There can be a time in your life when you decide to sell off your most valuable asset- a house. This decision can be due to various reasons like moving to a better house, relocating to another city or country or maybe a financial crisis. But there is something which needs your attention, selling off property is liable for tax payment in India. The tax is paid on the sale of all property types except agricultural land. The property seller has to pay two types of taxes while receiving any income from the sale of immovable property. Also, the same rules are applied to an NRI property owner. To know about such taxes, continue reading the blog.

Types of Taxes To Be Paid When Selling A Property

Following are the taxes which are to be paid while selling a property:-

1. Tax Deducted at Source (TDS)

As the name suggests, it is a tax paid while making any payment to the seller (i.e. at the source of the transaction being done). TDS is paid by the seller but deposited by the buyer on behalf of the seller.

TDS is applicable at 1% of the total sale consideration of the property as Sec 194 IA of the Income Tax Act, 1961.

2. Capital Gains Tax

Immovable property such as land, building, apartment, individual house, etc. is termed as a capital asset for the purpose of income tax computations. Thus, the amount received from sale of a property is treated as capital gains, and hence attracts Capital Gains Tax.

Any land used for agricultural purposes is exempt from this tax.

Types of Capital Gains

Capital Gains are further divided into two types - Short Term Capital Gains and Long Term Capital Gains

1. Short Term Capital Gains (STCG)

The STCG Tax is applicable when a particular property is sold within 24 months of buying it. In case it is an inherited property then the date of purchase of the original owner will be considered.

The difference between the sale price and the purchase price of that property is called STCG. This STCG amount is added to the regular income of the seller and is taxed as per the income tax slab of the seller.

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Example of Short Term Capital Gains

Consider the case of Mr. Jha, a school teacher in Ahmedabad who bought a 1 BHK flat in April 2019 for Rs. 25 lacs, and sold it in November 2020 for Rs. 30 lacs. Here, the profit of Rs. 5 lacs earned by Mr. Jha would be treated as his STCG and added to his regular income from salary. The total income (STCG+ salary+ any other sources) would be taxed as per his income tax slab.

2. Long Term Capital Gains (LTCG)

The LTCG Tax is applicable when a particular property is sold after 24 months of buying it. The time period was reduced from 3 years to 2 years in Budget 2017.

The rate of LTCG Tax is 20%. This is over and above the regular income tax payable by the seller, on the income earned through salary or business profit.

Similar to SCTG, the LTCG is the difference between the purchase price and sale price of the property. However, the LTCG is calculated by factoring in the inflation cost during the sale of the property. The benefit of indexation is available in order to arrive at a fair cost of purchase of the property in terms of its current-day value.

Indexation is used to arrive at the inflation-adjusted cost of purchase. It is calculated as follows:

Original Purchase price x (Index Value of Sale year ÷ Index Value of Purchase year)

Example of Long Term Capital Gains

For instance, consider Ms. Desai, a banker in Navi Mumbai who bought a 2 BHK Row-House in May 2004 for Rs. 20 lacs. She sold that house in November 2019 for Rs. 90 lacs.

Here even though she bought the house for Rs. 20 lacs, she is not liable to pay tax on Rs. 70 lacs (Rs.90 lacs - Rs.20 lacs). Instead, the inflation adjusted purchase price for her house can be calculated as below:

Purchase price: Rs. 20 lacs

Sale Price: Rs. 90 lacs

Cost Inflation Index of year of purchase (FY 2004-05): 113

Cost Inflation Index of year of sale (FY 2020-21):301

Indexed Cost of Acquisition = 20 x (301/ 113) = Rs. 53.27 lacs

Thus, Ms. Desai would have to pay LTCG Tax on the gain amount of Rs. 36.73 lacs (Rs. 90 lacs - Rs. 53.27 lacs). Here, the LTCG payable would be Rs. 7.35 lacs (20% of Rs. 36.73 lacs)

The values of the inflation index can be found here. For properties bought before 1st April 2001, a fair market value of the property as on 1st April 2001 can be declared and used as the original purchase price of the property.

It is to be noted that stamp duty, registration charges, and any costs incurred in improvements made to the property post purchase (such as renovation, home improvement, expansion, etc.) can also be included in the total cost of acquisition. However, the cost incurred in such improvements should be indexed to the particular year in which they were carried out.

Also, the charges incurred in the sale process of the property can be deducted from the sale price. For instance, if Ms. Desai had paid Rs. 1 lac towards brokerage, the total sale price considered would have been Rs. 89 lacs.

Example 2 of Long Term Capital Gains

Consider the example of Ms. Desai as above. Here she carried out a renovation to her house in May 2010 costing around Rs. 4 lacs and paid Rs. 1 lac in November 2020 towards brokerage to an estate agent for selling the house.

Purchase price: Rs. 20 lacs (including stamp duty and registration charges paid)

Home renovation: Rs. 4 lacs

Sale Price: Rs. 90 lacs

Brokerage (commission) paid to the estate agent: Rs. 1 lac

Cost Inflation Index of year of purchase (FY 2004-05): 113

Cost Inflation Index of year of renovation (FY 2010-11): 167

Cost Inflation Index of year of sale (FY 2020-21): 301

Indexed cost of purchase price = 20 x (301/ 113) = Rs. 53.27 lacs

Indexed cost of renovation expenses = 4 x (301/167) = Rs. 7.2 lacs

Calculating Long Term Capital Gains

Total purchase price: Rs. 60.47 lacs (Rs. 53.27 lacs + Rs. 7.2 lacs)

Total sale price: Rs. 89 lacs (Rs. 90 lacs - Rs. 1 lac)

LTCG amount: Rs. 19.53 lacs (Rs. 89 lacs - Rs. 60.47 lacs)

In this case, Ms. Desai would be liable to LTCG Tax of only Rs. 3.9 lacs (20% of Rs. 19.43 lacs).

Capital Gains Tax for NRIs

As per the IT Act, non-resident Indians have to pay 20 per cent of the total cost of the property as a long-term capital gain tax, if they hold the property for more than two years. However, tax on short-term capital gains is calculated based on the total taxable income according to the Income Tax Slab Rates for NRIs. They need to pay a short-term capital gain tax of 30 per cent in case they sell the property within two years of purchase.

Major Factors Affecting Capital Gain Tax on Sale of Property

Find below a few major factors that affect the calculation of the capital gain tax on sale of the property.

Cost of the Property: The cost of property affects the amount of capital gain tax on sale of property. This is because the total taxable amount includes the renovation costs of the property as well. For example, if you have purchased a property of Rs 40 Lakh and spent 10 Lakh on its renovation. The capital gain tax will be applicable on Rs.50 Lakh.

Holding Period: The holding period when you still remain the owner of the property before selling it, affects your tax liability. If such transaction falls under short term capital gain category, you may have a higher tax liability. However, if it is considered as a long term capital gain, you may end up paying 20 per cent of capital gain tax on sale of the property.

New Property Investments: Based on the Indian IT Law, if you re-invest the amount you get in exchange for your property within a specific period, you may end up paying a low amount of capital gain tax.

Property Ownership: The number of properties that you own also affects your tax liability. If you have are an owner to multiple properties, you may end up paying a higher amount of capital gain tax on sale of your property. However, the tax amount is low for owners of one property.

Details Required to Deposit TDS When Selling a Property

Find below a few major details required when depositing TDS on selling a property.

PAN Card Number of the Seller and the Buyer

Residential Address of the Seller and the Buyer

Residential status of the seller of the property

Full address of the property to be sold

Date of Agreement

Date of Payment

Total transaction value

Total amount paid

Buyers can pay TDS on selling property both online and offline. To make the TDS payment online, they need to visit the online portal of the Income Tax Department, fill out Form 26QB, and follow the instructions. On the other hand, if they want to pay TDS on selling a property offline, they can visit any bank of their choice and fill out the same form.

Note: Form 26QB can be filled out only by Indian residents for TDS payment on selling a property. NRIs need to fill out Form 27Q for the same.

Important Things about TDS on Selling a Property

Here are a few important things you can keep in mind about TDS on selling a property.

The seller must provide their PAN Card to the buyer and make sure that he/she obtains Form 16B and issues it to them.

The buyer must check their annual Form 26AS (Annual Tax Statement) to ensure that the buyer has deposited the right amount of TDS.

The property buyer deducts the TDS and pays the same to the government on behalf of the property seller.

If the property buyer does not pay the applicable TDS amount on time, the authorities may penalise them.

The property buyer needs to fill out Form 26QB to file the TDS.

If there are multiple parties involved, each member needs to fill out Form 26QB individually.

Wrapping Up: Tax on Sale of Property

If you decide to sell your property at any point in time, we advise you to remember the tax implications.

If you are aware of such an implication, you might lose a large chunk of money. It would help if you do calculations as illustrated above before you sign off on a sale deed.

Suggested Reads

How to save tax on property sale

Section 54 of Income Tax Act

Property Valuation for Sellers

Save Interest on Home Loan

Property Tax in India

Sale Agreement

Plot Loan Tax Benefits

Sale Deed

Frequently asked questions

Is TDS applicable to the selling of property?

Yes, Tax Deductible at Source (TDS) while selling a property. However, the TDS is deposited by the buyer on behalf of the seller.

Are taxes also applied on selling agricultural land?

No, above stated taxes are not implied if you decide to sell the agricultural land.

What type of tax is charged when the property is sold off in less than two years ?

If the property's age is less than two years, then short-term capital gains (STCG) are charged. Short Term Capital Gain is a difference between the sale price and purchase price.

What is the meaning of Long Term Capital Gain?

Long Term Capital Gain (LTCG) between the property's purchase price and sale price. However, the LTCG is calculated by factoring in the inflation cost during the sale of the property.

What is the LTCG tax rate?

The Long Term Capital Gain tax rate is 20%, which is over and above the regular income tax payable.

What are capital gains tax rules for NRIs

NRIs are liable to pay 20 per cent of the total cost of the property as a long-term capital gain tax if they do not sell the property for more than two years from the date of purchase. On the other hand, if they sell the property in less than two years, they need to pay a short-term capital gain tax of 30 per cent.

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NOTIFIED COST INFLATION INDEX UNDER SECTION 48, *EXPLANATION* (*V*)

As per Notification 21/2023, dated 10-04-2023, the following table should be used for the Cost Inflation Index :-

Sl. No.	*Financial Year*	*Cost Inflation Index*
(*1*)	(*2*)	(*3*)
1	2001-02	100
2	2002-03	105
3	2003-04	109
4	2004-05	113
5	2005-06	117
6	2006-07	122
7	2007-08	129
8	2008-09	137
9	2009-10	148
10	2010-11	167
11	2011-12	184
12	2012-13	200
13	2013-14	220
14	2014-15	240
15	2015-16	254
16	2016-17	264
17	2017-18	272
18	2018-19	280

19	2019-20	289
20	2020-21	301
21	2021-22	317
22	2022-23	331
23	2023-24 (provisional)	348