House panel pushes for taxpayer - friendly code

The panel of Parliament examining the Direct Taxes Code (DTC) Bill has almost finalised its recommendations. It wants more taxpayer-friendly measures.

With the government expected to bring provisions in the coming Budget to change the rules that led to it losing in the tax dispute with Vodafone in court, the standing committee on finance feels these changes shouldn't harm genuine investors. And, there must be a larger dispute resolution panel than that proposed by the Bill.

The committee is chaired by Bharatiya Janata Party leader and former finance minister Yashwant Sinha. It will meet again on Friday and should finalise the report in a couple of meetings, those in the know told Business Standard.

The government expects to table the report in the Budget session, slated to begin next month. The plan is to introduce the code from April 1, 2013, in place of the current Income Tax Act.

PROPOSALS The standing committee, which will meet again on February 17, has made the following suggestions:
* Widen personal income-tax slab (see Business Standard, February 10)
* Use GAAR to protect bona fide tax transactions
* End fiscal ambiguity in tax treaties with other nations
* Exempt housing loan repayments up to Rs 3 lakh
* Raise long-term savings exemption limit to Rs 1.5 lakh from Rs 1 lakh
* Go after major tax evaders

The panel's draft report has also asked the ministry to be clear on the fiscal implications of tax treaties with other nations. The government is currently renegotiating a Double Taxation Avoidance Agreement (DTAA) with Mauritius, to be able to impose capital gains on investments by third-country investors routed through the island nation.

In its draft report, the panel agrees with the Bill's provisions on the corporate tax rate. The Bill proposes a rate of 30 per cent, the same as now. It also proposes to tax foreign companies at a rate of 30 per cent instead of the current 40 per cent, with which the committee agreed, said the sources.

No stringent GAAR

Those tracking the development said the committee wanted the finance ministry to bring greater clarity in the proposed General Anti-Avoidance Rules (GAAR) on taxes, so these provisions do not penalise a tax payer with legitimate reasons for such business transactions, to avoid paying more tax.

The DTC proposes the Central Board of Direct Taxes would issue guidelines on the circumstances in which GAAR could be invoked and affected taxpayers could approach a Dispute Resolution Panel (DRP) against an order made in pursuance of the Commissioner's directions under GAAR.

Experts say GAAR could be used to prevent the recurrence of disputes such as between the revenue department and Vodafone over its transactions with Hong Kong-based Hutchison for equity stake in Indian company Hutchison Essar, now Vodafone India. While the tax department wanted Vodafone to pay in $2 billion capital gains tax as it purchased shares in an Indian company, the London-based company disputed it, saying the transactions happened outside India. Recently, the Supreme Court ruled in favour of Vodafone.

The Bill says the DRP would have three commissioner-rank people. The standing committee says there should be independents, too, on it.

Other issues

On tax treaties with other nations, the committee wanted the finance ministry to end uncertainty so that India's credibility does not suffer. "The ministry should be clear on the fiscal implications of treaties and there should not be any fiscal ambiguity," those privy to the information said.

India and Mauritius had one round of talks in December to revise the DTAA treaty, after similar negotiations were stalled in 2008. The changes in the treaty would change the way foreign investors structured their investments in India. The talks stalled since Mauritius was not ready to revise the DTAA, fearing it would affect the interests of its investors.

The review is aimed at preventing evasion of taxes, as a little over 40 per cent of total foreign direct investment in India is made through Mauritius, a low-tax jurisdiction. Also, at least 40 per cent of foreign institutional investor money is understood to be routed through the island nation, much of which from third-country investors.

Officials had earlier said India would pitch for imposition of a capital gains tax on investments routed through Mauritius. India wants the tax to be imposed where the source originates, and the source is India because the gains are in India. According to the present treaty, it is with the resident country, which is Mauritius, which does not impose such a tax.

The committee also wanted the bill to raise long-term savings exempt from income tax to Rs 1.5 lakh from the current Rs 1 lakh and housing loan repayment exemption from Rs 1.5 lakh to Rs 3 lakh. The bill proposes to exempt a housing loan repayment up to Rs 1.5 lakh, Rs 50,000 on life insurance, medical insurance premium and tuition fee (all combined) and Rs 1 lakh of other long-term savings.

Panel members also wanted the finance ministry to go after 'big fish' on tax evasion, instead of small ones. "Stricter norms against tax offenders and better scrutiny of their evasions are required," they added.

(Business Standard)