



Taxability of Gifts

In case of Individuals and HUF
Under the Income Tax Act, 1961

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This article explains income tax treatment of immovable property received as gift without consideration or for inadequate consideration, any property other than immovable property received without consideration or for inadequate consideration and all those gifts which are fully exempt under income tax under section 56(2)(X) of the income tax act, 1961.



However, the above provisions are not applicable when the such sum of money or any property is received. That means, in the following cases, money, immovable property or movable property received as gift without consideration or for inadequate consideration, will not be taxable u/s 56(2)(x).

- ❖ from any relative (meaning of “relative” explained in next page); or
- ❖ on the occasion of the marriage of the individual; or
- ❖ under a will or by way of inheritance; or
- ❖ in contemplation of death of the payer or donor, as the case may be; or
- ❖ from any local authority as defined in the Explanation to clause (20) of section 10; or
- ❖ from any fund or foundation or university or other educational institution or hospital or other medical institution or any trust or institution referred to in clause (23C) of section 10; or
- ❖ from or by any trust or institution registered under 15a[15b[section 12A or section 12AA]]; or
- ❖ by any fund or trust or institution or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of section 10; or
- ❖ by way of transaction not regarded as transfer under clause (i) or clause (iv) or clause (v) or clause (vi) or clause (via) or clause (viaa) or clause (vib) or clause (vic) or clause (vica) or clause (vicb) or clause (vid) or clause (vii) of section 47; or
- ❖ from an individual by a trust created or established solely for the benefit of relative of the individual;

The meaning of “relative”* under this clause is:

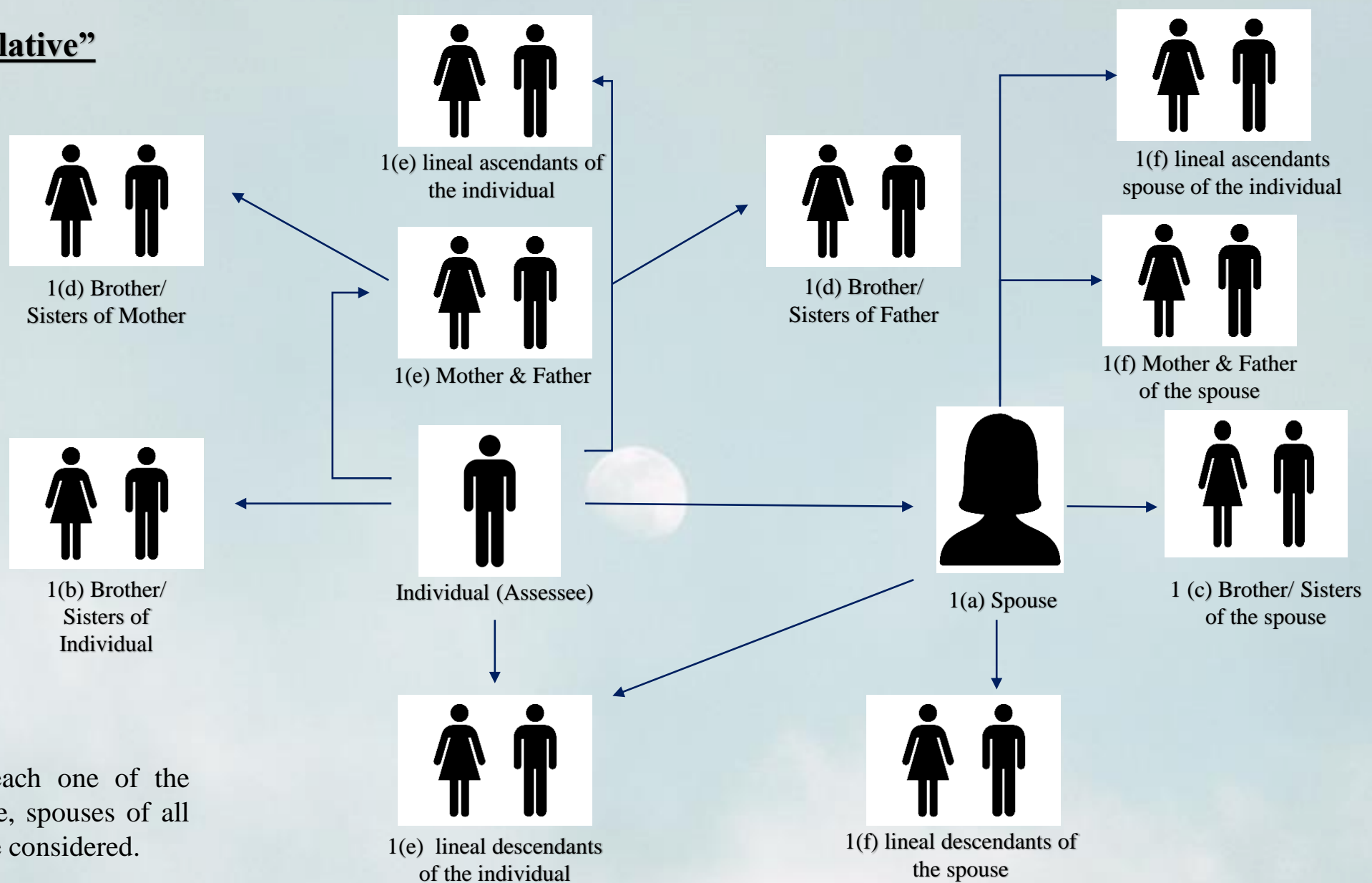
1. in case of an individual—

- a. spouse of the individual;
- b. brother or sister of the individual;
- c. brother or sister of the spouse of the individual;
- d. brother or sister of either of the parents of the individual;
- e. any lineal ascendant or descendant of the individual;
- f. any lineal ascendant or descendant of the spouse of the individual;
- g. spouse of the person referred to in items (B) to (F); and

2. in case of a Hindu undivided family, any member thereof;

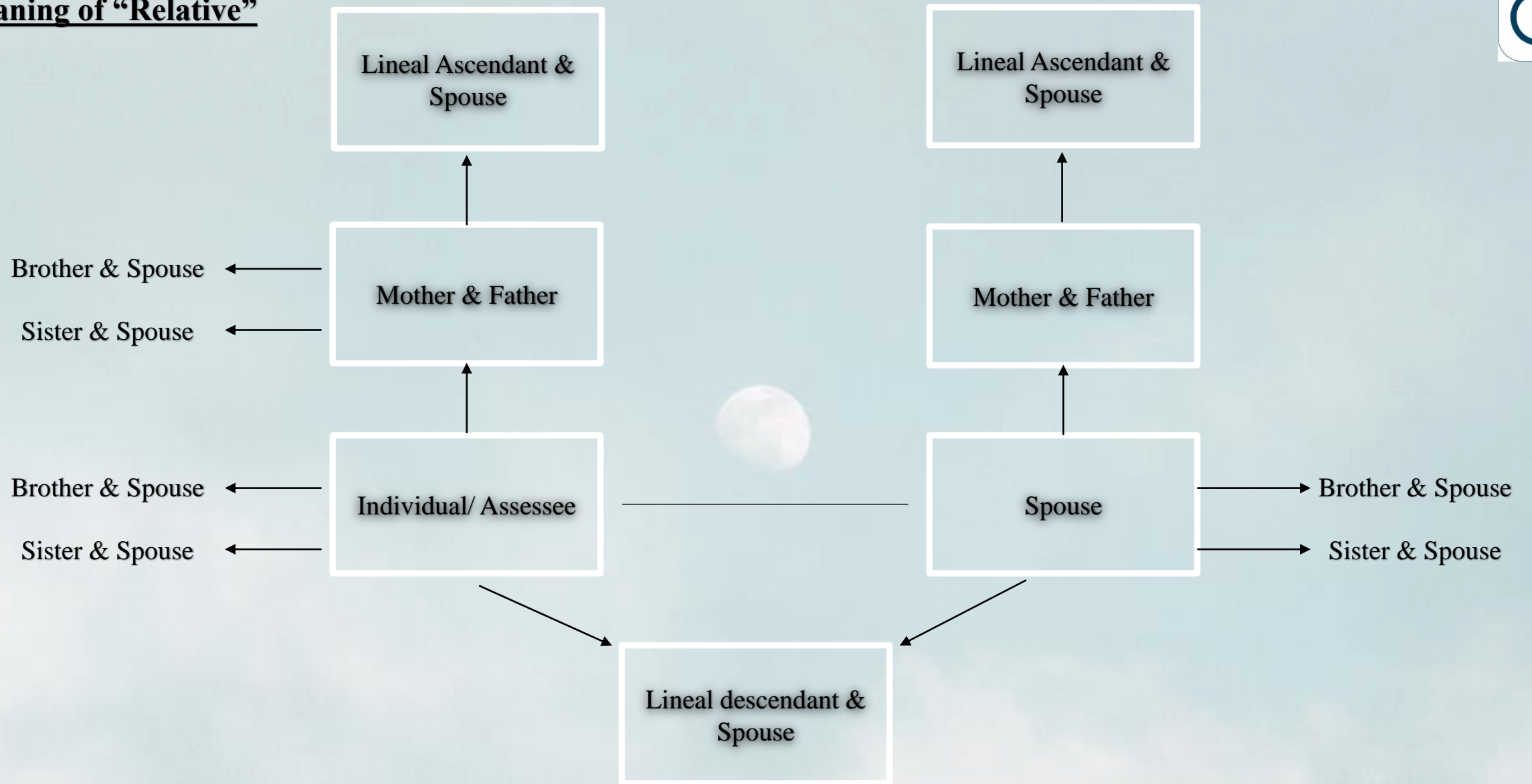
*A pictorial representation of the above meaning of “relative” can be found on the next page.

Meaning of “Relative”



*1(g) along with each one of the relatives shown here, spouses of all of them shall also be considered.

Meaning of “Relative”



“Property” , for the purpose of this clause, means the following capital asset of the assessee, namely:—

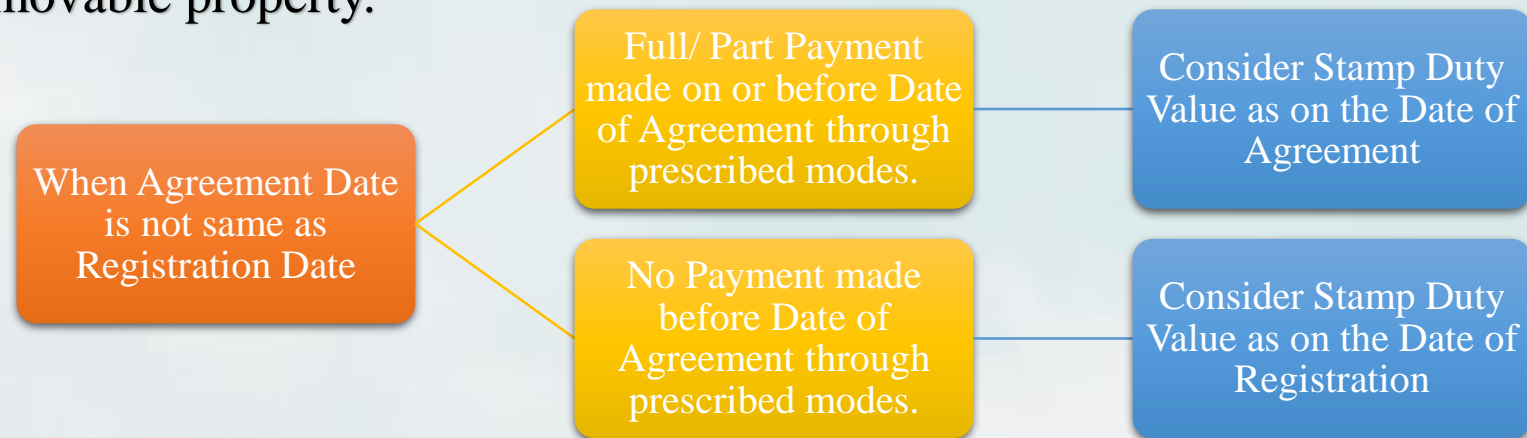
1. immovable property being land or building or both;
2. shares and securities;
3. jewellery;
4. archaeological collections;
5. drawings;
6. paintings;
7. sculptures;
8. any work of art; or
9. bullion;

That means apart from the above, if any other movable/ immovable property are received, then Section 56(2)(x) will not be applicable. For example, even if car, phone, TV, furniture, wristwatch, etc. are received without consideration or for inadequate consideration, then it will not taxable even value is more than Rs. 50,000.

“Stamp Duty Value” means the value adopted or assessed or assessable by any authority of the Central Government or a State Government for the purpose of payment of stamp duty in respect of an immovable property;

Following are some provisions related to the Stamp Duty Value to be considered for the purposes of this clause:

1. Where the date of agreement fixing the amount of consideration for the transfer of immovable property and the date of registration are not the same, the stamp duty value on the date of agreement may be considered.
2. However, Stamp Duty Value as on the Date of Agreement for fixing the amount of consideration shall be considered only in a case where the amount of consideration whether fully or partly, has been paid by way of an account payee cheque or an account payee bank draft or by use of electronic clearing system through a bank account, on or before the date of agreement for transfer of such immovable property.



This is an informative write up and is intended to provide general information on a particular subject(s). Please feel free to connect with us for any further discussions.

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