



Global Business Tax Alert Sharp Insights

In a major relief to FIIs,
MAT proceedings put on
hold by the Government

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Synopsis

The Central Board of Direct Taxes (CBDT) has issued an internal instruction to the tax officers to put on hold all proceedings concerning levy of Minimum Alternate Tax (MAT) to all foreign companies especially Foreign Institutional Investors (FIIs).

MAT demands by tax officers

- While completing the scrutiny assessments (tax audits) for the financial year 2011-12, the tax officers challenged why FIIs had not paid tax as per MAT provisions as the tax rate as per MAT provisions is higher as compared to capital gains
- In response to the MAT notices, detailed submissions were made to the tax authorities explaining why MAT provisions are not applicable to FIIs, also representations were made to the Government on this issue
- The Government has in Budget 2015 proposed an amendment to tax provisions stipulating that MAT provisions would not be applicable to capital gains and interest income earned by FIIs from 1st April 2015.
- Since, the budget amendment is applicable prospectively from 1st April 2015, the tax officers interpreted that MAT should apply for prior years and therefore raised tax demands for the financial year 2011-12 and also re-opened assessments for prior years with a view to apply MAT
- The MAT demands raised by the tax authorities have been appealed against by the FIIs to various forums including Dispute Resolution Panel, Commissioner of Income Tax (Appeals) and in some cases the Honorable High Court.
- Some of the major international associations of funds including ICI Global, ASIFMA, EFAMA, CMTC have made representations to the Government post levy of MAT by the tax authorities. The press reports also suggest that the levy of MAT by tax authorities has resulted in a huge backlash from the FIIs evident from considerable exodus of funds from Indian capital markets in the last couple of weeks

MAT proceedings put on hold

- On 30th April 2015, the lower house of Parliament passed the Finance Bill, 2015 with the amendment that effective 1st April 2015, MAT will not apply to all foreign companies (including FIIs) on the capital gains, interest income and royalty or fees from technical services earned in India.
- On 7th May 2015, the Finance Minister while discussing the Finance Bill, 2015 in the upper house of Parliament announced constitution of a Committee to look into the applicability of MAT provisions to FIIs for the period prior to 1st April 2015 and submit a report expeditiously.
- The Government has today (11 May 2015) issued an internal instruction to all the tax officers to put on hold all the proceedings concerning MAT issue for foreign companies, especially FIIs. The proceedings put on hold include cases where MAT demands have already been raised or assessments are under process or notices are yet to be issued.

Comments

The Government's direction to the tax officers to put on hold all MAT related proceedings is certainly a huge relief for the FIIs. Also, since the Committee set up to look into the MAT issue is expected to give its report expeditiously, one can hope that an effective resolution of the issue is on the cards soon.

Source: CBDT notification dated 11th May 2015, FTS No. 96370/2015

Upcoming Dbriefs - Register

Goods and Services Taxation in India: A New Beginning

Thursday, 14 May, 11:30 AM – 12:30 PM IST

The introduction of Goods and Services Taxation (GST) in India has seen numerous delays caused by many factors, such as concerns over the loss of fiscal autonomy enjoyed thus far and issues surrounding which taxes to subsume and which goods to exclude from GST. Gain insights from the Deloitte experts with an in-depth analysis of the 2015 India's Budget. For more information, visit the [Dbriefs](#) page.



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