



## Tax alert: CBDT notifies amendment in GAAR Rules

**2 April 2026**

The Central Board of Direct Taxes (CBDT) has amended Rule 10U of the Income-tax Rules, 1962 and Rule 128 of the Income-tax Rules, 2026 [relating to GAAR provisions not being applicable in certain cases] by way of a notification.

### **Background:**

The Central Board of Direct Taxes (CBDT) has amended Rule 10U of the Income-tax Rules, 1962 [1962 Rules] and Rule 128 of the Income-tax Rules, 2026 [2026 Rules] relating to non-applicability of GAAR<sup>1</sup> in certain cases, by way of two separate notifications<sup>2</sup> [each under 1962 Rules and 2026 Rules].

### **Amendment in 1962 Rules**

- Rule 10U(1)(d) and Rule 10U(2) of the 1962 Rules have now been amended as follows:

- Rule 10U(1)(d) shall be substituted, namely:-

*“(d) any income accruing or arising to, or deemed to accrue or arise to, or received or deemed to be received by, any person from transfer of **such** investments **which were** made before the 1<sup>st</sup> day of April, 2017 by such person.”*

*Emphasis supplied*

- Rule 10U(2) shall be substituted, namely:-

*“(2) The provisions of Chapter X-A shall apply to any arrangement, irrespective of the date on which it has been entered into, in respect of the tax benefit obtained from the arrangement on or after the 1st day of April, 2017, except for that income which accrues or arises to, or deemed to accrue or arise to, or is received or deemed to be received, by any person from transfer of such investments which were made before the 1st day of April, 2017 by such person.”*

*Emphasis supplied*

*The text in bold is the addition and words ‘Without prejudice to Rule 10U(1)(d)’ appearing at the start of Rule 10U(2) have been deleted.*

- The notification states that as per the amendment, the provisions of Chapter X-A (GAAR provisions) shall not be invoked **on or after the date of publication of these rules in the Official Gazette\*** in a case where income accrues or arises to, or deemed to accrue or arise to, or is received or deemed to be received, by any person from transfer of such investments which were made before the 1 day of April, 2017 by such person.

*\*The notification has been published in the Official Gazette on 31 March 2026.*

<sup>1</sup> General Anti Avoidance Rules

<sup>2</sup> Notification No. 55/2026/F. No. 370142/15/2026-TPL and Notification No. 54/2026/F. No. 370142/15/2026-TPL, both dated 31 March 2026

## Amendments in 2026 Rules

- Similar amendments have been made in Rule 128(1)(d) [same as Rule 10U(1)(d) above] and Rule 128(2) [same as Rule 10U(2) above] of the 2026 Rules.
- Rule 128(2) of the 2026 Rules provides for applicability of GAAR provisions in any arrangement for which tax benefit arises on or after 1 April 2017, irrespective of the date on which the arrangement has been entered into.
- The same has now been amended to specifically exclude that income from the applicability of GAAR, which
  - accrues or arises to, or
  - is deemed to accrue or arise to, or
  - is received or deemed to be received by,any person from transfer of **such** investments **which were** made before 1 April 2017 by such person.
- The notification states that the amended Rule 128(2) of the 2026 Rules shall come into force on 1 April 2026.

### Comments:

- CBDT has now clarified vide the aforesaid notifications that GAAR provisions shall **not apply** to income from transfer of investments which were made prior to 1 April 2017. It may be pertinent to note that the GAAR provisions are applicable from 1 April 2017 onwards.
- Further, it is also pertinent to note that the Supreme Court (SC) in a recent ruling<sup>3</sup> has, *inter alia*, held that GAAR is applicable to any arrangement, irrespective of the date on which it was entered into, in respect of a tax benefit obtained from such arrangement on or after 1 April 2017.  
Our tax alert on the aforesaid SC ruling is provided in the below link:  
<https://www.deloitte.com/content/dam/assets-zone1/in/en/docs/services/tax/2026/in-tax-gbt-sc-holds-aar-application-related-to-transaction.pdf>
- Further, the Shome committee report of 2012<sup>4</sup>, provided the following recommendation on the grandfathering of investments from applicability of GAAR provisions:  
*“In view of the above, the Committee recommends that all investments (though not arrangements) made by a resident or nonresident and existing as on the date of commencement of the GAAR provisions should be grandfathered so that on exit (sale of such investments) on or after this date, **GAAR provisions are not invoked for examination or denial of tax benefit.**”*
- Prior to the notification, there was ambiguity on whether the exclusion provided in Rule 10U(2) of the 1962 Rules and Rule 128(2) of the 2026 Rules could override the provisions of Rule 10U(1)(d) of the 1962 Rules and Rule 128(1)(d) of the 2026 Rules, respectively. With the exclusion being reiterated under Rule 10U(2) /Rule 128(2) one would now have more clarity while implementing the exclusion.
- Considering that the date of effect of amendments to Rule 10U(2) would be with effect from 31 March 2026, one would need to evaluate whether the GAAR provisions could be invoked prior to the said date, i.e. 31 March 2026.

---

<sup>3</sup> The AAR vs Tiger Global International II Holdings (Civil Appeal No. 263 of 2026) (SC)

<sup>4</sup> On page 41 of the report



Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited (“DTTL”), its global network of member firms, and their related entities (collectively, the “Deloitte organization”). DTTL (also referred to as “Deloitte Global”) and each of its member firms and related entities are legally separate and independent entities, which cannot obligate or bind each other in respect of third parties. DTTL and each DTTL member firm and related entity is liable only for its own acts and omissions, and not those of each other. DTTL does not provide services to clients. Please see <http://www.deloitte.com/about> to learn more.

Deloitte Asia Pacific Limited is a company limited by guarantee and a member firm of DTTL. Members of Deloitte Asia Pacific Limited and their related entities, each of which is a separate and independent legal entity, provide services from more than 100 cities across the region, including Auckland, Bangkok, Beijing, Bengaluru, Hanoi, Hong Kong, Jakarta, Kuala Lumpur, Manila, Melbourne, Mumbai, New Delhi, Osaka, Seoul, Shanghai, Singapore, Sydney, Taipei and Tokyo.

This communication contains general information only, and none of DTTL, its global network of member firms or their related entities is, by means of this communication, rendering professional advice or services. Before making any decision or taking any action that may affect your finances or your business, you should consult a qualified professional adviser.

No representations, warranties or undertakings (express or implied) are given as to the accuracy or completeness of the information in this communication, and none of DTTL, its member firms, related entities, employees or agents shall be liable or responsible for any loss or damage whatsoever arising directly or indirectly in connection with any person relying on this communication.