STRATEGIC DISINVESTMENT PUSH

Buyers of PSU shares exempt from gift tax

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The Central Board of Direct Taxes (CBDT) has exempted buyers from gift tax when they acquire equity shares in public-sector units (PSUs) through strategic disinvestment.

Earlier the exemption was applied only in the case of sale of a PSU. The change in the income-tax law has been made to make strategic divestment in PSUs attractive, said experts.

Strategic divestment in IDBI Bank, Concor, and Shipping Corporation of India is in various stages and is expected to be concluded this fiscal year.

The government has set a target of ₹51,000 crore from disinvestment in FY24.

Expanding the non-applicability of Section 56(2)(x), also known as gift tax, it said this would not apply to "any movable property, being equity shares, of a public sector company or a company, received by a person from a public sector company or the Central Government or any State Government under strategic disinvestment". (This is according to the CBDT notification on Thursday.)

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Before the amendment, the difference in book value and fair market value was considered deemed income for the buyer under Section 56(2)(x). For the buyer, the difference is treated as deemed income, which gets taxed at the rate applicable to the individual.

Turn to Page 6

close to the concentration limit," said Dhaval Jariwala, partner, PNDJ & Associates.

Sebi estimates ₹2.6 trillion, or 6 per cent, of FPI AUC (assets under custody) is at the risk of being identified as 'high risk'. Industry players say Sebi's proposal will be finalised after the market feedback, and FPIs will take a wait-and-watch approach. The regulator has said it will provide a six-month time period for FPIs to comply following which their licences could get revoked.

One of the challenges cited by experts is the applicability of the Sebi's proposed amendments on FPI domiciled in certain countries, which allow omnibus structures.

"One could question the extra-territorial applicability of Indian laws in such cases. However, if investors themselves provide exemption or there are bilateral information-sharing treaties between India and such jurisdictions, it could lead to disclosures of certain additional information," said Singh.

Gift tax...

The amendment will address the potential tax implications for buyers of shares, he added.

The relaxation will stay as long as the strategic investor retains at least 51 per cent in the PSU after the takeover. In case the investor's shareholding falls below 51 per cent, such relaxation could be withdrawn.

Earlier too, such tax-related relaxation was provided to push disinvestment. For instance, losses in any previous year prior to strategic disinvestment will be carried forward and set off by the erstwhile public-sector company.

Apart from the deals men tioned above, the governmen is unlikely to undertake an new public-sector undertakin disinvestment — including pri vatisation of public-secto banks — in 2023-24.

Any such stake sale migh take place only after the general elections next year.

"Typically the Central or state PSUs under strategic divestment may have a high book value but a lower fair value, which could result in potential tax consequences for a buyer," said Amit Agarwal, partner, Nangia & Co LLP.

BS SUDOKU # 3987

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Solution tomorrow

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