



CBDT notifies transactions for which the condition of chargeability to STT for claiming exemption under Section 10(38) of the Income Tax Act, 1961 shall not apply.

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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, 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 has been notified 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 such as acquisition of listed shares in preferential issues of a company whose shares are not frequently traded in a recognised stock exchange; acquisition of existing listed equity share in a company not through a recognised stock exchange of India and acquisition of shares of company during the period of its delisting. However, to protect the interest of genuine investors, exceptions are also provided in the specified transactions. The notification is available on www.incometaxindia.gov.in.

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