

Section 54D - Exemption from Capital Gain on Compulsory Acquisition of Land or Building forming part of Industrial Undertaking

Did you know that there will be capital gain on account of compensation received on such compulsory acquisition of Land or Building which was used by the assessee for the purpose of his business.? Not only that, the assessee would also be liable to pay capital gain tax on the capital gain earned.

However, to encourage the assessee to carry the business undertaking, exemption under section 54D of the Income Tax Act, 1961 is provided.

Let us understand in detail about [Section 54D](#).

What is the Basis of Providing Exemption?

Let us first understand the basis of providing the exemption-

1. The assessee must have received compensation on account of compulsory acquisition of land or building or any right in land or building
2. The land or building must have been used by the assessee for a period of at least 2 years immediately preceding the date on which the transfer took place
3. There must be capital gain on account of such transfer.
4. The assessee has within a period of three years after that date, purchased any other land or building or any right in any other land or building or constructed any other building for the purposes of shifting or re-establishing the said undertaking or setting up another industrial undertaking

If all the above conditions are satisfied, then, the assessee can claim exemption under section 54D

How is the Quantum of Exemption decided?

The amount of exemption provided under section 54D is as follows:

1. If the entire amount of capital gain is invested in purchase of land or building within the said period for the purpose of industrial undertaking, then the entire amount of capital gain is exempt
2. If the amount of capital gain is partially invested in purchase of land or building within the said period for the purpose of industrial undertaking, then the amount of investment made shall be exempt.

Is there any Lock-In Period for the transfer New asset Acquired or Constructed?

The assessee cannot sell the asset purchased or constructed within a period of three years from the date of its acquisition or construction.

What happens when the Assessee Sells the Asset Acquired or Constructed during the Lock-In Period?

Though the exemption is provided when the assessee purchases any other land or building or any right in any other land or building or constructs any other building within a period of three years from the date of transfer, the exemption provided can be withdrawn subsequently if the assessee fails to hold the newly acquired land or building or any right in new land or building or newly constructed building for a period of three years from the date of acquisition or construction.

What happens when the Exemption is Withdrawn?

The withdrawal of exemption shall have the following effect-

While computing the capital gain on transfer of new asset within a period of three years from the date of its purchase or construction

1. The cost of the asset shall be considered as nil, if a partial amount of capital gain from the compulsory acquisition was invested in its acquisition or construction.
2. The cost of the asset shall be reduced by the amount of the capital gain, if the entire amount of capital gain from the compulsory acquisition was invested in its acquisition or construction.

When should the Assessee Deposit the amount in the Capital Gain Deposit Account Scheme?

In order to claim the exemption under section 54D, the assessee is required to re-invest the amount in acquiring new land or building or acquiring a right in new land or building or constructing a building within a period of three years from the date of receipt of compensation.

However, in case the assessee is not able to invest the amount for acquiring new land or building or acquiring a right in new land or building or constructing a building till the date of filing of return under section 139(1), then, such unutilized amount is required to be transferred to '[**Capital Gains Deposit Account**](#) Scheme'.

After transferring the fund to the 'Capital Gain Deposit Account Scheme', the assessee can utilize the same for acquiring the new land or building within the prescribed time. If the assessee fails to utilize the entire amount deposited in the account, then, such unutilized amount will be taken as income of the previous year in which the specified period of 3 year expires.

SOURCE : CAclubindia