

A Handicap Easily Overcome In Tax Planning

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Handicapped persons are given special treatment in computation of their income. Up to the assessment year 1994-95 income of every minor, whether handicapped or otherwise, was required to be clubbed with the income of his parent..

With effect from 1.4.1995 the income of a handicapped minor is to be assessed in his own hands and not in the hands of his/her parent and same is the position regarding wealth as well. Taking advantage of these and certain other provisions of the Act, one may be able to plan the affairs of the handicapped minor as also the affairs of his parents.

Who is handicapped ?

According to section 80U, a person who is suffering from a permanent physical disability including blindness or is subject to mental retardation which has the effect of reducing considerably such individual's capacity to normal work or engaging in a gainful employment or occupation is a handicapped person for the purposes of the section.

Certificate

The handicapped has, however, to obtain a certificate as aforesaid from a physician, a surgeon, an oculist or a psychiatrist working in a government hospital, for the purposes of deduction under section 80U.

Is the certificate required to be produced every year?

The certificate so obtained is required to be produced before the assessing officer in respect of the first assessment year for which the claim is preferred.

Statutory provision

Under section 80U, a handicapped is entitled to a straight deduction of Rs.40,000/- in computation of his income.

Assessment of handicapped minor under the amended provisions

Under the amended provisions of section 64(1A) , the handicapped minor is to be assessed in his own capacity and his income shall not be clubbed with the income of his/her parent. This would mean that the handicapped minor will also have the benefit of the deduction of the intital amount on which no tax is payable. i.e. Rs.50,000/-. In view of section 80U the handicapped minor is further entitled to a deduction of Rs.40,000 in computing his income ,thus aggregating to Rs.90,000.

The minor, in his own capacity, is entitled to a further deduction up to Rs.12,000, under section 80L if he has income from interest on securities, interest from banks and dividend ,etc., Thus there may be no tax liability up to an earning of Rs.1,02,000 as far as a handicapped minor is concerned. In view of the provisions of section 88, a handicapped minor may further derive the benefit of tax rebates if his income goes even beyond the amount of Rs.1,02,000.

Planning to increase the resources of handicapped minor

In order to have tax free income in the hands of the handicapped minor, the father may transfer his own funds to him. Thus every year an individual may gift a reasonable sum to his handicapped minor child and consequently may reduce his income-tax liability also on the transfer of his funds to the minor. Any other relation of the minor may also advantageously gift to such minor. The mother or the grand parents of the handicapped minor may also transfer their assets to such minor.

Can a handicapped person give a gift?

A handicapped person is not a like a minor or a lunatic. He is capable of taking decisions for himself .He is also entitled to dispose of his assets and may also make gifts.. Thus, where it is found that the income of the handicapped is liable to be taxed at a higher slab rate, he may make a provision for reducing the same.

Planning to reduce tax liability of the father

The father may plan to transfer his funds to the handicapped minor with a view to reducing his own income accruing in his hands . When the sizeable income is created in the hands of the handicapped minor, the father may transfer every year a reasonable sum to other minor sons who may invest the same with banks and may earn interest. In view of section 10(32) , income of a minor child to the extent of Rs. 1,500 in respect of each minor child is not taxable in the hands of the father. Thus the father may avoid his tax liability through his own children to a great extent.

Other provisions:

- 1) The assessee can avail benefit upto Rs.40,000 per annum under section 80DD in respect of following –
 - a) Of expenditure incurred by way of medical treatment (including nursing), training and rehabilitation of a handicapped dependent; or
 - b) Paid or deposited under any scheme framed in this behalf by the Life Insurance Corporation or Unit Trust of India

2) What happens if income of the handicapped person increases from one year to another?

Though it is presumed that the person who suffers from disability would also suffer a reduction in his earning capacity, but it might not be true always. In case of handicapped person with increase of income, the fact to be considered is that if the person has been able to some extent, overcome his handicap, he should not be penalized by denying the benefits of section 80U. {J.K.Abdul Jabbar v CIT (1999) 237 ITR 389 (Mad)} 3) It is not a precondition for allowing the deduction that the assessee should be unemployed or should not be earning anything. The deduction cannot be disallowed because the assessee has an income. {Sardar Harpreet Singh v CIT (1991) 187 ITR 679}