



throwing light

A draft Direct Tax Code (DTC) alongwith a detailed discussion paper thereon were released in August 2009.

Based on various representations received, some amendments have been proposed for discussion and comments on these have been invited by end of June 2010.

Some of the key changes proposed for further discussion are as under:-

Taxation of Employees

It has been clarified that rules for valuation of perquisites will be separately notified and that accommodation will not be valued based on market value.

Retirement benefits are likely to continue to be tax exempt without any requirement that the same be put into specific tax saving accounts / instruments.

Taxation of Income from Property

It was originally proposed to levy a tax based on rent received or receivable, subject to a minimum tax on 6% of rateable value or the cost of construction of a property.

The proposal now is as under:-

Tax will be levied only based on rent actually received. No taxes will be levied on property which has not been rented out.

A deduction of upto Rs. 150,000 will be allowed to an individual or HUF towards interest paid on acquisition of one self occupied property.

The standard deduction is expected to be at 20% of taxable rent.

Taxation of Capital Gains

The regime for taxing capital gains will be as under:-

All gains will be split between assets held for less than 1 year (short term) and others.

All short term gains will be taxable at regular tax rates. No concessional tax rates will apply.

For long term assets, tax will be at regular rates but taxable capital gains will be computed as under:-

- a. for listed securities or equity oriented Mutual Funds – Sale Price less a fixed % standard deduction (the % will be announced later). No indexation benefits will be allowed. STT will continue to be levied – but at probably lower rates which will be announced later. In case of a capital loss, the same will also be scaled down by the said fixed %.
- b. For all other long term assets – Sale Price less indexed cost – for assets acquired prior to 1.4.2000, the fair market value as on 1.4.2000

Direct Tax Code – Discussion Paper June 2010

will be taken as assumed cost and will be indexed further.

Minimum Alternate Tax for companies

A MAT was originally proposed as an annual levy of 2% on the gross value of assets.

This will not be replaced with a tax based on book profits – the rates for MAT will be announced only later.

Taxation of Savings on redemption – the EET regime

The DTC had proposed a system where tax saving investments would be taxed in their redemption.

It has now been clarified that this system will not apply:-

- a. to amounts invested in Provident Funds, pure life insurance schemes and annuities.
- b. To investments which have already been made before the EET regime is introduced.

Taxation of Foreign Companies

A Foreign Company will now be treated as a Resident of India if the place of its "Effective Management" is in India.

A tax based on Controlled Foreign Corporation – CFC- is now being introduced. This provides for a tax in India on passive income earned by a CFC which is directly / indirectly controlled by Resident Indians and the profits of the CFC are not distributed. These incomes will be taxed in India in hands of the shareholders as a deemed distribution of Dividend by a foreign company.

It has also been clarified that the Double Tax Avoidance Agreements will continue to hold good if they are more beneficial to an assessee compared to domestic tax law – the only exceptions being taxation of CFCs as mentioned above, taxation of branch profits and in case an anti avoidance rule is invoked.

Wealth Tax

A Wealth Tax will be levied on all assesses (except Non profit Organizations) on 'unproductive assets' over a minimum threshold which will be announced later at a probable rate of 0.25%.

CAVEAT

The changes, as are approved in the Direct Tax Code, will apply to the accounting year which will commence on 1st April 2011.

The above is merely a gist of the likely amendments. We recommend that you seek professional advice before implementing them.