

Taxation on the Deemed Incomes in India

● Regulations on Deemed Incomes ●

01. **Certain** receipts in **cash** or in **kind** exceeding by rupees **50** thousands in a **financial** year without or inadequate consideration be taxed in the hands of **recipients** except **certain** exemptions or occasions

02. **Not Treated Deemed Incomes**

Deemed incomes **not** to be taxed in the hands of **recipients** where received from certain **relatives** of an individual or at certain **occasions**

03. **Certain 'Relatives' Includes**

- (i) **Spouse** of individual i.e wife or husband
- (ii) **Brother** or **Sister** of an individual
- (iii) Brother or Sister of **spouse** of an individual i.e Brother-in-law (**sala**) or Sister-in-law (**sali**)
- (iv) Brother or Sister of parent of an individual i.e **Bua**, Chacha, **Mama** and Mausi
- (v) **Lineal** ascendant or decendant of an individual i.e **Grand** father or Grand mother and son or daughter also includes **great** Grand father or great Grand mother and Grand son or Grand daughter
- (vi) Lineal ascendant or decendant of **spouse** of an individual i.e Father-in-law or mother-in-law and Grand or **great** Grand father- in-law or mother-in-law
- (vii) **Spouse** of these persons as being referred in para (ii) to (vi) i.e **Bhabhi**, Jija, wife of sala, husband of **Sali**, Fufa, Chachi, **Mami** and Mausa

04. **Certain 'Occasions' Includes**

- (i) Received by an individual from **non** relatives by way of **will** or inheritance
- (ii) Received by an individual on the occasion of his or her **marriage** from **non** relatives. Henceforth wife and husband both are permitted to receive **separately**
- (iii) Received by an individual from **non** relatives **in contemplation** of death of donor
- (iv) Received by an individual from local **authority** i.e MCD or DDA
- (v) (a) Received by an individual from **registered** fund or foundation or university or other educational institution or hospital or medical institution or trust or institution (b) However these should be **registered** under the Section **10(23C)**
- (vi) (a) Received by an individual from **registered** trust or Society or institution (b) However these should be **registered** under the Section **12AA**

● Clarifications on Deemed Incomes ●

- (i) Deductions under **Chapter VI-A** are permitted against the deemed incomes in the hands of **recipient**
- (ii) Receipts in **cash** or cheques from employer by **employee** are taxable under the Section 17 **not** under the Section **56(2)(vii)**
- (iii) Receipts in **kind** from employer by employee are taxable as perquisites under the Section 17(2) **not** under the Section **56(2)(vii)**
- (iv) Receipts in **cash** or cheques by **minor** are taxable under the clubbing provisions as Section **64(1A)**
- (v) Exemption of rupees **1500** per minor is available against receipts by **minor** under the Section **10**
- (vi) Exemption is **not** available on receipts by **HUF** from any **relative** as HUF can **not** have any relative being **non** human entity
- (vii) Exemption is **not** available on receipts from **Cousin** brothers or sisters
- (viii) Exemption is **not** available on receipts from **relatives** of brothers or sisters
- (ix) Concept of **cost** of acquisition for computing value of **property** is as applicable to donee also in accordance to Section **49**
- (x) Assessing Officer (**AO**) is permitted to refer to **valuation** officer for estimating value of property acquired **without** consideration
- (xi) Definition of property is **not** to includes certain transactions undertaken for business reorganization, amalgamation and demerger in accordance to Section 47 (via), (vic), (vid) and (vii)
- (xii) Exemption is available on deemed incomes **without** any monetary limit received from **non** relative **before** September 01, **2004**
- (xiii) Exemption on receipts in **cash** or cheque upto rupees **25** thousands **per** person per **financial** year is available from September **01, 2004 to March 31, 2006** without present concept of **aggregate** of rupees **50** thousands per **financial** year
- (xiv) Exemption of rupees **50** thousands is **not** available where amount exceeding limit **per** financial year i.e if amount of deemed income is rupees **51** thousands **entire** amount be taxed under the head Income from other sources under Section **56(2)(vii)** without permitting as exemption of rupees **50** thousands

●Taxation on Share Premium as Received in Excess of Fair market value●

*Section **56(2)(viib)**-Applicable from Ay **2013-2014** (year ending on March 31, **2013**) *

- (i) Now **share premium** as received in excess of **fair** market value be taxed under the head Income from **other sources** in the hands of recipient company

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(ii) (a) However such provision is **not** applicable to the recipient company where public is **substantially** interested and (b) Also to the venture capital **undertaking** who have received from venture **company** or venture capital **fund**

(iii) AO is required to provide an **opportunity** to the company to substantiate regarding the **fair** market value

(iv) Henceforth the **fair** market value includes:-

(a) As determined in accordance with method prescribed by the **CBDT** or (b) As **substantiate** by the company based on the value of its assets including **intangible** assets i.e. goodwill, Know-How, patents, Copy rights, trademarks, licenses, franchises and any other business or commercial right of the similar nature

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