

CBDT Circular no 14 dated 02nd July 2021

Also Read, Notification no 76/2021 dated 02nd July 2021

The Central Board of Direct Taxes (CBDT) said that capital assets, money or stock in trade received by a partner in a partnership firm during its dissolution or reconstruction would be considered a deemed transfer and profits of gains arising from the transfer would be subject to income tax.

In two separate sections introduced in the Finance Act, 2021 earlier this year, the government had brought in provisions of taxing capital gains on transfer of capital assets by a partner or member in a partnership firm, so as to prevent evasion of taxes on capital gains.

In a circular issued on Friday, the CBDT said that deemed transfer of capital assets or stock in trade or both when received by the partner or member from the firm would be subject to income tax under capital gains or profits and gains of business or profession. The fair market value of the capital asset or stock in trade or both will be deemed as the full value of consideration, it said.

The board also said that any money or capital asset or both received by the partner or member from the firm during dissolution or reconstruction will be chargeable under capital gains. This provision includes capital assets forming part of block of assets.

It notified the new rules, specifying short-term and long-term capital assets which will be chargeable under capital gains.

The board clarified that revaluation of an asset or valuation of self-generated asset or self-generated goodwill does not entitle depreciation on the increase in value of that asset.

The new rules will provide much-needed clarity for attribution of income and determination of long-term and short-term capital gains at the hands of the

reconstituted entity. “It’s characterization as short-term or long-term capital gains depends upon the period of holding of remaining capital assets to which such income is attributed.

Any excess received on revaluation or valuation of assets will be deemed short-term capital gains if it relates to self-generated goodwill or assets forming part of a block of assets. Further, no depreciation will be allowed on self-generated assets due to valuation or revaluation.

“All self-generated assets including goodwill-if revalued or valued in books resulting in increase in capital base of a partner –will be regarded as short-term capital assets for taxability in case of transfer to a partner pursuant to its reconstitution. This will cause real hardship to taxpayers.

The board clarified that when transfer of capital assets takes place both provisions will be worked out independently. This will be applicable from assessment year 2021-22