



**Direct Taxes
and
Indirect Taxes updates**

CA Paresh Daga, Senior Partner

MANIAN & RAO
CHARTERED ACCOUNTANTS

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FOREWORD:

The Government's decision of increasing tax rates and surcharge in Finance Act, 2019 was a bold step aimed at increasing the tax collection. However, this decision has had an impact of derailing the growth of the nation. Gross Domestic Product (GDP), which is a comprehensive scorecard of a nation's economic health, today stands at 5% for Q1 2019 when compared to 8% for Q1 2018 thereby indicating the quantum of impact of the decision on the nation.

Recently, the government has been very proactive and is committed to get the economy on track by announcing a slew of changes aimed at incentivizing exports, encouraging lending by recapitalization of banks, providing loss cover to enable NBFC's to raise funding from banks, setting up of stressed fund for completion of stalled real estate projects etc. On 20th September, 2019, Government has slashed corporate tax rates to incentivize foreign investment into the country, rationalization of surcharge on capital gains and GST rate cuts for services and commodities.

This move of reducing the Corporate tax rate is expected to have an impact of INR 1.5 Lakh crore on the union treasury, thereby increasing the budget deficit by at least 80 basis points from the budgetary estimate.

This article covers the amendments made to Income Tax Act, 1961 and Finance (No.2) Act, 2019. It also covers the changes in Goods and Services Tax as approved by the 37th GST Council in its meeting held on 20th September, 2019.

The Taxation Laws (Amendment) Ordinance, 2019

Existing corporate tax rate structure:

Type of Companies	Base Tax rate	Income up to INR 1 Crore			Income above INR 1 Crore up to INR 10 Crore			Income above INR 10 Crore		
		Surcharge	HEC*	Effective tax rate	Surcharge	HEC*	Effective tax rate	Surcharge	HEC*	Effective tax rate
Domestic companies (Turnover up to INR 400 Crore in FY 2017-18)	25%	NIL	4%	26%	7%	4%	27.82%	12%	4%	29.12%
Other Domestic Companies	30%	NIL	4%	31.20%	7%	4%	33.38%	12%	4%	34.94%

Note:

1. Effective tax rate is including Health and Education cess at 4% on Income Tax and Surcharge
2. There is change in turnover criteria for domestic companies eligible for taxation at 25% i.e. from INR 250 Crore to INR 400 Crore.
3. *HEC = Health and Education Cess

The Taxation Laws (Amendment) Ordinance, 2019

Summary of changes and its impact on existing tax structure:

Section	Applicability*	New Tax Rate**	Minimum Alternate Tax applicable?
115BA	Domestic manufacturing companies	29.12%	Yes
115BAA	All Domestic companies	25.17%	No
115BAB	New manufacturing companies (Setup and registered on or after 1 st October, 2019 and commenced manufacturing on or before 31 st March, 2023)	17.16%	No

Section 115JB: Minimum Alternate Tax has been reduced from 18.5% to 15%

***Applicability:** The conditions for applicability of the above sections are discussed in further slides.

****Tax rates** are computed after considering the highest rate of surcharge and cess.

Section 115BAA: Concessional rate of tax for all domestic companies

Effective Tax Rate: 25.17% (Base rate – 22% + Surcharge – 10% + Cess – 4%)

Applicability:

All domestic companies can exercise the option to pay tax under this section at the time of or before filing ITR for the assessment year 2020-21.

Once this option is exercised for any year, it cannot be withdrawn in any future years.

Conditions for opting to pay tax under this section:

(i) No deduction shall be allowed for the below sections:

- a. Section 10AA: Special provisions in respect of newly established units in Special Economic Zones
- b. Section 32(1)(ia): Additional deduction of 20% (35% in case of backward areas) on investment in new plant and machinery.
- c. Section 32AD: Investments in new plant and machinery in notified backward areas of certain states
- d. Section 33AB: Tea/Coffee/Rubber development account
- e. Section 33ABA: Site restoration fund
- f. Section 35AD: Expenditure on scientific research
- g. Section 35CCC: Expenditure on agricultural extension project
- h. Section 35CCD: Expenditure on skill development project
- i. Chapter VI A other than under section 80JJAA.

Section 115BAA: Concessional rate of tax for all domestic companies

Conditions for opting to pay tax under this section:

(ii) No Setoff or carry forward of loss from previous assessment years will be allowed if such loss relates to clause (i) above.

(iii) Company exercising option under this section can claim deduction under section 32 excluding additional depreciation as per Section 32(1)(iia).



Section 115BAB: Concessional rate of tax for new manufacturing companies

Effective Tax Rate: 17.16% (Base rate – 15% + Surcharge – 10% + Cess – 4%)

Applicability:

Manufacturing companies set-up and registered on or after 1st October, 2019 and has commenced manufacturing on or before 31st March, 2023 can exercise the option to pay tax under this section at the time of or before filing ITR for the assessment year 2020-21.

Once this option is exercised for any year, it cannot be withdrawn in any future years.

Conditions for opting to pay tax under this section:

(i) It is not formed by splitting up or the reconstruction of a business already in existence.

Exceptions: Any undertaking re-established, reconstructed or revived due to natural calamities, strikes etc

(ii) It does not use any plant or machinery previously used for any purpose

Exceptions: **A.** Any plant or machinery used outside India but not brought into India and no depreciation is claimed as per Income tax act, 1961.

B. Any machinery or plant used previously is put to use and the value of such plant or machinery does not exceed 20% of the total value of plant and machinery used by the company.

(iii) It does not use any building previously used as a hotel or convention centre.

(iv) All the conditions as applicable to **Section 115BAA**

(v) The transactions between the company and any other closely related person shall be subject to **transfer pricing**

Section 115DA: Tax on Income of Foreign Institutional Investors from securities or capital gains arising from their transfers.

Clause	Existing provisions (Amount in INR)	Existing surcharge rate	Amended provisions	Amended surcharge rate
1	Total Income exceeds 50 lakhs but less than 1 Crore	10%	No change	No change
2	Total Income exceeds 1 Crore but less than 2 Crore	15%	No change	No change
3	Total Income exceeds 2 Crore but less than 5 Crore	25%	Total Income exceeds 2 Crore but less than 5 Crore (excluding short term and long term capital gains)	25%
4	Total Income exceeds 5 Crore	37%	Total Income exceeds 5 Crore (excluding short term and long term capital gains)	37%
5			Total Income exceeds 2 Crore (Including short term and long term capital gains) but is not covered in clause 3 and 4	15%

Note: Short term capital gains under section 111A and Long term capital gains under section 112A will attract surcharge at the rate of not more than 15%.

References in this slide for Short term capital gains relates to Section 111A and Long term capital gains relates to 112A

Surcharge on Income tax of every Non-Resident individual, HUF, AOP, BOI etc.

Clause	Existing provisions (Amount in INR)	Existing surcharge rate	Amended provisions	Amended surcharge rate
1	Total Income subject to deduction exceeds 50 lakhs but less than 1 Crore	10%	Total Income subject to deduction exceeds 50 lakhs but less than 1 Crore (including short term and long term capital gains)	10%
2	Total Income subject to deduction exceeds 1 Crore but less than 2 Crore	15%	Total Income subject to deduction exceeds 1 Crore but less than 2 Crore (including short term and long term capital gains)	15%
3	Total Income subject to deduction exceeds 2 Crore but less than 5 Crore	25%	Total Income exceeds 2 Crore but less than 5 Crore (excluding short term and long term capital gains)	25%
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Section 115QA: Special provision for tax on distributed income of domestic company for buy back of shares

Existing:

Budget 2019 amended section 115QA to withdraw the exemption of tax on buy back of shares listed on recognized stock exchange. As a result of such withdrawal all buy-back of listed shares attract tax at 20% with effect from Financial year 2019-20.

Amendment:

Company which has made public announcement for buy-back of listed shares, in accordance with provisions of the Securities and Exchange Board of India (Buy-back of Securities) Regulations, 2018, before 5th July, provisions of Section 115QA levying additional income tax at 20% shall not apply to such buy-back of shares.



Indirect Taxes : 37th GST Council Meeting Highlights



37th GST Council Meeting – Key Highlights

GST new return filing :

New GST Returns were to be effective from October'19, However, Council has decided to postpone the implementation of new GST Returns to April'20.

GST Annual Returns (GSTR 9 & 9A):

Earlier GST Annual Returns were to be filed by every person registered under GST. However, the council has decided to provide relaxation to Micro and small enterprises with turnover of upto INR 2 Crore by making GST Annual Return filing optional.

GST Council has also decided to make the GST Annual Returns “SARAL”

GST Rate Reduction:

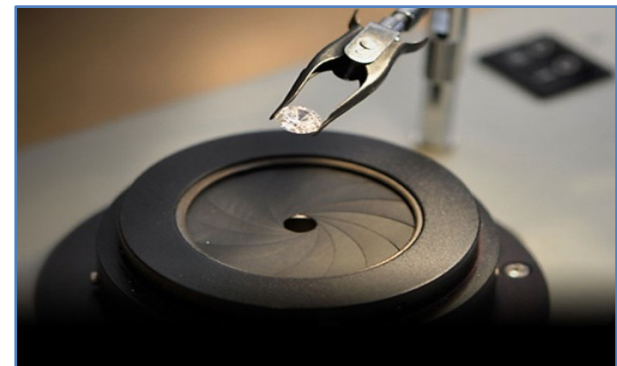
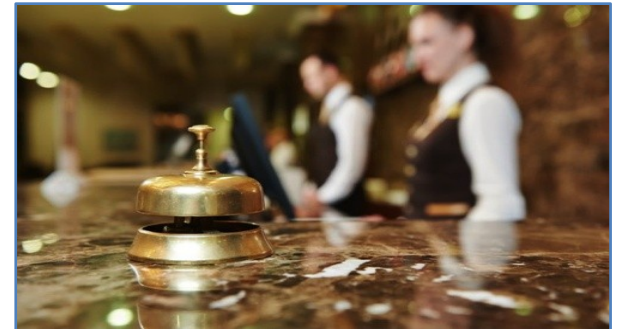
A. Hospitality and Tourism Industry:

- 1) Tariffs 7500 & above – GST 18%
- 2) Tariffs between 1,000-7500 – GST 12%
- 3) Tariffs below 1000 – Nil
- 4) Outside Catering – GST 5% without ITC (Reduce from 18%)

B. Job Work Sector

- 1) Diamond Job work – GST 1.5% (Reduce From 5%)
- 2) Other Job-work – GST 12% (Reduce from 18%)

C. Cut and Polishing semi-precious stones – 0.25% (Reduce from 3%)



37th GST Council Meeting – Key Highlights

D. Transportation:

To increase the validity of conditional exemption of GST on export freight by air or sea by another year, i.e. till 30.09.2020

E. Authors:

To allow the registered authors an option to pay GST on royalty charged from publishers under forward charge and observe regular GST compliance.

F. Compensation Cess:

Passenger vehicles of engine capacity 1500 cc in case of diesel, 1200 cc in case of petrol and length not exceeding 4000 mm designed for carrying more than 10 persons but upto 13 persons attract compensation cess of 1% for petrol and 3% for diesel vehicle (Reduced from earlier 15%)

All rate changes are effective from **1st October, 2019**

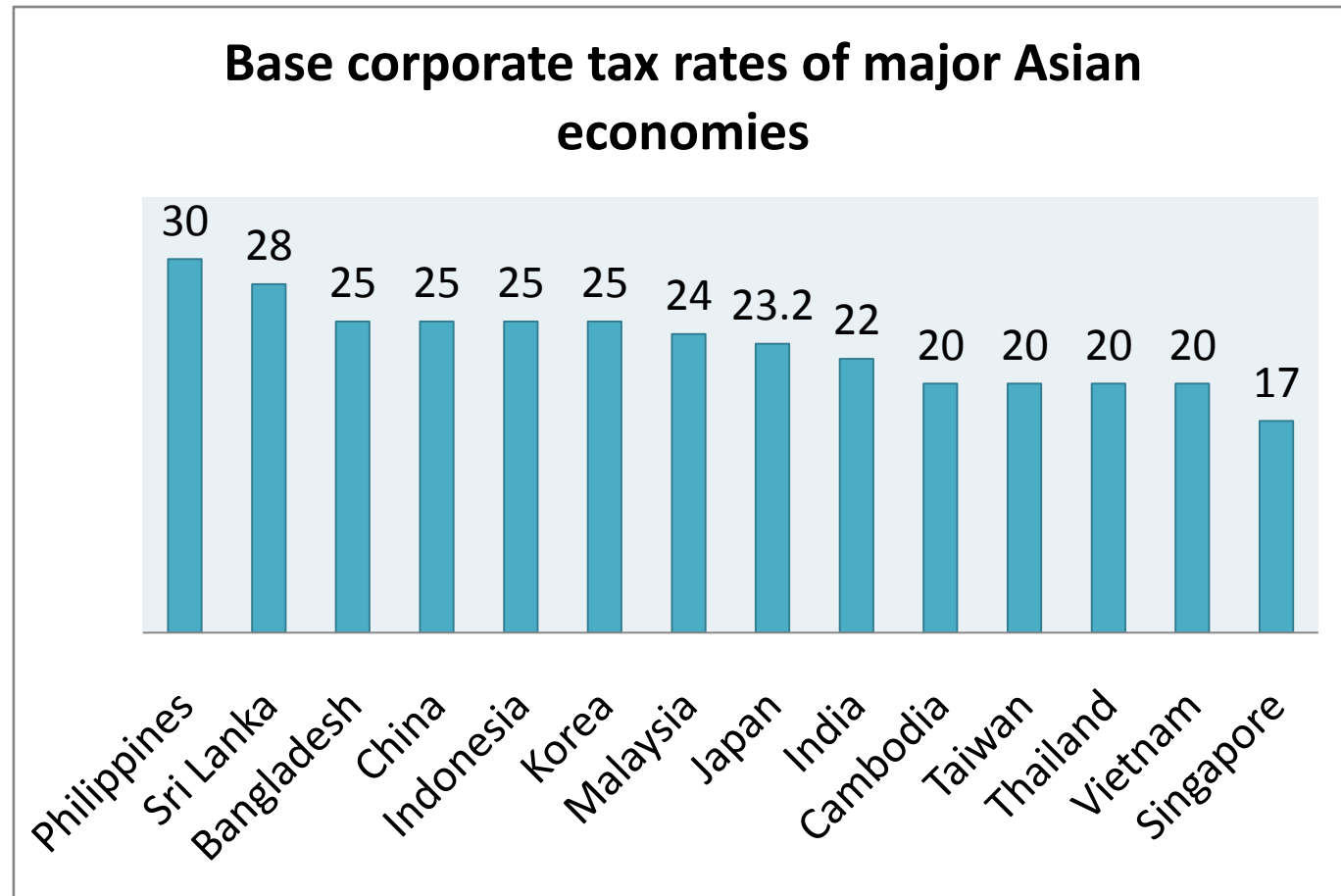


Impact on India Inc

The Impact of change in Corporate tax rates and rationalization of surcharge on FII's saw NIFTY zoom by 690 points, with an addition of INR 7 Lakh Crore to its market capitalization, from its low for the day on 20th September, 2019. The change in corporate tax has placed India in a attractive spot when compared to its other Asian peers. The base corporate tax rate is as below for the ASIAN and neighboring countries.

For new manufacturing companies setup after 1st October, 2019, India is poised to become the most attractive investment for global investors who otherwise were exploring investment options in neighboring countries, will now be attracted with tax rate of a mere 15% (excluding surcharge and cess).

This move will boost investment which will increase employment opportunities thereby resulting in increase in consumption and as a whole marching India towards its \$5 Trillion target.





THANK YOU

CA. Paresh Daga,
Senior Partner,
Manian & Rao, Chartered Accountants,
361, 1 Floor, 7th Cross, 1st Block, Jayanagar, Bangalore – 560 011.
☎+91- 80 – 26569500
Email: info@manian-rao.com ; paresh@manian-rao.com ;