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WHY TIMELINES TO GET SECTIONS 54, 54F TAX BENEFIT NEED TO BE LONGER

Relevant for: Indian Economy | Topic: Issues relating to Growth & Development - Public Finance, Taxation & Black Money incl. Government Budgeting

With the budget around the corner, the Mint Money team has zeroed in on some pain points in taxation that the government may want to address. We highlight these in a series, starting today.

The first we have identified is the timelines specified for Sections 54 and 54F of the Income-tax Act, 1961, for availing of tax exemption on the sale of specified assets when the intention is to use the money to buy a residential property. Here's what these sections entail and why we feel the timelines need to be extended.

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The exemption

Many people sell their existing houses and buy new ones for various reasons, including the need for a bigger house, change of city or location and so on.

Section 54: Where the intention of the sellers is not to make a profit, the income tax department provides a benefit under Section 54 on long-term capital gains (LTCG) from the sale of the residential property. Gains are considered long-term when the property is held for at least two years. If LTCG from the sale of a residential property are used to buy a new house, you can avail of exemption of the capital gains tax. Such exemption can be claimed for investment made in two residential house properties, provided the amount of LTCG does not exceed 2 crore.

Section 54F: Even LTCG arising out of the sale of any capital assets, including equities, gold, commercial property (excluding residential property), are exempted from capital gains tax, under Section 54F, in case the sale consideration is used to buy a residential house.

The pain point

There are certain conditions which need to be fulfilled to get tax benefits under Sections 54 and 54F. One of the conditions is that the benefit can be availed of only if the construction of the new house purchased is completed within three years of the sale of the earlier property or asset.

This condition is a problem for taxpayers as generally housing projects take around five years to be completed. Given the fact that the real estate sector is known for inordinate delays, sometimes it may take even longer for the project to be complete.

Experts believe that this condition should be relaxed to reduce hardship to taxpayers. "Generally, in township projects, developers take a minimum period of five years before handing over the possession of the property to the buyers. Similarly, no deduction is allowed under Sections 54 and 54F if the purchase or construction of the house property could not be completed within the prescribed period of three years," said Naveen Wadhwa, deputy general manager, research and development, Taxmann, a tax research firm.

So what's the solution? "Therefore, it is recommended that the time limits under these provisions should be aligned with the time limits allowed for projects approved by Rera (real estate regulatory authority). Alternatively, the time limit to invest in the new house under Sections 54 and 54F should be increased to five years that bring these provisions at par with Section 24(b), which also allows five years to complete the purchase or construction of the house property," he said.

Under Section 24(b), a homebuyer can avail a deduction of 2 lakh on the interest repaid on home loan during a financial year in the case of a self-occupied property. However, this deduction is only available in case the construction of the property is completed within five years of taking the loan. The time limit was enhanced from three to five years in Budget 2016 to provide taxpayers relief in case of delay in the completion of a housing project.

“The period of completion of construction within three years under Sections 54 and 54F may be enhanced to four years to minimize the hardships involved due to genuine delays. For instance, obtaining the necessary approvals or documentation processing may cause unnecessary delay," said Suresh Surana, founder, RSM India, a tax consultancy firm.

As some of the projects could be delayed due to the pandemic, experts hope that the government may provide this relief in the upcoming budget.

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