

## **No clubbing after marriage**

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I HAVE been often asked about business dealings after marriage. For example :

**Q1** I got 1500 shares of a reputed company from my husband before marriage . Now 8 yrs after marriage I have sold these shares. Please guide me whether capital gain on sale of shares will be added in my husband's income or it will be included in my income?

**Monica, Chandigarh**

**Ans** As per sec 64(i)(iv) of the income tax act when an asset is transferred by an individual to his spouse otherwise than for an adequate consideration, income arising on transfer of asset is included in the total income of the transferor.

However for applying this provision, marital status must exist, both at the time of transfer of asset and at the time of accrual of income .

Whereas in your case, the shares were transferred to you before your marriage and you sold the same after marriage. Thus the capital gain arising on sale of shares will not to be clubbed in your husband's income rather it shall be included in your individual total income.

**Q2** Is long term capital loss on securities, subject to security transaction tax(STT), available for set off against any Long term capital gain?

**Gaurav, Ludhiana**

**Ans** Tax on Long term capital gain on securities, subject to STT, stands withdrawn with effect from 01.10.2004.

Thus Long term capital loss incurred after the notified date on transfer of securities, subject to securities transaction tax, is not available for set off against any Long term capital gain.

**Q3.** I am an investor having a Demat Account. Are the charges levied by the bank i.e., transaction charges, maintenance charges and custodial charges eligible for deduction in calculating the capital gain in sale of shares?

**Alka, Chandigarh**

**Ans** Transaction charges on purchase of shares, Maintenance charges and custodial charges can be added to the cost of acquisition. Transaction charges relating to sales can be deducted from sale consideration as expense incurred for selling the shares.

**Q4**The assessee has agricultural land within the radius of 5 kms. of Chandigarh. The assessee is regularly showing agriculture income as income for rate purposes. From two years this agricultural land has come into NAC. Now the land has been sold. The date of registry is 30.09.2004 and the last date of filing return is 31.07.2005. The assessee has no residential house and wishes to purchase one. Please advice .

**Brij K.Singal, FCA, Chd**

**Ans.** Where long term capital gain arises out of any capital asset other than residential house, one can resort to provisions under section 54-F, 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.

The amount of exemption available is proportionate to net sales consideration invested in house. In your case, the new flat should be bought within 2 years of the date of sale of the agricultural land and till then you may deposit the net sales proceeds, in the capital gains account scheme on or before 31.07.2005 in order to claim this exemption.