



AKG ADVISORY LLP

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AGRICULTURAL INCOME

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Income tax is levied on all types of incomes from all the persons. However agricultural income earned by a tax payer is exempt under Section 10 (1) of the Income Tax Act, 1961. Agriculture plays a vital role in India's economy and one can have an agricultural income without paying even a single rupee towards income tax.

In general, agricultural income is the rent or revenue generated from land which is used for agricultural purposes. It also includes income from agricultural operations by selling agricultural products in the market. This income is considered for rate purposes for calculating the income tax for an individual in case he is having both agricultural as well as non-agricultural income.

WHAT IS AGRICULTURE?

Though agriculture is not defined in Income tax Act, the Supreme Court of India has defined the agriculture in the case named CIT vs. Raja Benoy Kumar Sahas Roy. Under this definition, agriculture activities in India are broadly classified under two heads –basic operations and subsequent operations. Key details of these types are as follows:

Basic Operations: This would include land cultivation and consequent tilling of land, seeds sowing, planting and other related operations that need human skills and efforts to be directly applied on the land itself prior to germination.

Subsequent Operations: It means operations which foster the growth and preserve the produce for rendering the produce fit for sale in market. This includes operations that are

carried out with respect to harvesting, preservation, weeding, irrigation, pruning, etc. Both basic and subsequent operations are to be performed to constitute agricultural activities. One cannot disassociate the basic operations from the subsequent operations.

WHAT IS AN AGRICULTURAL INCOME?

According to Income tax act, agricultural income means:

I. Rent or revenue derived from land situated in India and used for agricultural purpose.

- Rent is payable to the owner of the land in lieu of use by another individual as agricultural land. In this case, while the owner of the land often does not participate directly in agricultural activities, the income derived through rent will be considered as agricultural income as long as the let outland is used to carry out agriculture.

II. Income derived through use of agricultural land:

- Income derived from land by agriculture
- Through performance of the process by the cultivators or the receivers of the rent-in-kind that result in the agricultural produce being fit to be sold in the market. These processes include mechanical or manual operations that are employed to make the production market fit and the actual character of those produce is retained.
- Income through the sale of agricultural produce by the cultivator or receiver of rent-in-kind

III. Income generated from seedling or sapling

- Income from seedling and sapling grown in the nurseries is also considered as agricultural income irrespective of whether these basic operations of agriculture were carried out on the agricultural land or not.

IV. Income derived from farm building needed for various agricultural operations

- The conditions for categorizing the income derived from farm building as agricultural income are given here:
 - The farm building must be in or on immediate vicinity of the agricultural land. It must be one which the receivers of rent or the cultivators by reason of their connection with the land, needs the building as a store house, house to stay or uses it for any agricultural purpose.
 - The agricultural land is either assessed by the land revenue or subject to local rates calculated and collected by any concerned government officers OR
 - The land is not situated in any area which is within the jurisdiction of a municipality or a cantonment board and which has a population of 10000 or more or does not fall within any of the following regions: (Rural Agricultural Land)

Distance from local limits of Municipality/Cantonment Board	Population as per the Previous Census
Within 2 kilometers	>10,000 1 lakh
Within 6 kilometers	>1 lakh 10 lakh
Within 8 kilometers	>10 lakh

In view of the above, to consider the income generated as an agricultural income, following key points will be considered:

- There must be an existence of land
- The land should be used for agricultural purposes
- It is necessary to use the land for cultivation
- Ownership is not necessary

Examples:

Agricultural Income	Non-agricultural Income
<ul style="list-style-type: none">Income by selling seeds and saplingsIncome from rent received from agricultural landIncome received by growing flowers/creepersProfits from agricultural activitiesProfits from sale of agricultural produceProfit share, remuneration and interest received by partner from the firm engaged in agricultural activities.Plant sold in pots provided basic operations are performed.Sale of standing crop by a cultivator.	<ul style="list-style-type: none">Income from beekeeping/ dairy/ poultry farming/ fisheries/ animal husbandryIncome from selling purchased standing cropProfits from butter and cheese making.Income from spontaneously grown trees/grass (without any human effort)Income from non-agricultural use of farm building.Dividend received from a company engaged in agricultural operationsIncome from conversion of sugarcane to jaggery

TAXATION OF AGRICULTURAL INCOME

Section 10 (1) of the Income Tax Act, 1961 deals with the tax on agricultural income.

As per this section, agricultural income earned by a taxpayer is not included in total income and exempt from tax. However, Income Tax Act has laid down the method of indirectly tax in agricultural income. This particular concept or method is known as the 'partial integration of agricultural income with non-agricultural income'. This concept aims at taxing the non-agricultural income at higher rates of tax. This is applicable when the following conditions are fulfilled:

- The tax payer is Individuals, HUF, BOI, AOP or Artificial Juridical Persons.
- Agriculture income is above Rs.5,000 during the year
- Non-agricultural income exceeds the maximum amount which is not chargeable to tax (basic exemption limit)

(This method of calculation is not applicable on non-individual tax assessee such as firms, LLPs, companies, co-operative societies, local authorities, etc.)

Therefore, in the following cases there is a complete tax rebate on agriculture income:

- If total agricultural income is less than Rs.5,000
- If the income from agricultural land is the only source of income i.e. no other income
- When there is both agricultural income and other income and if the total non agricultural income is less than the basic exemption limit.

COMPUTATION OF TAX WITH AGRICULTURAL INCOME

Incase, agricultural income exceeds Rs.5,000 and you have other sources of income too, then the tax liability for that year is to be calculated following the procedure as under:

Step 1: Compute income tax on the aggregate income (agricultural income + non agricultural income) as per the prevailing income tax rates.

Step 2: Compute income tax on sum of basic exemption limit plus agricultural income as per the prevailing income tax rates.

Step 3: Now, Compute (1)–(2) to arrive at the tax liability for the year.

Step 4: Add health and education cess to compute the income tax payable.

PARTLY AGRICULTURAL INCOME

Partial agriculture income is the income where assessee is growing agriculture produce and use them as raw material for manufacturing of products. Here income from the sale of product is partial agriculture income and partial non agriculture income. Part of agricultural Income is exempted and part of non-agricultural income is taxable. The Income Tax Act has rules to make this bifurcation about non agricultural and

agricultural produce for products such as rubber, tea, coffee, etc. which are as follows:

Particulars of business	Agricultural (Exempt) portion	Non-agricultural (Taxable) portion
Growing & Manufacturing of rubber	65%	35%
Growing & Manufacturing of tea	60%	40%
Growing & Manufacturing of coffee-grown and cured	75%	25%
Growing & Manufacturing of coffee-grown, cured, roasted and grounded	60%	40%

TAX ON SALE OF AGRICULTURAL LAND

Rural agricultural land (which satisfies some prescribed conditions in regard to area and local limits as mentioned above) does not form part of the definition of a capital asset and hence, there will be no capital gains on the sale of such land.

Urban agricultural land will be a capital asset and sale of same shall attract tax on capital gain. However exemption from capital gain can be availed u/s 54B that is explained below:

Section 54B:

Available to	Individual/HUF
Type of Asset Transferred	Land used for agricultural purposes (used for 2 years by assessee/ parents/ HUF before transfer)
Type of Transfer	Long term capital gain
Type of New Assets purchased	Agricultural land
Time Limit for investment	Within 2 years from the date of transfer
Amount of Exemption	Long-Term Capital Gain OR Cost of new asset, whichever lower
Other Conditions	New assets cannot be transferred for 3 years after acquisition.
Deposit in Capital Gains Accounts Scheme (CGAS)	If amount not utilized till return filing due date, then Deposit in CGAS
Consequence of not utilizing of deposit in CGAS	Unutilized amount will be taxable as Capital Gain in the year in which 2 years from date of transfer of original assets expires.
Consequence of transfer of new asset before the time limit	Cost of new assets will be reduced by capital Gain exempted earlier.

SOME INTERESTING FACTS

- **Income generated from agriculture operations carried on urban land:**

If agricultural operations are carried out on any land in India and income is generated from the sale of such agricultural produce then that income will be treated as an agricultural income.

- **Income of middle man:**

There are thousands of middle men like wholesalers, retailers, distributors, etc. who earns substantial income from trading in agricultural produce. Such income or profits are fully taxable.

- **Interest on arrears of rent:**

Incase of arrears of rent, if landlord charges interest on such arrears, the income would not be considered as an agricultural income but would be income byway of interest and be chargeable to tax because it is neither 'rent' nor 'revenue derived from land'.

- **Processing at the place other than agricultural land:**

If agricultural produce is processed to make it marketable at a place other than the agriculture land, then the amount charged for such processing will be an agricultural income only, no matter processing takes place on the land itself or some other place.

- **Profit on sale of fruits from the trees planted around the house/Bungalow:**

Any income derived from agriculture on the land which is used for agricultural purpose will be considered as agricultural income for the purpose of In. Since fruits are extracted from trees which are planted on the land which is for residential purpose hence profit on sale of such fruits will be taxable under the Income tax Act and cannot be considered as agricultural income.

- **Export of agriculture produce:**

If the agriculturist directly exports the agriculture produce than profit on exports shall be exempt from tax but if any middlemen has undertaken export of agriculture produce than the same shall not be exempt and will be taxable.

- **Claim received from Insurance company for damage of crop:**

Insurance claim received from insurance company for loss of crop is agricultural income because such claim is received against basic agricultural operations. **[1969 74ITR 337 Cal, Commissioner Of Income-Tax vs B. Gupta (Tea Private Ltd- Calcutta High Court)]**

- **Cash Transaction in Agriculture:**

The Income Tax Act does not prohibit incurring the expenditure in cash. Further there is nothing debarring the selling of agricultural produce in cash. Also rule 6DD of Income tax rules allows the payment made in cash for purchase of agricultural produce. **[Judgement of High Court of Allahabad - Commissioner of Income - Tax V.**

Neel Giri Krishi Farms (P.) Ltd - [2013] 38 taxmann.com 69 (Allahabad)]

- **Fruit Plantation**

As per various judgements, it can be construed that fruit plantation or orchard comes under agriculture and income will be considered as Agricultural. **[(1950)18 ITR 259 (MAD.) Commissioner of Income-tax vs. K.E. Sundara Mudaliar - High Court of Madras]**

- **Sapling or seedling grown in nursery**

As per Explanation 3 to section 2(1A), Any income received from sapling or seedlings grown in nursery shall be deemed to agricultural income. Same is also settled in some High Court judgments - **Commissioner of Income-tax, Non-Corporate Circle-2, Chennai v. K.N. Pannirselvam (High Court of Madras)**.

If operations such as tilling of land, weeding, watering, etc. upon land is being carried out and when plants are established in soil and then shifted in suitable containers for sale - sale proceeds from said business of nursery carried on constitute income from agriculture. **Puran Singh M. Verma. Commissioner of Income-tax (High Court of Gujarat)**

- **Payment to employees** as salary does not become agricultural income in the hands of the employees, merely because the salary was paid by a company which was engaged in agriculture and derived its income there from. **[(2000] 112 Taxman 626 (Madras), Commissioner of Income-tax v. Kodanad Tea Estates Co, - High Court Of Madras]**

- **Lease and service agreement with farmers** for cultivation of seeds on their own land, since farmers had to ensure watering, fertility and suitability of land, mere supervision by assessee without carrying out basic operation for cultivation of land would give rise to business income in hands of assessee and not agricultural income. **[(2018) 96 taxmann.com 493 (Delhi-Trib.)'F'P.H.I. Seeds(P.) Ltd. v. Deputy Commissioner of Income-tax, Circle 14 (1), New Delhi-ITAT Delhi Bench]**

- **Income from sale of forest trees:**

Products which grow wild on land or are of spontaneous growth not involving any human labour or skill upon land are not products of agriculture and income derived there from is not agricultural income. However if basic and subsequent operations are carried on the land, then it will be considered as agricultural income. **[(1957)32 ITR 466 (SC), Commissioner of Income-tax v. Raja Benoy Kumar Sahas Roy- Supreme Court of India.**

In view of the above it can be concluded that tax treatment of agricultural income have various pros and cons. One has to take care various provisions based on the facts of the case. Despite agricultural income being tax-exempt, assessee has to be cautious while dealing with such income. They must make sure that they combined agricultural income with their total income to avoid penalties for concealment of income. Assessee must also maintain proof of ownership of agricultural land to provide to the tax authorities and evidence of having earned agricultural income.

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to create effective and useful awareness.



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