

**GOVERNMENT OF INDIA
FINANCE
LOK SABHA**

UNSTARRED QUESTION NO:372

ANSWERED ON:11.07.2014

GAAR

Owaisi Shri Asaduddin

Will the Minister of FINANCE be pleased to state:

- (a) the existing framework/provisions of General Anti-Avoidance Rules (GAAR);
- (b) whether the Government has deferred the implementation of GAAR;
- (c) if so, the details thereof including the period for which the same has been deferred and the reasons therefor;
- (d) the adverse impact on the collection and the benefit in terms of foreign investment likely to accrue as a result thereof;
- (e) the major recommendations/suggestions of Parthasarthi Shome Committee constituted by the Government to review GAAR; and
- (f) the action taken/being taken by the Government thereon including the changes likely to be made in the framework of GAAR?

Answer

MINISTER OF STATE IN THE MINISTRY OF FINANCE: (SMT. NIRMALA SITHARAMAN)

(a) The General Anti Avoidance Rule (GAAR) is contained in Chapter-X of the Income-tax Act, 1961 (the Act) inserted vide the Finance Act, 2013. GAAR is applicable to income of financial year 2015-16 and subsequent years. Section 101 of the Act provides that the provisions of GAAR contained in Chapter-X shall be applied in accordance with such guidelines and subject to such conditions as may be prescribed. The guidelines have been notified Vide Notification No. 75 of 2013 by insertion of new Rules 10U to 10UC and prescribing the Forms No. 3CEG, 3CEH and 3CEI in the Income-tax Rules, 1962.

(b) & (c) Yes, Madam. The GAAR provisions were originally introduced in the Income-tax Act vide the Finance Act, 2012 and were to be effective from assessment year 2014-2015 i.e. from financial year 2013-2014. Subsequently, the Government constituted an Expert committee to look into the concerns of various stakeholders and to suggest guidelines on the framework of GAAR. The Committee had recommended that GAAR be postponed by three years. Having considered the recommendation of the Expert Committee, GAAR has been postponed by two years vide the Finance Act, 2013. GAAR will now be applicable for the assessment year 2016-2017 i.e. the financial year 2015-2016 and subsequent years.

(d) GAAR is an anti-avoidance measure and is not meant to be a revenue generating measure. Hence no estimate of adverse impact on the collection and the benefit in terms of foreign investment as a result thereof has been made.

(e) The Committee had submitted its report to the Government on 30th September, 2012. The full report has been uploaded on the official website of the Finance Ministry on 14th January, 2013. Summary of the major recommendations of the Committee as contained in the Executive Summary of the Report are enclosed as Annexure 1.

(f) The report of the Expert Committee was considered by the Government and its major recommendations were accepted with some modifications. These decisions were implemented by amendment to the Income-tax Act through the Finance Act, 2013. GAAR has been postponed by two years and GAAR provisions would now be applicable to income of financial year 2015-16 and subsequent years. Further, vide Notification No. 75 of 2013, the mode, manner and time limits for application of GAAR rules as also the situations when these rules will not apply have been provided in the Income-tax Rules.