

## CHAPTER 07

## Capital Gain

Charging Section - Sec. 45(1)

1. There should be a **Capital Asset**.
2. It should be transferred during the PY & taxable in same PY in which transfer took place.
3. Capital Gain should NOT be exempted U/s 54, 54B, 54D, 54EC, 54F.

Capital Asset - Sec. 2(14)**Capital Asset means:**

- (a) Any Property (Movable/Immovable/Tangible/ Intangible etc.), connected with assessee's business/profession or not.
- (b) Any Securities held by FIIs (invested as per SEBI regulations)
- (c) Any Rights in Indian Company including Right of Management or Control.
- (d) Any ULIP issued on or after 01 Feb 2021 on which exemption U/s 10(10D) does not apply:
  - Premium For Single Policy exceed 2,50,000 p.a
  - Premium For Multiple Policy exceed 2,50,000 p.a

Exceptions: [Following are Not Capital Assets]

1. SIT/RM/FG/Consumables stores held for business/profession;  
(Except Securities held by FIIs as SIT).
2. Movable Personal assets (including wearing apparel & furniture) held for his/his dependent family member's personal use. Ex. Car, Household Furniture etc. **but excludes** ↓
  - (a) Jewellery and bullion, (b) Archaeological collections; (c) Drawings; (d) Paintings;
  - (e) Sculptures (f) Any other work of Art.
    - Silver Utensils (Thalis, Katoris, tumblers etc.) for personal use not Capital Assets. (Benarshilal Vs. CIT)
    - Sale of Silver Coin / Bars, Gold Coin / Utensils used for purpose for Mahalaxmi pooja & other festivals, not for personal use & it's a Capital asset. (Maharaja Rana Hemanth Singh Vs. CIT)
    - If Precious stones/metals are sewn/worked/set into Wearing Apparel/ furniture, it is classified as jewellery & thus it is a Capital Asset.

**Example:** Throne made of Gold/Platinum/Diamonds; Shirt with diamond buttons sewn into it.

**Note:** If items like motor car, electronic appliances etc are held for business purposes, they are treated as capital assets.

**Note:** To constitute Personal Effect, Asset should be used by the assessee. Daily use is not necessary.

3. Rural Agricultural Land in INDIA [Urban Agricultural land → Capital Asset]
- Rural Land means land outside the Specified limits: Refer Page - 3.5
  - Agricultural Land: Land must be used for agricultural purposes for 2 yrs prior to T/F.
  - Capital Gain on Urban Agricultural Land → Not treated as Agricultural Income & thus it is not exempt u/s 10(1). CG arising from such transfer would be taxable u/s 45.

4. Gold Deposit bonds 1999 / Deposit Certificates issued under Gold Monetisation Scheme, 2015. Interest on these instruments also exempt u/s 10(15).

**Example:** Mrs. X says that sale of a work of art held by her is not liable to capital gains. Is she correct?

Ans: "Personal effects" excludes any work of art. As a result, any work of art will be considered as a capital asset & thus sale will attract capital gains tax. Mrs. X is not correct.

**Example:** Whether the capital gains will arise in following cases for AY 2024-25.

Profit on Sale of jewellery by Tanishq, a jewellery dealer.	No
Profit on Sale of personal furniture/car/bike by Mr. Bachan.	No
Profit on Sale of Residential house	Yes
Profit on Sale of drawings & paintings made by Mr. M. F. Husain.	Yes
Profit on Sale of drawings & paintings by Mr, JK to a National Musuem	No*
Profit on Sale of Gold Deposit Bonds	No

\*However, transfer of a capital asset to National Museum is exempt u/s 47.

### Types of Capital Asset - Sec. 2(42A)

- A. Long Term Capital Assets if POH > 12 Months (W.e.f 23-07-2024)
- RSE of India Listed Equity/Pref./ Debentures/bonds (other than units) ~~other than units~~ /Units of Business Trust.
  - Units of UTI (Listed or Unlisted).
  - Equity oriented Mutual Fund {At least 65% of total funds are invested in equity sh.} (Listed or Unlisted)

(v) Zero Coupon Bonds. (Listed or Unlisted)

**B. Long Term Capital Assets if POH > 24 Months**

- (i) Unlisted Equity or Preference shares. [Shares in private/unlisted public companies].
- (ii) Immovable property, being Land or Building or both.

**C. Long Term Capital Assets if POH > 36 / 24 Months (W.e.f 23-07-2024)**

- (i) Unlisted securities other than shares.
- (ii) Any other Assets.

**Example: -**

Nature of Asset	Minimum Period to become LTCA
Units of Equity Oriented Mutual Fund	12 Months
Units of Debt Oriented Mutual Fund	36 Months
Units of UTI	12 Months
Zero Coupon Bonds	12 Months
Listed Debentures / Bonds / Govt Securities	12 Months
Unlisted Debentures / Bonds/ Govt Securities	36 Months
Listed shares in a company	12 Months
Unlisted shares in a company	24 Months
Land or building	24 Months
Other Assets	36 Months

✚ In case of DEPRECIABLE ASSET, always STCG will arise irrespective of POH.

**Transfer of Capital Asset [Sec 2(47)]**

1. Sale, exchange or relinquishment (Ex. Sale of Right Share) of the asset.
2. Extinguishment of any rights in the asset. (Forfeiture of shares, Repayments in Liquidation)
3. Compulsory Acquisition of any Capital Asset under any law.
4. Conversion of Capital Asset into Stock in trade.
5. Maturity/Redemption of Zero-Coupon Bond.
6. Giving possession of IMMOVABLE PROPERTY under Part performance of a contract.

**Ex:** Ranbir Kapoor enters into an agreement for the sale of his house. Anushka Sharma gives the entire sale consideration to Ranbir. 'Ranbir' hand over complete rights of possession to

Anushka since he has realized the entire sale consideration. However, some legal formalities are left to be done. Under Income Tax Act, the above transaction is considered as transfer by applying 'substance over form'.

7. Transactions which have the effect of transferring the enjoyment of Immovable Property.  
 Ex: A person may become a member of a co-operative society which may be a house/flat. When he pays an agreed amount, the society etc. hands over possession of the house to the person concerned. No conveyance is registered. Such transaction is a transfer under Income Tax Act. Even power of attorney transactions are regarded as transfer.

8. Redemption of Zero - Coupon Bonds (ZCB)

### Date of Completion of Transfer

#### MOVABLE PROPERTY

- ✚ Date on which property is delivered after the contract of sell.
- ✚ Entries in Books of A/c → Irrelevant for determining date of transfer.

#### IMMOVABLE PROPERTY

- (i) Documents are registered → Date on which deed is executed or registered.
- (ii) Documents are not registered → If the following conditions are satisfied:
  - There should be a contract in writing;
  - Transferee has paid consideration/is willing to perform his part of the contract;
  - Transferee should have taken the possession of the property.

Note: - Site (Land) & Assets (Building) are separate assets for the purpose of capital gain.

### How To Compute Capital Gains - Sec. 48

Full Value of Consideration (Sec 50C may be applicable for L&B)		xxx
Less: Expenses of Transfer	(xxx)	
Less: Cost of Acquisition (Indexation available if Capital Asset is LTCA)	(xxx)	
Less: Cost of Improvement (Indexation available if Capital Asset is LTCA)	(xxx)	(xxx)
SHORT/LONG TERM CAPITAL GAIN		XXX

FA 2023 - Provided that if deduction has been claimed in respect of interest u/s 24(b) or Chapter VI-A then such interest shall not include in COA or COI.

### Full Value of Consideration (FVOC) [Sec. 48]

✚ **Meaning:** Consideration received/receivable by the transferor for the transferred capital asset.

✚ It may be in cash/ kind. [If consideration is received in kind, then FMV = Full value of consideration].

✚ **Adequacy of Consideration & Receipt of Consideration** → IRRELEVANT for determining FVC.

### FVOC in Case of Transfer of Land & Building Held as Capital Asset [Sec 50C]

Circumstances	Full value of consideration
A. If Actual Sale Consideration > Stamp Duty value	Actual Sale Consideration
B. If Actual Sale Consideration < Stamp Duty value	Stamp Duty value

But, If  $SDV \leq 110\%$  of Actual sale consideration → FVC = Actual Sale Consideration.

### SDV When Date of Agreement (DoA) & Date of Registration (DoR) are not Same:

- (a) If Payment (Full/Part) has been received by A/c payee cheque / draft / Netbanking on / before DoA → FVC = SDV on Date of Agreement.
- (b) If **NO Payment** is received by A/c payee cheque/draft/Net banking / Any other electronic mode (8 Mode) on/before DoA → FVC = SDV on Date of Registration.

### Example:

Transfer	Sale Consideration	SDV on DOA	SDV on DOR	FVC
1.5.2023	100 Lacs (10 Lac received by cheque on 1.9.2022)	120 (1.9.22)	210(1.5.23)	120
1.5.2023	100 Lacs (10 Lacs received by cash on 1.9.2022)	120 (1.9.22)	210(1.5.23)	210
31.3.2024	100 Lacs (Full amount received on DOR)	120 (1.5.22)	210 (31.3.24)	210

### Valuation by Valuation Officer

Circumstances	Full value of consideration
(I) Value by VO > SDV	Stamp Duty Value
(II) Value by VO > Actual Sale Consideration but < SDV	Value by Valuation officer
(III) Value by VO < Actual Sale Consideration	Actual Sale Consideration

#### Example:

SN	Actual SC	SDV	Value by VO	Full Value of Consideration
1	50	45	-	50
2	50	75	-	75
3	50	75	85	75
4	50	75	55	55
5	50	75	45	50

### Reference to Valuation Officer [Sec 55A]

AO may refer valuation officer with a view to ascertain FMV of a capital asset in following cases:

- (i) Where the value of the asset claimed by the assessee is in accordance with valuation made by the registered valuer, but AO is of the opinion that value so claimed is less than FMV of the Asset.
- AO can make a reference to VO in cases where FMV is taken to be sale consideration.
  - If FMV on 1.4.2001 is taken as COA, AO can make a reference to VO if he is of the view that there is any variation between FMV on 1.4.2001 claimed by assessee & FMV on that date.
- (ii) Where the AO is of the opinion that FMV of the asset exceeds the value claimed by
- More than 15% of the value claimed by the assessee or ₹ 25,000 (whichever is less).
- (iii) Where AO thinks that it is necessary to do so having regards to the nature of asset & relevant circumstances.

How to attempt practical question

- If both land and building qualify as long-term capital assets, capital gain can be computed combinedly where the cost of land can be taken as cost of acquisition and the cost of building can be taken as cost of improvement. Same position can be adopted if both the assets qualify as short - term capital assets.
- If land qualifies as long-term capital assets and building qualifies as short-term capital asset, capital gain in respect of land & capital gain in respect of building should be computed separately as per the decision of the karnataka high court in the case of CIT V. C. R. Subramanian {(1999) 242 ITR 342}.

Expenses of Transfer

Expenditure incurred wholly & exclusively in connection with transfer of capital asset.

Such expenses of transfer are deductible from FVC.

Ex: Advertisement, Brokerage, stamp fees, registration fees, legal expenses, commission paid for securing a purchaser, cost of stamp, litigation expenditure etc.

Note: STT paid on pur/sale of Equity shares & units of EOMF → Not deductible u/h CG.

Cost of Acquisition

The value for which the asset was acquired by the assessee.

Only capital expenditures for completing/acquiring of the property are includible in COA.

Any Revenue expenditure incurred → will not form part of COA.

Amount paid for discharge of mortgage is part of 'COA' if mortgage was not created by transferor.

Capital asset has been self-generated: - NIL (SC in case of B.C. Srinivasa Setty)

Ex. Sale of spontaneously grown tree etc.

Option to Take FMV on 1.4.2001 as Cost of AcquisitionIf Capital Asset is acquired before 1.4.2001

→ COA or FMV of the Asset as on 1.4.2001 (Whichever is Higher)

In Case of Land Building or Both

COA or Lower of {FMV of the Asset as on 1.4.2001 & SDV as on 1.4.2001}. (Whichever is Higher)

This option is not available in case of **Depreciable Assets; Goodwill of Business/other like assets.**

### Cost of Acquisition in Special Cases

#### GOODWILL/TRADEMARK/ BRAND NAME etc. [SEC 55(2)(A)]

Nature of Assets	(i) Goodwill or any other intangible asset of a business or profession / Tenancy Rights;
	(ii) Trademark or Brand name associated with a business or profession;
	(iii) Right to manufacture/produce/process any article or thing (Patent / Copyright);
	(iv) Right to carry any business / profession.
	(v) Loom Hours
	(vi) Stage Carriage Permit (Route Permits)
Cost of Acquisition	1. Self-Generated Assets: Nil
	2. Purchased: Actual COA (purchase price)

#### Points to Remember:

- Option to take FMV on 1.4.2001 → Not Available in case of Above Assets.
- Capital gain on Self-generated Goodwill of a profession not chargeable to tax upto AY 20-21.
- In case of goodwill of a business or profession, Depreciation has been claimed in any PY (upto PY2019-20), COA shall be the amount of purchase price reduce by depreciation claimed

#### Indexation {Second Proviso to Sec.48}

Why Indexation: - Sale consideration is the price at which the asset is sold in the PY. However, asset may be purchased in some earlier year. Money spent years before & sale consideration received in PY / today cannot be compared.

Thus, Indexation is given for the Long-term capital assets.

Thus, Indexation of COA means bringing into line COA with that of Sale Consideration.

Meaning of Indexed COA:

- ✚ As per Section 48, COA will be increased by applying the cost inflation Index (CII).
- ✚ Once the Cost Inflation Index is applied to COA, it becomes Indexed COA.

Steps to Calculate Indexed COA:

1. Find out the type of asset on the basis of POH (whether the asset is STCA/LTCA)
2. Apply Indexation to Cost of Acquisition only if asset is Long Term Capital Asset.

INDEXED COST OF ACQUISITION (Not applicable if asset T/F on or after 23/07/2024)

$$\frac{\text{Cost of acquisition} \times \text{CII of year of Transfer of Asset}}{\text{CII of the year of Purchase or in which asset was first held by Assessee **}}$$

CII of the year of Purchase or in which asset was first held by Assessee \*\*

\*\* Note: CII of year of acquisition of asset by Previous owner

[For Transfer u/s 49(1) OR CII of 2001 - 2002 (whichever is Later)]

COST INFLATION INDEX for Different FYs

PY	CII	PY	CII	PY	CII	PY	CII	PY	CII
2001-02	100	2006-07	122	2011-12	184	2016-17	264	2021-22	317
2002-03	105	2007-08	129	2012-13	200	2017-18	272	2022-23	331
2003-04	109	2008-09	137	2013-14	220	2018-19	280	2023-24	348
2004-05	113	2009-10	148	2014-15	240	2019-20	289	2024-25	363
2005-06	117	2010-11	167	2015-16	254	2020-21	301		

NO INDEXATION IS AVAILABLE IN FOLLOWING CASES [EVEN IF ASSETS LTCA]

1. Zero Coupon Bonds
2. Debentures/ Bonds [Except Capital Indexed Bonds/ Sovereign Gold Bonds issues by RBI].
3. Slump Sale [Section 50B]
4. Depreciable Assets [Since capital gain arising on depreciable asset is always STCG]
5. Share/Debentures acquired by NR in foreign currency in Indian company.  
(1st Proviso to sec 48)
6. Long term capital assets specified u/s 112A.

**Cost of Improvement**

- ✚ Capital expenditure incurred in making any additions/improvements/protect capital asset.
- ✚ Routine expenditure on repairs or maintenance will NOT be included in Cost of improvement.

**Points to Remember:**

1. In case of Goodwill or any other intangible asset of Business (whether Self generated/Purchased) → COI = Nil.
2. Right to manufacture/produce/process any article or thing → COI = Nil.
3. Patent, Copyright, Right to Carry any Business / profession → COI = Nil.
4. COI → Considered only if incurred on/after 1.4.2001 i.e. Before 1.4.2001 COI = Nil.
5. COI incurred by Previous Owner → Considered if incurred on/after 1.4.2001.

**Indexed Cost of Improvement (Not applicable if asset T/F on or after 23/07/2024)**

Cost of Improvement X CII of year of transfer of Asset

CII of the year of improvement

- ✚ If Asset is LTCA → Take Indexed COI &
  - ✚ If Asset is STCA → Take COI (without Indexation)
- Note: Year in which Improvement is done in the Asset → Not Relevant.

**FVOC on Transfer of Unlisted / Unquoted Shares [Sec 50CA]**

- ✚ If Sale consideration < FMV of such share, FMV shall be deemed to be full value of consideration.

**FMV → Deemed to be Full Value of Consideration - [Sec 50D]**

- ✚ If Sale Consideration is not determinable → FVC = FMV of the capital asset on the date of transfer.

**Advance Money Forfeited (Token Money) [Sec 51]**

1	Advance Money Forfeited Before 1.4.2014	Reduce from Original COA.
2	Advance Money Forfeited on/After 1.4.2014	Taxable u/h IFOS u/s 56(2)(ix).

**Points to Remember:**

- (i) Forfeited Advance shall be **reduced** from original COA **before Indexation** & NOT after Indexation.
- (ii) Date of Forfeiture of Advance should be **considered** & NOT the date of Receipt of Advance.
- (iii) Amount Received & Forfeited by Previous owner → Not to be considered.

**Examples:**

S.No.	Date of Receipt of Advance	Date of Adv. Forfeited	Taxable	Treatment
1	15.06.2012	10.08.2013	AY 14-15	Reduce from COA of asset
2	10.05.2014	30.09.2014	AY 15-16	IFOS
3	08.03.2011	05.04.2014	AY 15-16	IFOS

### **Capital Gains in Case of Deemed Sale on Destruction of Capital Asset Insurance Compensation Received [Sec 45(1A)]**

Circumstances for Destruction, Damage of Capital Asset	<ul style="list-style-type: none"> <li>(i) Natural activities/causes like Flood, typhoon, hurricane, cyclone, earthquake etc.</li> <li>(ii) Riot/civil disturbances.</li> <li>(iii) Accidental fire/explosion.</li> <li>(iv) Action of Enemy (war/without war).</li> </ul>
Sale Consideration	Insurance Compensation (Money + FMV of replaced Asset).
Year of Taxability	Capital Gain is taxable in PY of Receipt of Insurance Money.
Period of Holding	From Date of Acquisition till the Date of Destruction.
Indexation	Indexation is available till PY of destruction & not till receipt of Compensation.

If Compensation is received for stock, then it is taxable u/h PGBP.

**CAPITAL GAIN ON CONVERSION OF CAPITAL ASSET INTO SIT [SEC 45(2)]**

Sale Consideration	FMV of the asset on the date of conversion.
Year of Taxability	Year in which SIT is sold/ transferred & not in year of conversion into SIT.
Period of Holding	From Date of Acquisition till the Date of conversion into SIT.
Indexation	Only till the PY in which conversion took place.

**PGBP Income:** - (Sale value of SIT - FMV of the asset on the date of conversion)

✚ If there is only part of stock sold then only part capital gain shall arise in the year of stock in trade sold.

✚ CBDT Circular: - Exemption U/s 54 EC period of 6 months shall calculate from date of sale of stock in trade.

✚ **Conversion of stock in trade into capital assets.**

As per sec 28(via) of PGBP: - FMV of stock as on the date of conversion into capital asset shall be taxable under PGBP.

Sec 49(9) COA: - For Capital Gain COA shall be FMV referred above u/s 28(via) of PGBP.

Sec 2(42A) POH: - From the date of conversion into capital asset.

**Compulsory Acquisition of Capital Asset [Sec 45(5)]**

✚ Given provisions are applicable when the asset has been compulsorily acquired by government or any other similar agency under law.

✚ However, these rules are also applicable when consideration is approved by RBI/CG.

(Even if there is no compulsory acquisition).

**INITIAL COMPENSATION**

SC	Amount of Initial Compensation
Taxed in	PY of Receipt of Initial Compensation (either Whole/Part). If compensation is received in Instalments, ENTIRE capital gain on total Compensation is taxable in PY of receipt of 1st Instalment.
POH	From: Date of Acquisition of asset. Till: Date of Compulsory Acquisition.
Indexation	Upto the year of Compulsory Acquisition of the Asset

& NOT till the year of payment.

### ENHANCED COMPENSATION

- ✚ Taxable in the year in which it is received. Nature of Long/Short term same as in case of original compensation.
- ✚ If amt has been received on the basis of an **interim order** of the court, then taxable only when **final order** has been passed by the court.
- ✚ While computing CG, **legal/litigation expense allowed** & COA, COI shall be taken as Nil.
- ✚ If enhance comp. received in installment then taxable as and when received.

### Reduction of Enhanced Compensation:

Where capital gain has been charged on compensation received by the assessee & subsequently such compensation is reduced by any court, tribunal etc, the assessed capital gain of that year shall be recomputed by taking into consideration the reduced amount.

### Points to Remember:

1. Interest on compensation/ enhanced compensation will be taxable u/h IFOS in PY of Receipt irrespective of the year for which it pertains. Such interest is deductible to the extent of 50% of amount received u/s 57 and no other deduction allowed.
2. Enhanced Comp. is taxable in the hands of recipient → If assessee is dead then legal heir.
3. CBDT: - Compensation received under Right to Fair Compensation & Transparency in Land Acq Rehabilitation and Resettlement Act 2013 (**RFCTLARR**) shall **not be taxable**.
4. U/s 10(37) of the Income Tax Act, Capital Gains on compensation received on compulsory acquisition of urban agricultural land is exempt from tax if such land should be used for agricultural operations in the preceding 2 years before such transfer by individual or his parents or HUF(if).
5. TDS U/s 194LA @10% on payment if amt exceed 2,50,000 in a FY.

**Capital Gain on Transfer of Capital Asset**

Section →	45(3)	45(4)
From	↓ Partners → Firm ↓ Members → AOP/BOI	↓ Firm → Partners ↓ AOP/BOI → Members
By way of →	Capital Contribution	On Dissolution/Retirement of partners
Sale consideration	Value recorded in books of firm.	FMV of the asset on the date of transfer.
Taxed in	PY of Transfer.	
POH	From PY of Acquisition till PY of transfer.	

**Capital Gains on Buyback of Shares/Specified Securities [Sec 46(A)]**

Sale Consideration	Amount given by the company to Shareholder on buy-back of shares/securities.		
COA	Amount at which shares were Purchased by the shareholder.		
<b>Tax Treatment</b>			
Taxability in the hands of	Buyback of shares by domestic companies	Buyback of shares by a company, other than a domestic company	Buyback of specified securities by any company (ESOP)
Company	Taxable @ 23.296% (T20%+SC12% + 4%)	Not taxable	Not taxable
Shareholder	Exempt u/s 10(34A)	Taxable as CG u/s 46A	Taxable as CG u/s 46A.

Meaning of Specified Securities: includes employees' stock option or other securities as may be notified by the Central Government from time to time.

**Right Shares/Bonus Shares [Sec 55(2)(AA)]**

Particulars	Cost of Acquisition
1. Bonus Shares <ul style="list-style-type: none"> <li>If Bonus shares acquired before 1.4.2001</li> <li>If Bonus shares acquired on/after 1.4.2001</li> </ul>	<p>FMV as on 1.4.2001</p> <p>Nil since no option is available</p>
2. Right Shares <ul style="list-style-type: none"> <li>Purchased by Original Shareholder</li> <li>Purchased by Purchaser of Right</li> </ul>	<p>Issue Price</p> <p>Issue price + Cost of Right</p>
3. Right	Always Nil & always STCG

**Indexation:** Indexation is available from date of allotment of Right/Bonus Shares.

Note: U/s 112A if bonus share allotted before 01/02/2018 then COA will be FMV on 31/01/2018.

**Sweat Equity Shares/ ESOP [Sec 49(2AA)]**

Sale Consideration	Amount received on sale of shares.
COA	FMV on the date of exercising ESOP option.

**Capital Gains on Transfer of Depreciable Asset [Section 50]**

✚ Capital gain arising on depreciable asset will always be STCG irrespective of POH.

Conditions for Claiming Depreciation u/s 32.

- There must be at least one asset in the block.
- There must be some WDV for the block on which prescribed rate of Depreciation can be applied. If any of the two conditions are not satisfied, Sec 32 ceases to apply & automatically Section 50 becomes applicable resulting in STCG.

**Section 50:** Capital Gain on Depreciable Assets will arise only in the following two cases:

- WDV of block is ZERO on the last day of the PY
- Block is Empty on the last day of PY (Even if there is WDV in the block).

1. Short Term Capital Gain.

✚ If Sale Consideration received on transfer of one or more capital asset  $>$  WDV of Block, WDV of the block will be Zero & therefore no Depreciation can be claimed.

✚ In such case,  $STCG = \text{Sale consideration} - \text{WDV of the block}$ .

2. Short Term Capital Loss.

✚ If all the assets in the block are sold, Block is empty & thus no depreciation can be claimed even if there is WDV left in the block.

✚ In such case, short term capital loss will arise to the extent of remaining WDV.

If SC of all the assets in Block  $<$  WDV of the Block,

$STCL = \text{SC of all the assets} - \text{WDV of the block}$ .

Capital Gain In Case of Power Generating Undertakings [Sec 50A]

Applicability	Only for undertakings engaged in Generation/Generation & distribution of power.
Option	Such undertakings have option to use SLM method for depreciation.
COA	COA of the asset shall be WDV of Asset as appropriately adjusted.

Table for Computation

Conditions	Treatment
1. Sale Consideration $<$ WDV	✚ Terminal Depreciation (Loss) = $WDV - SC$ . ✚ It is Deductible u/s 32 u/h PGBP.
2. Sale Consideration $>$ WDV but $<$ Original COA	✚ Balancing Charge (Profit) = $SC - WDV$ . ✚ It is Taxable u/s 41(2) u.h PGBP.
3. Sale Consideration $>$ Original COA	✚ Capital Gain = $SC - \text{Original COA}$ . ✚ Balancing Charge (Profit) = $COA - WDV$ . Amt Upto Dep Already Claimed. ✚ It is Taxable u/s 41(2) u/h PGBP.

Note: Question on the same provision has been given in PGBP. [Ques. Bijli Ltd].

### Capital Gains in Case of Market Linked Debentures or Unit of a Specified Mutual Fund: Sec 50AA (Newly Inserted)

- Market Linked Debenture (MLD): A security which has an underlying principal component in the form of debt security and where the returns are linked to market returns on other underlying securities or indices. It also includes any security classified or regulated as a market linked debenture by the SEBI.
- Specified Mutual Fund: A mutual fund where **not more than 35%** of its total proceeds are invested in the equity shares of domestic companies.
- Section 50AA has an over-riding effect over the general capital gains provisions. Section 50AA provides that capital gains arising from the transfer or redemption or maturity of unit of a **Specified MF acquired on or after 1.4.2023** or Market Linked Debenture would be deemed to be STCG and chargeable to tax at normal rate of tax.
- **Unlisted bond or an unlisted debenture which is transferred or redeemed or matures on or after 23/07/2024.**

#### Manner Of Calculation of STCG Taxable u/s 50AA

Particulars	Amount (₹)
Full Value of Consideration	XXX
Less: Expenses on transfer, redemption or maturity (STT not allowed to be deducted)	(XXX)
Less: Cost of acquisition of Specified Mutual Fund or Market Linked Debenture	(XXX)
Short-Term Capital Gains (Taxable as Normal Income)	XXX

### Slump Sale [Sec. 50B]

Sale of whole undertaking/ unit for lumpsum consideration. Individual assets are not transferred & thus sale consideration for the individual assets is not known. Therefore, Sale consideration of whole undertaking/division is compared with the NET WORTH of the undertaking to find out the Capital gain.

Note: - If value determined individually only for the purpose of payment of stamp duty, registration fees or other similar taxes, such transaction would still be covered under the scope of Slump Sale.

**FVOC:** -  $FMV_1$  (Value of undertaking transfer) **or**

$FMV_2$  (Lumpsum consideration received) whichever is higher.

COA & COI

- ✚ COA & COI = Net worth of the undertaking/ division.
- ✚ Net worth shall be calculated as follow:
  - Total value of All Assets of an undertaking/ division [Note 1]
  - Less: Total value of All Liabilities of such undertaking/division. [Note 2]
- ✚ Any change in the value of assets on account of REVALUATION of Assets: - Ignore.

INDEXATION

No Indexation shall be allowed on COA/COI.

Nature of Capital Gains

- ✚ If POH of the undertaking/division  $\leq$  36 Months  $\rightarrow$  STCG would arise.
  - ✚ If POH of the undertaking/division  $>$  36 Months  $\rightarrow$  LTCG would arise.
- Note:
1. Aggregate value of total assets shall be calculated as follows:
    - Depreciable Assets: WDV of block of assets determined in accordance with sec 43(6)
    - Sec 35AD Assets: Nil
    - All other Assets: Book value.
    - Goodwill of Business / Profession ( Self-Generated ) : Nil
  2. All Liabilities should be assumed to be paid off in full unless otherwise specified.
  3. Liabilities exclude Capital and Reserve & Surplus.
  4. If Net Worth is negative then COA will be Nil.
  5. If stock in trade is sold then, there will be **NO PGBP** income.

[ Proviso to Sec 48 ]

- # First proviso to Section 48 : - Capital gains on **shares & debentures** of an Indian Company acquired in **foreign currency by a non-resident**.
- ✚ The capital gain shall be computed in same foreign currency. After calculating capital gains in foreign currency, it will be converted into Indian Currency.
- ✚ **Benefit of INDEXATION is NOT AVAILABLE.**

STEPS TO COMPUTE CAPITAL GAINS

1. Sale Consideration, Expenses of Transfer & Cost of Acquisition will be given in Rupees in the question as the shares/debentures were acquired by utilizing foreign currency.

2. So, we need to convert them into Foreign Currency by using Avg of TTBR & TTSR on the date of TRANSFER/ ACQUISITION.
  3. Calculate CAPITAL GAINS in FOREIGN CURRENCY.
  4. Capital Gain in Foreign Currency shall be Re-converted into INDIAN CURRENCY by applying TTBR on the date of transfer.
- # Second proviso to Section 48: - Indexation benefits for long-term capital gains.
- # Third proviso to Section 48: - The First and Second Proviso will not be applicable when LTCG u/s 112A is being considered.
- # Fourth proviso to Section 48: - Indexation will not be applicable in case of Debentures or Bonds **except** in the case of:
- \* Capital Indexed Bonds that are issued by the government.
  - \* Sovereign Gold Bonds which are issued by the RBI under the Sovereign Gold Scheme 2015.
- Sovereign Gold Bonds: -
- Individual: - Redemption on Maturity = No CG because of Sec 47.  
: - Transfer before Maturity = CG Apply (Indexation Allowed)
- Other Assessee: - Normal CG provision applicable with Indexation.
- # Fifth proviso to Section 48: - If capital gains arise because of depreciation of foreign currency or appreciation of INR against any given foreign currency at the time of maturity of INR-denominated bonds, taxpayers can safely ignore these capital gains while calculating their total consideration value.
- # Seventh proviso to Section 48: - Taxpayers can not claim deductions under the Section 48 of Income Tax Act while calculating their total taxable income under capital gains if the Securities Transaction Tax (STT) is applicable on the given transactions ( Sale / Pur )
- Transfer of Securities Held in Demat Form - [Sec 45(2A)]**
- COA & POH**
- ✚ Determine using FIFO Method on the basis of Date of Entry in DEMAT A/C.
  - ✚ CG shall be computed in the hands of beneficial owner not the depository.
- CONVERSION OF OLD PHYSICAL STOCK INTO DEMATERIALIZED FORM**
- In case of conversion of shares (originally held in physical form) into DEMAT form:
- ✚ For SALE: Date of Entry in DEMAT A/C should be considered.

✚	For POH: Original Date of acquisition should be considered.
	* Where an investor has more than one account, FIFO will be applied account wise.
	<b><u>Ascertainment of Cost in Specified Circumstances [Sec 49(1)]</u></b>
✚	In following cases, cost of acquisition of the asset shall be deemed to be cost for which the previous owner of the property has acquired it.
✚	To this cost, CoI to the asset incurred by previous owner or the assessee must be added:
	Where the capital asset became the property of the assessee:
(a)	Any distribution of assets on the total or partition of a HUF;
(b)	under a gift or will;
(c)	by succession, inheritance or devolution;
(d)	on any distribution of assets on the liquidation of a company;
(e)	under a transfer to revocable or an irrevocable trust;
(f)	under any transfer of capital asset by a holding company to its WOS Indian company or by a subsidiary company to its 100% holding Indian company, referred to in section 47(iv) & 47(v) respectively;
(g)	under any transfer referred to in section 47(vi) of a capital asset by amalgamating company to amalgamated Indian company, in a scheme of amalgamation;
(h)	under any transfer referred to in section 47(vib), of a capital asset by the demerged company to the resulting Indian company, in a scheme of demerger;
(i)	Conversion by an individual of his separate property into HUF property [by mode referred in sec. 64(2)].
	<b><u>Case Law:</u> Bombay High Court in CIT v. Manjula J. Shah 16 Taxman 42 (Bom.)</b>
✚	Bombay HC held that Indexed CoA in case of gifted asset has to be computed w.r.t the year in which the previous owner first held the asset & not the year in which the assessee became the owner of the asset.
✚	Section 2(42A) provides that in all such cases, for determining the period for which the capital asset is held by the transferee, the period of holding of the asset by the previous owner shall also be considered.

**Note:** In case of mode of acquisition of asset specified u/s 49(1), Period of holding of the previous owner shall also be considered for the purpose of taking Indexation of Cost of Acquisition.

### Determination of Period of Holding in Special Circumstances

Circumstances	Period of holding
Shares held in a company in liquidation	Exclude the period subsequent to the date of liquidation
Asset becomes property of the assessee by virtue of sec 49(1).	Include POH of previous owner
Allotment of shares in the scheme of amalgamation/Demerger	Include POH of shares in Amalgamating/Demerged Co.
Right shares / securities, Bonus shares	From the date of allotment of such share or security
Right to subscribe to any share or security	From the date of offer of right.
Units become property of assessee in consideration of transfer of units in consolidated scheme of MF referred u/s 47(xviii).	Include POH of units in consolidating scheme of MF.
Where share/s of a company is acquired by NR assessee on redemption of GDRs held by such assessee	Period from the date on which redemption request was made.
Equity share becomes property of the assessee by way of conversion of preference shares into equity shares u/s 47(xb)	Include POH of preference shares.
Units become property of the assessee in consideration of transfer of units in the consolidated plan referred u/s 47(xix).	Include POH of units in the consolidating plan of MF.

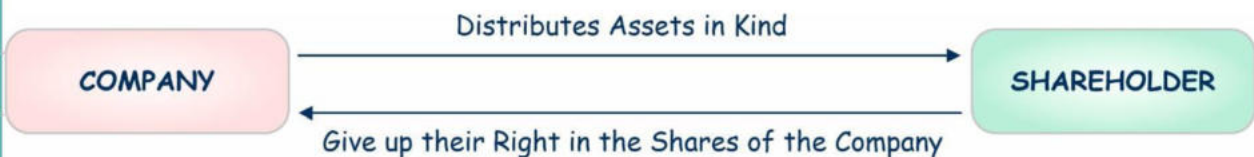
ESOP or sweat equity shares allotted by employer free/@ concessional rate to his employees/ former employees.	Period from the date of allotment or transfer.
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### Transactions Not Treated as Transfer [Sec 47]

✚ No Capital Gain would arise since they are NOT treated as Transfer.

✚ Thus, NO TAX will be payable on such transfer by the transferee.

# "Distribution of Assets in Kind by Company to its Shareholders on Liquidation [Sec. 46]



### FOR COMPANY IN LIQUIDATION

✚ Any Asset distributed in kind by the company to its shareholders on liquidation

→ shall NOT be regarded as a transfer by the company.

✚ Thus, No Capital Gain shall arise to company on distribution of such Assets.

✚ However, if liquidator sells the assets of company & distributes funds so collected, capital gain shall arise on such transfer.

### FOR SHAREHOLDERS

✚ CG shall arise in the hands of Shareholders on transfer of such shares to the company.

✚ Sale Consideration = FMV of Assets received in Kind - Deemed Dividend u/s 2(22)(c).

✚ Deemed dividend u/s 2(22)(C) → Distribution of Assets by the company on liquidation is treated as deemed dividend u/s 2(22)(C)

# Capital Gain on Transfer of Assets Received in Kind by the Shareholders

✚ When the asset received in kind is transferred by the shareholder later, CG will arise.

✚ COA of such asset = FMV of such asset on date of distribution by the company.

✚ POH shall be reckoned from the date of receipt of asset on liquidation.

# Distribution of Capital Asset on Total/Partial Partition of HUF

✚ Distribution of Capital Asset by HUF to its members on partition of HUF is NOT treated as Transfer & thus NO Capital Gain shall arise in the hands of HUF.

✚ However, Capital Gain shall arise when the asset received on partition, is sold by member.

✚ For computing capital gain in the hands of member on the transfer of said asset ↓

COA in the hands of member of HUF	Cost of Asset to HUF
Period of Holding	From the date of Acquisition of Asset by HUF

### # Transfer of Capital Asset by Way of Gift/Under A Will or Trust

✚ Transfer of capital asset by Individual or HUF under a gift or will or irrevocable trust is NOT treated as transfer & thus NO CAPITAL GAIN shall arise in the hands of transferor.  
 ✚ However, Capital Gain will arise in the hands of Recipient when he transfers such capital asset.

✚ For computing capital gain in the hands of recipient of gifts / will / irrevocable trust.

COA in the hands of Recipient	Cost to previous owner
Period of Holding/Indexation	Includes Period of Holding of previous owner; Indexation will be taken from DoA of Asset by Previous owner

Note: If assets received as gift is made taxable u/s 56(2)(vii) / 56(2)(x), then COA of such assets shall be the value taken into accounts for the purpose of sec 56(2)(vii) or 56(2)(x). In such case the POH of previous owner shall not be included.

But other transaction covered u/s 47 COA & POH of previous owner shall be taken/ include for New Owner.

[To be Studies with IFOS]

Note: - ESOPs or Sweat Equity shares shall not be covered in above provision.

Note: - COA / COI of previous owner shall be consider but Advance money forfeited of previous owner shall not be consider.

### # Transfer of Capital Asset by Holding Company to WOS Company

COA in the hands of WOS	Cost to Holding company (Previous owner)
POH of Holding company	Includes POH of Holding company (Previous owner)

### # Transfer of Capital Asset by WOS Company to Holding Company

COA in the hands of Holding company	Cost to Holding company (Previous owner)
POH of Wholly owned subsidiary	Includes POH of WOS company (Previous owner)

Note: For transfers between HC & SC,

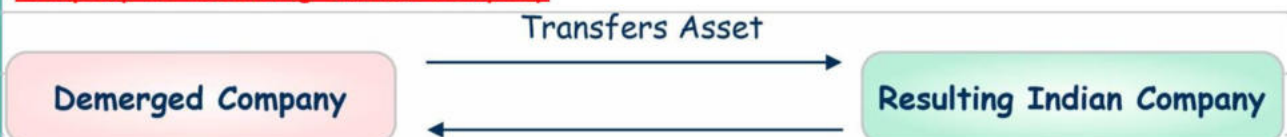
- (a) Recipient Company (company receiving capital asset) shall be Indian Company.
- (b) Exemption will NOT apply if a Capital Asset is transferred as SIT.
- (c) Exemption shall be withdrawn if asset transfer before 8 years from date of transfer, converted into SIT by transferee company, holding company cease to hold 100% share.

# Transfer of Capital Asset in Scheme of Amalgamation by Amalgamating Company to Amalgamated (Indian) Company.



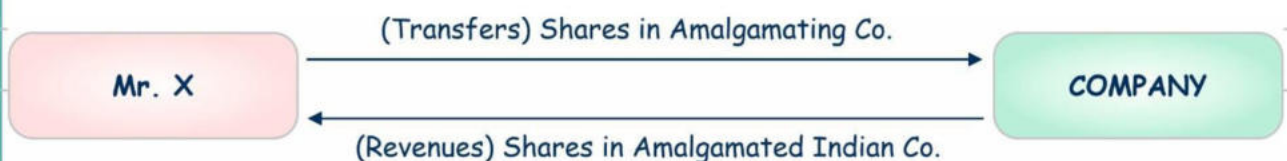
COA to Amalgamated Company	Cost to Amalgamating company (Previous owner)
POH	Include POH of Amalgamating company (Previous owner)
Indexation	From DoA of capital asset by amalgamating company

# Transfer of Capital Asset in the Scheme of Demerger by Demerged Company to Resulting Indian Company



COA to Resulting Company	Cost to Demerged company (Previous owner)
POH	Include POH of Demerged company (Previous owner)
Indexation	From DoA of capital asset by Demerged company

# Allotment (Issue) of Shares by Amalgamated Indian Company in Lieu of Shares Held in Amalgamating Company



COA of shares in Amalgamated company	COA of shares in Amalgamating Company
POH of shares in Amalgamating company	Include POH of shares in Amalgamating Company.

Ex: A Ltd., an Indian company, holds 60% of shares in B Ltd. B Ltd. amalgamates with A Ltd. Since A Ltd. itself is the shareholder of B Ltd., A Ltd., being the amalgamated company, cannot issue shares to itself. However, A Ltd. has to issue shares to the other shareholders of B Ltd.

Note: Same provision would apply in case of conversion of company into LLP - [Sec 47(xiiic)]

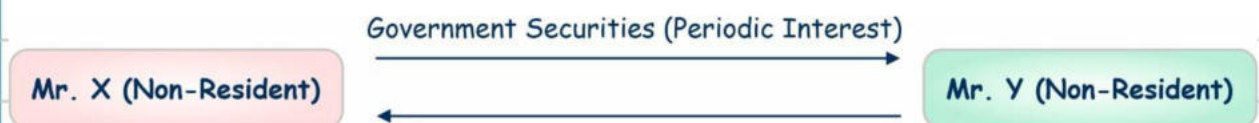
✚ Cost of share in LLP = COA of Shares in the company immediately before its conversion.

#### # Allotment of Shares by Resulting Indian Company to Shareholders of Demerged Company

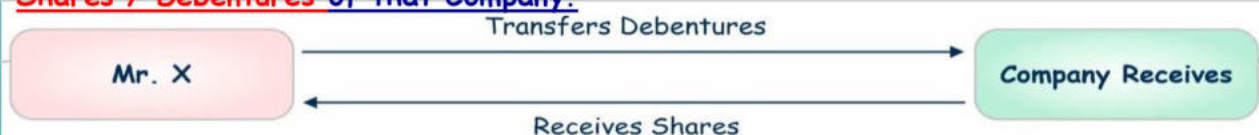
Shares in	Cost of Acquisition
Resulting Company	$COA \text{ of shares in Demerged Company} \\ \times \frac{\text{Net BV of Assets in demerged company after demerged}}{\text{Net BV of Assets in demerged company before demerged}}$
Demerged Company	COA of share in Demerged Co. – Cost apportioned to shares of Resulting Co.

Note: For determining POH of Shares in Resulting Co. → Includes POH of Shares in demerged Co.

#### # Transfer of Government Security by A NR to Another NR Outside India Through Intermediary (Sec 47(VIIB))



#### # Transfer by Way of Conversion of Bonds / Debentures / Deposit Certificate into Shares / Debentures of that Company.



COA of Shares received	Cost of Bonds/Debenture given up
POH of Shares	Include POH of Debentures given up

### # Transfer of Units of MF in the Scheme of Consolidation of MF

Transfers units in Consolidating scheme MF X Company Receives units in consolidated scheme.

COA of unit in Consolidated scheme	COA of units in Consolidating Scheme
POH of unit in consolidating scheme	Includes POH of units in consolidating scheme for determining POH of units in consolidated scheme

### # Any Transfer of Following Assets to Govt., University, The National Museum, National Art Gallery, National Archives or Any Other Public Museum.

- \* Painting/Drawing/Photograph
- \* Book
- \* Archaeological, Scientific or art collection.
- \* Book
- \* Print
- \* Work of art
- \* Manuscript

### # Conversion of physical gold into Electronic Gold Receipt (EGR) issued by a Vault Manager or conversion of Electronic Gold Receipt into physical gold shall not be regarded as transfer. POH: - of earlier asset whether it is GOLD or EGR shall also include in the period of current assets (GOLD or EGR)

### # Some Other Transactions Which are Not Treated as Transfer

Transfer of Rupee denominated bond of Indian company issued outside India by NR to another NR - [Section 47(viia)].

**Redemption of Sovereign Gold Bonds** by Individual issued under Sovereign Gold Bond Scheme, 2015 [Section 47(viic)].

**Conversion of Preference shares into Equity shares:** Any transfer by way of conversion of preference shares of a company into equity shares of that company [Section 47(xb)].

COA of Preference share	COA of Equity share
POH of Shares	Include POH of Preference share

### # Transfer of Capital Asset in Scheme of Reverse Mortgage

- Transaction of reverse mortgage under a scheme made and notified by the Central Government would not amount to a transfer. [Section 47(xvi)]



**Note:** Sec 10(43) exempts any lumpsum amounts or instalments received as a loan under a scheme of reverse mortgage from the bank by senior citizens.

#### Meaning

- Reverse Mortgage scheme is for the benefit of senior citizens who own residential house.
- Senior citizens can mortgage their house property with scheduled bank/housing finance company for lumpsum amount or a regular monthly/quarterly/annual income.

#### Scheme

- They can continue to live in their house & receive regular income without having to pay back the loan.
- Borrower can use the loan amount for renovation & extension of residential property, family's medical and emergency expenditure etc., amongst others.
- However, he cannot use the amount for speculative or trading purposes.
- Bank/housing finance company would revalue the property once in every 5 years.

#### Recovery

- Bank will recover loan with interest by selling house after the death of the borrower.
- The excess amount will be given to the legal heirs.
- However, before selling the house, preference will be given to the legal heirs to repay the loan and interest and get the mortgaged property released.

Taxation

- ✚ Transfer of capital asset in a transaction of reverse mortgage under a scheme made & notified by CG would not amount to a transfer - Section 47(xvi).
- ✚ Amount received by the senior citizen as a loan (Lump sum/Instalments) in a transaction of reverse mortgage would be exempt from income-tax- Section 10(43).
- ✚ Capital gains would arise in the hands of senior citizen only when the mortgaged property is sold by the bank/housing finance company for the purposes of recovering the loan.

Exemption From Capital GainsExemption from Capital Gains is available in two categories:

Exemption u/s10	These exemptions are available on Transfer of Notified Capital Assets. No Investment in any new capital asset is required to avail these Exemption.
Exemption u/s54	These exemptions are available only if the Specified (New) Capital Asset is Acquired or Constructed.

A. Exemptions U/s 10:

1. Capital Gain on transfer of a Units of Unit Scheme, 1964 (US 64) [Section 10(33)]
  - Such transfer should take place on/after 1.4.2002.
2. Capital Gain (LT / ST) arising to Individual/HUF on Compulsory Acquisition of Urban Agricultural Land [Section 10(37)]
  - Only for Individual / HUF from t/f of Urben agriculture land.
  - Such land used for agriculture purposes for at least 2 years before t/f.
  - Land acquired by CG and consideration approved by CG or RBI.
  - Exemption is available only if compensation is received on/after 1.4.2004.
3. Capital Gain arising on Buy-back of Unlisted shares of Domestic Company [Sec 10(33)]

**B. Exemption U/s 54****Capital Gains on Transfer of Residential House Property (Sec 54)****Eligible Assessee:** - Individual or HUF**Which Asset must be transferred:** - Residential House Property (LTCA)

Income from such house should be chargeable u/h "Income from HP".

**Which asset must be acquired**If Capital gains  $> ₹ 2$  crores  $\rightarrow$  ONE Residential House in IndiaIf Capital gains  $\leq ₹ 2$  crores  $\rightarrow$  TWO Residential House in India**Note:** If in any AY, assessee has exercised the option to purchase or construct 2 residential houses in India, he shall not be subsequently entitled to exercise the option for same AY or any other AY i.e. Once in a life time.**Ex:** If an assessee has availed the option of claiming benefit of section 54 i.r.o purchase of 2 residential houses in Jaipur & Jodhpur i.r.o capital gains of ₹ 1.50 crores arising from transfer of residential house at Bombay in PY 2023-24 then, he will not be entitled to avail the benefit of section 54 again in respect of purchase of 2 residential houses in Pune & Baroda, i.r.o CG of ₹ 1.20 crores arising from transfer of residential house in Jaipur in PY 2025-26, even though CG arising on transfer of residential house at Jaipur  $< ₹ 2$  crores.**Time limit for acquiring new asset****Purchase**  $\rightarrow$  Within 1 yr before transfer or within 2 years after transfer.**Construct**  $\rightarrow$  Within 3 years after the date of transfer.**Quantum of Exemption**

- (a) Investment in New House or Houses or
- (b) Long Term Capital Gain (whichever is lower).

**Amendment in Budget 2023:** - If the new residential house/houses exceed 10 Crore, then excess amt. not allowed as exemption. Maximum exemption under sec. 54 will be 10 Crore.**Consequences of transfer of Newly acquired asset within 3 years.**

Exemption granted will be taken back.

Otherwise: - For computing STCG on transfer of new asset:

**Cost of New House = (Cost of acquisition - Capital gains exempted earlier).**

**Example 1.** CG = ₹ 7 lacs & Cost of New house= ₹ 9 lacs; Exemption = ₹ 7 lacs.

2. CG = ₹ 7 lacs & Cost of New house= ₹ 5 lacs; Exemption = ₹ 5 lacs. Continuing Ex, if the new house was sold after 2 years for ₹ 12 lacs, then STCG =

Particulars	₹	₹
Net Consideration		1200000
Cost of acquisition	9,00,000	
Less: CG exempt earlier u/s 54	(7,00,000)	
		(200000)
Taxable STCG		1000000

### Points to Remember:

- ✚ Date of completion of construction is relevant. Date of commencement of construction is irrelevant. Construction may be commenced even before the transfer of house.
- ✚ Allotment of Flat under Self-financing scheme is treated as construction of house for Section 54.
- ✚ Holding of Legal Title → Not Necessary. If the taxpayer pays whole/part of consideration & get the possession of new house, exemption available u/s 54 is available.
- ✚ Investment → Includes Cost of Purchase of House + Cost incurred to make habitable.
- ✚ A person may Sell 2 Houses & Purchase 1 House for the purpose of availing exemption u/s 54.

### Capital Gain on Transfer of Agricultural Land [Sec 54B]

Eligible Assessee: - Individual or HUF

Which asset shall be transferred: - Urban Agricultural land (LT/ST).

Such land must have been used by Assessee or his parents/HUF for agricultural purposes for 2 yrs immediately preceding date of transfer.

Which asset is acquired: - Agricultural Land (Rural/Urban)

Time limit for acquiring new asset: - Within 2 years from the date of transfer.

Quantum of Exemption.

Amt Invested or Capital Gain whichever is Lower.

Consequences of transfer within 3 years

Same as Section 54. However, if new agricultural land is a rural agricultural land, there would be no CG on transfer of such land.

### Capital Gain on Compulsory Acquisition of Industrial Land & Building [Sec 54D]

Eligible Assessee: - Any Assessee.

Which asset shall be transferred: - Industrial Land or Building (STCA/LTCA).

Such Land/building should have been used by assessee for Industrial undertaking for 2 years immediately preceding the date of transfer (Ownership during these 2 years not necessary)

Which asset is acquired: - Land or Building for Industrial purpose

Time limit for acquiring new asset: - Within 3 years from the **date of Receipt of compensation.**

#### Quantum of Exemption

Amt Invested in New Land & Building or Capital Gain whichever is lower.

Consequences of transfer within 3 years: - Same as Section 54.

### Transfer of Any Long-Term Capital Asset & Investment in Certain Bonds [Section 54EC]

Eligible Assessee: - Any Assessee

Which asset shall be transferred: - Long-term Capital Asset being Land or Building or both (Even a depreciable asset held for more than 36 months is a LTCA even if they are always regarded as STCA under other sections of the act)

#### Which asset is acquired

Bonds of National **Highways** Authority of India (NHAI) & Rural **Electrification** Corporation Ltd (RECL) redeemable after 5 years.

Bonds issued by **Power** Finance Corporation Limited & Bonds issued by Indian **Railway** Finance Corporation Limited & redeemable after 5 years.

Time limit: - Within 6 months from the date of transfer of original LT Capital Assets.

#### Quantum of Exemption

Long Term Capital Gain or Amount Invested in Bonds (whichever is Lower).

**Note:** Maximum Investment that can be made in bonds of NHAI & RECL from CG arising from the transfer of one/more LTCA during the PY of transfer & in subsequent FY cannot exceed ₹ 50 lacs.

#### Lock-in-period

Bonds should not be transferred for a period of 5 Years.

Assessee should not transfer/convert or avail loan on security of such bonds for 5 years from the date of acquisition of such bonds. Otherwise, exemption granted earlier shall be taken back.

**Note:** Receipt of money on liquidation of company is taxable in the hands of shareholders [Section 46(2)]. In such case there is no transfer of capital asset & thus exemption u/s 54EC is not available.

#### Transfer of Any Long-Term Capital Asset Other than Residential House Property [Sec 54F]

Eligible assessee: - Individual & HUF

Which asset shall be transferred: - Transfer of Any type LTCA other than Residential House Property. Thus, Transfer of Vanact Plot of Land → Eligible for Exemption. Provided that assessee should not own more than 1 Residential House on the date of transfer (except the newly acquired house property).

Which asset is acquired: - ONE Residential House Property in India

Time limit for acquiring New asset: - The assessee should either

- Purchase: Within 1 year before transfer or within 2 years after transfer.
- Construct: Within 3 years from the date of transfer.

#### Quantum of Exemption

Proportionate Exemption. Thus, to get the exemption of amount of capital gains, the whole amount of sale consideration shall be invested.

=  $\frac{\text{LTCG} \times \text{Amount invested in new residential house}}{\text{Net sale consideration}}$  (Max 10 Cr)

Net sale consideration

**Amendment in Budget 2023:** - If the new residential house/houses exceed 10 Crore, then excess amt. not allowed as exemption. Maximum exemption under sec. 54F will be 10 Crore.

Withdrawal of Exemption

- ✚ If the new house is transferred within 3 years from the date of acquisition.
- ✚ If assessee purchases another residential house within 2 years from the date of transfer of original asset.
- ✚ If assessee completes construction of another residential house in India/ outside India within 3 years from the date of transfer of original asset.

Capital Gains Account Scheme (CGAS)Scheme of deposit

- ✚ For Section 54, 54B, 54D, 54F, Capital Gain is exempt to the extent of Investment of "capital gains/Net Sale Consideration" (for 54F) in specified assets within specified time limit.
- ✚ If such Investment is not made before DD of filing of ROI, then Capital Gain/Net sale consideration (for 54F) has to be deposited under the CGAS to get exemption.

Time limit for acquiring new asset

- ✚ Such deposit in CGAS should be made before filing ROI or before DD of filing ROI, whichever is earlier. Proof of such deposit should be attached with the return.
- ✚ Deposit can be withdrawn for the specified purposes.

Consequences of non- utilization

- ✚ If the amount deposited is not utilized for specified purpose within stipulated period, then unutilized amount shall be charged as capital gain of the PY in which specified period expires.  
For Sec 54F, Proportionate Amount will be Taxable.
- ✚ If Individual dies before the stipulated period, unutilized amount is not taxable in the hands of legal heirs of deceased individual because such unutilized amount is not income but is a part of the estate devolving upon them.

### Extension of Time for Acquiring New Asset or Making Deposit in Capital Gain Account Scheme [Sec 54H]

In case of compulsory acquisition of original asset, time limit for acquiring new asset/making deposit in CGAS is considered from date of receipt of compensation & not from date of transfer.

For Determination of Year of Chargeability of Capital Gain: Whole Capital gain is taxable in the PY in which 1st Instalment of Compensation is received. But for Determining Time Limit for Acquiring the Asset, Dates of Receipt of different Instalments shall be considered.

### Rate of Tax on Capital Gains.

New Rate Applicable from 23/07/2024.



### Short- Term Capital Gains [STCG]

#### 1. STCG u/s 111A: Taxable @ 15%/20%.

- STCG on transfer of Equity shares/units of EOMF on which STT is paid → Taxed @ 15%/20%. (STT paid on Sale)
- Benefit of UNEXHAUSTED BEL will be available for Resident Individual/HUF.
- No deduction under Chapter VI-A (80C - 80U) against STCG taxable u/s 111A.
- In case of resident individuals, rebate U/s 87A is available.
- STCG arising on transactions undertaken in foreign currency on RSE located in International Financial Services Centre is taxable @ 15% even if STT is not leviable on such transactions.

#### 2. Other STCG

- STCG other than Section 111A are treated as Normal Income & will be taxed @ Slab Rate along with Other Incomes.

**Long - Term Capital Gains [LTCG]**

1. LTCG u/s 112A: Taxable @ 10%/12.5% on LTCG exceeding ₹ 1,00,000/1,25,000. COA in case of Sec 112A for Listed Equity share / units of EOMF acquired before 1<sup>st</sup> February 2018.

Higher of 2 Amounts: - \* Actual COA

\* Lower of (Actual FVOC or FMV as on 31<sup>st</sup> Jan 2018)

# Listed & Traded on 31/01/2018: - Highest price of that day.

# Listed but not Traded on 31/01/2018: - Highest price on any prior date traded.

# Units: - NAV as on 31/01/2018.

# Unlisted share: - Index Cost of 2017-18. i.e. 272

- LTCG on transfer of Equity shares/units of EOMF on which STT is paid → @ 10%
- Benefit of UNEXHAUSTED BEL will be available for Resident Individual/HUF.
- No deduction under Chapter VI-A against STCG taxable u/s 112A.
- Rebate u/s 87A → Not Available against LTCG taxable u/s 112A. But available against LTCG taxable u/s 112.
- LTCG arising on transactions undertaken in foreign currency on RSE located in International Financial Services Centre is taxable @ 10% even if STT is not leviable on such transactions.

**Note:**

1. Equity share → STT is to be paid on acquisition & transfer of such capital asset.  
2. Units of EOMF/Business Trust → STT is to be paid on transfer of such capital asset. However, CG may specify the nature of acquisition of equity share on which STT is not payable on acquisition.

2. OTHER LTCG: Taxable @ 20%/12.5%.

**Amendment:** - In case of Resident Individual / HUF, if any immovable property transferred on or after 23/07/2024 & such property was acquired before 23/07/2024 then tax on such LTCG shall be lower of 12.5% without Indexation or 20% with Indexation.

This option only for tax calculation i.e not for calculation of capital gain or total income.

No deduction under Chapter VI-A is available against LTCG.

✚ Resident Individual & HUF → 20%/12.5%. Benefit of Unexhausted BEL is available.

✚ Other Person & Domestic Company → 20%/12.5%. No Benefit of Unexhausted BEL.

✚ Foreign company/ Non-corporate Non-Resident:

LTCG on unlisted securities/Shares in Private company	10% without Indexation & currency fluctuations under 1st proviso to sec 48.
Other Assets	20%

\* LTCG arising from transfer of listed securities (other than units) & ZCBs

✚ Assessee will have the option to pay tax @ 10% without Indexation or 20% with Indexation.

\* What about Debt-oriented MF or unlisted securities?

✚ LTCG on transfer of units of debt-oriented MF & unlisted Securities are not eligible for concessional rate of 10% (without indexation benefit). Thus taxable @ 20% with indexation

Benefit of UNEXHAUSTED BEL from LTCG & STCG u/s 111A to Resident Individual/HUF

✚ We know that entire LTCG is taxable @ 20% & STCG u/s 111A @ 15% without any exemption.

✚ But in case of Resident Individual/HUF, benefit of BEL is available if BEL is unexhausted.

✚ Unexhausted BEL means: taxable income (excluding LTCG) is less than the BEL.

✚ In such case, the shortfall\* shall be deducted from LTCG/STCG u/s 111A.

\*  $\text{Shortfall} = \text{BEL} - (\text{Taxable income} - \text{LTCG})$ .

### Capital Gain on Conversion of LLP into General Partnership

✚ Since the tax treatment of LLP & general partnership is same, conversion from a general Partnership firm to LLP will have no tax implications if the rights & obligations of the partners remain same after conversion and if there is no transfer of any asset or liability after conversion.

✚ However, if there is a change in rights and obligations of partners or there is a transfer of asset or liability after conversion, then the provisions of section 45 would get attracted.