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Real estate investment trusts may get taxation relief

CBDT to make provisions for MAT and reduce tax liability on Reits

Jayshree P Upadhyay | New Delhi January 09, 2015 Last Updated at 00:50 IST

Real estate investment trusts (Reits), notified last year, have so far found few takers due to taxation-related issues. To address this, the Central Board of Direct Taxes (CBDT) wants this market instrument to be made exempt from Minimum Alternate Tax (MAT).

"The idea behind granting a 'pass-through' status to Reits was not to levy MAT on those. It is a technical issue we are working to resolve," said a source.

Reits are a security instrument that sell on bourses like a stock and invests in real estate — properties or mortgages.

Under the current rules, the tax department has deferred capital gains tax on transfer of shares. But MAT, which a transferor has to pay at 18.5 per cent to 20 per cent, is proving a deal-breaker, given the substantial immediate cash outflow involved. Foreign investors swapping shares for Reit units, though, do not have to pay MAT.

That implies Reits or Infrastructure Investment Trusts (InvITs), in their current form, attract MAT immediately — at about 20 per cent — and capital gains tax that is deferred to the point of sale of units.

Tax experts say the provision to do with MAT on Reits will come as good news to real estate companies waiting to launch these instruments.

Sriram Govind, senior member (international tax practice), Nishith Desai Associates, said, "The issue is that the capital gains, which are exempt under the Income-Tax Act for the sponsor on transfer of special-purpose vehicle units to Reits, will substantially increase book profits as against the actual tax payable. Therefore, for sponsors, MAT could apply at 18.5 per cent of total book profits and then deferred capital gains tax later at an appreciated value on sale of Reit units which is likely to be a larger tax burden. A MAT exemption, if given to sponsors, will be a blessing for developers that are looking to transfer properties to Reits.

Industry participants say a MAT exemption is in line with the government's intent. "The intent might have been for tax neutrality during the transfer of assets from the sponsor to a Reit. A MAT exemption will be in line with that," said Gautam Mehra, executive director, PricewaterhouseCoopers.

The Securities and Exchange Board of India (Sebi) had cleared the Reit regulations in August last year, after the government's announcement that the tax instrument would be given a pass-through status. After notifying the norms, Sebi had raised the tax-related issues with the government and is currently in a dialogue with the finance ministry to address those.