

Tax Hotline

November 20, 2001

TAX REBATE ON GDR INCOME EXTENDED TO 3 MORE SECTORS

The Finance Ministry has finally extended concessional rate of tax on income from global depository receipts (GDRs) issued to Indian employees of pharma, biotechnology, and entertainment companies based in the country, as well as their subsidiaries. Only employees of the companies in the information technology sector were hitherto eligible for the concessional rate. Dividend received on GDRs issued to resident employees under the Issue of Foreign Currency Convertible Bonds and Ordinary Shares (Through Depository Receipt Mechanism) Scheme 1993 (FCCB&OS) will now be taxed at the rate of 10 per cent. Income earned by way of long-term capital gains on transfer of the GDRs - to be computed without indexing - will also be taxed at the same concessional rate. For companies in other sectors, the capital gains tax on transfer of GDRs attracts 20 per cent tax. A formal notification stating that the FCCB&OS scheme will be the specified scheme for the purpose of Section 115 ACA of Income-Tax Act 1961, with respect to the assessment year 2001-02 and subsequent assessment years, has been issued by the Central Board of Direct Taxes (CBDT). Prior to this year's Budget, only resident employees of companies belonging to the IT and IT services sectors were eligible for concessional tax rate on income from GDRs issued in accordance with a notified ESOP scheme. A decision was taken in this year's Budget to extend the concessional tax rate on such income to employees in other knowledge-based industries such as pharma, biotechnology and entertainment. The benefit of the lower tax rate was also extended to income from GDRs purchased by employees of subsidiaries - domestic or foreign - of companies in these sectors. Although amendments were made in Section 115 ACA of Income Tax Act 1961 to extend the concession to GDRs issued under ESOPs to resident employees of specified knowledge-based industries and their subsidiaries, it could not be implemented because the FCCB Scheme 1993 was not in conformity with the provisions of the Act. With the Department of Economic Affairs (DEA) recently amending the FCCB&OS scheme, the Revenue Department has now operationalised the concession.

Source: Business Line, November 20, 2001

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