



## HOUSING and REAL ESTATE

### **1. Industry status to real estate sector**

Grant Industry Status to Real Estate Sector for easier availability of funds for real estate sector for purpose of availing long term and short term finances.

### **2. Extend loan on Stamp Duty / Registration / VAT / Service Tax to buyers**

- a) The first purchase of the house, borrower should be eligible to avail 90% of the loan.
- b) Second purchase of the house, eligibility to be brought down to 80% insisting on 20% by the borrower margin. In both the categories, Stamp Duty, Registration, VAT, Service Tax should be included to bring relief to the borrower.

### **3. Raise the limit for Priority Sector lending**

Considering the high prices of dwelling units across country and particularly amongst tier 1 and 2 cities, the home loan up to 25 Lacs as priority sector classification should be enhanced Rs.35 Lacs for consumer loan.

### **4. Technology for Low Cost Housing**

Considering the need to construct affordable houses at a very fast pace in this country, new construction technology is required such as aluminum formwork or precast technology. Currently most of these technologies are being



imported and have high taxes levied on them. The customs duty/ taxes paid for importing these technologies varies in the range of 20-25%. This prohibits the use of these technologies and hence the pace of development of affordable housing. The need of the hour is to reduce these taxes for the development of housing for the EWS/LIG segment.

## **5. Continuation of fiscal benefits under Direct Tax Code (DTC)**

Under the proposed DTC regime, SEZ Developers and Units should continue being provided similar benefits as are available under the Income Tax Act. The deductions available in respect of the profits and gains by a newly established Unit in SEZ under Section 10AA of the Income-tax Act and in respect of the profits and gains by an undertaking or enterprise engaged in development of Special Economic Zone under Section 80IAB of the Income-tax Act should be extended under the proposed DTC regime. This will encourage larger participation of Developers and Units in the development of SEZ.

## **6. Exemption of Export Earnings**

The Real Estate Industry is earning large amount of Foreign Exchange and has the potential to earn even larger amount of Foreign Exchange if it is given benefits similar to those given to other business operations earning foreign exchange. The deduction for the Real Estate Section should be pari passu with Section 80 HHC, 80HHD, 80HHE, 80HHF (on the line of exemption to earning in hard currency for Hotels, Travel Agencies, etc.)



**The sale of properties to NRIs to be treated as Deemed Export so that more and more Developers will find it attractive to woo NRIs to invest in Real Estate in India.**

#### **7. Tax on Long Term capital gain**

The definition of long term asset in the case of house property should be a period of 'more than one year' as has been done in the case of investment in shares and **the gain arising on transfer of house property being long term asset should be only @ 10% along with benefits of indexation.**

#### **8. Self Occupied Properties**

**At present only Companies (corporates) are allowed repair costs and depreciation on house properties. However, the individuals owning houses spends large amounts for repairs and/or renovations which are not allowed as expenses from the income.**

Therefore, it is suggested that **individuals owning house property should be allowed depreciation as in the case of corporates and also allow repair/maintenance/renovation of houses to an extent of 50% of the gross income.**



## **9. Interest on Housing Loans for Self Occupied Property**

Till about 1984, the entire amount of interest paid on a loan taken for buying or constructing a house was allowed as a deduction. Till 31.3.1999, the deduction was only upto Rs.30,000/- per annum. After 1.4.1999, the limit for deduction of interest paid on loans for acquisition or construction of a residential house was increased to Rs.1,50,000/-.

It is necessary to remove the disparity between the old loans and the loans taken after 1.4.1999, as both are utilized for the construction / acquisition of house property. This is a very big discrimination to a section of the public. It is, therefore, suggested to **remove the time limit and ceilings on the deduction of interest paid on loans for acquisition / construction of a residential house and the benefit increased to at least Rs. 2,50,000/-.**

## **10.T.D.S. Policy & Procedures**

### **I. T.D.S. on N.R.I. Investments**

Section 195(3) and (4) provided for application to be made by the assessee for exemption of deduction of T.D.S. However, in the case of reinvestment of funds in respect of house property the assessee has a time period of one year / three years for the purpose of reinvestment. In such a case, it is not possible for the Department to issue a certificate, it is requested that a declaration by the assessee of his intention to reinvest in house property



within a period specified by the statute be sufficient not to deduct any T.D.S. and such a declaration be submitted along with the return of income for assessment.

## **II. T.D.S. Procedures**

T.D.S. is deducted on various payments made by an assessee, thereby assisting the Government in collection of tax by making direct payment to the Government. However, the provisions relating to the procedures are harsh on the assess for any delay in payment, delay in issue of certificate, short deduction, delay in filing of annual return etc., which attract penalties and prosecution. Further, the TDS Return filed by the assessee undergoes assessment and the officers pass orders as they deem fit and unnecessary demands are raised against the assessee as the Law does not provide any standard set requirement.

It is, therefore, recommended to frame out requirements which the Income Tax Officer should verify for the purpose of assessment within a given time limit. The time limit for initiation of proceedings for assessment as well as time limit for completion of proceedings need to be set. Also, the details that may be called for also be formalised so that the assessee, who actually assist the Government in collection, is not put to hardships and penalties.

It is proposed that **a uniform rate for tax deduction and a single return (annually instead of quarterly) to be filed along with the regular return of income before the regular assessing officer.**



### **III. TDS on Rental Income**

Tax at source from rental income is deducted @ 15% in the case of individual and HUFs and 20% in other cases out of the gross rental income.

The tax deduction at source as above is exorbitantly high because of the reasons that out of the gross rental receipts following outgoings are deducted resulting in the excess payment of tax in many cases which is claimed as refund from the Department.

Deduction @ 15% in case of individual and HUFs and @ 20% in other cases out of gross rental income is very high and should be reduced to 7.5% in case of individuals and HUFs and 10% in other cases.

### **11. Service Tax & VAT on Developers for sale of immovable property [particularly in State of Maharashtra]**

The developers of property use materials [ as covered by definition of goods in VAT] on which VAT is paid by him & also use services of professional persons / companies [ as covered by definition of services in Service Tax Act] on which Service Tax is paid by him and produces the immovable property which he sells and on which the buyer pays the stamp duty which is payable as per the relevant state laws.

It may be particularly noted that the materials & services used in the production of the immovable property, the so-called unit that the developer sells is comprised of VAT paid materials and Service Tax paid services.



The levy of VAT and Service Tax on developers only adds to the value of the property value which is TOTALLY recovered by the developer from the purchaser and the purchaser is saddled with payment of VAT and service tax that has been part of construction cost and also VAT & service tax that the developer recovers on the sale.

Needless to say Stamp Duty is always to be borne by the purchaser. It's a triple jeopardy for the purchaser not even a double.

## **12. Mat on SEZ**

Under section 80-IAB of the Income Tax Act, a deduction of hundred per cent, is allowed in respect of profits and gains derived by an undertaking from the business of development of an SEZ notified on or after 1st April, 2005 from the total income for any ten consecutive assessment years out of fifteen years beginning from the year in which the SEZ is notified by the Central Government.

Proviso introduced in section 115JB(6) - Withdrawal of exemption on Minimum Alternate Tax for SEZ developer and SEZ units Proviso introduced in section 115O(6) - Withdrawal of exemption on Dividend Distribution Tax (DDT) for SEZ developers

SEZ Act 2005 was introduced to bring certainty in policies in relation to SEZs. The objective of introducing the SEZ Act was the fact that previous experience had demonstrated that the private sector was unwilling to invest in and develop SEZs in a scenario of uncertain regulatory environment. With this perspective, various



fiscal incentives including exemption from applicability of MAT for SEZ developers and Units was granted under section 115JB(6) and 115O(6).

The tax deduction provided in section 80IAB and section 10AA of the Act shall not achieve its desired objective if MAT @ 20% is made applicable on SEZ developers and units during the tax holiday period.

If incentives for setting up units in SEZs are withdrawn the same would adversely affect demand for built up space in SEZs. The Govt of India has already notified around 375 SEZs and have granted formal approvals to many others. Substantial investments have been made in these SEZs. Removal of tax incentives would affect demand and would result in huge losses to the SEZ developers and investors. The Government of India had made promises to attract investments in the SEZ. The proposed changes will dampen the spirit of foreign investors with respect to certainty and reliability of Indian laws and regulations and would adversely affect FDI in India.

Consistent with the SEZ policy, the exemption from MAT and DDT should be continued for SEZ developers and Units.

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