

Info Capsule



THE INSTITUTE OF
Company Secretaries of India

भारतीय कम्पनी सचिव संस्थान

IN PURSUIT OF PROFESSIONAL EXCELLENCE

Statutory body under an Act of Parliament

(Under the jurisdiction of Ministry of Corporate Affairs)

August 26, 2019

1. Government withdraws enhanced surcharge on tax payable on transfer of certain assets

In order to encourage investment in the capital market, it has been decided to withdraw the enhanced surcharge levied by Finance (No. 2) Act, 2019 on tax payable at special rate on income arising from the transfer of equity share/unit referred to in section 111A and section 112A of the Income-tax Act, 1961 (the 'Act') from the current FY 2019-20. The following capital assets are mentioned in section 111A and section 112A of the Act:

- Equity shares in a company;
- Unit of an equity oriented fund; and
- Unit of a Business Trust

The derivatives (Future & options) are not treated as capital asset and the income arising from the transfer of the derivatives is treated as business income and liable for normal rate of tax. However, in the case of Foreign Institutional Investors, the derivatives are treated as capital assets and the gains arising from the transfer of the same is treated as capital gains and subjected to a special rate of tax as per the provisions of section 115AD of the Act. Therefore, it is also decided that the tax payable on gains arising from the transfer of derivatives (Future & options) by FPI which are liable to special rate of tax under section 115AD of the Act shall also be exempted from the levy of the enhanced surcharge.

Therefore, the enhanced surcharge shall be withdrawn on tax payable at special rate by both domestic as well as foreign investors on long-term & short-term capital gains arising from the transfer of equity share in a company or unit of an equity oriented fund/business trust which are liable for securities transaction tax and also on tax payable at special rate under section 115AD by the FPI on the capital gains arising from the transfer of derivatives. However, the tax payable at normal rate on the business income arising from the transfer of derivatives to a person other than FPI shall be liable for the enhanced surcharge.

The details is available at: <https://pib.gov.in/PressReleaseDetail.aspx?PRID=1582824>

2. Form GSTR-3B- Extension to the Disaster struck districts of various states (Notification No. 37/2019 – Central Tax, dated 21st August, 2019)

In exercise of the powers conferred by section 168 of the Central Goods and Services Tax Act, 2017 read with sub-rule (5) of rule 61 of the Central Goods and Services Tax Rules, 2017, the Commissioner, on the recommendations of the Council, has made the following amendments in notification of the Government of India in the Ministry of Finance (Department of Revenue), No.29/2019 – Central Tax, dated the 28th June, 2019, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R.455(E), dated the 28th June, 2019.

Accordingly, in the first paragraph, provisos have been inserted stating that the return in FORM GSTR-3B of the said rules for the month of July, 2019 shall be furnished electronically through the common portal, on or before the 22nd August, 2019.

Further that the return in FORM GSTR-3B of the said rules for the month of July, 2019 for registered persons whose principal place of business is in any of the districts' mentioned, shall be furnished electronically through the common portal, on or before the 20th September, 2019

The various states and districts have been specified in the notification.

Further it has also been provided that the return in FORM GSTR-3B of the said rules for the month of July, 2019 for registered persons whose principal place of business is in the State of Jammu and Kashmir shall be furnished electronically through the common portal, on or before the 20th September, 2019.

The notification shall come into force with effect from the 20th day of August, 2019.

The detailed notification is available at: <http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-37-central-tax-english-2019.pdf>