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# TAXTIME

NEWSLETTER

## DIRECT TAX NEWS

### GOVERNMENT PLANS REFORM IN CAPITAL GAIN TAX


The Narendra Modi administration is likely to revamp the capital gains tax structure in the next budget to augment revenue collections and boost spending on welfare schemes, two officials aware of the deliberations said.

At the heart of the proposal being studied in the finance ministry is the government's philosophy that passive income earned from the capital market should not be taxed at a lower rate than income earned from doing business, which involves taking entrepreneurial risks and job creation.

The plan is also rooted in the government's idea of welfarism for which revenue needs to be boosted.

“Making the capital gains tax structure more efficient needs legislative amendments. This may be taken up in the next budget as it cannot be done out of the blue," said one of the officials

In India, long-term capital gains on listed equities held for more than a year is taxed at 10% on the portion of such gain above a threshold of ₹1 lakh. This provision was introduced with effect from 1 April 2019.

The capital gains tax regime prescribes the holding period for determining whether the gain made when selling the asset is short term or long term.

Short-term capital gain on listed equities held for less than a year is taxed at 15% in the case of listed shares and the applicable tax slab if it is unlisted.

During post-budget industry interactions, revenue secretary Tarun Bajaj said on 9 February that the capital gains tax structure has become too complicated and needs a relook. Later, on 28 February, he said 80% of the long-term capital gains from equities in FY20 was made by people earning ₹50 lakh and more.

“We have looked at the capital gains tax structure in other countries, and we cannot be an outlier," said the first official.

The government estimates that long-term capital gains are taxed in many countries at the 25-30% range, or the applicable income tax rates.

# PIZZA TOPPING IS NOT PIZZA, SO WILL ATTRACT A HIGHER GST LEVY

A pizza topping is not a pizza and hence should be classified differently and levied a higher 18% goods and services tax (GST), the Haryana appellate authority for advance ruling (AAAR) has ruled. This could complicate taxation for several pizza brands, especially when the pizzas are sold within a hotel or restaurant, said tax experts.

GST rates on pizzas differ on the basis of how they are prepared and sold. A pizza sold and eaten within a restaurant attracts 5% GST, the pizza base bought separately attracts 12% while a pizza delivered at home attracts 18% GST.

The AAAR ruled on March 10 that pizza topping should face 18% GST as its preparation method is different from that of a pizza. It considered all the ingredients used in a topping and concluded that while a pizza topping is sold as a "cheese topping" it's not really cheese and hence should attract higher taxes.

The authority ruled that pizza topping contains "vegetable fat" as a substantial portion, being 22% of the ingredients, and hence, it does not qualify to be categorised as 'processed cheese' or a type of cheese. Pizza topping would merit classification as 'food preparation', it said.

Tax experts said GST rates could depend on three tests - common parlance test, end use test or ingredients test - and that often tax rates could differ how a product is categorised. Cheese, for example, is taxed at a lower rate if it is called "fat" or processed food preparation.

# NO EXCISE DUTY CUT ON PETROL/DIESEL

The government has ruled out cutting central excise duty on petrol and diesel. In the meantime, it is looking to the Russian window for supply of crude, which is expected to cushion the impact of surging prices of Indian basket of crude

The Centre collects ₹27.90 a litre on petrol and ₹21.80 a litre on diesel with a specific rate structure. This is not going to change even with the price of Indian basket of crude surging to $128.24 a barrel on March 9 from $117.39 on March 3. Significantly, the oil marketing companies (OMCs) have not revised retail prices of petrol and diesel since November.

A Finance Ministry official confirmed that “there is no duty revision proposal on the table at the moment.” This is against presumptions about increases by OMCs and cuts in excise duty in the wake of the surge in the Indian basket of crude prices that comprises Oman, Dubai and Brent crude. The retail prices are still lower than the expectation of price revision of ₹9-14. India imports 85 per cent of its crude requirement.

# INTERNATIONAL TAX CORNER

## OECD RELEASES DETAILED TECHNICAL GUIDANCE ON THE PILLAR TWO MODEL RULES

On 14th March the OECD/G20 Inclusive Framework on BEPS released further technical guidance on the 15% global minimum tax agreed in October 2021 as part of the two-pillar solution to address the tax challenges arising from digitalisation of the economy. The Commentary published elaborates on the application and operation of the Global Anti-Base Erosion (GloBE) Rules agreed and released in December 2021. The GloBE Rules provide a co-ordinated system to ensure that Multinational Enterprises (MNEs) with revenues above EUR 750 million pay at least a minimum level of tax – 15% – on the income arising in each of the jurisdictions in which they operate.

The release of the Commentary to the GloBE Rules now provides MNEs and tax administrations with detailed and comprehensive technical guidance on the operation and intended outcomes under the rules and clarifies the meaning of certain terms. It also illustrates the application of the rules to various fact patterns. The Commentary is intended to promote a consistent and common interpretation of the GloBE Rules that will facilitate co-ordinated outcomes for both tax administrations and MNE Groups.

The OECD/G20 Inclusive Framework on BEPS will now develop an Implementation Framework to support tax authorities in the implementation and administration of the GloBE Rules.

# INDIRECT TAX NEWS

## GOVT CUTS GST RATE FOR DOMESTIC MRO SERVICES

The Goods and Services Tax (GST) rate for domestic maintenance, repair & overhaul (MRO) services has been cut to 5% from 18% to meet the increasing demand in the aviation sector, Minister of State in the Ministry of Civil Aviation Gen VK Singh (Retd) said in a written reply in the Rajya Sabha on Monday.

Sigh further also has said that reducing Value Added Tax (VAT) on Aviation Turbine Fuel (ATF) has been taken up with the states and the union territories. A total of 11 states/UTs have reduced the VAT on ATF to below 5%.

These include Andaman and Nicobar Islands, Dadar and Nagar Haveli and Daman & Diu, Gujarat, Haryana, Himachal Pradesh, Jammu and Kashmir, Ladakh, Madhya Pradesh, Tripura, Uttar Pradesh and Uttarakhand.

## CAIT SEEKS GST EXEMPTION FOR SMALL BUSINESSES SELLING ONLINE

The Confederation of All India Traders (CAIT) on Sunday wrote to the Finance Minister Nirmala Sitharaman urging the government to amend Sections 24 and 52 of the Central Goods & Services Tax (GST) Act in the next GST Council meeting.

According to the letter, the CAIT is requesting that the new rule of mandatory condition of obtaining GST registration for e-commerce supplies should be exempted in section 24. The core issue in the new rules is that the sellers irrespective of their size and revenue threshold will be required to pay GST once they register under the same when selling online either through marketplaces or their own websites.

As per the older GST policy, businesses with revenue up to ₹40 lakh for supplying goods and up to ₹20 lakh for services did not have to pay additional GST, irrespective of whether they are selling online or offline.

Instead of this compulsory registration under GST, CAIT suggested that for authentication, the Aadhaar number, Bank Account details or similar measures can be designated as essential qualification for onboarding on e-commerce portals. The industry body added that such a provision is badly affects not only the domestic market but even exports are suffering to a greater extent.

Under section 52, the traders' body has demanded that the collection of one percent GST tax rate may be levied on e-commerce marketplace or aggregator for all the transactions that happened on their respective platform and in this way, the government will be able to track the transactions and will also accrue tax revenue from e-commerce portals. As of now, the one per cent tax collected at source is being levied upon the seller directly while the marketplace or aggregator acts as an 'operator.'

# TODAY'S QUOTE

*Turn your wounds into wisdom.*

*- Oprah Winfrey*


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