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Global Tax Update

India

Deloitte Tohmatsu Tax Co.

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Mr. Narendra Modi led Government of India presented its first full-fledged reform proposals in the form of Budget 2015 on 28 February 2015. Income tax reform proposals were presented in the form of Finance Bill, 2015. During discussions on the Finance Bill, 2015 the Government proposed certain amendments to the Finance Bill, 2015 which provide further relief to foreign companies. In this issue we discuss those changes.

1. MAT exemption to foreign companies

Minimum Alternate Tax (MAT) is a tax levied at the rate of 18.5% (plus applicable surcharge and cess) if the tax at normal corporate tax rate on the taxable income of a company is less than 18.5% of the book profits. MAT is levied both on domestic and foreign companies.

The Finance Bill, 2015 originally presented proposed to exempt Foreign Institutional Investors (FII) from MAT only with respect to long term capital gains and short term capital gains (on which Securities Transaction Tax is paid).

In a welcome move, the Government has proposed to extend the MAT exemption to the foreign companies as well. It is now proposed that capital gains from transaction in securities, interest, royalty and fees for technical services earned by foreign companies will be out of MAT ambit if the tax rate on these incomes under the relevant provisions is less than 18.5%.

The above amendment will be applicable from 1 April 2015.

2. Residential status of companies

As per provisions originally contained in the tax laws, a company will become resident in India if the control and management of its affairs is **wholly** situated in India. The Finance Bill, 2015 as originally presented on 28th February proposed to change this to the effect that a company will become resident of India if its place of effective management is in India **at any time in the year**.

The Government has proposed to relax the new definition of residential status for companies. The amended Finance Bill has proposed to omit the words ‘at any time’. This will have the effect that a company shall be considered as resident in India it its place of effective management is in India.

The amended Finance Bill has been passed by the lower house of the Parliament and is likely to be enacted after getting the assent of the President of India. This process will expected to be completed soon.

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