Government of India
Ministry of Finance
Department of Revenue
Central Board of Direct Taxes

PRESS RELEASE

New Delhi, 5th May, 2017.

Subject: Request for stakeholder's comment on draft rules relating to valuation of unquoted equity share for the purposes of section 56 and section 50CA of the Income-tax Act, 1961.

The Finance Act, 2017 inserted clause (x) in sub-section (2) of Section 56 of the Income-tax Act,1961('the Act') so as to widen the scope of taxability of receipt of sum of money or property without/inadequate consideration. Under the said clause read with Rule 11UA of the Income-tax Rules, 1962(' the Rules') if a person receives jewellery or artistic work or shares and securities for no / inadequate consideration, the fair market value(FMV) of the same is taken into account for computing taxable income under the said clause. Similarly, for immovable property, the stamp duty value is taken into consideration for determining taxability under the same section. However when these assets are received as underlying assets of unquoted equity shares of company, the book value (and not the FMV / stamp duty value) is taken into consideration for determining the value of such shares.

Further, Finance Act, 2017 inserted new section 50CA in the Act w.e.f 1st April, 2018 to provide that where consideration for transfer of unquoted equity share of a company is less than the FMV of such share determined in accordance with the prescribed manner, the FMV shall be deemed to be the full value of consideration for the purposes of computing income under the head "Capital gains".

In view of this, it is proposed to amend the Rules to prescribe the method of valuation of unquoted equity share for the purpose of clause(x) of sub-section (2) of section 56 and section 50CA of the Act by taking into account the FMV of jewellery, artistic work, shares & securities and stamp duty value in case of immovable property and book value for the rest of the assets.

In order to have wider consultation in this matter, the draft of proposed amendment of rules under the Income-tax Rules, 1962 to prescribe the method of valuation of unquoted shares for the purpose of clause(x) of sub-section (2) of section 56 and section 50CA of the Act has been uploaded on the website www.incometaxindia.gov.in. The stakeholders are requested to send their comments/suggestions on the draft notification by 19th May, 2017 to the e-mail address (**dirtpl2@nic.in**).

(Meenakshi Jha Goswami)
Commissioner of Income Tax
(Media and Technical Policy)
Official Spokesperson, CBDT.

Draft Notification

INCOME-TAX

In exercise of the powers conferred by section 50CA and sub-section 2 of section 56 read with section 295 of the Income-tax Act, 1961 (43 of 1961), the Central Board of Direct Taxes hereby makes the following rules further to amend the Income-tax Rules, 1962, namely:-

1. (1) These rules may be called the Income-tax (th Amendment), Rules, 2017.

(2) They shall come into force from the 1st day of April, 2018 and shall apply in relation to assessment year 2018-19 and subsequent years.

2. In the Income-tax Rules, 1962 (hereafter referred to as the Principal rules), for sub-clause (b) of clause (c) of sub-rule(1) of Rule 11UA, the following sub-clause shall be substituted, namely:-

“(b) the fair market value of unquoted equity shares shall be the value, on the valuation date, of such unquoted equity shares as determined in the following manner, namely:—

the fair market value of unquoted equity shares =(A+B+C+D - L)× (PV)/(PE) where,

A= book value of all the assets (other than jewellery, artistic work, shares, securities and immovable property) as reduced by,- (i) any amount of income-tax paid, if any, less the amount of income-tax refund claimed, if any, and (ii) any amount shown as asset including the unamortised amount of deferred expenditure which does not represent the value of any asset;

B = the price which the jewellery and artistic work would fetch if sold in the open market on the basis of the valuation report obtained from a registered valuer;

C = fair market value of shares and securities as determined in the manner provided in this rule;

D = the value adopted or assessed or assessable by any authority of the government for the purpose of payment of stamp duty in respect of the immovable property.

L= book value of liabilities, but not including the following amounts, namely:—

(i) the paid-up capital in respect of equity shares;

(ii) the amount set apart for payment of dividends on preference shares and equity shares;

(iii) reserves and surplus, by whatever name called, even if the resulting figure is negative, other than those set apart towards depreciation;

(iv) any amount representing provision for taxation, other than amount of income-tax paid, if any, less the amount of income-tax claimed as refund, if any, to the extent of the excess over the tax payable with reference to the book profits in accordance with the law applicable thereto;

(v) any amount representing provisions made for meeting liabilities, other than ascertained liabilities;

(vi) any amount representing contingent liabilities other than arrears of dividends payable in respect of cumulative preference shares;

PE = total amount of paid up equity share capital as shown in the balance-sheet;

PV= the paid up value of such equity shares;"

3. In the principal rules, in Chapter H, after Rule 11UA, the following Rule shall be inserted, namely:-

"**11UAA**. For the purposes of section 50CA, the fair market value of the share, not being a quoted share, shall be determined in the manner provided in sub-clause (b) of clause (c) of sub-rule(1) of Rule 11UA ."