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Joint Development Agreements (JDA)

Taxability under Section 45(5A)

- Taxability of Joint Development Agreements (JDA)**

If an individual or HUF enters into a joint development agreement (JDA) with a builder or joint developer, it shall be deemed that the capital asset is transferred during the year in which the certificate of completion for the whole or part of the project is issued by the competent authority.

- Meaning of Joint Development Agreement**

Joint Development Agreement means a registered agreement in which a person owning land or building agrees to allow another person to develop a real estate project on such land or building, in consideration of a share in such project, whether with or without payment of part of the consideration in cash or by a cheque or draft or by any other mode.

- Meaning of Competent Authority**

Competent authority means the authority empowered to approve the building plan by or under any law for the time being in force.

- Calculation of Capital Gains**

The capital gains shall be computed in the following manner:

<i>Particulars</i>	<i>Amount</i>
Full value of consideration	Xxx
Less:	
Cost of acquisition/Indexed cost of acquisition*	(xxx)
Cost of improvement/Indexed cost of improvement*	(xxx)
Expenditure in connection with the transfer	(xxx)
Less:	
Exemption under Section 54 to Section 54GB	(xxx)
Short-term/Long-term capital gains	xxx

*** Indexation benefit shall not be available in respect of the long-term capital assets transferred on or after 23-07-2024. However, a grandfathering is allowed for land or building in case of resident individual/HUF. As per the grandfathering provision, resident individuals and resident HUFs can still apply indexation on land or building acquired before 23-07-2024.

- **How to calculate the full value of consideration?**

In JDA, the land-owner may get monetary or non-monetary consideration from the developer for contributing his land to the project. Monetary consideration can be a share in the sale consideration of the project, and non-monetary consideration means a specified share in the developed estate.

In this case, the aggregate of money consideration received by the owner of immovable property and the stamp duty value of the property in respect of the owner's share in the developed project on the date of issuing of the certificate of completion by the competent authority shall be deemed to be the full value of the consideration received or receivable by the owner as a result of the transfer of such immovable property.

- **Meaning of Stamp Duty Value**

Stamp Duty Value means the value adopted or assessed or assessable by any authority of the Government for the purpose of payment of stamp duty in respect of immovable property, being land or building or both.

- **Cost of Acquisition**

For the computation of the capital gains from the joint development agreement, the cost of acquisition and indexed cost of acquisition of the land or building covered by the JDA shall be computed as per general provisions.

The cost of acquisition of share in the developed project in the hands of the land-owner shall be the amount which is deemed as the full value of consideration for the purpose of computing capital gains under this provision.

- **Period of holding**

The period of holding shall be counted from the date of purchase or acquisition till the date immediately preceding the date on which the certificate of completion is issued by the competent authority.

However, if the owner of land or building transfers his share in the project to any other person on or before the date of issue of the certificate of completion, the capital gains shall be computed as per general provisions of the Act without taking into account the above special provisions, and it shall be deemed to be the income of the previous year in which such transfer takes place.

Deduction of Tax [Section 194-IC]

- **Who is a deductor?**

Any person responsible for paying any sum by way of consideration under a Joint Development Agreement shall deduct tax therefrom. The tax is deducted at the time of payment or at the time of credit of the sum to the account of the deductee, whichever is earlier.

- **Who is the deductee?**

The tax shall be deducted if the payment is made to a resident individual or HUF.

- **Rate of TDS**

The tax shall be deducted at the flat rate of 10%. The tax shall be deducted at 20% if Section 206AA or Section 206AB apply.

Note: the provisions of section 206AB are omitted w.e.f. 01-04-2025.

MCQs on Joint development agreements (JDA)

Q1. If an individual or HUF enters into a joint development agreement (JDA) with a builder or joint developer, it shall be deemed that the capital asset is transferred during the year in which the _____.

- (a) certificate of occupancy of the project is issued by the competent authority
- (b) certificate of completion for the whole or part of the project is issued by the competent authority
- (c) possession of the asset is transferred to the buyer
- (d) sale deed is executed in favour of the buyer

Correct answer: (b)

Explanation: If an individual or HUF enters into a joint development agreement (JDA) with a builder or joint developer, it shall be deemed that the capital asset is transferred during the year in which the certificate of completion for the whole or part of the project is issued by the competent authority.

Q2. Full Value of Consideration in Joint Development Agreement includes -

- (a) monetary consideration
- (b) Non-monetary consideration
- (c) Both (a) and (b)
- (d) None of the above

Correct answer: (c)

Explanation: In JDA, the land-owner may get monetary or non-monetary consideration from the developer for contributing his land to the project. Monetary consideration can be a share in the sale consideration of the project, and non-monetary consideration means a specified share in the developed estate.

Q3. Full Value of Consideration in Joint Development Agreement with respect to non-monetary consideration means

- (a) Fair Market value of the owner's share in the developed project
- (b) Stamp Duty Value of the owner's share in the developed project on the date of issue of completion certificate
- (c) Stamp Duty Value of the owner's share in the developed project on the date of possession of such share
- (d) None of the above

Correct answer: (b)

Explanation: In the case of JDA, the aggregate of money consideration received by the owner of immovable property and the stamp duty value of the property in respect of the owner's share in the developed project on the date of issuing of the certificate of completion by the competent authority shall be deemed to be the full value of the consideration received or receivable by the owner as a result of the transfer of such immovable property.

Q4. The period of holding shall be counted from the date of purchase or acquisition till the date _____.

- (a) immediately preceding the date on which the certificate of completion is issued
- (b) of agreement in which the owner agrees to allow another person to develop a real estate project
- (c) of sale of such developed real estate project
- (d) None of the above

Correct answer: (a)

Explanation: The period of holding shall be counted from the date of purchase or acquisition till the date immediately preceding the date on which the certificate of completion is issued by the competent authority.

Q5. Tax under section 194-IC is deducted for paying any sum by way of consideration under a Joint Development Agreement when the deductee is _____.

- (a) Resident Individual
- (b) Resident HUF
- (c) Both (a) and (b)
- (d) Any assessee

Correct answer: (c)

Explanation: Any person responsible for paying any sum by way of consideration under a Joint Development Agreement shall deduct tax therefrom. The tax shall be deducted if the payment is made to a resident individual or HUF.

Q6. Tax under section 194-IC is deducted at the rate of _____.

- (a) 5%
- (b) 10%
- (c) 1%
- (d) 20%

Correct answer: (b)

Explanation: The tax under section 194-IC shall be deducted at the flat rate of 10%