



CHANGE IN TAX REGIME: DEATH OF BUYBACK?

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THE TRIGGER

In the opinion of SES, change in tax law effective from 1st October 2024, has made buybacks unattractive.

As a proxy advisory firm, SES holds a fiduciary responsibility to educate and inform investors about potential consequences or adverse implications of change in tax laws on buyback proposals that may affect their interests at a fundamental level. This note analyses the implications of changes in tax laws.

BACKGROUND

The Union government, through the Finance (No. 2) Act, inserted a new clause to the definition of dividend under the Income Tax Act, 1961. The newly inserted clause is as follows:

(2)(22)(f)

[(f) any payment by a company on purchase of its own shares from a shareholder in accordance with the provisions of section 68 of the Companies Act, 2013 (18 of 2013);]

As a result of the above change, consideration received from shares tendered under a buyback is considered as 'dividend' income. Dividend income, unlike capital gains, is treated according to an individual's tax slab.

How was the buyback taxed previously?

Prior to the amendment effective from 1st October 2024, the tax treatment of share buybacks was governed by [Section 115QA](#) of the Income Tax Act, 1961, which dealt with the "**Tax on distributed income to shareholders**".

Under the earlier regime:

- Buyback tax (BBT) was levied at the company level, not on shareholders.
- A company undertaking buyback was liable to pay an additional income tax of 20% (plus applicable surcharge and cess) on the distributed income, i.e., the difference between the buyback price and the issue price of the shares.
- Under the earlier regime, the tax liability on buybacks was not computed based on the difference between the buyback price and the actual purchase price paid by each shareholder. Instead, the tax was calculated on the **difference between the buyback price and the original issue price of the shares** at the time they were issued by the company. This meant that the tax did not reflect the true gains or losses of individual shareholders, but rather a notional gain determined solely by the company's historical issue price. While the company bore the tax burden, it still effectively created an indirect burden on all shareholders.
- This was the only income, and investors were not required to pay any tax. The net amount received by the investor was practically tax-free, as tax was already paid by the company.

What is the new law?

1. The entire buyback amount is treated as Dividend income and taxed in the hands of Investors as per their tax slab.
2. Purchase price / acquisition cost is treated as a capital loss in the hands of the shareholder.

How has the change impacted shareholders?

1. Difference in net receipt post buyback based on individual tax slab. Investors may refer to [Annexure I](#) for an illustrative example.
2. Earlier investors were not required to pay tax; now, on one hand, investors have to pay tax and on the other hand, claim capital loss; thus, creating both a tax payment and reporting burden.
3. Within the same tax bracket, a disadvantage to shareholders, if the purchase price was less, basically longevity is penalised.

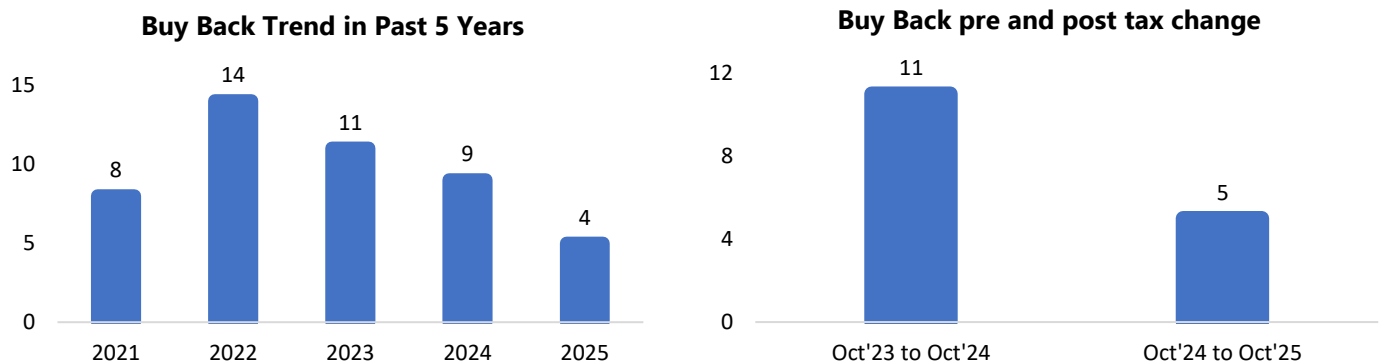


What if the buyback is treated as a Capital Gain/ the same as the sale of shares at the stock exchange?

- Entire gain will be taxed at capital gain, same tax rate for all
- Only one item in the tax return

Buyback trend in the last 5 years:

The data presented below reflects the buyback trend over the last five years, including in the current year up to 31st October, 2025. The figures are based on the number of buyback cases reviewed by SES. While SES does not claim the data to be exhaustive or fully accurate, it is intended to provide readers with a broad, indicative view of recent buyback trends in the market.

**Conclusion:**

The trend over the past five years indicates a consistent decline in the number of buyback proposals by the Companies. With the introduction of the revised tax regime effective October 2024, wherein buyback proceeds are treated as dividend income and taxed in the hands of shareholders, the attractiveness of buybacks as a means of returning value to investors is expected to diminish further. Consequently, SES is of the view that, under the prevailing tax framework, buybacks can no longer be regarded as a shareholder-friendly measure.



ANNEXURE I**Lower purchase price: A disadvantage?**

Taxation is an individual-specific matter, inherently complex and dependent on multiple factors such as income profile, holding period, and applicable tax provisions. Consequently, it cannot be comprehensively analysed within the scope of this report. However, for educational purposes, SES has undertaken a simplified analysis to illustrate how the net cash flow in the hands of investors may vary based on their purchase price, thereby providing an indicative understanding of the potential tax impact under different scenarios.

Calculation of Tax- Cash flow		(All figures in ₹)			
Buy Back Price (Assumption)	300	300	300	300	300
Number of shares bought back (Assumption)	10	10	10	10	10
Purchase price (Assumption)	10	50	100	200	280
Amount received as buyback	3,000	3,000	3,000	3,000	3,000

Every shareholder receives the same amount for tendering 10 shares, irrespective of holding period, tax status, etc.

Taxation on Buy Back Amount as Dividend		(All figures in ₹)			
Tax slab					
0%	-	-	-	-	-
10%	300	300	300	300	300
15%	450	450	450	450	450
20%	600	600	600	600	600
30%	900	900	900	900	900

Each investor is liable to pay tax in accordance with their applicable tax rates. The above illustration has been prepared for Indian resident individual shareholders. The tax implications for non-individual and non-resident shareholders may differ depending on their respective tax status and applicable laws, which SES has not attempted to compute in this analysis.

Capital loss (₹)	100	500	1,000	2,000	2,800
Long-term tax rate (%)	12.50%	12.50%	12.50%	12.50%	12.50%
Capital Loss tax credit (Long Term) (₹)	13	63	125	250	350
Capital Gain, if Buy Back is treated as a sale of shares (₹)	2,900	2,500	2,000	1,000	200
Capital Gain Tax (₹)	362	312	250	125	25
Net Cash in Hand (₹)	2,538	2,188	1,750	875	175

For a resident individual taxpayers, the Long-Term Capital Gains (LTCG) tax rate is 12.50%. Since all shareholders would be incurring a capital loss in the given scenario, they may obtain a tax advantage by setting off this loss against any existing or future capital gains. The potential benefit from such a set-off for resident individuals has been illustrated above. However, if a shareholder is unable to utilise or claim the benefit of this capital loss, the overall net cash inflow would be further reduced.

Net Cash Inflow (As per revised tax law)					
Tax slab					
0%	3,013	3,063	3,125	3,250	3,350
10%	2,713	2,763	2,825	2,950	3,050
15%	2,563	2,613	2,675	2,800	2,900
20%	2,413	2,463	2,525	2,650	2,750
30%	2,113	2,163	2,225	2,350	2,450



It can be observed that the lower the purchase price (cost) of shares, the lower the net post-tax cash an investor receives. For instance, an investor who purchased shares at ₹280 per share is better off by ₹337 compared to an investor who purchased at ₹10 per share, despite both receiving the same buyback price of ₹300 per share.

In view of the following considerations:

- Early investors, who acquired shares at a lower cost, are disadvantaged under the current tax framework;
- A large segment of retail investors may not be well-versed in tax planning;
- Some investors may not be regular tax filers; and
- The scheme is rewarding for one class of shareholders (who bought at a higher price).

SES is of the view that, under the prevailing tax regime, a buyback is not a shareholder-friendly measure.



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