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Tax alert: FAQs on capital gains regime as proposed in Union Budget 2024-25

26 July 2024

The Central Board of Direct Taxes (CBDT) has issued Frequently Asked Questions (FAQs) dated 24 July 2024, clarifying certain points in relation to the capital gains regime as proposed in Union Budget 2024-25 and as presented in the Lower House of the Parliament on 23 July 2024.

Background:

- Union Budget 2024-25 was presented in the Lower House of the Parliament on 23 July 2024, vide the Finance Bill (No.2) 2024 [FB 2024], wherein, inter-alia, it was stated that capital gains taxation is proposed to be hugely simplified[1].
- In order to provide clarification on the proposed amendments related to the capital gains regime, the Central Board of Direct taxes (CBDT), under the Ministry of Finance (MoF) has issued Frequently Asked Questions (FAQs) vide its press release[2] dated 24 July 2024.

Highlights of the FAQs:

The following clarifications are provided by the CBDT, in FAQ form, as regards to the various provisions under the Income-tax Act, 1961 (ITA) related to capital gains:

1. What are the major changes brought about in the taxation of capital gains by the FB 2024?

Answer:

The taxation of capital gains has been rationalised and simplified. There are 5 broad parameters to this rationalisation and simplification, namely:-

— Holding period has been simplified. There are only two holding periods now, viz. 1 year and 2 years.

— Rates have been rationalised and made uniform for majority of assets.

— Indexation has been done away with, for ease of computation with simultaneous reduction of rate from 20% to 12.5%.

— Parity between Resident and Non-resident categories.

— No change in roll over benefits.

2. What is the date when the new taxation provisions come into force?

[1] As per Finance Minister's budget speech delivered on 23rd July 2024

[2] https://pib.gov.in/PressReleasePage.aspx?PRID=2036604

Answer:

The new provisions for taxation of capital gains come into force from 23 July 2024 and shall apply to any transfer made on or after 23 July 2024.

3. How has the holding period been simplified?

Answer:

Earlier there were 3 holding periods to considering an asset to be a long-term capital asset. Now, the holding period has been simplified. There are only two holding periods - for listed securities, it is 1 year, for all other assets, it is 2 years.

4. Who will benefit from the change in holding period?

Answer:

The holding period of all listed assets will now be 1 year. Therefore, for listed units of business trusts[3] (ReITs, InVITs) the holding period is reduced from 36 months to 12 months. The holding period of gold, unlisted securities (other than unlisted shares) is also reduced from 36 months to 24 months.

5. What about the holding period of immovable property and unlisted shares?

Answer:

The holding period of immovable property and unlisted shares remains the same as earlier i.e. 24 months.

6. Please elaborate on change in the rate structure for STT[4] paid capital assets?

Answer:

Rate for short-term STT paid on listed equity, equity oriented mutual fund and units of business trust (section 111A of the ITA) has been increased from 15% to 20%. Similarly, the rate for these assets for long-term (section 112A of ITA) has been increased from 10% to 12.5%.

7. Is there any change in the exemption limit for long-term capital gains under section 112A which was earlier INR 1 lakh?

Answer:

Yes. The exemption limit of INR 100,000 for LTCG on these assets has also been increased to INR 125,000. This increased exemption limit will apply for Financial Year (FY) 2024-25 and subsequent years.

8. Please elaborate on change in the rate structure for other long-term capital gains?

Answer:

The rate for other long-term capital gains on all assets has been rationalized to 12.5% without indexation (section 112 of the ITA). This rate was earlier 20% with indexation. This will ease in simplifying the taxation of capital gains and their easy computation.

9. Who will benefit by change in rate from 20% (with indexation) to 12.5% (without indexation)?

Answer:

The reduction in the rate will benefit all category of assets. In most of the cases, the taxpayers will benefit substantially. But where the gain is limited vis-a vis inflation, the benefit will also be limited or absent in a few cases.

10. Can the taxpayer continue to avail the roll over benefits on capital gains?

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[3] Real Estate Investment Trusts and Infrastructure Investment Trusts

[4] Securities Transaction Tax

Answer:

Yes. The roll over benefits remains the same as earlier. There is no change in roll over benefits already available under the ITA. Therefore, taxpayers who want to save on LTCG tax even with low rates, can continue to avail the roll over benefits on fulfillment of conditions as applicable.

11. In which assets, can the long-term capital gains be invested for roll over benefits?

Answer:

For roll over benefits, taxpayers can invest their gains in-house under section 54 or section 54F or in certain bonds under section 54EC of the ITA. For complete details of all roll over benefits, please refer sections 54, 54B, 54D, 54EC 54F, 54G of the ITA.

12. What is amount up to which roll over benefit is available?

Answer:

In investment of capital gain in 54EC bonds (up to INR 5 million) and in other cases, the capital gain is exempt from tax, subject to certain specified conditions.

13. What is the overall rationale for changes?

Answer:

Simplification of any tax structure has benefits of ease of compliance viz computation, filing, maintenance of records. This also removes the differential rates for various classes of assets.

Comments:

The FAQs released immediately, a day after the presentation of the Union Budget 2024-25, shall provide clarity in interpreting some of the amendments proposed to be brought vide FB 2024 in relation to overhaul of the capital gains regime under various provisions of the ITA.