

Capital Gains

Lesson 7

KEY CONCEPTS

- Capital Assets ■ Transfer ■ Short Term Capital Gain ■ Long Term Capital Gain ■ Cost of Acquisition ■ Cost of Improvement
- Indexed Cost of Acquisition ■ Indexed Cost of Improvement

Learning Objectives

To understand:

- The conditions to be satisfied for income chargeable under the head Capital Gains
- Which assets are classified as Capital Assets?
- Year of chargeability as Capital Gains
- Classification of Capital Gain into Short Term and Long Term
- Which transactions are not regarded as transfer?
- Determine cost of acquisition and/ or cost of improvement
- What are the various exemptions available in respect of computation of Capital Gains?
- When can the Assessing Officer make reference to the Valuation Officer?

Lesson Outline

- Introduction
- Chargeability
- Capital Asset [Section 2(14)]
- Impact of Section 115BAC under the head Capital Gains
- Transfer [Section 2(47)]
- Mode of Computation
- Ascertainment of Cost in Specified Circumstances [Section 49]
- Year of Chargeability as “Capital Gain”
- Capital Gains for Depreciable Assets [Section 50]
- Capital Gains for Market Linked Debentures [Section 50AA]
- Capital Gains in Respect of Slump Sale [Section 50B]
- Computation of Capital Gains in Real Estate Transaction [Section 50C]
- Capital gain of transfer of unlisted share in a company [Section 50CA]
- Fair market value to be full value of consideration in certain cases [Section 50D]
- Reference to Valuation Officer [Section 55A]
- Advanced Money Received [Section 51]
- Exemption from Capital Gain
- Tax on long-term capital gain in case of specified securities [Section 112A]
- Tax Rates
- Case Law
- Lesson Round-Up
- Test Yourself
- List of Further Readings
- Other References

REGULATORY FRAMEWORK

Sections	Income Tax Act, 1961
Section 2(14)	Capital Assets
Section 2(42A)	Short Term Capital Assets
Section 2(42B)	Short Term Capital Gains
Section 2(47)	Transfer
Section 45	Chargeability
Section 45(5A)	Taxability of Capital Gains in case of Specified Agreement
Section 48	Mode of Computation of Capital Gains
Section 55	Cost of Improvement
Section 49	Ascertainment of Cost in Specified Circumstances
Section 50	Capital Gains in respect of Depreciable Assets
Section 50AA	Capital Gains in respect of Market Linked Debentures
Section 50B	Capital Gains in respect of Slump Sale
Section 2(42C)	Meaning of Slump Sale
Section 50C	Computation of Capital Gain in Real Estate Transaction
Section 50CA	Capital Gain on Transfer of unlisted Shares in a Company
Section 50D	Fair Market Value to be Full Value of Consideration in Certain Cases
Section 55A	Reference to Valuation Officer
Section 51	Advance Money Received
Section 54	Profit on sale of property used for Residential purpose
Section 54B	Transfer of land used for Agricultural purposes
Section 54D	Compulsory acquisition of lands and buildings
Section 54EC	Capital Gains Exemptions in case of Investments made in Specified Bonds
Section 54EE	Tax incentives for Start-ups
Section 54F	Capital gain on the transfer of certain capital assets not to be charged in case of investment in Residential House
Section 54GA	Exemption of capital gain on transfer of assets of shifting of industrial undertaking from urban area to a Special Economic Zone

Sections	Income Tax Act, 1961
Section 54GB	Capital Gain on Transfer of Residential property (a house or a plot of land)
Section 54H	Extension of Time for Acquiring New Asset or Depositing or Investing Amount of Capital Gain
Section 112A	Tax on long-term Capital Gains in case of Specified Securities

Chapter Overview				
Chapter under Income Tax Act	Section 45	Section 2(14)	Section 48	Section 54 to 54GB
IV	Charging Section	Capital Assets	Computation of Capital Gain	Exemptions

INTRODUCTION

The provisions for computation of Income from Capital Gains are covered under sections 45 to 55A of the Income Tax Act, 1961. Section 2(14) defines the term capital gain and section 45 is charging section which lays down the basis of charge for taxability of Capital Gain / Loss arises on transfer of Capital Asset.

Taxability of Capital Gain depends upon the nature of Capital Gain, i.e., short term capital gain or long term capital gain. The type of capital gain depends upon the period for which the capital asset is held. The taxability of capital gain shall satisfy the following conditions:

- There should be Capital Asset
- The Capital Asset is transferred by the Assessee
- Such Transfer takes place during the previous Year.

To give relief to the assessee, the concept of exemption introduced under section 54, 54B, 54D, 54EC, 54EE, 54F, 54G, 54GA, 54GB.

CHARGEABILITY [SECTION 45]

Sections 45 to 55A of the Income-tax Act, 1961 deal with Capital Gains. Section 45 of the Act, provides that any profits or gains arising from the transfer of a capital asset effected in the previous year shall, be chargeable to income-tax under the head 'Capital Gains' and shall be deemed to be the income of the previous year in which the transfer took place unless exempted in various sub-sections of Section 54.

Doubts may arise as to whether 'Capital Gains' being a capital receipt can be brought to tax as income. It may be noted that the ordinary accounting canons of distinctions between a capital receipt and a revenue receipt are not always followed under the Income-tax Act. Section 2(24)(vi) of the Income-tax Act specifically provides that "Income" includes "any capital gains chargeable under Section 45(1)". It may not be out of place to mention here that in the absence of a specific provision in Section 2(24) capital gains has no logic to be taxed as income.

The Constitutional validity of the provisions of the Act relating to capital gains was challenged in *Navin Chandra Mafatlal v. C.I.T.* (1955). The Supreme Court while upholding the competence of parliament in legislating with regard to capital gains as a part of income observed that the term income should be given the widest connotation

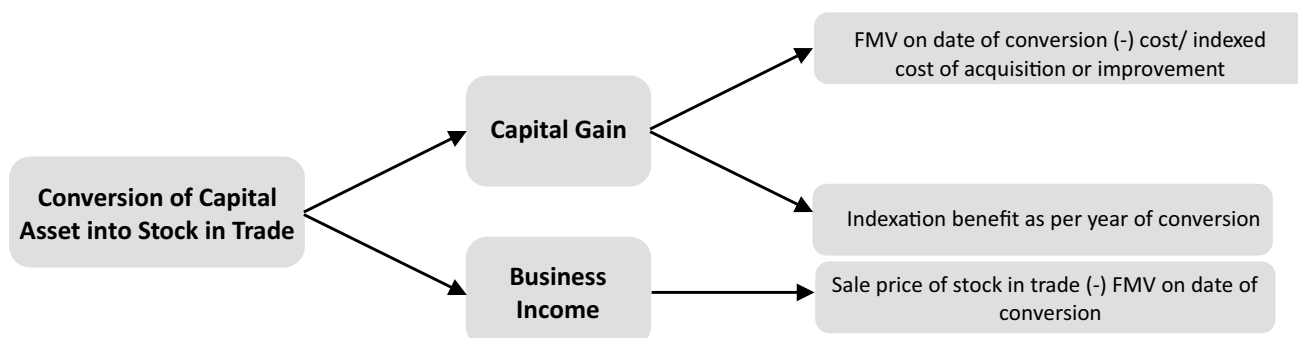
so as to include capital gains within its scope. However, all capital profit do not necessarily constitute capital gains. For instance, profit on re-issue of forfeited shares, profit on redemption of debentures, premium on issue of shares, are capital profit and not capital gains, hence, not liable to tax.

The requisites of a charge to income-tax, of capital gains under Section 45(1) are:

- (i) There must be a Capital Asset as per Section 2(14).
- (ii) The capital asset must have been transferred.
- (iii) The transfer must have been effected in the previous Year.
- (iv) There must be a gain arising on such transfer of a Capital Asset.

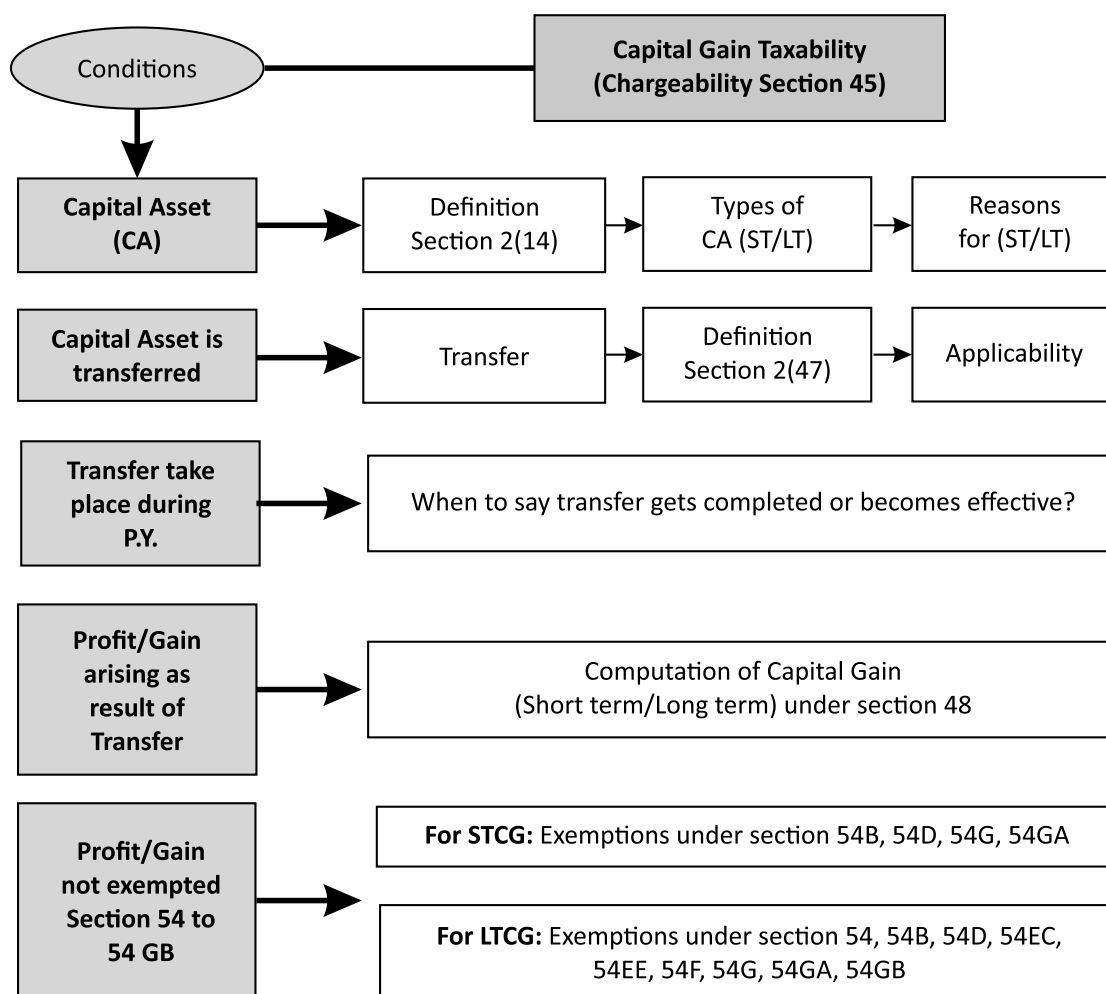
Exceptions to above provision are as below:

- **Insurance Receipts [Section 45 (1A)]:** Capital gain arising from receipts of insurance claim due to natural calamities are deemed to be income in previous year in which such amount or any other assets are received.
- **Unit Linked Insurance Policy Receipts [Section 45(1B)]:** Similar to provisions of section 45(1A) as stated above, amount received on account of ULIP issued on or after 1.02.21, will be deemed to be income and chargeable under head Capital Gain in year of receipt of amount.
- **Conversion of capital asset as Stock-in-trade [Section 45(2)]:** Profit or gain arising from such conversion shall be chargeable to income tax as income of previous year in which such stock in trade is sold or otherwise transferred by him.



- **Transfer of beneficial interest in Securities [Section 45(2A)]:** Any profit or gain arising from transfer of beneficial interest in securities shall be chargeable to income tax as income of beneficial owner of the previous year in which such transfer took place. Cost of acquisition and the period of holding of securities shall be determined on basis of first in first out (FIFO) method.
- **Introduction of capital asset as capital contribution [Section 45(3)]:** If a person transfer capital asset to AOI/ BOI as capital contribution, such transfer is chargeable to income tax in previous year of such transfer.
- **Receipt of money or capital assets or stock-in-trade by partner on dissolution or reconstitution of AOP/ BOI/ firm [section 45(4)]:** Money or capital assets transferred by such entities are chargeable to income tax under head capital gains to the transferee in year of receipt.
- **Compensation on compulsory acquisition [Section 45(5)]:** Consideration received on account of compulsory acquisition of capital assets, will be chargeable as income of previous year in such compensation or enhanced compensation was received. With effect from 01st April 2024, consideration includes amount received in cash or by cheque or draft or by any other mode.

Such capital gain should not be exempt under Sections 54, 54B, 54D, 54EC, 54EE, 54ED, 54F, 54G, 54GA or 54GB.



CAPITAL ASSETS [SECTION 2(14)]

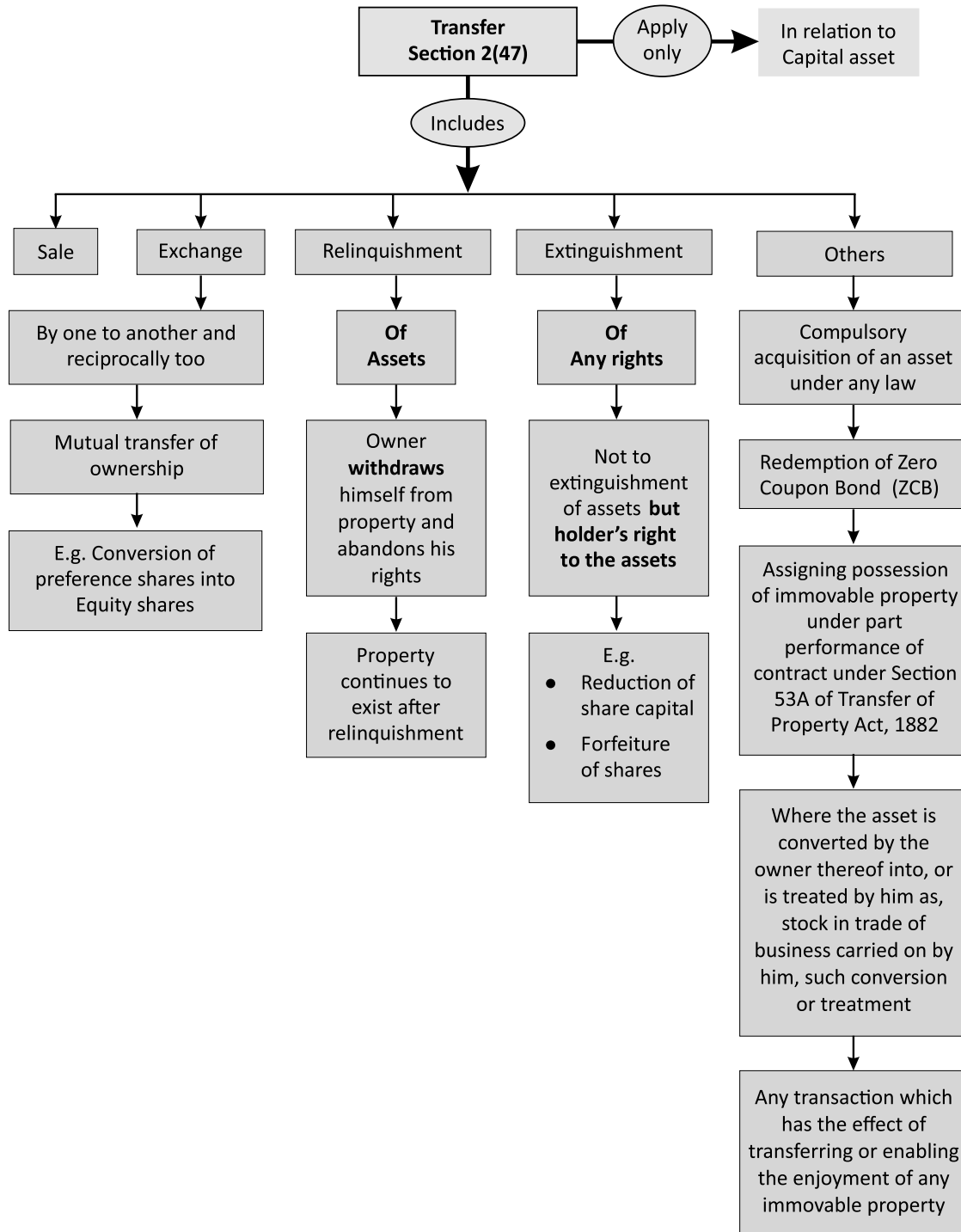
Definition Section 2(14)	Property of any kind	Fixed / Circulating / Movable / Immovable / Tangible / Intangible whether connected with his business or profession
	Securities by FII	Any securities held by a Foreign Institutional Investor which has invested in such securities as per SEBI Act, 1992
	Any ULIP	Any Unit Linked Insurance Policy (ULIP) to which exemption under section 10(10D) does not apply. (i.e. Payment / aggregate payment of premium > Rs 250000 made in any PY in case of ULIP issued on or after 1.2.2021. (w.e.f AY 2021-22))
	Includes	- Any rights of management / control - Jewellery, Drawings, Paintings, Sculptures, Work of art - Archaeological collections

	Excludes	● Stock in trade, Consumable store, and Raw material held for business/ profession. ● Personal Effects (Wearing apparel & Furniture) ● Movable personal effects ● Agriculture land situated in rural area ● Gold deposit bonds issued under Gold Deposit Scheme, 1999 or Deposit certificate issued under Gold Monetization scheme, 2015 and 2019 as notified by CG ● Special Bearer Bonds, 1991								
	Rural Area	● It refers outside jurisdiction of municipality (M) / cantonment board (CB) having population more than equal to 10,000 and also does not fall within below: <table><tr><th>From local limit of M / CB</th><th>Population of M / CB</th></tr><tr><td>≤ 2 Km</td><td>> 10,000- Not > 1,00,000</td></tr><tr><td>> 2 km-≤ 6 Km</td><td>> 1,00,000 - Not > 10,00,000</td></tr><tr><td>> 6 km-≤ 8 Km</td><td>> 10,00,000</td></tr></table>		From local limit of M / CB	Population of M / CB	≤ 2 Km	> 10,000- Not > 1,00,000	> 2 km-≤ 6 Km	> 1,00,000 - Not > 10,00,000	> 6 km-≤ 8 Km
From local limit of M / CB	Population of M / CB									
≤ 2 Km	> 10,000- Not > 1,00,000									
> 2 km-≤ 6 Km	> 1,00,000 - Not > 10,00,000									
> 6 km-≤ 8 Km	> 10,00,000									
Types of “Capital Assets”	Main Type	● Long Term Capital Asset (LT) ● Short Term Capital Asset (ST)								
	24 Months immediately prior to date of transfer	Held for >24M	Long Term Capital Asset (LT)							
		Held for <24M	Short Term Capital Asset (ST)							
		Assets Coverage:	● Unlisted equity shares / Preference Shares ● Immovable Property (Land/Building/Both) ● Unlisted Debentures ● Unlisted Government Securities/Bonds ● Any other capital assets not specifically mentioned below Note: There will now be only two holding periods for asset classification: 12 months and 24 months. The Finance Act, 2024 has removed the 36-month holding period.							

	12 Months immediately prior to date of transfer	Held for >12M	Long Term Capital Asset (LT)
		Held for <12M	Short Term Capital Asset (ST)
		Assets Coverage:	● Listed Securities (Equity shares, Preference Shares, Debentures , Bonds & other securities) ● Units of Unit Trust of India (UTI) ● Units of Equity Oriented Fund / Zero Coupon Bond (ZCB)
Notes: In determining the period for which a capital asset is held by an assessee, the following points must be noted: (i) In the case of shares held in a company in liquidation, the period subsequent to the date on which the company goes into liquidation shall be excluded; (ii) In case the asset becomes the property of the assessee under the circumstances mentioned in Section 49(1) - discussed later in this lesson - the period for which the asset was held by the previous owner shall be included; (iii) In the case of the shares in an Indian Company which become the property of the assessee in a scheme of amalgamation, the period for which the shares in the amalgamating company were held by the assessee shall be included; (iv) In the case of a capital asset, being a share or any other security subscribed to by the assessee on the basis of his right to subscribe to such financial asset or subscribed to by the person in whose favour the assessee has renounced his right to subscribe to such financial asset, the period shall be reckoned from the date of allotment of such financial asset; (v) In the case of a capital assets, being the right to subscribe to any financial asset, which is renounced in favour of any other person, the period shall be reckoned from the date of the offer of such right by the company or institution, as the case may be, making such offer; (vi) In the case of a capital asset, being a financial asset, allotted without any payment and on the basis of holding of any other financial asset, the period shall be reckoned from the date of the allotment of such financial asset; (vii) In the case of a capital asset, being a share or shares in an Indian company, which becomes the property of the Assessee in consideration of a demerger, there shall be included the period for which the share or shares held in the demerged company were held by the Assessee; (viii) In the case of a capital asset, being trading or clearing rights of a recognized stock exchange in India acquired by a person pursuant to demutualization or corporatization of the recognized stock exchange in India as referred to in Clause (xiii) of Section 47, there shall be included the period for which the person was a member of the recognized stock exchange in India immediately prior to such demutualization or corporatization;			

	(viiiia) In the case of a capital asset, being equity share or shares in a company allotted pursuant to demutualization or corporatization of a recognized stock exchange in India as referred to in Clause (xiii) of Section 47, there shall be included the period for which the person was a member of the recognized stock exchange in India immediately prior to such demutualization or corporatization; ● Where preference shares are converted into equity shares, the period of holding shall be considered from the date of acquisition of preference shares. Cost of acquisition of preference shares shall be taken as cost of acquisition of equity shares in the hands of Assessee. ● Where units are held by an Assessee in the consolidating plan of a mutual fund scheme, made in consideration of the allotment to him of units, in the consolidated plan of that scheme of mutual fund, then the period of holding shall also include the period for which the units in consolidating plan of mutual fund scheme were held by him. Cost of acquisition of units in the consolidated plan of mutual fund scheme referred u/s 47(xix) shall be the cost of acquisition of units in the consolidating plan of mutual fund scheme. (ix) In the case of a capital asset, being any specified security or sweat equity shares allotted or transferred, directly or indirectly, by the employer free of cost or at concessional rate to his employees (including former employee or employees), the period shall be reckoned from the date of allotment or transfer of such specified security or sweat equity shares. (x) In the case of a capital asset, being: (a) Electronic Gold Receipt issued in respect of gold deposited as referred to in clause (viid) of section 47, there shall be included the period for which such gold was held by the assessee prior to conversion into the Electronic Gold Receipt; (b) Gold released in respect of an Electronic Gold Receipt as referred to in clause (viid) of section 47, there shall be included the period for which such Electronic Gold Receipt was held by the assessee prior to its conversion into gold;
Reasons for bifurcating ST and LT	● Tax incidence depends upon whether capital gain is ST or LT. In fact, LTCG is taxable at lower rate.

Provisions of local land laws should be considered while determining the land as agricultural land. The Court held that if activities performed by Assessee on the land are recognized as 'agricultural' activities under the Local land law, then the land can be treated as Agricultural land, even if actual growing does not take place. **[Shankar Dalal & Others v/s CIT (Bombay High Court)]**

TRANSFER [SECTION 2(47)]

The Supreme Court in the case of *Vodafone International holdings B.V. vs. Union of India* [2012] gave the following ruling-

- (a) the transfer of shares in the foreign holding company does not result in an extinguishment of the foreign company's control of the Indian company.

- (b) It does not constitute an extinguishment and transfer of an asset situated in India.
- (c) Transfer of foreign holding company shares offshore, cannot result in an extinguishment of the holding companies right of control of the Indian company and the same does not constitute extinguishment and transfer of an asset/management and control of property situated in India.

To supersede this ruling with retrospective effect from 1st April 1962, Explanation 2 to section 2(47) has been inserted which defines transfer as follows:

“Transfer” includes and shall be deemed to have always included disposing of or parting with an asset or any interest therein, or creating any interest in any asset in any manner whatsoever, directly or indirectly, absolutely or conditionally, voluntarily or involuntarily by way of an agreement (whether entered into in India or outside India) or otherwise, notwithstanding that such transfer of rights has been characterized as being effected or dependent upon or flowing from the transfer of a share or shares of a company registered or incorporated outside India.

The above transactions would be deemed as a transfer notwithstanding that such transfer of rights has been characterized as being effected or dependent upon or flowing from the transfer of a share or shares of a company registered or incorporated outside India.

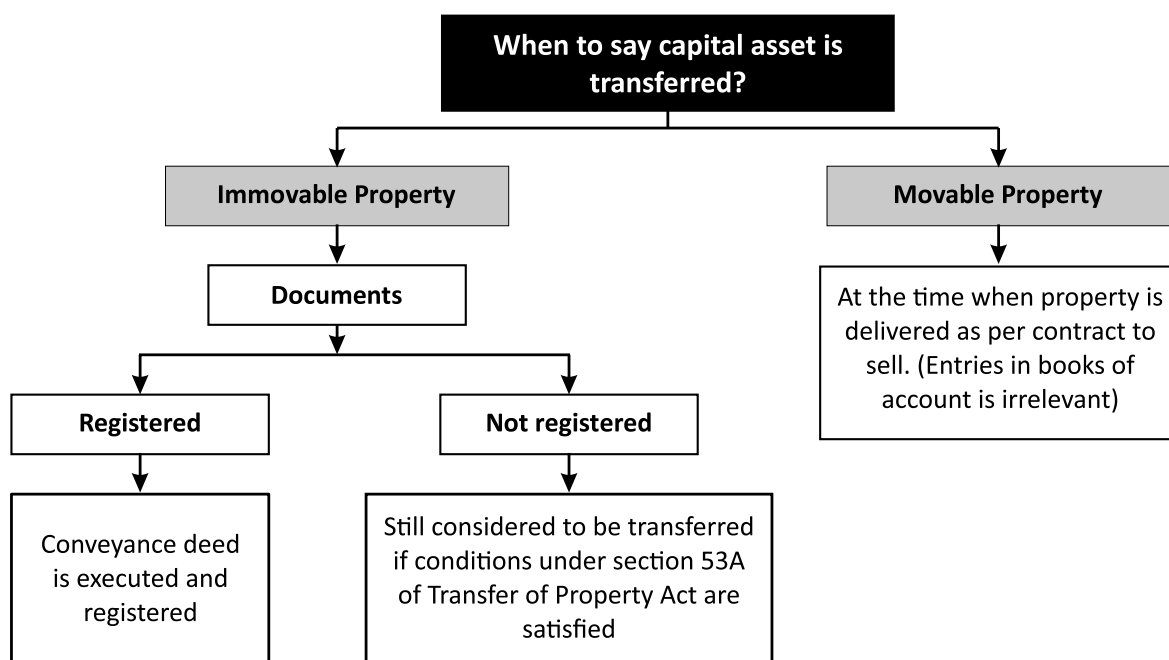
The distribution of capital assets on the dissolution of a firm, body of individuals or other association of persons, is also regarded as transfer liable to capital gains tax. For the purposes of computing capital gain in such cases, the fair-market value of the capital asset on the date of such distribution will be deemed to be the full value of consideration received or accruing as a result of transfer of the capital asset.

What does not constitute Transfer?

Section 47 specifies certain transactions which will not be regarded as a transfer, as below:

- Any distribution of capital assets on **total / partial partition of HUF**
- Any transfer of a capital asset by an individual or HUF under a **gift / will / irrevocable trust**
- Transfer of asset from **Holding Company to its wholly owned Indian Subsidiary and vice-versa**
- Transfer of capital asset from **amalgamating company to amalgamated company**, in a scheme of amalgamation, as long as the resultant company is an Indian Company
- Transfer of capital asset from **demerged company to resulting company**, in a scheme of demerger, as long as the resultant company is an Indian Company
- **Transfer / issue of shares by the resulting company to the shareholders of the demerged company**, if such transfer was made in consideration of such demerger
- Transfer of shares by a shareholder, held in the amalgamating company, in a scheme of amalgamation, if such transfer is made as a consideration, by way of **allotment of shares in the amalgamated Indian company**
- Transfer of **rupee denominated bonds / any government security**, outside India, by a non-resident to another non-resident
- Any transfer, in a relocation, of a capital asset by the original fund to the resulting fund
- **Redemption of sovereign gold bonds**, issued by RBI, by an individual
- **Transfer of any capital asset to the Government / University / National Museum / national Art Gallery**, any work of art, book, manuscript, drawing, painting, print

- **Transfer made outside India of Rupee Denominated Bond (RDB's) of an Indian Company**, issued outside India by a non-resident to another non-resident.
- **Transfer by way of conversion of bonds / debentures / preference shares into equity shares of that Company**
- Transfer of capital asset under **reverse mortgage**
- Transfer by a unit holder under **consolidation plans / schemes of Mutual Fund**
- With effect from 01st April 2024, transfer of a capital asset being conversion of gold into Electronic Gold Receipt issued by a Vault Manager, or conversion of Electronic Gold Receipt into gold.
- Transfer of capital assets being bonds or Gold Deposit Receipts (GDR) referred in section 115AC (1) by non-resident to another no-resident outside India
- Any transfer of capital asset being Sovereign Gold Bond issued by RBI under the Sovereign Gold Bond Scheme 2015 by way of redemption by an individual
- Any transfer of a capital asset, being an interest in a joint venture, held by a public sector company, in exchange of shares of a company incorporated outside India by the Government of a foreign State, in accordance with the laws of that foreign State.



MODE OF COMPUTATION [SECTION 48]

Computation of Capital Gain			
Short Term Capital Assets		Long Term Capital Assets	
Sale Consideration		Sale Consideration	
Less: Expense on transfer		Less: Expense on transfer	

Net sale consideration Less: ● Cost of Acquisition ● Cost of Improvement		Net sale consideration Less: ● Indexed Cost of Acquisition ● Indexed Cost of Improvement	
Short Term Capital Gain Less: Exemption under section 54B, 54D, 54G, 54GA		Long Term Capital Gain Less: Exemption under section 54, 54B, 54D, 54EC, 54EE, 54F, 54G, 54GA, 54GB	
STCG/STCL		LTCG/LTCL	
*No deduction will be allowed in respect of Securities Transaction Tax (STT) paid With effect from 01st April 2024, cost of acquisition of the asset or the cost of improvement thereto shall not include the deductions claimed on the amount of interest under clause (b) of section 24 or under the provisions of Chapter VIA Amendments by Finance (No. 2) Act, 2024 *As per Finance Act 2024, W.E.F 23rd July 2024, the benefit of indexation u/s. 48 shall not be available for transfer of Long Term Capital Assets acquired on or after 23.07.2024. Therefore, for the purpose of computation of Long Term Capital Gains u/s. 48, the words Indexed Cost of Acquisition and Indexed Cost of Improvement shall be replaced by Cost of Acquisition and Cost of Improvement respectively. What is Section 112 of the Income Tax Act? Section 112 provides for tax on Long-Term Capital Assets. It applies to all taxpayers such as individuals, HUFs, partnership firms, companies, residents, non-residents, foreign companies, etc. This section covers capital gains arising from the sale of all long-term capital assets. Long Term Capital Asset covers the following assets: ● Securities (other than units) listed on a recognized stock exchange in India ● Unit of the unit trust of India ● Zero-coupon bond ● Securities not listed on a recognized stock exchange in India ● Immovable property being land, building, or both ● Any other capital asset Section 112 does not apply to the capital gains on the sale of the following long-term capital assets to which Section 112A applies i.e.: ● Listed equity shares where STT is paid on acquisition or transfer ● Units of equity-oriented mutual funds where STT is paid on transfer ● Units of business trust where STT is paid on transfer			

Detailed Analysis of Section 112 w.r.t Amendments in Finance (No. 2) Act, 2024

Where the total income of an assessee includes any income, arising from the transfer of a long-term capital asset, which is chargeable under the head “Capital gains”, the tax payable by the assessee on the total income shall be the aggregate of:

- (a) in the case of an individual or a Hindu undivided family, being a resident,—
 - (i) the amount of income-tax payable on the total income as reduced by the amount of such long-term capital gains, had the total income as so reduced been his total income; and
 - (ii) the amount of income-tax calculated on such long-term capital gains,—
 - (A) at the rate of twenty per cent for any transfer which takes place before the 23rd day of July, 2024; and
 - (B) at the rate of twelve and one-half per cent for any transfer which takes place on or after the 23rd day of July, 2024:

Provided that where the total income as reduced by such long-term capital gains is below the maximum amount which is not chargeable to income-tax, then, such long-term capital gains shall be reduced by the amount by which the total income as so reduced falls short of the maximum amount which is not chargeable to income-tax and the tax on the balance of such long-term capital gains shall be computed at the rate as applicable in sub-clause (ii):

Provided further that in the case of transfer of a long-term capital asset, being land or building or both, which is acquired before the 23rd day of July, 2024, where the income-tax computed under item (B) exceeds the income-tax computed in accordance with the provisions of this Act, as they stood immediately before their amendment by the Finance (No. 2) Act, 2024, such excess shall be ignored;

- (b) in the case of a domestic company,—
 - (i) the amount of income-tax payable on the total income as reduced by the amount of such long-term capital gains, had the total income as so reduced been its total income; and
 - (ii) the amount of income-tax calculated on such long-term capital gains,—
 - (A) at the rate of twenty per cent for any transfer which takes place before the 23rd day of July, 2024; and
 - (B) at the rate of twelve and one-half per cent for any transfer which takes place on or after the 23rd day of July, 2024
- (c) in the case of a non-resident (not being a company) or a foreign company,—
 - (i) the amount of income-tax payable on the total income as reduced by the amount of such long-term capital gains, had the total income as so reduced been its total income; and
 - (ii) the amount of income-tax calculated on long-term capital gains [except where such gain arises from transfer of capital asset referred to in sub-clause (iii)],—
 - (A) at the rate of twenty per cent for any transfer which takes place before the 23rd day of July, 2024; and
 - (B) at the rate of twelve and one-half per cent for any transfer which takes place on or after the 23rd day of July, 2024; and

- (iii) the amount of income-tax on long-term capital gains arising from the transfer of a capital asset, being unlisted securities or shares of a company not being a company in which the public are substantially interested, as computed without giving effect to the first and second provisos to section 48, calculated on such long-term capital gains,—
- (A) at the rate of ten per cent for any transfer which takes place before the 23rd day of July, 2024; and
- (B) at the rate of twelve and one-half per cent for any transfer which takes place on or after the 23rd day of July, 2024
- (d) in any other case of a resident,—
- (i) the amount of income-tax payable on the total income as reduced by the amount of long-term capital gains, had the total income as so reduced been its total income; and
- (ii) the amount of income-tax calculated on such long-term capital gains,—
- (A) at the rate of twenty per cent for any transfer which takes place before the 23rd day of July, 2024; and
- (B) at the rate of twelve and one-half per cent for any transfer which takes place on or after the 23rd day of July, 2024:

Provided that where the tax payable in respect of any income arising from the transfer of a long-term capital asset which takes place before the 23rd day of July, 2024, being listed securities (other than a unit) or zero coupon bond, exceeds ten per cent of the amount of capital gains before giving effect to the provisions of the second proviso to section 48, then, such excess shall be ignored for the purpose of computing the tax payable by the assessee

Particulars	Individuals & HUF being Residents	Domestic Companies	Non Residents & Foreign Companies	Any other residents
Tax on income other than LTCG	As per normal provisions of tax	As per normal provisions of tax	As per normal provisions of tax	As per normal provisions of tax
Tax on LTCG				
(i) If transfer takes place before 23.07.2024	20%	20%	20%	20%
(ii) If transfer takes place on or after 23.07.2024	12.5%	12.5%	12.5%	12.5%
(iii) LTCG on transfer of Unlisted Securities of a Company in which public is not substantially interested without indexation				

Particulars	Individuals & HUF being Residents	Domestic Companies	Non Residents & Foreign Companies	Any other residents
A) If transfer takes place before 23.07.2024	-	-	10%	-
B) If transfer takes place on or after 23.07.2024			12.5%	

Points to remember:

In case of Resident Individuals/HUFs:

1. Benefit of Indexation is available to properties (Land & Buildings) acquired before 23.07.2024 only. Properties acquired on or after 23.07.2024 will not get the benefit of Indexation anymore. Therefore, indexation is permanently withdrawn for properties acquired on or after 23.07.2024
2. The benefit of indexation is available only to resident individuals/HUFs. It will not be available to any other assesses.
3. Rates of LTCG depend upon the date of transfer as per the above chart.
4. Benefit of indexation is available only for Land & Buildings and not for any other assets.
5. Resident individuals/HUFs have the option of paying tax as per old or new regime whichever is beneficial on transfer of land & buildings

In case of Domestic Companies, Non Residents other than companies, Foreign Companies and any other residents:

1. No benefit of indexation is available for any assets transferred on or after 23.07.2024. However, It will still be available for all assets transferred before 23.07.2024
2. Rates of LTCG depend upon the date of transfer as per the above chart.

The above provisions are explained by way of the following illustrations:

Illustration-1

Mr. Amit transferred Land at Nagpur for Rs. 50,00,000/- on 25/05/2024 which was acquired on 15/01/2018 for Rs. 30,00,000/-. As the transfer takes place before 23/07/2024, the tax will be payable as per old regime before the amendments of Finance Act, 2024.

Particulars	Transfer Date 25/05/2024 (i.e Before 23/07/2024)
Sale consideration	50,00,000.00
Less:	

Particulars	Transfer Date 25/05/2024 (i.e. Before 23/07/2024)
Cost of Acquisition (Acquired on 15/01/2018)	30,00,000.00
Indexed Cost of Acquisition	40,03,676.47
Rs. 30,00,000/- X 363/272 Cost Inflation Index for year 2018-19 - 272 Cost Inflation Index for year 2024-25 - 363	
LTCG	9,96,323.53
Tax Rate	20%
Tax Payable	1,99,264.71

Illustration-2

Mr. Dinesh transferred flat at Mumbai on 10/09/2025 which was acquired on 15/01/2018 for Rs. 30,00,000/-. As the transfer is effected after 23/07/2024, the assessee may opt for availing indexation benefit if the same is favorable. That is to say, any excess tax payable by way of new regime shall be ignored.

Particulars	With Indexation Benefit Transfer Date 10/09/2025 (i.e. On or After 23/07/2024)	Without Indexation Benefit Transfer Date 10/09/2025 (i.e. On or After 23/07/2024)
Sale consideration	50,00,000.00	50,00,000.00
Less:		
Cost of Acquisition (Acquired on 15/01/2018)	30,00,000.00	30,00,000.00
Indexed Cost of Acquisition	41,47,058.82	Not Applicable
Rs. 30,00,000/- X 376/272 Cost Inflation Index for year 2018-19 - 272 Cost Inflation Index for year 2025-26 - 376		
LTCG	8,52,941.18	20,00,000
Tax Rate	20%	12.5%
Tax Payable	1,70,588.23	250,000.00

Therefore, excess tax payable Rs. 79,412/- (Rs. 250,000/- (-) 1,70,588/-) shall be ignored and thus the assessee shall pay tax only Rs. 1,70,588/- instead of Rs. 250,000/-.

Illustration-3

M/s. Freeair Ltd. transferred its Patents & Trademarks for Rs. 1,25,00,000/- on 25/06/2024. It incurred cost of acquisition for the patents Rs. 22,00,000/- on 22/11/2016.

As the transfer takes place before 23/07/2024, the tax will be payable as per old regime before the amendments of Finance Act, 2024.

Particulars	Transfer Date 25/06/2024 (i.e Before 23/07/2024)
Sale consideration	1,25,00,000.00
Less	
Indexed Cost of Acquisition (Acquired on 22/11/2016)	
22,00,000 * 363/264	30,25,000
LTCG	94,75,000
Tax Rate	20%
Tax Payable	18,95,000

Illustration-4

M/s. Freeair Ltd. transferred its Patents & Trademarks for Rs. 1,25,00,000/- on 25/10/2025. It incurred cost of acquisition for the patents Rs. 22,00,000/- on 22/11/2016.

As the transfer takes place after 23/07/2025, the tax will be payable as per new regime after the amendments of Finance Act, 2024. The assessee being a domestic company, it shall not get the benefit of indexation.

Particulars	Transfer Date 25/10/2025 (i.e. After 23/07/2024)
Sale consideration	1,25,00,000.00
Less	
Cost of Acquisition (Acquired on 22/11/2016)	22,00,000.00
Indexed Cost of Acquisition (Not Applicable)	
LTCG	1,03,00,000
Tax Rate	12.5%
Tax Payable	12,87,500

Expenses on Transfer

Meaning:

It means any **expenditure incurred wholly and exclusively in connection with such transfer**. It also refers to expenses incurred which is **necessary (Absolutely necessary)** to effect the transfer

Examples: Brokerage or commission incurred for securing buyer, cost of stamp and registration fee by the vendor, traveling expenses, Litigation expenses etc.

Points to be considered:

- Expenses in connection with transfer **before/after passing of title** shall be considered.
- Legal expense for getting compensation for compulsory acquisition of his/her land (including expense on enhanced compensation) shall be considered.
- Payment made to co-operative society for getting NOC is considered to be "Expense on transfer".
Damodar G. Nagalia v. CIT [2007] 12 SOT 600 (Mum)

Cost of Acquisition (COA) [Section 55(2)]

Meaning:

Cost of acquisition includes expenditure incurred for acquiring the asset or completing the title of the Asset. It includes the following:

- Interest on borrowed capital for purchase of assets.
- Expenses on amendment of AOA and a part of shares.
- Litigation expense on registration of shares etc.
- Advocate fees, brokerage in relation to acquisition of property.

Points to be considered:

- Cost of Estate duty for inherited property shall be not being considered as "Cost of Acquisition" or "Cost of Improvement".
- When at the time of acquisition of land, it was agriculture and later on it is being sold after converting into Non Agriculture land, then Cost of Acquisition of Agriculture land shall be considered as "Cost of Acquisition".
- In case of Waiver of loan by associate company, then amount of waiver shall be reduced from Cost of Acquisition. (i.e. COA less Waiver amt.)
- With effect from 01st April 2024, cost of acquisition of the asset or the cost of improvement thereto shall not include the deductions claimed on the amount of interest under clause (b) of section 24 or under the provisions of Chapter VIA

Cost of Improvement (COI) [Section 55(1)(b)]**Meaning:**

- Cost of improvement means expenditure incurred to increase the productive quality of the asset. It includes all expenditures of a capital nature incurred in making any additions or alterations to the capital asset.
- Any improvement took place before 1.4.2001 shall be ignored.
- Any Capital Expenditure (CAPEX) incurred by previous owner shall also be considered as Cost of improvement if assets acquired after 1.4.2001.
- Capital assets such as Goodwill or any other intangible assets of business or right to manufacture, produce or process any article or thing or right to carry on business or profession or any other right (Self Generated), cost improvement shall be NIL.
- Capital assets such as Goodwill of business or profession or right to manufacture, produce or process any article or thing or right to carry on business or profession (Self Generated), cost improvement shall be **NIL**.

Points to be considered:

- Only CAPEX (Not routine Expenses) shall be considered as Cost of Improvement.
- COI excludes any expenses which is deductible while computing income chargeable under head "House property", "PGBP" or "Other Source".
- With effect from 01st April 2024, cost of acquisition of the asset or the cost of improvement thereto shall not include the deductions claimed on the amount of interest under clause (b) of section 24 or under the provisions of Chapter VIA

Indexed Cost of Acquisition (ICOA)**Meaning:**

- The COA is indexed on the basis of certain % of Consumer Price Index (CPI) keeping in the mind of rise in prices due to inflation.
- Base year for Indexation is PY2001-02, hence CII for 2001-02=100

Case:1 Acquisition of assets by Assessee himself/herself**(If Acquisition on or after 1.4.2001)**

ICOA = [(COA)*(CII for the year of Transfer/CII for the year of Acquisition)]

(If Acquisition before 1.4.2001)

ICOA = [(COA or FMV as on 1.4.2001 whichever is higher)*(CII for the year of Transfer/100)]

FMV = Fair Market Value

Case: 2 Acquisition of assets from previous owner by Assessee in any mode u/s 49(1)

ICOA = [(COA to the previous owner) * (CII for the year of Transfer/CII of year in which assets is first held by Assessee)]

Cases where indexation benefit is not available even on transfer of Long Term Capital Asset

- Debenture or Bonds
- Shares or debentures acquired by NR in foreign currency
- Slump Sale
- Equity shares and equity oriented fund, unit of business trust
- Certain transactions by a non-resident u/s 115AB, 115AC, etc.
- Transfer of Global Depository Receipt
- Transfer of securities by FII (Section 115AD)
- Transfer of Forex by NRI (Section 115D)
- Transfer of unlisted securities by NR under section 115(1)(c)
- Depreciable assets other than power generating units providing SLM.

Indexed Cost of Improvement (ICOI)**Meaning:**

- The COI is indexed on the basis of certain % of Consumer Price Index (CPI) keeping in the mind of rise in prices due to inflation.
- Any improvement took place before 1.4.2001 shall be ignored.

ICOI = [(COI after 1.4.2001) * (CII for the year of Transfer/CII for the year of Improvement by assessee or previous owner)]

Cost Inflation Index (CII) (Table below)

FY	CII
2001-02	100
2002-03	105
2003-04	109
2004-05	113
2005-06	117
2006-07	122

2007-08	129
2008-09	137
2009-10	148
2010-11	167
2011-12	184
2012-13	200
2013-14	220
2014-15	240
2015-16	254
2016-17	264
2017-18	272
2018-19	280
2019-20	289
2020-21	301
2021-22	317
2022-23	331
2023-24	348
2024-25	363
2025-26	376

Cost of Acquisition of Certain Assets

Asset	Cost of Acquisition
Goodwill or a trade mark or brand name associated with a business or profession or any other intangible asset, or a right to manufacture, produce or process any article or thing, or right to carry on any business or profession, or tenancy rights, or stage carriage permits, or loom hours or any other right (if Self-Generated)	Nil
Goodwill or a trade mark or brand name associated with a business or profession or any other intangible asset, or a right to manufacture, produce or process any article or thing, or right to carry on any business or profession, or tenancy rights, or stage carriage permits, or loom hours or any other right (if acquired)	Purchase price

Asset	Cost of Acquisition
On Gift/inheritance/distribution of assets of HUF on partition	Cost to the previous owner
Bonus Shares allotted prior to 1 st April 2001	FMV (1 st April 2001)
Bonus Shares allotted post 1 st April 2001	Nil
Rights Shares	Amount paid to acquire the shares
Rights shares which are purchased by person in whose favour the assessee has renounced the rights entitlement	Purchase price paid to the renouncer + price paid for acquiring rights shares

CASE 1

On 25th May, 2025, Mr. X sold 500 grams of gold, the sale consideration of which was Rs 18,00,000. He had acquired this gold on 20th August, 2000 for Rs 4,00,000. Fair market value of 500 grams of gold on 1st April, 2001 was Rs 3,40,000. Find out the amount of capital gain chargeable to tax for the assessment year 2026-27.

Solution:

Statement showing computation of Capital Gain

Particulars		Amount (Rs)
Sale consideration		18,00,000
Less: Cost of Acquisition (If Acquisition before 1.4.2001)	Cost=4,00,000 FMV=3,40,000 Whichever is higher i.e. 4,00,000	(4,00,000)
COA = (COA or FMV [^] as on 1.4.2001 whichever is higher)*		
Long Term Capital Gain		14,00,000

CASE 2: (Where indexation benefit is not available even on transfer of long term capital asset)

Ms. Dixita has 1,000 9% Debentures of DD Ltd. acquired on 15.04.2009 for Rs 85 each. As on 01.02.2026, she sold such asset for Rs 1,25,500. Brokerage @ ½ % of sale value was paid by her. Compute capital gain for AY 2026-27.

Solution:

Statement showing computation of capital gain

Particulars	Amount (Rs)
Sale Consideration	1,25,500

Less:	
Expense on transfer (i.e. Brokerage 0.5% of Rs 1,25,500)	(628)
Cost of Acquisition (85*1000)	(85000)
(Note: No indexation benefit is available as Capital Asset is Debenture)	
Long Term Capital Gain	39,872

CASE 3: Self Generated Assets

Nisha transferred the following assets on 02.06. 2025, determine capital gain for the A.Y. 2026-27 assuming brokerage on transfer is 2%.

Particulars	Cost	FMV (1.4.2001)	Sale value
Land acquired in 1976	25,000	1,00,000	30,00,000
Goodwill of business [Business commenced on 1-05-1995]	Nil	40,000	2,00,000
Tenancy right	Nil	30,000	3,00,000

Solution:

Computation of capital gains in the hands of Nisha for the A.Y. 2026-27

Particulars	Land	Goodwill of Business	Tenancy right
Sale Consideration	30,00,000	2,00,000	3,00,000
Less:			
Expense on transfer (2% Brokerage on sale)	(60,000)	(4,000)	(6,000)
COA (Acquisition of land before 1.4.2001) Cost= Rs. 25000, FMV=Rs100000 whichever is higher i.e. 1,00,000 shall be considered	(1,00,000)	Nil As per section 55(2) (a)	Nil As per section 55(2)(a)
LTCG	28,40,000	1,96,000	2,94,000

Illustration 1:

Mr. Nagendra Kumar converts his capital asset acquired for an amount of INR 125000 in 2005-06, into stock in trade in the FY 22-23 on which the FMV of the capital asset is 7,50,000. He thereafter sells this asset for INR 10,00,000 in 2025-26. Please advise on the taxability.

Solution:

It is to be noted that when the owner of a capital asset, converts it in to stock in trade, the “capital gains” arises in the year of such conversion, that is regarded as transfer, i.e., in the year in which the transfer (conversion) was effected. Therefore, in this case the Capital Gains arises in FY 2022-23. However, the same will be taxable only in the year the asset was sold, and along with it shall be chargeable to tax, the relevant income under the head “profits / Gains from Business / profession”.

<i>Particulars</i>	<i>INR</i>
FMV of asset on date of conversion	7,50,000
Indexed Cost of acquisition [See note 1]	3,53,632
Capital Gain	3,96,368
Finally sold for	10,00,000
Cost of Acquisition	7,50,000
Business Income arises 2025-26	2,50,000

Note:

- 1) Indexed Cost of Acquisition is INR 125000/117*331 (refer to the CII table for the indices of respective years).
- 2) The Capital Gain arises in FY 2022-23
- 3) The Capital Gain is taxable only in FY 2025-26 when the asset is sold, along with the Business Income.

Illustration 2:

Mr. Srinivasan, purchases 2000 equity shares in ABC Ltd., for INR 50 per share (Brokerage 1%), in Feb 1997. He gets 200 Bonus shares in September, 2000. He again gets 2200 bonus shares in September, 2007. FMV of the Shares on 1st April, 2001 was INR 125.

In January, 2025, he sells all the shares for INR 500 per share (Brokerage 2%).

Compute the Capital Gains Tax in the hands of Mr. Srinivasan in FY 2024-25.

Solution:

<i>Cost of Acquisition</i>	<i>Nos.</i>	<i>Per Share</i>	<i>Total INR</i>
Original	2,000	50.50	1,01,000
Bonus Shares prior to 1 st April, 2001	200	125 (FMV)	25,000
Bonus Share post 1 st April, 2001	2,200	-	-

Full value of Consideration	4,400	490.00	21,56,000
Cost of Acquisition			
Original (2000 x 125)		2,50,000	
Bonus (200 x 125)		25,000	(2,75,000)
Capital Gains (Long Term)			18,81,000

Note:

- The brokerage is netted against the costs and sales vales
- The Cost of Acquisition of Bonus Shares acquired prior to 1st April, 2001 is the FMV on 1st April, 2001 and for the ones acquired post 1st April, 2001 is NIL
- For the Original Shares, since the acquisition cost (INR 50) is less than the FMV (INR 125) as on 1st April, 2001, the FMV as on 1st April, 2001 is considered for computing the indexed cost of acquisition
- As the capital asset is other than land & buildings and it is transferred after 23.07.2024, the benefit of indexation will not be available.

Illustration 3:

M & Sons, HUF, had purchased a land for INR 150,000 in 2002-03. In the PY 2006-07, a partition takes place and the Coparcener, Mr. B, gets this plot, valued at INR 2,00,000. In PY 2007-08, he incurs expenses of INR 2,50,000 on the plot towards fencing of the plot of land. Mr. B then sells this plot at INR 15,00,000 on 28.08.2024. You are required to compute the capital gains for AY 2025-26.

Solution:

<i>Particulars</i>	<i>(Rs.)</i>
Cost of acquisition	1,50,000
Cost of Improvement	2,50,000
Full Value of Consideration	15,00,000
Indexed Cost	
Acquisition [See note (b)]	518,571
Improvement [See note (c)]	703,488
Capital Gains	277,941
Tax on LTCG @20%	55,588

Note:

- Although the cost of acquisition for the land, in case of partition of HUF would be the cost to the previous owner, the year would be the year in which he gets the asset upon partition, that is FY 2006-07
- Indexed Cost of Acquisition therefore is $\text{INR } (1,50,000/105) \times 363 = 518,571$

- c) Indexed Cost of Improvement therefore is $\text{INR } (2,50,000/129) * 363 = 703,488$
- d) If indexation is not availed, the capital gains would be Rs. 11,00,000/- and tax payable would be @ 12.5% on Rs. 11,00,000/- i.e Rs. 1,37,500/- Thus, the assessee would pay only Rs. 55,588 and not Rs. 1,37,500 as the assessee is resident HUF

Illustration 4:

Mr. X purchases a property for INR 50,000 on 3rd May 1975. The following expenses were incurred by him:

- Improvement of property in 1998-99 INR 2,50,000
- Construction of two floors in 2002-03 INR 8,00,000
- Reconstruction and refurbishment of property in 2012-13 INR 15,00,000

FMV of property on 1st April, 2001 is 10,00,000. He sells the house on 9th May, 2024 for INR 90,00,000 and incurs INR 2,50,000 on transfer. Compute the Capital Gains taxable in his hands in AY 2025-26.

Solution

Particulars		INR
	Net Sale of Consideration (90,00,000 - 2,50,000)	87,50,000
Less	Indexed Cost of Acquisition [(FMV as on 01.04.2001 or cost of acquisition whichever is higher i.e. 10,00,000* 363/100)]	36,30,000
	Indexed Cost of Improvement [8,00,000* 363 /105]	(27,65,714)
	Indexed Cost of Improvement [15,00,000* 363/200]	(27,22,500)
	Long Term Capital Loss	(368,214)

Note: The Cost of Improvement to the property only after 1st April, 2001 are considered. The costs are indexed using the indices from the CII table.

ASCERTAINMENT OF COST IN SPECIFIED CIRCUMSTANCES [SECTION 49]

A person becomes the owner of a capital asset not only by purchase but also by several other methods. Section 49 gives guidelines as to how to compute the cost under different circumstances.

- (1) Cost to previous owner deemed as cost of acquisition of asset:** In the following cases, the cost of acquisition of the asset shall be deemed to be cost for which the previous owner of the property acquired it. To this cost, the cost of improvement to the asset incurred by the previous owner or the assessee must be added:

Where the capital asset became the property of the assessee:

- on any distribution of assets on the total or partition of a HUF;
- under a gift or will;
- by succession, inheritance or devolution;
- on any distribution of assets on the liquidation of a company;
- under a transfer to revocable or an irrevocable trust;

- (vi) under any transfer of capital asset by a holding company to its wholly owned subsidiary Indian company or by a subsidiary company to its 100% holding Indian company, referred to in sections 47(iv) and 47(v) respectively;
- (vii) under any transfer referred to in section 47(vi) of a capital asset by amalgamating company to the amalgamated Indian company, in a scheme of amalgamation;
- (viii) 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;
- (ix) under any such transfer as is referred to in clause (via) or clause (viaa) or clause (viab) or clause (vic) or clause (vica) or clause (vicb) or clause (vicc) or [clause (viia) or clause (viid) or clause (viiie) or clause (viiif) or clause (xiii) or clause (xiiib) or clause (xiv) of section 47;
- (x) by conversion by an individual of his separate property into a HUF property, by the mode referred to in section 64(2).

Accordingly, 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.

Indexation benefit from which year?

The issue as to whether indexation benefit in respect of a gifted asset shall apply from the year in which the asset was first held by the assessee or from the year in which the same was first acquired by the previous owner was taken up by the Bombay high Court in *CIT v. Manjula J. Shah 16 Taxman 42 (Bom.)*.

As per *Explanation 1* to section 2(42A), in case the capital asset becomes the property of the assessee in the circumstances mentioned in section 49(1), *inter alia*, by way of gift by the previous owner, then for determining the nature of the capital asset, the aggregate period for which the capital asset is held by the assessee and the previous owner shall be considered.

As per the provisions of section 48, the profit and gains arising on transfer of a long-term capital asset shall be computed by reducing the indexed cost of acquisition from the net sale consideration.

The indexed cost of acquisition means the amount which bears to the cost of acquisition the same proportion as Cost Inflation Index (CII) for the year in which the asset is transferred bears to the CII for the year in which the asset was first held by the assessee transferring it, i.e., the year in which the asset was gifted to the assessee in case of transfer by the previous owner by way of gift.

The issue under consideration was whether, in a case where the assessee had acquired a capital asset by way of gift from the previous owner, the said asset can be treated as a long-term capital asset considering the period of holding by the assessee as well as the previous owner.

The Bombay high Court held that the indexed cost of acquisition in case of gifted asset has to be computed with reference to the year in which the previous owner first held the asset and not the year in which the assessee became the owner of the asset.

As per the plain reading of the provisions of section 48, however, the indexed cost of acquisition would be determined by taking CII for the year in which in which asset is first held by the assessee.

- (1) **Cost of acquisition of shares received under the scheme of Amalgamation:** Where shares in an amalgamated company which is an Indian company become the property of the assessee in consideration of the transfer of shares referred to in section 47(vii) held by him in the amalgamating company under a scheme of amalgamation, the cost of acquisition to him of the shares in the amalgamated company shall be taken as the cost of acquisition of the shares in the amalgamating company [Section 49(2)]
- (2) **Cost of acquisition of shares received during the process of conversion of bonds or debentures, debenture stock or deposit certificates:** It is possible that a person might have become the owner of

shares or debentures in a company during the process of conversion of bonds or debentures, debenture stock or deposit certificates referred under section 47(x).

In such a case, the cost of acquisition to the person shall be deemed to be that part of the cost of debentures, debenture stock, bond or deposit certificate in relation to which such asset is acquired by that person.

- (3) **Cost of acquisition of specified security or sweat equity shares:** Where the capital gain arises from the transfer of specified security or sweat equity shares referred to in section 17(2)(vi), the cost of acquisition of such security or shares shall be the fair market value which has been taken into account for perquisite valuation [Section 49(2AA)].
- (4) Where the capital asset, being rights of a partner referred to in section 42 of the Limited Liability Partnership Act, 2008, became the property of the assessee on conversion as referred to in clause (xiib) of section 47, the cost of acquisition of the asset shall be deemed to be the cost of acquisition to him of the share or shares in the company immediately before its conversion.
- (5) **Cost of acquisition of units acquired under consolidated scheme of Mutual Fund:** The cost of acquisition of the units acquired by the assessee in consolidated scheme of mutual fund in consideration of transfer referred in section 47(xviii) shall be deemed to be the cost of acquisition to him of the units in the consolidating scheme of mutual fund [Section 49(2AD)].
- (6) **Cost of acquisition of equity shares received at the time of conversion of preference shares:** Cost of acquisition of the equity share of a company, which became the property of the assessee in consideration of transfer referred to in section 47(xb), shall be deemed to be that part of the cost of the preference share in relation to which such asset is acquired by the assessee [Section 49(2AE)].
- (7) **Cost of acquisition of units acquired under consolidated plan of Mutual Fund scheme:** Cost of acquisition of the unit or units in the consolidated plan of the scheme of the mutual fund in consideration of a transfer referred to in section 47(xix) shall be deemed to be the cost of acquisition to him of the unit or units in consolidating plan of the scheme of the mutual fund [Section 49(2AF)].
- (8) Where the capital asset, being shares as referred to in clause (xx) of section 47, became the property of the assessee, the cost of acquisition of such asset shall be deemed to be the cost of acquisition to it of the interest in the joint venture referred to in the said clause [Section 49(2AI)].
- (9) **Cost of acquisition of shares received in the resulting company, in the scheme of demerger:** In the case of a demerger, the cost of acquisition of the shares in the resulting company shall be the amount which bears to the cost of acquisition of shares held by the assessee in the demerged company the same proportion as the net book value of the assets transferred in a demerger bears to the net worth of the demerged company immediately before such demerger [Section 49(2C)].

$$\text{Cost of acquisition of shares in the resulting company} = \frac{B}{A \times C}$$

A = Cost of acquisition of shares held in the demerged company

B = net book value of the assets transferred in a demerger.

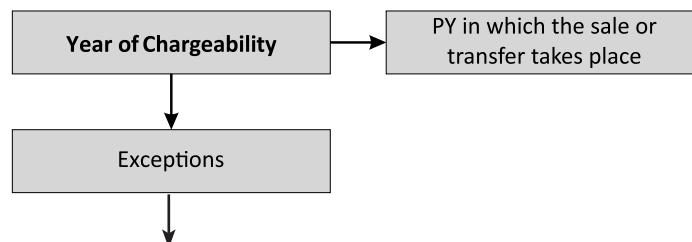
C = net worth of the demerged company, i.e., the aggregate of the paid up share capital and general reserves as appearing in the books of account of the demerged company immediately before the demerger.

- (10) **Cost of acquisition of the shares held in the demerged company:** The cost of acquisition of the original shares held by the shareholder in the demerged company shall be deemed to have been reduced by the amount as so arrived under the sub-section (2C) [Section 49(2D)].

- (11) **Cost of acquisition of property subject to tax under section 56(2)(x):** Where the capital gain arises from the transfer of such property which has been subject to tax under section 56(2)(vii)/(viii)/(x), the cost of acquisition of the property shall be deemed to be the value taken into account for the purposes of section 56(2)(vii)/(viii)/(x) [Section 49(4)].
- (12) **Cost of acquisition of capital asset, being share in the project referred under section 45(5A):** Where the capital gain arises from the transfer of a capital asset, being share in the project, in the form of land or building or both, referred to in section 45(5A) which is chargeable to tax in the previous year in which the completion of certificate for the whole or part of the project is issued by the competent authority, the cost of acquisition of such asset, shall be the amount which is deemed as full value of consideration in that sub- section, i.e., stamp duty value on the date of issue of certificate of completion plus cash consideration. However, this does not apply to a capital asset, being share in the project which is transferred on or before the date of issue of said completion certificate [Section 49(7)].
- (13) **Cost of acquisition of a capital asset which was used by the assessee as an inventory:** Where the capital gain arises from the transfer of a capital asset which was used by the assessee as inventory earlier before its conversion into capital asset, the cost of acquisition of such capital asset shall be deemed to be the fair market value of the inventory as on the date on such conversion determined in the prescribed manner. [Section 49(9)]
- (14) **Cost of acquisition of an electronic gold receipt:** Where an electronic gold receipt is transferred as consideration, cost of acquisition for purpose of such transfer shall be deemed to be cost of gold in hands of person in whose name such receipts was issued by vault manager.
- (15) **Cost of acquisition of gold released against electronic gold receipt (EDR):** Where gold released against EDR become property of the person, cost of acquisition for purpose of such transfer shall be deemed to be cost of such EDR in hands of such person.

YEAR OF CHARGEABILITY AS “CAPITAL GAINS”

Capital gains shall be chargeable in the previous year in which the transfer takes place even if the consideration is received or realized in a later year. Some exceptions to this Rule are as under:



1. Insurance Receipts [Section 45(1A)]
2. Amount received under a Unit Linked Insurance Policy [Section 45(1B)]
3. Conversion or treatment of a capital asset as stock-in-trade [Section 45(2)]
4. Transfer of beneficial interest in any securities [Section 45(2A)]
5. Introduction of capital asset as capital contribution [Section 45(3)]
6. Receipt of money or capital assets from specified entity [Section 45(4)] Replaced by Finance Act, 2021
7. Compensation on compulsory acquisition [Section 45(5)]
8. Taxability of Capital Gains in case of Specified Agreement [Section 45(5A)].

(i) Insurance Receipts [Section 45(1A)]

Where any person receives at any time during any previous year any money or other assets under an insurance from an insurer on account of damage to or destruction of any capital asset, as a result of

- flood, typhoon, hurricane, cyclone, earthquake or other convulsion of nature; or
- riot or civil disturbance; or
- accidental fire or explosion; or
- action by an enemy or action taken in combating an enemy (whether with or without declaration of war), then,

any profits or gains arising from receipt of such money or other assets shall be chargeable to income-tax under the head "Capital gains" and shall be deemed to be the income of such person for the previous year in which such money or other asset was received and for the purpose of section 48, value of any money or the FMV of other assets on the date of such receipt shall be deemed to be the full value of consideration received or accruing as a result of the transfer of such capital asset.

Summarized Provision	
Remarks	Taxability
➤ Compensation received is due to Flood, Hurricane, cyclone, earthquake, riots, accidental fire, explosion, Action by enemy	➤ Sale consideration = Amount of compensation ➤ Taxable in the year of receipt. ➤ Compensation received for other than any other reason is not taxable.

CASE 4		
If XP owns a house property which was acquired on 1.5.1979 for Rs. 3,00,000 and it was destroyed by flood on 03.04.2024 and received Rs.50,00,000 insurance compensation during the p/y 25/26. The market value of the said property as on 1.4.2001 was Rs.15,00,000. Compute the capital gain for the AY 2026-27.		
Solution: Statement showing computation of Capital Gain for AY 2026-27		
Particulars	Amount (Rs)	Amount (Rs)
Sale consideration (In this case, Sale consideration= Amt of compensation)		50,00,000
Less: Indexed Cost of Acquisition (If Acquisition before 1.4.2001) ICOA = [[COA or FMV^ as on 1.4.2001 whichever is higher)*(CII for the year of Transfer/100)]	(3,00,000 or 15,00,000 whichever is higher) i.e. 15,00,000 = (15,00,000)*(363/100)	(54,45,000)
LTCG/(Loss)		(4,45,000)

(ii) Amount received under a Unit Linked Insurance Policy [Section 45(1B)]

Notwithstanding anything contained in sub-section (1), where any person receives at any time during any previous year any amount under a unit linked insurance policy, to which exemption under clause (10D) of section 10 does not apply on account of the applicability of the fourth and fifth proviso thereof,

including the amount allocated by way of bonus on such policy, then, any profits or gains arising from receipt of such amount by such person shall be chargeable to income-tax under the head "Capital gains" and shall be deemed to be the income of such person of the previous year in which such amount was received and the income taxable shall be calculated in such manner as may be prescribed.

(iii) Conversion or treatment of a capital asset as stock-in-trade [Section 45(2)]

A person who is the owner of a capital asset may convert the same or treat it as stock-in-trade of the business carried on by him. As noted above, the above transaction is a transfer.

As per section 45(2), notwithstanding anything contained in section 45(1), being the charging section, the profits or gains arising from the above conversion or treatment will be **chargeable to income-tax as his income of the previous year in which such stock-in-trade is sold or otherwise transferred by him** and for the purpose of section 48, the **fair market value of the asset on the date of such conversion** or treatment shall be deemed to be the full value of the consideration received as a result of the transfer of the capital asset.

Income arising on account of Stock in trade:

1. Business Income = Sale price of stock in trade (-) FMV on the date of conversion
2. Capital Gain= FMV on the date of conversion (-) Cost/Indexed cost of acquisition / improvement
[Indexation benefit would be considered in relation to the year of conversion of capital asset into stock in trade.
3. Both Capital Gains and Business income are chargeable to tax in the year in which stock-in-trade is sold or otherwise transferred.

CASE 5

NX invested Rs. 1,65,000 on the purchase of gold ornaments on 4.1.2005 for investment purpose. On 12.1.2022, he started a Jewellery business and converts his investment into stock in trade. Moreover, the Market value as on date of conversion was Rs. 5,00,000. These ornaments were sold in PY 2025-26 for Rs. 5,50,000. Compute the capital gain and business income.

Solution:

Year of Acquisition	:	2004-05 (i.e. 4.1.2005)
Year of Conversion	:	2021-22 (i.e. on 12.1.2022)
Year of taxability	:	2025-26 (In the year in which stock is transferred)
Sale Consideration	:	FMV as on date of conversion

Statement showing computation of Capital Gain

Particulars		Amount (Rs)
Sale consideration (In this case, Sale consideration= FMV as on date of conversion)		5,00,000
Less: Indexed Cost of Acquisition (If Acquisition on or after 1.4.2001)		(4,62,876)
ICOA = [(COA)*(CII for the year of Conversion /CII for Year of Acquisition)]	= [(165000)*(317/113)	
LTCG		37,124

Computation of Business Income

Sale consideration	5,50,000
Less: FMV as on date of conversion	5,00,000
Business Income	50,000

CASE 6

Mr. X converts his capital asset acquired for an amount of Rs 55,000 in June, 2003 into stock-in-trade in the month of November, 2019. The fair market value of the asset on the date of conversion is Rs 4,50,000. The stock-in-trade was sold for an amount of Rs 7,50,000 in the month of September, 2025. Compute the capital gain and business income.

Solution:

Year of Acquisition	:	2003-04 (i.e. June 2003)
Year of Conversion	:	2019-20 (i.e. November 2019)
Year of Taxability	:	2025-26 (In the year in which stock is transferred)
Sale Consideration	:	FMV as on date of conversion

Statement showing computation of Capital Gain

Particulars		Amount Rs
Sale consideration (In this case, Sale consideration= FMV as on date of conversion)		4,50,000
Less: Indexed Cost of Acquisition (If Acquisition on or after 1.4.2001)		(1,45,826)
ICOA = [(COA)*(CII for the year of Conversion /CII for Year of Acquisition)]	= [(55000)*(289/109)	
LTCG		3,04,174

Computation of Business Income

Sale consideration	7,50,000
Less: FMV as on date of conversion	4,50,000
Business Income	3,00,000

Practice Question

Mr. X converts his plot of land purchased in July, 2004 for Rs 80,000 into stock-in-trade on 31st March, 2022. The fair market value as on 31.3.2022 was Rs 3,00,000. The stock-in-trade was sold for Rs 3,25,000 in the month of January, 2026. You are required to compute business income and Capital gain for the AY 2026-27. Details of CII are as below:

Cost Inflation Index: F.Y. 2004-05:113; F.Y. 2021-22: 317.

[Answer: LTCG=Rs 75,575, Business Income=Rs 25,000]

(iv) Transfer of beneficial interest in any securities [Section 45(2A)]

As per section 45(2A), where any person has had at any time during the previous year any beneficial interest in any securities, then, any profits or gains arising from the transfer made by the Depository or participant of such beneficial interest in respect of securities shall be chargeable to tax as the income of the beneficial owner of the previous year in which such transfer took place and shall not be regarded as income of the depository who is deemed to be the registered owner of the securities by virtue of section 10(1) of the Depositories Act, 1996 and for the purposes of section 48 and proviso to section 2(42A), the cost of acquisition and the period of holding of securities shall be determined on the basis of the first-in-first-out (FIFO) method.

(v) Introduction of capital asset as capital contribution [Section 45(3)]

Where a person transfers a capital asset to a firm, AOP or BOI in which he is already a partner/ member or is to become a partner/ member by way of capital contribution or otherwise, the profits or gains arising from such transfer will be chargeable to tax as income of the previous year in which such transfer takes place and for the purpose of section 48, the value of the consideration will be the amount recorded in the books of account of the firm, AOP or BOI as the value of the capital asset.

Year of Taxability	:	In the year of transfer
Taxability Status	:	In the hands of partners or members
Sale Consideration	:	Amount recorded in books of account

CASE 7

Mr. Raja has acquired assets in terms of gift from his father dated 12.5.2006 where FMV as on date was Rs 4,75,000. It is interesting to note that father had acquired such asset on 16.10.2003 for Rs.8,75,000 and it was given as capital contribution to Partnership firm in which Raja become partner on 5.6.2025. Market Value of asset as on such date was Rs.25,00,000 but it was recorded in the books of account at Rs.36,00,000. Compute the capital gain for the AY 2026-27.

Solution:

Year of Acquisition	:	2003-04 (i.e. 16.10.2003)
Year of taxability	:	2025-26 (In the year of transfer)
Sale Consideration	:	Amount recorded in books of account

Statement showing computation of Capital Gain

<i>Particulars</i>	<i>Amount (Rs)</i>
Sale consideration (In this case, Sale consideration= Amount recorded in books of account)	36,00,000
Less: COA	(8,75,000)
LTCG	(27,25,000)

CASE 8

DP & Co. has three partners D, P and N sharing profit or loss in the ratio 5:3:2. They admitted X as a new partner on 31/03/2025 for 1/5th share and X is to bring Rs 4,00,000 as his capital which he brought in form of furniture (earlier used in his home) Rs 1,00,000 immediately & further brought jewellery of which fair market value is Rs 2,50,000 on 2/04/2025 (however such assets was recorded in the books at Rs 1,80,000). X had acquired such jewellery for Rs 55,000 on 7/07/2001. Compute capital gain in the hands of Mr. X.

Solution:

Statement showing computation of Capital Gain

<i>Particulars</i>	<i>Amount (Rs)</i>
Sale consideration (In this case, Sale consideration = Amount recorded in books of account)	1,80,000
Less: Cost of Acquisition	(55,000)
LTCG/(Loss)	1,25,000

(vi) Receipt of money or capital assets from specified entity [Section 45(4)]

Notwithstanding anything contained in sub-section (1), where a specified person receives during the previous year any money or capital asset or both from a specified entity in connection with the reconstitution of such specified entity, then any profits or gains arising from receipt of such money by the specified person shall be chargeable to income-tax as income of such specified entity under the head "Capital gains" and shall be deemed to be the income of such specified entity of the previous year in which such money or capital asset or both were received by the specified person, and notwithstanding anything to the contrary contained in this Act, such profits or gains shall be determined in accordance with the following formula, namely:

$$A = B + C - D$$

Where,

A = income chargeable to income-tax under this sub-section as income of the specified entity under the head "Capital gains";

B = value of any money received by the specified person from the specified entity on the date of such receipt;

C = the amount of fair market value of the capital asset received by the specified person from the specified entity on the date of such receipt; and

D = the amount of balance in the capital account (represented in any manner) of the specified person in the books of account of the specified entity at the time of its reconstitution:

Provided that if the value of "A" in the above formula is negative, its value shall be deemed to be zero:

Provided further that the balance in the capital account of the specified person in the books of account of the specified entity is to be calculated without taking into account the increase in the capital account of the specified person due to revaluation of any asset or due to self-generated goodwill or any other self-generated asset.

Explanation 1:

- (i) the expressions "reconstitution of the specified entity", "specified entity" and "specified person" shall have the meanings respectively assigned to them in section 9B;

- (ii) “self-generated goodwill” and “self-generated asset” mean goodwill or asset, as the case may be, which has been acquired without incurring any cost for purchase or which has been generated during the course of the business or profession.

Explanation 2: for the removal of doubts, it is clarified that when a capital asset is received by a specified person from a specified entity in connection with the reconstitution of such specified entity, the provisions of this sub-section shall operate in addition to the provisions of section 9B and the taxation under the said provisions thereof shall be worked out independently.

Special point: Section 48: in case of value of any money or capital asset received by a specified person from a specified entity referred to in sub-section (4) of section 45, the amount chargeable to income-tax as income of such specified entity under that sub-section which is attributable to the capital asset being transferred by the specified entity, calculated in the prescribed manner”.

(vii) Compensation on compulsory acquisition [Section 45(5)]

Sometimes, a building or some other capital asset belonging to a person is taken over by the Central Government by way of compulsory acquisition. In that case, the consideration for the transfer is determined or approved by the Central Government or RBI. Such capital gains are chargeable as income of the previous year in which such compensation or part thereof is received.

Enhanced Compensation - Many times, persons whose capital assets have been taken over by the Central Government and who get compensation from the Government go to the Court of law for enhancement of compensation. If the court awards a compensation which is higher than the original compensation, the difference thereof will be chargeable to capital gains in the year in which the same is received from the government.

Cost of acquisition/improvement in case of enhanced compensation - for this purpose, the cost of acquisition and cost of improvement shall be taken to be nil.

Compensation received in pursuance of an interim order deemed as income chargeable to tax in the year of final order - In order to remove the uncertainty regarding the year in which the amount of compensation received in pursuance of an interim order of the Court, Tribunal or other authority is to be charged to tax, a proviso has been inserted after clause (b) to provide that such compensation shall be deemed to be income chargeable under the head ‘Capital gains’ in the previous year in which the final order of such Court, Tribunal or other authority is made.

Reduction of enhanced compensation - Where capital gain has been charged on the compensation received by the assessee for the compulsory acquisition of any capital asset or enhanced compensation received by the assessee and subsequently such compensation is reduced by any Court, Tribunal or any authority, the assessed capital gain of that year shall be recomputed by taking into consideration the reduced amount. This re-computation shall be done by way of rectification.

Death of the transferor- It is possible that the transferor may die before he receives the enhanced compensation. In that case, the enhanced compensation or consideration will be chargeable to tax in the hands of the person who received the same.

Initial compensation: Sale Consideration= Initial Compensation	➤ Taxable in year first received ➤ Indexation is available
Additional/Enhanced compensation: ➤ COA/COI = Nil ➤ Litigation exp, incidental exp for addition are deductible	➤ Taxable in the year of receipt ➤ Taxable in hands of recipient if received other than main recipient

CASE 9

Mr. AP acquired a house for Rs240000 in 1997-98. Upon his death, it was acquired by his son KP. The market value as on 1.4.2001 was Rs.250000. But Government has acquired on 15.3.2022 for Rs1260000 as it will be used by rail transport. Government paid compensation of Rs.1020000 on 25.3.2023 and balance of Rs.240000 on 15.4.2023. Mr KP filed suit for challenging compensation of Govt. and court ordered for giving additional compensation of Rs.400000 (Incurred an expense in connection with Rs.10000). It was received on 14.12.2025. Compute the Capital Gain.

Solution:

Computation of Initial Compensation for P/Y 2022-2023

<i>Particulars</i>		<i>Amount (Rs)</i>
Sale consideration (In this case, Sale consideration = Initial compensation)		12,60,000
Less: Indexed Cost of Acquisition If Acquisition before 1.4.2001 ICOA = [[COA or FMV^ as on 1.4.2001 Whichever)* (CII for the year of compulsory acquisition (22-23)/100]]	Cost = 240000 MV = 250000 Whichever is higher = 250000 = [(250000)*(331/100)]	(8,27,500)
LTCG		4,32,500

Computation of Additional/Enhanced Compensation

<i>Particulars</i>		<i>Amount (Rs)</i>
Sale consideration (In this case, Sale consideration = Additional compensation)		4,00,000
Less: ● Expense on transfer ● COA ● COI	10000 - -	(10,000)
LTCG		3,90,000

(viii) Taxability of Capital Gains in case of Specified Agreement [Section 45(5A)]

In case of an assessee being individual or Hindu undivided family, who enters into a specified agreement for development of a project, the capital gain arising from such transfer shall be chargeable to income-tax as income of the previous year in which the certificate of completion for the whole or part of the project is issued by the competent authority.

Full value of consideration: for this purpose, the stamp duty value of his share, being land or building or both, in the project on the date of issuing of said certificate of completion as increased by any consideration received in cash (with effect from 01st April 2024, consideration received in cash or by

cheque or by draft or by any other mode), if any, shall be deemed to be the full value of the consideration received or accruing as a result of the transfer of the capital asset.

Non-applicability of the beneficial provision: It may, however, be noted that these beneficial provisions would not apply, where the assessee transfers his share in the project on or before the date of issue of said completion certificate and the capital gains tax liability would be deemed to arise in the previous year in which such transfer took place. In such a case, full value of consideration received or accruing shall be determined by the general provisions of the Act.

Meaning of certain terms:

Competent authority: The authority empowered to approve the building plan by or under any law for the time being in force.

Meaning of Specified Agreement: Specified agreement means the registered agreement in which a person owing land or building or both, agrees to allow another person to develop a real estate project on such land or building or both, in consideration of a share, being land or building or both in such project, whether with or without payment of part of the consideration in cash.

Stamp duty value: The value adopted or assessed or re-assessable by any authority of Government for the purpose of payment of stamp duty in respect of an immovable property being land or building or both.

CASE 10

Mr. J purchased a residential plot for Rs. 32,50,000 on first of July 1998. Fair Market Value as on 1.4.2001 was Rs. 96,50,000. Y Ltd (Builder) enters into registered Joint Development Agreement with Mr. J on 1.7.2019 and paid Rs. 1,25,00,000. Company will construct 6 residential units on a plot of land and will give 3 units to Mr. J Moreover the construction of all 6 units was completed and certificate of completion would also be issued by competent authority on dated 20.04.2025. The stamp duty of each flat on same date is Rs. 80,50,000. Later on, Mr. J sold his one flat to Mr. DP on 25th September 2025 for Rs. 1,32,50,000. You are required to compute capital gain for AY 2026-27.

Solution:

Date of transfer 1.7.2019 (i.e. Date of agreement) [PY2019-2020]

Year of taxability PY 2025-26 (i.e. 20.04.2025– Date of completion certificate received)

Statement showing computation of capital gain for AY 2026-27

Particulars		Amount (Rs.)
Sale Consideration (i.e. Stamp duty) $[(80,50,000 \times 3) + 1,25,00,000]$		3,66,50,000
Less:		
Indexed Cost of Acquisition: (If Acquisition before 1.4.2001) ICOA = $[(96,50,000) \times (289/100)] =$ $[(\text{COA or FMV}^* \text{ as on 1.4.2001 Whichever is higher}) \times (\text{CII for the year of Transfer (19-20)/100})]$	Cost=3250000 FMV=9650000 Whichever is higher=9650000	2,78,88,500
Long term Capital Gain		87,61,500

In the above case, the capital gain on sale of flats will be taxable as Short Term and the difference will be taxed at Slab Rates.

Sales Consideration of Flat	Rs. 1,32,50,000
Cost of Acquisition (Stamp Duty Value)	Rs. 80,50,000
Short Term Capital Gain	Rs. 52,00,000

CAPITAL GAINS FOR DEPRECIABLE ASSETS [SECTION 50]

Where the capital asset is an asset forming part of a block of assets in respect of which depreciation has been allowed, the provisions of sections 48 and 49 shall be subject to the following modification:

Where the full value of consideration received or accruing for the transfer of the asset plus the full value of such consideration for the transfer of any other capital asset falling within the block of assets during previous year exceeds the aggregate of the following amounts namely:

- expenditure incurred wholly and exclusively in connection with such transfer;
- WDV of the block of assets at the beginning of the previous year;
- the actual cost of any asset falling within the block of assets acquired during the previous year such excess shall be deemed to be the capital gains arising from the transfer of short-term capital assets;
- Where all assets in a block are transferred during the previous year, the block itself will cease to exist. In such a situation, the difference between the sale value of the assets and the WDV of the block of assets at the beginning of the previous year together with the actual cost of any asset falling within that block of assets acquired by the assessee during the previous year will be deemed to be the capital gains arising from the transfer of short-term capital assets;
- In a case where goodwill of a business or profession forms part of a block of asset for the assessment year beginning on the 1st day of April, 2020 and depreciation thereon has been obtained by the assessee under the Act, the written down value of that block of asset and short term capital gain, if any, shall be determined in such manner as may be prescribed. **[Inserted by Finance Act, 2021]**

Cost of acquisition in case of power sector assets [Section 50A]

With respect to the power sector, in case of depreciable assets referred to in section 32(1)(i), the provisions of sections 48 and 49 shall apply subject to the modification that the WDV of the asset [as defined in section 43(6)], as adjusted, shall be taken to be the cost of acquisition.

CASE 11: (Block is partly sold)

Mr. provides following information towards his WDV of assets as on 1.4. 2025 having rate of depreciation of 15%

Plant –A Rs. 1,00,000 and Plant B of Rs. 20,000. He has also purchased Plant C and Plant D for same rate of depreciation for Rs. 60,000 and Rs. 40,000 dated 15.4. 2025 and 15.9.2025 respectively. At the same time, he has sold plant A on 15.3. 2026 for Rs. 2,40,000. Compute the capital gain for AY 2026-27. Does your view change if Plant A has sold for Rs. 2,00,000?

Solution:

<i>Particulars</i>	<i>Amount (Rs.)</i>
Sale Consideration	2,40,000
Less:	
Opening WDV as on 1.4.2025 (100000+20000)	(120000)
Cost the acquisition during year (60000+40000)	(100000)
Short Term Capital Gain	20,000

Note: if Plant A has sold for Rs. 2,00,000, there will be no capital gain in the cited case as Sale consideration (Rs. 2,00,000) < Value of Block of assets (i.e. Opening + during the year purchase) (Rs. 2,20,000). At the same time, allowable depreciation shall be Rs20000. (i.e. 220000-200000) because still the block exist.

CASE 12 (Block is entirely sold)

Mr. provides following information towards his WDV of assets as on 1.4.2025 having rate of depreciation of 15%

Plant –A Rs. 1,00,000 and Plant B of Rs. 20,000. He has also purchased Plant C and Plant D for same rate of depreciation for Rs. 60,000 and Rs. 40,000 dated 15.4.2025 and 15.9.2025 respectively. At the same time, he has sold all the plants for Rs. 2,40,000 on 15.3.2026. Compute the capital gain for AY 2026-27. Does your view change if Plant A has sold for Rs.2,00,000?

Solution:

<i>Particulars</i>	<i>Amount (Rs.)</i>
Sale Consideration	2,40,000
Less	
Opening WDV as on 1.4.2025 (100000+20000)	(120000)
Cost the acquisition during year (60000+40000)	(100000)
Short Term Capital Gain	20,000

If Plant A has sold for Rs. 2,00,000?

Particulars	Amount (Rs.)
Sale Consideration	200000
Less	
Opening WDV as on 1.4.2025 (100000+20000)	(120000)
Cost the acquisition during year (60000+40000)	(100000)
Short Term Capital Loss	20,000

Note:

It is interesting to note that no depreciation shall be allowed as entire block gets empty (i.e. all plant have been sold)

Special provision for computation of capital gain arising from Market Linked Debenture or Unit of Special Mutual Fund or unlisted bond or an unlisted debenture [(Section 50AA)]:

Notwithstanding anything contained in clause (42A) of section 2 or section 48, where the capital asset—

- (a) is a unit of Specified Mutual Fund acquired w.e.f. 1/4/2023 or a Market Linked Debenture; or
- (b) is an unlisted bond or an unlisted debenture which is transferred or redeemed or matures w.e.f. 23/7/2024,

Amount of consideration received or accrued as result of transfer or redemption or maturity is reduced by:

- Cost of acquisition of the debenture or unit
- Expenditure incurred in connection with such transfer, redemption or maturity.

Such value of consideration shall be deemed to be capital gains arising from transfer of such short-term capital asset.

No deduction shall be allowed for amount paid on account of securities transaction tax.

Meaning of Market Linked Debenture: A security which has underlying principal component in form of debt security and returns are linked to market returns or other securities or indices or any security classified or regulated as market linked debentures by SEBI.

Meaning of “Specified Mutual Fund” means

- (a) a Mutual Fund by whatever name called, which invests more than sixty-five per cent of its total proceeds in debt and money market instruments; or
- (b) a fund which invests sixty-five per cent or more of its total proceeds in units of a fund referred to in sub-clause (a).

CAPITAL GAINS IN RESPECT OF SLUMP SALE [SECTION 50B]

Meaning of Slump Sale [Section 2(42C)]

‘Slump Sale’ means the transfer of one or more undertakings as a result of the sale for a lump sum consideration without values being assigned to the individual assets and liabilities in such sales. In other words it is a sale where the assessee transfers one or more undertaking as a whole including all the assets and liabilities as a going concern. The consideration is fixed for the whole undertaking and received by the transferor it is not fixed for each of the asset of the undertaking as a whole by way of such sale. Thus it may be noted that the undertaking as a whole or the division transferred shall be a capital asset.

- Any gains arising from the slump sale of one / more undertakings held for more than 36 months, shall be chargeable to tax as Long-Term Capital Gains in the previous Year in which the slump sale was effected.
- Any gains arising from the slump sale of one / more undertakings held for less than 36 months, shall be chargeable to tax as Short-Term Capital Gains in the previous Year in which the slump sale was effected.

In relation to capital assets being an undertaking or division transferred by way of such slump sale,—

- (i) the “net worth” of the undertaking or the division, as the case may be, shall be deemed to be the cost of acquisition and the cost of improvement for the purposes of sections 48 and 49 and no regard shall be given to the provisions contained in the second proviso to section 48;
- (ii) fair market value of the capital assets as on the date of transfer, calculated in the prescribed manner, shall be deemed to be the full value of the consideration received or accruing as a result of the transfer of such capital asset. [Inserted by Finance Act, 2021]

Every assessee, in the case of slump sale, shall furnish in the prescribed form a report of an accountant as defined indicating the computation of the net worth of the undertaking or division, as the case may be, and certifying that the net worth of the undertaking or division, as the case may be, has been correctly arrived at in accordance with the provisions of this section. **[Amended by Finance Act, 2020]**

Meaning of Certain Terms:

Net Worth: Aggregate value of total assets of the undertaking or division **as reduced by** the value of liabilities of such undertaking or division as appearing in the books of account. **However, any change in the value of assets on account of revaluation of assets shall not be considered for this purpose:**

Aggregate value of total assets of undertaking or division:

In the case of depreciable assets: The written down value of block of assets determined in accordance with the provisions contained in sub-item (C) of item (i) of section 43(6)(c);

In the case of capital asset being goodwill of a business or profession, which has not been acquired by the assessee by purchase from a previous owner, nil **[Inserted by Finance Act, 2021]**

Capital asset in respect of which 100% deduction is claimed: In case of capital assets in respect of which the whole of the expenditure has been allowed or is allowable as a deduction under section 35AD: **Nil;**

For all other assets: Book value

CIT v/s Equinox Solution Pvt. Ltd (SC): If an undertaking is sold as a running business with all assets and liabilities for a slump price, consideration in respect of depreciable assets cannot be assessed as a short-term capital gain u/s 50(2).

The Apex Court, however, opined that where the entire running business with assets and liabilities stood transferred in one go, such sale could not be treated as short-term capital assets and is in the nature of long term capital gains.

Illustration 5:

Mohan is the proprietor of photo film Agencies which has 2 units, one for printing and the other for binding. He transferred, by way of slump sale, one of the units (unit 2) on 1st April, 2025, for a total consideration of INR 50,00,000. Expenses on sale were 0.5%. This unit was started in the year 2015-16

Appended below is the Balance Sheet:

<i>Particulars</i>	<i>Unit 1</i>	<i>Unit 2</i>
Building	7,50,000	15,00,000
Machinery	5,00,000	10,00,000
Debtors	2,50,000	5,00,000
Other Assets	1,00,000	2,00,000
	16,00,000	32,00,000
Capital		40,00,000
Revaluation Reserve		2,50,000
Bank Loan		3,50,000
Creditors		2,00,000
		48,00,000

The Revaluation Reserve was created by upward revaluation of Buildings in unit 2. Other Assets of unit 2 include, INR 1,00,000 of patents acquired on 1st July, 2021, on which no depreciation has been charged. 75% of Creditors and 25% of Bank Loan is for unit 2.

Compute the Capital Gains on the slump sale for AY 2026-27.

Solution:

The Capital Gains from Slump Sale are as under:

<i>Particulars</i>	<i>(Rs.)</i>
Full Value of Consideration	50,00,000
Expenses on Sale	(25,000)
Net Sale Consideration	49,75,000
Net Worth	(26,44,141)
Long Term Capital Gains	23,30,859

Working Notes

- (1) The first note details the computation of net worth for unit 2

	<i>Net Worth</i>	<i>Amount (Rs.)</i>	<i>Amount (Rs.)</i>
	Buildings	15,00,000	
Less :	Revaluation Reserve	(2,50,000)	

	Net for Buildings		12,50,000
	Machinery		10,00,000
	Debtors		5,00,000
	Other Assets		1,00,000
	Patents		23,731
	Total Assets		28,73,731
Less:	Creditors	1,50,000	
	Bank Loan	87,500	
	Total Liabilities		(2,37,500)
	Net Worth		26,36,231

(2) The second note details the valuation of WDV of patents

<i>Patents</i>	<i>Amount (Rs.)</i>
Opening Block	1,00,000
Depreciation Y1	(25,000)
Written Down Value EOY1	75,000
Depreciation Y2	(18,750)
Written Down Value EOY2	56,250
Depreciation Y3	(14,063)
Written Down Value EOY3	42,188
Depreciation Y4	(10,547)
Written Down Value EOY4	31,641
Depreciation Y5	7910
Written down Value EO5	23731

COMPUTATION OF CAPITAL GAIN IN REAL ESTATE TRANSACTION [SECTION 50C]

Section 50C makes a special provision for determining the full value of consideration in cases of transfer of immovable property. It provides that where the consideration declared to be received or accruing as a result of the transfer of land or building or both, is less than the value adopted or assessed by any authority of a State Government (i.e., “stamp valuation authority”) for the purpose of payment of stamp duty in respect of such transfer, the value so adopted or assessed shall be deemed to be the full value of the consideration, and capital gains shall be computed on the basis of such consideration under Section 48 of the Income-tax Act, Provided that where the stamp duty value does not exceed 110% of the consideration received or accruing as a result of the transfer, the consideration so received or accruing as a result of the transfer shall, for the

purposes of computing profits and gains from transfer of such asset, be deemed to be the full value of the consideration.

Rationalization of section 50C in case sale consideration is fixed under agreement executed prior to the date of registration of immovable property.

- Section 50C of the Act has been amended in line with section 43CA to provide that where the date of the agreement fixing the amount of consideration and the date of registration for the transfer of the capital asset are not the same, the value adopted or assessed or assessable by the stamp valuation authority on the date of agreement may be taken for the purposes of computing full value of consideration for such transfer.
- It is further provided that this provision shall apply only in a case where the amount of consideration referred to therein, or a part thereof, has been received by way of an account payee cheque or account payee bank draft or by use of electronic clearing system through a bank account or through such other prescribed electronic mode as may be prescribed on or before the date of the agreement of transfer of such immovable property.

Summarized Provision [Section 50C]

Applicability of section	Capital asset (being land or building or both is transferred)
Taxability	A. Value adopted/assessed/assessable by the stamp valuation authority B. 110% of actual consideration
A>B	Sale Consideration = Value adopted/assessed/assessable by the stamp authority
A<B	Sale Consideration = Actual consideration

CASE 13

Mr. Kaka has a self-occupied house property acquired 10 months ago for Rs 5,00,000. He sold such property for Rs 6,00,000 to Dada. Stamp duty authority for the purpose of levying stamp duty adopted value of Rs 6,25,000. You are required to compute the capital gain for AY 2026-27. Does your view towards taxability change if stamp duty adopted value will be Rs. 675000?

Solution:

(If value adopted for stamp duty is Rs. 6,25,000)

Nature of Capital Asset	:	House Property
Value adopted for stamp duty	:	Rs. 6,25,000
Actual consideration	:	Rs. 6,00,000

Computation of Sale consideration

A. Value adopted/assessed/assessable by the stamp valuation authority	6,25,000
B. 110% of actual consideration (110% * 6,00,000)	6,60,000
A<B, Hence, Sale Consideration = Actual consideration	= Rs 6,00,000

Computation of Capital gain for AY 2026-27

Particulars	Amount (Rs.)
Sale consideration	6,00,000
Less:	
Expense on transfer	-
Cost of Acquisition	5,00,000
Short Term Capital Gain	1,00,000

(If value adopted for stamp duty is Rs. 6,75,000)

Nature of Capital Asset : House Property

Value adopted for stamp duty : Rs. 6,75,000

Actual consideration : Rs. 6,00,000

Computation of Sale consideration

C. Value adopted/assessed/assessable by the stamp valuation authority	6,75,000
D. 110% of actual consideration (110% * 6,00,000)	6,60,000

A>B, Hence, Sale Consideration = Value adopted by Stamp Value authority = Rs. 6,75,000

Computation of Capital gain for AY 2026-27

Particulars	Amount (Rs.)
Sale consideration	6,75,000
Less:	
Expense on transfer	-
Cost of Acquisition	5,00,000
Short Term Capital Gain	1,75,000

Reference to Valuation Officer:

Where

- the assessee claims before an Assessing Officer that the value so adopted or assessed or assessable by the authority for payment of stamp duty exceeds the fair market value of the property as on the date of transfer; and
- the value so adopted or assessed or assessable by such authority has not been disputed in any appeal or revision or no reference has been made before any other authority, court or high Court, the Assessing Officer may refer the valuation of the capital asset to a Valuation Officer as defined in section 2(r) of the Wealth-tax Act, 1957 [Section 50C(2)].
- Where the value ascertained by such Valuation Officer exceeds the value adopted or assessed or assessable by the Stamp authority:** The value adopted or assessed or assessable shall be taken as the full value of the consideration received or accruing as a result of the transfer [Section 50C(3)].

- **Consequences where the value is determined by the Valuation Officer:**

- The value determined by the Valuation Officer
- The value adopted or assessed or assessable for the purpose of stamp duty

Case	Sale Consideration
(A>B)	B (i.e. Value adopted or assessed or assessable for the purpose of stamp duty)
(A<B)	A (i.e. The value determined by the Valuation Officer)

Points to be considered:

- The amount of consideration, or a part thereof, has been received by way of an account payee cheque or account payee bank draft or by use of electronic clearing system through a bank account or through specified electronic modes, on or before the date of the agreement for transfer.
- As per section 155, If the value adopted for stamp duty purposes is revised in any appeal, revision or reference, the assessment earlier made shall be amended to re-compute the capital gains by taking the revised value as sale consideration.
- The value adopted or assessed or assessable by the stamp valuation authority on the date of agreement may be taken for the purposes of computing full value of consideration for such transfer.

CASE 14

Mr. Divyesh has a house property acquired on 14/10/2024 for Rs 8,00,000. He sold such property for Rs. 7,00,000 to Vatsal as on 16/08 2025. Stamp duty authority for the purpose of levying stamp duty adopted value of Rs. 12,00,000. Assessing Officer for computing capital gain on such transfer is taking sale consideration Rs. 12,00,000 u/s 50C. On request of Mr. Divyesh, the matter being referred to Valuation Officer and value determined by the Valuation Officer is Rs. 11,00,000. Compute capital gain for AY 2026-27. What will be the tax treatment if value determined by the Valuation Officer is Rs. 12,25,000.

Solution:

Nature of Capital Asset	:	House Property
Value adopted for stamp duty	:	Rs. 12,00,000
The value determined by the Valuation Officer	:	Rs. 11,00,000

Computation of Sale consideration

- The value determined by the Valuation Officer 11,00,000
 - The value adopted or assessed or assessable for the purpose of stamp duty 12,00,000
- A<B, Hence Sale Consideration=A (i.e. Value determined by Valuation officer) **11,00,000**

Computation of Capital gain for AY 2026-27

Particulars	Amount (Rs.)
Sale consideration	11,00,000
Less:	
Expense on transfer	-
Cost of Acquisition	8,00,000
Short Term Capital Gain	3,00,000

if value determined by the Valuation Officer is Rs. 12,25,000.

A.	The value determined by the Valuation Officer	12,25,000
B.	The value adopted or assessed or assessable for the purpose of stamp duty	12,00,000
A>B	Hence Sale Consideration= B (i.e. adopted for stamp duty)	12,00,000

Computation of Capital gain for AY 2026-27

<i>Particulars</i>	<i>Amount (Rs.)</i>
Sale consideration	12,00,000
Less:	
Expense on transfer	-
Cost of Acquisition	8,00,000
Short Term Capital Gain	4,00,000

CAPITAL GAIN ON TRANSFER OF UNLISTED SHARES IN A COMPANY [SECTION 50CA]

This Section is applicable if an assessee transfers shares in a company (other than quoted shares) at less than the fair market value of such share determined in accordance with prescribed manner. In such case, the FMV of such shares shall be deemed to be the full value of consideration for the purpose of computation of capital gain provided that the provisions of this section shall not apply to such transactions undertaken by certain class of persons and subject to such conditions as may be prescribed by CBDT.

FAIR MARKET VALUE TO BE FULL VALUE OF CONSIDERATION IN CERTAIN CASES [SECTION 50D]

Capital gains are calculated on transfer of a capital asset, as sale consideration minus cost of acquisition. In some recent rulings, it has been held that where the consideration in respect of transfer of an asset is not determinable under the existing provisions of the Income-tax Act, then, as the machinery provision fails, the gains arising from the transfer of such assets is not taxable. Section 50D has been inserted to provide that fair market value of the asset on the date of transfer shall be deemed to be the full value of consideration if actual consideration is not attributable or determinable.

REFERENCE TO VALUATION OFFICER [SECTION 55A]

With a view to ascertaining the fair market value of a capital asset, the concerned Assessing Officer may refer the valuation of the capital asset to a Valuation Officer appointed by the Income-tax Department in the following cases:

- Where the value of the asset as claimed by the assessee is in accordance with the estimate made by a registered valuer (who works in a private capacity under a licence issued by the Board and his valuation is not binding on the Assessing Officer), but the Assessing Officer is of the opinion that the value so claimed is less than its fair market value (upto June 30, 2012) w.e.f 1st July 2012, the Assessing Officer is enabled to make a reference to the Valuation Officer where in his opinion the value declared by the assessee is at variance from the fair market value [Section 55A(a)].
- Where the Assessing Officer is of the opinion that the fair market value of the asset exceeds the value of the asset by more than Rs. 25,000 or 15% of the value claimed by the assessee whichever is less [Section 55A(b)(i) read with Rule 111AA].

- (c) Where the Assessing Officer is of the opinion that, having regard to the nature of an asset and relevant circumstances, it is necessary so to make a reference to the Valuation Officer [Section 55A(b)(ii)].

It may be noted that in a case where the assessee has opted for substitution of the cost of acquisition of an asset by its fair market value as on 1.4.1981, the fair market value as claimed by him may be higher than its actual fair market value. The provisions of Section 55A(a) and (b)(i) are, therefore, not applicable to such a case. It is, however, open to the Assessing Officer to make a reference to the Valuation Officer under Section 55A(b) (ii).

Note that in cases covered by Section 55A(a) and (b)(i) above it is the duty of the Assessing Officer to refer the valuation of the capital asset in question to the Valuation Officer attached to the department and not to decide the question of the valuation on his own.

Illustration 6:

A has the following incomes for the Previous Year 2025-26:

Particular	Rs.	
Business Income	(-- 30,000	(viz. business loss of 30,000)
Short-term capital gains	6,000	
Long-term capital gains	1,90,000	

A deposits Rs. 9,000 in public provident fund account. You are required to find out his tax liability for the Assessment Year 2026-27. [Assume Old Taxation Regime]

Solution:

Computation of net Income of Mr. A for the Assessment Year 2026-27

Particulars	Rs.	Rs.
Business Income		(-) 30,000
Capital gain		
– Short-term	6,000	
– Long-term	1,90,000	1,96,000
		1,66,000

Computation of Tax Liability for the assessment year 2026-27

Tax on Total income Nil

Notes:

- (1) If the net income (other than long-term capital gain) is below the amount of first slab which is not taxable (i.e., Rs. 2,50,000), then the long-term capital gain is to be reduced by the amount by which the total income (other than long-term capital gain) falls short of the maximum amount which is not chargeable to tax.
- (2) In this case, net income (other than long-term capital gain is (-) Rs. 24,000 which will be allowed to be carried forward, i.e., not to be deducted from Rs. 2,50,000. Therefore, long-term capital gain shall be reduced by Rs. 2,50,000. Thus, no tax shall be leviable on long-term capital gain.

ADVANCE MONEY RECEIVED [SECTION 51]

Section 51 provides that while calculating capital gains, the advance money retained by the assessee must go to reduce the cost of acquisition. However, if advance money has been received and retained by the previous owner and not the assessee himself, then the same will not go to reduce the cost of acquisition of the assessee.

Section 56(2)(ix) provides for the taxability of any sum of money, received as an advance or otherwise in the course of negotiations for transfer of a capital asset. Consequently, such sum shall be chargeable to income-tax under the head 'Income from other sources', if such sum is forfeited on or after 1st April, 2014 and the negotiations do not result in transfer of such capital asset.

In order to avoid double taxation of the advance received and retained, section 51 provides that where any sum of money received as an advance or otherwise in the course of negotiations for transfer of a capital asset has been included in the total income of the assessee for any previous year in accordance with section 56(2)(ix), then, such amount shall not be deducted from the cost for which the asset was acquired or the written down value or the fair market value, as the case may be, in computing the cost of acquisition.

However, any such sum of money forfeited before 1st April, 2014, will be deducted from the cost of acquisition for computing capital gains.

CASE 15

Mr. X acquired a house in Mumbai on 16.12.2012 for Rs. 12,50,000. After few years i.e. on March-2016, he entered into agreement to sell the property to Mr. Y for Rs. 20,50,000 and received Rs. 2,50,000 as an advance money and balance money to be paid within period of a month as per the terms of agreement subject to forfeiture if not paid within stipulated time. Mr. Y failed to make payment within stipulated time and consequently it was forfeited. Later on it was sold to Mr. Z for Rs. 25,50,000 by Mr. X and paid 2% of brokerage of sale. You are required to compute Capital Gain for AY 2025-26.

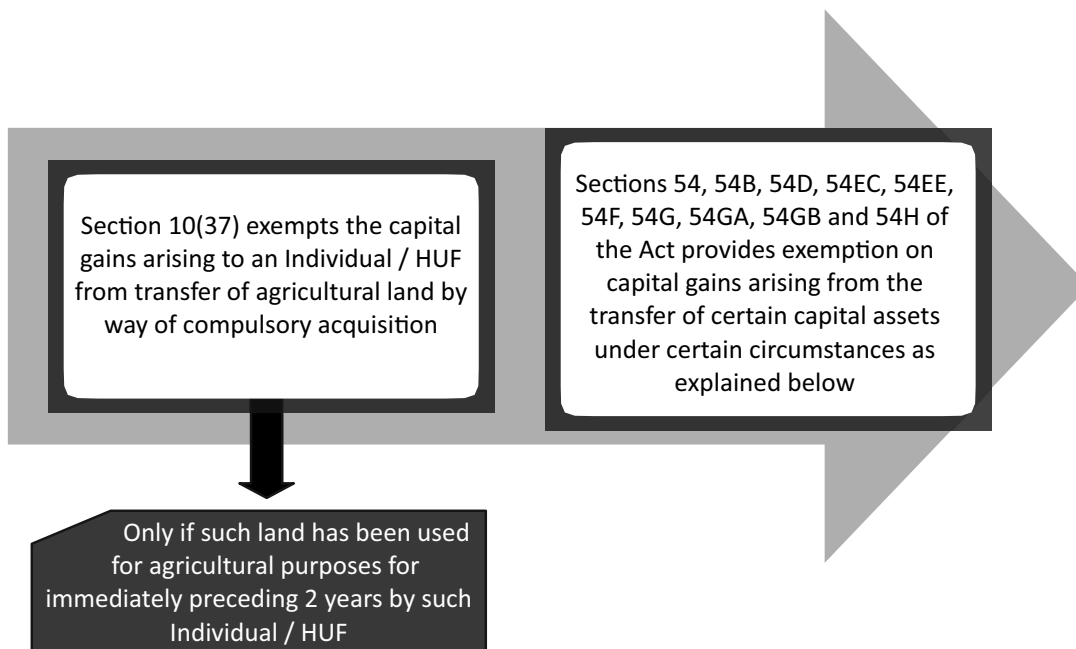
Solution:**Statement showing computation of capital gain for AY 2025-26**

<i>Particulars</i>	<i>Amount (Rs.)</i>
Sale Consideration	25,50,000
Less:	
Expense on transfer (2% of 25,50,000)	(51,000)
Indexed Cost of Acquisition (If Acquisition on or after 1.4.2001)	(22,68,750)
ICOA = [(COA)*(CII for the year of transfer /CII for Year of Acquisition)] ICOA = [(12,50,000)*(363/200)]	
Long Term Capital Gain	2,30,250

Treatment of Advance Money Forfeited

Forfeited amount of Rs. 2,50,000 by Mr. X shall be taxable under the head “Income From Other Sources” as per section 56 (2) (ix).

EXEMPTION FROM CAPITAL GAINS



Profit on sale of property used for Residential Purposes [Section 54]

Conditions for claiming exemption:

- Assessee: Individual or HUF
- Which Asset to transfer: Residential House (buildings or lands appurtenant there to)
- It must be a long-term capital asset
- Income from such house should be chargeable to tax under the head “Income from house property”

S. No.	Situation	Investment
1.	Where the amount of capital gains exceeds Rs. 2 crore	One Residential house in India should be – ● Purchased within 1 year before or 2 years after the date of transfer (or) ● Constructed within a period of 3 years after the date of transfer.
2.	Where the amount of capital gains does not exceed Rs. 2 crore	● Purchase two residential houses in India within 1 year before or 2 years after the date of transfer (or) ● Construct two residential houses in India within a period of 3 years after the date of transfer.

S. No.	Situation	Investment
3	Where the amount of capital gain exceeds Rs. 10 crore	With effect from Assessment Year 2024-25 the Finance Act 2023 has restricted the maximum exemption to be allowed under Section 54. In case the cost of the new asset exceeds Rs. 10 crores, the excess amount shall be ignored for computing the exemption under Section 54.

Where during any assessment year, the assessee has exercised the option to purchase or construct two residential houses in India, he shall not be subsequently entitled to exercise the option for the same or any other assessment year.

This implies that if an assessee has availed the option of claiming benefit of section 54 in respect of purchase of two residential houses in Jaipur and Jodhpur, say, in respect of capital gains of Rs. 1.50 crores arising from transfer of residential house at Bombay in the P.Y. 2021-22 then, he will not be entitled to avail the benefit of section 54 again in respect of purchase of two residential houses in future even though the capital gains arising on transfer of the residential house does not exceed Rs. 2 crore.

Amount of Exemption under section 54 will be lower of:

- Long term capital gains arising on transfer of residential house; or
- Amount invested in purchase/construction of new residential house or houses. (including the amount deposited in Capital Gains Deposit Account Scheme (CGAS) before due date of filing of return.

If till the date of filing the return of income, the LTCG on such transfer of the house is not utilised (in whole or in part) to purchase or construct another house, then the benefit of exemption can be availed by depositing the unutilised amount into Capital Gains Deposit Account Scheme (CGAS) with any scheduled bank.

If the amount deposited in the Capital Gains Account Scheme in respect of which the assessee has claimed exemption under section 54 is not utilised within the specified period for purchase/construction of the residential house, then the unutilised amount (for which exemption is claimed) will be taxed as income by way of long-term capital gains of the year in which the specified period of 2 years/3 years gets over.

If the new house is also transferred within 3 years from date of acquisition or construction, the cost of new house would be reduced by the capital gains exempted earlier under section 54.

Illustration 7:

Mr. Khan purchased a residential house in the previous year 2005-06 for Rs. 2 crores. The house property is sold for Rs. 11 crores in the previous year 2025-26 and the capital gain is invested in two residential house properties worth Rs. 4 crores each. Can he claim the benefit of section 54 in respect of both houses?

Solution:

Exemption under section 54 can be claimed in respect of capital gains arising on transfer of capital asset, being long-term residential house property. An assessee has an option to make investment in two residential house properties in India to claim section 54 exemption. This option can be exercised by the assessee only once in his lifetime provided the amount of long-term capital gain does not exceed Rs. 2 crores. Since, the gain arising in hands of Mr. Khan is Rs. 9 crores which is more than Rs. 2 crore, he cannot claim the benefit of section 54 by making investment in both the house properties. However, he can claim the benefit only in respect of one residential property invested.

Computation of Long Term Capital Gains (LTCG)

	<i>Particulars</i>	<i>Amount (Rs.)</i>
	Sale Consideration	11 Crores
Less	Cost of Acquisition	2 Crores
	Long Term Capital Gains (LTCG)	9 Crores
Less	Deduction u/s 54	4 Crores
	Taxable LTCG	5 Crores

Transfer of land used for Agricultural purposes [Section 54B]**Conditions for claiming exemption:**

- Assessee: Individual or HUF
- There should be a transfer of an urban agricultural land
- Asset must be either short term or long term capital asset
- Such land has been used for agricultural purposes for immediately preceding 2 years by such Individual or his parent or HUF
- He should purchase another agricultural land (urban or rural) within 2 years from the date of transfer
- If such investment is not made before the date of filing of return of income, then the capital gain has to be deposited under the CGAS
- Amount utilized by the assessee for purchase of new asset and the amount so deposited shall be deemed to be the cost of new asset.

Amount of Exemption:

- If cost of new agricultural land $\geq$ capital gains, entire capital gain is exempt.
- If cost of new agricultural land $<$ capital gains, capital gain to the extent of cost of new agricultural land is exempt.

If the new agricultural land is also transferred within 3 years from date of acquisition, the cost of land would be reduced by the capital gains exempted earlier (not applicable if the new land was rural).

Compulsory acquisition of lands and buildings [Section 54D]**Conditions for claiming exemption:**

- Assessee: Any Assessee
- There must be a compulsory acquisition of land & building or any right in land or building forming part of an industrial undertaking
- Such land & building should have been used for business purposes of the industrial undertaking for 2 years immediately preceding the date of transfer

- The assessee must purchase any another land / building / construct any building (for shifting or re-establishing the existing undertaking or setting up a new industrial undertaking) within 3 years from date of transfer
- If such investment is not made before the date of filing of return of income, then the capital gain has to be deposited under the CGAS. Amount utilized by the assessee for purchase of new asset and the amount so deposited shall be deemed to be the cost of new asset.

In such a case, if the cost of the new land & building is > the Capital Gains, the entire LTCG will be exempt, and if less, then the LTCG will be exempt only to the extent of the cost of new land & building.

If the new land & building is also transferred within 3 years from date of acquisition, the cost of such land & building would be reduced by the capital gains exempted earlier.

Capital Gains Exemption in case of investments is made in Specified Bonds [Section 54EC]

Conditions for claiming exemption:

- Assessee: Any Assessee.
- There should be a transfer of a long-term capital asset being land or building or both.
- Such asset can also be a depreciable asset held for more than 36 months.
- The capital gains arising from transfer of such asset should be invested in a long-term specified asset within 6 months from the date of transfer.
- Long-term specified assets would imply, bonds redeemable after 5 years issued on or after 1.4.2018 by national highways Authority of India (NHAI), or Rural Electrification Corporation Limited or, power finance Corporation Ltd., Indian Railway finance Corporation Limited or any other bond notified by central government in this behalf.
- The assessee should neither transfer nor convert / avail loan or advance with this bond as security for a period of 5 years from date of acquisition of such bonds, and in case that does happen before 5 years, the capital gain exempted earlier shall be taxed as long-term capital gain in that year.

In this case, the entire LTCG or amount invested in the specified bonds, whichever is lower, is exempt.

The maximum investment which can be made in notified bonds or bonds of NHAI and RECL, out of capital gains arising from transfer of one or more assets, during the previous year in which the original asset is transferred and in the subsequent financial year cannot exceed Rs. 50 Lacs.

Practical Questions (MCQs)

State with reason whether the following statements are true or false with regard to the provisions of the Income-tax Act, 1961 for the Assessment year 2026-27:

- (1) Capital gain of Rs. 75 lakh arising from transfer of long term capital assets will be exempt from tax if such capital gain is invested in the bonds redeemable after five years, issued by NHAI u/s 54 EC of the Act.

Answer : False : Because the maximum limit of investment in bond of NHAI u/s 54 EC, is Rs. 50 lakhs.

- (2) In order to enjoy exemption under section 54EC, the resultant long-term capital gains should be invested in specified bonds within a period of from the date of transfer.
 - (a) 36 Months
 - (b) 4 Months
 - (c) 6 Months
 - (d) 12 Months.

Answer: (c) 6 Months

- (3) Long-term capital gains on sale of a long-term capital asset in October, 2025 is Rs. 105 lakh. The assessee invested Rs. 50 lakh in REC bonds in March, 2026 and Rs. 55 lakh in NHAI bonds in May, 2026. The amount of exemption eligible under section 54EC is —

- (a) Nil (b) Rs. 50 lakh
(c) Rs. 55 lakh (d) Rs. 105 lakh.

Answer: (b) Rs. 50 lakh

- (4) Mr. Madan sold a vacant land for Rs. 120 lakhs on 10-10-2025. The cost of acquisition amounts to Rs. 20 lakhs. He deposited Rs. 50 lakhs in REC bonds in January 2026 and another Rs. 50 lakhs in March, 2026. The amount of capital gain liable to tax after deduction under section 54EC is :

- (a) Rs. 2 lakhs (b) Rs. 18 lakhs
(c) Rs. 102 lakhs (d) Rs. 52 lakhs

Answer: (d) Rs. 50 lakhs

Tax incentives for Start-ups [Section 54EE]

Conditions for claiming exemption:

- Assessee: Any Assessee
- Which asset to transfer: One or more original Assets
- Investment of Long-term Capital Gains in units of a specified fund (to finance start-ups in India) issued before 1st April, 2019 of such fund, as may be notified by the Central Government in this behalf
- Within 6 months from date of transfer
- Maximum Investment Allowed in any financial year or years is INR 50,00,000.

In such case, the entire LTCG or amount invested in the bonds, whichever is lower is exempt. Units so acquired should not be transferred for a period of 3 years, and if that does happen before 3 years, the capital gain exempted earlier shall be taxed as long-term capital gain in that year. Further, if the assessee takes any loan or advance on the security of such units, he shall be deemed to have transferred such units on the date on which such loan or advance is taken.

Capital gain on the transfer of certain capital assets not to be charged in case of investment in residential house [Section 54F]

Conditions for claiming exemption:

- Assessee: Individual or HUF
- There must be a transfer of a long-term capital asset other than a residential house
- The assessee should purchase 1 residential house situated in India within 1 year before OR 2 years after the date of transfer OR construct one residential house in India within 3 years from the date of transfer
- If such investment is not made before the date of filing of return of income, then the net sale consideration has to be deposited under the CGAS. Amount utilized by the assessee for purchase or construction of new asset and the amount so deposited shall be deemed to be the cost of new asset.

If the cost of the investment in a new residential house is > the net Sale Consideration, the entire LTCG is exempt, and if less than net Sale Consideration, then, LTCG is exempt proportionately (that is: LTCG * Investment in new house / net Sale Consideration).

There is also a condition, that the assessee should not own more than one residential house on the date of transfer and should not purchase any other residential house within 2 years OR construct any other residential

house within 3 years from date of transfer of original asset, and if that does happen then, the entire LTCG exempted earlier will be chargeable to tax as LTCG in that year.

Additionally, if the new house is transferred within 3 years of purchase, capital gains would arise on transfer and the LTCG exempt earlier would be taxable as LTCG in that year.

With effect from 01st April 2024, amount of exemption has been restricted to Rs. 10 crore. Finance Act 2023 provides that where the cost of new asset exceeds ten crore rupees, the amount exceeding ten crore rupees shall not be taken into account.

Illustration 8:

Under which section, the assessee has to reinvest the entire net consideration to claim full exemption for the long-term capital gains earned during a previous year —

- (a) Section 54EC (b) Section 54F
(c) Section 54GA (d) Section 54D.

Answer: Section 54F

Exemption of capital gain on transfer of assets of shifting of industrial undertaking from urban area to a Special Economic Zone [Section 54GA]

Conditions for claiming exemption:

Assessee: Any Assessee

The exemption is available to all categories of assesses in respect of capital gain arising on the transfer of fixed assets other than furniture and fittings of industrial undertaking effected in the course of shifting of such industrial undertaking to any Special Economic Zone.

The conditions for claiming exemptions are as under:

- (i) The transfer is effected in the course of or in consequence of shifting the undertaking from an urban area to any Special Economic Zone. The special Economic Zone may be developed in any urban area or any other area.
 1. Any other area means an area not declared as an urban area.
 2. 'urban Area' means any such area within the limits of a municipal corporation or municipality, as the Central Government may, having regard to the population, concentration of industries, need for proper planning of the area and other relevant factors, by general or special order, declare to be an urban area for the purposes of this sub-section.
 3. "Special Economic Zone" means each Special Economic Zone notified under the proviso to Sub-section (4) of Section 3 and Sub-section (1) of Section 4 of the Special Economic Zone Act, 2005 (including free Trade and Warehousing Zone) and includes an existing Special Economic Zone. [Section 2(zq) of the Special Economic Act, 2005].
- (ii) Asset transferred is machinery, plant, building, land or any right in building or land used for the business of industrial undertaking in an urban area;
- (iii) The capital gain arising on the asset transferred may be short-term or long-term capital gain. Normally, it will be short-term capital gain because most of the assets of the industrial undertaking will be depreciable assets;
- (iv) The capital gain is utilized within 1 year before or 3 years after the date of transfer for the specified purpose.

Specified purpose includes the following:

- (a) for purchase of new machinery or plant for the purpose of business of the Industrial undertaking in the Special Economic Zone to which the said undertaking is shifted;
- (b) acquisition of building or land or construction of building for the purposes of the assessee's business in the Special Economic Zone;
- (c) expenses on shifting of the old undertaking and its establishment to the Special Economic Zone; and
- (d) incurring of expenditure on such other purposes as specified by the Central Government for this purpose.

Capital Gain on Transfer of Residential Property (a house or a plot of land) [Section 54GB]

Who can claim exemption	An Individual or a Hindu undivided family.
Which specified asset is eligible	On transfer of a long term residential property (a house or a plot of land) if transfer takes place during April 1, 2012 and March 31, 2017. (in case of eligible start up, residential property can be transferred up to March 31, 2022. [Extended from 31st March 21 to 31st March 22 by Finance Act, 2021])
Which asset the taxpayer should acquire to get benefit of exemption	Equity shares of 25% of share capital or voting rights in an "eligible company."
What is the time-limit for acquiring the new assets	Equity shares in an "eligible company" should be acquired on or before the due date of furnishing of return of income under section 139(1). The "eligible company" should utilize this amount for the purchase of a "new asset" within one year from the date of subscription in equity shares.
how much is exempt	Investment in "new asset" by the eligible company net sale consideration x capital gain. Exemption cannot exceed capital gain.
It is possible to revoke the exemption	In the following cases, exemption will be taken back and the amount of exemption (or proportionate exemption) given earlier under section 54 GB will become long-term capital gain of the assessee (i.e. transferor of residential property). It shall be taxable in the year in which the assessee or the eligible company commits the following defaults- If the equity shares in the eligible company are sold or otherwise transferred by the assessee within 5 years from the date of acquisition. If the "new asset" is sold or otherwise transferred by the eligible company within 5 years from the date of acquisition. If the deposit account is not utilized fully or partly by the eligible company for purchasing the new asset within 1 year from the date of subscription in equity shares (by the assessee).

Extension of Time for Acquiring New Asset or Depositing or Investing Amount of Capital Gain [Section 54H]

This section states that where the transfer of the original asset is by way of compulsory acquisition under any law and the amount of compensation awarded for such acquisition is not received by the assessee on the date of such transfer, the period of acquiring the new asset by the assessee referred to in Sections 54, 54B, 54D, 54EC and 54F or for depositing or investing the amount of capital gain shall be extended. This extended period shall be reckoned from the date of receipt of such compensation.

TAX ON LONG-TERM CAPITAL GAINS IN CASE OF SPECIFIED SECURITIES [SECTION 112A]

Applicable on sale of equity share listed on a recognised Stock exchange or unit of equity oriented fund or unit of business trust, where such sale transaction is chargeable to securities transaction tax (STT).

Prior to 01.04.2018 any LTCG on sale of such specified securities was exempt under Section 10(38). This exemption has been withdrawn by the Finance Act, 2018 w.e.f. Assessment Year 2020-21 and a new section 112A is introduced in the Income-tax Act.

As per this new section, where the total income of an assessee, includes any LTCG income [which was earlier exempt under section 10(38) upto 31.03.2018] shall now be taxed at the rate of 10% on such capital gains exceeding Rs. 1,25,000 [excess will be taxable]. The benefit of indexation shall not be allowed on such LTCG. Deductions under Chapter VIA (section 80C to 80U) not to be allowed from such LTCG. Rebate of tax under section 87A not to be allowed from the tax payable on such LTCG.

As per Finance Act 2024, LTCG u/s. 112A shall be taxable @ 12.5% (instead of earlier 10%) for any transfer of Long Term Capital Assets covered u/s. 112A on or after 23.07.2024.

The exemption limit for Section 112A up to Rs. 100,000/- has been increased to Rs. 125,000/-.

The cost of acquisitions for computing LTCG in respect of a listed equity share acquired by the assessee before February 1, 2018, shall be deemed to be the higher of following:

- (a) The actual cost of acquisition of such asset; or
- (b) Lower of following :
 - (i) fair market value of such shares as on January 31, 2018; or
 - (ii) Actual sales consideration accruing on its transfer.

Note: The fair market value of listed equity share shall mean its highest price quoted on the stock exchange as on January 31, 2018.

Finance Act 2023 has provided that section 112(3) shall be omitted. It provides that where the total income of an assessee includes any income arising from the transfer of a long-term capital asset, the total income shall be reduced by the amount of such income and the rebate under section 88 shall be allowed from the income-tax on the total income as so reduced.

Illustration 9:

Mr. Raman is a salaried employee. In the month of January, 2014 He purchased 100 shares of X Ltd. @ Rs. 1,400 per share from Bombay Stock Exchange. These shares were sold through BSE in April, 2025 @ Rs. 2,600 per share. The highest price of X Ltd. share quoted on the stock exchange on January 31, 2018 was Rs. 1,800 per share. What will be the nature of capital gain in this case?

Solution

Shares were purchased in January, 2014 and were sold in April, 2025, i.e., sold after holding them for a period of more than 12 months and, hence, the gain will be long-term capital gain (LTCG). In the given case, shares are sold after holding them for a period of more than 12 months, shares are sold through recognized stock exchange.

The cost of acquisition of X Ltd. shares shall be higher of:

- a) Cost of acquisition, i.e., 1,40,000 ($1,400 \times 100$)
- b) Lower of:
 - i) Highest price quoted as on 31.1.2018. i.e., 1,80,000 ($1,800 \times 100$);
 - ii) Sales consideration, i.e., 2,60,000 ($2,600 \times 100$)

Thus, the cost of acquisition of shares shall be Rs. 1,80,000. Accordingly, Long-term capital gains in hands of Mr. Raman would be Rs. 80,000 (i.e., $2,60,000 - 1,80,000$). Since long-term capital gains doesn't exceed Rs. 1,25,000, nothing is taxable in hands of Mr. Raman.

TAX RATES**Short-term Capital Gains (STCG)**

- STCG is clubbed with Total Income and therefore charged to tax at normal rates. However, STCG on transfer of listed equity shares / unit of an equity-oriented fund / unit of a business trust, where STT has been paid, STCG is taxable @ 15% under section 111A for transfer of assets before 23/07/2024 and @ 20% for transfer of assets on or after 23/07/2024 .
- Further, short-term capital gains arising from transactions undertaken in foreign currency on a recognized stock exchange located in an International financial Services Centre (IFSC) would be taxable at a concessional rate of 15% even though STT is not leviable in respect of such transaction.
- Deductions under Chapter VI-A cannot be availed in respect of such short-term capital gains on equity shares of a company or units of an equity oriented mutual fund or unit of a business trust included in the total income of the assessee.
- (Unutilized) basic exemption limit can be exhausted against Short Term Capital Gains taxable u/s 111A for Resident Individual & Resident HUF
- Finance Act 2023 has provided that section 111A(3) shall be omitted. It provided that Where the total income of an assessee includes any income arising from the transfer of a long-term capital asset, the total income shall be reduced by the amount of such income and the rebate under section 88 shall be allowed from the income-tax on the total income as so reduced.

Finance Act, 2024 Update

The Finance Act, 2024 enacted several changes effective from FY 2024-25:

1. **New Holding Periods:** There will now be only two holding periods for asset classification: 12 months and 24 months. The government has removed the 36-month holding period.
2. **Listed Securities:** All listed securities with a holding period over 12 months will be treated as long-term.

- 3. Short-Term Capital Gains Tax:** The short-term capital gains tax on listed equity shares, equity-oriented fund units, and business trust units will rise from 15% to 20%. Other short-term assets will continue to be taxed at the applicable income tax slab rates.

These changes aim to simplify asset classification and increase short-term capital gains taxes. The comparison between old and new rates after enactment of Finance Act, 2024 are as follows:

Long Term Capital Gains (LTCG)

The tax rate for capital assets varies based on the asset type and holding period. Below are the applicable tax rates for Capital gains after, the revised rates from Budget 2024

Asset Type	STCG (Earlier)	STCG (Revised)	Holding Period	LTCG (Earlier)	LTCG (Revised)
Listed Stocks & Equity MFs/ETFs	15%	20%	12 months	10%	12.50%
Unlisted Shares	Slab rate	Slab rate	24 months	20% with indexation	12.50%
Foreign Shares	Slab rate	Slab rate	24 months	20% with indexation	12.50%
Debt MFs and ETFs	Slab rate	Slab rate	NA	Slab rate	Slab rate
Listed Bonds	Slab rate	Slab rate	12 months	10%	12.50%
REITs and InvITs	15%	20%	12 months	10%	12.50%
Physical Real Estate	Slab rate	Slab rate	24 months	20% with indexation	12.50%
Gold/Silver ETFs	Slab rate	Slab rate	12 months	Slab rate	12.50%
Gold (in Physical form)	Slab rate	Slab rate	24 months	20% with indexation	12.50%

Illustration 10:

- (1) Long-term capital gains on zero coupon bonds were chargeable to tax upto 22.07.2024 –
- @ 20% computed after indexation of such bonds
 - @ 10% computed without indexation of such bonds
 - Higher of (a) or (b)

(d) Lower of (a) or (b).

Answer: (d) Lower of (a) or (b).

- (2) Short-term capital gains arising from the transfer of equity shares in a company or units of an equity oriented fund or units of a business trust charged with security transaction tax are subject to income-tax w.e.f. 23.07.2024 at the rate of —

- (a) 10% (c) 15%
(b) 20% (d) normal rate.

Answer: (b) 20%

CASE STUDY 1

Mr. Kapoor (age 67 years and resident) is a retired person earning total pension of Rs. 1,00,000. He purchased gold in December, 2010 and sold the same in April, 2025. Taxable LTCG amounted to Rs. 2,80,000. What will be his tax liability for the A.Y. 2026-27?

Option 1 : Assessee has opted out of Section 115BAC

Option 2 : Assessee has not opted out of Section 115BAC

Solution: Computation of tax liability for the AY 2026-27 is as under:

Option 1 : Assessee has opted out of Section 115BAC

Gross Salary (pension income)	Rs. 1,00,000
Less: Standard deduction u/s 16(ia)	Rs. 50,000
Income under the head Salary	Rs. 50,000
LTCG on sale gold	Rs. 2,80,000
Total income	Rs. 3,30,000
Tax on LTCG u/s 112 on Rs. 30,000 @ 12.5%*	Rs. 3,750
Less : Rebate as per section 87A	Rs. 3,750
Tax after Rebate	NIL

*Resident individual above 60 years but below 80 years of age has basic exemption limit of Rs. 3,00,000. Which can be adjusted against LTCG of Rs. 2,80,000 but after the adjustment of salary income of Rs. 50,000. Hence, the balance LTCG taxable will come to Rs. 30,000 @ 12.5%.

Option 2: Assessee has not opted out of Section 115BAC

Computation of tax liability for the A/Y is as under :

Gross Salary (pension income)	Rs. 1,00,000
Less: Standard Deduction u/s 16 (ia)	(75,000)
Income under the head Salary	Rs. 25,000
LTCG on sale of gold	Rs. 2,80,000

Total income	Rs. 3,05,000
Tax on LTCG u/s 112 on Rs. 5,000 @ 12.5%*	Rs. 625
Less : Rebate as per section 87A	Rs. 625
Tax after Rebate	Nil
Add: health and Education Cess @ 4%	Nil
Tax Liability	Nil

* u/s 115BAC Basic exemption limit is 3,00,000 irrespective of age. Unutilised exemption limit of Rs. 3,00,000 - 25,000, i.e., Rs. 2,75,000, can be adjusted against LTCG of Rs. 2,80,000. Hence, the balance LTCG taxable will come to Rs. 5,000 @ 12.5%.

CASE STUDY 2

Mr. Gagan (age 69 years and non-resident) is a retired person earning total pension of Rs. 1,00,000 from Indian employer. He purchased a piece of land in Delhi in December, 2010 and sold the same in April, 2025. Taxable LTCG amounted to Rs. 2,30,000. What will be his tax liability for the year 2026-27 ?

Option 1 : Assessee has opted out of Section 115BAC

Option 2 : Assessee has not opted out of Section 115BAC

Solution :

Option 1 : Assessee has opted out of Section 115BAC

Computation of tax liability for the A.Y. 2026-27 is as under:

Gross Salary (pension income)	Rs. 1,00,000
Less: Standard deduction u/s 16 (ia)	(Rs. 50,000)
Income under the head Salary	Rs. 50,000
LTCG on sale of land	Rs. 2,30,000
Total income	Rs. 2,80,000
Tax on LTCG u/s 112 on Rs. 2,30,000 @ 12.5%*	Rs. 28,750
Less : Rebate as per section 87A (not available to non-resident)	NIL
Tax after Rebate	Rs. 28,750
Add : Health & education cess @ 4%	Rs. 1,150
Net tax payable	Rs. 29,900

*non-Resident individual (of any age) has basic exemption limit of Rs. 2,50,000. Which cannot be adjusted against LTCG of Rs. 2,30,000 but the same can be adjusted against salary income of Rs. 50,000. Hence, the whole amount of LTCG is taxable @ 12.5%.

Solution :

Option 2 : Assessee has not opted out of Section 115BAC

Computation of tax liability for the A.Y.2026-27 is as under :

Gross Salary (pension income)	Rs. 1,00,000
Less: Standard deduction u/s 16 (ia)	(75,000)
Income under the head Salary	Rs. 25,000
LTCG on sale of land	Rs. 2,30,000
Total income	Rs. 2,55,000
Tax on LTCG u/s 112 on Rs. 2,30,000 @ 12.5%*	Rs. 28,750
Less : Rebate as per section 87A	NIL
Tax after Rebate	Rs. 28,750
Add : health & Education cess @ 4%	Rs. 1,150
Net tax payable	Rs. 29,900

*non-Resident individual (of any age) has basic exemption limit of Rs. 3,00,000. Which cannot be adjusted against LTCG of Rs. 2,30,000 but the same can be adjusted against salary income of Rs. 25,000. Hence, the whole amount of LTCG is taxable @ 12.5%.

CASE STUDY 3

Priyanka furnishes the following data for the PY ended 31st Mar' 26.

- She had unlisted shares of XYZ Ltd., 1,00,000 in number, which she sold on 30th Jun'25 for INR 1,000 per share.
- The above shares were acquired as under:
- Gift from father: 50,000 shares on 3rd May' 99 (FMV on 1st April 2001 is INR 300 per share)
- Bonus Shares on 21st June 2009: 20,000 shares
- purchased 30,000 shares on 1st January 2011 @ INR 525 per share

Thereafter, she invested the proceeds to buy a residential house at INR 4,00,00,000 on 3rd July'25 and she was already owing a residential house prior to the purchase of this one.

You are required to compute the taxable capital gains.

Solution:

	<i>Particulars</i>	<i>Number</i>	<i>Rate per Share</i>	<i>Amount</i>	<i>Date</i>
	Full Value of Consideration	1,00,000	1,000	10,00,00,000	30th Jun'25
Less:	COA				
	Gift from father	50,000	300	1,50,00,000	3rd May'99
	Bonus	20,000	0	--	21st Jun'09
	Purchased	30,000	525	1,57,50,000	1st Jan'11
	Total COA			3,07,50,000	
	LTCG			6,92,50,000	
	New Residential house			4,00,00,000	
	LTCG exempt			2,77,00,000	
	Taxable LTCG			4,15,50,000	

Note:

- The bonus Shares were granted after 1st April, 2001 and hence the cost of acquisition is Nil.
- for the shares gifted by her father prior to 1st Apr'01, the FMV as on 1st Apr'01 would be considered as the Cost of Acquisition
- COA for the gifted shares therefore is $50,000 \times 300 = 1.5\text{cr}$
- COA for the acquired shares is $30,000 \times 525 = 1.575\text{cr}$
- In the case above the necessary conditions u/s 54F have been fulfilled and therefore she is entitled to a proportionate exemption from LTCG (i.e., $\text{INR } 4 \text{ Crores} / \text{INR } 10 \text{ Crores} \times 6,92,50,000$).

CASE STUDY 4

Mrs. Shanti Devi, a resident individual, sold her residential property on 18th Aug' 25 for INR 1,11,00,000. She had purchased the same for INR 25,00,000 on 3rd May 2006. She paid INR 1,00,000 towards brokerage for the sale. The stamp duty valuation was INR 100,00,000.

She bought another property for INR 20,00,000 on 14th Dec'25 and deposited another INR 5,00,000 on 21st Sept'25 in the capital gain deposit scheme with SBI for construction of an additional floor in the property.

She also deposited INR 5,00,000 on 30th Nov' in the NHAI Bonds. Compute the Capital Gains and Tax Liability. Assuming the assessee has not opted for section 115BAC.

Solution :

<i>Particulars</i>	<i>INR</i>
Full Value of Consideration	1,11,00,000
Brokerage	1,00,000
Net Sale Consideration	1,10,00,000
Less: Indexed COA [25 lakh *376/122]	(77,04,918)
LTCG	32,95,082
Exemption u/s 54	(25,00,000)
Exemption u/s 54EC	(5,00,000)
Taxable LTCG (Total Income)	2,95,082
Tax payable	59,016

Computation of Capital Gains without Indexation as per Finance Act, 2024

Particulars	INR
Full Value of Consideration	1,11,00,000
Brokerage	1,00,000
Net Sale Consideration	1,10,00,000
Less: COA	25,00,000
LTCG	85,00,000
Exemption u/s 54	25,00,000
Exemption u/s 54EC	5,00,000
Taxable LTCG (Total Income)	55,00,000
Tax payable @ 12.5% (excluding Higher Education Cess)	6,87,500

Notes:

- As per Section 50C, in case the actual sale consideration is less than the stamp duty value, the stamp duty valuation would be the full value of the consideration.
- Exemptions u/s 54 are towards purchase of another house within 2 years of date of transfer and Deposit in Capital Gains Accounts Scheme (CGAS) on or before the due date of filing return of Income.
- Exemption u/s 54EC is towards investment in specified bonds (NHAI) within 6 months from date of transfer.
- In this case, the tax payable shall be restricted to Rs. 59,016/- only as the tax payable under indexation benefit is lesser than the computation without indexation.

CASE STUDY 5

State, giving reason, whether the asset is Short term or Long term in the cases given below –

1. L purchases a house property on March 10, 2023 and transfers it on June 6, 2025
2. M purchases listed shares in an Indian Company on March 10, 2023 and transfers it on June 6, 2025
3. N acquires units of equity oriented mutual fund on July 7, 2023 and he transfers these units on July 10, 2025.
4. P purchases shares in a company through a NSE broker (Date of purchase by the broker: November 21, 2024 the company transfers shares in the name of P: January 5, 2024). These shares are transferred by P on December 20, 2025.

Solution:

<i>Taxpayer</i>	<i>Asset</i>	<i>Minimum period to become long-term capital asset</i>	<i>Short term or long term</i>
L	House property	24 months	Short term
M	Listed Shares	12 months	Long term
N	Units of EOMF	12 months	Long term
P	Listed Shares	12 months	Long term

CASE STUDY 6

State, giving reasons the assessment year for which capital gain is chargeable to tax in the cases given below –

1. K sells a house property to Q as per sale deed dated March 30, 2025. The documents are, however, registered on April 6, 2025.
2. H sells a house property to C as per agreement to sale dated May 6, 2024, A pays the consideration on the same day. The possession is given on June 1, 2025, the sale deed is yet to be registered.
3. V sells shares to M on March, 1, 2025. Transfer deed is signed on the same day. Share certificates are delivered at the time of signing the transfer deed. Shares are, however, transferred in the name of M in the records of the company on May 10, 2025.

Solution:

1. “Transfer” takes effect from the date of execution of the sale deed (and not from the date of registration Therefore in this case transfer takes place during the p/y 2024-25 and, consequently Capital Gain is taxable for the A/Y 2025-26.
2. Even if sale deed is not registered, an immovable property is transferred when the three conditions of section 53A of the Transfer of property Act are satisfied. The three conditions are satisfied on June 1, 2025 Therefore capital gains is taxable for the A/Y 2026-27.
3. When a movable property is delivered pursuant to a contract to sell, the ownership is transferred. In this case, ownership is transferred on March 1, 2025 and, consequently Gain is taxable for the assessment year 2025-26.

CASE LAWS

1. ***Whether, for the purpose of computing the period of holding of the property, the date of allotment letter issued by the builder of the flat or the date of registration of the property has to be considered for determining the nature of capital asset – long-term or short-term?***

CIT v. S.R. Jeyashankar (2015) [Madras High Court]

In effect, the P&H HC (in a similar case) held that the allottee gets the title to the property on issuance of allotment letter and payment in installments is only a consequential act upon which delivery of possession to the property flows. The Madras HC also noted that the Punjab & Haryana HC had taken a similar view in Vinod Kumar Jain's case. Accordingly, the Madras HC held that the assessee had rightly claimed the benefit of long-term capital gain, since the holding period exceeded 36 months (i.e., from 22.02.2005, being the date of agreement, to 10.04.2008, being the date of sale of property).

2. ***What would be the period of holding to determine whether the capital gains on renunciation of right to subscribe for additional shares is short-term or long-term?***

Navin Jindal v. ACIT (2010) [Supreme Court]

For determining whether the capital gains on renunciation of right to subscribe for additional shares is short term or long-term, the period of holding would be from the date on which such right to subscribe for additional shares comes into existence upto the date of renunciation of such right.

3. ***Whether indexation benefit in respect of the gifted asset shall apply from the year in which the asset was first held by the assessee or from the year in which the same was first acquired by the previous owner?***

CIT v. Manjula J. Shah (2013) [Bombay High Court]

The indexed cost of acquisition in case of gifted asset has to be computed with reference to the year in which the previous owner first held the asset and not the year in which the assessee became the owner of the asset.

4. ***Would an assessee be entitled to exemption under section 54 in respect of purchase of two flats, adjacent to each other and having a common meeting point?***

CIT v. Syed Ali Adil (2013) [Andhra Pradesh High Court]

The Andhra pradesh high Court, on the basis of the above rulings of the Karnataka high Court, held that in this case, the assessee was entitled to investment in both the flats purchased by him, since they were adjacent to each other and had a common meeting point, thus, making it a single residential unit.

5. ***Can exemption under section 54EC be denied on account of the bonds being issued after six months of the date of transfer even though the payment for the bonds was made by the assessee within the six month period?***

Hindustan Unilever Ltd. v. DCIT (2010) [Bombay High Court]

For the purpose of the provisions of section 54EC, the date of investment by the assessee must be regarded as the date on which payment is made. The high Court, therefore, held that if such payment is within a period of six months from the date of transfer, the assessee would be eligible to claim exemption under section 54EC.

6. *Sale of a Running Business with all Assets and Liabilities is a Slump Sale, would not attract Section 50(2) of Income Tax Act*

CIT v. Equinox Solution Pvt. Ltd

In CIT v. Equinox Solution pvt. Ltd, the two-judge bench of the Supreme Court held that the sale of a running business with all its assets and liabilities would not be covered by section 50(2) of the Income Tax Act since such transactions are slump sale of a “long term capital asset” within the ambit of section 48(2) of the Income Tax Act.

The factual settings of the case are that the assessee-Company sold its entire business- a running concern to another Company. For the year under consideration, the assessee filed return claiming deduction under section 48 of the IT Act stating that the sale is in the nature of “slump sale” of the going concern being in the nature of long term capital gain in the hands of the assessee.

The assessing officer rejected the contention of the assessee and denied the claim by invoking section 50(2). He was of the view that the transaction was in the nature of short term capital gain as specified in Section 50 (2) of the Act.

Assessee successfully appealed the impugned order before the first appellate authority. Though the order was challenged before the ITAT and high Court, the Revenue couldn't secure any relief. Dissatisfied by the orders of the appellate authorities and the high Court, the Revenue carried the matter before the Apex Court.

Concurring with the orders of the lower authorities, the bench comprising Justice R.K Agarwal and Justice Ajay Manohar Sapre held that the transaction was rightly treated as slump sale under section 48. “Section 50 (2) applies to a case where any block of assets are transferred by the assessee but where the entire running business with assets and liabilities is sold by the assessee in one go, such sale, in our view, cannot be considered as “short-term capital assets”. In other words, the provisions of Section 50 (2) of the Income Tax Act would apply to a case where the assessee transfers one or more block of assets, which he was using in running of his business. Such is not the case here because in this case, the assessee sold the entire business as a running concern.”

7. *Can exemption under section 54F be denied solely on the ground that the new residential house is purchased by the assessee exclusively in the name of his wife?*

CIT v. Kamal Wahal (2013) [Delhi High Court]

High Court's Decision: The Delhi high Court, having regard to the rule of purposive construction and the object of enactment of section 54F, held that the assessee is entitled to claim exemption under section 54F in respect of utilization of sale proceeds of capital asset for investment in residential house property in the name of his wife.

8. *Can advance given for purchase of land, building, plant and machinery tantamount to utilization of capital gain for purchase and acquisition of new machinery or plant and building or land, for claim of exemption under section 54G?*

Fibre Boards (P) Ltd v. CIT (2015) [Supreme Court]

Supreme Court's Decision: To avail exemption under section 54G in respect of capital gain arising from transfer of capital assets in the case of shifting of industrial undertaking from urban area to non-urban area, the requirement is satisfied if the capital gain is given as advance for acquisition of capital assets such as land, building and / or plant and machinery.

LESSON ROUND-UP

- Sections 45 to 55A of the Income-tax Act, 1961 deal with capital gains. Section 45 of the Act, provides that any profits or gains arising from the transfer of a capital asset effected in the previous year shall, save as otherwise provided in Sections 54, 54B, 54D, 54EC, 54EE, 54ED, 54F, 54G, 54GA be chargeable to income-tax under the head “Capital Gains” and shall be deemed to be the income of the previous year in which the transfer took place.
- Section 2(14) of the Income-tax Act defines the term “capital asset” to mean property of any kind held by an assessee whether or not connected with his business or profession but does not include any stock-in-trade, personal effects, agricultural land in India, 6% Gold Bonds, Special Bearer Bonds, Gold Deposit Bonds.
- The essential requirement for the incidence of tax on capital gains is the transfer of a ‘capital asset’.- Any capital gain arising as a result of transfer of a short-term capital asset is known as short-term capital gain. “Short term” capital asset means a capital asset held by an assessee for not more than twenty-four months immediately preceding the date of its transfer. In the case of capital assets (being equity or preference share in a company) held by an assessee for not more than 12 months immediately prior to its transfer.
- Assets other than short-term capital assets are known as ‘long-term capital assets’ and the gains arising therefrom are known as ‘long-term capital gains’. Section 48 of the Act provides that the income chargeable under the head ‘capital gains’ shall be computed by deducting from the full value of consideration received or accruing as a result of the transfer of the capital asset, the amount of expenditure incurred wholly and exclusively in connection with such transfer and the cost of acquisition of the capital asset and the cost of any improvement thereto.
- ‘Cost of acquisition’ of goodwill of a business or a right to manufacture, produce or process any article or thing, tenancy rights, stage carriage permits or loom hours is in the case of acquisition of such asset by the assessee by purchase from a previous owner, cost of acquisition means the amount of the purchase price; and in any other case cost of acquisition shall be nil.
- Cost of improvement means all capital expenditure in making any additions or alterations by the assessee after it became his property and where the capital asset became the property of the assessee by any of the modes specified in Section 49(1) by the previous owner as the case may be.
- Sections 54, 54B, 54D, 54EC, 54EE, 54F, 54G of the Act, provides exemption from capital gains arising from the transfer of certain capital assets under certain circumstances.

TEST YOURSELF

(These are meant for re-capitulation only. Answers to these questions are not to be submitted for evaluation.)

Practical Questions (MCQs)

- Capital asset excludes all except-
 - Stock-in-trade
 - Personal effects
 - Jewellery
 - Agricultural land in India

Answer: (c) Jewellery

2. In terms of section 2(42A), listed securities are treated as long-term capital asset, if they are held for a period of more than –

(a) 12 Months (b) 36 Months
(c) 24 Months (d) 48 Months.

Answer: (a) 12 Months

3. Which of the following is not a requisite for charging income-tax on capital gains –

(a) The transfer must have been effected in the relevant assessment year
(b) There must be a gain arising on transfer of capital asset
(c) Capital gains should not be exempt under section 54
(d) Capital gains should not be exempt under section 54EC.

Answer: (a) The transfer must have been effected in the relevant assessment year

4. Rajat purchased a car for his personal use for Rs. 5,00,000 in April, 2020 and sold the same for Rs. 5,50,000 in July, 2025. The taxable capital gains is –

(a) Nil (b) Rs. 5,50,000
(c) Rs. 50,000 (d) Rs. 4,00,000

Answer: (a) Nil [Car for personal use is not capital asset. Therefore, no capital gain shall arise.]

5. Which of the following is not a capital asset for Mr. Rao who is employed in a public sector bank?

(a) urban land
(b) Agricultural land within 2 kms from local limits of municipality
(c) Deposit certificate issued under Gold Monetization Scheme, 2015
(d) Jewellery

Answer: (c) Deposit certificate issued under Gold Monetization Scheme, 2015

6. Land or building, or both, if transferred on 1st April, 2025 shall be treated as a long term capital asset, if it is being held immediately prior to the date of its transfer for more than :

(a) 36 months (b) 12 months
(c) 24 months (d) none of the above

Answer: (c) 24 months

Practice Questions

Question 1: T purchased a house on 28-6-2002 for Rs. 1,10,000 and paid Rs. 10,000 for getting the property registered in his name. On 15-6-2010, he spent Rs. 80,000 on improvement of the house. The house was sold on 21-06-2025 for Rs. 10,00,000. Commission of Rs. 4,000 was paid on the sale of the house. Compute the capital Gains.

Question 2: D required a residential house on 1-9-1989 for Rs. 1,00,000. He spent Rs. 25,000 on 1-8-1991 for the improvement of this house property. A further amount of Rs. 50,000 was spent by him on 15-11-2004 on improvement of the house. D gifted the said property to his son E on 12-10-2010. E also spent the following amounts on improvement of the house.

<i>Date of expenditure</i>	<i>Amount</i>
	Rs.
15-7-2013	50,000
15-6-2024	40,000

E sold the above house on 30-06-2025 for a sum of Rs. 15,00,000. Expenses on transfer were Rs.36,000. Compute the capital gain for the assessment year 2026-27, assuming the fair market value of the house as on 1-4-2001 to be Rs. 3,00,000.

Question 3: M owns a house property which was purchased by him on 1-6-1987 for Rs. 3,00,000. The said property was destroyed by fire on 3-4-2021 and M received a sum of Rs. 18,00,000 for the insurance company during the year 2025-26. The market value of the above property as on 1-4-2001 was Rs. 4,00,000.

Compute the capital gain for the assessment year 2026-27.

Question 4: On July 1, 2025, S holds the following unlisted equity shares in T Ltd.

Shares	Date of acquisition	Total investment
1,000 original shares	April 10, 1985	1,00,000
500 bonus shares I	May 6, 1987	Nil
750 bonus shares II	October 5, 2002	Nil
1125 Bonus shares III	May 10, 2024	Nil

On September 30, 2025, S transfers the above noted 3,375 shares @ Rs. 900 per shares (fair market value on April 1, 2001 is Rs. 8 per shares). Find out the capital gains chargeable to tax for the AY 2026-27.

LIST OF FURTHER READINGS

- **Direct Taxes Law and Practice**
Author : Dr. Vinod K. Singhania & Dr. Kapil Singhania
Publisher : Taxmann
- **Direct Taxes Ready Reckoner with Tax Planning**
Author : Dr. Girish Ahuja & Dr. Ravi Gupta
Publisher : Wolters Kluwer

OTHER REFERENCES

- **Income Tax Act, 1961:** <https://www.incometaxindia.gov.in/Pages/acts/income-tax-act.aspx>
- **Income Tax Rules, 1962:** <https://www.incometaxindia.gov.in/Pages/rules/income-tax-rules-1962.aspx>
- **Circulars:** <https://www.incometaxindia.gov.in/Pages/communications/circulars.aspx>
- **Notifications:** <https://www.incometaxindia.gov.in/Pages/communications/notifications.aspx>