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LONG TERM CAPITAL GAIN: TAX LIABILITY

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ABSTRACT: -

The capital gain tax which is a part of income tax. The capital gain is now days are very high, because of changing in economy of India. In India when political environment change, automatically it is impacting on the social factors as well as on infrastructure. The capital gain which includes that fixed assets as well as stock market and marketable securities point of view, and as well as it is classifies in short term and long term capital gain. The researcher found the long term capital gains with especially to real estate as a capital gain tax liability. When infrastructure change, it is impact on the value of the assets and it may highly increase its value. The tax liability on such capital gains are exempted or not exempted. There are certain clauses and rules in income tax Act, by that capital gain tax are exempted and not exempted. The researcher taken overview on the capital gains and how much tax liability on long term capital gains. The capital gain tax should be on sale of property, stocks, bonds, precious metals etc. The capital gain tax which is relation with the sale of property, cost inflation index, actual purchase price, index in year of purchase and index in year sale. The separate cost inflation index is to be considering for separate financial year and that is recommended and regulate by the "Central Board of Direct Tax" of India.

KEYWORDS: *capital gain, tax liability, exemption, cost inflation index .*

INTRODUCTION :

The term capital gain is refer to a profits or gains arising from transfer of a capital asset are called "Capital Gains" and are charged to tax under the head "Capital Gains". The capital gains to be a short term or long term capital gain. The Central Board of Direct Taxation (CBDT), of India is stating or evaluating cost inflation index (CII) for a particular financial year. Every year CII is different and because of changing in societal as well as economical and financial. The change in CII which is change in capital gain and as well as tax liability. The meaning of short term capital gain is any capital asset held by the tax payer for a period of not more than 36 months immediately preceding the date of its transfer will be treated as short-term capital asset. And the meaning of long term capital gain any capital asset held by the taxpayer for a period of more than 36 months immediately preceding the date of its transfer will be treated as long-term capital asset. The researcher has focused on long term capital gain tax liability.

Fundamental in capital gain tax: - There is a short term capital gain and long term capital gain tax. And which is also controlled by the income tax department of India. The main fundamental in capital gain tax is when any asset purchase and sale, from that sale there is income is exceed than the exemption as per income tax act. The person should be tax payer. If any person having large income as per the income tax slabs from the transfer of asset or sale of capital asset that person should be capital gain tax payer.

Cost Inflation Index: - (As per CBDT)

The cost inflation index which is used to calculate long term capital gain. The cost Inflation index which is nothing but index points where value of assets or marketable securities to be certain fixed prices. Following table shows the information about Cost Inflation Index from 1995 to 2016.

The table which is included every five years CII % growth of index.

Financial years	Cost Inflation Index	Variations (% Increase)
2015-2016	1081	384%
2010-2011	711	254%
2005-2006	497	177%
2000-2001	406	144%
1995-1996	281	-

The above table indicating the information about after every five years cost inflation index and how much % changes in cost inflation index. As considering the base year i.e. financial year 1995-1996 the CII is 281 points and according this base points how much % change in CII after every five years. If we observe in table it is clear that, in comparison to financial year 1995-1996 to financial year 2015-2016, CII is 281 and 1081 and in it is increase by 384%. It is also found in the observation in 20 years of CII there is very highly increased CII and it is contiguously increasing trends.

Long term capital gain Tax: - The long term capital gain tax is referred as 'X' person purchase a property and sold property after 3 years from the purchasing date, will be liable for the long term capital gain tax.

Tax on long-term capital gain:-Generally, long-term capital gains are charged to tax @ 20% (plus surcharge and cess as applicable), but in certain special cases, the gain may be (at the option of the taxpayer) charged to tax @ 10% (plus surcharge and cess as applicable). The benefit of charging long-term capital gain @ 10% is available only in respect of long-term capital gains arising on transfer of any of the following asset: (a) Any security which is listed in a recognised stock exchange in India; (b) Any unit of UTI or mutual fund (whether listed or not) ($); and (c) Zero coupon bonds. [As amended by Finance Act, 2015]

Securities for this purpose means "securities" as defined in section 2(h) of the Securities Contracts (Regulation) Act, 1956. This definition generally includes shares, scrips, stocks, bonds, debentures, debenture stocks or other marketable securities of a like nature in or of any incorporated company or other body corporate, Government securities, such other instruments as may be declared by the Central Government to be securities and rights or interest in securities. ($) This option is available only in respect of units sold on or before 10-7-2014. In other words, in case of long term capital gain arising on account of aforesaid assets.

The taxpayer has following two options:

a.) Avail of the benefit of indexation; the capital gains so computed will be charged to tax at normal rate of 20% (plus surcharge and cess as applicable).

b.) Do not avail of the benefit of indexation; the capital gain so computed is charged to tax @ 10% (plus surcharge and cess as applicable).

The selection of the option is to be done by computing the tax liability under both the options, and the option with lower tax liability is to be selected.

Adjustment of LTCG against the basic exemption limit

Basic exemption limit means the level of income up to which a person is not required to pay any tax. The basic exemption limit applicable in case of an individual for the financial year 2015-16 is as follows:

• For resident individual of the age of 80 years or above, the exemption limit is Rs. 5, 00,000.
• For resident individual of the age of 60 years or above but below 80 years, the exemption limit is Rs. 3, 00,000.
• For resident individual of the age of below 60 years, the exemption limit is Rs. 2, 50,000.
• For non-resident individual, irrespective of the age of the individual, the exemption limit is Rs. 2, 50,000.
• For HUF, the exemption limit is Rs. 2, 50,000.

Case Studies of Long term Capital Gain tax:-
Following are the case studies taken by the researcher.

a) Mr. 'X' person who is Indian residential (HUF) purchase property on 1st January 2011 for Rs. 10, 00,000 and he sold to Mr. 'Y' on 21st June 2015 for Rs. 21, 00,000. We can calculate the taxable capital gain in the hands of Mr. 'X'.

Solution: - Available information:-
Purchase of property for Rs. 10, 00,000 in January 2010
Sale of property for Rs. 21, 00,000 in June 2015

Indexed cost of acquisition=

$$\frac{\text{Cost of acquisition} \times \text{Cost inflation index of the year of transfer of capital asset}}{\text{Cost inflation index of the year of acquisition}}$$

Indexed cost of improvement=

$$\frac{\text{Cost of improvement} \times \text{Cost inflation index of the year of transfer of capital asset}}{\text{Cost inflation index of the year of improvement}}$$

Calculation taxable capital gain

Full value of consideration	Rs.21,00,000
Less: Indexed cost of acquisition: (10,00,000 ×1081/711)	Rs.15,20,393
Less: Indexed cost of improvement	Nil
Long term capital gain	Rs.5,79,607
Tax @ 20% on Rs. 5,79,607	Rs.1,15,922
Add: EC @ 2% and SHEC @ 1%	Rs.3,478
Taxable capital gain	Rs.1,19,400

The above table indicating taxable capital gain of Mr. 'X'. Here as per the actual cost index Mr.'X' is liable to taxable capital gain is Rs.1, 19,400.

But as per income tax Act. 2015 under the Long term capital gain there is exemption limit on taxable capital gain. The considering above case of Mr.'X' taxable capital gain is Rs. 1, 19, 400 which is below exemption limit of Rs.2,50,000. It means that Mr.'X' is not liable to pay capital gain tax on his sale of property.

b) Mr. 'A' person who is Indian residential, in the age of 61 he purchase property on 10th June 2000 for Rs. 8,00,000 and he sold to Mr. 'B' on 25st July 2015 for Rs. 45, 00,000. What should be the taxable capital gain in the hands of Mr. 'A'?

Solution:-Available information
Mr. A Purchase property for Rs.8, 00,000, in June 2000,
Mr. A Sold property for Rs. 45, 00,000, in July 2015, Age of 'A' person is 61

Indexed cost of acquisition=

Cost of acquisition × Cost inflation index of the year of transfer of capital asset
Cost inflation index of the year of acquisition

Calculation taxable capital gain

Full value of consideration	Rs.45,00,000
Less: Indexed cost of acquisition: (8,00,000×1081/406)	Rs.21,30,050
Less: Indexed cost of improvement	Nil
Long term capital gain	Rs.23,69,951
Tax @ 20% on Rs.23,69,9,51	Rs.4,73,991
Add: EC @ 2% and SHEC @ 1%	Rs.14,220
Taxable capital gain	Rs.4,88,211

The above table indicating taxable capital gain of Mr. 'A'. Here as per the actual cost index of Mr. 'A' is liable to taxable capital gain is Rs.4,88,211.

But as per income tax Act. 2015 under the Long term capital gain there is exemption limit on taxable capital gain. The considering above case of Mr. 'A' taxable capital gain is Rs.4,88,211, which is above exemption limit of Rs.3,00,000. It means that Mr.'A' is liable to pay capital gain tax.

As per exemption limit in long term capital tax gain, person who is above 60 years and below 80 years will be exempted up to the limit is Rs.3, 00,000.

Tax should pay by Mr. 'A' is Rs.1, 88,211 (4, 88,211-3, 00,000)

c) Mr. 'P' purchase a property on 5th October in 1998 for Rs. 10, 00,000 and he sold to Mr. 'R' on 29st November 2015 for Rs. 75, 00,000. What should be the taxable capital gain in the hands of Mr. 'R'?

Solution:-Available information
Mr. P Purchase property for Rs.10, 00,000, in October 1998,
Mr. P Sold property for Rs. 75, 00,000, in November 2015

Indexed cost of acquisition=

Cost of acquisition × Cost inflation index of the year of transfer of capital asset
Cost inflation index of the year of acquisition

Calculation taxable capital gain

Full value of consideration	Rs.75,00,000
Less: Indexed cost of acquisition: (10,00,000×1081/351)	Rs.21,30,050
Less: Indexed cost of improvement	Nil
Long term capital gain	Rs.30,79,773
Tax @ 20% on Rs.30,79,773	Rs.6,15,955
Add: EC @ 2% and SHEC @ 1%	Rs.18,479
Taxable capital gain	Rs.6,34,434

The above table indicating taxable capital gain of Mr. 'P'. Here as per the actual cost index of Mr. 'P' is liable to taxable capital gain is Rs.6, 34,434.

But as per income tax Act. 2015 under the Long term capital gain there is exemption limit on taxable capital gain. The considering above case of Mr. 'P' taxable capital gain is Rs.6, 34,434, which is above exemption limit of Rs.2, 50,000. It means that Mr.'P' is liable to pay capital gain tax.

As per exemption limit in long term capital tax gain, a person who is below 60 years will be exempted up to the limit is Rs.2,50,000.

Tax should pay by Mr. 'P' is Rs.3, 84,434 (6, 34,434-2, 50,000)

CONCLUSION: -

The research is concluding about long term capital gain tax. There are many people who don't know how much exactly value of property changes and how much tax will be paid after certain sale of property. Hence this paper will definitely help to understand how long term capital gain tax to be paid on the sale of capital asset or property. The research is about long term capital gain and people are selling their property because to getting high return but, they don't know on the high capital gain tax liability is also high. This paper will help to easily understand long term capital gain tax. Because in the income tax act, there is certain exemption and if anybody sell his property, from this paper will be understand how exemption will be on taxable capital gain.

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