

# What's New

## News Flash



June 2017

### ***Exemption of tax on long term capital gains where no STT has been paid on purchase - CBDT issues final notification***

You may be aware that recently<sup>1</sup> the provisions relating to exemption of tax on long term capital gains as per section 10(38) of the Income-tax Act, 1961 ('the Act') had been amended. Tax exemption on transfer of equity shares acquired on or after 1st day of October, 2004 shall be available only if the acquisition of share is chargeable to Securities Transaction Tax ('STT').

However, to protect exemption for genuine cases where the STT could not have been paid, it was provided that the Central Government shall notify the acquisitions for which the condition of chargeability of STT shall not apply.

In this regard, the government had earlier issued the draft<sup>2</sup> notification for comments. Pursuant to the public comments, it has issued the final notification<sup>3</sup> which provides that all non-STT paid transactions will be eligible for exemption except for the negative list. The said notification is attached below for your reference.

On perusal of the notification, you may note that the following transactions relevant to Foreign Portfolio Investors ('FPIs') should be eligible for long term capital gain tax exemption on sale of such shares, even if no STT was paid at the time of its acquisition :

- Acquisition of shares by Category I and Category II FPIs;
- Acquisition through issue of share by a company, other than preferential issue (eg: IPO, FPO, Bonus or Rights issue);
- Acquisition by mode of transfer referred to in section 47 of the Act (transactions which are not regarded as transfer)
- Acquisition of shares which has been approved by SEBI (eg: Free of cost transfer)

The notification shall come into force with effect from 1st April 2017 i.e; financial year 2017-18 and onwards.

<sup>1</sup> The Finance Act, 2017

<sup>2</sup> <http://www.incometaxindia.gov.in/news/draft-notofication-10-38-for-web-manager-03-04-2017.pdf>

<sup>3</sup> [http://www.incometaxindia.gov.in/communications/notification/notification43\\_2017.pdf](http://www.incometaxindia.gov.in/communications/notification/notification43_2017.pdf)

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PwC TRS Team

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