



Ministry of Finance

Central Board of Direct Taxes requests for stakeholder's comments on draft of Notification to be issued Under Section 10(38) of the Income-tax Act, 1961

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Section 10(38) of the Income-tax Act, 1961 ('the Act'), prior to its amendment by Finance Act, 2017, provided that the income arising by way of a transfer of long term capital asset, being equity share in a company, shall be exempt from tax if such transfer is undertaken after 1st October, 2004 and chargeable to Securities Transaction Tax (STT) under Chapter VII of the Finance (No. 2) Act, 2004.

In order to curb the practice of declaring unaccounted income as exempt long term capital gain by entering into sham transactions, the Finance Act, 2017 amended the provisions of section 10 (38) of the Act to provide that exemption under this section for income arising on transfer of equity share acquired or on after 1st day of October, 2004 shall be available only if the acquisition of share is chargeable to STT. However, to protect the exemption for genuine cases where the STT could not have been paid like acquisition of share in IPO, FPO, bonus or rights issue by a listed company acquisition by non-resident in accordance with FDI policy of the Government etc, it was also provided that the Central Government shall notify the acquisition for which the condition of chargeability to STT shall not apply.

In view of the above, it is proposed to notify that the condition of chargeability to STT shall not apply to all transactions of acquisitions of equity shares entered into on or after the first day of October, 2004 other than the specified transactions. In order to have wider consultation in this matter, the draft of notification proposed to be issued under section 10 (38) of the Act has been uploaded on the website www.incometaxindia.gov.in. The stakeholders are requested to submit their comments/suggestions on the draft notification by **11th April, 2017** at the email address dirtpl2@nic.in.

DSM/VKS

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