International Journal of Computing and Business Research (IJCBR)
ISSN (Online) : 2229-6166
International Manuscript ID : 22296166V12I1202203
Volume 12 Issue 1 January 2022

Impact of Assorted Amendments with Corporate Tax in India

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Abstract

The government has announced a significant change to company tax rates in an effort to increase investments over the medium term. According to The Economic Times, the Lok Sabha recently approved a bill to replace an order that would have reduced corporation tax rates. The Finance (No 2) Act, 2019 and the Income Tax Act, 1961 will both be changed by the Taxation Laws (Amendment) Bill, 2019. The base corporate tax rate for already-existing businesses has been reduced from 30% to 22%, and for new manufacturing firms founded after October 1, 2019, and starting operations before March 31, 2023, it has been reduced from 25% to 15%. The reduced tax rate alternatives available to domestic businesses are meant to promote growth and draw in fresh capital for the manufacturing industry. The Economic Times quoted IHS Markit as saying in a report that this change might greatly increase the country's relative competitiveness of its company tax rates compared to other Asian industrial economies. According to the report, India's corporate tax rates had previously been relatively high when compared to its regional counterparts. The lower rates could encourage increased corporate investment in the nation over the medium term. According to a South Indian Bank report, the tax cut would increase corporate profitability and Nifty profits growth. According to reports, analysts increased their earnings projections (to 25% from 16% for

2019–20). It also stated that a 15% tax on new production facilities will help to draw in foreign investment. With fewer tax expenditures, the nation may eventually see an increase in profit-making companies. The rate reduction may increase their profit margins to above 10%. Because businesses will now have more money in their pockets as a result of the recent tax cut, the economy may continue to expand. If they think this course of action will be profitable, they can use the money to invest in new businesses or reinvest in already established ones. It is critical to realise that how investors distribute capital between economies is significantly influenced by the corporate tax rate. Governments all around the world are constantly under pressure to offer low tax rates in order to draw in international investment. India should become more competitive on the international stage thanks to the most recent tax decrease. It is important to keep in mind that the tax cut also slows down economic activity because there is less money in the government's coffers (through tax receipts). According to the article, the government will have to forfeit 1.45 lakh crores in revenue, or 0.7% of GDP. The fiscal deficit would increase to 4.0% if added to the budgeted fiscal deficit of 3.3% of GDP, according to the publication. The reduction in company tax can encourage investments and raise the economy's productivity over the medium to long term (anywhere between two and five years). Even though there will be a short-term decline in demand, investment decisions are often made after considering long-term demand estimates. If demand is anticipated to increase, investments will pay off and earnings will be higher due to lower taxes. In due course, these investments will also boost employment and earnings.

Keywords : Corporate Tax in India, Corporate Tax and Analytics, Impact of Corporate Tax

Introduction

To make some changes to the Income-tax Act of 1961 and the Finance (No. 2) Act of 2019, the government has introduced the Taxation Laws (Amendment) Ordinance 2019. Smt. Nirmala Sitaraman, the Union Minister for Finance & Corporate Affairs [1, 2], made this announcement during press conference in Goa. The Finance Minister went into more detail about the key components of these reforms, which are as follows:-

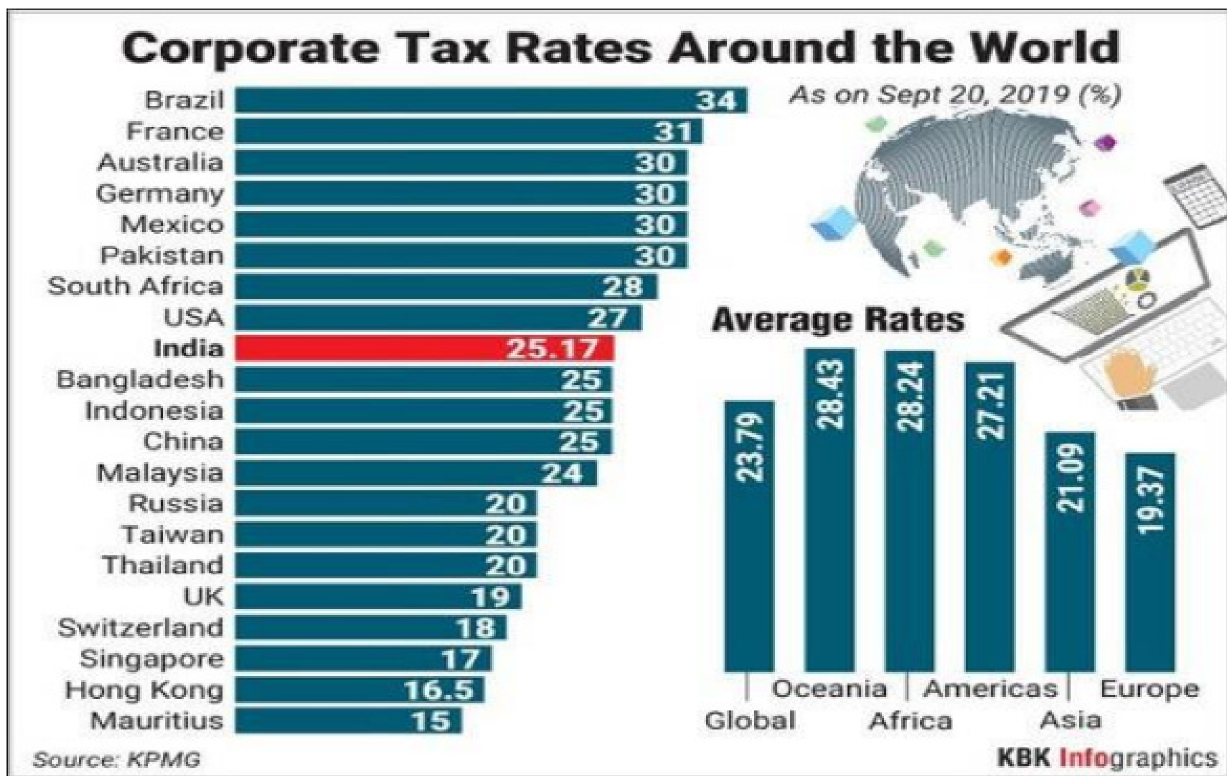

Figure 1 : Corporate Tax and International Aspects

With effect from FY 2019–20, a new provision has been added to the Income Tax Act that gives any domestic firm the option to pay income tax at the rate of 22%, provided they do not take advantage of any exemptions or incentives [3, 4, 5]. For these

businesses, the effective tax rate will be 25.17%, including surcharge and cess. Additionally, these businesses are exempt from paying the Minimum Alternate Tax [6, 7].

Another new provision has been added to the Income-tax Act with effect from FY 2019–20 in order to encourage new manufacturing investment and support the government's "Make-in-India" initiative. This provision gives any new domestic company formed on or after October 1, 2019, making new manufacturing investment [8-12], the option to pay income-tax at the rate of 15%. Companies who start producing on or before March 31, 2023, do not receive any exemptions or incentives, and are eligible to receive this advantage. For these businesses, the effective tax rate will be 17.01%, including surcharge and cess. Additionally, these businesses are exempt from paying the Minimum Alternate Tax.

Table 1 : FDP and Tax Perspectives

Country	FDI % of GDP	Tax to GDP	Lowest Corporate Tax	Remarks
India	1.5%	17%	17%	India cut tax rate to target US FDI amidst in Trade war with China
Malaysia	3%	16%	24%	
Vietnam	6.3%	14%	20%	
Thailand	2.6%	17%	20%	
Singapore	22%	14%	17%	
Indonesia	1.9%	12%	25%	
source: World Bank				

A business that chooses to take advantage of the tax incentive/exemption but not the preferential tax regime must continue to pay taxes at the pre-amended rate. After their tax holiday or exemption term expires, certain businesses may choose the concessional tax regime. They will be required to pay tax at a rate of 22% after exercising the option, and the option cannot be later revoked. Furthermore, the rate of the Minimum Alternate Tax has been lowered from the previous 18.5% to 15% in order to provide relief to businesses that continue to take advantage of exemptions and incentives [13].

It is stipulated that the enhanced surcharge, which was introduced by the Finance (No. 2) Act of 2019, shall not apply on capital gains arising on the sale of equity shares in a company, units of equity-oriented funds, or units of business trusts that are subject to securities transaction tax, in the hands of an individual, HUF, AOP, BOI, and AJP. This is done in order to stabilise the flow of funds into the capital market.

Additionally, capital gains from the sale of any security, including derivatives, held by foreign portfolio investors will not be subject to the additional surcharge (FPIs) [14].

It is stipulated that tax on share buybacks in the case of such corporations must not be imposed in order to provide relief to publicly traded companies that have already made a public announcement of buybacks prior to July 5, 2019.

Additionally, the government has opted to broaden the definition of CSR 2 percent spending. Now, the CSR 2% fund can be used for incubators funded by the federal government, a state government, a federal agency, a public sector undertaking of a state government, and for contributions to publicly funded universities, IITs, national laboratories, and autonomous bodies (established by the ICAR, ICMR, CSIR, DAE,

DRDO, DST, Ministry of Electronics and Information Technology) that conduct research in the fields of science, technology, engineering, and medicine with the goal of improving [15].

The overall revenue lost as a result of various tax relief measures and the corporate tax rate cut is expected to be Rs. 1,45,000 crore.

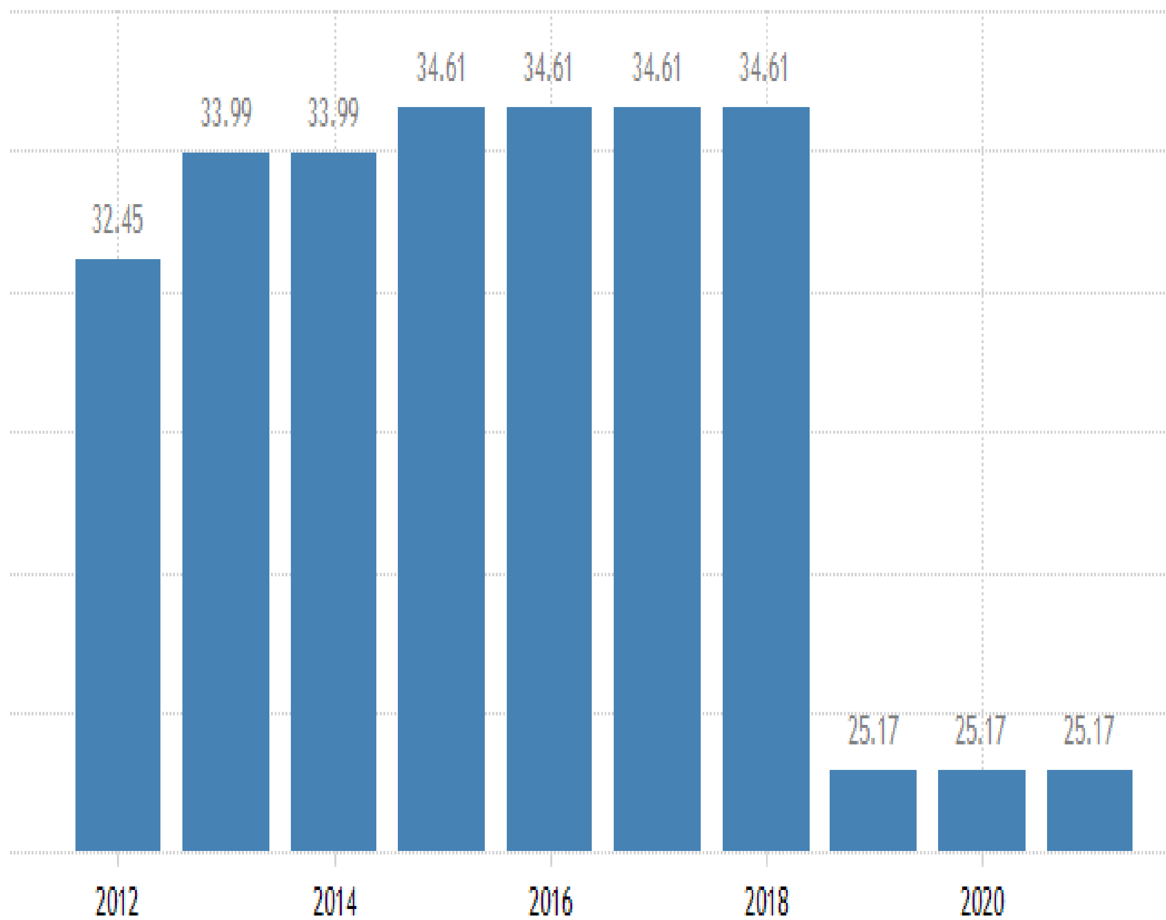

Figure 2 : Corporate Tax in India Analytics Source : Trading Economics

The corporate income-tax (CIT) rate applicable to an Indian company and a foreign company for the tax year 2021/22 is as follows:

Income*	CIT rate (%)					
	Turnover does not increase INR 4 billion in FY 2020/21		For other domestic companies		Foreign companies	
	Basic	Effective**	Basic	Effective**	Basic	Effective **
Less than INR 10 million	25	26.00	30	31.20	40	41.60
More than INR 10 million but less than INR 100 million	25	27.82	30	33.38	40	42.43
More than INR 100 million	25	29.12	30	34.94	40	43.68

* Surcharge of 10% is payable only where total taxable income exceeds INR 10 million.
** Effective tax rates include surcharge and health and education cess of 4%.

With effect from the 2019–20 tax year, a favourable CIT rate of 22% (plus a surcharge of 10% and any applicable health and education cess of 4%) is available. This

favourable rate is available at the company's discretion and is contingent to the cumulative satisfaction of the following requirements:

Related	Last	Previous	Unit	Reference
Personal Income Tax Rate	42.74	42.74	percent	Dec 2021
Corporate Tax Rate	25.17	25.17	percent	Dec 2021
Sales Tax Rate	18.00	18.00	percent	Dec 2021
Social Security Rate	24.00	24.00	percent	Dec 2021
Social Security Rate For Companies	12.00	12.00	percent	Dec 2021
Social Security Rate For Employees	12.00	12.00	percent	Dec 2021

A tax holiday available to a unit in a Special Economic Zone (SEZ), the benefits of accelerated or additional depreciation, investment allowances, expenditures for scientific research, and any other deduction in relation to certain income aside from the deduction in relation to the employment of new employees and the deduction in relation to certain income of Offshore Banking Units and International Financial Service Center have not been claimed by the company [16].

In so far as such loss is attributable to the deductions mentioned in I above, the company has not claimed set-off of loss and unabsorbed depreciation carried over from any prior years, including set-off of any unabsorbed depreciation and losses relating to loss/depreciation on amalgamation. However, the prescribed method shall be followed to allow the equivalent adjustment in the written down value of such block of assets as of 1 April 2019.

Before the due date for providing income information, the option to take advantage of a reduced CIT rate of 22% is provided in the prescribed manner [17, 18].

Companies who exercised this option were exempt from the MAT and MAT credit rules' applicability.

All succeeding years and other provisions of the Income-tax Act will apply as if the option had not been exercised from the year of non-compliance, and the benefit of the aforementioned reduced tax rate will not be available in the year of non-compliance.

Conclusion

On August 5, 2021, Ms. Nirmala Sitharaman, the minister of finance, introduced the Taxation Laws (Amendment) Bill to the Lok Sabha. The bill modifies both the Finance Act of 2012 and the Income Tax Act of 1961 (IT Act). The 2012 Act modified the IT Act to retroactively impose tax responsibility on income derived from the sale of shares of a foreign corporation (i.e., also applicable to the transactions done before May 28, 2012). This retroactive basis for taxes is intended to be repealed by the Bill. Important elements of the Bill include Tax on income from the sale of shares outside of India: According to the IT Act, non-residents must pay tax on any income that results from a relationship to a business, a property, an asset, or a source of income that is located in India. The 2012 Act's revisions make it clear that even if a company is registered or formed outside of India, its shares will be considered to be or to have always been situated there if they draw a significant portion of their value from Indian assets. As a result, anyone who sold these shares of foreign corporations before to the Act's passage (i.e., May 28, 2012) were also required to pay tax on the proceeds of those sales.

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