Being aware of tax exemptions will help you plan for a 'zero' or minimum tax liability before acquiring new house property

Vivek Kohli

htestates LEGAL REMEDIES

THINKSTOCK

here immoveable property is concerned, it is crucial for owners to be aware of tax exemptions and deductions for effective investment planning. The Income Tax Act, 1961 (ITA), specifies five different heads under which income tax liability of an individual is calculated in a given assessment year. These heads are namely (i) salaries, (ii) profits and gains of business or profession, (iii) capital gains, (iv) income from house property and (v) income from other sources.

Sections 22 to 27 of the ITA prescribe how income from house property is to be computed. It is important to note that it is the 'annual value' of the property that is taxed, and not the property per se. Annual value refers to the inherent capacity of the property to yield income. It is the sum which the property might be reasonably expected to fetch, if rented.

However, it is not necessary for the property to be actually rented for the purpose of calculating its annual value. Municipal value of the property, cost of its construction and rent of similar properties in the same locality can be good indicators that help determine the value. Further, if the property is located in a territory subject to the Rent Control Act (RCA), its annual value cannot exceed the rental amount fixed under RCA, unless it has been let out for an amount greater than the prescribed rent.

Such house property should consist of any building or land belonging to the property. The term 'building' encompasses residential house (both leased and self-occupied), office building, flats, factory building, godowns etc. Following are a few pointers you should take note of when ascertaining income from house property:

■ The existence of a building on a plot is necessary for such property to be taxed as per income from house property.

■ If the building has been leased, the purpose for which it has been leased is not relevant. For instance, income from letting out an office building will also be considered as income from house property.

■ If a house property is occupied by a taxpayer for the purpose of carrying on his business or profession (the profits of which are chargeable to tax), the annual value of such property shall not be taxed under income from house property.

■ Income from letting of vacant plots of land will not be taxed under this head but under 'income from other sources'.

■ Where rental income of an individual's property is being received by a friend or relative, the individual is still liable to pay income tax on such property under this head.

■ As tax in an assessment year is levied on income earned in the immediate previous year, the annual value of a property that was owned in the previous year but is not owned anymore in the assessment year will still be taxable in the assessment year.

■ In case a property (buildings or buildings and land belonging to it) is owned by two or more persons, where each person's respective share in the property has been clearly demarcated, the share of each person in the income derived from the property shall be computed separately.

■ Where an owner has occupied more than one house for residential purposes, only one house chosen by him will be treated as 'self-occupied' and its annual value will be taken as nil – provided no benefit was derived from the self-occupied house/part of it had not been let out during the previous year. The other houses will be deemed as let out and taxed accordingly.

■ In case an owner owns one house property in City A that he is unable to occupy or derive any benefit from because he resides in City B (in a rented property) due to his employment demands, the annual value of the unoccupied house in City A will be taken as nil.

Deemed ownership

Ownership and deemed ownership of an immoveable property are two distinct concepts. Whereas true and rightful owners hold valid title of ownership of their property, the concept of deemed ownership in ITA was introduced to cover taxpayers who enjoy the usage of property but do not own them as such. Some situations where a person qualifies as deemed owner of a house property and is liable to pay income tax on it are as follows:

■ When an individual transfers a house property to his/her spouse (not in connection with an agreement to live apart) or minor child (not being a married daughter) without having received adequate payment for the property in return, such individual continues to be deemed owner of the property.

■ When a flat is allotted by a cooperative society/company to its member/shareholder, technically the co-operative society/company is the owner. However, the allottee is considered as deemed owner of the property and thus, liable to pay income tax on house property till he enjoys usage of such flat.

■ When an individual leases a building/part of building for 12 months or more, he will be considered a deemed owner of that building/part of building as the case may be.

Deductions allowed

■ A sum equal to 30 per cent of the annual value of a property.

■ Where a property has been acquired/constructed with funds borrowed on or after April 1, 1999, interest payable on such capital is allowed as a deduction for a maximum amount of ₹1.50 lakh, provided that such acquisition/construction was completed within three years from the end of the financial year in which capital was borrowed.

■ Interest paid on borrowed funds prior to the previous year in which the house was acquired/fully constructed, will be aggregated and allowed as a deduction in five equal installments beginning from the previous year in which acquisition/construction is completed, provided the sum is not allowed as deduction under any other head of ITA, along with regular interest of the relevant year and subject to total deduction not exceeding ₹1.50 lakh.

Keeping in mind income tax legalities and exemptions available, investors can accordingly plan for a 'zero' or minimum tax liability before acquiring or constructing a new house property. After all, minimising our tax liabilities can go a long way in enhancing returns on investments in immoveable property.

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HomeLoans

by Harsh Vardhan Roongta

If my father is the sole owner of the house and I wish to apply for a home loan for adding two more floors to his house, will a bank give me a home loan if my 85-year-old father is a co-applicant?
– Abhishek Kohli

Yes. You will need to apply for a home improvement/extension loan based on your income. However, your father will have to be a co-borrower to the loan as he is the owner of the property. Given his age, the lender may also insist on him making a will (and registering it) leaving the property in your name since the loan will be sanctioned based on your income.

I am a defaulter of two credit cards? How long will my name be in defaulter's list? Can I get a home loan?
– Surinder Singh

If you have defaulted on credit card payments, banks are unlikely to grant you a home loan unless the same is fully backed by tangible moveable, i.e easily encashable security like loan against gold or shares or bank FD. Your default will continue to show in the credit information list for at least seven years. You can try and build your credit history by taking a loan or a credit card against Fixed Deposits or other tangible security such as jewellery, shares etc where the lender can give you a loan despite your adverse credit report.

We are interested in buying a house under construction and looking to apply for a loan of around ₹15 lakh. I wish to know whether banks offer construction linked loans for which payment of EMIs start upon possession?
– Sunil Chawla

Most lenders offer construction-linked loan plans wherein you pay the simple interest for the period of construction (also known as pre-EMI interest) and the EMI starts upon completion of construction. Lenders are choosy about which under-construction project they will fund. So make sure that the project you select is approved by the lender of your choice.

I have a plot and want to construct the house and would need ₹5 lakh to ₹7 lakh. What is the best loan policy? Should I take a home loan or personal loan?
– Pooja Gupta

Since you are looking at a loan for construction of the house, it is advisable to opt for a construction loan which has a longer tenure and a relatively lesser interest rate as compared to that of a personal loan. Moreover, the construction loan will be disbursed by the lender to you in periodic intervals based on the progress of construction.

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Money versus Metro

This implies that if a second phase or an extension is announced, that would have a greater impact on property prices than the news that the Metro is finally operational. This means that Metro connectivity may have an impact of real estate values at three levels – an area may witness maximum appreciation when the corridor is announced and smaller price movements during the construction and operation stages.

"The Metro has definitely made the suburbs attractive. Both Gurgaon and Noida have already factored in the positives of road infrastructure and better connectivity with Delhi and the current prevailing prices reflect those positives. However, if an extension or a second phase connecting new Gurgaon or Noida is announced today, the areas will witness a significant impact in property prices once again," says Vineet Singh of *99acres.com*, a property portal.

The impact

However, the fact remains that there is definitely an increase in prices of properties that are located close to or along the Metro corridor. The entire area will be impacted, so, locations that are a few kilometers away from the track and have the potential to be connected to the corridor in the future may also see an increase in property prices. It's not only properties located on MG Road that have seen an increase in prices but also those located on Golf Course Road and Sohna Road due to the Gurgaon Metro.

According to Priyankar Bhikshu, head of India Research at DTZ, "though it's difficult to isolate and differentiate the impact of the Metro on residential real estate, even this increase is much more than in areas that may not see any Metro connectivity. Areas connected directly or through arterial routes have witnessed more or less similar price trends. Metro connectivity has not only pushed up prices of projects in proximity to it but the overall geographic area. However, projects that do not expect to have clear connectivity in the next three to four years would see a less than proportionate price increase."

It is interesting to note that there has been a slight increase in capital values of Gurgaon properties even during the period when the Gurgaon line was launched (in June) and when the entire Gurgaon-Jehangirpuri line became operational (in September). For example, MGF's The Villas project that was going for ₹7500 per sq ft in the second quarter this year is now going for ₹7,800 per sq ft after direct connectivity with Delhi has been established or prices offered at Unitech's Heritage City moved from ₹8,200 per sq ft to ₹8,500 in the third quarter.

Commercial realty

As far as commercial real estate is concerned, the impact of an infrastructure development on it is more during the operational stage. Commercial rents generally rise when companies see the benefits of improved connectivity percolate to their employees.

"The impact on commercial properties is definitely more. There has been a gradual increase in commercial rents ever since the Metro became operational," says Vivek Dahiya, founder and CEO at GenReal.

Metro has had the biggest impact on retail. As far as office space is concerned, now more and more companies may want to be in Gurgaon, adds Kaustav Roy, director (tenant strategies), Cushman & Wakefield India.

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Top 10 residential hotspots

1 GURGAON

■ **Massive infusion of commercial office and retail space**
Currently at 22 million sq ft and likely to grow to 40 million sq ft by 2012
■ **Substantial rationalisation of prices**
Correction of over 25 per cent to 30 per cent across micro-markets
■ **Wide breadth of projects across price ranges and geographies**
The downturn has opened new geographies at rationalised prices
■ **Shortening absorption period**
Increased absorption rates has led to fewer unsold housing units
■ **Quality developers and developments**
Tier I developers and good quality developments
■ **Water, power and connectivity continue to be areas of concern**
The Delhi Metro is expected to improve connectivity

2 MUMBAI

■ **High-income demographics**
High investment activity levels across price bands
■ **Massive infusion of commercial office and retail space**
■ **Relative affordability in suburban markets**
Most of the markets within the city are unaffordable. Affordability in eastern suburbs, Thane and Navi Mumbai
■ **Infrastructure can't keep pace with growth of city**
Infrastructure development to boost residential demand in suburbs

3 NOIDA

■ **Affordable micro-markets**
Reasonable price range has led to increased absorption momentum
■ **Excellent connectivity**
Connectivity through existing road infrastructure and the Delhi Metro
■ **Commercial office space**
Addition of another 12 million sq ft of office space in the next three years
■ **Residential demand primarily linked to IT/ITES sector**

4 PUNE

■ **Huge supply of office space**
Addition of 19 million sq ft of office space over the next three years
■ **Affordable micro markets close to the city**
■ **Oversupply in select micro markets only**
■ **Proximity to Mumbai**

5 BANGALORE

■ **Shifting geographies of commercial office development**
■ **Most of the micro markets highly affordable**
■ **Residential demand linked to growth of IT/ITES sector**
■ **City has attained a critical mass of IT occupiers, which will help attract even more IT occupiers**
■ **Infrastructure hasn't kept pace with the growth of the city**

Many cities in the country, after the slowdown, are once again in the spotlight for the good investment potential they offer in the mid to long term

HT Estates Correspondent

he only segment to emerge almost unscathed from the turmoil that the real estate sector underwent during the slowdown was the residential sector. Its resilience in the face of negative global cues was as much a result of the latent demand for affordable housing in India as the large share of the Indian real estate pie that the residential sector holds.

As with office space and retail malls, residential property did, to a lesser degree, suffer the effects of the global downturn in 2008 and 2009. However, unlike its counterparts, the residential sector has begun to show signs of stability in many markets, and even recovery in certain cities. Whether this trend will continue depends in large part on economic factors (mortgage rates, GDP growth, labour market stability) and on prudent decisions by developers on issues relating to pricing and quality of products being offered.

Jones Lang LaSalle Meghraj Research conducted an analysis of residential markets across India to help identify investment hotspots for retail investors. While abnormally large returns can be found in specific projects throughout the country, the analysis was limited to India's seven largest cities due to high residential demand from their large populations, relatively higher transparency levels and presence of premium regional and national developers.

The top ten cities were Gurgaon, Mumbai, Noida, Pune, Bangalore, Chennai, Hyderabad, Kolkata, Ahmedabad and Kochi.

Based on proprietary data from the Real Estate Intelligence Service (REIS), each cities' potential was examined across a variety of parameters, including affordability, investment yield, absorption momentum, supply overhang etc

"Residential property is very definitely the flavour of the year in 2010. While the primary metros continue to command the highest demand and appreciation potential, many other cities are once again in the spotlight for their mid-to-long term investment potential," says Abhishek Kiran Gupta, head - research and REIS, Jones Lang LaSalle India.

6 CHENNAI

■ **Diversified migrant population working in industrial, logistics and IT and ITES sector**
■ **Prices have rationalised across micro-markets**
■ **Properties along OMR benefit from excellent connectivity and proximity to IT hubs**
■ **Absorption rate yet to pick up**

7 HYDERABAD

■ **High affordability in Hitec City and Gachibowli**
■ **Oversupply in Hitec City and Gachibowli**
Other markets having low activity
■ **Residential demand linked to growth of IT/ITES sector**

8 KOLKATA

■ **Absorption rate has picked up in Rajarhat**
■ **Highly affordable micro markets**
■ **Growth in office take up projected to be low**

9 AHMEDABAD

■ **Newest metropolitan city with population of more than 4 million**
■ **Absorption rate has picked up in affordable markets closer to the city**
■ **Highly affordable micro-markets**
■ **Pharmaceuticals, logistics and automotive sector to drive population growth in the suburban markets**
■ **Poor IT/ITES presence**

10 KOCHI

■ **Diversified economy with growing IT/ITES presence**
■ **Highly affordable micro-markets**
■ **Huge non-resident Keralite demand drives residential real estate**
■ **Micro-markets of Edapally and Kakkanad highly dependent on IT/ITES sector**