

# UNDERSTANDING

## Tax Implication of receiving Gifts



### **PEEYUSH SHARMA & Co., Chartered Accountants**

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#### **About the Author**

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## **Tax Implication of receiving Gifts**

We know that gifts received from relatives are tax-exempt. But what is not widely known, at all, is that gifts received even from non-relatives can also be completely exempt from income tax. Here is the complete run-down.

It is very common for people to receive gifts from friends and relatives. In some cases, gifts are also received from NRIs. Let us consider the latest provisions of the Income Tax Act, 1961 regarding gifts, and analyse how individuals can achieve complete exemption from income tax in respect of the gifts during the current financial year.

### **Gifts are Taxable Only in the Case of Individuals and HUFs**

Certain gifts are liable to income tax as “income from other sources”, Sec 56(2)(vi). However, this provision is applicable only for individuals and Hindu Undivided Families (HUFs). Thus, if gift is received by any Trust or AOP, then it is not liable to income tax as “income from other sources”.

The provision of taxation of gifts became applicable in respect of gifts received on or after 1.9.2004 and before 1.4.2006 if the gift money exceeded Rs. 25,000. From 1 April 2006, this amount has been increased to Rs. 50,000 so that cash gifts and gifts by cheque or bank draft from non-relatives and from non-exempted categories can be fully exempt from income tax up to Rs. 50,000 in aggregate in one financial year.

### **Gifts from Relatives are Tax-Exempt**

Importantly, the provisions of the aforesaid Section 56(2)(vi) applicable to the taxation of gifts in excess of Rs. 50,000 in a financial year in the aggregate are applicable for gifts received from non-relatives.

Thus, any gift from relatives of any amount during the financial year is completely exempt from tax. Therefore, it's crucial to know the meaning of the expression ‘relative’ for this purpose. The expression “relative” means:

- 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).

For example, if Mr. A receives a gift of Rs. 200,000 in cash from his maternal uncle, that is, his mother's brother, it would be exempt since the maternal uncle would be brother of the parent of the individual concerned and would come within clause (iv) of the aforesaid Explanation.

Hence, whenever you receive any gifts from relatives you must carefully apply the test to ascertain whether the person concerned falls within one of the seven categories of “relatives” or not. If a person who makes a gift does not fall within any of the above categories, then he would be considered as a non-relative and gifts from such people would be exempt only up to the extent of Rs.



50,000 in a financial year. It may be noted that since a Hindu Undivided Family 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 for Marriage Gifts**

One very happy feature of the provision of taxation of gifts is that any gift received from any person on the occasion of the marriage of the gift's recipient would not be liable to income tax at all. There is no monetary limit attached to this exemption, which is provided by the proviso to Section 56(2)(vi). However, it is not made clear by this provision whether the gifts should have been on the exact date of marriage, or a few days before or later. Normally, it should suffice if the gift is given just on the occasion of the individual's marriage, which means either on the day of the marriage itself, or a day or two before or after. Practical common sense view would prevail in such cases.

### **Tax-Exempt Gifts from Other Persons**

Besides gifts received from a relative or on the occasion of an individual's marriage, the following are the other gifts which are completely exempt from tax as provided in the proviso to Section 56(2)(vi) of the I.T. 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
- Gift from any trust or institution, which is registered as a public charitable trust or institution under Section 12AA.

Thus, scholarships, stipends or charities received from a charitable institution would be completely exempt from income tax in the hands of the recipients without any limit provided the trust or institution giving the charity is registered under Section 12AA. Likewise, all gifts under a Will, and all amounts received on the death of a person as a part of the inheritance are fully exempt from income tax.

### **Tax Implication of receiving Gifts**

Want to gift a property or life time savings to your loved ones? Or have you received a car as a gift on your birthday? Are you worried about the cash gifts received on your wedding? Enjoy giving or receiving gifts guilt-free once you are mindful of the Gifting provisions in India.

As per current tax laws, if an individual receives cash or non-cash gifts from persons other than blood relatives\* in excess of INR 50,000 in a year, the whole of such gift received will be treated as the individual's income and must be included under 'Income from other sources'. If it does not exceed INR 50,000, it will not be treated as income.

But not all gifts are taxed. The specific assets for which gift tax is applicable are – cash, immovable property such as land & buildings, and movable property – shares & other securities (debt, derivative F&O), jewellery and bullion, art and antiques (paintings, sculptures, etc.).



In the same way, gifts from the following sources are tax exempt irrespective of amount received as Gift:

- 1) Any blood/close relative\*
- 2) Gifts received on your wedding
- 3) Gifts received by Inheritance or by Will.
- 4) Gifts received from any local authority (state government and related establishments)
- 5) From any university, educational institutions, charitable institutions and other institutions referred under section 10 (23).

Note: Movable property will be considered at fair market value.

What You Should Know

- i) Gifts made to spouse, minor children and daughter-in-law for inadequate consideration will be deemed income in the hands of the individual making the gift.
- ii) You can gift movable property to your dependent major children (above 18 years' age) and the income earned from such gift will be taxed in their hands, thereby lowering your tax liability.
- iii) An NRI cannot open a PPF Account. However, he can gift money to his close relative in India and take advantage of the tax-free investment.

**\*A Close or blood relative would include any of the following:**

- 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 individuals
- Any lineal ascendant or descendant of spouse of the individuals
- Spouse of the Brother / sister of individual or brother / sister of spouse of individual

