Lok Sabha passes finance Bill, offers relief to foreign e-tailers

Offshore e-commerce platforms no longer have to pay 2% equalization levy on goods sourced from India

'Suvendu Adhikari harbouring criminals': TMC writes to EC seeking intervention in Nandigram
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Asit Ranjan Mishra & Gireesh Chandra Prasad

NEW DELHI

The Lok Sabha on Tuesday passed the Finance Bill, 2021, with finance minister Nirmala Sitharaman introducing fresh amendments giving relief to foreign e-commerce companies.

The amendment means offshore e-commerce platforms don't have to pay 2% equalization levy, or digital service tax, on that portion of goods which are sourced from India.

"Through the amendment I am moving today, I intend to clarify that equalization levy is not applicable on consideration for goods which are owned by Indian residents," Sitharaman said during a day-long debate on the bill.

The digital tax, rolled out on 1 April 2020, applies only to non-resident companies with annual revenues in excess of ₹2 crore, and covers online sales of goods and services to Indians.

Rakesh Nangia, chairman, Nangia Andersen India, a consultancy, said if goods or services listed on a foreign marketplace are owned or provided by an Indian resident or Indian permanent establishment of a foreign entity, it shall be out of the purview of the levy.

Sitharaman said the government is in favour of digital transactions and is not trying to undermine it.

"Equalization levy is a tax which has been imposed to give level-playing field between Indian businesses who pay tax in India and foreign e-commerce companies who do business in India but don't pay any income tax here. We are only trying through the equalization levy to treat everybody who is operating in India equally. If the foreign e-commerce companies pay income tax here then the equalization levy is not applicable to them. Hence there is no extra burden on any company," she added.

The equalization levy became a contentious issue after the US said it discriminated against US firms, and could potentially result in withdrawal of US trade concessions or duties on Indian exports. The US Trade Representative's office in a report released in January said that of the 119 companies that are likely liable under the tax, 86, or 72%, were US firms with an annual tax liability of over $30 million.

Through another amendment, Sitharaman also tweaked the earlier plan proposed in the Finance Bill 2021 to tax interest income earned on Employees' Provident Fund (EPF) contribution above a specified threshold. As per the original proposal, if a person contributed ₹2.5 lakh or more to the EPF account, the interest earned on the contribution above this threshold would become taxable. Employers' contribution was not to be taken into account for calculating the tax liability.

The minister also introduced a higher threshold of ₹5 lakh, which applies only in cases where the employer does not contribute. The limit of ₹2.5 lakh stays keeping in mind that small savers are not impacted by the new rule, the minister said. "Through this amendment, I intend to raise this limit to ₹5 lakh only in those cases where there is no contribution from the employer in that fund."

The Bill also provided for a 10-year income-tax exemption to the National Bank for Financing Infrastructure and Development and a five-year tax exemption to private sector development finance institutions, which can be extended by another five years.

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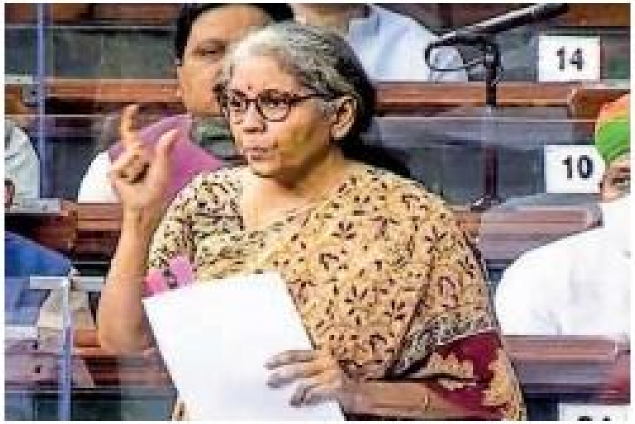

Finance minister Nirmala Sitharaman in the Lok Sabha on Tuesday.

LEVEL-PLAYING FIELD

EQUALIZATION levy is not applicable on consideration for goods owned by Indian resident

IF foreign e-tailers pay income tax here then the equalization levy is not applicable to them, FM said

IN JAN, USTR had said that of the 119 firms liable under the digital tax, 72% were American firms

Pvt DFIs' tax break may get extended

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NEW DELHI

Private sector development finance institutions (DFIs) could get a tax holiday beyond five years if the government chooses to grant it.

The Finance Bill 2021 passed by Lok Sabha on Tuesday grants a 10-year income tax break to the proposed state-owned DFI, and a five-year exemption to private DFIs licensed by the Reserve Bank of India.

The amendments to the Bill cleared by Lok Sabha add that the central government can extend the five-year break by a maximum of five years subject to riders.

The government apparently wants to first see the emergence of private players and then decide on extending the tax break for a longer period.

Equalisation levy relaxed

OUR SPECIAL CORRESPONDENT

New Delhi: The Finance Bill 2021 was passed in the Lok Sabha on Tuesday after the government conceded major changes in the equalisation levy on e-commerce firms and raised the tax-free threshold on provident fund contributions by employees.

The bill also grants a 10-year income tax break to the proposed development financial institution (DFI) and a five-year income tax exemption to private development finance institutions licensed by the Reserve Bank of India.

During the debate in the lower House, finance minister Nirmala Sitharaman said customs duties would be rationalised to help domestic businesses, especially the MSME segment.

The bill said the 2 per cent equalisation levy on foreign-owned e-commerce companies will not apply if the companies have a permanent establishment in India. "Through the amendment I am moving today, I intend to clarify that equalisation levy is not applicable on consideration for goods which are owned by Indian residents," Sitharaman said.

Rakesh Nangia, chairman of Nangia Andersen India, a consultancy, said "if goods or services listed on a foreign marketplace are owned or provided by an Indian resident or Indian permanent establishment of a foreign entity, it shall be out of the purview of the levy." The government on Tuesday also raised the deposit threshold limit to Rs 5 lakh per annum in provident fund for which interest would continue to be tax exempt, if there is no employer contribution.

is no employer contribution.

"The amendment shall impact only the government-sector employees, who contribute to the Statutory Provident Fund/ General Provident Fund. Consequently, while private sector employees earning interest on provident fund on annual contribution exceeding Rs 2.5 lakh would be required to pay tax on interest accruing on such excess contribution, for the government sector employees, the monetary ceiling shall be Rs 5 lakh," Neha Malhotra, director, Nangia Andersen, said.

LS clears Finance Bill with 127 amendments

Asit Ranjan Mishra and Gireesh Chandra Prasad

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NEW DELHI: The Lok Sabha on Tuesday passed the Finance Bill, 2021, with finance minister Nirmala Sitharaman introducing fresh amendments giving relief to foreign e-commerce firms.

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"Equalization levy is a tax which has been imposed to give level-playing field between Indian businesses who pay tax in India and foreign e-commerce companies who do business in India but don't pay any income tax here. We are only trying through the equalization levy to treat everybody who is operating in India equally. If the foreign e-commerce companies pay income tax here then the equalization levy is not applicable to them. Hence there is no extra burden on any company," she added.

The equalization levy became a contentious issue after the US said it discriminated against US firms, and could potentially result in withdrawal of US trade concessions or duties on Indian exports.

The US Trade Representative's office in a report released in January said that of the 119 companies that are likely liable under the tax, 86, or 72%, were US firms with an annual tax liability of over $30 million.

The Bill, which gives effect to tax proposals for FY22, was passed with 127 amendments.

It provided for a 10-year income-tax exemption to the National Bank for Financing Infrastructure and Development and a five-year tax exemption to private sector development finance institutions, which can be extended by another five years.

It also imposed minimum equity holding requirements on ULIPs with high premiums. The original Finance Bill had stipulated that ULIPs with annual premiums over ₹2.5 lakh would lose their tax exempt status on maturity proceeds under Section 10(10)(D) of the Income Tax Act, 1961, and would be taxed on par with equity mutual funds.

The amendment further lays down that such high premium ULIPs would need to meet certain minimum equity holding thresholds to be treated on par with equity mutual funds when it comes to capital gains tax. These minimum thresholds would have to be satisfied throughout the term of the insurance policy.

"Budget 2021 made ULIPs with annual premiums over ₹2.5 taxable on par with equity mutual funds. However the amendment to the Finance Bill further specifies that such ULIPs need to either have 65% of their assets in equity if they are directly investing in stocks or 90% of their assets in equity if they are investing indirectly in stocks through instruments like ETFs (on par with Fund-of-Funds)," said Gautam Nayak, Partner, CNK and Associates LLP.

Key changes

- The Finance Bill, which gives effect to tax proposals for FY22, was passed with 127 amendments in the Lok Sabha on Tuesday.
- It granted a 10-year income tax break to the proposed state-owned DFI
- A 5-year exemption to private DFIs licensed by the RBI, which can be extended by 5 years
- Offshore e-commerce platforms don't have to pay 2% equalisation levy, or digital service tax on goods which are sourced from India
- ULIPs with annual premiums over ₹2.5 lakh would need to meet certain minimum equity holding thresholds to be treated on par with equity mutual funds

Finance Bill gives relief on digital tax, PF threshold

Tax breaks for DFIs; way for LIC listing cleared

SHRIMI CHOUDHARY, DILASHA SETH & BINDISHA SARANG
New Delhi, 23 March

Parliament on Tuesday cleared changes to the finance Bill 2021, doubling the minimum limit of employee contribution to provident fund to over ₹5 lakh for the purpose of taxation with some riders, paving the way for the listing of Life Insurance Corporation (LIC), exempting Indian-owned assets sold on digital platforms from equalization levy, and giving tax holidays for the proposed development finance institutions (DFIs).

However, the employee provident fund (EPF) relaxation may benefit only government employees who contribute to statutory provident fund and central provident fund, some experts said.

Now, an employee getting interest on his contribution to the EPF or similar funds of over ₹5 lakh a year will have to pay tax in case there is no contribution from the employer, according to the amendments proposed by Finance Minister Nirmala Sitharaman and passed by the Lok Sabha. The Rajya Sabha does not have power to make changes to the Bill. In the Budget presented last month, the finance minister had proposed to tax interest earned on EPF contributions of more than ₹2.5 lakh annually. Turn to Page 6 ▸

KEY AMENDMENTS

- The limit of turnover of any assessee doubled to over ₹10 crore from ₹5 crore in finance Bill for the purpose of auditing accounts; existing limit is over ₹1 crore
- PF deposit threshold raised to ₹5 lakh per annum from ₹2.5 lakh for which interest would continue to be tax exempt
- Any future IIFCL–DFI merger to be exempt from capital gains tax

'LET STATES COME AND DISCUSS TAX ON FUEL IN COUNCIL MEETING'

With the Opposition raising concern over high taxes on petrol and diesel, Finance Minister Nirmala Sitharaman on Tuesday invited states to discuss the issue in the next GST Council meeting. "Many of the states would be watching today's discussions, and the next GST Council could begin discussions on the issue. I would be glad to be having this on the agenda and discuss it. I have no issues. Let the states come and discuss it," she said in the Lok Sabha. INDIVJAL DHASMANA

Finance Bill...

However, in the cases where employers contribute, the limit will remain ₹2.5 lakh only, but the employers' contribution will not be counted.

"While private sector employees earning interest on provident fund on annual contribution exceeding ₹2.5 lakh would be required to pay tax on interest accruing on the excess contribution, for government employees, the monetary ceiling will be ₹5 lakh," said Neha Malhotra, director at Nangia Andersen LLP. "Minor relief is being provided by increasing the threshold of employee contribution to provident fund to ₹5,00,000 in the cases where employers do not contribute to the PF," said Gopal Bohra, partner NA Shah Associates.

One of the major changes included the amendments to the Life Insurance Corporation (LIC) Act. It seeks to amend LIC Act, 1956, and brought provisions in alignment with listing and corporate governance norms under the Securities and Exchange Board of India (Sebi). The Budget in February proposed 27 amendments to the Act to help facilitate the listing of the insurance behemoth on the stock exchanges. Through this route, the government may sell shares in LIC.

The amendments proposed to insert new sections in the LIC Act to provide for disqualifications to be a director, disclosure of interest by director and senior management, related-party transactions and adjudication of penalties for contravention or violation liable to penalty under the LIC Act.

The LIC Board will reduce its paid-up equity capital by giving a notice to members and creditors. It will also constitute a committee, which shall be headed by a judge of a high court, to consider repression on reduction, and will submit its suggestions to the board. Further, no one other than the central government shall hold equity shares in excess of 5 per cent of issued equity capital of the corporation.

Another amendment brought in relates to tax holidays for DFIs. The government-owned DFI will be tax exempt for a period of 10 years, while private DFIs will be given tax breaks for five years. However, tax holidays for private DFIs could be extended for 10 years, subject to some conditions.

The amendments also addressed the concerns over the expansion of equalisation levy. Digital tax, aimed at foreign e-commerce operators, will not now apply to goods or services owned and operated by Indians and transacted over an overseas e-commerce platform. This means that if goods or services listed on a foreign marketplace are owned or provided by an Indian resident or Indian permanent establishment of a foreign entity, they shall be out of the purview of the 2 per cent equalisation levy.

With inputs from Indivjal Dhasmana & Sanjay Singh

LOK SABHA CLEARS FINANCE BILL

Goods owned by Indians not to attract equalisation levy

Private DFIs to get tax benefit for five years

OUR BUREAU

New Delhi, March 23

Finance Minister Niramla Sitharaman on Tuesday proposed changes in her Budget proposals, including equalisation levy provisions and tax benefits for private Development Financial Institution (DFI). However, she made no changes to the threshold for contributions to the Employees Provident Fund (EPF) for tax on interest, but subscribers to Government Provident Fund and other funds , where employers do not make any contribution, will have a higher threshold.

With these changes, the Lok Sabha approved the Finance Bill. It will now go to the Rajya Sabha and on it returning the Bill, will be sent to the President for assent. Then, the Bill becomes a law.


Nirmala Sitharaman

Calculation of the levy

On the equalisation levy, the Minister said calculation of the levy will not be applicable for goods owned by Indians. Earlier, the Finance Bill had proposed that 'consideration received or receivable' shall include that received by e-commerce operator, whether the operator owns the goods or not and consideration for provision of service, irrespective of whether the service is provided or facilitated by the operator.

According to Rakesh Nangia, Chairman, Nangia Andersen India, it has now been clarified that such consideration shall not include consideration for sale of goods owned by a person resident in India or by a Permanent Establishment of a foreign entity. Similar amendment has been proposed on provision of services as well. Therefore, if goods or services listed on a foreign marketplace are owned or provided by an Indian resident or Indian PE of a foreign entity, the same shall be out of the purview of the levy. The small changes "amidst high expectations is a little disheartening for businesses owing to the wider implications of the levy," he said.

Higher EPFO subscription cap

On EPFO, Sitharaman admitted that the ₹2.5-lakh cap for EPFO taxation intended to cover a limited number of subscribers. But still it has been decided to raise the limit to ₹5 lakh provided there is no contribution by the employer. This means interest earned on contributions above ₹5 lakh will be taxable.

However, there is no change in the Budget announcement of restricting the tax exemption for the interest income earned on the employees' contribution to various provident funds to ₹2.5 lakh annually. This shall be applicable for contributions made on or after April 1, 2021. For the proposed Development Financial Institution, the government has provided tax benefits. Accordingly, the institution owned by the government will get income tax benefit for 10 years. However, if the institution is set up by private sector under licence from the RBI , the income tax benefit will be for five years.