

F.No.24011/1/2009-LRD  
Government of India  
Ministry of Rural Development  
Department of Land Resources  
(Land Reforms Division)

'G' Wing', NBO Building,  
Nirman Bhawan, New Delhi-110011

Dated the 13<sup>th</sup> April, 2011

**CIRCULAR**

To,

The Revenue Secretaries of all the States/UTs.

**Subject: Applicability of Income tax towards compensation received by the land owners for the land acquired under the Land Acquisition Act and other rehabilitation grants as well.**

Sir,

I am directed to say that the Government is giving special attention to the issue of people getting displaced on account of development projects and, therefore, has been contemplating to amend the Land Acquisition Act, 1894 and also bring up rehabilitation and resettlement statute. However, it has been brought to the notice that the people who are getting compensation, are getting charged towards income tax and TDS of 10.3% is being deducted from the source. It appears that LA Collectors are often not fully aware of details of taxation laws and erroneously subject land owners who have their lands acquired to taxation they are exempt from.

2. This Department had taken up the matter, on the issue of tax being collected on the compensation awarded under the Land Acquisition Act with the Department of Revenue, Ministry of Finance, and Government of India.

3. The Revenue Department, Ministry of Finance, have explained the provisions of Income Tax Act 1961 (Act) in this regard with respect to land acquisition compensation as under:

- i) All the transfers of the land including the compulsory acquisition of land come under one category only, i.e. "land transfers"
- ii) Lands are categorized into two categories, i.e., agricultural and non-agricultural lands.
- iii) Agricultural lands are further sub-divided into two categories, i.e., rural and urban. Urban agricultural lands are those agricultural lands which are situated within the limits of municipality or at a notified distance of (maximum 8 kms. radius) of their boundaries.
- iv) There is no tax liability on the transfer of rural agricultural lands.

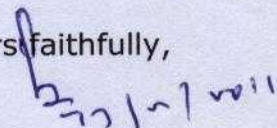
- 4.** The income by way of capital gain arising to an individual or a Hindu undivided family, on compulsory acquisition of an urban agricultural land is exempt from taxation after the 1<sup>st</sup> day of April, 2004 subject to the following conditions:-
- (i) The land during the period of two years immediately preceding the date of transfer, should have been used for agricultural purposes by such Hindu undivided family or individual or a parent of his;
  - (ii) The transfer should be by way of compulsory acquisition under any law, or the consideration for the transfer should be determined or approved by the Central Government or the Reserve Bank of India. [Section 10(37)]
- 5.** On the transfer of urban agricultural land, other than that mentioned in Para 4 above, capital gain tax is levied. However no tax is deducted at source on transfer of urban agricultural lands. Owners of Urban Agricultural Land in these cases can take benefits available under the following provisions to reduce their tax liability:-
- (i) There is no tax liability, if the amount of capital gains (up to Rs.50 lakhs) is invested in the REC Bonds or NHAI Bonds at any time within a period of 6 months after the date of such transfer. [Section 54EC]
  - (ii) If the entire capital gains arising from the transfer of land an agricultural land is invested for the purchase of any other agricultural land within a period of two years from the date of transfer, there is no tax liability. [Section 54B]
  - (iii) In case the owner is an individual or a Hindu undivided family and if a residential house is purchased within a period of two-years or a residential house is constructed within the period of three years from the date of the acquisition, with the entire consideration received, then there is not tax liability. [Section 54F]
- 6.** Capital gain tax is to be paid if none of the above options are exercised, however, taxation will be based on gain on indexed amount of original cost of the asset in the cases where the asset has been held for a period of three years more immediately preceding the date of transfer.
- 7.** The transfer of non-agricultural lands is liable for taxation. However, as per the provisions of section 194 LA of the Act, there is no applicability of Tax deduction at Source (TDS) in cases where the consideration received is less than 1 lakh rupees. However, if the consideration received is more than Rs. 1 lakh, tax at the rate of ten per cent is deducted as TDS.
- 8.** The owners of non-agricultural land can also avail the reliefs shown at Para No. 5 (i) & (iii) in case of transfer of non-agricultural land.
- 9.** Further, a project affected person can make an application under Section 197 of the Act to his Assessing Officer and obtain a certificate for lower rate of deduction or no deduction in appropriate cases.

8. The owners of non-agricultural land can also avail the reliefs shown at Para No. 5 (i) & (iii) in case of transfer of non-agricultural land.

9. Further, a project affected person can make an application under Section 197 of the Act to his Assessing Officer and obtain a certificate for lower rate of deduction or no deduction in appropriate cases.

You are, accordingly, requested to kindly see that matter as above are brought into notice of all officers connected with land Acquisition and inform them to take adequate care so as not to put farmers and other land owners into unnecessary taxation, if they are exempt from it as per above clarification of Department of Revenue, Ministry of Finance, Government of India.

Yours faithfully,

  
(Charanjit Singh)

Director (Land Reforms)

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Copy forwarded to :

- (1) The Ministry of Finance, Shri Vivek Anand Ojha ,Under Secretary (Department of Revenue), Central Board of Direct Taxes(TPL) with reference to their note No.149/5/2011/-SO(TPL) dated 28-3-2011.
- (2) The Secretary, Ministry of Railways, Rail Bhawan New Delhi.
- (3) The Secretary Ministry of Shipping Road Transport & Highways, Department of Road Transport & Highways, Transport Bhawan, Parliament street, New Delhi .