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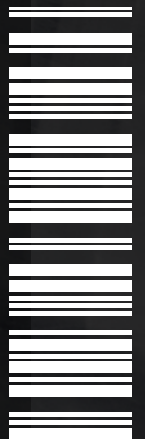
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# Tax Implication on GIFTS- a brief analysis

## Background & History of GIFT Taxation in India

Gift culture in India has always been thoughtful. The act of gifting continues its legacy as a gesture that creates bonds and affection in relationships. There is always an intention behind act of giving, be it natural love & affection, sense of social values, special occasions, festivals, celebrations, as a token of blessings, tax planning etc. etc..

There is always exist a tax regulation behind every act or transaction having financial implication and most importantly, Gift has always been subject to tax, barring only few exceptions. Further, every law gets modified with time and necessity. India had traditional law of taxing Gifts under GIFT Tax Act 1958, which was abolished in year 1998. After few years, in 2004 The Income Tax Act 1961 was amended to include taxing rights on such gifting type transaction under the Income Tax act under the head Income from other sources(IFOS). Initially, such transactions were limited to only monetary sum with lower threshold in hands of certain assesseees. The IT Act amended with time to time and now it covers taxation on receiving of assets (sum of money, any immovable property and property other than immovable property) in hands of any type of assessee(Individual, HUF, LLP, Company, Trust etc..), without consideration or with inadequate consideration.

Presently, Section 56(2)(x) of The Income Tax Act postulates with the provisions of such taxation and largely covers quite a few transactions which can be taxed. In this article emphasis is given to cover implication from individual taxation perspective.

### Prominent provisions of Section 56(2)(X)

The section doesn't specifically provide definition of Gift but forms right of taxation on receiving any sum of money, movable property and property other than moveable property without consideration or with inadequate consideration subject to certain threshold and exclusions. From the perspective of taxation under the IT Act, gifts can be classified under following heads:

- Sum of money or Monetary gift received in the form of cash, cheque, draft, bank transfer, etc.
- Movable property such as shares, bonds, jewelry, sculptures, paintings, etc.
- Immovable property like building, land, residential/commercial property etc.

Further, taxing rights under the act have been properly intended to consider Indian social, cultural and emotional values and therefore, several such transactions have been kept out from taxation. Following transactions are out of the ambit of taxation :-

### 1. GIFT between related persons – Fully exempt

#### Relation based exemption

When something is gifted because of their benevolence towards or emotional attachment to the recipient. Gifts of this kind are usually between family members or relatives such as from parent to child, spouse of individual, siblings and extended families. IT Act duly provides immunity from tax on such type of gifting transactions between relatives as prescribed under the Act. Gifting transaction with relatives will be outside the ambit of taxation irrespective of threshold value and occasion.

Gifting transaction with following relatives will be exempt from taxation u/s 56(2)(x) :

Sl No.	Relation Type
1	Husband or wife
2	Father or mother, son or daughter, grandson or granddaughter, grandfather or grandmother, great grandfather, great grandmother
3	Brother, sister, Sister's Husband, Brother's Wife, Wife's Brother, Wife's Sister, Husband's Brother, Husband's Sister, Husband's Brother's Wife, Wife's brother's wife
4	Mother's Sister, Mother's Sister Husband, Mother's Brother, Mother's Brother's Wife, Father's Brother, Father's Brother's Wife, Father's Sister's Husband, Father's Sister, Daughter's Husband, Son's Wife, Wife's Father, Wife's Mother, Husband's Father, Husband's Mother
5	Wife's Grand Father, Husband's Grand Mother, Husband's Grand Father, Wife's Grand Mother, Wife's Great Grand Father, Husband's Great Grand Mother, Husband's Great Grand Father, Wife's Great Grand Mother