

TAX FLASH NEWS

The CBDT Press Release on phasing out plan of deductions under the Income-tax Act

Background

The Finance Minister in his Budget Speech of 2015 indicated that the rate of corporate tax will be reduced from 30 per cent to 25 per cent over the next four years along with corresponding phasing out of exemptions and deductions available under the Income-tax Act, 1961 (the Act).

In this relation, the Central Board of Direct Taxes (CBDT) has issued a Press Release¹, wherein it is stated that it is a step towards the simplification of tax laws, which is expected to bring about transparency and clarity.

Proposal to implement this decision

The government proposes to implement this decision in the following manner:

- Profit-linked, investment-linked and area-based deductions will be phased out for both corporate and non-corporate taxpayers.
- The provisions having a sunset date will not be modified to advance the sunset date. Similarly, the sunset dates provided in the Act will not be extended.
- In case of tax incentives with no terminal date, a sunset date of 31 March 2017 will be provided either for commencement of the activity or for claiming of a benefit, depending upon the structure of the relevant provisions of the Act.
- There will be no weighted deduction with effect from 1 April 2017.

Details of the phasing out plan

The details of the phasing out plan to be implemented are as under:

- Section 32 - Depreciation under the Act is available up to 100 per cent in respect of certain block of assets. The highest rate of depreciation under the Act is proposed to be reduced to 60 per cent, to be made applicable from 1 April 2017, to all the assets (whether old or new) falling in the relevant block of assets.
- Section 35AD - This provision of the Act provides for 100 per cent deduction of capital expenditure (other than expenditure on land, goodwill and financial assets) incurred by certain specified businesses such as laying and operating a cross-country natural gas or crude or petroleum oil pipeline network, building hotel (two star and above), a warehousing facility for sugar, etc. However, in case of a cold chain facility, a warehousing facility for storage of agricultural produce, an affordable housing project, production of fertilizer, etc., a weighted deduction of 150 per cent of capital expenditure is allowed. It is proposed that no weighted deduction will be allowed on any specified business with effect from 1 April 2017.
- Section 35AC - No deduction under Section 35AC of the Act will be available from Financial Year (FY) 2017-18 (Assessment Year 2018-19).
- Section 35 - This provision of the Act provides for deduction of expenditure incurred on scientific research. It allows for both capital and revenue expenditure and also allows for the weighted

¹ CBDT Press Release, dated 20 November 2015

deduction of donations made to certain institutions/associations/companies for scientific research. It is proposed to provide that –

- Deduction under Section 35(1)(ii), (ia), (iii) and 35 (2AA) is proposed to be restricted to 100 per cent from FY 2017-18, and
- Deduction under Section 35(2AB) of the Act is proposed to be limited to 100 per cent from FY 2017-18 as against 200 per cent available up to 31 March 2017 under the Act.
- There are certain tax incentives which at present do not have any sunset date for commencement of an activity. It is proposed to provide a sunset date of 31 March 2017 for commencement of an activity in the following cases:
 - Development, operation and maintenance of an infrastructure facility [Section 80-IA(4)(i)].
 - Development of a Special Economic Zone (SEZ) (Section 80-IAB).
 - Export of articles or things or services by a unit located in a SEZ (Section 10AA).
 - Commercial production of natural gas in blocks licenced under CBM-IV and NELP VIII. [Section 80-IB(9)(iv)&(v)].
 - Commercial production of mineral oil from blocks licenced under a contract awarded up to 31 March 2011. [Section 80-IB(9)(ii)].
- No weighted deduction is proposed to be provided under Section 35CCC² and 35CCD³ from 1 April 2017. However, a deduction up to 100 per cent of expenditure referred to therein shall be available.

Comments on the aforesaid phasing out plan

Comments on the aforesaid phasing out plan may be sent within 15 days to the Director (TPL-III) on mail at dirtpl3@nic.in or by post⁴.

Our comments

The Finance Minister in his Budget speech of 2015 mentioned that the basic rate of corporate tax in India at 30 per cent is higher than the rates prevalent in the other major Asian economies, making our domestic industry uncompetitive. Moreover, the effective collection of corporate tax is about 23 per cent. India has been losing out on both counts, i.e. India is considered as having a high corporate tax regime but it does not get that tax due to excessive exemptions. A regime of exemptions has led to pressure groups, litigation and loss of revenue. It also gives room for avoidable discretion. Therefore, it was proposed to reduce the rate of corporate tax from 30 per cent to 25 per cent over the next 4 years. The Finance Minister stated that this process of reduction has to be necessarily accompanied by rationalisation and removal of various kinds of tax exemptions and incentives for corporate taxpayers, which incidentally account for a large number of tax disputes. It was proposed to start the phased reduction of corporate tax rate and phased elimination of exemptions from the next financial year.

The deductions and incentives have been provided to advance the social and economic well-being of the society as well as that of the industries in India, and not merely for tax collection purposes. For e.g. a weighted deduction for expenditure incurred on scientific research is targeted to make India self-reliant in the related fields, a higher rate of depreciation was provided to incentivise environment friendly equipment, higher investments in backward regions, etc. Further, certain companies have heavily invested in projects considering the available tax benefits and phasing out such benefits may entail a financial burden and therefore, recasting the financial planning of such companies.

The Government has invited suggestions on the aforesaid phasing out plan which may be sent within 15 days by e-mail or by post.

² Expenditure on agricultural extension project

³ Expenditure on skill development project

⁴ In an envelope under the caption "Phasing out of deductions" at the following address:

Director (TPL III), Central Board of Direct Taxes, Room No. 147G, North Block, New Delhi 110001

www.kpmg.com/in

Ahmedabad

Commerce House V, 9th Floor,
902 & 903, Near Vodafone House,
Corporate Road,
Prahlad Nagar,
Ahmedabad – 380 051
Tel: +91 79 4040 2200
Fax: +91 79 4040 2244

Bengaluru

Maruthi Info-Tech Centre
11-12/1, Inner Ring Road
Koramangala, Bangalore 560 071
Tel: +91 80 3980 6000
Fax: +91 80 3980 6999

Chandigarh

SCO 22-23 (1st Floor)
Sector 8C, Madhya Marg
Chandigarh 160 009
Tel: +91 172 393 5777/781
Fax: +91 172 393 5780

Chennai

No.10, Mahatma Gandhi Road
Nungambakkam
Chennai 600 034
Tel: +91 44 3914 5000
Fax: +91 44 3914 5999

Delhi

Building No.10, 8th Floor
DLF Cyber City, Phase II
Gurgaon, Haryana 122 002
Tel: +91 124 307 4000
Fax: +91 124 254 9101

Hyderabad

8-2-618/2
Reliance Humsafar, 4th Floor
Road No.11, Banjara Hills
Hyderabad 500 034
Tel: +91 40 3046 5000
Fax: +91 40 3046 5299

Kochi

Syama Business Center
3rd Floor, NH By Pass Road,
Vytila, Kochi – 682019
Tel: +91 484 302 7000
Fax: +91 484 302 7001

Kolkata

Unit No. 603 – 604,
6th Floor, Tower – 1,
Godrej Waterside,
Sector – V, Salt Lake,
Kolkata 700 091
Tel: +91 33 44034000
Fax: +91 33 44034199

Mumbai

Lodha Excelus, Apollo Mills
N. M. Joshi Marg
Mahalaxmi, Mumbai 400 011
Tel: +91 22 3989 6000
Fax: +91 22 3983 6000

Noida

6th Floor, Tower A
Advant Navis Business Park
Plot No. 07, Sector 142
Noida Express Way
Noida 201 305
Tel: +91 0120 386 8000
Fax: +91 0120 386 8999

Pune

703, Godrej Castlemaine
Bund Garden
Pune 411 001
Tel: +91 20 3050 4000
Fax: +91 20 3050 4010

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