

SECURITIES TRANSACTION TAX*

CHAPTER VII OF FINANCE (NO. 2) ACT, 2004

SECURITIES TRANSACTION TAX

Extent, commencement and application.

96. (1) This Chapter extends to the whole of India.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.¹

(3) It shall apply to taxable securities transactions entered into on or after the commencement of this Chapter.

Definitions.

97. In this Chapter, unless the context otherwise requires,—

(1) “Appellate Tribunal” means the Appellate Tribunal constituted under section 252 of the Income-tax Act, 1961 (43 of 1961);

(2) “Assessing Officer” means the Income-tax Officer or Assistant Commissioner of Income-tax or Deputy Commissioner of Income-tax or Joint Commissioner of Income-tax or Additional Commissioner of Income-tax who is authorised by the Board to exercise or perform all or any of the powers and functions conferred on, or assigned to, an Assessing Officer under this Chapter;

(3) “Board” means the Central Board of Direct Taxes constituted under the Central Boards of Revenue Act, 1963 (54 of 1963);

²[(3A) “business trust” shall have the meaning assigned to it in clause (13A) of section 2 of the Income-tax Act, 1961 (43 of 1961);]

(4) “derivative” has the meaning assigned to it in clause (aa) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956);

³[(5) “equity oriented fund” means a fund referred to in clause (a) of Explanation to section 112A of Income-tax Act, 1961(43 of 1961);]

1. 1st October, 2004 vide SO 1058(E), dated 28-9-2004.

2. Inserted by the Finance (No. 2) Act, 2014, w.e.f. 1-10-2014.

3. Substituted by the Finance Act, 2018, w.e.f. **1-4-2018**. Prior to its substitution, clause (5), as amended by the Finance Act, 2006, w.e.f. 1-6-2006, read as under :

‘(5) “equity oriented fund” means a fund—

(i) where the investible funds are invested by way of equity shares in domestic companies to the extent of more than sixty-five per cent of the total proceeds of such fund; and

(ii) which has been set up under a scheme of a Mutual Fund:

Provided that the percentage of equity shareholding of the fund shall be computed with reference to the annual average of the monthly averages of the opening and closing figures;’

*SEE SECURITIES TRANSACTION TAX RULES, 2004.

- ^{4f}[(5A) “initial public offer” has the meaning assigned to it in clause (p) of sub-regulation (1) of regulation 2 of the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009 made under the Securities and Exchange Board of India Act, 1992 (15 of 1992);
- ^{4a}[(5AA) “initial offer” shall have the meaning assigned to it in,—
- (i) clause (q) of sub-regulation (1) of regulation 2 of the Securities and Exchange Board of India (Real Estate Investment Trusts) Regulations, 2014 made under the Securities and Exchange Board of India Act, 1992 (15 of 1992), in case of a business trust being a real estate investment trust;
 - (ii) clause (v) of sub-regulation (1) of regulation 2 of the Securities and Exchange Board of India (Infrastructure Investment Trusts) Regulations, 2014 made under the Securities and Exchange Board of India Act, 1992 (15 of 1992), in case of a business trust being an infrastructure investment trust;]
- (5B) “lead merchant banker” means a merchant banker appointed as lead merchant banker in accordance with sub-regulation (1) of regulation 5 of the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009 made under the Securities and Exchange Board of India Act, 1992 (15 of 1992);]
- (6) “Mutual Fund” means a Mutual Fund specified under clause (23D) of section 10 of the Income-tax Act, 1961 (43 of 1961);
- (7) “option in securities” has the meaning assigned to it in clause (d) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956);
- (8) “option premium” means the premium payable by the purchaser of an “option in securities” at the time of such purchase;
- (9) “prescribed” means prescribed by rules made by the Board under this Chapter;
- (10) “recognised stock exchange” shall have the same meaning as in clause (f) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956);
- (11) “securities transaction tax” means tax leviable on the taxable securities transactions under the provisions of this Chapter;
- (12) “strike price” means the price at which the “option in securities” may be exercised on the expiry date of such option;
- (13) “taxable securities transaction” means a transaction of—
- (a) purchase or sale of an equity share in a company or a derivative or a unit of an equity oriented fund ^{4b}[or a unit of a business trust], entered into in a recognised stock exchange; or
 - ^{4c}[(aa) sale of unlisted equity shares by any holder of such shares under an offer for sale to the public included in an initial public offer and

4. Inserted by the Finance Act, 2012, w.e.f. 1-7-2012.

4a. Inserted by the Finance Act, 2015, w.e.f. 1-6-2015.

4b. Inserted by the Finance (No. 2) Act, 2014, w.e.f. 1-10-2014.

4c. Inserted by the Finance Act, 2012, w.e.f. 1-7-2012.

where such shares are subsequently listed on a recognised stock exchange; or]

^{4d}[(ab) sale of unlisted units of a business trust by any holder of such units which were acquired in consideration of a transfer referred to in clause (xvii) of section 47 of the Income-tax Act, 1961 (43 of 1961) under an offer for sale to the public included in an initial offer and where such units are subsequently listed on a recognised stock exchange; or]

(b) sale of a unit of an equity oriented fund to the Mutual Fund;

(14) words and expressions used but not defined in this Chapter and defined in the Securities Contracts (Regulation) Act, 1956 (42 of 1956), the Income-tax Act, 1961 (43 of 1961) or the rules made thereunder, shall apply, so far as may be, in relation to securities transaction tax.

Charge of securities transaction tax.

98. On and from the commencement of this Chapter, there shall be charged a securities transaction tax in respect of the taxable securities transaction specified in column (2) of the Table below, at the rate specified in the corresponding entry in column (3) of the said Table, on the value of such transaction and such tax shall be payable by the purchaser or the seller, specified in the corresponding entry in column (4) of the said Table:

TABLE

<i>Sl. No.</i>	<i>Taxable securities transaction</i>	<i>Rate</i>	<i>Payable by</i>
<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>
1.	Purchase of an equity share in a company ^{4e} [or a unit of a business trust] ⁵ [***] where— (a) the transaction of such purchase is entered into in a recognised stock exchange; and (b) the contract for the purchase of such share ⁷ [or unit] is settled by the actual delivery or transfer of such share ⁷ [or unit].	⁶ [0.1] per cent	Purchaser
2.	Sale of an equity share in a company ^{7a} [or a unit of a business trust] ⁵ [***] where— (a) the transaction of such sale is entered into in recognised stock exchange; and (b) the contract for the sale of such share ⁷ [or unit] is settled by the actual delivery or transfer of such share ⁷ [or unit].	⁶ [0.1] per cent	Seller

^{4d}. Inserted by the Finance Act, 2015, w.e.f. 1-6-2015.

^{4e}. Inserted by the Finance (No. 2) Act, 2014, w.e.f. 1-10-2014.

⁵. Words “or a unit of an equity oriented fund,” omitted by the Finance Act, 2013, w.e.f. 1-6-2013.

⁶. Substituted for “0.125” by the Finance Act, 2012, w.e.f. 1-7-2012. Earlier the quoted figures were substituted for “0.1” by the Finance Act, 2006, w.e.f. 1-6-2006 and “0.1” was substituted for “0.075” by the Finance Act, 2005, w.e.f. 1-6-2005.

⁷. Inserted by the Finance (No. 2) Act, 2014, w.e.f. 1-10-2014. Earlier, “or unit” was omitted by the Finance Act, 2013, w.e.f. 1-6-2013.

^{7a}. Inserted by the Finance (No. 2) Act, 2014, w.e.f. 1-10-2014.

<i>Sl. No.</i>	<i>Taxable securities transaction</i>	<i>Rate</i>	<i>Payable by</i>
<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>
⁸ [2A]	Sale of a unit of an equity oriented fund, where— (a) the transaction of such sale is entered into in a recognised stock exchange; and (b) the contract for the sale of such unit is settled by the actual delivery or transfer of such unit.	0.001 per cent	Seller]
3.	Sale of an equity share in a company or a unit of an equity oriented fund ^{8a} [or a unit of a business trust], where— (a) the transaction of such sale is entered into in a recognised stock exchange; and (b) the contract for the sale of such share or unit is settled otherwise than by the actual delivery or transfer of such share or unit.	⁹ [0.025] per cent	Seller
¹⁰ [4.	(a) Sale of an option in securities	^{10a} [0.05] per cent	Seller
	(b) Sale of an option in securities, where option is exercised	0.125 per cent	Purchaser
	(c) Sale of a futures in securities	¹¹ [0.01] per cent	Seller]
5.	Sale of a unit of an equity oriented fund to the Mutual Fund.	¹² [0.001] per cent	Seller
¹³ [6.	Sale of unlisted equity shares under an offer for sale referred to in sub-clause (aa) of clause (13) of section 97.	0.2 per cent	Seller]
^{13a} [7.	Sale of unlisted units of a business trust under an offer for sale referred to in sub-clause (ab) of clause (13) of section 97.	0.2 per cent	Seller]

Value of taxable securities transaction.

99. The value of taxable securities transaction,—

8. Inserted by the Finance Act, 2013, w.e.f. 1-6-2013.
- 8a. Inserted by the Finance (No. 2) Act, 2014, w.e.f. 1-10-2014.
9. Substituted for "0.02" by the Finance Act, 2006, w.e.f. 1-6-2006. Earlier, it was substituted for "0.015" by the Finance Act, 2005, w.e.f. 1-6-2005.
10. Substituted by the Finance Act, 2008, w.e.f. 1-6-2008. Prior to its substitution, Sl. No. 4 and the entries relating thereto was amended by the Finance Act, 2006, w.e.f. 1-6-2006 and Finance Act, 2005, w.e.f. 1-6-2005, read as under :
- "4. Sale of a derivative, where the transaction of such sale is entered into in a recognised stock exchange. 0.017 per cent Seller"
- 10a. Substituted for "0.017" by the Finance Act, 2016, w.e.f. 1-6-2016.
11. Substituted for "0.017" by the Finance Act, 2013, w.e.f. 1-6-2013.
12. Substituted for "0.25" by the Finance Act, 2013, w.e.f. 1-6-2013. Earlier the quoted figures were substituted for "0.2" by the Finance Act, 2006, w.e.f. 1-6-2006 and "0.2" was substituted for "0.15" by the Finance Act, 2005, w.e.f. 1-6-2005.
13. Inserted by the Finance Act, 2012, w.e.f. 1-7-2012.
- 13a. Inserted by the Finance Act, 2015, w.e.f. 14-5-2015.

- ¹⁴[(a) in the case of a taxable securities transaction relating to an option in securities, shall be—
- (i) the option premium, in respect of transaction at item (a) of serial number 4 of the Table in section 98;
 - (ii) the settlement price, in respect of transaction at item (b) of serial number 4 of the Table in section 98;]

(b) in the case of a taxable securities transaction relating to a derivative, being “futures”, shall be the price at which such “futures” is traded; and

(c) in the case of any other taxable securities transaction, shall be the price at which such securities are purchased or sold:

Provided that the Board may, having regard to the manner in which taxable securities transactions are settled in a recognised stock exchange or such other factors which may be relevant for the purposes of determining the price of such securities, specify, by rules¹⁵ made by it, the method of determining the price of such securities for the purposes of this clause.

Collection and recovery of securities transaction tax.

100. (1) Every recognised stock exchange shall collect the securities transaction tax from every person, being a purchaser or a seller, as the case may be, who enters into a taxable securities transaction in that stock exchange, at the rates specified in section 98.

(2) The prescribed person¹⁶ in the case of every Mutual Fund shall collect the securities transaction tax from every person who sells a unit to that Mutual Fund, at the rate specified in section 98.

¹⁷[(2A) The lead merchant banker appointed by the company in respect of an initial public offer shall collect the securities transaction tax from every person who enters into a taxable securities transaction referred to in sub-clause (aa) of clause (13) of section 97 at the rate specified in section 98.]

^{17a}[(2B) The lead merchant banker appointed by the business trust in respect of an initial offer shall collect the securities transaction tax from every person who enters into a taxable securities transaction referred to in sub-clause (ab) of clause (13) of section 97 at the rates specified in section 98.]

¹⁶(3) The securities transaction tax collected during any calendar month in accordance with the provisions of sub-section (1) or sub-section (2) ¹⁷[or sub-section (2A)] ^{17a}[or sub-section (2B)], shall be paid by every recognised stock exchange or by the prescribed person¹⁶ in the case of every Mutual Fund ¹⁷[or the lead merchant banker in the case of an initial public offer] ^{17a}[or an initial offer],

14. Substituted by the Finance Act, 2008, w.e.f. 1-6-2008. Prior to its substitution, clause (a) read as under :

‘(a) in the case of a taxable securities transaction relating to a derivative, being “option in securities”, shall be the aggregate of the strike price and the option premium of such “option in securities”;

15. See rules 3 & 4 of the Securities Transaction Tax Rules, 2004.

16. See rule 5 of the Securities Transaction Tax Rules, 2004.

17. Inserted by the Finance Act, 2012, w.e.f. 1-7-2012.

17a. Inserted by the Finance Act, 2015, w.e.f. 14-5-2015.