

# **CBDT issues clarification regarding carry forward of losses in case of change in shareholding due to strategic disinvestment**

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Finance Act, 2021 has amended section 72A of the Income-tax Act, 1961 (the Act) to inter alia provide that in case of an amalgamation of a public sector company (PSU) which ceases to be a PSU (erstwhile public sector company), as part of strategic disinvestment, with one or more company or companies, then, subject to the conditions laid therein, the accumulated loss and the unabsorbed depreciation of the amalgamating company shall be deemed to be the loss, or as the case may be, allowance for unabsorbed depreciation of the amalgamated company for the previous year in which the amalgamation was effected.

In order to facilitate the strategic disinvestment, it has been decided that Section 79 of the Income-tax Act, 1961, shall not apply to an erstwhile public sector company which has become so as a result of strategic disinvestment. Accordingly, loss incurred in any previous year prior to, and including, the previous year of strategic disinvestment shall be carried forward and set off by the erstwhile public sector company. The above relaxation shall cease to apply from the previous year in which the company, that was the ultimate holding company of such erstwhile public sector company immediately after completion of the strategic disinvestment, ceases to hold, directly or through its subsidiary or subsidiaries, fifty-one per cent of the voting power of the erstwhile public sector company.

The term “erstwhile public sector company” and “strategic disinvestment” shall have the meaning in Explanation to clause (d) of sub-section (1) of Section 72A of the Income-tax Act, 1961.

Necessary legislative amendments for the above decision shall be proposed in due course of time.