

COMPULSORY ACQUISITION

No Income Tax on Compensation for
Compulsory Acquisition of Land By
Government under **RFCTLARR ACT, 2013.**



Introduction

The Right to Fair Compensation and Transparency in land Acquisition, Rehabilitation and Resettlement Act (RECTLARR Act) of 2013 brought significant changes to the process of land acquisition in India. The Government of India initiates various development projects across the country to address infrastructure needs, promote economic growth, improve living standards, and sustainable development goals. One of the critical aspects of this Act is the tax treatment of compensation received when immovable property is compulsorily acquired. Under this Act Central Government may acquire such land under the provision of the Land Acquisition Act, **Section 96 of the RECTLARR Act 2013 states that no income tax shall be levied on any award or agreement.** To achieve these goals governments may exercise compulsory acquisition also known as eminent domain or compulsory purchase of land and buildings.

Tax Exemption



Section 96 of the RFCTLARR Act 2013 stipulates that no income tax shall be levied on any award or agreement made under the Act, except as provided under Section 46. This exemption applies to acquisitions made by entities defined as “specified persons,” which include the government, government companies, and certain organizations controlled by the government.

The Central board (CBDT) issued circular No.36/2016, date 25.10.2016.

TDS is not applicable for compulsory acquisition of Capital Assets.

Exemption provided under section 96 of the RFCTLAAR Act is wider in scope than the tax-exemption provided under the existing provisions of Income-tax Act, 1961



**Government of India
Ministry of Finance
Department of Revenue
Central Board of Direct Taxes
ITA.II division, North Block, New Delhi,**

Circular No. 36/2016

Dated: 25th of October, 2016

Subject: Taxability of the compensation received by the land owners for the land acquired under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (RFCTLAAR Act')-reg.-

Under the existing provisions of the Income-tax Act, 1961 (The Act'), an agricultural land which is not situated in specified urban area, is not regarded as a capital asset. Hence, capital gains arising from the transfer (including compulsory acquisition) of such agricultural land is not taxable. Finance (No. 2) Act, 2004 inserted section 10(37) in the Act from 01.04.2005 to provide specific exemption to the capital gains arising to an Individual or a HUF from compulsory acquisition of an agricultural land situated in specified urban limit, subject to fulfillment of certain conditions. Therefore, compensation received from compulsory acquisition of an agricultural land is not taxable under the Act (subject to engulment of certain conditions for specified urban land).

2. The RFCTLARR Act which came into effect from 1st January, 2014, in section 96, inter alia provides that income-tax shall not be levied on any award or agreement made (except those made under section 46) under the RFCTLARR Act. Therefore, compensation received for compulsory acquisition of land under the RFCTLARR Act (except those made under section 46 of RFCTLARR Act), is exempted from the levy of income-tax.

3. As no distinction has been made between compensation received for compulsory acquisition of agricultural land and non-agricultural land in the matter of providing exemption from income-tax under the RFCTLARR Act, the exemption provided under section 96 of the RFCTLARR Act is wider in scope than the tax-exemption provided under the existing provisions of Income-tax Act, 1961. This has created uncertainty in the matter of taxability of compensation received on compulsory acquisition of land, especially those relating to acquisition of non-agricultural land. The matter has been examined by the Board and it is hereby clarified that compensation received in respect of award or agreement which has been exempted from levy of income-tax vide section 96 of the RFCTLARR 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.

4. The above may be brought to the notice of all concerned.

5. Hindi version of the order shall follow.

(Rohit Garg)

Deputy Secretary to the Government of India

(F.No. 225/88/2016-ITA.II)

Scope of Exemption



The exemption under Section 96 is comprehensive and includes compensation for both agricultural and non-agricultural land. It is broader than the tax exemptions provided under the existing provisions of the Income Tax Act, 1961. This has resolved the uncertainty regarding the taxability of compensation, especially concerning non-agricultural land.

Conclusion



The RFCTLARR Act's Section 96 provides a clear directive on the tax treatment of compensation received from the compulsory acquisition of land. It offers relief to landowners by exempting such compensation from income tax, thereby ensuring fair compensation without the additional burden of taxation.

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