MAT effect: Limited liability partnerships lose charm

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Mumbai : Over 3,900 limited liability partnerships (LLPs) — floated by corporates and others — registered in the last three years have lost their charm with the finance minister slapping minimum alternate tax (MAT) on them.

The current Budget proposal in this regard may act as a disincentive for the adoption of the LLP model, especially when compared to the partnership model, since partnerships still fall outside the purview of MAT, albeit the partners have unlimited liability, legal experts said.

The LLP Act was formulated to provide an entity form which provides flexibility in doing business and it was made particularly attractive by exempting it from the purview of DDT (dividend distribution tax) and MAT. In the latest Budget, it has been provided that where the regular income tax payable by a LLP for a particular financial year is less than the corresponding alternate minimum tax — specially called AMT for LLPs — computed at the rate of 18.5 per cent on its adjusted total income, such alternate minimum tax will be deemed to be the income tax liability of such LLP.

“Further, the Budget has provided for the computation of ‘adjusted total income’ by increasing the total income of a LLP for the relevant year by specific deductions claimed under the ITA, including those claimed by a SEZ unit of such taxpayer, if any,” said legal firm Nishith Desai Associates.

LLPs will be permitted to carry over the credit for the alternate minimum tax for a period of 10 years and to use the same to set off any regular income tax liability payable by such LLP in a subsequent year. “It should be noted that under the present regime MAT is applicable only to companies,” Nishith Desai said.

LLPs were introduced in India vide the Limited Liability Partnership Act, 2008 , combining the beneficial features of a company and partnership, such as distinct legal personality, limited liability while allowing for operational flexibility.

The ITA currently provides a beneficial tax regime for LLPs with a single-tier tax of 30 per cent (such income is not taxed again in the hands of the limited partners) and exempts LLPs from DDT and MAT.