STUDY NOTES · BASIC CONCEPT

What are the Legal and Tax related aspects of gifting Property to your Spouse? Explained!

Indian Economy

26 Apr 2009

What Is the Issue?

Gifting property to a spouse is a common practice in India, often used for financial planning or wealth distribution within the family. Many people believe that transferring assets like a house or land to their spouse helps in reducing tax liability. However, tax authorities are now closely monitoring such transactions because they are frequently used as a tool to shift income and reduce overall tax burden.

BECOME IAS
d UPSC Preparation by ZINKPOT

Are Gifts to Spouse Tax-Free?

Under the Income Tax Act, gifts given to a spouse are fully exempt from tax in the hands of the recipient. This means that when a husband or wife receives property as a gift, they are not required to pay any tax on the value of that property. This exemption is allowed because spouses are classified as specified relatives under tax laws.

Clubbing of Income Rule (Key Catch)

The most important rule to understand is the “clubbing of income” provision. According to this rule, if you gift property or money to your spouse and that asset generates income—such as rent or interest—then that income will still be taxed in your hands, not your spouse’s. This provision is designed to prevent taxpayers from transferring assets to a lower-income spouse just to reduce their tax liability.

Example for Easy Understanding

For example, if a husband gifts a house to his wife and she earns ₹5 lakh per year as rental income, that ₹5 lakh will not be taxed in the wife's hands. Instead, it will be added to the husband's total income, and he will have to pay tax on it according to his applicable tax slab.

When Does Clubbing Not Apply?

There are some exceptions where clubbing provisions may not apply. If the spouse uses the gifted money to create a new source of income—such as investing in a business or making further independent investments—then the income generated from those new sources may be taxed in the spouse's hands. However, these cases are carefully examined by tax authorities to ensure they are genuine and not structured for tax avoidance.

BECOME IAS
AI-Powered UPSC Preparation by ZINKPOT

Stamp Duty & Registration Charges

Even though gifting property is tax-free, it does not mean the transaction is cost-free. The transfer of property requires payment of stamp duty and registration charges, which vary from state to state. These charges can be significant and must be considered before making such transfers.

Why Tax Authorities Are Watching Closely

The government has become more vigilant because many taxpayers misuse gifting provisions to shift assets and income to family members in lower tax brackets. This results in reduced tax collection. To curb such practices, authorities are increasing scrutiny, ensuring that all such transactions are properly reported and comply with tax laws.

Big Picture

Gifting property to a spouse is legally allowed and can be useful for family financial planning, but it does not provide a shortcut to reduce taxes. The clubbing provisions ensure that income generated from gifted assets is taxed fairly, maintaining the integrity of the tax system.

BECOME IAS
AI-Powered UPSC Preparation by ZINKPOT