

NRIs and filing of return

**HT Chandigarh Live
Tax Matters/ S.P. Babuta
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Q1 : I made a gift of Rs. 1,00,000 to the wife of my brother for the purchase of house by her and my brother in return transferred certain debentures of the value of Rs. 1,00,000/- to my son. The chargeable income from the house property is Rs. 5,000/-pa. While the amount of interest from debentures was Rs. 3,000/-pa . Kindly explain how and in whose hand these income will be taxable?

Ans : There is no direct transfer by you and your son and by your brother to his wife. Still the transaction appears to be indirect transfer or arranged transfer. If cross transfer are so connected to form part of single transaction they are covered by section 64(1). So in your case income arising to your brother's wife will be taxable in the hands of your brother and income arising to your minor son will be taxable either in your hand or in your wife's hand, after excluding the exempted income of Rs. 1500/-.

Dinesh Kumar

Q 2: I am a merchant navy officer working on a ship , owned and managed by foreign company whose control and management is situated wholly outside India. My salary is paid abroad in US Dollars. I have no income in India. Last financial year my stay outside India was 190 Days and in India was 175 days.

Since my stay outside India is more than 182 days, please advise:

1. My status during that financial year?
2. My foreign income is taxable or not.

Jaswinder Singh.

Ans: In case of an Indian citizen who leaves India during the Previous Year for the purpose of employment outside India, his Presence in India should be atleast for 182 days for being treated as a resident in India .As your stay in India during the financial Year was 175 days, your status during that financial Year is of NON –RESIDENT.

Your foreign Income is therefore not Taxable in India.

Q 3: I am senior citizen of 77, retired from Air Force drawing pension Rs.1,10,000 per annum also income from interest Rs. 20,000 per annum. Also having own house and likely to be NRI very soon. As a NRI should I have to continue my income tax or not.

BS Bhogal

Ans: NRI's are required to Pay Income Tax only on their Indian Income if such income is above the taxable limit. If you become Non resident, you will not get the benefit enjoyed by

a Resident Senior Citizen. Since your Indian Income is above the taxable limit of Rs 100000/- you will be required to file your Income tax return.

Q 4 : I am an employee in Public Limited company . I am going to retire by March,2006 .As per Company's rule I will get My retirement benefits only on April,2006. I came to know from one of my retired friend that gratuity is taxable when it is due or paid, whichever is earlier and gratuity is exempt from tax when it is received.Kindly Advice me how to save my tax liability on gratuity due to this provision?

M.S.DHIR

Ans: This is correct that gratuity is taxable under the head 'Salaries' in the year in which it becomes due from the employer ,Whether it is paid or not . However exemption under section 10(10) and relief under section 89 is available only in respect of gratuity received during the Previous Year.

There is a view that If under the terms of employment ,gratuity is to be sanctioned by the board of directors of the company and it is payable not on the date of retirement but on its sanction by the board of directors it will become due on the date of its sanction by the board of directors.

In Your case if directors give their sanction somewhere in April,2006 gratuity will fall due on April 2006 and accordingly it will be taxable on `due` or receipt basis for the Fin.Yr 2006-07. Tax exemption under section 10(10) and relief under section 89(1) can also be claimed for the fin yr. 2006-07 as the gratuity is included in the income of Fin. Yr. 2006-07 and is received during that fin. Yr.