

## Income Tax — Land acquisition compensation-

1. In 2013 The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (RFCTLRR Act) was enacted and This Act is a special Act and replaced the Land Acquisition Act, 1894.
2. Section 96 of the RFCTLRR Act provides that income-tax shall not be levied on any award or agreement made (except those made u/s 46- which specifies the compensation), through private negotiations, decided by other than RBI and/or Cent. Govt.) under RFCTLRR Act.
3. The RFCTLRR Act does not make any distinction between the compensation for acquisition of an agricultural land and any other land and The Income tax exemption under this new law brought for both agricultural and other land owners.
4. CBDT Circular no. 36 of 2016- It was clarified that compensation received in respect of award or agreement which has been exempted from levy of income-tax vide section 96 of the RFCTLRR Act shall also not be taxable under the provisions of Income-tax Act, 1961 even if there is no specific provision of exemption for such compensation in the Income tax Act, 1961.
5. Ministry of Rural Development of the Central Govt. has issued the order dt. 28-8-2015 had clarified that the new act applicable to all the cases under all the laws mentioned in Schedule IV of that act and all the pending cases which are decided or are going to be decided will also get the benefit of compensation at the rates specified in the new RFCTLRR Act.
6. Rural agricultural land - Compensation/ enhanced compensation on acquisition of rural agricultural land is exempt in all cases for all assesses subject to Section 2(14) of Income tax Act.
7. Urban agricultural land - Compensation/ enhanced compensation on acquisition of urban agricultural land is not taxable in the hands of individual and HUF as per Section 10(37) of Income tax Act.
8. Solatium means an integral part of compensation, interest would be payable on it

### **Contradictory view points on taxability of interest:**

9. The interest received on enhanced compensation u/s 28 of the Land Acquisition Act is part of compensation and hence is not taxable, and assessee will be entitled for exemption u/s 10(37) of Income tax Act. [UOI Vs. Hari Singh & Ors., CA No. 1514/2017, dt.15.09.2017, which also clarifies the proposition held in Ghanshyam HUF SC in Ghanshyam (HUF) [2009] 315 ITR 1 (SC)]

10. Interest on enhanced compensation u/s 34 of the Land Acquisition Act is taxable as any other interest and once such interest is taxable an amount of 50% of such interest is deductible as expenditure as section 57(4) of Income tax Act.

11. There are divergent views on this taxability of interest on the enhanced compensation awarded u/s 28 of the Land Acquisition Act wherein the Hon'ble Punjab & Haryana High Court has consistently taken a view that it is an income to be treated under the head 'income from other sources'. The Hon'ble Gujarat High Court has decided this issue in favour of the assessee following the decision of Hon'ble Supreme Court in the case of Ghanshyam.