PKC MANAGEMENT

CONSULTING

Capital Gains, FTP

18-Nov-2024

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A. RECENT AMENDMENTS

1. Tax on Buyback of shares (1/3)

Source:
Finance Act (No.2), 2024

1. What is Buyback of shares?

A buy-back of shares means a purchase of by a company of its own shares or specified securities.

2. Benefit of Buyback of Shares?

- Instead of dividend to shareholders, buyback of shares are tax effective as dividend are fully taxable in the hands of shareholders and there is no adjustment or carry forward of cost of acquisition against income.
- By reducing the number of outstanding shares, buybacks can upsurge earnings per share and thus potentially boost the company's stock price.

3. Tax Implication (prior to amendment):

- Under Section 115QA of the Income Tax Act, any domestic company that buys back its own shares is liable to pay additional income tax on the distributed income at an effective tax rate of 23.296% of distributed income [Rate of tax - 20% (plus surcharge @ 12% plus Health and education cess @ 4%)]. This tax is known as ‘Buy-Back Tax’ or ‘Buy-Back Distribution Tax’ (BDT).
- However, the income received by shareholders from such buybacks was exempt from tax under Section 10(34A).

A. RECENT AMENDMENTS

1. Tax on Buyback of shares (2/3)

4. Amendment:

- Any buyback of shares on or after 1st October 2024 will be treated as dividend under Income Tax Act & Section 115QA is not applicable.
- Hence tax on such buyback will be payable by the Shareholder & not by the company.
- Amount received on buyback will be taxed under the head of "Income from Other Sources" & **no expenses (including the cost of acquiring the shares being bought back) cannot be reduced from the amount received.**
- Tax will be payable by Shareholder at their respective tax rates (slab rates in case of individuals).
- However, since the shareholder loses the right to own the shares in the company, this extinguishment is treated as transfer for purpose of capital gains.
- Since there is no sale consideration received for the extinguishment, the cost at which the shares have been acquired (without indexation) will be treated as capital loss.
- Such capital loss can be adjusted only with other specified capital gains & cannot be adjusted with any other head of income (like salary or house property). If there is no capital gains in the current year, it can be carried forward & set off as per the "Carry forward & Set Off" Rules.

A. RECENT AMENDMENTS

1. Tax on Buyback of shares (3/3)

5. Illustration:

X Ltd buys back 500 shares issued at Rs. 50 per share. Price at which shares were bought back is Rs. 650 per share.

Particulars	In hands of Company	In hands of Shareholders
Before 1st Oct 2024	Tax to be paid by company	Exempt u/s 10(34A)
On or after 1st Oct 2024	No tax implications	1. Tax to be paid on 3,25,000 (Rs. 650 per share * 500 shares) at respective tax rates 2. Capital loss of Rs. 25,000 can be set off with other specified capital gains

A. RECENT AMENDMENTS

2. Tax on Capital Gains (1/2)

Finance Act:

Finance Act (no.2),2024

Amendment:

1. Holding Period:

The holding periods for classifying capital assets as long-term have been simplified - now there are only 2 holding periods of 12 months & 24 months.

Particulars	Period of holding prior to amendment (Months)	Period of holding after amendment (Months)
Listed Security (other than a unit), Unit of Unit trust of India, Unit of Equity Oriented fund or zero coupon bond	12	12 (Units also included here)
Unlisted shares or Immovable property	24	24
Other assets	36	24

2. Tax Rates for Long Term Capital Gains:

Particulars	Sold before 23rd July 2024	Sold after 23rd July 2024
Long Term Capital Gains on transfer of listed shares or listed Equity Oriented Mutual Fund or listed unit of Business Trust	10% on Capital Gains*	12.5% on Capital Gains*
	* = From FY 24-25, the sum of Capital Gains under both these categories (taken together) will be reduced by Rs. 1.25 lacs before applying the tax rates	
Long Term Capital Gains on transfer of land or building or both by **a resident Individual or HUF & the property was acquired before 23rd July 2024**	20% on Capital Gains after giving effect to Indexation	20% on Capital Gains after giving effect to Indexation or 12.5% on Capital Gains without giving effect to Indexation whichever is lower
Any Other Long Term Capital Gains	20% of Capital Gains with Indexation	12.5% of Capital Gains without Indexation

A. RECENT AMENDMENTS

2. Tax on Capital Gains(2/2)

3. Tax Rates for Short Term Capital Gains:

In case of Short Term Capital gains on sale of listed shares or listed Equity Oriented Mutual Fund or listed unit of Business Trust:

- Sale before 23rd July 2024: 15%
- Sale after 23rd July 2024: 20%

B. PKC KNOWLEDGE BULLETIN

1. Foreign Trade Policies (1/2)

Duty Drawback Scheme:

1. What is duty drawback?

Duty drawback refers to the refund of customs duties and internal taxes paid while importing goods, which in turn are used to manufacture final products exported from India. It was introduced by the Ministry of Finance under section 74 and 75 of the Customs Act, 1962.

- **Section 74:** As per section 74, if the re-export of imported goods are identified quickly and within two years from the date of payment of duty on the importation. Then the exporter can claim 98% of the duty paid by him as a drawback under section 74.
- **Section 75:** As per section 75, if the export of goods manufactured or processed out of imported material with value addition, a drawback of customs duties chargeable on any imported materials of a class or description should be allowed. Duty Drawback under section 75 can be claimed either as a fixed percentage depending upon the value of goods exported.

If sale proceeds are not received within the stipulated period, a drawback is to be reversed or adjusted.

2. Eligibility Criteria to claim Duty drawback:

- The exporter must be the legal owner of the goods at the time the goods are exported.
- Customs duty must have been paid on imported goods.
- Duty drawback is available on most goods on which customs duty was paid on importation and which has been exported.

B. PKC KNOWLEDGE BULLETIN

1. Foreign Trade Policies (2/2)

Duty Drawback Scheme:

3. Calculation of benefit:

If the imported goods are re-exported within two years from the date of payment of duty on the importation, then exporters can claim 98% of the duty paid.

4.Penalty incase of non-compliance:

Section 75A of the Customs Act of 1962 deals with interest on drawback:

a. Interest on delayed payment by government:

If a claimant is not paid a drawback within one month of filing a claim, they are entitled to interest in addition to the drawback amount (Government will pay interest to the exporter). The interest rate is fixed under section 27-A of the Act.

b. Interest on incorrect payment:

If a drawback has been paid to a claimant incorrectly, they must pay interest and the amount of the drawback within two months of the demand date. The interest rate is set out in section 28-AB of the Act. The interest is calculated from the date of payment of the drawback to the date of recovery.

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