%</td>
<td>4%</td>
<td>4%</td>
<td>4%</td>
</tr>
<tr>
<td>Applicability of MAT</td>
<td>Yes [15%]</td>
<td>Not applicable</td>
<td>Not applicable</td>
<td>Yes [15%]</td>
</tr>
<tr>
<td>SDT provisions</td>
<td>Not Applicable</td>
<td>Not Applicable</td>
<td>Applicable</td>
<td>Applicable</td>
</tr>
<tr>
<td>Restriction for entities formed by restructuring/ use of old plant &amp; machinery/ use of building earlier used as hotel or convention centre</td>
<td>No</td>
<td>No</td>
<td>Yes</td>
<td>-</td>
</tr>
</tbody>
</table>

**Let’s talk**

For a deeper discussion of how this issue might affect your business, please contact your local PwC advisor

---

<sup>3</sup> Inserted by Finance Act, 2016 w.e.f. 1 April 2017 with certain consequential adjustments made vide the Taxation Laws (Amendment) Ordinance, 2019
For private circulation only

This publication has been prepared for general guidance on matters of interest only, and does not constitute professional advice. You should not act upon the information contained in this publication without obtaining specific professional advice. No representation or warranty (express or implied) is given as to the accuracy or completeness of the information contained in this publication, and, to the extent permitted by law, PwCPL, its members, employees and agents accept no liability, and disclaim all responsibility, for the consequences of you or anyone else acting, or refraining to act, in reliance on the information contained in this publication or for any decision based on it. Without prior permission of PwCPL, this publication may not be quoted in whole or in part or otherwise referred to in any documents.

© 2019 PricewaterhouseCoopers Private Limited. All rights reserved. In this document, "PwC" refers to PricewaterhouseCoopers Private Limited (a limited liability company in India having Corporate Identity Number or CIN : U74140WB1983PTC036093), which is a member firm of PricewaterhouseCoopers International Limited (PwCIL), each member firm of which is a separate legal entity.