



CAPITAL GAIN

[45 to 55A]

45: Charging section:

(1) Any profit or gain arising from transfer of a capital asset shall be chargeable to capital gain in the year of transfer.

2(14): capital asset:

Includes:

a. Property of any kind
(including rights w.r.t. Indian co.)
Example - Right shares

b. Securities held by { FII's
{ Investment Fund



↳ Chp 10

c. ULIP (to which exemption u/s 10(10D) does not apply)

Excludes:

a. Stock-in-trade or raw materials.

↳ weaving apparel & furniture

b. Personal effects (i.e., movable properties held for personal use).

Exception to personal effect: [ASAP DJ]

- Archaeological collection
- Sculpture
- Work of art
- Paintings
- Drawings
- Jewellery

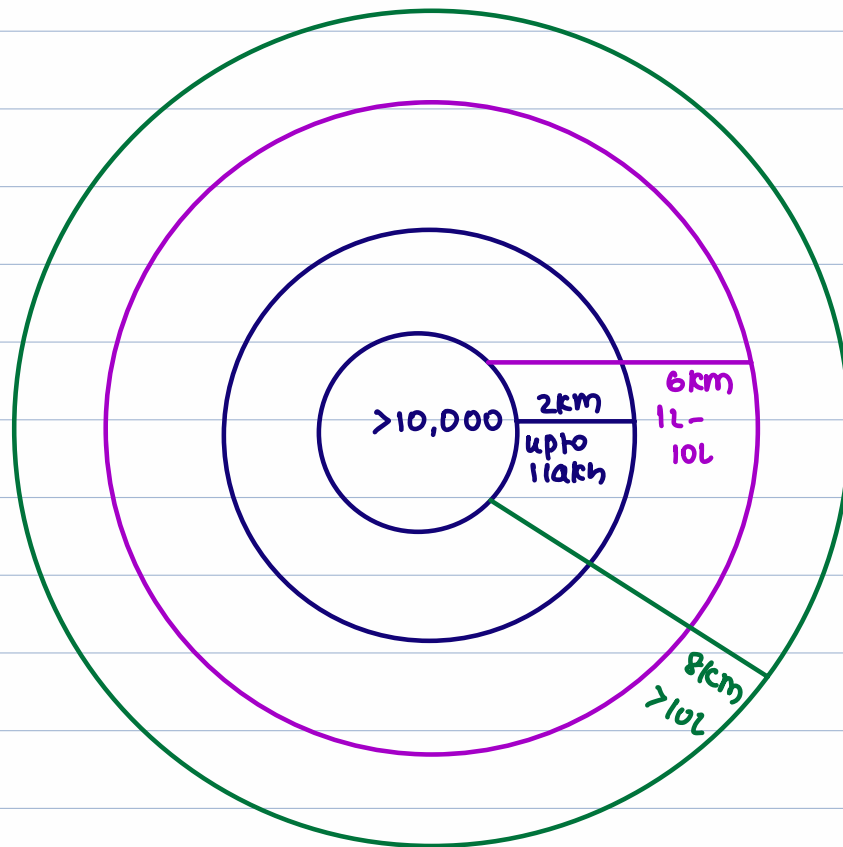
c. Rural agricultural land.

Following shall not be considered as Rural Ag. land:



(a) Land within municipality area
having population > 10,000

<u>Distance</u>	<u>Population</u>
2km	10,000 - 1,00,000
6km	1 lakh - 10 lakh
8km	> 10 lakh



(g) Gold bonds issued by CG



(e) Special Bearer Bonds, 1991

(f) Deposit Certificates issued under
Gold Monetization Scheme, 2015.

↳ Interest on this - Exempt u/s 10

2(47): Transfer includes:

- sale, exchange or relinquishment of assets. ↳ Redemption of Pref. sh.
- Extinguishment of rights
- Compulsory acquisition under any law.
- conversion of capital asset into SIT.
- Redemption of ZCB
- transaction which allows possession of immovable prop. to be taken in part performance of contract [sec 53A of TOPA - Trf of Prop. Act]

(Date of trf = Date of possession)



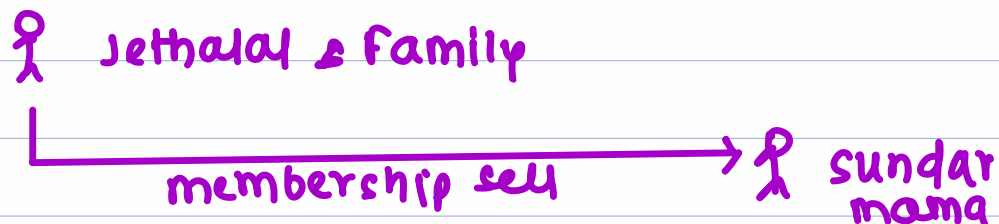
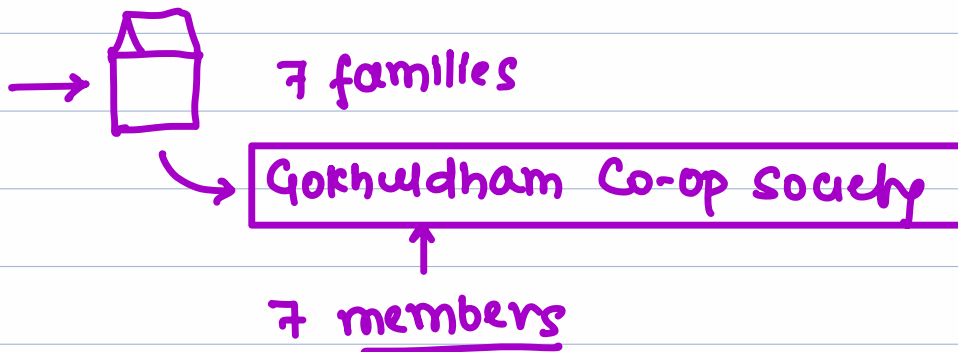
Payment Registry

- Transaction which has the effect of:

transferring
or
Enabling the enjoyment } of Immovable prop.

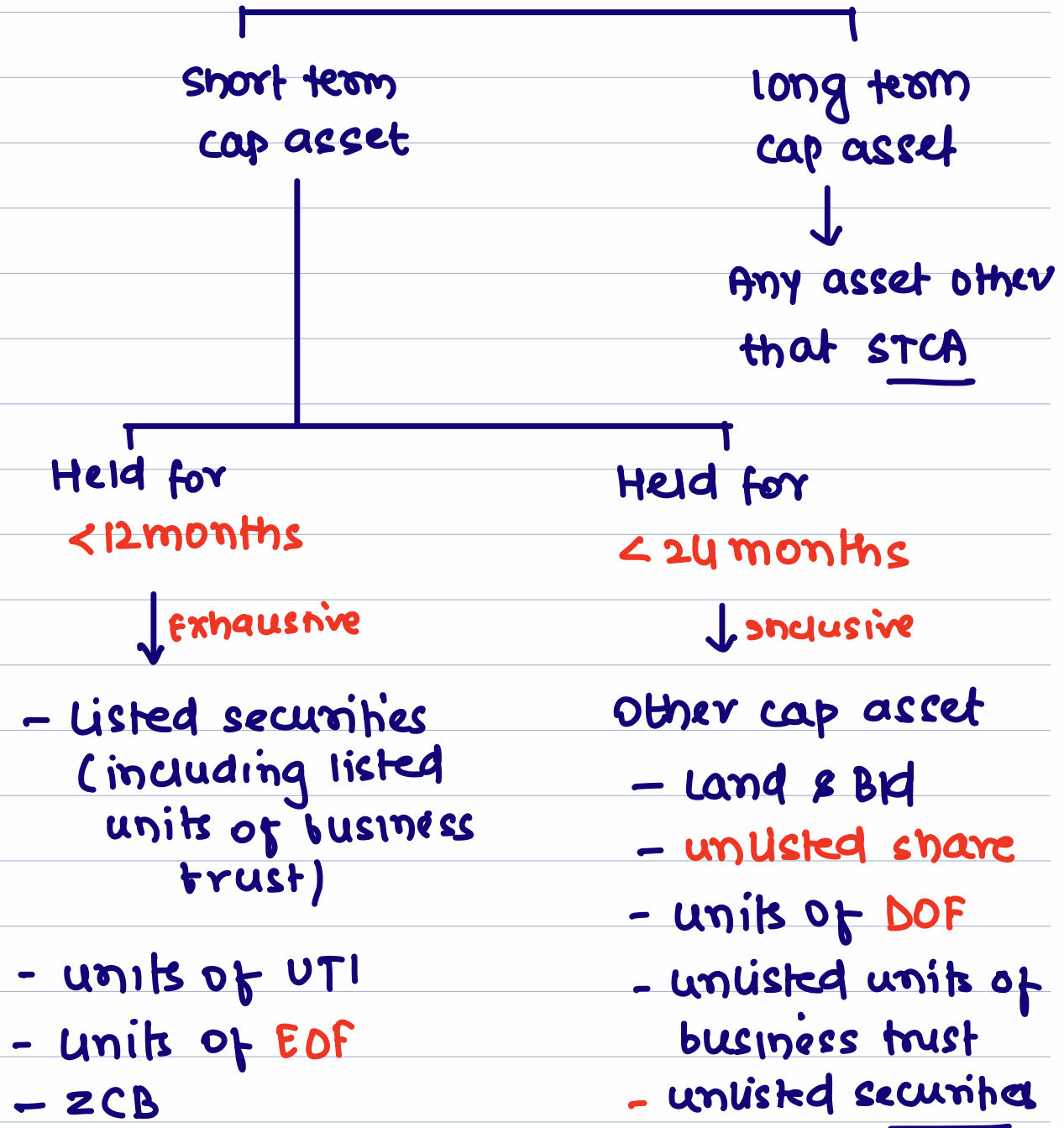
(by becoming member of co-op / AOP, etc.)

Illustration:





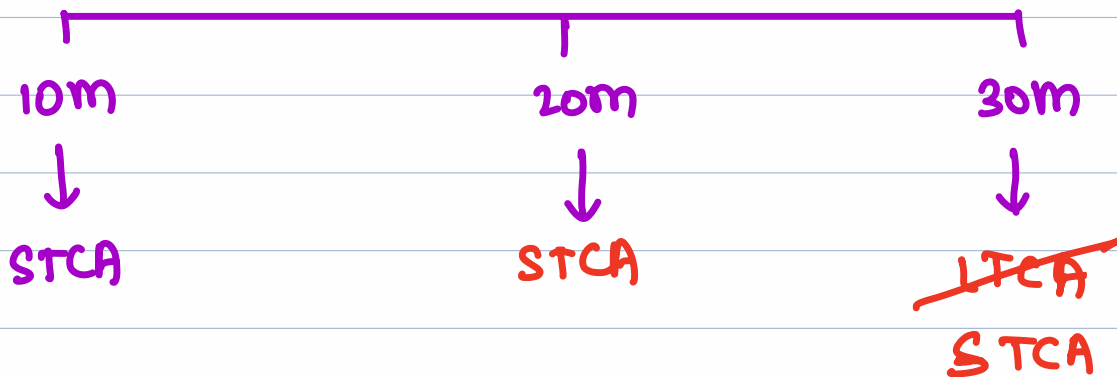
Long term vs Short term capital asset





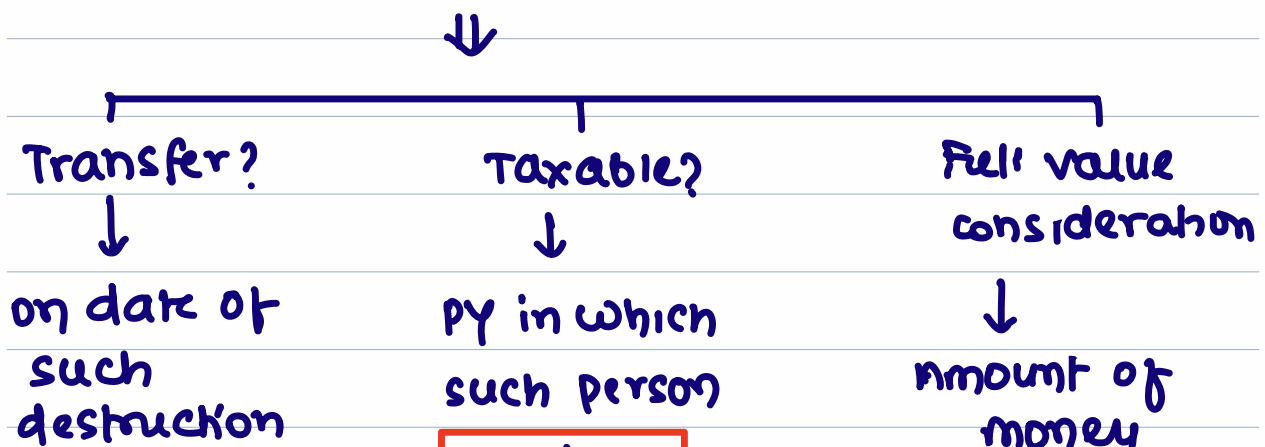
Note: By virtue of sec 50FA, unlisted bonds or unlisted debentures are always STCA irrespective of POH.

A Ltd - unlisted debenture



45(1A): Destruction of capital asset:

Where there is damage to/destruction of capital asset due to flood, cyclone, earthquake, riots, accident or enemy action





receives

money | other
asset

from insurance
co.

or

FMV of asset
received.

Note: If no money/asset from insurance co.,
it is dead loss (no cap. loss).

45(1B): ULIP:

Amount received on ULP [not exempt u/s 10(10D)]

↓

Taxable in year of receipt.

45(2): Conversion of capital asset in SIT:

Transfer?

↓

Taxable?

↓

FVC

↓



PY of
conversion

PY in which
stock is sold

FMV as on
date of
conversion.

Illustration: CA to SIT:

01.09.24 - shares acquired - ₹5 lakhs
as CA

15.04.25 - converted to SIT - ₹12 lakhs
(FMV)

10.05.26 - sold SIT - ₹15 lakhs

Tax treatment:

PY 25-26

PY 26-27

PGBP -

15 lakh

12 lakh

3 lakh.

CG: -

FVC

12

(FMV)

COA

(5)



CG (LT/ST)

7

POH

01.09.24

- 15.04.25

~~10.05.26~~

Trf = 15.04.25

Taxable = PY 26-27

FVC = 121akh.

} 45(2)

45(3): Partner to firm:

Transfer of capital asset by partner to firm as capital contribution:

Taxable

in year of transfer

FVC

= Amt. recorded in BOA as cap contribution.

45(2):

15.04.24

15.04.25

15.04.26

15.04.27

Building

CA-SIT

5 house

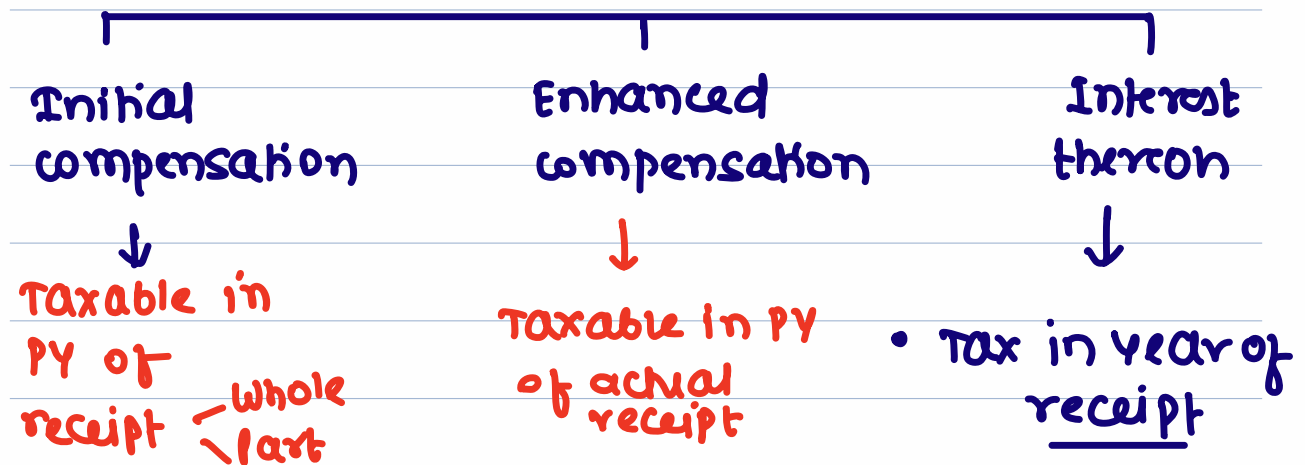
5 house



(10 house) ↓ ₹ 10 crore COA	<u>FMV</u> = 20 Cr.	↓ 15 Cr	↓ 17 Cr.
	<u>25-26</u> X	<u>5 house</u> <u>26-27</u>	<u>27-28</u>
		<u>PGBP</u> 15 Cr (10 Cr) <u>5 Cr</u>	13 Cr (10 Cr) <u>3 Cr.</u>
		<u>CG</u> FMV 10 Cr COA (5 Cr) <u>5 Cr.</u>	10 Cr (5 Cr) <u>5 Cr.</u>

45(4) : Discussed at the end of this chap.

45(5) : Compulsory acquisition:





(interim orders
not relevant.
wait for final
order).

- IFOS income
- Standard
50% dedⁿ.

[COA = NIL]

[Nature of CG
= same as OG
compensation]

Note: If after taxation, compensation is
subsequently reduced, recompute CG



45(SA): Joint Development Agreement

- Individual or HUF
- Transfer of land/Building under specified agreement.
- Consideration: cash/cheque + SDV of land/build received
- Taxable when? - Issue of completion certificate.

Exception:

If such L/B is transferred before CC, taxable in year of such trf.

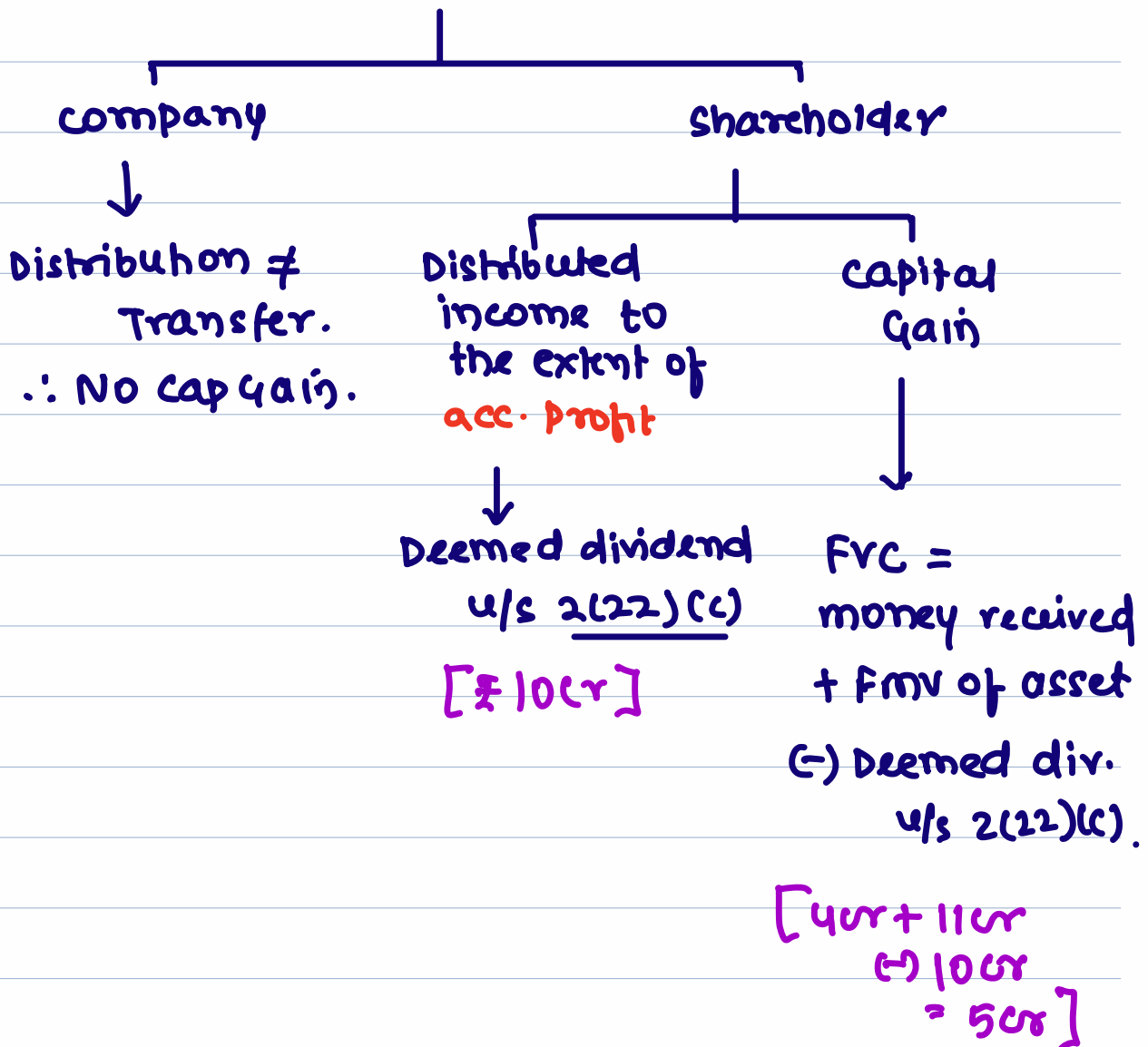
Note: when such L/B is actually transferred,
COA = Deemed FVC as on date of CC
↳ SDV



46: Capital Gain on distribution of asset on liquidation:

A Ud $\xrightarrow[\text{Asset} = 11 \text{ cr.}]{\text{Cash} = 4 \text{ cr.}}$ SH
[Acc. Profit = 10 cr.]

Taxation:





46A read with 2(22)(f) : Buyback: [w.e.f. 01.10.24]

Infosys _____ SH
Purchase = 1,000
Buyback = 1,800

2(22)(f) : Full consideration is deemed to be dividend.

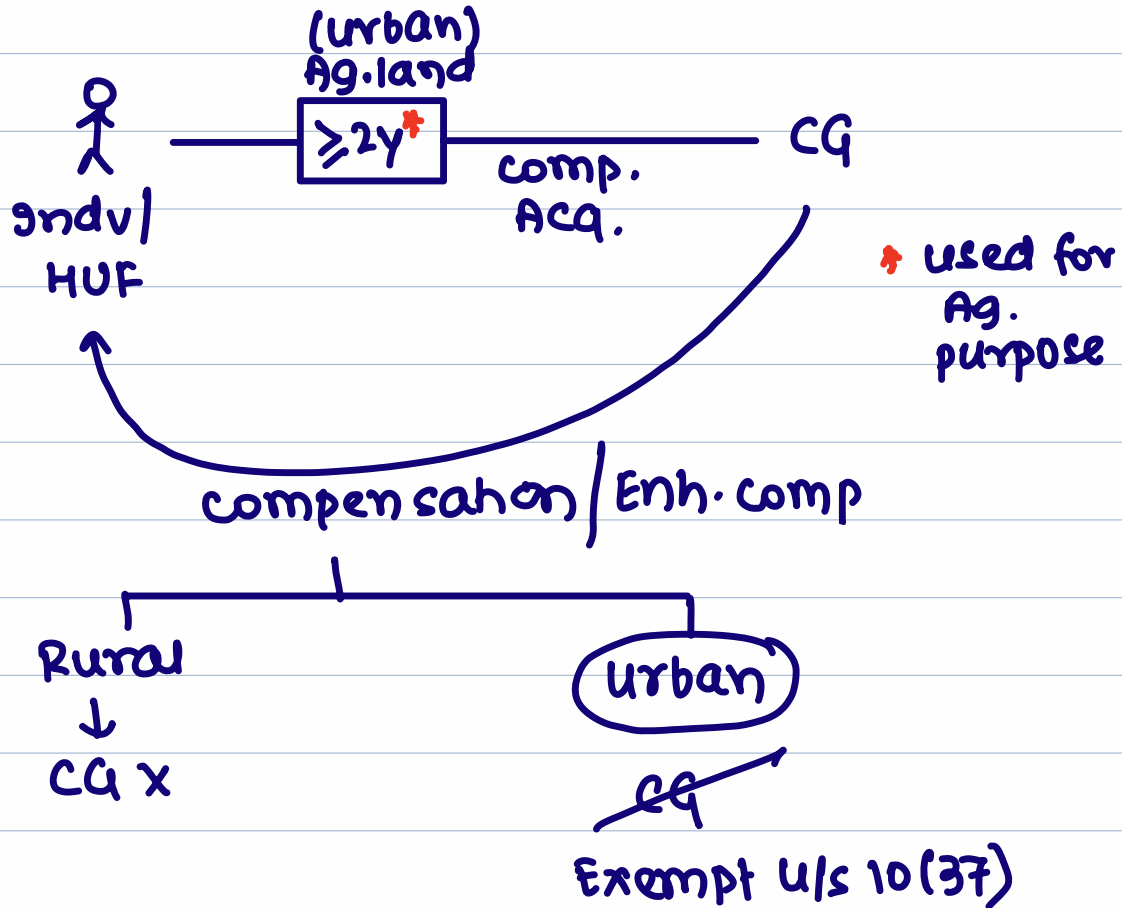
46A : FVC on such trf. for CG = NIL

	<u>CG</u>		<u>IFOS</u>	
FVC	=	NIL	₹1800	₹00
COA	=	<u>(1000)</u>	(Dividend)	
Loss		<u>(1000)</u>		

↳ C/f & set off.



Section 10(37): Comp. acquisition of Ag. land:



Note: Merely because compensation amount is agreed upon by assessee, it does not become **voluntary sale**.



47: transactions not regarded as transfer:

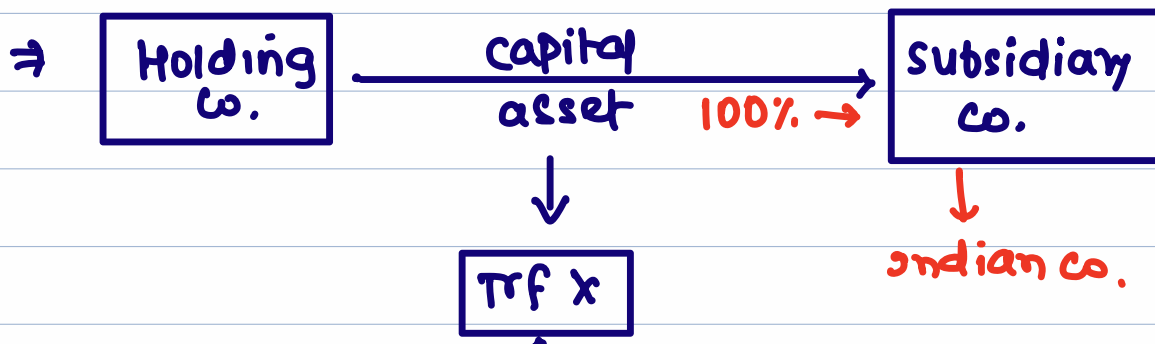
- Distribution of capital asset on
 - total
 - or
 - partial partition } HUF

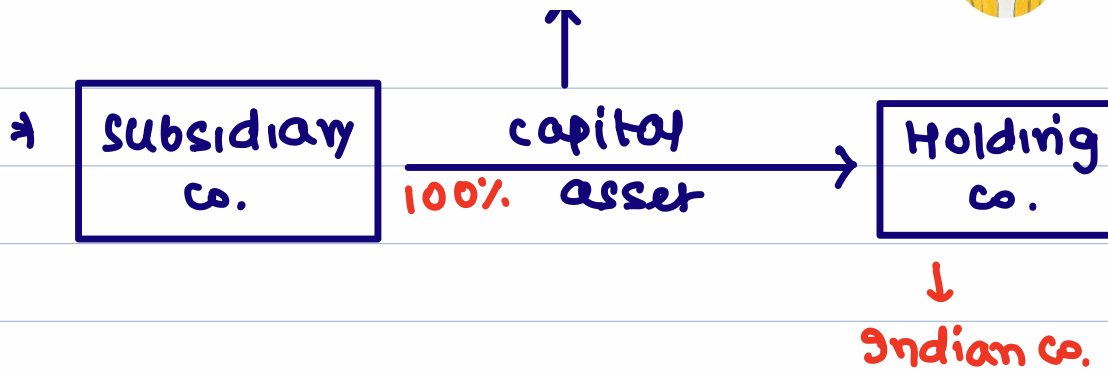
- Transfer of cap asset by
 - indiv.
 - HUF }
 - Gift
 - will
 - Irrevocable trust

CIT vs. Manjwa J Shah

↳ Redundant Concept.

- Holding & subsidiary:





Note: Above provision shall N.A if capital asset is transferred as SIT.

47A: Withdrawal of exemption: (Holding - sub-sy)

Lock in - 8 years from ~~EOPY~~ date of trf.

↓
failure

/ of CA is converted to SIT
or
\\ ceases to hold 100% shares

Deemed CG in hands of transferor
in the year of conversion transfer.

↓
File rectified return
u/s 154



⇒ A' ting FC $\xrightarrow{\text{shares of foreign Co.}}$ A' ted FC

↓
Derives value substantially from Indian Co.

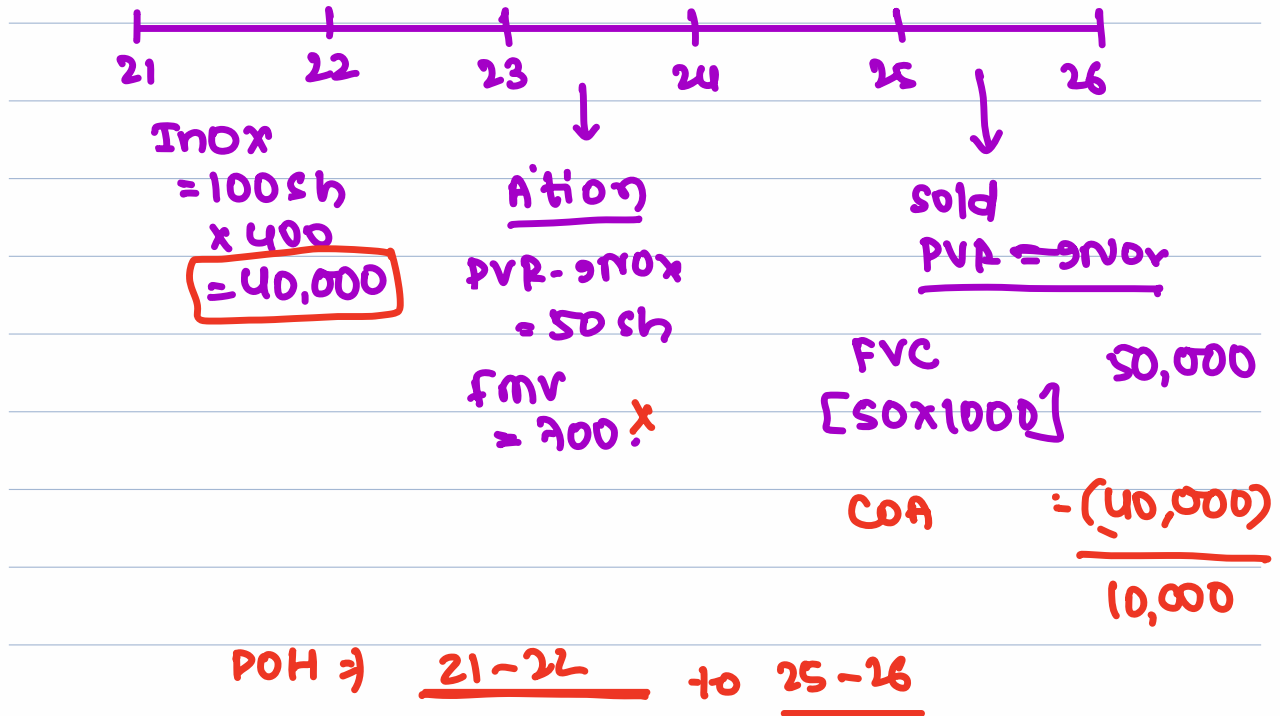
↓
Trf x $\begin{cases} 25\% \\ \text{No tax in amalgamation country.} \end{cases}$

(pvt Ltd.)
⇒ A' ting Co. $\xleftrightarrow{\text{surrender}}$ (pvt-Ind) A' ted Co. Indian Co.

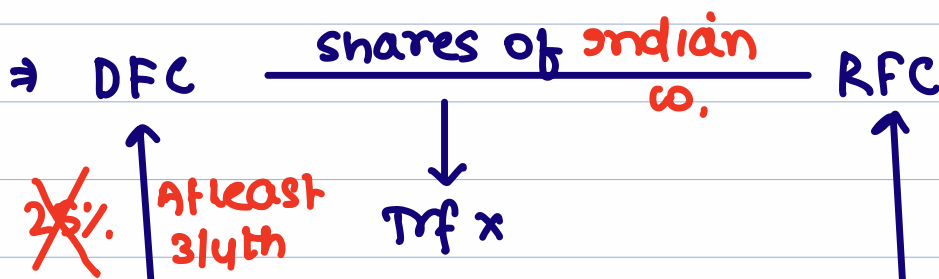
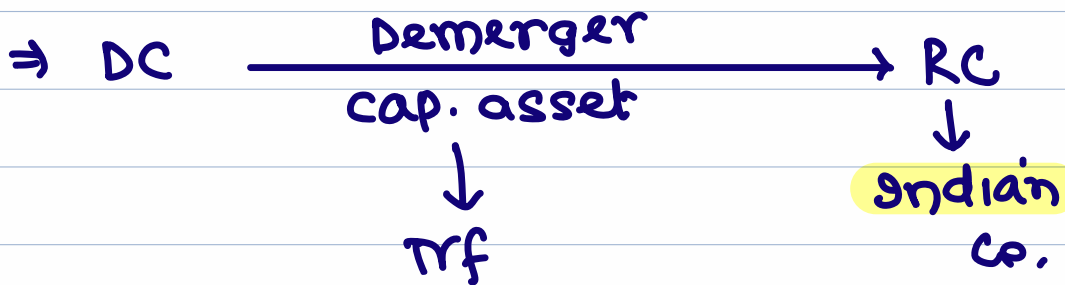
SH $\xleftarrow{\text{consideration for shares of A' ting Co.}}$

↓
Trf x

Note: If consideration consists of something more than shares of A' ted Co. → Exemption u/s 47 - N.A.



• Demerger:
 — DC — Demerged Co.
 — RC — Resultant Co.





Calculation of COA:

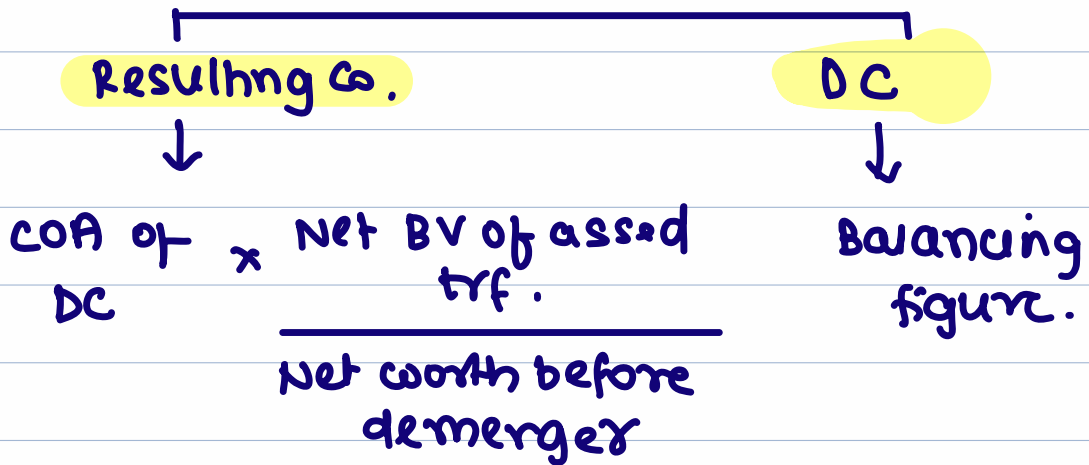
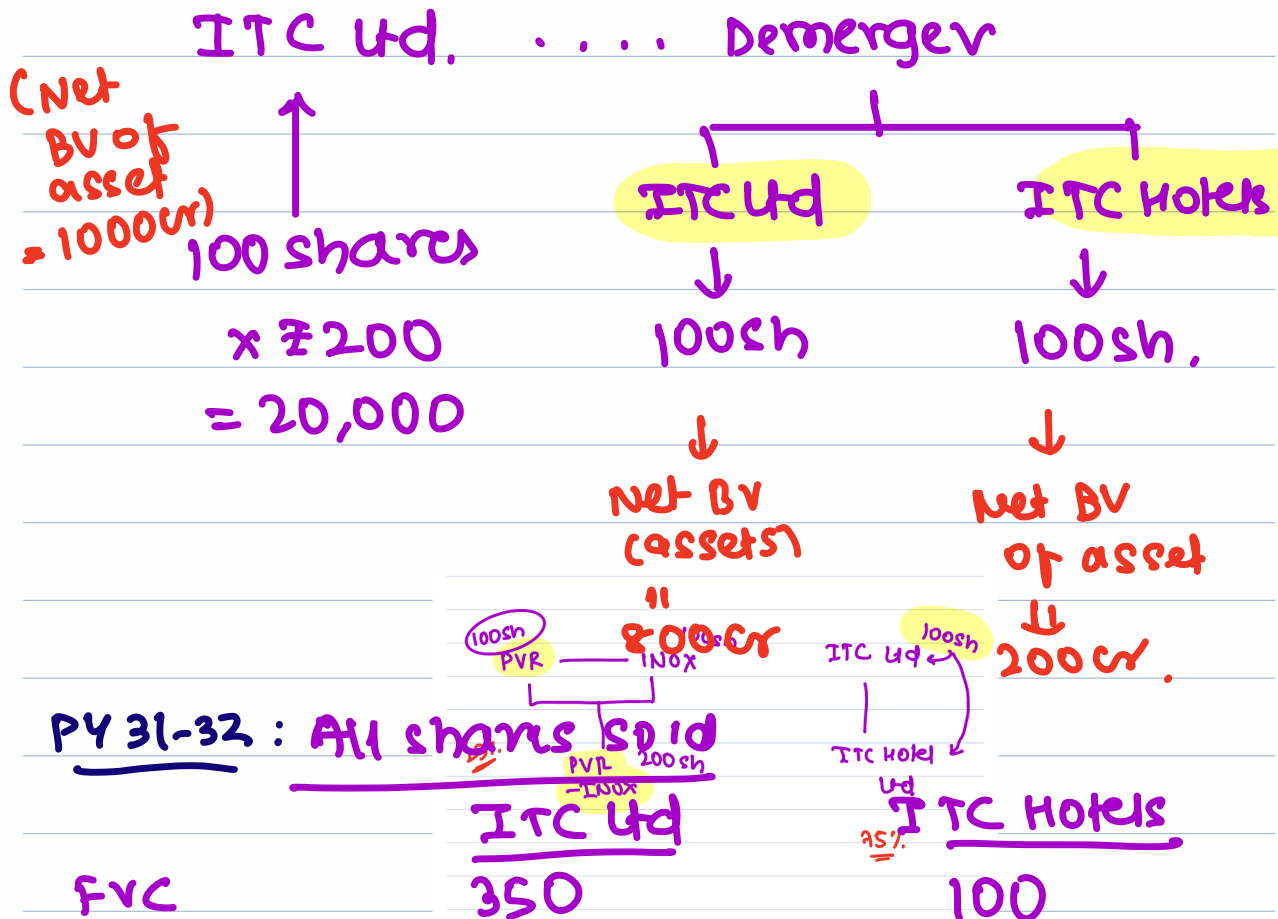


Illustration:





COA? $\frac{200}{(160)} \leftarrow 200 \rightarrow \frac{(NR)}{(40)}$

Resulting co:

COA = 200 x Net BV assted tf.
Networth before
demerger

= 200 x $\frac{200cr}{1000cr}$
 \Rightarrow 40.

Sec 47 (continued)

- NR $\xrightarrow{\text{outside india}}$ NR
 - Bonds
 - GDRs
 - RDB
 - Govt securities

↓

Transfer x

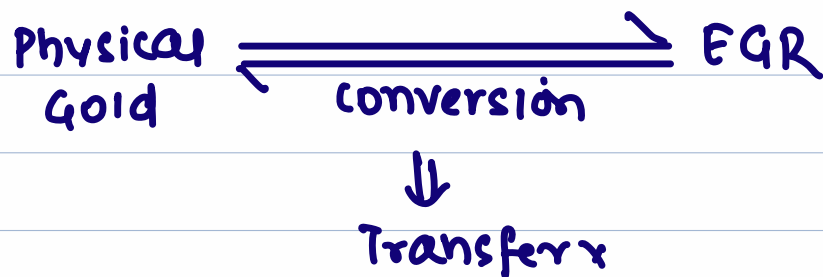


- NR RSE located at IFSC ANY PERSON

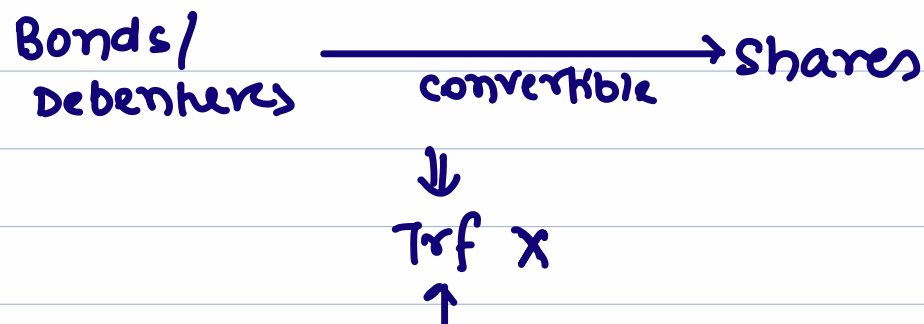
- Bonds
- GDR
- RDB
- units of
 - PEIT
 - INVIT
 - ETFs

+ consideration = foreign currency.

- Electronic Gold Receipt (EGR)



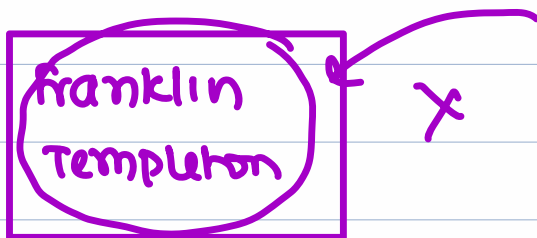
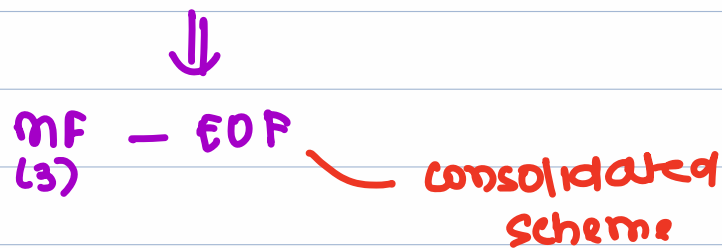
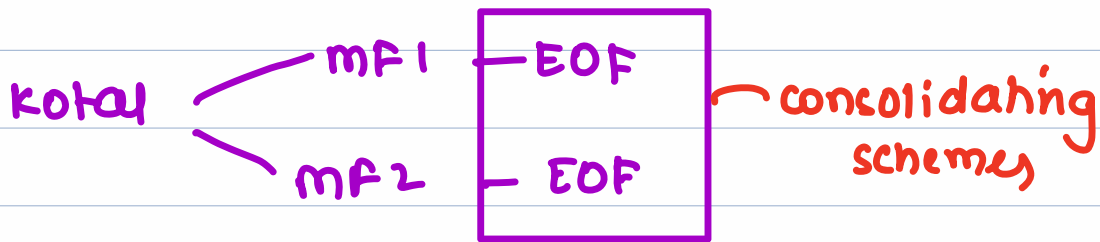
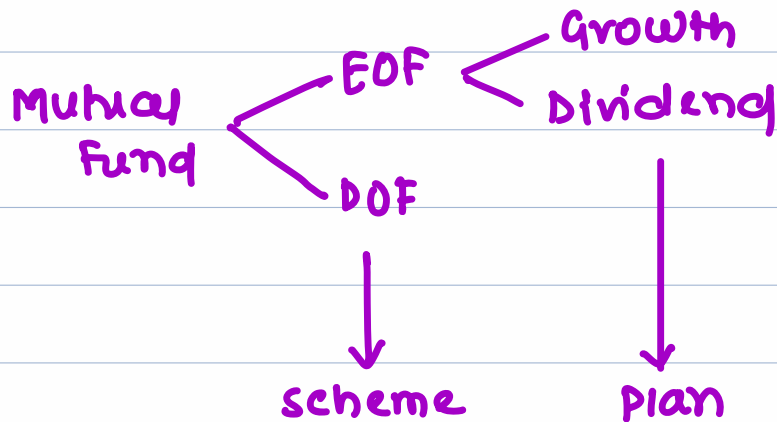
- convertible bonds/debentures:





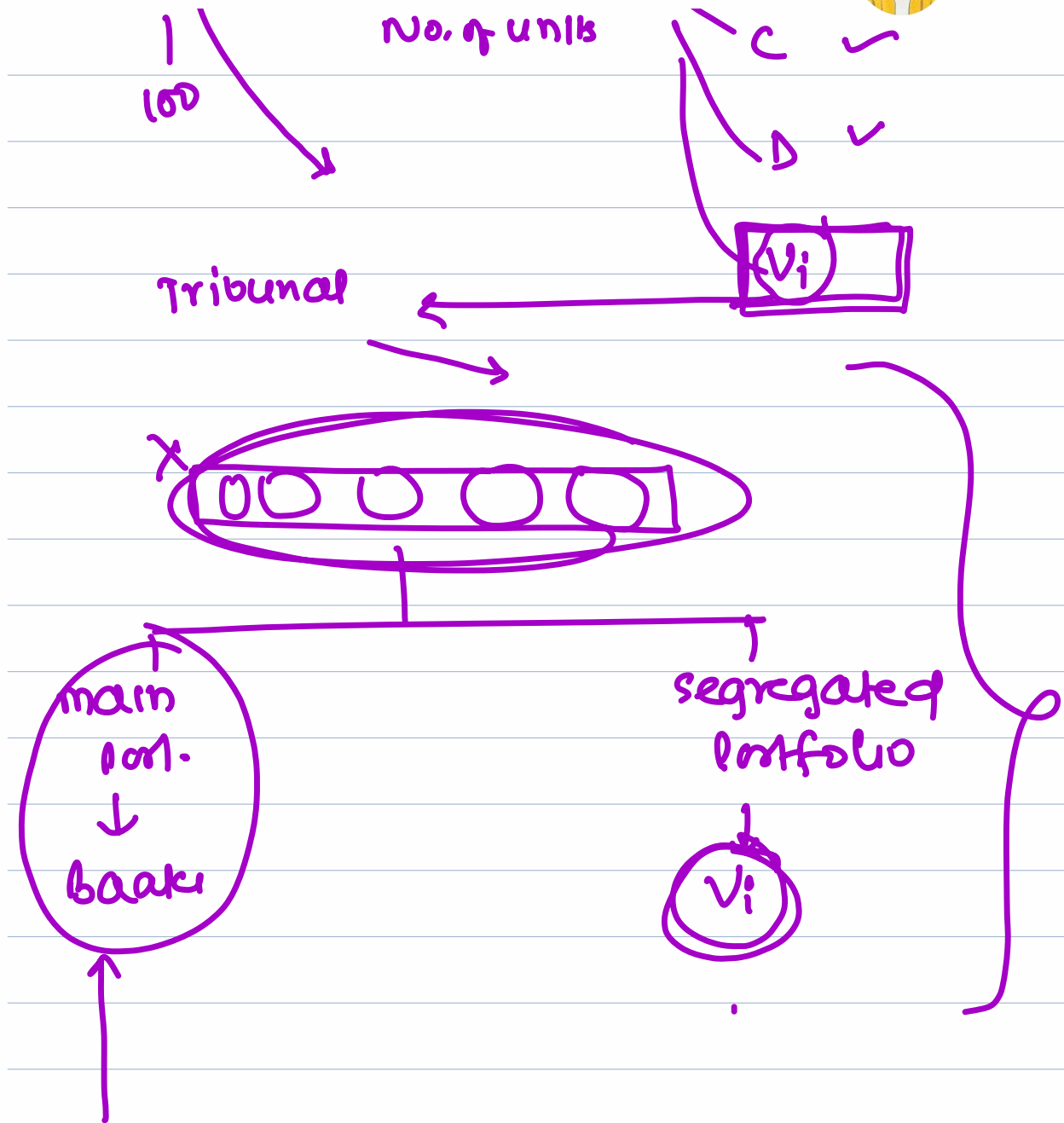
Pref shares $\xrightarrow{\text{Convert}}$ Eq. shares

• Consolidation of schemes/plans:



$\text{NAV} = \text{Asset} - \text{FMV}$

A ✓
B ✓



Consolidation of schemes:

- EOF - EOF

- DOF - DOF

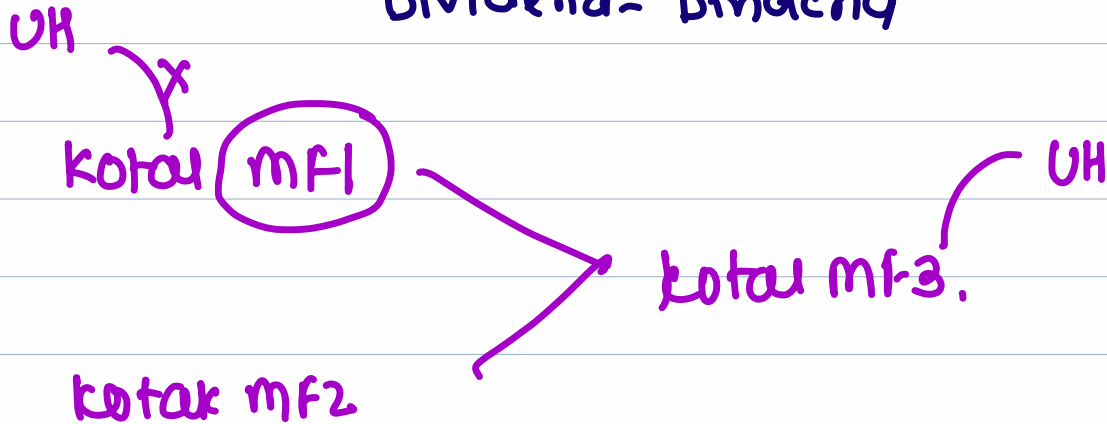
~~X - EOF - DOF X~~



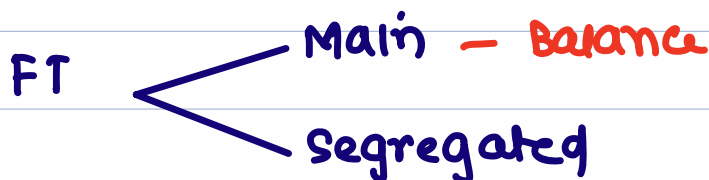
consolidation of plans

- Growth - Growth

- Dividend - Dividend



• Segregation of Portfolio:



COA \Rightarrow original cost \times $\frac{\text{NAV of portfolio trf}}{\text{NAV of total portfolio}}$



Relocation

Succession

Reverse
mortgage

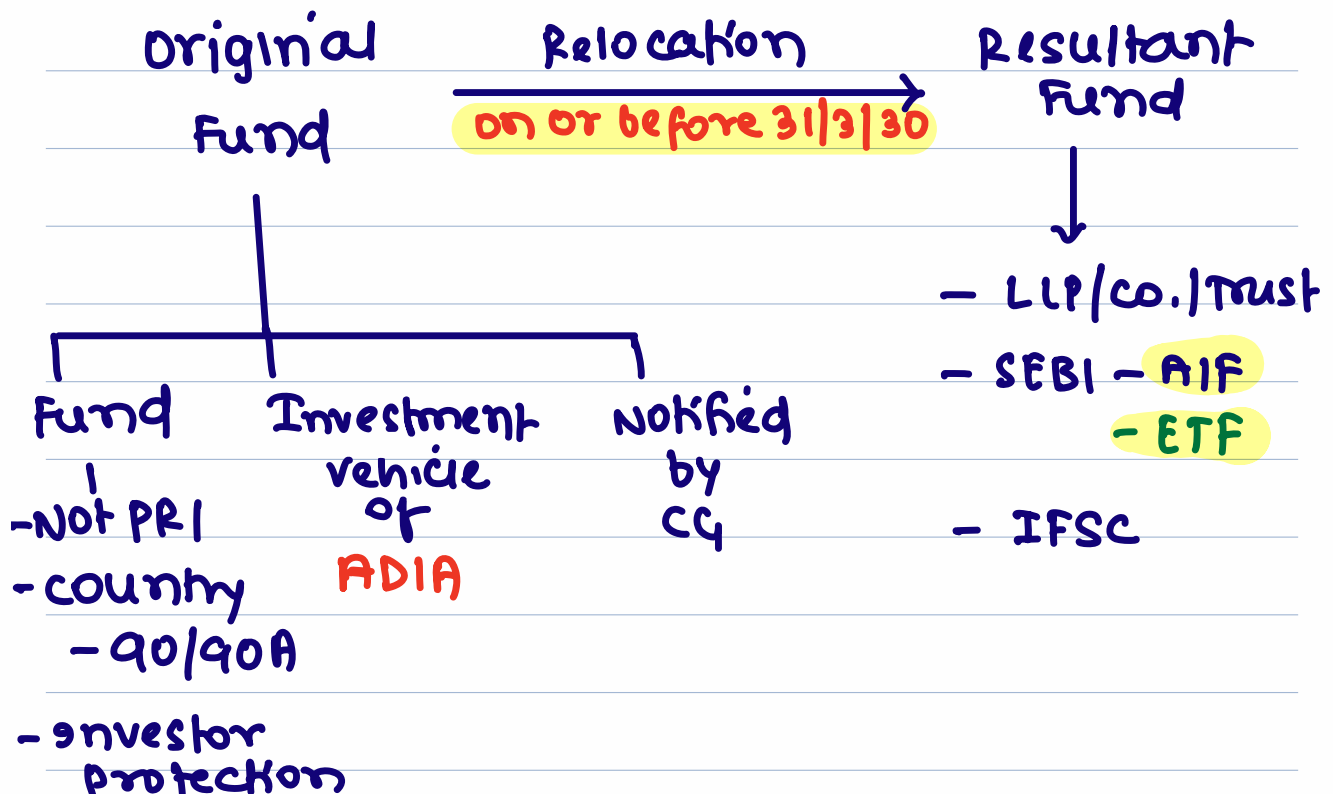
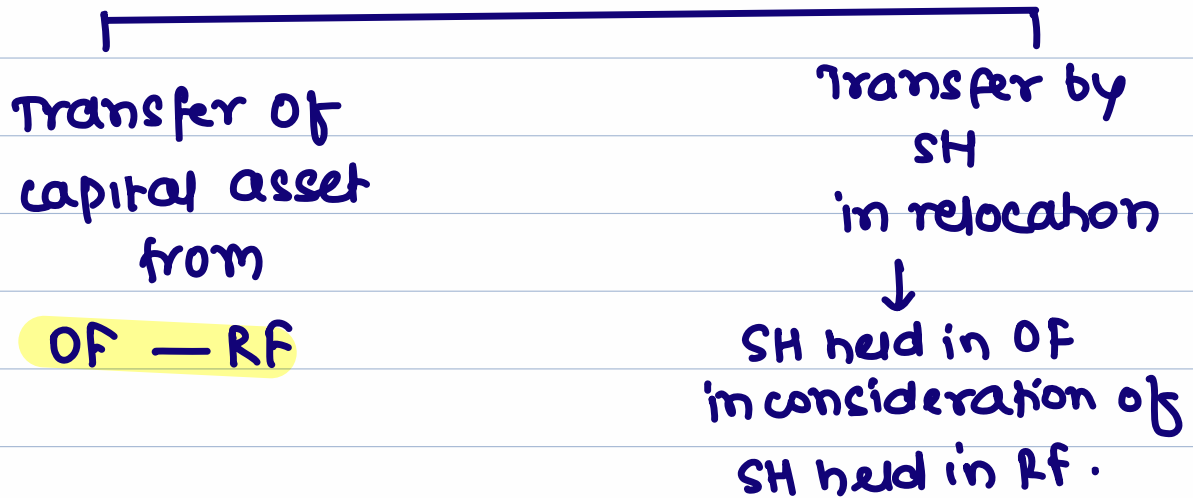
misc



Relocation

OF - Original fund

RF - Resultant fund





Regulation

SUCCESSION

Firm - company	private co. or unlisted public co. ↓ LLP	sole prop. ↓ Co.
<ul style="list-style-type: none"> • A/L • Partner - SH [cap cont.] • No cons. other than SH. • Aggregate - min 50% VP - 5 year. 	<ul style="list-style-type: none"> • A/L • SH - Partners cap cont./PSR = Shareholding • No consideration other than Partnership. • Aggregate - min 50% PSR - 5 year • TIO ≤ 602 + Asset ≤ 5cr } 3PY • AP - Not distributed - 3 years. 	<ul style="list-style-type: none"> • A/L • - • No other cons. except SH. • Agg. - min 50% VP - 5 year



• Firm to a company

ABC & Associated $\xrightarrow{\text{capital asset}}$ ABC Ltd. or Pvt Ltd

Conditions:

1. All A/L are transferred/succeeded.
2. All partners should become SH of co. in proportion of capital A/c.
3. Partners do not receive any consideration other than allotment of shares
4. Aggregate SH of partners $\geq 50\%$ VP for at least 5 years

• Company (Pvt./UPC) \rightarrow LLP:

ABC Ltd $\xrightarrow{\quad}$ ABC LLP

Conditions:

1. All A/L are succeeded.
2. All SH \rightarrow Partners and their cap. contribution & PSR - same proportion as SH.
3. SH does not receive any consideration

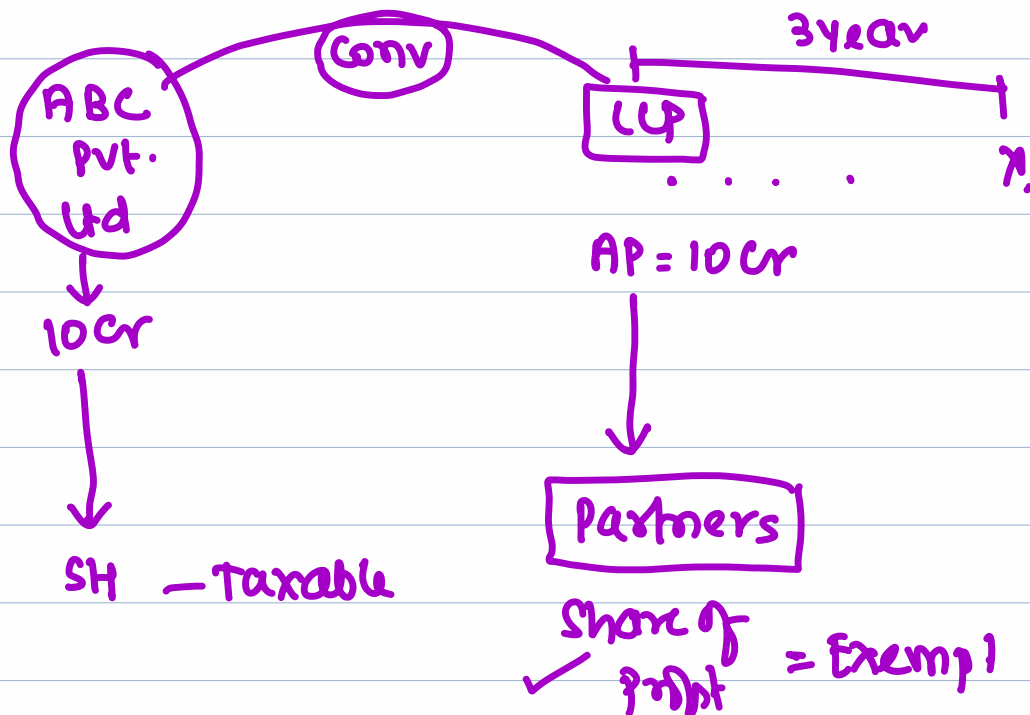


other than - cap contri. } LP.
- PSR

4. Aggregate PSR of SH of Co. in the LLP - min. 50% for 5 years.

5. Total T/O \leq 60 lakhs
AND
Total assets \leq 5 crores } last 3 PY

6. No amt. is paid to partner out of accumulated profit for 3 years from conversion.



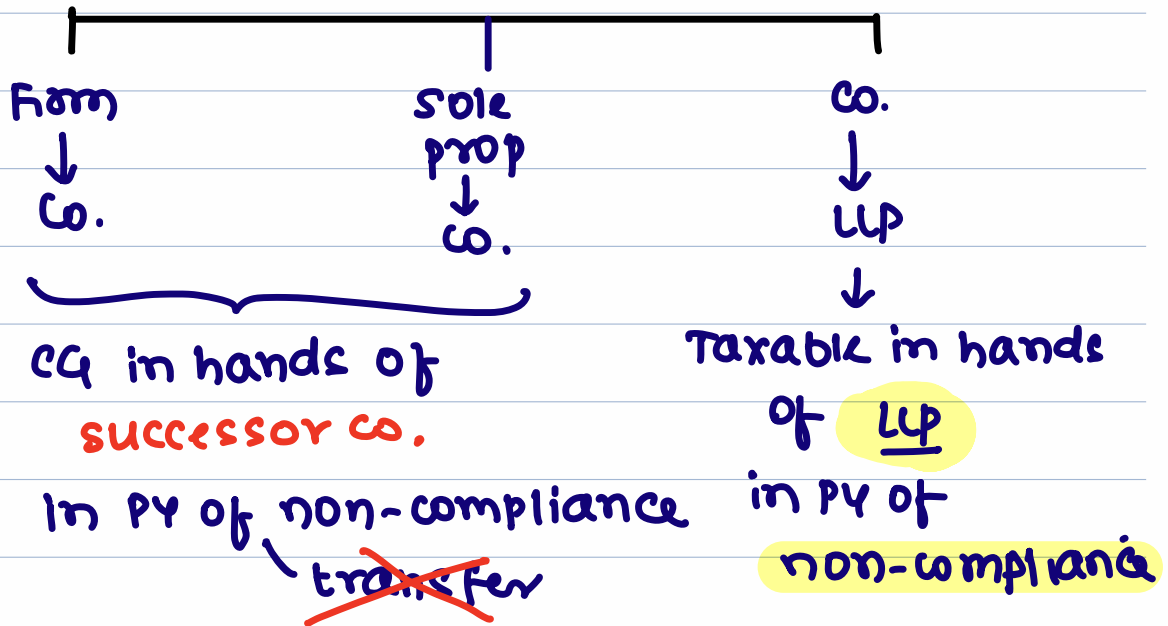


• Sole Prop. → Co:

Condition:

1. All All should be succeeded.
2. Sole proprietor - min 50% VP - 5 year
3. No consideration other than such st.

47A: Withdrawal of exemption:





Reverse Mortgage:

Transfer of capital asset in a transaction of reverse mortgage under a scheme made & notified by CG.

Imp

R.M. Arunachalam vs. CIT (SC):

Payment of o/s loan of predecessor by the successor to obtain clear title shall be considered as COA.

Note:

1. EMI/lumpsum payment received = Exempt u/s 10(43)
2. CG tax is attracted on alienation of such prop. by bank.



48: Mode of computation:

Full value consideration xx

Less:

(i) Expense wholly & exclusively for such trf. (xx)

(ii) cost of Acquisition * (xx)
cost of improvement (xx)

(iii) Amt. attributable u/s 45(4) (xx)
(Discussed later)

capital gain/loss xx.

* COA/COI shall not include interest amt claimed as deduction $\left\{ \begin{array}{l} 24(b) \\ \text{or} \\ \text{chp VIA.} \end{array} \right.$

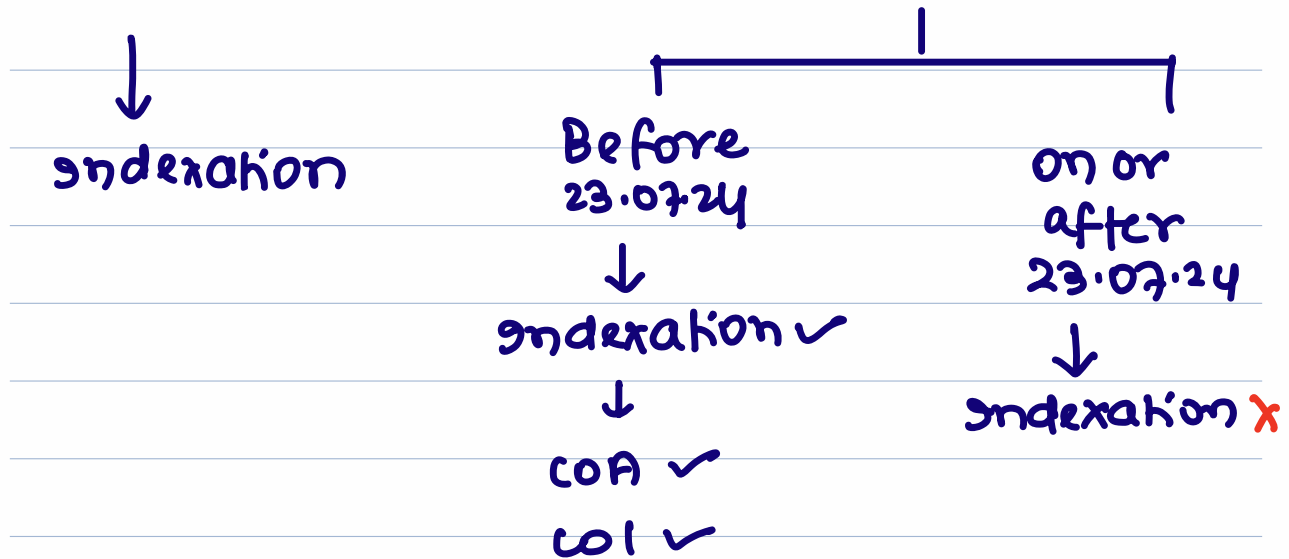
First Proviso (related to NR)

Discussed in a while.

Second Proviso: Indexation:

STCA

LTC A
transfer



SPECIAL TAX RATES :

111A	112	112A
Short term ↓ Listed { Eqsh - FOF - BT } + STT paid - ACQ { listed - Trf } Eq. sh	Long term ↓ Other cap asset ↓ STT only on transfer	- Long term ↓ Listed eq shares or Listed unit { FOF - BT } + STT paid on - ACQ { listed - Trf } Eq. shares
Tax @ 20%. No exemption		Tax @ 12.5%. Exemption = 1.25 lakh

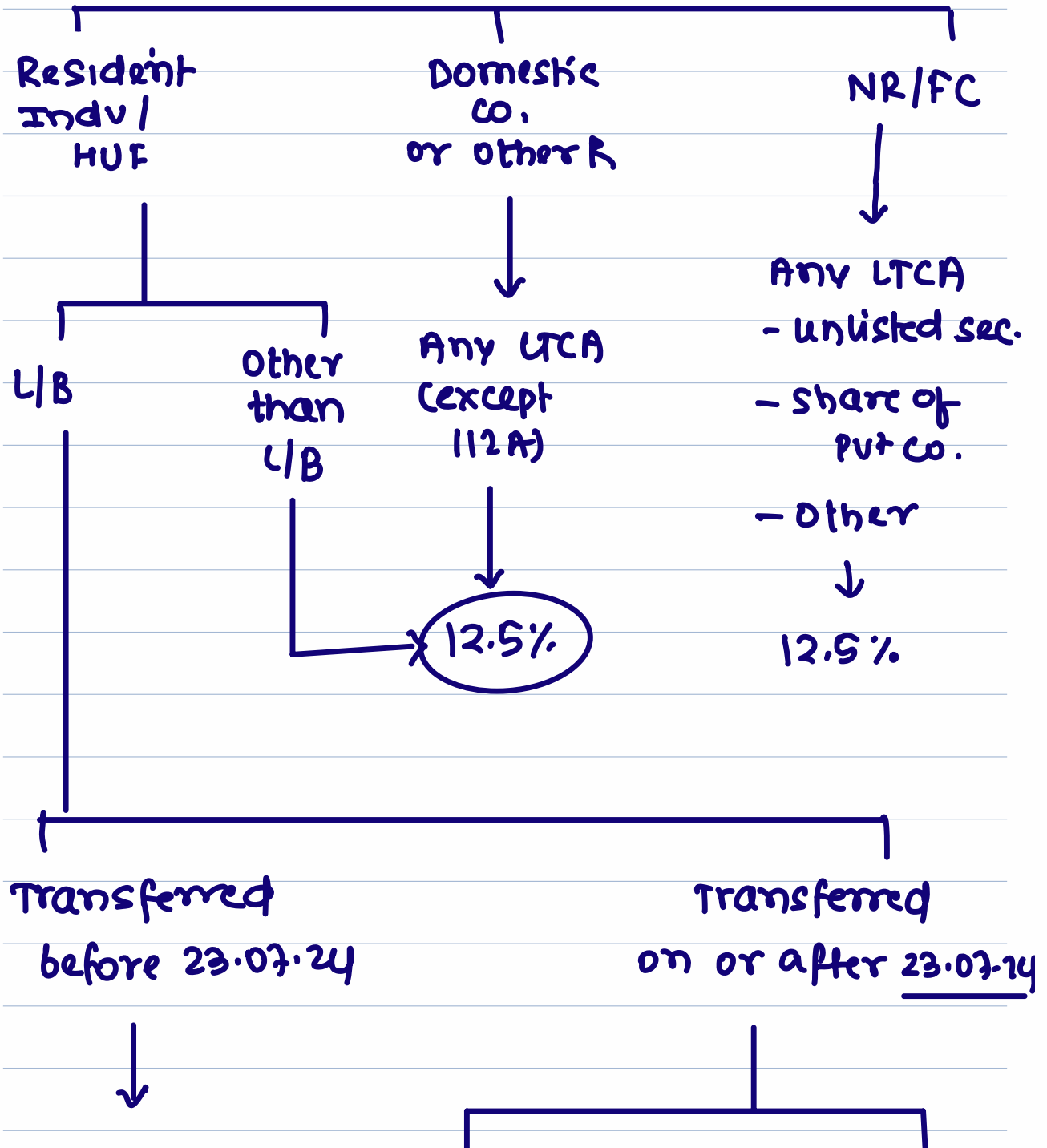


(Before 23.07.24) - 15%)		(Before 23.07.24 - 10% / 1 Lakh)
indexation = N.A.		indexation = NO. [Before 23.07.24 - NO.]
Benefit of BEL (to R Indv/HUF) is available	"	"
Chp VIA - Ded ⁿ — Not available		
Rebate ————— Not allowed.		



Tax rate u/s 112

[On or after 23.07.2024]





20%
indexation ✓

Acquired
on or
after
23.07.24

Acquired
before
23.07.24



12.5%

indexation ✗

- 12.5%
(No index)

- 20%
(with index)



Illustration: [111A/112/112A]

<u>Assessee</u>	<u>Nature of CA</u>	<u>DOA</u>	<u>DOT</u>	<u>Indexⁿ</u>	<u>Sec</u>	<u>Tax rate</u>
Indv	Eq.sh (listed)	01.4.24	15.04.25	N	112A	12.5%
Co.	"	"	"	N	112A	12.5%
Indv.	Eq.sh (listed)	01.4.25	15.05.25	-	111A	20%
NR	Eq.sh (listed)	01.04.24	15.04.25	N	112A	12.5%
Indv.	land	01.04.01	15.04.24	Y	112	20%



Indv land 15.04.24 10.04.25 N ~~HT~~ Slab.
[Not LTCA] ~~HTA~~

HUF Bld. 01.04.23 01.01.26 - 112 - lower $\left\{ \begin{array}{l} 12.5 \\ 20\% \end{array} \right. \downarrow$

Co. land 01.04.01 01.01.26 N 112 12.5%
LTCA. ~~lower~~ \therefore Co.



First Proviso: sec 48:

In case of **NR**

↓
CG on trf. of $\left. \begin{array}{l} \text{Shares} \\ \text{Debentures} \end{array} \right\} \text{Indian Co.}$

Method of CG calculation: (Rule 115A)

FVC $\left\{ \begin{array}{l} \text{Avg (TTBR + TTSR)} \text{ as on date of } \underline{\text{trf.}} \end{array} \right.$

Exp. $\left\{ \begin{array}{l} \text{Avg (TTBR + TTSR)} \text{ on date of } \underline{\text{acq.}} \end{array} \right.$

COA

Capital Gain - TTBR on date of Trf.

Note: Benefit of indexation is N.A. in such calculation.

Illustration:

NR
Mr. Robert : \longrightarrow Nalpir Pvt Ltd.

01.11.2018 \$50000 - Remit

28.11.2018 \longrightarrow 1200 shares \times ₹ 15



23.06.2015 → 1200 shares sold @ 43

<u>Exchange rate:</u>	<u>TTBR</u>	<u>TTSL</u>
01.11.2018	61	64
28.11.2018	59	61
✓ 23.06.15	✓ 74	76

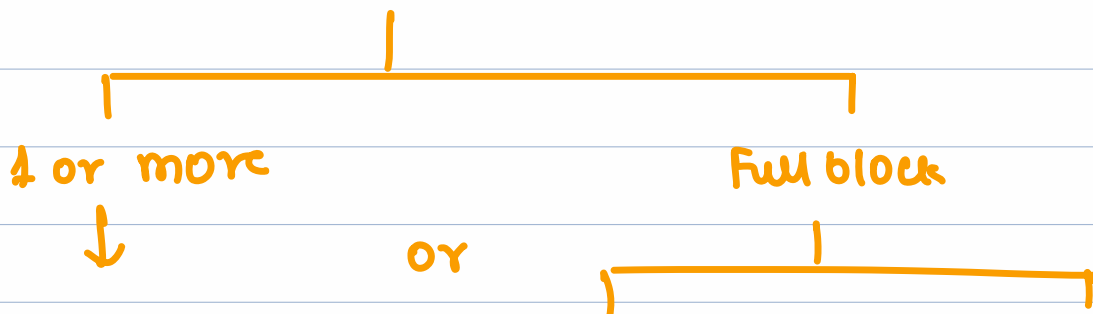
Soln

First Provision

FVC	1200 x 43	÷ 75	688	
COA	1200 x 15	÷ 60	(300)	
			<u>\$ 388</u>	
			x 74	
LTCG				→ 28,712

50:

Depreciable asset





FVC > WDV



STCG

FVC < WDV

|

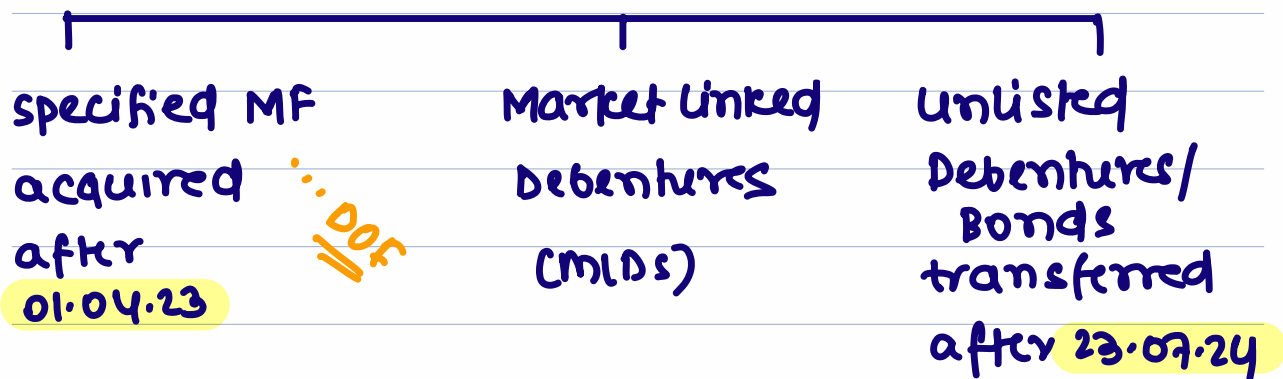
STCL.

FVC > WDV

|

STCG

Sec 50AA! CG in case of MLDS & Specified MF



Always short term CG
(irrespective of POF)

Note: specified MF means a MF which
invests more than 65% in debt &
money market instruments.



Section 50B: Slump Sale :

- Slump sale means transfer of any undertaking for a lumpsum consideration **without assigning values to individual A/L.**

- Nature of CG:

undertaking <36m	- STCG
otherwise	- LTCG

- Calculation of CG:

FVC

Note 1

less:

- Expense on brf

Given in Q.

- COA

Note 2

CG

xx

Note 1: FVC = $\begin{cases} \text{FMV 1} \\ \text{FMV 2} \end{cases}$ ↑

FMV 1:



(Jo diya, uski FMV)

Assets:

- | | |
|-----------------------|---------------------------|
| - Immovable prop. | SDV |
| - Shares & securities | FMV |
| - Jewellery / art | OMV |
| - Other dep asset. | WDV Book value |
| - Other assets | Book value |

less:

Liabilities

Book value

FMV 1.

xx

→ Exclude:

- PUESC
- R&S
- Provision
 - Tax
 - unascertained liab.
 - Dividends
- contingent liabilities

FMV 2:

(Jo mila, uski FMV)



Money received	xx
Immovable prop.	SDV
Shares/sec.	FMV
Non-monetary consideration	OMV
FMV 2	xx

Note 2: Cost of Acquisition = Net worth

Total assets	xx
less: Total liab.	(xx)
Net worth of such unit →	xx
Depreciable asset	- WDV [43(6)]
Self generated goodwill	} NIL
35AD asset	
Other assets	- Book value.

Note: Ignore revaln

Additional note:

1. Indexation benefit N.A. in case of slump sale.



2. Furnish CA's report indicating that calculation is correct on or before SPECIFIED DATE.

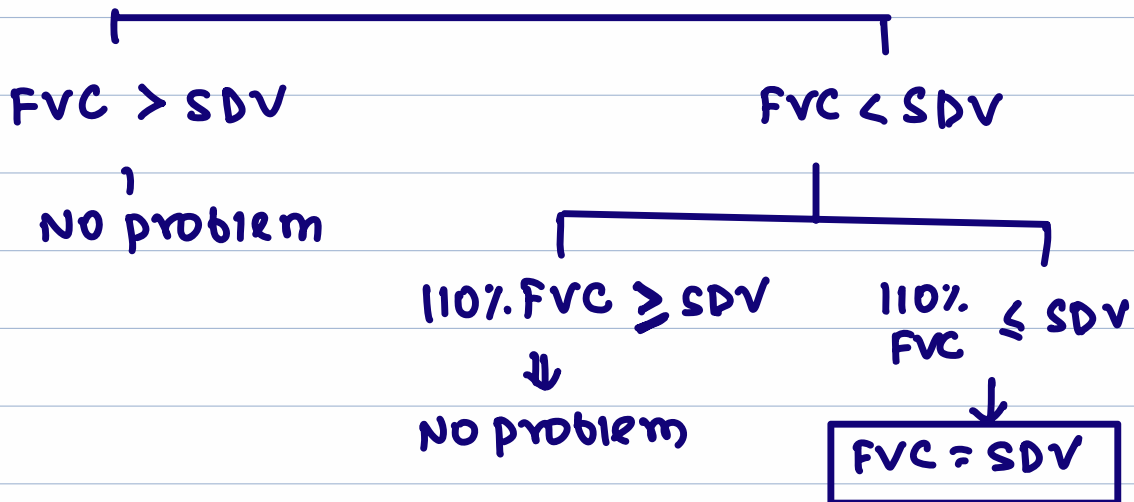
↳ 1m before due date of P01

3. VAD / BIF loss → C/f by transferor (seller)

50C : FVC in case of L/B :
(same as 43CA - PGBP)

Summary!

- Transfer - Land or Building



- DOA vs. DOR.



- If assessee claims that $FMV < SDV$

↳ Refer to AO — Refer to VO.



49: Cost of Acquisition:

- covered with respective concept.

- Generally speaking:

$$\begin{aligned} \text{COA (Gift)} &= \text{Cost of Acq. (previous owner)} \\ &+ \text{COI (previous owner)} \\ &+ \text{COI (Assessee)} \end{aligned}$$

Note: Where such gift is taxed u/s 56(2)(x),
COA = FMV for the purpose of 56(2)(x).

50CA: FVC in case of unquoted shares:

in case of transfer of unquoted shares,
if $FVC < FMV$ as per Rule 11VA, then
 $FVC = FMV$.

(NO 10% cushion)

Illustration:

BoAt Ltd

sell = ₹1500 per share



FMV (IUA) = ₹1800

FVC = ~~1500~~ 1800

50D: FMV in other cases:

on trf of any asset, if consideration is not ascertainable



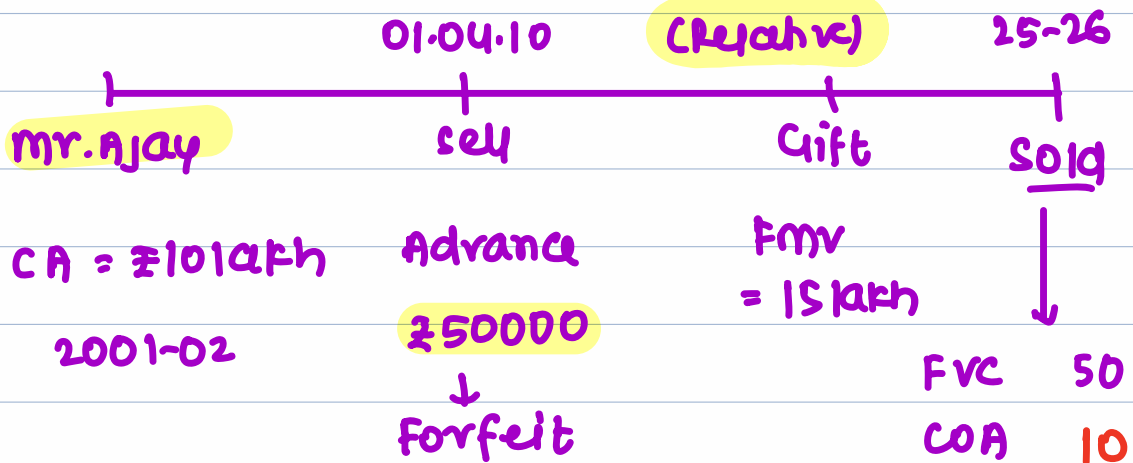
FVC = FMV



51: Advance forfeited:



Note: Advance forfeited by previous owner
shall NOT reduce COA.



₹ a. 101akh



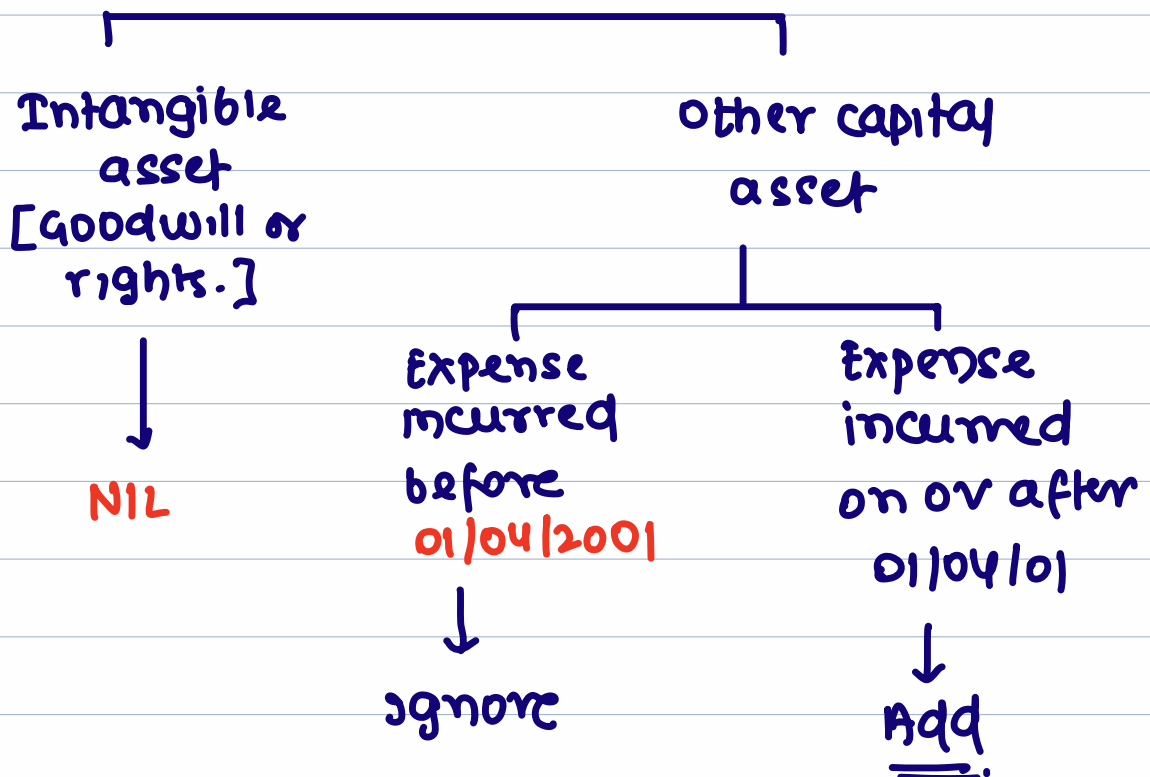
- b. 15 lakh
- c. 9.5 lakh
- d. 14.5 lakhs

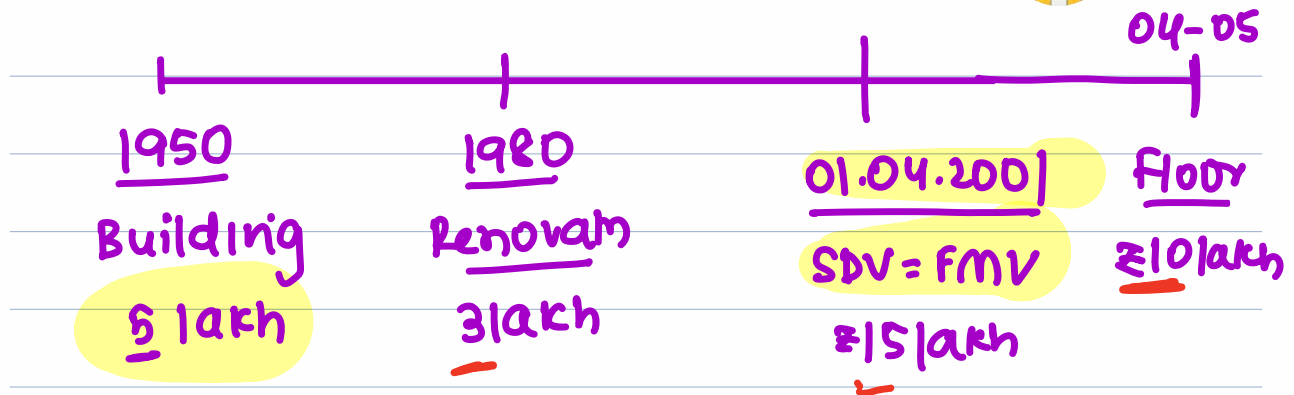
Sec 54 to 54F + 54H:

Read pg 4.28

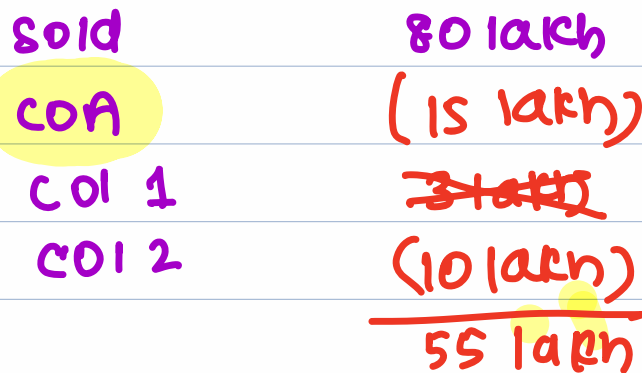
56: Meaning of $\begin{cases} \text{COA} \\ \text{COI} \end{cases}$

1. Cost of improvement:





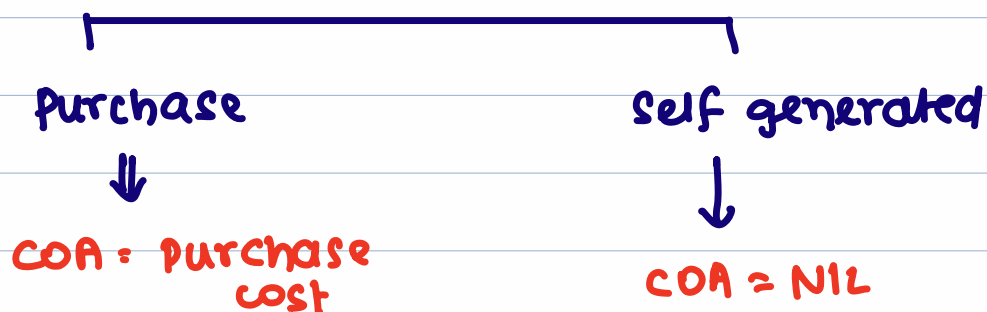
PY 25-26



2. Cost of Acquisition:

Goodwill, trademark, rights, etc.

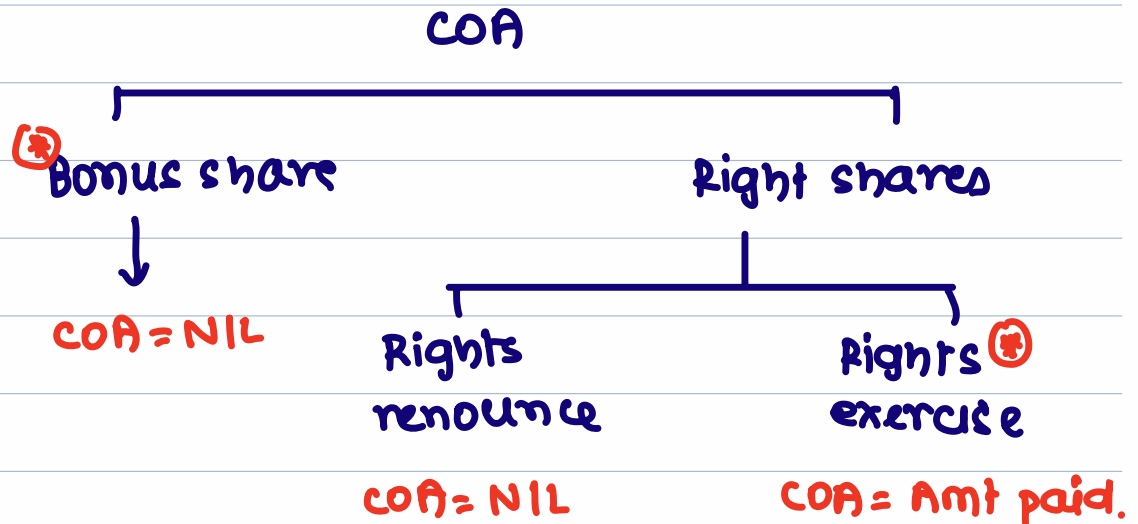
a. Intangible asset:





option to avail FMV as on 01.04.01
= Not available.

(b) Bonus shares & Right shares:



* Option to take FMV as 31.01.2018
as well as FMV as on 01.04.2001 is
available.

Grandfathering clause:

- For LTCA referred u/s 112A acquired
before 01.02.2018





COA:

Higher of

Actual cost
or

FMV as on 31.01.2018

or

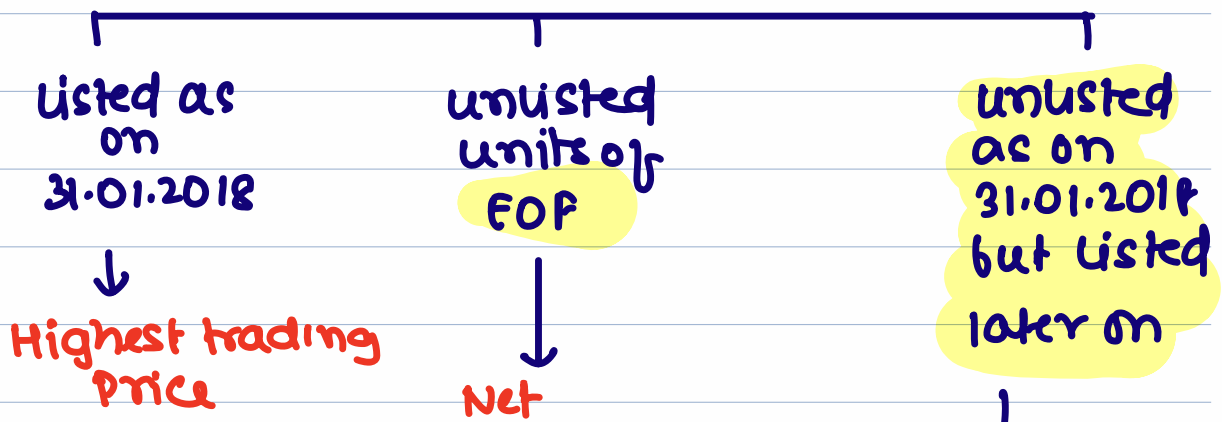
FVC received on sale



Illustration: Acquired before 31.01.2018
(LTCA - 112A)

<u>Actual cost</u> ✓	<u>FMV</u> <u>31.01.18</u>	<u>FVC</u> —	<u>COA</u>	<u>CG</u>
100	500	800	500	300
500	300	600	500	100
400	200	300	400	(100)
100	500	400	500 400	(100) NIL

FMV for grandfathering clause:





~~Average~~

Asset
value

$$\text{COA} \times \frac{\text{CII} - \text{P417-18}}{\text{CII} - \text{Year of purchase}}$$

* Where property acquired on or before 01.04.01

COA = FMV as on 01.04.01

In case of LBB, FMV shall not exceed SDV

i.e. FMV ↓
SDV ↓

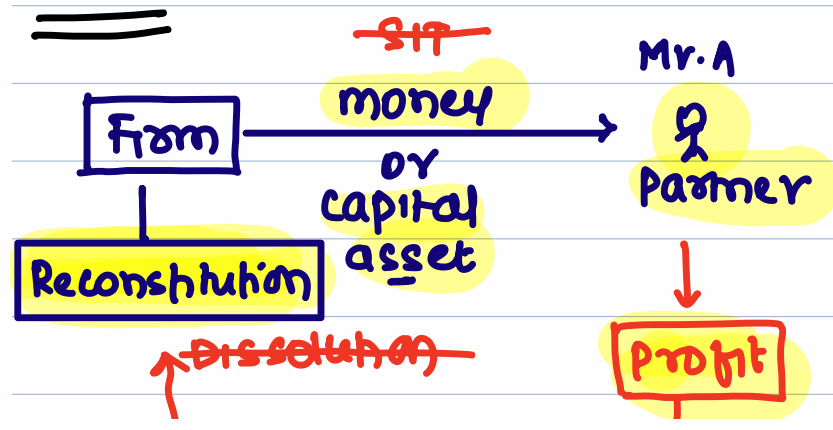


sec 45(u) + 9B + 45(iii)
+ Rule 8AA + Rule 8AB

specified entity — firm
— AOP
— BDI
↓
specified person — partner
or member.

Reconstitution — ceasure of partner
or
— Addition of partner
or
— change in share
(capital A/c)

45(u):





cap. Gain

$$= B + C (-) D$$

value of money

FMV of the capital asset

Capital A/c Balance (on the date of recon shhan)



date of receipt \Rightarrow same

PY 24-25
01.09.24

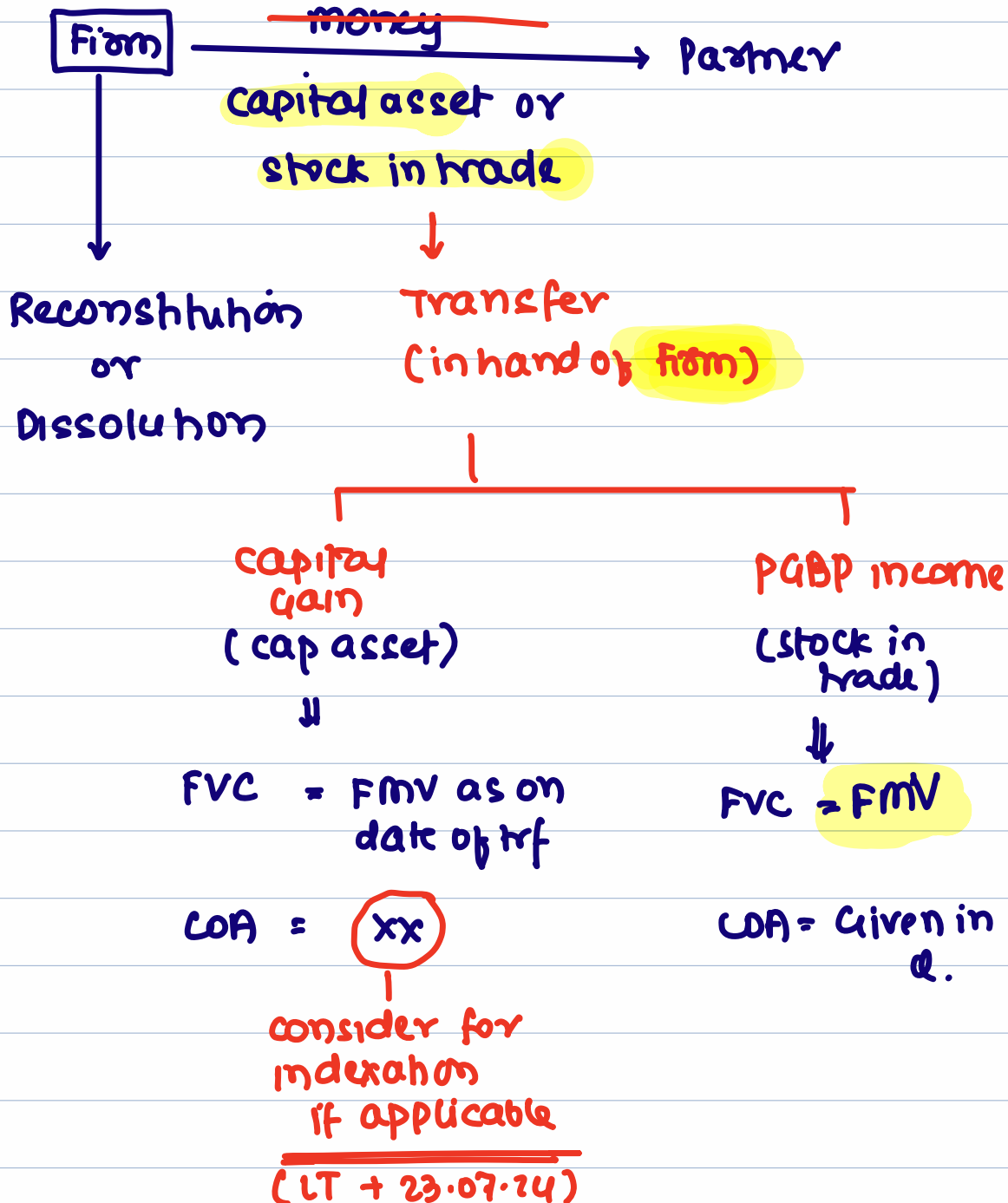
Note: However, if there is loss i.e. $B+C-D$ is negative - ignore

i.e. Profit = ZERO

45(4) operates in addition to sec 9B



Section 9B: Reconstitution or dissolution of specified entity





48(iii) : Mode of computation:

FVC	xx	
less: Expense	<u>xx</u>	
NSC		xxx
less: COA		(xxx)
less: Col		(xxx)
less: Amt taxable to firm u/s 45(4) attributed to capital asset being trfd. (Assets)		(xxx)
40L		<u>xxx</u>

Illustration:

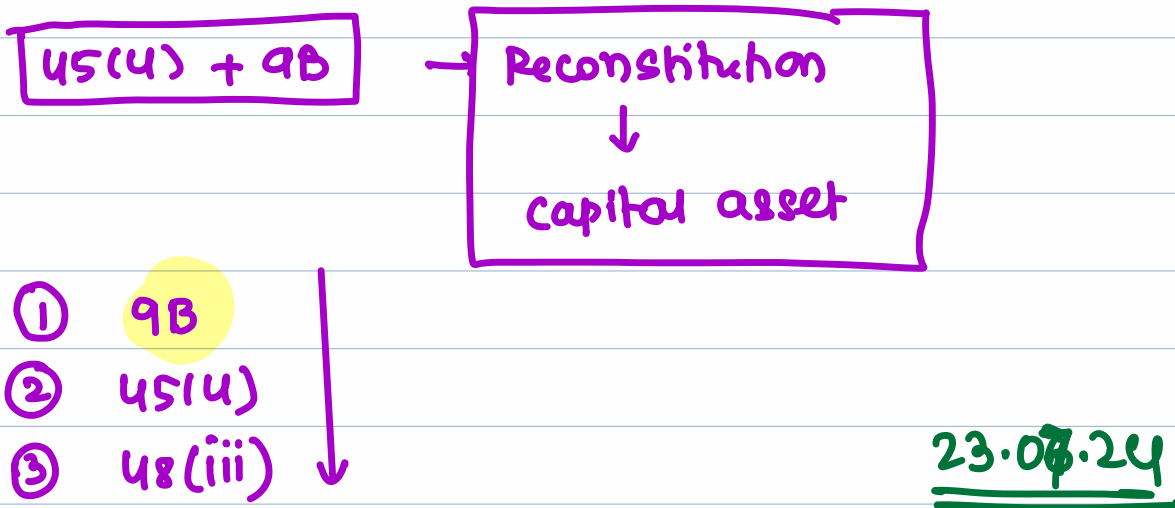
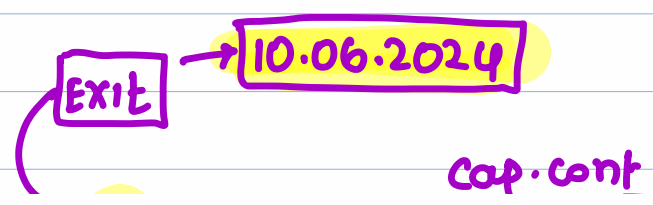


Illustration 1:



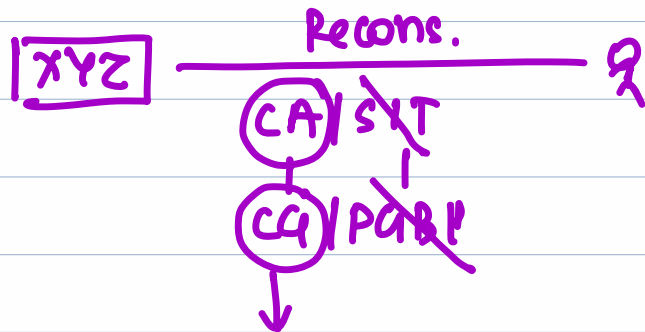


XYZ			
↓ (Land) capital asset	—	A - 1/3	10L
	—	B - 1/3	10L
	—	C - 1/3	10L
		<u>BOOK VALUE</u>	<u>(FMV-10.06.24) VALUATION</u>
	S	10L	110L
	T	10L	60L
	U	10L	50L

(S, T, U are grouped together with a bracket and labeled [5 year-long term])

A = money [₹11 lakh] + Asset U [land]

① Sec 9B :



FVC = 50 lakh

(-) ICA = (15 lakh) [Assumed]

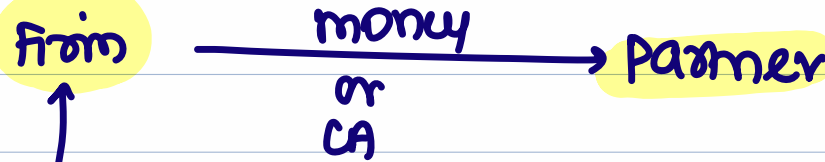
LT CG = 35 lakh

20%



Tax → 7 lakh
(for simplicity) ~~cess~~ surcharge

② Sec 45(4):



CA → B+C-D

= ₹11 lakh money
₹50 lakh Asset
₹61 lakh

(-) ~~₹10 lakh~~ cap A/c balance
₹21 lakh
₹40L
As given in a Adjust of sec 9B

10
10
10

CA - Trf	PIL	
	50L	
	(-) 10L	40L
Tax		(7L)
	₹1 lakh	



PAT → ↑ 33 lakh



Tax

71 lakh

81 lakh

From

CA

Trf

50L
15L
35L

QB CG 35L

45(4) CG 40L

ATTRIBUTED

Balance Asset

(S)	10L	110L	<u>Increment</u>	100L	2/3	26.67
T	10L	60L		50L	1/3	13.37
X				<u>150.</u>		

↪ sell

S T



	110	60
COA	10	10
CG	<u>100</u>	<u>50</u>

Sold s: CG - Sec 48

$$\begin{aligned} \text{FVC} &= 110 \\ \text{Less: Exp} &= \frac{(10)}{100} \end{aligned}$$

(ii) $\text{JCOA} = (15) \text{ (Assumed)}$
 (26.67)

CG xx