

NRIs – Overview of Tax issues on gifting

Q 1. Are there any tax implications in India when an NRI gifts money or property to a relative in India?

There are no tax implications for a donor when he gives a gift (without any consideration). The tax implications, if at all they arise is for the recipient who is not a relative (as defined under Indian tax laws). In essence, if an NRI gifts to a relative, there is no tax liability in India on the recipient, regardless of the amount.

However, if the gift is made to a non-relative, it would be considered as Income taxable in the hands of the recipient if the money/ fair market value of movable property/ stamp value of immovable property exceeds INR 50,000 (aggregate from all donors) in a financial year. The income is taxable as “Income from Other Sources” as per the slab rates applicable to the individual. Such implication arises on gifting of money, movable and immovable property. There are specific rules provided for the income determination in the case of transfer of immovable property for inadequate consideration as well.

Additionally, if an NRI donor gifts an income-generating asset to certain relatives, future income may be clubbed back in the hands of the donor under clubbing provisions.

It is suggested that appropriate documentation to support the gift transaction is maintained. Specifically for gifts of immovable property, a registered gift deed must be executed and applicable stamp duty needs to be paid.

Q 2. If an NRI receives a gift in India, is it taxable?

Gifts received by an NRI from Indian residents are taxable in India if the value of money/ fair market value of movable property/ stamp value of immovable property

value exceeds INR 50,000 in a financial year and they are received from non-relatives, unless covered under specific exemptions (e.g., on marriage, inheritance, or under a will). If received from a relative, it is fully exempt. The NRI must consider stamp duty implications where immovable property is involved.

If the NRI is a resident of a country which has a Double Taxation Avoidance Agreement (DTAA) with India, he may be entitled to treaty benefits on fulfilment of certain conditions that could reduce his tax liability in India, if leviable under the Indian domestic tax law. Each case may require individual assessment to determine the applicable tax liabilities and relief.

From a FEMA perspective, rules differ by asset type and must be checked case by case depending on whether the NRI is giving or receiving the gift. For immovable property, ensure that the relevant FEMA rules are complied. Also note that NRIs cannot hold agricultural land or farmhouses. Gift of equity shares should follow clear rules, but other assets like mutual funds, ETFs or jewellery need extra review. Conditions and limits vary and RBI approval may be required in some cases, so always seek proper guidance and exercise due care.

The information provided herein is for general guidance and informational purposes only. The applicability of laws, regulations, and tax provisions may have some additional requirement and may vary significantly depending on the specific circumstances of each case. Therefore, it is strongly recommended to consult a qualified tax expert or legal professional for personalized advice tailored to your unique situation. We disclaim any liability for decisions made or actions taken based solely on the content provided, as it does not constitute professional advice or a substitute for expert consultation. Always seek the guidance of a certified professional to ensure compliance with applicable laws and regulations.

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