

Taxation Laws & Property



Taxation Laws

Service Tax

- Applicable only on purchase of under construction properties w.e.f. 1.7.2010
- Property is 'under construction' till builder receives Completion Certificate (CC).
- Service Tax NA if full payment made after CC
- ST Payable on 25% of property value (i.e. 3.5%)



Taxation Laws

Service Tax

- ST Payable on 30% of property value (i.e. 4.2%) if Residential area > 2000 Sq ft or sale price > Rs. 1 Crore.
- ST is payable at 14% for amenities such as preferential location, car parking, club membership, electrical installation, fire-fighting equipment installation and others



Taxation Laws

Value Added Tax

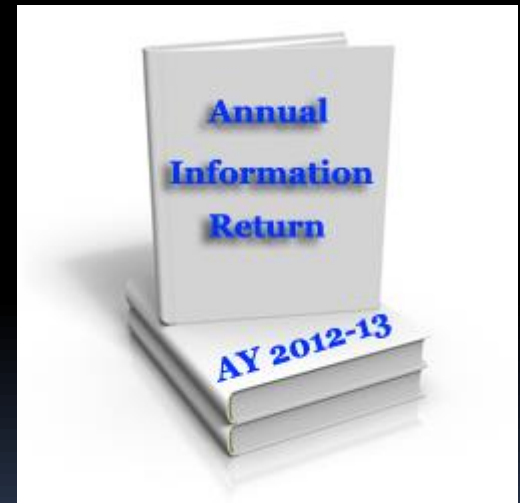
- As per the New Composition Scheme U/s 42(3A), developer has to pay 1% tax on Agreement value w.e.f. 01/04/2010.
- VAT not applicable if full payment is made after Completion certificate is obtained



Taxation Laws

Income Tax

- Quoting PAN mandatory for purchase/sale of property valued at Rs. 5 lakh and more (S139A).
- Purchase/sale of immovable property valued at Rs. 30 lacs or more reported by Registering authority to Income Tax Dept. in Annual Information Return. S.285 BA & Rule 114E, Income Tax Act, 1961



Taxation Laws

Income Tax - TDS

- New Section **194-IA** applies w.e.f. 1.6.2013
- Not applicable if Seller is Non Resident, property is agricultural or value < Rs. 50 Lacs
- Buyer of immovable property must deduct TDS from Sale consideration @ 1%
- If Seller does not have PAN, TDS rate will be 20%



Taxation Laws

Income Tax - TDS

- Buyer is not required to obtain any TAN number
- TDS must be paid online in Form 26QB
- Time limit is 7th of month following month of deduction
- TDS certificate to be issued by Buyer in Form 16B within 15 days from due date of filing Form 26Q



Taxation Laws

Income Tax - TDS

- Section 195 mandates that Buyer of immovable property must deduct TDS from sale consideration if seller is **non resident**.
- TDS rate is 22.66% on Sale value
- It is possible to avoid TDS by applying to jurisdictional Income Tax Officer for full/partial waiver u/s 197 of Income Tax Act



Taxation Laws

Income Tax Deductions

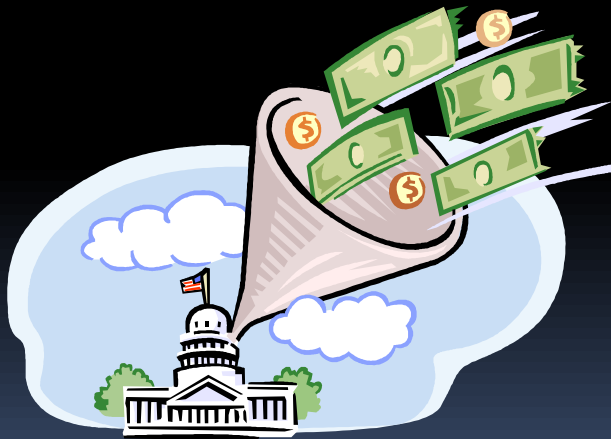
Particular	Section 54	Section 54EC	Section 54F
Who is entitled	Individual or HUF	All Assesseees	Individual or HUF
Assets Transferred	Residential HP	Any Capital Asset	Any Capital Assets Other than Residential HP
Period of Holding	Long Term Capital Asset – 3 Years	Long Term Capital Asset – 3 Years	Long Term Capital Asset – 3 Years
Investment Class for exemption	Residential House	Bonds of NHAI or RECL	Residential House

Taxation Laws

Particular	Section 54	Section 54EC	Section 54F
Prescribed period for Investment	<p><u>For Purchase:</u> Within 1 year before or Within 2 years after date of transfer .</p> <p><u>For Construction:</u> Within 3 years after date of transfer.</p>	Within 6 months after date of transfer.	<p><u>For Purchase:</u> Within 1 year before or within 2 years after date of transfer .</p> <p><u>For Construction:</u> Within 3 years after date of transfer.</p>
Lock in Period	3 years	3 years	3 years
Treatment of unutilized Amount	Amount to be Deposited in CGAS before due date of furnishing return u/s 139(1).	Not applicable	Amount to be Deposited in CGAS before due date of furnishing return u/s 139(1).

Taxation Laws

Particular	Section 54	Section 54EC	Section 54F
Exemption	Lower of Amount invested OR Capital gains	Lower of Amount invested OR Capital gains. Max Rs.50 Lacs	Amount Invested x <u>Gross LTCCG</u> Net Consideration



Taxation Laws

SECTION 43CA & 50C

- Applies to transfer of land, building or both.
- Sale Consideration equals Stamp duty Value for Calculating Business Profit/ Capital gains even if Agreement shows lower valuation
- Advisable to ensure that Sale price is equal to or higher than Stamp duty value



Taxation Laws

SECTION 56

- Applies to transfer of immovable property > 50K without consideration
- Stamp duty value of property transferred to Non relative taxable in recipient's hands
- SD Value Less consideration of property transferred to Non relative taxable in recipient's hands
- 'Relative' of an individual means their spouse, siblings, siblings of their spouse, siblings of either parent, any lineal Ascendant/Descendant of the individual or any lineal Asc/Desc of their spouse

