
NRIs – Overview of Capital Gains Tax in India in case of Inheritance

Q1. Is capital gains tax applicable when I inherit a property in India?

No. There is no tax at the time of inheritance. This means you won't pay any tax on assets you inherit in India, regardless of their type or value. This applies to both movable assets (e.g., shares, bank deposits) and immovable assets (e.g., property). Under the Indian tax provisions, there is a specific exemption when transfer of assets such as shares, property etc. through a will or inheritance are not treated as taxable transfer. The tax liability arises only when the legal heir sells the inherited asset.

Q2. How are capital gains calculated when an inherited property is sold?

The capital gains are computed based on

- ✓ Cost to the previous owner (the one from whom you inherited), not your cost. If the asset was acquired before April 1, 2001, one can adopt either the Fair Market Value (FMV) as on that date or the actual cost.
- ✓ Holding period includes the time the previous owner held the property – thus if the holding period exceeds 12 months in case of listed shares/ equity - oriented units/ listed bonds then it would qualify as long-term capital asset. This period increases to 24 months in case of other assets such as property, gold etc.
- ✓ The indexation benefit is not available for sale made by NRIs on or after July 23, 2024. The only exception is where residents individual/ HUF transfer land or building or both which has been acquired prior to July 23, 2024 wherein the tax payer has an option to calculate his income tax liability by considering the indexation and without indexation benefit and then decide which to follow.

For example, if your father bought a house in 1998 and you inherited it in 2020, and sold it in late 2024, you can consider the cost of acquisition as your father's cost or FMV on 1 April 2001. The holding period would be from 1998 to 2024, making it a

long-term capital gain. Do ensure proper documentation like the will/succession certificate, previous owner's purchase documents, valuer's report if FMV is used is in place.

Q3. Does the benefit of grandfathering apply to inherited listed shares or equity mutual funds?

Yes. If you inherit listed shares or equity mutual funds and sell them on or after 1 April 2018, the grandfathering provisions introduced by the Finance Act, 2018 will apply. The cost of acquisition in such cases is deemed to be the higher of:

Actual cost to the previous owner, and

Lower of:

Fair Market Value (FMV) as on January 31, 2018, and

Sale consideration

This ensures that at least unrealised gains till January 31, 2018 are not taxed, even when the shares are inherited and sold later.

This is explained by way of following illustration:

Your father bought 1,000 listed shares in 2012 for INR 75 each

FMV on January 31, 2018 was INR 180 each

You inherited the shares in 2023

You sell the shares in February 2025 at INR 220 each

Capital Gains Calculation:

Actual cost per share = INR 75

FMV on Jan 31, 2018 per share = INR 180

Sale price = INR 220

As per grandfathering rule:

Cost of acquisition = Higher of INR 75 and Lower of INR 180 or INR 220 i.e. Higher of INR 75 or INR 180 which would be INR 180

So, Capital Gain = INR 220 (sale price) – INR 180 (deemed cost) = INR 40 per share
Total LTCG = INR 40 × 1,000 = INR 40,000 (before considering INR 1.25 lakh exemption)

If you are a resident of a country which has a Double Taxation Avoidance Agreement (DTAA) with India, you may be entitled to treaty benefits on fulfilment of certain conditions that could reduce your tax liability in India. Each case may require individual assessment to determine the applicable tax liabilities and relief.

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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