

## Finance Bill Section 80 IBA

**Budget 2016:**— With a view to incentivise affordable housing sector as a part of larger objective of 'Housing for All', it is proposed to amend the Income-tax Act so as to provide for hundred per cent deduction of the profits of an assessee developing and building affordable housing projects if the housing project is approved by the competent authority before the 31<sup>st</sup> March, 2019 subject to certain conditions which inter alia, include:-

- The project is completed within a period of three years from the date of approval,
- The project is on a plot of land measuring not less than 1000 sq. metres where the project is within 25 km from the municipal limits of four metros namely Delhi, Mumbai, Chennai & Kolkata and in any other area, it is measuring not less than 2000 sq. metres where the size of the residential unit in the said areas is not more than thirty sq. metres and sixty metres, respectively,
- where residential unit is allotted to an individual, no such unit shall be allotted to him or any member of his family, etc

### **Clause 43 of the Finance Bill**

*Clause 43* of the Bill seeks to insert a new **section 80IBA** in the Income-tax Act relating to deductions in respect of profits and gains from housing project.

The proposed new section seeks to provide for hundred per cent. deduction of the profits and gains of an assessee developing and building housing projects, if the project is approved by the competent authority on or before the 31st March, 2019 subject to the conditions specified therein. The assessee is required to complete the said project within three years failing which the entire deduction claimed in previous years shall be deemed as his income.

This amendment will take effect from 1st April, 2017 and will, accordingly, apply in relation assessment year 2017-2018 and subsequent years.

### **Insertion of new section 80-IBA- Deductions in respect of profits and gains from housing projects-**

43. After section 80-IB of the Income-tax Act, the following section shall be inserted with effect from 35 the 1st day of April, 2017, namely:—

'80-IBA. (1) Where the gross total income of an assessee includes any profits and gains derived from the business of developing and building housing projects, there shall, subject to the provisions of this section, be allowed, a deduction of an amount equal to hundred per cent. of the profits and gains derived from such business.

(2) For the purposes of sub-section (1), a housing project shall be a project which fulfils the following conditions, namely:—

(a) the project is approved by the competent authority after the 1st day of June, 2016, but on or before the 31st day of March, 2019, in accordance with such guidelines as may be prescribed;

(b) the project is completed within a period of three years from the date of approval by the competent authority:

Provided that,—

(i) where the approval in respect of a housing project is obtained more than once, the project shall be deemed to have been approved on the date on which the project was first approved by the competent authority; and

(ii) the project shall be deemed to have been completed when a certificate of completion of project as a whole is obtained in writing from the competent authority;

(c) the built-up area of the shops and other commercial establishments included in the housing project does not exceed three per cent. of the aggregate built-up area;

(d) the project is on a plot of land measuring not less than one thousand square metres where such project is located within the cities of Chennai, Delhi, Kolkata or Mumbai or within the area of twenty-five kilometres from the municipal limits of these cities, or two thousand square metres within the jurisdiction of any other municipality or cantonment board;

(e) the residential units comprised in the housing project does not exceed thirty square metres where such project is located within the cities of Chennai, Delhi, Kolkata or Mumbai or within the area of twenty-five kilometres from the municipal limits of these cities, or sixty square metres, where such project is located within the jurisdiction of any other municipality or cantonment board;

(f) where a residential unit in the housing project is allotted to an individual, no other residential unit in the housing project shall be allotted to the individual or the spouse or the minor children of such individual;

(g) the project utilises—

(i) not less than ninety per cent. of the floor area ratio permissible in respect of the plot of land under the rules to be made by the Central Government or the State Government or the local authority, as the case may be, where the project is located within the cities of Chennai, Delhi, Kolkata or Mumbai or within the area of twenty-five kilometres from the municipal limits of these cities, or

(ii) not less than eighty per cent. of such floor area ratio where such project is located in any area other than the areas referred to in sub-clause (i); and

(h) the assessee maintains separate books of account in respect of the housing project.

(3) Nothing contained in this section shall apply to any undertaking which executes the housing project as a works-contract awarded by any person (including the Central Government or the State Government).

(4) Where the housing project is not completed within the period specified under clause (b) of sub-section (2) and in respect of which a deduction has been claimed and allowed under this section, the total amount of deduction so claimed and allowed in one or more previous years, shall be deemed to be the income of the assessee chargeable under the head "Profits and gains of business or profession" of the previous year in which the period for completion so expires.

(5) Where any amount of profits and gains derived from the business of developing and building housing projects under any scheme for the housing is claimed and allowed under this section for any assessment year, deduction to the extent of such profit and gains shall not be allowed under any other provisions of this Act.

(6) For the purposes of this section,—

(a) "built-up area" means the inner measurements of the residential unit at the floor level, including projections and balconies, as increased by the thickness of the walls, but does not include the common areas shared with other residential units, including any open terrace so shared;

(b) "competent authority" means the authority empowered by the Central Government;

(c) "floor area ratio" means the quotient obtained by dividing the total covered area of plinth area on all the floors by the area of the plot of land;

(d) "housing project" means a project consisting predominantly of dwelling units with such other facilities and amenities as the competent authority may specify subject to the provisions of this section;

(e) "residential unit" means an independent housing unit with separate facilities for living, cooking and sanitary requirements, distinctly separated from other residential units within the building, which is directly accessible from an outer door or through an interior door in a shared hallway and not by walking through the living space of another household.'.