India Budget proposals approved, after consideration given to concerns raised by multinationals

May 20, 2015

In brief

The Indian government presented the annual India Budget through Finance Bill 2015 (Finance Bill) on February 28, 2015. Both Houses of Parliament have approved the Finance Bill with certain amendments, and the amended bill has received presidential assent. Therefore, the proposals are now effective.

The approved budget proposals considered concerns raised about certain provisions such as the Minimum Alternate Tax (MAT) rules and new residency rules applicable to foreign companies. (For more information on the new provisions see PwC Tax Insight, "India Budget 2015 defers GAAR, addresses offshore transfers," March 3, 2015.

In detail

'Place of effective management' to determine residency test for foreign companies

The budget initially proposed that a foreign company would be an Indian resident if its 'place of effective management' (PoEM) is in India at any time during the year.

In the Finance Bill, the words 'at any time' have been deleted from the test. This addresses concern that a foreign company could be considered a 'resident' of India as a result of a single or isolated business decision occurring in India.

MAT does not apply to foreign companies earning passive income from India

Under the initial budget proposals, the MAT exemption was restricted to foreign portfolio investors (FPI) with respect to certain capital gains income.

The Finance Bill extends the exemption to all foreign companies earning capital gains on transactions in securities, interest, royalties, and fees for technical services.

This amendment applies prospectively from April 1, 2015. For prior years through March 31, 2015, the judicial authorities are considering the applicability of the MAT provisions to foreign companies. The government

has left the issue for the courts to decide.

Acquiring shares upon redeeming Global Depository Receipts

When a non-resident acquires shares upon redeeming Global Depository Receipts, the holding period will start on the date that the redemption request is made. The cost of the shares acquired equals the price of such shares on the stock exchange on the redemption request date.

Additional investment allowance

The Finance Bill extends additional depreciation (at 35%) and additional investment allowance to companies setting up manufacturing operations in

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specified areas of Bihar and West Bengal. These areas are in addition to Andhra Pradesh and Telangana as set forth in the initial budget proposals. Companies must meet certain requirements to benefit from these additional allowances.

The takeaway

The amendments to the proposed budget — including applicability of the limits on the MAT to foreign companies earning passive income from India, and making the residency test more reasonable for foreign companies by reducing the scope of PoEM — are welcome changes. The budget 2015 proposals along with the amendments are now effective and need to be considered going forward.

Let's talk

For a deeper discussion of how this might affect your business, please contact:

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