

# Info Capsule

## **THIRD PROTOCOL AMENDING INDIA-SINGAPORE DTAA NOTIFIED TODAY; COMES INTO FORCE WITH EFFECT FROM 27TH FEBRUARY 2017<sup>1</sup>**

The Third Protocol amending India-Singapore Double Taxation Avoidance Agreement (DTAA) which was signed on 30th December, 2016, has come into force on 27th February 2017. The same has been notified in the Official Gazette today.

The India-Singapore DTAA at present provides for residence based taxation of Capital Gains of shares in a company. The Third Protocol amends the DTAA with effect from 01st April, 2017 to provide for source based taxation of capital gains arising on sale of shares in a company. This will curb revenue loss, prevent double non-taxation and streamline the flow of investments. In order to provide certainty to investors, investments in shares made before 01st April, 2017 have been grandfathered subject to fulfillment of conditions in Limitation of Benefits clause as per 2005 Protocol. Further, a two-year transition period from 1st April, 2017 to 31st March, 2019 has been provided during which capital gains on shares will be taxed in source country at half of normal tax rate, subject to fulfillment of conditions in Limitation of Benefits clause.

The Third Protocol also inserts Article 9(2) in the DTAA which would facilitate relieving of economic double taxation in transfer pricing cases. This is a taxpayer friendly measure and is in line with India's commitments under Base Erosion and Profit Shifting (BEPS) Action Plan to meet the minimum standard of providing Mutual Agreement Procedure (MAP) access in transfer pricing cases. The Third Protocol also enables application of domestic law and measures concerning prevention of tax avoidance or tax evasion.

## **CABINET APPROVES AMENDMENT OF IN THE CUSTOMS AND EXCISE ACT, RELATING TO ABOLITION OF CESSSES AND SURCHARGES ON VARIOUS GOODS AND SERVICES TO FACILITATE IMPLEMENTATION OF GST REGIME<sup>2</sup>**

Union Cabinet chaired by the Prime Minister Shri Narendra Modi has approved the following proposals:

- i. Amendment to the Customs Act, 1962;
- ii. Amendments to the Customs Tariff Act, 1975;
- iii. Amendment to the Central Excise Act, 1944;

<sup>1</sup> Available at: <http://www.pib.nic.in/newsite/erelease.aspx?relid=159736> (Release Date: 23.03.2017)

<sup>2</sup> Available at: <http://www.pib.nic.in/newsite/erelease.aspx?relid=159736> (Release Date: 22.03.2017)

- iv. Repeal of the Central Excise Tariff Act, 1985; and
- v. Amendment or repeal of the provisions relating to Acts under which cesses are levied.

The above proposals will result in the following benefits:

- i. Insertion of Sections 108A and 108B in the Customs Act, 1962 seeks to provide for furnishing of information relating to import/export of goods by specified persons to enable analysis and detection of cases of under/over-valuation in imports and exports, misuse of export promotion schemes including the Drawback Scheme and violations of the provisions of the Customs Act and various other laws under which Customs officials have been authorized to effectively implement these laws; and
- ii. Amendments or repeal of various provisions of other Acts which will no longer be relevant consequent upon roll out of GST will result in cleansing of the irrelevant portions from the Statute Book and reduce multiplicity of taxes.

### **GOODS & SERVICES TAX<sup>3</sup>**

The Finance Minister has said that the GST Council has decided to consider the proposal of bringing in real estate into its ambit within one year of its roll out. It was also informed that Petroleum products have been included in the Constitutional Amendment Bill. It is a part of the GST. But until all the states and the GST Council agree, imposition of tax on it won't be started.

If sometime in the future, the GST Council decides that petroleum products and gas should be taxed under the GST regime, we would not have to go to Parliament for that as the provision has been made already-Finance Minister Arun Jaitley said in his reply on a debate on Finance Bill.

### **AADHAAR-BASED KYC LIKELY ACROSS FINANCIAL SECTOR<sup>4</sup>**

- Aadhaar is on course to evolving into a comprehensive identification number for financial transactions, with the government deciding to introduce Aadhaar-enabled know your customer regime across financial sector.
- The government is holding consultations with all regulators including the Reserve Bank of India in this regard, officials said on Thursday, a day after Aadhaar was made mandatory for filing income tax returns and applying for permanent account number or PAN.
- Aadhaar-based e-KYC facility will allow individuals or entities wanting to apply for PAN to verify details such as date of birth or address by way of biometric identification using thumb impressions.

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<sup>3</sup> Available at: <http://www.deccanherald.com/content/602830/real-estate-may-soon-come.html>

<sup>4</sup> Available at : <http://economictimes.indiatimes.com/news/economy/policy/aadhaar-based-kyc-likely-across-financial-sector/articleshow/57800209.cms>

**Thumb Rule**

**FINANCE BILL** amended to make Aadhaar mandatory for ITR, PAN

**NEXT PLAN IS** to bring Aadhaar-enabled KYC in financial sector

**TALKS ON** with all regulators including RBI

**HOW THE PLAN WILL WORK**

**AADHAAR** holders to give thumb impression to financial intermediary

**THIS WILL BE VALIDATED** from UIDAI database

**THEN A UNIQUE C-KYC** number will be generated by CERSAI

## 137% TAX IF YOU DON'T COME CLEAN ON HIDDEN CASH BY MARCH 31, IT DEPARTMENT WARNS EVADERS<sup>5</sup>

- The Income Tax department today warned black money holders that it has "information" about their illegal deposits and they should avail the soon-to-end PMGKY window to come clean.
- In advertisements issued in leading national dailies, the department said that the "countdown" in this regard has begun and stash holders should declare their black money "or regret later".
- The department also said that total "confidentiality is ensured" to those who declare their black assets and funds under this scheme.
- It had recently also cautioned stash holders to avail the scheme or face stringent action under Benami laws, adding that the defaulters' names will also be shared with the central probe agencies like the Enforcement Directorate and the CBI.
- The Centre had come out with the PMGKY scheme after its decision to demonetise high value currency notes of Rs 500 and Rs 1,000 last year.

**Team ICSI**

*Disclaimer : The information in the Info Capsules is developed according to the information available in public domain and for academic purposes only. Any person wishing to act on the basis of this document should do so only after cross checking with the original source.*

<sup>5</sup> Available at : <http://economictimes.indiatimes.com/news/economy/policy/your-time-is-running-out-i-t-dept-warns-blackmoney-holders-ahead-of-march-31-deadline/articleshow/57806678.cms>