<u>Capital Gains : Tax planning</u>

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Tax Matters/ S.P. Babuta
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SINCE I HAVE been asked a number of questions on the issue of capital gains, I will attempt to explain the tax planning for the same.

Q.1 I sold an Industrial Shed in April 2004 on G.P.A. Can I invest the long term capital gain in residential flat (having no residence). What would be the last date for making deposit in Capital Gain Account Scheme?. My last date for filing return is 31.10.2005.

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Ans. Where long term capital gain (LTCG) arises out of any capital asset other than residential house,one can resort to provisions under section 54,which is available to individuals and HUFs only.

Conditions:

- Assessee should not own more than one residential house on the date of transfer.
- The assessee should have purchased one residential house within one year before transfer of capital asset or should purchase within 2 years from the date of transfer or construct within 3 years from the date of the transfer of the capital assets.
- The assessee should not purchase within 2 years or construct within 3 years any other new house from the date of transfer of capital asset.
- He should not sell the new house purchased or constructed within 3 years of its purchase, otherwise he will lose the benefit of exemption availed by them.
- If the amount of Net sales consideration cannot be utilized for purchase of new residential house for availing exemption under this section before filing of return for the previous year in which capital asset are transferred,then that amount is to be deposited in capital gain a/c scheme in any branch of a public sector bank before filing of return within the prescribed period.

Exemption allowed:
Amount of exemption available is proportionate to net sales consideration invested in house.

In your case you may deposit the net sales proceeds, in the capital gains account scheme on or before 31.10.2005, in order to claim this exemption. The new flat should be bought within 2 years of the date of sale of the Industrial shed.

Q.2: I was allotted a commercial plot in 1993 at Mohali at total cost of Rs. 6,36,000/-, financed in 4 equal yly. instalments with interest of Rs. 1,19,250/-; registered on 08.01.1998. Current Market price is 75 lakhs. I am 62 yrs and wish to dispose it off in 2005-2006. I wish to partly finance the residential flats of my two sons by ten lakh each to set off Capital gains/Tax liabilities for which I seek your Guidance .

Mr.S.P.Singh Bhalla,Mohali

Ans.2: In your case Long term capital gain tax can be saved by investing u/s 54-F & u/s 54-EC.Conditions for investing u/s 54-F is explained in the above mentioned question & conditions for investing u/s 54-EC are as follows :

- Assessee has to invest within 6 months from the date of transfer of long term capital asset in one of the bonds: Bonds issued by NABARD, National highway authority of India,rural electrification corporation ltd., National housing Board & Small Industrial development bank of India.
- The investment in these bonds should be for a minimum period of 3 years.

Out of the various options available we suggest as follows:

Option 1:

Assuming that:

- Rs. 75 lacs is the net sales consideration
- cost of acquisition of the property i.e., Rs.636000 is inclusive of the interest paid
- by paying Rs.10 lacs each to your sons you are purchasing a proportionate share of the property, you cannot just finance to be eligible for this tax exemption. On a later date you may WILL/GIFT the share to your son.

Net Sales Consideration	7500000
Less : Indexed cost of acquisition	1129283
LTCG	6370717
Less : Deduction u/s 54-F(6370717*2000000/7500000)	1698858
Less: Deduction u/s 54-EC (invested in Bonds)	4671859
LTCG	NIL

Option 2.

Out of the net sales consideration, invest capital gain amounting to Rs 6370717/-u/s 54EC and distribute the balance indexed original capital in hand, amounting to Rs. 1129283 to your sons .