

## **Taxability to Recipient for Money or Property received as Gift**

### **A. Scope**

- When a gift is received, amount of gift is included in income of recipient under head 'Income from Other Sources' u/s 56(2)(x).
- However certain exemptions are available where this provision is not applicable.
- Section 56(2)(x) covers three scenarios:
  - (a) Receipt of money by cash, cheque, demand draft, ECS, etc.
  - (b) Receipt of immovable property
  - (c) Receipt of movable property

### **B. Applicability**

- This provision is applicable to all types of assessee, i.e. individual, HUF, partnership firm, LLP, company, AOP, BOI, etc.
- It is important to note that provisions of taxability of gift are also applicable to assessee which are not covered under Audit.

### **C. Receipt of money by cash, cheque, demand draft, ECS, etc.**

- If more than Rs. 50,000/- is received by any person, then entire amount shall be added in income of recipient.
- Example: Mr. X gifted Rs. 70,000/- to Mr. A. Then entire amount of Rs. 70,000/- shall be added in income of Mr. A.

### **D. Receipt of immovable property**

- Immovable property means land or building or both.
- Case 1: Immovable property is received without any consideration  
In such case, if stamp duty value of immovable property exceeds Rs. 50,000/-, then entire amount of stamp duty value (SDV) shall be added in income of recipient.

Example: Mr. X transferred office to Mr. A without any consideration. SDV of office is Rs. 8,00,000/- which is more than Rs. 50,000/-. Then entire amount of Rs. 8,00,000/- shall be added in income of Mr. A.

- Case 2: Immovable property is received with consideration  
This case is decoded in following steps:

Step 1: Calculate difference of SDV and Consideration of property transferred

Step 2: Determine maximum allowable difference (It shall be *higher* of following)

- (i) Rs. 50,000/-
- (ii) 10% of consideration of property transferred

Step 3: Determine whether amount of Step 1 is greater than amount of Step 2?

If yes, then amount of Step 1 is added in income of recipient.

Example: Mr. X transferred immovable property to Mr. A

(Amount in Rupees)

Particulars	Example – 1	Example – 2	Example - 3	Example - 4
Stamp Duty Value (SDV) – (A)	37,00,000	22,00,000	4,95,000	8,60,000
Amount of consideration (B)	25,00,000	19,00,000	4,75,000	8,00,000
<b>Step 1</b> (A minus B)	12,00,000	3,00,000	20,000	60,000
<b>Step 2</b>				
(i) Rs. 50,000/-	50,000	50,000	50,000	50,000
(ii) 10% of consideration	2,50,000	1,90,000	47,500	80,000
Higher of (i) & (ii)	2,50,000	1,90,000	50,000	80,000
<b>Step 3</b>				
Is Step 1 greater than Step 2?	Yes	Yes	No	No
Is gift taxable?	Yes	Yes	No	No
<b>Amount added to income of Mr. A</b>	12,00,000/-	3,00,000	Not Applicable	Not Applicable

- Determination of Stamp Duty Value (SDV)
  - Stamp Duty Value (SDV) means value determined by Stamp Duty Value Authority for payment of stamp duty during transfer of immovable property.
  - If entire consideration is paid after date of agreement, then SDV on date of registration of property shall be considered. In any other case, SDV on date of registration of property shall be considered.

### E. Receipt of Movable property

- Movable property includes:
  - a) Shares and securities
  - b) Jewellery
  - c) Archeological Collections
  - d) Drawings
  - e) Paintings
  - f) Sculptures
  - g) Any art work
  - h) Bullion
- Case 1: Any movable property is received without any consideration  
 In such case, if fair market value exceeds Rs. 50,000/-, then entire amount of fair market value (FMV) shall be added in income of recipient.

Example: Mr. X transferred gold ornaments to Mr. A without any consideration. FMV of gold ornaments is Rs. 3,00,000/- which is more than Rs. 50,000/-. Then entire amount of Rs. 3,00,000/- shall be added in income of Mr. A.

➤ Case 2: Any movable property is received with consideration

Step 1: Calculate difference of FMV and Consideration

Step 2: If such difference is more than Rs. 50,000/-, then entire amount determined in Step 1 is added to income of recipient.

Example: Mr. X transferred debentures to Mr. A

(Amount in Rupees)

Particulars	Example – 1	Example– 2
Fair Market Value (FMV) – (A)	60,00,000/-	1,30,000/-
Amount of consideration (B)	59,40,000/-	85,000/-
<b>Step 1</b> (A minus B)	60,000/-	45,000/-
<b>Step 2</b> <b>Is Step 1 greater than Rs. 50,000/- ?</b>	Yes	No
Taxability	Yes	No
Amount added to income of Mr. A	60,000/-	Not Applicable

➤ Determination of FMV is detailed calculation under Income Tax Rules and hence not covered here.

## F. Exemptions

Certain gifts of money, immovable property and property are exempted from taxability under this provision. They are as under:

1. Gift received on occasion of marriage
2. Gift received under will, inheritance or contemplation of death
3. Gift received *from* –
  - a. Local Authority (Municipal Corporation, Panchayat, etc.)
  - b. Any Fund, Foundation, Institution, University registered u/s 10(23C) of I.T. Act
  - c. Any Trust, Institution registered u/s 12A or 12AA of I.T. Act
  - d. Trust created by relative of recipient for the benefit of recipient
4. Gift received *by* –
  - a. Any Trust, Institution registered u/s 12A or 12AA of I.T. Act
  - b. Any Fund, Foundation, Institution, University registered under section 10(23C)(iv) / 10(23C)(v) / 10(23C)(vi) / 10(23C)(via) of I.T. Act
5. Any money or property transferred under following transactions:

- a. Transfer between subsidiary and holding company
- b. Transfer in scheme of amalgamation and demerger
- c. Gift received on partition of HUF

6. Gift received from relative

a. If recipient is HUF, then all members of HUF are relatives. So, gift received by HUF from any of its member is not taxable.

b. If recipient is Individual (say, Mr. X), then relatives shall include:

- a. Spouse (Mrs. X)
- b. Parents of Mr. X and Mrs. X
- c. Children and children's spouse of Mr. X
- d. Brother, Brother's wife, Sister, Sister's husband of Mr. X and Mrs. X
- e. Uncle and Aunt of Mr. X (Both paternal and maternal uncle and aunt)

So, gift received by Mr. X from any person mentioned in 'a' to 'e' above is not taxable.