

No Capital gain tax on gifts

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Q : My mother had some shares of blue chip companies which she purchased in 1994. She gifted these shares to me in October 2006. I wish to dispose off these shares in the month of Feb 2007. Please advice

- i) Whether any capital gain tax liability arises either at the time of my mother's gifting of shares to me or at the time of my disposing off the said shares?**
- ii) If there arises a capital gain, will it be short term/long term capital gain?**
- iii) What shall be the cost of acquisition of those shares in my hands?**

Dr. puneet verma

Ans: Since gift is not considered to be a transfer ,from capital gain tax point of view, there will arise no liability towards capital gains tax at the time of gift of shares. Yes , the capital gain tax liability shall arise at the time of profitable disposal of the shares by you.

-For determining the period of holding, the date of acquisition will be the date when your mother purchased these shares.Since your mother purchased the shares in 1994,the gain shall be a long term capital gain.

- Cost of acquisition of these gifted shares will be the cost in the hand of your mother when she purchased them in 1994.

Q: An assessee pays freight to Truck Owner regularly. The truck owner does not want the assessee to deduct tax at source and instead wants to submit Form No.15-I, whether it is permissible? In my opinion the above form can be filed by a subcontractor with the contractor and whereas in our situation the truck owner is a contractor vis-à-vis the assessee.

Please clarify.

Ajay mittal

Ans. Form No 15-I is to be filled and submitted by a sub contractor to a contractor for non deduction of tax at source.(sub contractor should not own more than two heavy goods carrier/trucks.)

In your case since the contractor is dealing with the assessee directly ,Form No.15-I is not applicable. Rather it is suggested that remedy under section 197 should be resorted to, wherein the recipient can apply in Form No.13 to the Assessing officer to get a certificate authorizing the payer to deduct tax at lower rate or deduct no tax,as appropriate in the given situation.

Q: I want to join a firm as a partner. Towards my capital contribution I wish to contribute my building which is valued at around Rs.10 lacs. Please advice if there will arise any capital gain in the given circumstances?

Sahil

Ans. Building in your case is a capital asset and on transfer of the capital asset to the firm there will be liability to capital gains tax. The sales consideration in your case will be the amount recorded in the books of accounts of the firm.

Q: My brother acquired a cloth shop and paid consideration for the assets acquired alongwith cost of goodwill.Now he wants to sell the business. Kindly advice on the following:

- i) whether any capital gain shall arise on sale of business as a whole?**
- ii) If yes, then what will be the cost of acquisition ?**
- iii) whether the amount paid earlier as goodwill shall be treated as cost of acquisition even when nothing is being specifically charged on account of goodwill from the new purchaser?**

Avishkar

Ans: Profit/gain arising on sale of business as a whole will be chargeable to capital gains tax.

- Cost of acquisition shall be the price paid earlier while acquiring the business.
- Yes, goodwill paid earlier shall be treated as cost of acquisition irrespective of the fact that nothing has been specifically received from the purchaser on account of goodwill.