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The introduction of grandfathering provisions has definitely set to rest the anxiety amongst the taxpayers who already hold immovable property.

Written by Guest

August 8, 2024 04:15 IST

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By **Yogesh Kale**

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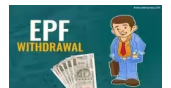
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The amendment to the Budget 2024 proposal on removal of indexation benefits on property sales has given relief to those who could be impacted by the retrospective taxation element. Yogesh Kale explains how allowing property owners to choose between the old and the new capital gains tax regimes can give a fillip to the real estate sector

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I Rationalisation of capital gains tax regime

The finance minister in her Budget speech had proposed to reduce the tax rate on gains from the sale of immovable assets from an earlier rate of 20% (with indexation) to 12.5% (without indexation) for sale of immovable assets on or after July 23, 2024. On the face of it, the proposal was perceived as detrimental to the taxpayers, particularly ordinary people who hold immovable property and associated taxation close to their hearts. The proposal led to much consternation among taxpayers.

I Old rules for long-term capital gains tax

Before the budget 2024 proposal, long term capital gains (LTCG) arising from the transfer of an immovable property were subject to tax at 20%, with the benefit of indexation. Further, for any properties acquired before April 1, 2001, while computing capital gains, taxpayers could deduct the actual cost of acquisition of the property or the fair market value of such property as on April 1, 2001, whichever is higher. Obviously, the higher of the two amounts would be deducted after indexation. For

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Nifty 100	25,201.75 AD Ratio: 0.50	-147.25 -0.58%
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the said purpose, the fair market value of a property as on April 1, 2001 as per the provisions of the Income-Tax Act, 1961, would be the actual market value of the property or its stamp duty value, whichever is lower, as on the said date.

I What Budget 2024 originally proposed

In Budget 2024, the government had originally proposed to tax long-term capital gains (including the gains accruing from sale of immovable property which was held by taxpayers for more than 24 months) at the rate of 12.5% with abolishment of indexation benefit, for all the transfers taking place on or after July 23, 2024.

I Amendments to LTCG on property sale

Upon receiving various representations, the government has addressed the concerns of taxpayers. The fine print of the Finance (No. 2) Bill, 2024 passed by the Lok Sabha on Wednesday contains several amendments to the Bill, including a grandfathering clause in relation to the long-term capital gains from transfer of immovable properties. The grandfathering clause would provide an option to taxpayers (individuals / Hindu Undivided Family) to calculate the tax on the long-term capital gains from transfer of an immovable property acquired before July 23, 2024, either at 12.5% without indexation or at 20% with indexation, whichever is beneficial to the taxpayer.

I Impact on real estate transactions

The introduction of grandfathering provisions has definitely set to rest the anxiety amongst the taxpayers who already hold immovable property. The provisions ensure that the taxpayers are not at a loss because of removal of the indexation benefits. Moreover, the presentation after the Budget showed that extensive analysis was done by the government behind the scenes, and it was demonstrated that reduction of tax rate to 12.5% along with removal of indexation benefit would benefit taxpayers in many cases. So, while the concerns of the taxpayers who already hold properties and plan to sell them in the future are addressed by the proposed amendments to the Finance (No. 2) Bill, 2024, according to the analysis published by the Centre, many of the future buyers may also not be at a loss due to the new tax rate of 12.5% without indexation proposed in Budget 2024.

The writer is executive director, Nangia Andersen LLP. With inputs from assistant manager Mustafa Lashkarwala and analyst Bhavesh Hirani.

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