

Bill Summary

The Taxation Laws (Amendment) Bill, 2021

- The Taxation Laws (Amendment) Bill, 2021 was introduced in Lok Sabha by the Minister of Finance, Ms. Nirmala Sitharaman, on August 5, 2021. The Bill amends the Income Tax Act, 1961 (IT Act) and the Finance Act, 2012. The 2012 Act had amended the IT Act to impose tax liability on the income earned from the sale of shares of a foreign company on a retrospective basis (i.e., also applicable to the transactions done before May 28, 2012). The Bill proposes to nullify this retrospective basis for taxation. Key features of the Bill include:
 - **Tax on income earned from the sale of shares outside India:** Under the IT Act, non-residents are required to pay tax on the income accruing through or arising from any business connection, property, asset, or source of income situated in India. The amendments made by the 2012 Act clarified that if a company is registered or incorporated outside India, its shares will be deemed to be or have always been situated in India if they derive their value substantially from the assets located in India. As a result, the persons who sold such shares of foreign companies before the enactment of the Act (i.e., May 28, 2012) also became liable to pay tax on the income earned from such sale.
- The Bill proposes to nullify this tax liability imposed on such persons provided they fulfil certain conditions. These conditions are:
 - (i) if the person has filed an appeal or petition in this regard, it must be withdrawn or the person must submit an undertaking to withdraw it,
 - (ii) if the person has initiated or given notice for any arbitration, conciliation, or mediation proceedings in this regard, the notices or claims under such proceedings must be withdrawn or the person must submit an undertaking to withdraw them,
 - (iii) the person must submit an undertaking to waive the right to seek or pursue any remedy or claim in this regard, which may otherwise be available under any law in force or any bilateral agreement, and
 - (iv) other conditions, as may be prescribed.
- The Bill provides that if a concerned person fulfils the above conditions, all assessment or reassessment orders issued in relation to such tax liability will be deemed to have never been issued. Further, if a person becomes eligible for refund after fulfilling these conditions, the amount will be refunded to him, without any interest.

DISCLAIMER: This document is being furnished to you for your information. You may choose to reproduce or redistribute this report for non-commercial purposes in part or in full to any other person with due acknowledgement of PRS Legislative Research ("PRS"). The opinions expressed herein are entirely those of the author(s). PRS makes every effort to use reliable and comprehensive information, but PRS does not represent that the contents of the report are accurate or complete. PRS is an independent, not-for-profit group. This document has been prepared without regard to the objectives or opinions of those who may receive it.