YOUR QUERIES: INCOME TAX

No capital gains tax on agricultural land sale proceeds

CHIRAG NANGIA

• I have sold agricultural land. Do the sale proceeds attract capital gains tax? Is it mandatory to show in ITR?

—Sakshi Bhoir

Subject to certain conditions, agricultural land is not considered as a capital asset. Therefore sale of agricultural land will not attract capital gains tax and shall require a disclosure under Schedule Exempt Income in the ITR.

• We have two residential flats, both in the joint name of my wife and I (first name being my wife's). One flat is rented out and the rental income is received in my account. Can I consider this full rental income in my IT return?

—Mohan Pillai

No, the rental income shall be split between you and your wife equally in case of joint ownership.

• My son joined a company as an engineering intern and after four months it was converted into regular employment. During internship he was paid a monthly stipend and TDS at 10% was deducted by the employer under Section 194 J(b). Will the stipend constitute income and be subject to tax? Also, are there any deductions allowed for income under this section?

—T V Mahadevan

As per Section 10(16) of Income Tax Act 1961, scholarships granted to meet the cost of education are exempt from income-tax. If the primary purpose of payment of stipend is to further the education and training of the recipient, the amount received shall not be considered as salary but in the scholarship.

• I want to transfer some shares to the demat accounts of my daughter and NRI son as a gift. Should I execute a gift deed?

—R S Agarwal

Since shares are considered "movable property", it is not mandatory to execute a gift deed. However, in order to create a legal record, it is best to execute one. A simple acknowledgement may also serve the purpose. Further, please note that capital instruments are permitted to be transferred to NRI by way of gift subject to satisfaction of certain conditions and guidelines of RBI in this regard.

The writer is director, Nangia Andersen India. Send your queries to fepersonalfinance@expressindia.com

YOUR QUERIES: INCOME TAX

LTCG on auction of gold to repay loan will attract tax

CHIRAG NANGIA

My wife wants to take a gold loan by pledging old ornaments. As she will be unable to repay the loan, she will authorise the bank to get the outstanding amount liquidated by selling the pledged ornaments. Will she incur any tax liability for auctioning the ornaments by the bank?

—Amitava Majumder

When pledged jewellery is auctioned by the bank, long term capital gain (LTCG) may arise in the hands of your wife as the consideration has indirectly been received by her. Further, as per Section 55 of Income Tax Act, 1961 the fair market value of the jewellery as on April 1, 2001 may be considered as its cost of acquisition for the purpose of calculating the capital gain.

Is it compulsory for an NRI to file ITR every year in India although having no income at all in India?

—Name withheld

As per Section 139 of the I-T Act, an NRI is not required mandatorily to file ITR in India if he has not earned any income from India. However, there are certain conditions / thresholds prescribed under the Act — deposit, expenditure and other conditions prescribed under Rule 12AB of the Income-Tax Rules, 1962 which mandate ITR filing.

I am planning to sell my flat. How do I calculate LTCG on it? Will it be from the date of getting the possession or from the date of booking the flat? What are the costs that I can adjust while calculating the tax amount? Can I avoid LTCG tax if I invest the full amount in NHAI bonds?

—Vinod Auralia

Capital gain shall be calculated on the basis of the date of transfer of capital asset, i.e., the date of registering the sales deed. But in case the possession of the flat along with all other rights in property are transferred prior to the date of registering sale deed, the same shall be considered as the date of transferring the property. The date of booking of flat may not be material for this purpose. While calculating LTCG the following shall be deducted from sale consideration: Expenditure incurred wholly and exclusively for the purpose of transfer, indexed cost of acquisition, indexed cost of improvement.

As per Section 54EC, LTCG can be invested in NHAI bonds within a period of six months from the date of transfer to avail exemption, provided that the bonds are not transferred within a period of five years. Further, a maximum of ₹50 lakh can be invested in these bonds for the purpose of exemption.

I have incurred capital loss in derivatives trading. Can I set it off against my salary income?

—Akash Gupta

Capital loss from derivatives trading cannot be set off against income under the head 'salary'.

How should I compute the tax on capital gains after selling units of mutual funds?

—Alok Prasad

Capital gains derived from sale of listed equity shares, units of equity-oriented mutual funds held for a period of more than 12 months results in LTCG which are taxable at the rate of 10% plus cess plus surcharge (if applicable), in excess of ₹1 lakh, with no indexation benefit. However, if held for 12 months or less, would result in short term capital gain (STCG) which is taxable at a rate of 15%.

I am planning to transfer some shares that I hold to my son this year. What will be the taxation of such transfers for me or my son?

—Praveen Kumar

From an income tax perspective, gifting moveable property (shares in your case) to relatives does not trigger taxation. Therefore, you may transfer shares to your son without attracting any tax liability in his hands. Further, when he finally sells these shares received as a gift, for the computation of capital gains, he shall be entitled to include in his period of holding, the period for which the shares were held by you. Moreover, the cost for which you acquired the shares may be treated as your son's cost of acquisition.

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