The ₹10 crore capital gain exemption cap: Law, loopholes and litigation

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Summary

The recent cap on capital gains exemption for residential property has caused confusion among taxpayers. While the intention is to curb tax evasion by the ultra-rich, the intricacies of the law leave room for disputes. How can taxpayers navigate these grey areas?

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When the government capped capital gains exemption on reinvestment in residential property at ₹10 crore, the intention was clear: to prevent ultra-rich taxpayers from parking hundreds of crores into palatial houses and escaping tax. But as always with Indian tax law, the devil lies in the details.

On paper, the law seems simple. Sell a house, reinvest the gains into another, and you can claim tax exemption on the gains up to ₹10 crore. Do the same when you sell other long-term assets and reinvest under Section 54F, and the same ₹10 crore cap applies. Sounds straightforward, but not so much in real life.

Consider this: A taxpayer sells both a house and some shares and the gains from the house qualify under Section 54, whereas gains from shares under Section 54F. If he ploughs the entire proceeds into a ₹20 crore home, shouldn't he logically be able to claim exemption on both sets of gains? The law doesn't cross-link the two sections. But the income-tax return utility restricts the exemption to ₹10 crore total. The gap between text and practice becomes obvious in such cases.

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Similarly, here's another situation where it gets messy. What if you sell two houses in the same year, each generating ₹10 crore gains, and reinvest into a ₹20 crore house? Since each source of income is computed separately, the literal reading allows two separate exemptions.

Yet, the taxman is likely to say: "Sorry, ₹10 crore is the total cap." The intention of the amendment was to curb abuse by the super-rich, but the language of the law leaves enough grey area for disputes.

The only situation where the tax department may not create any difficulty is when two co-owners sell a property, each making gains of over ₹10 crore, and together buy a ₹20 crore house. Each pays ₹10 crore and by a plain reading of the law, each should qualify separately since the cap applies per taxpayer. However, in the first two cases involving a single taxpayer, the tax department may not accept the claim.

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Saving crores and paying crores

This is not a mere academic debate. For taxpayers, it's the difference between saving crores and paying crores. For the tax department, it's an administrative headache. And for the courts, it's another pile of litigation waiting to happen.

The new Income Tax Act, set to roll out from April 2026, is meant to be a simplification exercise. Sadly, it mirrors the same language, carrying forward the same ambiguity. Instead of bridging the gap between intent and wording, lawmakers seem to have copied forward the confusion.

This is where the larger problem lies. Our tax laws are often drafted with the big picture in mindbut stumble on execution details. The intention to close loopholes is laudable, but without precise language, the door to litigation remains wide open.

If the government truly wants clarity, it must go beyond capping numbers and start writing laws that leave no space for conflicting interpretations. Otherwise, taxpayers and courts will continue to do what they always have—debate the law's meaning, one case at a time.

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