

**CBDT withdraws Circular No. 10 dated 31.12.2018 on non-applicability of S. 56(2)(viiia) to  
fresh issue of shares by a closely held company  
(Circular No. 2 dated 04.01.2019)**

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1. CBDT issued Circular No. 10 dated 31.12.2018 clarifying that S. 56(2)(viiia) is not applicable on receipt of shares pursuant to fresh issue of shares by a closely held company.
2. On 4<sup>th</sup> January 2019, CBDT issued another circular withdrawing the aforesaid Circular No. 10. CBDT cited that interpretation of the term “receives” used in S. 56(2)(viiia) is subjudice in various judicial forums and representations have been received from various stakeholders for clarification in the matter.
3. While the issue is being considered afresh by the CBDT, Circular No. 10 of 2018 stands withdrawn and is to be considered as though it was never issued.

Annexure: CBDT Circular No. 2 dated 04.01.2019

# Annexure

Circular No. 02/2019

**F.No.173/616/2018-ITA-I**  
Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Direct Taxes  
(ITA-I Division)

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New Delhi, the 04 January, 2019

**Sub: Withdrawal of Circular No. 10/2018 dated 31.12.2018 on applicability of section 56(2)(viia) of the Income-tax Act, 1961 for issue of shares by a company in which public are not substantially interested- reg.**

Reference is invited to the Circular No. 10/2018 dated 31.12.2018 on the captioned subject.

2. It has been brought to the notice of the Board that the matter relating to interpretation of the term "receives" used in section 56(2)(viia) of the Income-tax Act, 1961 (the Act) is subjudice in certain higher judicial forums. Further, representations have been received from stakeholders seeking clarification on other similar provisions in section 56 of the Act.

3. Accordingly, the matter has been reconsidered by the Board. Given the fact that the matter relating to interpretation of the term 'receives' used in section 56(2)(viia) of the Act is pending before judicial forums and stakeholders have sought clarifications on similar provisions in section 56 of the Act, the Board is of the view that the matter is required to be examined afresh so that a comprehensive circular on the matter can be issued.

4. In view of the above, the Circular No. 10/2018 dated 31<sup>st</sup> December, 2018 issued from file No. 173/616/2018-ITA-I is hereby withdrawn and the said circular shall be considered to have been never issued.

5. A fresh comprehensive circular on the subject shall be issued in due course.

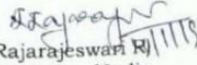
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(Rajarajeswari R)

Under Secretary to the Government of India

Copy to:-

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- ii. PS to Secretary (Revenue)
- iii. Chairman, CBDT & All Members, CBDT
- iv. All Pr. CCs/IT/ Pr. Ds/GIT
- v. All Joint Secretaries/Cs/IT, CBDT
- vi. CIT (M&TP), Official Spokesperson of CBDT

  
(Rajarajeswari R)

Under Secretary to the Government of India