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FACULTY OF COMMERCE AND MANAGEMENT

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NAME OF FACULTY: DR. PALASH BAIRAGI

LECTURE-21

INCOME FROM CAPITAL GAIN cont….

Exemption on Capital Gains

Section 54: Exemption on Sale of House Property on Purchase of Another House Property

Budget 2019 announcement!

Capital gains exemption under Section 54:
Assessees can get an exemption from long term capital gains from the sale of house property by investing in up to two house properties against the earlier provision of one house property with same conditions. However, the capital gains on the sale of house property must not exceed Rs 2 crores.

The exemption The exemption under section 54 is available when the capital gains from the sale of house property are reinvested into buying or constructing two another house properties (prior to Budget 2019, the exemption of the capital gains was limited to only 1 house property).The exemption on two house properties will be allowed once in the lifetime of a taxpayer, provided the capital gains do not exceed Rs. 2 crores. The taxpayer has to invest the amount of capital gains and not the entire sale proceeds. If the purchase price of the new property is higher than the amount of capital gains, the exemption shall be limited to the total capital gain on sale.
Conditions for availing this benefit

1. The new property can be purchased either 1 year before the sale or 2 years after the sale of the property.

2. The gains can also be invested in the construction of a property, but construction must be completed within three years from the date of sale.

3. In the Budget for 2014-15, it has been clarified that only 1 house property can be purchased or constructed from the capital gains to claim this exemption.

4. Please note that this exemption can be taken back if this new property is sold within 3 years of its purchase/completion of construction.

Section 54F: Exemption on capital gains on sale of any asset other than a house property

Exemption under Section 54F is available when there are capital gains from the sale of a long-term asset other than a house property. You must invest the entire sale consideration and not only capital gain to buy a new residential house property to claim this exemption. Purchase the new property either one year before the sale or 2 years after the sale of the property. You can also use the gains to invest in the construction of a property. However, the construction must be completed within 3 years from the date of sale.

In Budget 2014-15, it has been clarified that only 1 house property can be purchased or constructed from the sale consideration to claim this exemption. This exemption can be taken back, if this new property is sold within 3 years of its purchase. If the entire sale proceeds are invested towards the new house, the entire capital gain will be exempt from taxes if you meet the above-said conditions. However, if you invest a portion of the sale proceeds, the capital gains exemption will be in the proportion of the invested amount to the sale price = capital gains x cost of new house /net consideration.

Section 54EC: Exemption on Sale of House Property on Reinvesting in specific bonds

Exemption is available under Section 54EC when capital gains from sale of the first property are reinvested into specific bonds.

- If you are not keen to reinvest your profit from the sale of your first property into another one, then you can invest them in bonds for up to Rs. 50 lakhs issued by National Highway Authority of India (NHAI) or Rural Electrification Corporation (REC).
- The money invested can be redeemed after 3 years, but they cannot be sold before the lapse of 3 years from the date of sale. With effect from the FY 2018-2019, the period of 3 years has been increased to 5 years;
- The homeowner has six month's time to invest the profit in these bonds. But to be able to claim this exemption, you will have to invest before the tax filing deadline.
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When can you invest in Capital Gains Account Scheme?

Finding a suitable seller, arranging the requisite funds and getting the paperwork in place for a new property is one time-consuming process. Fortunately, the Income Tax Department agrees with these limitations.
If capital gains have not been invested until the date of filing of return (usually 31 July) of the financial year in which the property is sold, the gains can be deposited in a PSU bank or other banks as per the Capital Gains Account Scheme, 1988. This deposit can then be claimed as an exemption from capital gains, and no tax has to be paid on it. However, if the money is not invested, the deposit shall be treated as short-term capital gains in the year in which the specified period lapses.

6. Saving Tax on Sale of Agricultural Land

In some cases, capital gains made from the sale of agricultural land may be entirely exempt from

income tax or it may not be taxed under the head capital gains.
a. Agricultural land in a rural area in India is not considered a capital asset and therefore any gains from its sale are not chargeable to tax. For details on what defines an agricultural land in a rural area, see above.

b. Do you hold agricultural land as stock-in-trade? If you are into buying and selling land regularly or in the course of your business, in such a case, any gains from its sale are taxable under the head Business and Profession.

c. Capital gains on compensation received for compulsory acquisition of urban agricultural land are tax exempt under Section 10(37) of the Income Tax Act.

If your agricultural land wasn't sold in any of these cases, you can seek exemption under Section 54B.

Section 54B: Exemption on Capital Gains From Transfer of Land Used for Agricultural Purpose

When you make short-term or long-term capital gains from transfer of land used for agricultural purposes – by an individual or the individual's parents or Hindu Undivided Family (HUF) – for 2 years before the sale, exemption is available under Section 54B. The exempted amount is the investment in a new asset or capital gain, whichever is lower. You must reinvest into a new agricultural land within 2 years from the date of transfer.
The new agricultural land, which is purchased to claim capital gains exemption, should not be sold within a period of 3 years from the date of its purchase. In case you are not able to purchase agricultural land before the date of furnishing of your income tax return, the amount of capital gains must be deposited before the date of filing of return in the deposit account in any branch (except rural branch) of a public sector bank or IDBI Bank according to the Capital Gains Account Scheme, 1988.
Exemption can be claimed for the amount which is deposited. If the amount which was deposited as per Capital Gains Account Scheme was not used for the purchase of agricultural land, it shall be treated as capital gains of the year in which the period of 2 years from the date of sale of land expires.

If you wish to know more about investment choices with good capital gains potential, please invest with ClearTax Invest. Our handpicked plans can help you build a portfolio that is best suited to your financial goals and risk profile.