Capital gains tax changed, big relief for homeowners: 12.5% LTCG tax or 20% tax with indexation, which will reduce tax outgo?

By Anulekha Ray, ET Online • Last Updated: Aug 08, 2024, 01:25:00 PM IST

Synopsis
Capital gains indexation calculation after amendment of Finance Bill, 2024: The Union government offers a huge relief property owners by allowing a choice between two options for long-term capital gains (LTCG) on the property — 20% LTCG tax with indexation or 12.5% LTCG tax without indexation. The Budget had proposed a lower LTCG tax without indexation benefits. However, taxpayers can now opt for the old LTCG tax with indexation or the new one with a lower rate that lowers their tax outgo. Calculate and understand which LTCG option helps you to save more tax now.

Major relief for homeowners as the Union government is all set to amend the LTCG tax provisions for property proposed in Budget 2024

Major relief for homeowners as the Finance Minister Nirmala Sitharaman has amended the long-term capital gains (LTCG) tax provisions for property proposed in Budget 2024. Sitharaman, in Budget 2024, had proposed to reduce LTCG tax on property to 12.5% from 20%, while removing the benefit of indexation. It was a big blow for homeowners as the indexation allows taxpayers to adjust the original purchase cost for inflation before calculating the capital gains, lowering the overall tax outgo.

After much debate on social media platforms and representations from the various stakeholders of the real estate industry, the Union government has introduced two options for homeowners. All you need to know about the latest changes in the capital gains tax on property.

New capital gains tax changes on the property: Amendments in Finance Bill you must know

According to the Finance (No. 2) Bill, 2024 introduced in the Lok Sabha, "Provided further that in the case of transfer of a long-term capital asset, b
land or building
the income tax c
accordance with
their amendment by the Finance (No.2) Act. 2024, such excess shall be ignored."

What are the changes in the proposed amendments? Shrinivas Rao, FRICS, CEO, Vestian explains, "Property buyers who have acquired property before

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July 23, 2024, will have the option to choose between the new rule (12.5% LTCG tax without indexation) and the old rule (20% LTCG tax with indexation) to ensure lower tax liability."

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Kaushal Agarwal, Chairman, The Guardians Real Estate Advisory says, "The grandfathering clause in this context ensures that properties bought before the specified date (July 23, 2024) are not adversely affected by the new rules. It allows taxpayers to calculate their taxes under both the new and old schemes and pay whichever amount is lower, thereby safeguarding investments made under previous tax assumptions."

Simply put, there will be two options for property owners now while selling their properties and they can go for the one where they have lower tax liability:
1) Compute the tax on long-term capital gains on the sale of immovable property at 20% after factoring indexation benefit.
2) Compute the tax on long-term capital gains on the sale of immovable property at 12.5% without factoring indexation benefit.

Anuj Goradia, Director- Dosti Realty, says, "The new rule gives power to consumers, allowing home sellers and buyers to choose the clause that minimises their tax burden."

New capital gains tax on property: Two options for homeowners — who is eligible?
Who will be eligible for these options? Vivek Rathi, National Director- Research, Knight Frank India explains,
1) Individuals or Hindu Undivided Families (HUFs) who bought houses before July 23, 2024, are eligible to choose which LTCG regime they want. The new law applies to all Indian citizens and HUFs, but excludes NRIs, companies, and LLPs, says Goradia of Dosti Realty.
2) The choice is available for both residential and commercial properties.

Two LTCG tax regimes on property: Key things homeowners need to keep in mind while choosing your regime
Kale says, "Basically, even as per the revised proposal, the taxpayers (individuals and HUFs) would have an option to go for indexation benefit, only in case of long-term capital gain earned from transfer of land or building acquired before 23rd July 2024, if such tax treatment is more beneficial (lower tax outgo) as compared to the proposed tax treatment (12.5% without indexation)."

"The Union government has ensured simplicity in tax computation in the hands of the seller of the property by giving an option to choose either of the capital gains tax computation methodologies, whichever results in lower tax liability," says Vimal Nadar, Senior Director & Head of Research, Colliers India.

Mihir Tanna, Associate Director, Direct Tax, SK Patodia and Associates, adds, "It is also important to note that loss (if any) due to indexation benefit will not be available even if property is acquired before July 23,2024."

"It would be used for tax calculation but can not be considered for determination of amount of loss or amount of investment to be done to get full exemption under Sections 54,54B,54EC etc.," says Balwant Jain, an expert in tax and investment.

LTCG tax on property: 20% LTCG tax with indexation or 12.5% LTCG tax without indexation, which one will reduce your tax outgo?

A 20% LTCG tax with indexation or 12.5% LTCG tax without indexation — which regime will save you more tax? Answering this, Rathi says, "The choice between using the indexation benefit or opting for the new 12.5% LTCG tax rate depends on specific financial situation and the amount of capital gain you have made."

The tax liability will differ on a case-to-case basis, primarily depending on the holding period of the asset and the quantum of appreciation on the asset, say experts. Bothra says, "The decision to opt for indexation benefits or not should be made on a case-by-case basis, considering factors such as the property's purchase price, age of property, and price growth amongst others. Eligible individuals should calculate their potential tax liabilities under both the old and new schemes to determine which option is more beneficial before making a decision."

Let us understand this with an example: Assume, A bought a property in 2001 for Rs 10 lakh. He is selling in 2024. How much tax does he need to pay if he opts for the old LTCG rule — 20% long-term capital gains tax with indexation benefits? Can he save some tax if he opts for the new LTCG tax at 12.5% without indexation? Find out here.

Which rule gives you higher benefit for property purchased in 2001 (or grandfathered)					
Purchase price (2001)	**Rs 10 lakh**	**Rs 10 lakh**	**Rs 10 lakh**	**Rs 10 lakh**	**Rs 10 lakh**
Property Growth Rate (Annual)	4%	6%	8%	10%	12%
Sale Price (2024)	Rs 24,647,155	Rs 38,197,497	Rs 58,714,636	Rs 89,543,024	Rs 135,523,473
Index Value (old rule)	Rs 36,300,000	Rs 36,300,000	Rs 36,300,000	Rs 36,300,000	Rs 36,300,000
Capital gains tax (old rule)	-Rs 11,652,845	Rs 1,897,497	Rs 22,414,636	Rs 53,243,024	Rs 99,223,473
Tax at 20% (old rule)	**0**	**Rs 379,499**	**Rs 4,482,927**	**Rs 10,648,605**	**Rs 19,844,695**
Capital gain (without indexation)	Rs 1,46,47,155	Rs 2,81,97,497	Rs 48,714,636	Rs 7,95,43,024	Rs 12,55,23,473
Tax at 12.5% (new rule)	**Rs 18,30,894**	**Rs 35,24,687**	**Rs 60,89,330**	**Rs 99,42,878**	**Rs 156,90,434**
Benefit in new LTCG rule	Rs 1,830,894	Rs 3,145,188	Rs 1,606,402	- Rs 7,05,727	-Rs 4,154,260
Beneficial LTCG rule	Old	Old	Old	New	New

Assumptions: Purchase year: 2001, sale year: 2024, number of years: 23, purchase price: Rs 10,000,000, old LTCG tax at 20%, new LTCG tax at 12.50%, CII in purchase year 100, CII in sale year: 363
Source: Knight Frank India

Which rule gives you higher benefit for property purchased after 2001				
Property Transfer Scenarios	**Property I**	**Property II**	**Property III**	**Property IV**
Date of acquisition	1-Jan-05	1-Jan-10	1-Jan-15	1-Jan-19
Financial year applicable	2004-05	2009-10	2014-15	2018-19
Cost of acquisition	Rs 5,00,000	Rs 50,00,000	Rs 50,00,000	Rs 1,00,00,000

Cost Inflation Index in acquisition year	113	148	240	280
Date of transfer	30-Sep-24	30-Nov-24	31-Jan-25	31-Mar-25
Financial year	2024-25	2024-25	2024-25	2024-25
Consideration	Rs 25,00,000	Rs 250,00,000	Rs 200,00,000	Rs 160,00,000
Cost Inflation Index	363	363	363	363
Indexed cost of acquisition for the year of transfer	Rs 16,06,195	Rs 1,22,63,514	Rs 75,62,500	Rs 1,29,64,286
Long term capital gains computed after indexation	Rs 8,93,805	Rs 1,27,36,486	Rs 1,24,37,500	Rs 30,35,714
Long term capital gains computed without indexation	Rs 20,00,000	Rs 2,00,00,000	Rs 1,50,00,000	Rs 60,00,000
Income tax at 20% on LTCG computed after indexation - Option I (Old)	Rs 1,78,761	Rs 25,47,297	Rs 24,87,500	Rs 60,7143
Income Tax at 12.5% on LTCG computed without indexation - Option II (new)	Rs 2,50,000	Rs 25,00,000	Rs 18,75,000	Rs 7,50,000
Beneficial LTCG tax regime option	**Option I (Old)**	**Option II (New)**	**Option II (New)**	**Option I (Old)**
Tax savings through exercise of the better option	**Rs 71,239**	**Rs 47,297**	**Rs 6,12,500**	**Rs 1,42,857**

Source: CA Prakash Hegde, Acer Tax & Corporate Services

Rathi further adds, "In an ideal scenario, if the property's value has increased more than the inflation rate, the new 12.5% LTCG tax rate is expected to be more advantageous for real estate sellers compared to the previous 20% LTCG tax rate after adjusting for indexation."

Echoing the same, CA Prakash Hegde, Acer Tax & Corporate Services says, "In general, we can say that where the speed of appreciation of the value of the property is fast, a LTCG tax of 12.5% without indexation will be more beneficial, and where it is slow, a LTCG tax of 20% with indexation will be more beneficial."

Agarwal of The Guardians Real Estate Advisory says, "If the property was held for a long duration, especially several years or decades, and there has been significant inflation during this period, the indexation benefit would be advantageous. Indexation increases the acquisition cost of the property, thereby reducing the capital gains and, consequently, the tax liability. If this adjusted cost results in a lower taxable gain even at a 20% tax rate, then it’s beneficial to opt for indexation."

He adds, "If the property was held for a shorter duration or inflation has been minimal during the holding period, the increase in the cost due to indexation might not be significant. In such cases, the LTCG tax at 12.5% without indexation could be lower than the tax at 20% with indexation."

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