

Agricultural Income Tax in India**Satarkar G. S.¹ and Chavan V. S.²**

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SUMMARY.

Famous quotes here are the best measure of a man's honesty isn't his income tax return. It's the zero adjust on his bathroom scale. Agriculture income is exempt from the tax. However state government can charge agriculture tax, income from agriculture upto rupees 5000 is not taxable. There is no clause for directly taxing agricultural income. According to Section 10(1) of the Income Tax Act, agricultural income is not considered a means of income. Income generated from agriculture is exempted from taxation by the Central Government.

INTRODUCTION

Agricultural income earned by a taxpayer in India is exempt under Section 10(1) of the tax Act, 1961. Agricultural income is defined under section 2(1A) of the Income-tax Act. As per section 2(1A), agricultural income generally means (a) Any rent or revenue derived from land which is situated in India and is used for agricultural purposes. (b) Any income derived from such land by agriculture operations including processing of agricultural produce so on render it fit the market or sale of such produce. (c) Any income due to a farm house subject to satisfaction of certain conditions laid out in this regard in section 2(1A). Any income derived from saplings or seedlings grown in a nursery shall be deemed to be agricultural income.

Agricultural Income Tax

Section 2 (1A) of the Income Tax Act, 1961 defines "agricultural income" as an income under the following three sources:

- Any rent or revenue derived from land which is situated in India and is used for agricultural purposes: The assessee will not be liable to pay tax on the rent or revenue arising from agricultural land subject to the conditions:

(a) The land should either be assessed to land revenue in India or be subject to a local rate assessed and collected by officers of the Government.

(b) In instances where such a land revenue is not assessed or not subject to local rate, the land should not be situated within the jurisdiction of a municipality (whether known as a municipality, municipal corporation, notified area committee, town area committee, town committee or by any other name) or a cantonment board, and which has a population of more than ten thousand (according to the last preceding census which has been published before the first day of the previous year in which the sale of land takes place); or it should not be situated:

- More than 2kms. From the local limits of any municipality or cantonment board and which has a population of more than 10,000 but not exceeding 1,00,000; or

- Not being more than 6kms. From the local limits of any municipality or cantonment board and which has a population of more than 1,00,000 but not exceeding 10,00,000; or

- Not being more than 8kms. From the local limits of any municipality or cantonment board and which has a population of more than 10,00,000.

(c) The revenue must not include any income arising out of transfer of such land.

Further, a direct nexus between the agricultural land and the receipt of income by way of rent or revenue is essential. (For instance, a landlord could receive revenue from a tenant.)

- Any income derived from such land by agricultural operations including processing of agricultural produce, raised or received as rent in kind or any process ordinarily employed by cultivator or receiver of rent-in-kind so as to render it fit for the market, or sale of such produce.

- Any income derived from any building owned and occupied by the assessee, receiving rent or revenue from the land, by carrying out agricultural operations: The building must be on or in the immediate vicinity of the land. It must be used by the assessee as a dwelling house or store-house or an out-building, in connection with the land.

Hence, we can consider income attributable to a farmhouse as an agricultural income, subject to the above conditions. Normally, the annual value of a building is taxable as 'income from house property'. However, in the case of a farm house, the annual value would be deemed agricultural income and thus, be exempt from tax. In addition to the above, income derived from saplings or seedlings grown in nursery is also considered as agricultural income.

In order to consider an Income as Agricultural Income, certain points have to be kept in mind:

- Existence of a land.
- Usage of land for agricultural operations: Agricultural operations means efforts induced for the crop to sprout out of the land. The ambit of agricultural income covers income from agricultural operations, which includes processes undertaken to make the produce fit for sale in the market. Both, rent or revenue from the agricultural land and income earned by the cultivator or receiver by way of sale of produce are exempt from tax only if agricultural operations are performed on the land.
- Cultivation of Land is a must: Some measure of cultivation is necessary for land to have been used for agricultural purposes. The ambit of agriculture covers all land produce like grain, fruits, tea, coffee, spices, commercial crops, plantations, groves, and grasslands. However, the breeding of livestock, aqua culture, dairy farming, and poultry farming on agricultural land cannot be construed as agricultural operations.
- Ownership of Land is not essential: In the case of rent or revenue, it is essential that the assessee has an interest in the land (as an owner or a mortgagee) to be eligible for tax-free income. However, in the case of agricultural operations, it is not necessary that the cultivator be the owner of the land. He could be a tenant or a sub-tenant. In other words, all tillers of land are agriculturists and enjoy exemption from tax. In certain cases, further processes may be necessary to make a commodity marketable out of agricultural produce. The sales proceeds in such cases are considered agricultural income because the producer's final objective is to sell his products.

Note:

- Agricultural income is considered for rate purpose while computing the tax liability for Individual/HUF/AOP/BOI/Artificial Judicial Person.
- Losses from agricultural operations could be carried forward and set off with agricultural income for the next eight assessment years.
- Agriculture income is computed in a manner similar to business income.

Exceptions:

- If a person sells processed produce without carrying out any agricultural or processing operations, the income would not be regarded as agricultural income.
- Likewise, in cases where the produce is subjected to substantial processing which changes the very nature of the product (for instance, canning of fruits), the entire operation is not considered as an agricultural operation. The profit from the sale of such processed products will have to be apportioned between agricultural income and business income.
- Income from trees that have been cut and sold as timber is not considered as an agricultural income since there is no active involvement in operations like cultivation and soil treatment.
- Tax on sale of agricultural land: Before 1970, profit on the sale or transfer of all agricultural land was considered rent or revenue derived from the land. Such profit was, therefore, tax-exempt as agricultural income. There were several favorable judgments of various High Courts on the issue. However, via a retrospective amendment that took effect from April 1, 1970, land qualifies to be an agricultural land if the prescribed conditions are satisfied.

An agricultural land does not form part of the definition of a capital asset and hence, there will be no capital gains on the sale of such land.

- Any other land not forming part of the above will be a capital asset and sale of the same shall attract tax on capital gains subject to Section 54B, which is explained below.
- Section 54B: Capital gain on transfer of land used for agricultural purposes not to be charged in certain cases
- Section 54B gives relief to a taxpayer who sells his agricultural land and acquires another agricultural land from the sale proceeds.

Conditions to be satisfied to claim the benefit of this Section:

- The assessee must be an individual or a HUF.
- The agricultural land should have been used for agricultural purposes. It may be a long term asset or a short term asset.
- It must have been used either by the assessee or his parents for agricultural purposes in atleast two years immediately preceding the date on which the transfer of land took place.
- The assessee should have purchased another land, which is being used for agricultural purposes, within a period of two years from the date of sale.

Note: In case of compulsory acquisition, the period of acquisition of new agricultural land will be determined from the date of receipt of compensation. However, as per Section 10 (37), no capital gain would be chargeable to tax in case of an individual or HUF if agricultural land is compulsorily acquired under any law and the consideration of which is approved by the Central Government or RBI and received on or after 01-04-2004.

- The whole amount of capital gain must be utilised in the purchase of the new agricultural land. If not, the difference between the amount of capital gain and the new asset will be chargeable as capital gains and the tax will be computed accordingly.
- The new asset purchased should not be sold within a period of three years from the date of acquisition.
- If sold, the cost of the new asset will be reduced by the amount of capital gain (claimed as exemption under Section 54B) for the purpose of computing tax on capital gains.
- Where the amount of capital gain is not utilised by the assessee for the purchase of the new asset before the due date of furnishing his return of income, he may deposit it in the Capital Gains Account Scheme (CGAS) of any specified bank.
- In such a case, the cost of the new asset shall be deemed to be the amount already utilised by the assessee for the purchase of the new asset together with the amount deposited in the CGAS.
- If the deposited amount is not utilised for the purchase of the new asset within the specified period, then the unutilised amount shall be taxed as income in the year in which the period of two years from the date of sale of the original asset expires.

Taxability of Agricultural income post amendment by Finance (No.2) Act, 2014

Agricultural income is considered for rate purposes while computing the income tax liability, if following two conditions are cumulatively satisfied:

- Net Agricultural income exceeds Rs. 5,000/- for previous year, and
- Total income, excluding net Agricultural income, exceeds the basic exemption limit.

Note: If aggregate agricultural income of the assessee is up to Rs. 5,000/- during FY 2018, then the entire income shall be exempt from tax. Accordingly, you need to disclose the agricultural income in the income tax return (ITR) 1 form to be compliant from the disclosure perspective. But if the agricultural income exceeds Rs.5,000, then form ITR 2 applies, which has a separate column for disclosure of agricultural income.

Once the aforementioned conditions are satisfied then we shall compute the Tax liability in the following manner:

First, include the Agricultural income while computing your income Tax liability.

Example – Let us say that an Individual Assessee has a Total income of INR 7,50,000/- (excluding Agricultural income) and a Net Agricultural income of INR 100,000/-. Then, per this step, Tax shall be computed

on INR 7,50,000/- + INR 1,00,000/- = INR 8,50,000/-. Thus, income Tax amount as per this step shall be INR 82500/- for an individual who is below the age of 60 Years during the P.Y. 2017-18.

Second, add the applicable basic tax slab benefit, as applicable, to the Net Agricultural income.

Thus, per our example mentioned above we shall add INR 2,50,000/- to INR 1,00,000/- as the applicable Tax slab benefit available to an individual below 60 Years of age is INR 2,50,000/-. Now we will compute income Tax on INR 3,50,000/- (Tax slab benefit 2,50,000 + Net Agricultural income 1,00,000). The amount of Tax shall be INR 5000/-.

Third, subtract the Tax computed in Second step from the Tax computed in First step = INR 77,500/-.

Thus, this is the income Tax liability subject to deductions, Education Cess etc., as applicable. This process of computation is, however, followed only if the assessee's non-agricultural income is in excess of the basic exemption slab. Clearly, despite agricultural income being tax-exempt, assesseees have to be cautious while dealing with such income. They must make sure that they aggregate agricultural income with their total income to avoid interest payments and possible penalties for concealment of income. Assesseees must also maintain credible records to provide the tax authorities with proof of ownership of agricultural land and evidence of having earned agricultural income. To conclude, there is enough scope for taxing income from activities which are non-agricultural in nature. In fact, it is well known that agriculturists themselves do not have taxable income, taking into account the fact that when it is divided amongst family members who are involved in agricultural operations, each one of them would have income within the exemption limit. However, there are hundreds of thousands of middlemen like wholesalers, retailers, distributors, etc. who earn substantial income from trading in agricultural produce as well as fruits, flowers, etc. Such income or profits are fully taxable under the present law and, therefore, if concerted efforts are made by the Tax Department to recover tax from them, the need for widening the tax base to rope in agriculturists and farmers, would be eliminated.

Tax Saving Tip:

Form a company or a partnership firm for the sole purpose carrying on your agricultural operations. As indirect effect of agricultural income is not applicable in a company or a firm, the complete amount would become exempt from taxation.

CONCLUSION

Concluded regarding areas of interest related to income in agriculture taxation: The impact of direct taxes on income levels and variability property taxes transfer of property on farm transfers and investment and innovation. The performance of tax instruments for improving environmental sustainability. Since Agriculture rich people save more than the poor, progressive rate of taxation reduces savings potentiality. This means low level of Agriculture investment. Lower rate of Agriculture investment has a dampening effect on economic growth of a country. Thus, on the whole, taxes have the disincentive effect on the ability to work, save and invest. An increase in direct tax rates will reduce disposable personal income, therefore lowering the overall demand for goods and services which in turn adversely affects economic growth.

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