

CHAPTER 3A: INCOME UNDER HEAD CAPITAL GAINS

CHARGEABILITY OF CAPITAL GAINS [SECTION 45(1)]

- ✓ Any profits or gains arising [Includes Loss as well]
- ✓ from the transfer of a **capital asset**
- ✓ shall be **chargeable** to Tax
- ✓ In the PY in which the **transfer took place**.

CAPITAL ASSETS [SECTION 2(14)]

“Capital asset” includes **all assets** Except

- i) any **stock-in-trade**
- ii) **Personal movable assets**. However, following personal movable assets shall be capital asset—

Jewellery	Archaeological collections	Drawings
Paintings	Sculptures	Any work of art

- iii) **Rural Agriculture Land.**

Meaning of Urban Area

- a) Any area (**municipality, cantonment board etc.**) which has a population of 10,000 or more.
- b) Following area within the distance measured aerially

Population according to latest census	Shortest Distance
More than 10,000 but upto 1,00,000	Up to 2 Km
More than 1,00,000 but upto 10,00,000	Up to 6 Km
More than 10,00,000	Up to 8 Km

- iv) **Gold Deposit Bonds**

TYPES OF CAPITAL ASSETS

1. **Long Term Capital Asset** → Other than Short Term Capital Asset

2. Short Term Capital Asset

Particulars	POH
Listed Securities	12 Month
Units Of Equity Oriented MF	12 Month
Zero Coupon Bond	12 Month
Unlisted Shares	24 Month
Land & Building	24 Month
Unlisted Debentures	24 Month
Other Capital Assets	24 Month

COMPUTATION OF STCG & LTCG [SECTION 48]

Particulars	Amount
Full Value of Consideration	-
Less: Transfer Expenses eg brokerage/commission (Except STT)	-
Net Consideration	-
Less: COA	-
Less: Cost of Improvement	-
Capital Gain Before Exemption	-
Less Exemption Claimed	-
STCG/LTCG Taxable	-

Notes:

1. If **Long term capital asset** is **Land or building** or both, then option for the **indexation facility** is given only for the purpose of “**Calculation of Tax**” to **resident individual or HUF** to opt lower of the following:
 - a. Tax on LTCG of land or building **without Indexation @12.5%**
 - b. Tax on LTCG of land or building **after Indexation @20%**

Indexed COA / COI

$$\frac{\text{COA or COI} \times \text{Inflation index of Transfer Year}}{\text{Inflation Factor of Acquisition or Improvement Year}}$$



2. Land and building are considered as different Cap asset, if POH of building is up to 24 months and POH of land is more than 24 months then two capital gain shall arise. On building → STCG & on Land → LTCG

ASSET PURCHASED BEFORE 01.04.2001

If any capital asset has been **purchased or constructed** before 01.04.2001, in that case COA shall be:

- A. In case of capital asset **other than Land & Building**, COA shall be higher of:
- Actual COA.
 - FMV as on 1/4/2001.
- B. In case of capital asset being **Land & Building**, COA shall be **higher** of:
- Actual COA.
 - Lower of:
 - FMV as on 1/4/2001.
 - SDV as on 1/4/2001

Notes:

COI Shall be Considered only if **incurred** on/after 1/4/2001

MEANING OF TRANSFER [SECTION 2(47)]

- The **sale, exchange or relinquishment** of the asset.
- The extinguishment of **any rights** therein. Extinguishment covers destruction of the assets.
- The **compulsory acquisition** of the asset by the govt.
- Conversion** of capital asset into stock-in-trade.
- Possession of any **immovable property** in part performance of a contract.
- Any **transaction** which has the effect of transferring, or enabling the enjoyment of, any immovable property *[it is by becoming a member in a co-operative society, company or other association of persons]*
- Maturity or redemption of **zero coupon bond**.

WHAT IS NOT TRANSFER [SECTION 47]

- Gift, will or inheritance of property
- Distribution of **capital assets** on the **partition** of a Hindu Undivided Family.
- Conversion of **bonds/debentures** into shares of that company
- Conversion of **preference shares** into equity shares of that company.
- Transfer of **capital asset** in a transaction of reverse mortgage.
Note: any amount received by **senior citizen** under this scheme is fully exempt.

REVERSE MORTGAGE

- It is the facility where **senior citizen** mortgage House property to Bank and receive loan amount either in **Lump sum or installments**.
- Senior citizen is **not under the** obligation to repay this loan.
- Bank will recover principal amount and Interest on such loan by selling House property after the death of senior citizen.
- Bank will also give option to **legal heir** to repay loan amount and take over the mortgaged property.

DEEMED COA [SECTION 49(1)]

In case the asset is acquired through a mode given in section 47 (**Gift to relative or will**) then **COA is cost to the previous owner**. Previous owner is the person who acquires the asset by paying the price. **Period of holding** shall be computed **from the date the previous owner acquires the asset**.

Note 1: Cost of improvement incurred by previous owner shall also be taken if such improvement is **done on or after 01/04/2001**.

Note 2: However, if amount of **GIFT** is taxable in the hands of recipient, then such amount of GIFT shall be included in the COA and POH shall be determined from the date of receiving the **GIFT**.



TREATMENT OF ADVANCE MONEY FORFEITED

Forfeited Before 1.4.2014	Reduced from Original COA before Indexation
Forfeited on/after 1.4.2014	Taxable u/h IFOS u/s 56(2)(ix)

CONVERSION OF ASSET INTO STOCK-IN-TRADE [SECTION 45(2)]

- Conversion of capital asset into **stock** shall be **deemed** to be transfer and **capital gain** shall be arise **in the year of such conversion**.
- For this purpose, **FMV** on date of conversion shall be considered as full value of consideration.
- Capital gain shall be taxable in the year in which **such SIT is sold**.

Capital Gain	Amount	PGBP	Amount
FMV on conversion Date	-	Sale Value	-
Less: COA / ICOA	-	FMV on conversion date	-
Less: COI/ICOI	-		
STCG/LTCG	-	PGBP	-

TREATMENT OF INSURANCE CLAIM RECEIVED

If any capital asset is **destroyed** due to fire, flood, earthquake, riot, civil disturbance etc. and **insurance claim** is received, then capital gain is applicable and shall be calculated as follows

Particulars	Destruction of CA [Section 45(1A)]
Sale Consideration	Insurance Compensation
Deemed Transfer	In The PY of Destruction
Taxability	PY of Receipt of Money

Note: If claim is **received in Kind**, then FMV of such kind claim shall become **Full Value of consideration**.

TRANSFER OF CAPITAL ASSET TO FIRM

If any partner transfers **capital asset** to the firm as a capital contribution or otherwise, then **capital gain** shall be arisen in the hands of such partner and shall be dealt as follows:

Particulars	Capital Contribution By Partner
Sale Consideration	Value of CA recorded in Firm books.
Deemed Transfer	Year of contribution
Taxability	PY in which CA is givento firm

COMPULSORY ACQUISITION OF CAPITAL ASSET [SECTION 45(5)]

FVC	Compensation Fixed by Govt.
Taxability	Year in which initial compensation is received
Transfer	Year In which asset is compulsorily acquired .
Indexation	Shall be done up to the year of transfer
Balance compensation	No Tax Implication shall arise
Enhanced compensation	Taxable in the year of receipt after deducting litigation expenses .
Nature of Enhanced Compensation	Nature of CG of Enhanced compensation shall be same as original capital gain
Interest on delayed compensation	Taxable on receipt basis under head other sources [Flat 50% deduction is allowed]

FVC IN CASE OF TRANSFER OF LAND OR BUILDING OR BOTH [SECTION 50C/ 43CA]

In case of land or building or both, If SDV **exceeds 110%** of sales consideration then SDV shall be considered as FVC.

If SDV exceeds 110% Of Sales Consideration	
Yes	NO
FVC = SDV	FVC = Actual Sales Consideration



If the **Date of agreement** and **date of registration** is different and advance has been received by **specified mode** at the time of agreement

Yes	NO
SDV as on the 'agreement date' shall be considered	SDV as on the 'registration date' shall be Considered

Where assessee claims that SDV is more than the **FMV of immovable property** and such **SDV** is not disputed in any appeal then A.O may refer the case to **valuation officer** and **FVC** shall be determined as follows:

Value adopted by VO	FVC
Exceeds SDV	SDV
Doesn't exceed SDV But Exceed Actual Sale Value	VO Value
Is less than Actual Sale Value	Sale Value

COA OF SELF-GENERATED ASSETS

	COA	COI
Brand name & Trademark associated with the business or profession	Nil	NA
Tenancy rights	Nil	NA
Goodwill of a business or profession	Nil	Nil
Right to manufacture, produce or process any article or thing, for a consideration (Patent)	Nil	Nil
Right to carry on any business or profession	Nil	Nil

Note:

- If the asset is purchased then **purchase price** is the COA.
- In case of goodwill of a business or profession on which depreciation is claimed upto **PY 2019-20**, the COA of such goodwill would be purchase price as reduced by the **total amount** of depreciation (up to P.Y.19-20)
- FMV as on 1-4-2001 is ignored.

CAPITAL GAIN IN CASE OF SLUMP SALE [SECTION 50B]

When whole unit is **sold at lumpsum** without valuing each asset individually is termed as slump Sale.

FVC	Higher of: Sales Consideration Received OR FMV of capital Asset transferred
COA	Net worth of unit. However, if any asset has been revalued, then such revaluation shall be ignored

Notes:

- Net Worth** = Total Assets – outside Liabilities
- If any **upward revaluation** of asset has been done, then such revaluation shall be **ignored**.
- If Net worth is negative then consider it as zero.
- If unit is sold after holding for **more than 36 months**, then capital gain shall be LTCG otherwise STCG.
- Assets for which **100% deduction** is allowed under PGBP → **Book value Shall be NIL**.
- Depreciable Asset – **WDV**; Other Assets – **Book Value**.

CAPITAL GAIN IN CASE OF DEPRECIABLE ASSET

- All the **assets of the block** are transferred:
In case all the assets in any block are transferred during the previous year then the block shall **ceases to exist** and **no depreciation** will be allowed. It can happen in the following two cases:
 - STCG u/s 50** When Sale price > Block Value
 - STCL u/s 50** When Sale price < Block Value
- Few Assets of block are sold** but the **sale value exceeds WDV** of Block then **STCG** Shall arise.

CAPITAL GAIN IN CASE OF SALE OF SHARE

- In case of **original shares**, COA shall be the actual cost but if it was purchased before 1/4/2001, COA shall be the **actual cost** or **FMV** as on 01.04.2001, **whichever is higher**.



- B. In case of **bonus shares**, COA shall be nil but if bonus shares are issued before 01.04.2001, **COA = FMV on 1/4/2001**
- C. In case of **right shares**, COA shall be the amount for which such shares have been purchased.
- D. If right to purchase right shares has been **renounced**, amount received shall be considered to be short term capital gains.
- E. **COA for the right renouncee** shall be the amount paid to the person renouncing the right and amount paid to the company.

Transfer of Equity Shares or Equity oriented units or units of business trust

LTCG u/s 112A

- LTCG on transfer of equity shares or equity oriented units or units of business trust, **in excess of ₹ 1,25,000** shall be **taxed at 12.5%** if following conditions are satisfied:
 - STT is paid at the time of acquisition and transfer of equity shares
 - STT is paid at the time of transfer of **equity oriented units** or units of business trust.
- COA in case of Capital Gains u/s 112A**
In case of equity shares or units of **equity oriented mutual funds** or units of business trust which have been sold w.e.f. 01.04.2018 onwards, COA shall be higher of:
 - COA
 - Lower of
 - FMV of asset on 31.01.2018 (**Highest Quoted Price**)
 - Actual sale value.

STCG u/s 111A

STCG on transfer of equity shares or **equity oriented units** or units of **business trust** shall be **taxable** at the rates of **20%** if STT is paid at the time of transfer of such assets

EXEMPTIONS

	Section 54	Section 54B	Section 54D
Asset Transferred	Long Term Residential House Property	Agriculture land (Urban)	L/B – Industrial Undertaking Compulsory Acquired
Assessee	Individual / HUF	Individual / HUF	Any Assessee
Investment	New Residential House Property (Note)	New Agriculture Land (Urban/Rural)	New Land /Building for Industrial Undertaking
Time Limit for Investment	Purchase – within 1 yr before or within 2 years from transfer date Construct – within 3 years from Transfer Date	Within 2 years from Transfer Date	Within 3 years from Date of Receipt of compensation
Quantum Of Exemption	Lower of: <ul style="list-style-type: none"> Amount Invested Capital Gain Rs. 10 Crore 	Lower of: <ul style="list-style-type: none"> Amount Invested Capital Gain 	Lower of: <ul style="list-style-type: none"> Amount Invested Capital Gain
Lock in period of new asset	3 Years. Otherwise, LTCG exempted earlier shall be reduced from COA of New Asset	Same as Section 54	Same as Section 54
CGAS	Available	Available	Available



Note:

- If LTCG is up to 2 crores, then assessee can claim **exemption** u/s 54 for 2 house property. In other cases, he can only purchase one house for claiming exemption under this section.
- No **Capital Gain** shall arise on transfer of **Urban agricultural land** if following conditions are satisfied:
 - Assessee is individual or HUF
 - Urban agricultural land is **compulsorily acquired** by Government.
- Exemption u/s 54B shall be allowed only if **Urban Agricultural land** is used for agricultural purpose for **at least 2 years** before the date of transfer.

CAPITAL GAINS A/C SCHEME (CGAS)

- If Investment is not made before **Due Date of filing** of ROI, then to claim **exemption** assessee can deposit the amount in CGAS if not invested for the specified purpose.
- Such deposit in CGAS should be made before filing ROI or before Due Date of filing ROI, **whichever is earlier**.
- If **amount deposited** is not utilized for specified purpose within stipulated period, then unutilized amount shall be taxed as capital gain of PY in which specified period expires.
- If **Individual** dies before stipulated period, **unutilized amount** is **not taxable** in the hands of legal heirs of deceased individual.

OTHER EXEMPTIONS

	Section 54EC	Section 54F
Asset Transferred	Long Term Land/Building	Any LTCA Except Residential HP
Assessee	Any Assessee	Individual / HUF
Investment	Specified Bonds	New RHP
Time Limit for Investment	Within 6 months from the transfer date	Same as Section 54
Quantum Of Exemption	Lower of: <ul style="list-style-type: none"> Amount Invested Capital Gain Subject to Max = 50 Lacs 	Lower of: <ul style="list-style-type: none"> $\frac{LTCG \times \text{Amount Invested (Max 10 Crore)}}{\text{Net Consideration}}$ LTCG
Additional Condition	Not Applicable	<ol style="list-style-type: none"> Assessee should not own more than one RHP on the date of Transfer Of LTCA Should not purchase any other house within 2 years or construct within 3 years after date of transfer of original Asset.
Lock in period of new asset	5 Years. Otherwise, LTCG exempted earlier shall be Taxable in the year in which the asset is sold or converted into money	3 Years. Otherwise, LTCG exempted earlier shall be Taxable in the year in which the asset is sold
CGAS	Not Available	Available

