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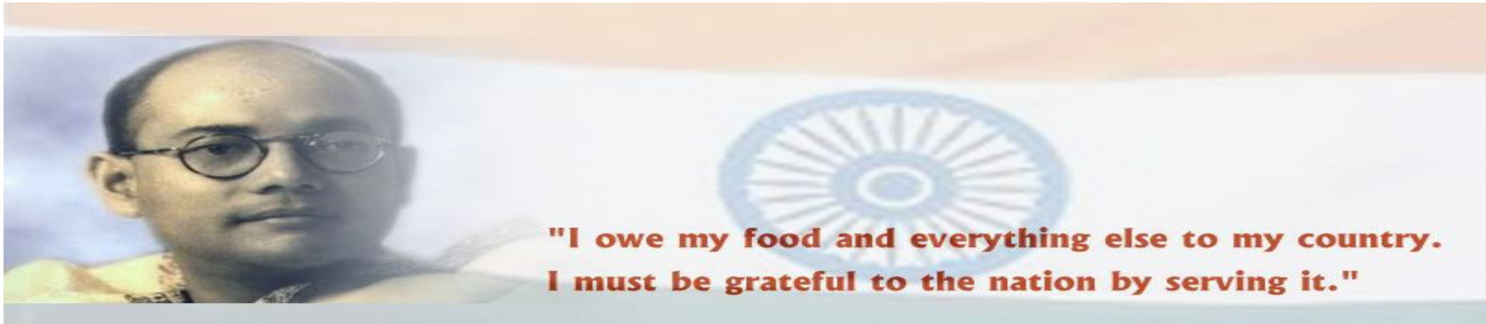
E – NEWSLETTER JAN - 2018

BHUJ BRANCH OF

WESTERN INDIA REGIONAL COUNCIL OF THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA



CA means Can-do Attitude. I may fail, but I would not give-up because I believe I can. I am a Chartered Accountant.

CA Bhavee Thacker

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9825227449

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& Vice Chairman
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Chairperson's Message

Dear Professional Colleagues,

2018 has started bringing new things on floor. The changeover of the Year marks the changes of new ideas and ideologies. We start the Year with new resolutions for the betterment marching towards the growth and development.

We started the Year with Sports Event rejuvenating the Energies. It was a Two Day Event of Indoor and Outdoor Games. Members and Students enjoyed and gave tough fight to the competitors. The Year begin with Cheer and Enthusiasm.

It Says that the thing that starts well ends well. At Bhuj Branch in the Month of January we started off with Sports Event, CPE, Celebration of Republic Day, E-Way Bill and now the highlights of Budget in row.

We are thankful to the members and students who take active participation in all the activities and make the event memorable. It is a time when all of us unite and celebrate the event with full sportsmanship.

We also witnessed the new members joining the fraternity with the stupendous results of Final and Intermediate. Students from Bhuj have managed to even get ranks in the Exam.

Bhuj Branch Congratulates the Rankers from Bhuj Amit Sheth for securing 1st Rank in IPCE and Mitsu Shah for 35th Rank in IPCE. I on behalf of all the managing committee members extend our wishes to all the Pass outs of Final and IPCE Examinations. Its indeed a matter of Pride for Bhuj Branch of WIRC of ICAI.

Last I would like to Quote :

" Failures Defeat Losers, But Inspires Winners. Losers quit when they fail, Winners Fail until they succeed."

Wishing You all A Very Happy Republic Year Ahead !!!!!!!!!!!!

CA Bhavee Thacker

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NOTICES UNDER INCOME TAX ACT

Compiled By:- CA Meenaz Siraj Memon
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Each and Every types of Income Tax Notices have a Reason Of Issuance.Some Income Tax Notices just give us Information like intimation u/s.143(1),some of for inquiry u/s.142(1),some of communication.This article will give brief information about different types of Income Tax Notices.

Reasons for getting Income Tax Notices are if we not filling Income Tax Return,Mismatch of Tax Rates,high value transactions,scrutiny,defect in Income Tax Return,Non Disclosure of Income,Error in respect of TDS,Investment in the name of Spouse etc.

Notice u/s.142(1)-Inquiry before Assessment;-

Notice u/s.142(1) served to call upon documents and details from the taxpayers.it related preliminary Investigation before Assessment.Assessing Officer may call upon;-
1.To furnish Return of Income if not filled before the end of the Assessment year.
2.The Notice can require him to produce accounts and documents.
3.The Notice can require him to furnish information such as list of assets and liabilities.
If Assessing officer may satisfied he may not strat with Assessment process.compliance mandatory to the Assessee. if fails to comply result in Best Judgement Assessment u/s.144.opportunity to be heard need not be given such a case.

Notice u/s.143(1)-Letter of Intimation;-

The Return of Income filed u/s.139 or in response to Notice u/s.142(1) shall be processed in the following manner:-
Three types of Notices can be send u/s.143(1);
1.if Assessing officer found that Return filed by you to be matching with his computation.
2.Refund Notice if amount excess paid by Assessee.
3.if shortfall found in your Tax payment.Notice ask to pay tax within 30 days.
Intimation shall be sent within 1 year from the end of the financial year in which the Return is made.

Notice u/s.143(2)-Scrutiny Notice;-

If you get Notices u/s.143(2) mean your Raturn selected for Scrutiny by Assessing Officer.such Notice shall be served on the Assessee within 6 months from the end of the Financial year in which Return is furnished or revised as the case may be.where the Notice has been issued to the Assessee u/s.143(2),processing of return u/s.143(1) shall not be necessary.if Assessing officer consider it necessary that the Assessee not understand the income or not computed excessive loss or not underpaid Tax in any manner then he take up the case for regular Assessment after serving Notice u/s.143(2).This Notice ask you to produce documents or physical attendance in support deduction,exemption,allowances,relief etc and provide proof all source of Income .Assessment u/s.143(3) cannot be made without serving Notice u/s.143(2).Failure to comply with Notice may entail Penalty u/s.271(1)(b) of Rs.10000.

Notice u/s.139(9)-Defective Return;-

Assessing officer consider Return of Income to be defective in following circumstances;-
1.Annexures,statements not duly filled in the Return by the Assesee.
2.Tax, interest not paid by the Assessee on or before furnishin of ROI.
3.if Accounts are Audited and copy of audited stetements and Audit report not furnished.
4.where the regular Accounts are not maintained or maintain but not reported by the Assesee.
Assessing officer may give opportunity to rectify within 15 days from the dare of service or such extended time allowed by AO.if defect not rectified then the AO shall treat the Return of income as an invalid.

Notice u/s.148-Income escaping Assessment;-

If Assesing officer have reason to believe that Income chargeable has escaped Assessments he may Assess or reassess such income.Before issue Notice the AO has record his reason for doing so.in order to initiate assessment or reassessment u/s.147,the only requirement is to issue a Notice u/s.148 within time limit.Notice u/s.148 can not sent if income involving matters which subject matter of appeal.reference,or revision.

Notice u/s.156-Notice of Demand;-

When any Tax,interst,penalty,fine or any other sum payable in consequence of any order passed AO may serve upon the Assessee a Notice of Demand specifying the sum do payable.Generally notice of demand is received in cases where assessment has been made in respect of Assessee.failure to pay the Tax wholly and partly assessee being treated as an assessee in default.

Notice u/s.245-Set of refund against tax remaining payable;-

Where any amount of refund pending to the Assessee and, any sum payable to the Assessee, under the Act AO may adjust the amount refunded with sum payable by Assessee. Basically it can be related inter adjustment transaction such adjustment shall be made only after giving intimation in writing to such person of the action proposed to be taken.

Whenever we received any Income tax Notices then deal with it properly, handle it carefully, check proof and DIN, check reasons and validity, collect your documents, give timely response, take professional advice.

Income Tax Notices issued by department are very important. As soon as you received read thoroughly and respond. Any delay can heavy to your pocket.

Compiled By:- CA Sweta Kaivalya Vora
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What are Mutual Funds?

"A mutual fund is a trust that pools the savings of a number of investors who share a common investment objective. The money thus collected is invested in capital market instruments such as shares, debentures, and other securities. And the income / gains generated from this collective investment is distributed proportionately amongst the investors after deducting applicable expenses and levies, by calculating a scheme's "Net Asset Value" or NAV.Each unit represents an investor's proportionate ownership of the fund's holdings and the income those holdings generate."

Mutual fund unit has traded price called Net Asset Value per Unit which represents the market value of all the Units in a mutual fund scheme on a given day, net of all expenses and liabilities plus income accrued, divided by the outstanding number of Units in the scheme.Investments in securities are spread across a wide cross section of industries and sectors and thereby reduce the risk. Asset Management Companies normally come out with a number of schemes with different investment objectives from time to time. A mutual fund is required to be registered with the Securities and Exchange Board of India (SEBI), which regulates securities markets before it can collect funds from the public.

Structure of Mutual Funds in India:

In India, mutual funds function as trust created under the Indian Trust Act, 1882. There are three layers of mutual fund in India as follows:

1. **Sponsor**: The sponsor is a person who establishes a mutual fund and gets it registered with Sebi. The sponsor forms the Trust, appoints the Board of Trustees, and has the right to appoint the Asset Management Company (AMC) or the fund manager.
2. **Trustees**: The mutual fund is managed by a Board of Trustees. The trustees act as a protector of unit holders' interests. They do not directly manage the portfolio of securities and appoint an AMC (with approval of Sebi) for fund management. If an AMC wishes to float additional or different schemes, it will need to be approved by the trustees. Trustees play a critical role in ensuring full compliance with Sebi's requirements.
3. **Asset Management Company**: The AMC is appointed by trustees for managing fund schemes and corpus. An AMC functions under the supervision of its own board of directors and also under the directions of trustees and Sebi. The market regulator has mandated the limit of independent directors to ensure independence in AMC workings.

- **The other constituents are:**

1. **Custodian and depositories**: The fund management includes buying and selling of securities in large volumes. Therefore, keeping a track of such transactions is a specialist function. The custodian is appointed by trustees for safekeeping of physical securities while dematerialised securities holdings are held in a depository through a depository participant. The custodian and depositories work under the instructions of the AMC, although under the overall direction of trustees.
2. **Registrar and transfer agents**: These are responsible for issuing and redeeming units of the mutual fund as well as providing other related services, such as preparation of transfer documents and updating investor records. A fund can carry out these activities in-house or can outsource them. If it is done internally, the fund may charge the scheme for the service at a competitive market rate.

History of Mutual Funds in India:

The mutual fund industry in India started in 1963 with the formation of Unit Trust of India (UTI) at the initiative of the RBI & Government of India. The objective then was to attract small investors and introduce them to market investments and then after permission was given to public sector funds,private sector funds to enter in this industry. A comprehensive set of regulations for all mutual funds operating in India was introduced with SEBI (Mutual Fund) Regulations, 1996.In February 2003, the UTI Act was repealed and it adopted the same structure as any other fund in India.Sebi has in recent times introduced many significant regulations in the industry for monitoring the same and protecting investor interests.

Advantages of Mutual Funds:

Professional Management, Portfolio Diversification, Low Transaction Costs Due to Large Volumes, Choice of products & assets, Liquidity, Tax benefits by ELSS Scheme, Flexibility in terms of transactions and nature of plan, Well Regulated & Transparent

Mutual Fund Schemes according to Investment Objective:

1.Growth / Equity Oriented Scheme: This fund invests predominantly in equity stocks.In the Indian context, as per current SEBI Mutual Fund Regulations, an equity mutual fund scheme must invest at least 65% of the scheme's assets in equities and equity related instruments.As per current Income Tax rules, an **"Equity Oriented Fund"** means a Mutual Fund Scheme where the investible funds are invested in equity shares in domestic companies to the extent of more than 65% of the total proceeds of such fund.

Different Catagories of Equity Funds:

Catagories of Equity Funds	**Description**	Suitability
Large Cap Equity Funds	Invest a large portion in companies with large market capitalization	For investor who need stability and sustainable returns over a period of time.
Mid-Cap Equity Funds	invest in stocks of mid-size companies, which are still considered developing companies.	For investor who is ready to take risk and want more growth potential than large-cap stocks over a long period of time.
Small Cap	Invest generally in smaller-sized companies which has market capitalization of less than 100 Crores.	For investor who wants to take the opportunity to invest in young companies with significant growth potential and wants to take more risk and volatility than Large and Mid Cap Funds.
Multicap Equity Funds/Diversified Equity Funds	Invest in companies across different market caps i.e.Large,Mid and Small Cap and hence reduce the amount of risk in the fund.	They are generally meant for investors who seek exposure across the market and do not want to be restricted to any particular sector.
Thematic Equity Funds	These funds invest in securities of specific sectors such as Information Technology, Banking, Service and pharma sector etc., which is specified in their scheme information documents.	For investor who wants to invest in particular sector to take the opportunity of potential growth in that sector.
Equity Linked Savings Scheme(ELSS)	Invests at least 80 per cent of its assets in equity and equity-related instruments and has 3 year lock-in period and dividends and capital gains, are tax-free	Investor who wants to avail tax deduction u/s 80C of Income Tax Act within the overall limit of Rs.1.5 Lakh

2.Income / Debt Oriented Scheme: The aim of income funds is to provide regular and steady income to investors and invest in fixed income securities such as Corporate and Government bonds, corporate debentures, government securities and money market instruments.They are less risky compared to equity schemes and are not affected because of fluctuations in equity markets but affected with changes in interest rates in country.

DIFFERENT TYPES OF SCHEMES IN THE DEBT FUND CATEGORY

Type of Scheme	Description	Suitability
Liquid Funds & Money Market Funds	Low duration funds,with portfolio maturity of less than 91 days.	A good alternative to savings bank account;potential to offer higher post-tax returns.
Ultra short-Term Bond Fund	Low duration funds, with portfolio maturity of less than a year.	Ideal for parking short-term surplus money; also offer slightly better returns than liquid fund
Short-Term Income Funds	Medium duration funds where portfolio maturity ranges from one year – three years.	Investors with a horizon greater than one year can benefit from these funds in a rising interest rate scenario
Fixed Maturity Plans (FMPs)	Passively managed close-ended funds, where investments are held to maturity.	An alternative to FDs with investment horizon of over three years.
Long-Term Income Funds	Medium to long duration funds with portfolio maturity between three and 10 years.	Suitable for investors with a longer investment horizon. These funds benefit when interest rates fall as bond prices (NAVs) and interest rates are inversely correlated.
Gilt Funds	Medium to long duration funds with portfolio maturity between three and 20 years and negligible credit risk. A gilt fund invests in government securities of various tenures issued by central and state governments.	The gilt portfolio of these funds does not carry credit risk, only interest rate risk. These funds benefit the most in a falling interest rate environment.
Monthly income Plans (MIPs)	Medium to long duration funds normally with exposure of less than 30% to equity.	Ideal for investors who are looking for returns better than traditional debt instruments and do not want higher exposure to equities.
Capital Protection Oriented Funds (CPFs)	This fund protect the initial investment from capital erosion.	CPFs have a small equity component which gives risk-averse investors an opportunity to participate in the equity markets without worrying about erosion of the principal which is protected.
Dynamic Bond Funds	Actively managed by reducing/increasing the portfolio maturity as per interest rate environment	Ideal for investors who may find it difficult to judge the interest rate movement.
Credit Opportunity Funds	These funds purchase bonds in lower rated bonds to generate higher returns/yields.	Suitable only for investors with a profile to take higher risk.

3.Balanced Funds:A balanced fund combines equity stock component, a bond component and sometimes a money market component in a single portfolio.Balanced funds gain from a healthy dose of equities but the debt portion fortifies them against any downturn.Balanced funds are suitable for a medium-term horizon and are ideal for investors who are looking for a mixture of safety, income and modest capital appreciation.

4.Exchange Traded Funds(ETFS): It is a marketable security that tracks an index, a commodity, bonds, or a basket of assets like an index fund. ETFs are funds that track indexes such as CNX Nifty or BSE Sensex, etc. When you buy shares/units of an ETF, you are buying shares/units of a portfolio that tracks the yield and return of its native index. An ETF trades like a common stock on a stock exchange. The trading value of an ETF is based on the net asset value of the underlying stocks that an ETF represents. ETFs typically have higher daily liquidity and lower fees than mutual fund schemes.

5.FUND OF FUNDS (FOF): An FOF Scheme invests in units of other mutual fund schemes either from the same mutual fund or other mutual fund houses. These schemes offer the investor an opportunity to diversify risk by spreading investments across multiple funds.

6.Index Funds: Index Funds replicate the portfolio of a particular index such as the BSE Sensitive index, S&P NSE 50 index (Nifty), etc. These schemes invest in the securities in the same weightage comprising of an index. NAVs of such schemes would rise or fall in accordance with the rise or fall in the index, though not exactly by the same percentage due to some factors known as "tracking error" in technical terms.

"It's not how much
money you make
but how much money you keep,
how hard it works for you,
and how many generations you keep it for"
-Robert Kiyosaki

SECTION 56: INCOME FROM OTHER SOURCES-RECENT AMENDMENT

Compiled By:- CA Kiran Thacker
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- **<u>Receipt Without Consideration treated as income:</u>**

<u>Introduction:</u>

It is always a pleasure to give gifts and more pleasure to receive it. Gifts means the transfer by one person to another of any existing movable or immovable property made voluntarily and without consideration in money or money's worth. Any receipt without consideration or receipt with inadequate consideration from relatives (as defined under Income Tax Act) is not taxable. However, certain receipt without consideration or receipt with inadequate consideration even from non-relatives is not taxable. Gift is an effective tool for tax planning in today's scenario, but we should careful while making tax planning using gift as a tool because there are some gifts which are taxable under Income Tax Act.

Presently, section 56(2)(vii) covers only two kinds of taxpayers viz. individuals and HUFs. It does not cover other taxpayers such as firms or co-operative societies or companies or trusts who continue to remain outside the drag net of such provisions.

it is proposed to insert a separate clause (x) to section 56(2) w.e.f. 01.04.2017 to cover those transactions and grandfather section 56(2)(vii), so that all the taxpayers could be treated alike. In order to prevent the practice of receiving sum of money or property without consideration or for inadequate consideration, section 56(2)(x) is proposed to be inserted so as to provide that receipt of the sum of money or assets resulting in the benefit exceeding Rs.50,000 shall be chargeable to tax.

Let's understand the provisions of gifts as per Income Tax Act, 1961:

<u>Provision:</u>

where any person receives, in any previous year, from any person or persons on or after the 1st day of April, 2017,—

(*a*) any sum of money, without consideration, the aggregate value of which exceeds fifty thousand rupees, the whole of the aggregate value of such sum;

(*b*) any immovable property,—

(*A*) without consideration, the stamp duty value of which exceeds fifty thousand rupees, the stamp duty value of such property;

(*B*) for a consideration which is less than the stamp duty value of the property by an amount exceeding fifty thousand rupees, the stamp duty value of such property as exceeds such consideration:

Provided that where the date of agreement fixing the amount of consideration for the transfer of immovable property and the date of registration are not the same, the stamp duty value on the date of agreement may be taken for the purposes of this sub-clause :

Provided further that the provisions of the first proviso shall apply only in a case where the amount of consideration referred to therein, or a part thereof, has been paid by way of an account payee cheque or an account payee bank draft or by use of electronic clearing system through a bank account, on or before the date of agreement for transfer of such immovable property:

Provided also that where the stamp duty value of immovable property is disputed by the assessee on grounds mentioned in sub-section (2) of section 50C, the Assessing Officer may refer the valuation of such property to a Valuation Officer, and the provisions of section 50C and sub-section (15) of section 155 shall, as far as may be, apply in relation to the stamp duty value of such property for the purpose of this sub-clause as they apply for valuation of capital asset under those sections;

(*c*) any property, other than immovable property,—

(A) without consideration, the aggregate fair market value of which exceeds fifty thousand rupees, the whole of the aggregate fair market value of such property;

(B) for a consideration which is less than the aggregate fair market value of the property by an amount exceeding fifty thousand rupees, the aggregate fair market value of such property as exceeds such consideration :

For the above Purpose, Property means the following Capital Asset (as defined u/s 2(14)) of the assessee namely:-

a. immovable property being land or building or both;

b. shares and securities;

c. jewellery;

d. archaeological collections;

e. drawings;

f. paintings;

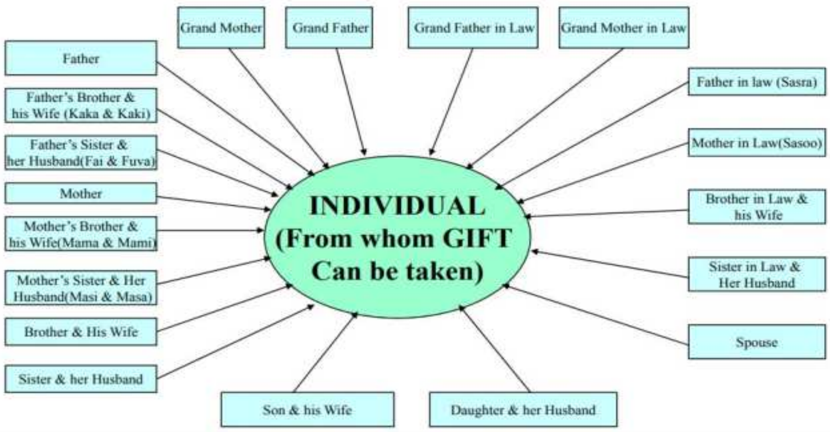
g. sculptures;

h. any work of art;[or]

i. bullion

Non-applicability of section 56(2)(x):

- Transfer of Stock in Trade
- From any Relative;



- On the Occasion of the marriage of the Individual;
- Under a Will through Inheritance;
- In contemplation of death of the payer;
- From any local authority;
- From any fund/foundation/ Educational institution/ hospital/ medical institutions/ trust or any institution u/s 10(23C);
- From any trust/ institution registered u/s 12AA.
- By way of transaction not regarded as transfer under section 47 some clauses.
- From an individual by a trust created or established solely for the benefit of relative of individual.

Conclusion:

- It is customary to receive and give gifts in India. Also on many occasions/events, gifts are commonly exchanged among friends & relatives. It is important to note that such gifts received could have tax implications in the hands of recipient; therefore, one needs to exercise caution so that he is not caught unawares. The provisions of Sec. 56(2)(x) are complicating tax provisions. Taxation on deemed basis and FMV concept is not a tax-payers friendly measure.
- The objection is to the manner in which the value of gift is proposed to be determined. It may be worthwhile to note that Contract between two parties for transferring any asset or right in asset, as per Indian Contract Act, 1872 has lost its essence as far as taxation under the Income Tax Act, 1961.

Photo Gallery

CPE @ Hotel Ilark

Learned Speaker Dr. CA Rajesh Khandol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