Angel investors in start-ups get income tax exemption

NEW DELHI: The tax department on Saturday exempted angel investors from income tax on their investments in start-ups with effect from April 11. The tax concessions are subject to certain conditions laid down by the Department of Industrial Policy and Promotion last month, which said that the share capital and share premium of the start-up should not exceed Rs 10 crore after such investments.

Also the angel investor who plans to subscribe the shares in the start-up will have to fulfil prescribed criteria and the start-up will have to procure a report from a merchant banker, specifying the fair market value of the shares in accordance with income tax rules.

The Income Tax Department, on May 24, issued a notification, superseding its June 2016 notification.

"...The Central Government, hereby notifies that the provisions of clause (viib) of sub-section (2) of section 56 of the said Act shall not apply to consideration received by a company for issue of shares that exceeds the face value of such shares, if the consideration has been received for issue of shares from an investor in accordance with the approval granted by the Inter-Ministerial Board of Certification," the Central Board of Direct Taxes (CBDT) said in the May 24 notification.

This notification comes into effect retrospectively from April 11, 2018, it said.

The CBDT has also amended Rule 11 UA (2)(b) of I-T Act, thereby making merchant banker valuation compulsory for the purpose of determining fair market value of unquoted equity shares, and omitted the word 'accountant'.

Nangia & Co Partner Amit Agarwal said the notification states that 'angel tax' shall not be levied, where the business

is an approved start-up and has obtained valuation from a merchant banker.

"The notification is a welcome move in allaying fears of start-ups in relation to angel tax and providing the much-needed clarity with respect to non-applicability of angel tax.

"Another key takeaway from the notification, is withdrawal of power from chartered accountants to issue valuation reports for purposes of angel tax. This is perhaps designed to bring in more sanctity to issuance of valuation report," Agarwal said.

The decision to give investors in start-ups exemption from income tax was aimed at addressing a key issue faced by angel investors who put money during early growth stage, and would also provide level-playing field for all investors.

The Commerce and Industry Ministry had on April 11 said that a start-up can seek tax concession under the section 56 of I-T act. The section 56 provides for taxation of funds received by an entity.

According to the notification, an angel investor with a minimum net worth of Rs 2 crore or an average returned income of over Rs 25 lakh in the preceding three financial years would be eligible for 100 per cent tax exemption on investments made into start-ups above fair market value.

Several start-ups had raised concerns over taxation of angel funds under Section 56 of the Income Tax Act, which provides for taxation of funds received by an entity. As many as 18 start-ups had received notices from tax authorities.

This section provided that where a closely held company issues its shares at a price more than its fair market value, the amount received in excess of the fair market value will be charged to tax the company as income from other sources.

Start-ups incorporated before April 2016 can seek exemptions from section 56 of the Income Tax Act. PTI

Angel investors in start-ups get I-T exemption

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The tax department on Saturday exempted angel investors from income tax (I-T) on their investments in start-ups with effect from April 11.

The tax concessions are subject to certain conditions laid down by the Department of Industrial Policy and Promotion last month, which said the share capital and share premium of the start-up should not exceed ₹100 million after such investments.

Also, the angel investor who plans to subscribe the shares in the start-up would have to fulfil prescribed criteria and the start-up would have to procure a report from a merchant banker, specifying the fair market value of the shares in accordance with the income-tax rules. The I-T department, on May 24, issued a notification, superseding its June 2016 notification. "...The central government, hereby notifies that the provisions of clause (viib) of sub-section (2) of section 56 of the said Act shall not apply to consideration received by a company for issue of shares that exceeds the face value of such shares, if the consideration has been received for issue of shares from an investor in accordance with the approval granted by the Inter-Ministerial Board of Certification," the Central Board of Direct Taxes (CBDT) said.

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The commerce and industry ministry had on April 11 said a start-up can seek tax concession under Section 56 of the I-T Act. The section 56 provides for taxation of funds received by an entity.

According to the notification, an angel investor with a minimum net worth of ₹20 million or an average returned income of over ₹2.5 million in the preceding three financial years would be eligible for 100 per cent tax exemption on investments made into start-ups above fair market value. Several start-ups had raised concerns over taxation of angel funds under Section 56 of the I-T Act, which provides for taxation of funds received by an entity. As many as 18 start-ups had received notices from tax authorities.

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