

Tax Hotline

May 20, 2002

TAX HOLIDAY MAY CONTINUE AFTER DEMERGER

The tax holiday provided by Sections 10A and 10B to units set up in Free trade Zones and 100% export oriented units is withdrawn in case the beneficial ownership of the firm changes. However, in the Finance Act, 2002 a new provision has been introduced in clause 9A of Sections 10A and 10B which states that a partnership or a sole proprietary firm could continue to avail the deduction under sections 10A/B even after it transferred its business to a company. The section further provided that 51% of the voting rights or shareholding was to be retained, by the partners or the sole proprietor as the case may be, until the expiry of the period for which deduction is allowed. The Act was however silent about a situation where a company transfers its undertaking to another company by way of a demerger. In demergers the interpretation is that, the ownership in shareholding changes, since the new company is a totally different legal entity. In this regard the finance ministry is trying to correct the anomaly by soon notifying changes in the above-mentioned provisions relating to software technology parks that will allow the continuance of tax holiday to demerged companies.

Source: *The Economic Times*, May 20, 2002

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