

Taxability of Gifts

We would like to draw your attention on recent changes effective from 1 October 2009 for taxability of Gifts:

Gifts are Taxable Only in the case of Individuals and HUFs

In terms of the Section 56(2)(vi) of the Income Tax Act, 1961 ('the IT Act') certain gifts are liable to income tax as "income from other sources" **only for individuals and Hindu Undivided Families (HUFs).**

What kind of Gifts are taxable and who is liable to pay taxes

Cash and Non- cash Gifts i.e. Gift received in kind in the form of shares, Jewellery, valuable articles, Property, etc., for over Rs. 50,000/- from Non- relatives. It will be treated as income for the recipient and taxed according to their tax slab.

Even property deals among non-relatives for "inadequate consideration" will also come under the tax net. If the property is sold for inadequate consideration then tax will be imposed on the difference between the Government's notified rate and the actual purchase price.

What all are exempted Gifts

Gift up to Rs. 50,000/- (Cash & Non- Cash Gift taken together in aggregate in one F.Y)

Gift received by any Trust or A.O.P; and

Gifts from Relatives are Tax-Exempt

In terms of Section 56(2)(vi) of the IT Act any gift from relatives of any amount during the financial year is completely exempt from tax.

Here "relatives" means:-

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- Spouse of the individual;
- Brother or sister of the individual;
- Brother or sister of the spouse of the individual;
- Brother or sister of either of the parents of the individual;
- Any lineal ascendant or descendant of the individual;
- Any lineal ascendant or descendant of the spouse of the individual; and
- Spouse of the person referred to in clauses (ii) to (vi).

Note: Since a HUF can't have relatives, any gifts received by it in excess of Rs. 50,000 in a year would be liable to full income tax.

Exemption on Gifts received on Marriages

Any gift received from any person on the occasion of the marriage would not be liable to income tax at all. Further there is no monetary limit attached to this exemption in terms of Section 56(2)(vi).

Dispute persists with whether the gifts should have been received on the exact date of marriage or a few days before or later.

Tax-Exempt Gifts from Other Persons

The following gifts are completely exempt from tax in terms of Section 56(2)(vi) of the IT Act:

- Gift received under a Will or by way of inheritance;
- Gift in contemplation of death of the donor;
- Gift from any local authority;
- Gift from any fund or foundation or university or other educational institution or hospital or any trust or any institution referred to in Section 10(23C); and

Bimal Jain

FCA, ACS, B.Com (Hons)

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- Gift from any trust or institution, which is registered as a public charitable trust or institution under Section 12AA.

What is the effective date of chargeability of gifts for taxation?

- 1 October 2009

In case of any clarification/ information please feel free to contact us.

Office: 650, Pocket –V, Mayur Vihar, Phase –I, Delhi – 110 091 (India)

Mobile: +91 98106 04563/ 98107 11270 email: bimaljain@hotmail.com