

Exemption on gift of shares

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Tax Matters/ S.P. Babuta
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This week I will answer a wide variety of questions from readers:

Q1: When a Minor`s income is clubbed with his Parent ,Will such Parent get additional rebate u/s 80-C over and above one lac of rupees,for eligible investments /payments made in the name of minor ?

**AJAY JAIN
PATIALA**

Ans 1: Such parent shall be entitled to rebate u/s 80-C on eligible payments and investments made in the name of minor/self.However such rebate will be restricted to the overall limit prescribed u/s 80-C i.e.Rs. 1 lacs.No separate/additional rebate is permissible due to the clubbing provisions.

Q2. I had a chance to see HINDI CALENDER disclosing that all Payments/Receipts by individuals should be made/received through Account Payee Cheques only, contrary to this payments made received in cash are liable to be charged equivalent to the value of transaction.

Kindly let me know if this meets any enactment in the TAX LAWS.
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Ans 2: It is not clear from your question whether the cash payment is for loan or for purchases made in the normal course of business.

If your query is for loan or deposit then **(Sec. 269SS and 269ST):**

No person can accept or repay any loan or deposit of rs. 20000/- or more otherwise than by an account payee cheque or bank draft . Otherwise,penalty of an amount equal to the amount of transaction will be imposed.**(Sec. 271D & Sec. 271E)**

If your query is for purchases in business then **(section 40(A)3):**

In case of cash payments exceeding Rs.20,000/-, twenty percent of such expenditure shall not be allowed as a deduction from business income.However this is subject to some exceptions as provided under rule 6DD.

Q3. My daughter is an NRI and has obtained a House loan from ICICI Bank in India for purchase of flat from builder as Zirakpur (Punjab) for Rs. 32.15 Lacs. The amount is to be payable in installments started from Jan 2006, upto 3/2006. She has paid Rs. 6.43 Lacs. The builder has now asked for Service Tax of Rs. 218623.00 @ 10.20. And also informed her that S.tax @12.24 will be paid on each installment. She has not got possession of the flat, which is still under construction. My question is

1. Whether S.Tax will be paid by my daughter without an agreement with builder while purchasing the flat or The builder has to pay it.

2. In case she has to pay, then will it be paid with every installment to the builder without getting possession of the flat.

Ans3: Service tax is payable on Construction cost only.(New services added by Finance Act 2005, COMPLEX CONSTRUCTION SERVICES) Your flat cost would have an element of land cost allocated to it.Ask for the bifurcation of Land cost and construction cost from your builder and pay service tax only on construction cost.

Service tax will be paid by your daughter to the builder who in turn will deposit the same with the appropriate authorities .

Service tax will be paid with every installment even if possession is pending .

Q4: My father holds some shares in a demat account in Joint account with me . He is the first holder of these shares. He now intends to gift these shares to me in a different demat Account held by me in my name. Kindly advise the Tax implication of this transaction.

Pankaj Arora, Chandigarh

Ans 4 : Section 56(2)(v)provides that where any sum of money exceeding rs. 25000/-is received without consideration by an Individual or a HUF from any person on or after 01.09.2004 , the whole of such such sum shall be chargeable to income tax.

This does not cover Gifts in kind .and/or gifts received from relatives.

In view of above provisions, Gift of shares made by your father to you is exempt from income tax.