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Tax on capital gains.

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Prashant (abc) 14 June 2016

Hello,

I have some queries as below:

1. House no 1 purchased on 06 April 2010 for Rs.3700000 Registered on myself and mothers name. Mother's name is for namesake only.

2. House no 1 sold on 28th April 2015 for Rs.6650000. After selling I gave Rs 5 lacs to my mother. Purchaser issued cheque of Rs 5 lacs directly to my mother's name.

>>>>Is this a short term or long term capital gains?

3. House no 2 purchased on 25th May 2015 for Rs.48 lacs. I have invested the entire profit amount(40 lacs) into my house no 2 except the amount given to mother.

>>>>I want to know whether the amount of Rs. 5 lacs will be considered for taxation? If yes, on whose name will it be, myself or my mothers name?

>>>>If I want to save tax on the Rs.5 lacs, what are the ways to proceed?

Also which ITR should I file to get refund of TDS(1%) ocured during sale of property.

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•• SUPRIYA (PRACTICE) [14 June 2016](#)

Sir, your case need reiev of all documents and analysis of instances to give any opinion. Regarding your question of long term or short term capital gain, Purchase date- 06.04.2010 and sale date- 28.04.2015 hence asset sold beyond 3years so it will be long term capital gain



•• CA MANISH BINDAL (CHARTERED ACCOUNTANT) [14 June 2016](#)

(1) It is a long term capital gain because house property is held for more than three years.(April 2010-15). hence applying Cost Inflation index of F.Y 2010-11 i.e 711 and CII of 2015-16 F.Y you can calculate the Indexed cost of acquisition and so on calculate your long term capital Gain.


(2) you have asked that Rs 500000 is given to mother is taxable in whose name. So it depends on your deed. If your deed of purchase the old house specify the part of your's and your mother, than capital gain will be arise to you on your proportionate part and on your mother on her proportionare part. Hence if payment made to mother is within such proportion than it will be liable to tax as ltcg in your mother name.

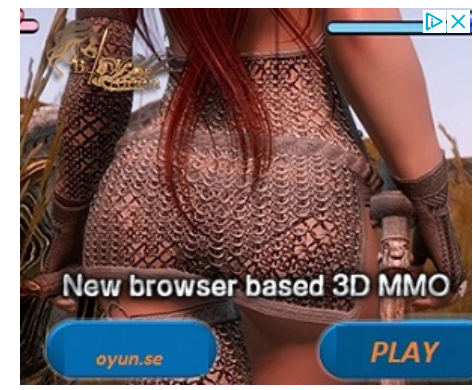
(3) Tax saving method on amount paid to mother is only by claiming exemption u/s 54 hence new property which is purchased by you must be registered on joint basis, means you and your mother must be joint owner only in that case exemption will be given on LTCG arising to mother.




(4) You should file ITR-4 and claim your TDS as refund is original tax liability is less than what is actually deducted.



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