Investors from 21 nations get angel tax exemption

Funding from countries such as Mauritius and Singapore in unlisted start-ups to attract the tax

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Investment from countries such as Mauritius, Singapore, and the Netherlands in unlisted Indian start-ups will attract angel tax.

The government has notified the list of "specified jurisdictions" featuring 21 nations, including the US, the UK, Australia, and Germany, which will be eligible for immunity from the new tax.

However, countries such as Singapore, Ireland, the Netherlands, and Mauritius, from where most of the investment comes to India, do not find mention in this list.

Investment vehicles in Mauritius and Singapore are used by global investors to enter India and invest in the unlisted space. Experts are of the view that it is not clear that whether specific special purpose vehicles (SPVs) located in non-specified countries will get immunity from the tax.

"A limited relief has been granted to certain categories of investors such as category 1 foreign portfolio investors, pension funds, and broad-based investment funds. Even such investors may need to take a re-look at setting up SPVs for investment in India vis-a-vis investing directly to avail of angel-tax exemption. Not including Singapore, the Netherlands, and Luxembourg is surprising, considering a large number of investments are routed to India through these jurisdictions, which are important financial centres," said Gouri Puri, partner, Shardul Amarchand Mangaldas & Co.

According to industry estimates, Singapore, Mauritius and the UAE together constitute over 50 per cent FDI in India, and keeping them out of the list would impact the whole start-up industry.

Last Friday, the Central Board of Direct Taxes (CBDT) had proposed to exempt a host of foreign investors including sovereign wealth funds, pension funds, banks, and insurers from angel tax. It had also put out additional valuation norms for those that come within its net. Barring hedge funds, broad-based pooled investment vehicles or funds in which the number of investors is more than 50 have been excluded from the tax. Besides, foreign investment in start-ups recognised by the Department for Promotion of Industry and Internal Trade (DPIIT) will not attract this tax, the CBDT had said.

The CBDT has proposed to accept valuations by a merchant banker done within 90 days of the issue of shares by a start-up.

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Angel tax
Until now, investments by domestic investors in closely held firms were taxed over and above the fair market value.
The Finance Act, 2023, expanded the Angel tax provision, removing the exemption for foreign funds and non-residents. Last week, CBDT excluded certain classes of foreign investors

Exempted
Sovereign wealth funds, pension funds, category 1 FPIs, investment routed through 21 nations, including US, UK, Germany and Australia

Not exempted
Start-ups not registered with DPIIT; foreign investment from countries like Mauritius, Singapore, Luxembourg

Angel tax...

"By mentioning this list of countries, the government aims to attract more foreign investment into India from countries that have robust regulatory frameworks. This move aligns with the government's initial intention of bringing foreign direct investment within the purview of angel tax to prevent the circulation of unaccounted money," said Sandeep Jhunjhunwala, partner, Nangia Andersen LLP.

Austria, Canada, the Czech Republic, Belgium, Denmark, Finland, Italy, Iceland, Japan, Korea, Russia, Norway, Sweden, New Zealand, and Israel are among other nations exempt from the tax.

Leaving out start-ups registered with the DPIIT, the Union Budget has brought overseas investment in unlisted closely-held companies within the tax net.

For a start-up to escape the angel-tax provisions, apart from registering itself with the DPIIT, there is a threshold of ₹25 crore paid-up capital and share premium.