BUYBACK OF SHARES - FINANCE BILL 2026

The Government has revisited the taxation of share buy-backs with notable frequency - making, unmaking, and remaking the framework over the years, each time adopting a fresh approach. The latest iteration, announced in the Budget yesterday through the Finance Bill, 2026, proposes a promoter-based classification for taxing buy-back transactions.

Historically, prior to the Finance Act, 2013, buy-back proceeds were taxed as capital gains in the hands of shareholders. This position changed in 2013 with the introduction of a special regime that shifted the tax incidence to the company, broadly aligned with the dividend distribution tax framework, thereby exempting shareholders. Subsequently, the regime was reversed once again, with buy-back proceeds being taxed as dividend income in the hands of shareholders, coupled with a mechanism permitting loss recognition up to the amount of the original investment.

Continuing this pattern of frequent policy shifts, the Finance Bill, 2026 now proposes to tax buy-back proceeds in the hands of shareholders by categorising them as promoters and non-promoters, in line with applicable SEBI regulations (for listed companies) and the Companies Act (for unlisted companies).

Proposed tax regime effective from 1 April 2026

Non-promoters

Buy-back proceeds would be taxed as capital gains, at the applicable capital gains tax rates relevant to the non-promoter shareholder tendering shares in the buy-back.

Promoters

The tax rates for promoters are proposed as follows:

Category	Gains	Domestic Company	Other than Domestic Company
Listed shares	STCG	20% + 2% = 22%	20% + 10% = 30%
Listed / Unlisted securities	LTCG	12.50% + 9.5% = 22%	12.50% + 17.50% = 30%

It is noteworthy that, in the case of unlisted companies, a shareholder holding 10% or more of the shares would automatically be treated as a ‘promoter’ for the limited purpose of buy-back taxation, thereby attracting the higher tax rates.

Beyond rate changes, the amendments significantly tighten the overall framework and have broader implications, including:

1. Capital gains earned by Individual and HUF shareholders may be optimised through investment-based deductions (subject to prescribed conditions), where the gains qualify as long-term capital gains.
2. For foreign shareholders, treaty benefits under applicable DTAAs could potentially lower the effective tax rate, subject to detailed evaluation.
3. Indian corporate shareholders would no longer be able to avail dividend upstreaming deductions, a benefit that multi-layered corporate structures had previously leveraged while upstreaming surplus funds.
4. Taxation of buy-back proceeds as capital gains would bring into play other capital gains provisions, including deemed valuation rules, cost deductions, and related adjustments—necessitating a separate cost-benefit analysis for corporates and promoters.

Overall, the proposed changes to the buy-back taxation regime reflect the Government's continued emphasis on tightening anti-avoidance measures while recalibrating the incidence of tax across different categories of shareholders. While the shift to a promoter-based approach marks a significant departure from the earlier one-size-fits-all framework, it also introduces additional layers of complexity around valuation, rate determination, withholding, and compliance. Going forward, companies and shareholders will need to reassess buy-back strategies with greater care, factoring in shareholder profiles, treaty positions, and valuation implications, as the effectiveness of buy-backs as a capital management tool will increasingly hinge on informed structuring rather than mere commercial intent.