

# Direct Tax Course

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# Capital Gain

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Charging Section

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graph TD; A[Charging Section] --> B[Concept of Capital Asset]; B --> C[Computation of CG in Different Scenario]; C --> D[Capital Gain- Special Cases]; D --> E[Exemptions];
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Concept of Capital Asset

Computation of CG in Different Scenario

Capital Gain- Special Cases

Exemptions

# Capital Gain

## Section 45 – Charging Section

- provides that any **profits or gains** arising from the **transfer** of a **capital asset** effected in the previous year will be chargeable to income-tax under the head ‘Capital Gains’.
- income of the previous year in which the transfer took place
  
- **CAPITAL ASSET section 2(14)**
- Property whether connected or not connected with business
- Securities , does not include:
  - Stock in Trade (not wrt to security), Eg. securities held by Foreign Portfolio Investor are capital assets and not Stock in Trade)
  - Personal Effects except (JADAPS)- Jewellery , Archaeological Collections, Drawings, , Any work of art, Paintings, Sculptures
  - Rural Agricultural Land – Land not situated within specified limits , other lands are Urban Agricultural Land
  - Gold Deposit Bonds, **Specified Gold Bonds, Special Bearer Bonds, 1991** issued by the Central Government
- **\*‘Property’ includes and shall be deemed to have always included any rights in or in relation to an Indian company, including rights of management or control or any other rights whatsoever.**

# Capital Gain

- **CAPITAL ASSET section 2(14)**
  - Rural Agricultural Land :



	Population according to the last preceding census of which the relevant figures have been published before the first day of the previous year.	Shortest aerial distance from the local limits of a municipality or cantonment board referred to in item (a)
(i)	> 10,000	≤ 2 kms
(ii)	> 1,00,000	> 2 kms ≤ 6 kms
(iii)	> 10,00,000	> 6 kms ≤ 8 kms

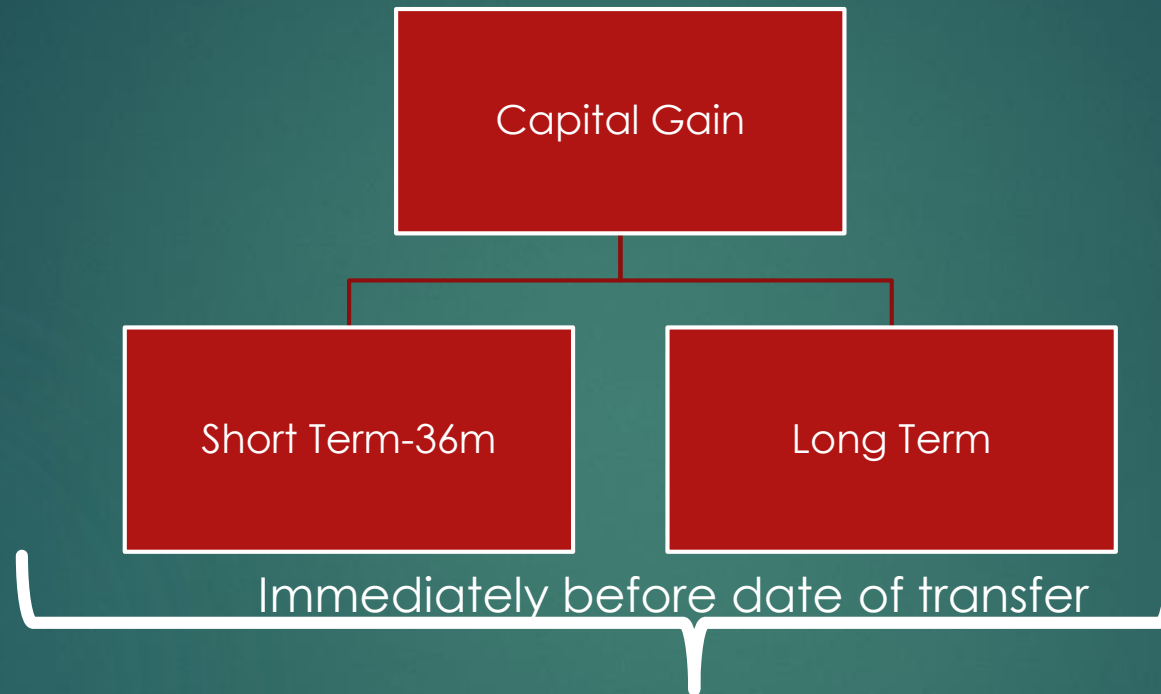
# Transfer (SECTION 2(47)]

## Inclusive Definition

- ▶ sale, exchange or relinquishment of the asset; or
- ▶ Extinguishment of any rights therein; or
- ▶ Compulsory acquisition thereof under any law; or
- ▶ Conversion of Capital Asset to Stock in Trade
- ▶ Maturity or redemption of a zero coupon bond; or
- ▶ possession of an immovable property in consideration of part-performance of a contract ,referred to in section 53A of the Transfer of Property Act, 1882.
- ▶ transactions which have the effect of transferring or enabling the enjoyment of an immovable property (like member of coop society)

# Long Term and Short-Term Capital Gain

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- ▶ Exceptions :
- ▶ Listed Equity Shares, or a unit of an equity oriented fund or a unit of the Unit Trust of India or a Zero Coupon Bond – 12m for LTCG
- ▶ Unlisted Share or an immovable property, being land or building or both- 24m

# Long Term and Short-Term Capital Gain

S. No.	Circumstances (Column 1)	Period to be reckoned/ included/ excluded, as the case may be (Column 2)
1	Where shares held in a company in <b>liquidation</b>	The period <b>subsequent to the date of liquidation</b> of company shall be excluded- only for equity shares
2	Where asset becomes the property of an assessee by virtue of <b>section 49(1)-gift etc</b>	The period for which the capital asset was held by the <b>previous owner</b> shall be included.
3	Where <b>inventory</b> of business is converted into or treated as a <b>capital asset</b> by the assessee	Period from the <b>date of conversion</b> or treatment as a capital asset shall be considered.
4	Where <b>shares</b> in the Indian company ( <b>amalgamated company</b> ), becomes the property of an assessee <b>in lieu of share(s) held by him in the amalgamating company</b> at the time of transfer referred under section 47(vii).	The period for which the share(s) was held by the assessee in the amalgamating company shall be included.
5	Where share(s) in the Indian company being a resulting company becomes the property of an assessee in consideration of demerger	The period for which the share/s were held by the assessee in demerged company shall be included.

# Long Term and Short-Term Capital Gain

## Special Cases

7	Where trading or clearing rights of a recognised stock exchange in India is acquired by a person pursuant to demutualisation or corporation of a recognised stock exchange in India as referred to in section 47(xiii)	The period for which the person was a member of the recognised stock exchange immediately prior to such demutualisation or corporatisation shall be included.
8	Where equity share of a company becomes the property of the assessee by way of conversion of preference	The period for which the preference shares were held by the assessee shall be included.



# Long Term and Short-Term Capital Gain

## Special Cases

- ▶ The Income Declaration Scheme, 2016 is contained in the Finance Act, 2016, which received the assent of the President on 14th May 2016. The Scheme provides an opportunity to persons who have paid not full taxes in the past to come forward and declare the undisclosed income and pay tax, surcharge and penalty totalling in all to 45% of such undisclosed income declared
- ▶ In case of a capital asset, declared under the Income Declaration Scheme, 2016
  - ▶ **being an immovable property**, the period for which such property is held shall be reckoned **from the date on which such property is acquired** if the date of acquisition is evidenced by a deed registered with any authority of a State Government.
  - ▶ **in any other case**, the period for which such asset is held shall be reckoned **from 1st June, 2016**.

# Scope and Year of Chargeability

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## General Provision- 45(1)

- ▶ chargeable to income-tax under this head **in the previous year in which the transfer took place.**

## Special Provision

- ▶ for determining the year of chargeability, the relevant date of transfer is not the date of the agreement to sell, but the actual date of sale *i.e.*, the date on which the effect of transfer of title to the property as contemplated by the parties has taken place [*Alapati Venkataramiah v. CIT [1965] 57 ITR 185 (SC)*].
- ▶ Income-tax Act has recognised certain transactions as transfer in spite of the fact that conveyance deed might not have been executed and registered. Power of Attorney sales as explained above or co-operative society transactions for acquisition of house are examples in this regard.

# Scope and Year of Chargeability

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## Insurance receipts [Section 45(1A)]

- ▶ Previous year in which such money or other asset was received.
- ▶ **Full value of consideration:** Amount of money received or the fair market value of other assets on the date of such receipt

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

- ▶ previous year in which such stock-in-trade is sold or otherwise transferred
- ▶ 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.
- ▶  $\text{Capital Gain} = \text{FMV on the date of conversion} - \text{Cost/Indexed Cost of acquisition/Improvement}$
- ▶  $\text{Business Income} = \text{Sale price of stock-in-trade} - \text{FMV on the date of conversion}$

# Scope and Year of Chargeability

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- ▶ **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.**
- ▶ **Full value of consideration:** For this purpose, the full value of the consideration will be deemed to be the amount recorded in the books of account of the firm, AOP or BOI as the value of the capital asset.
- ▶ **Distribution of capital assets on dissolution of firm/AOP or BOI [Section 45(4)]**
  - ▶ Reconstitution of Firm / AOP/ BOI
    - ▶ Partner / Member of AOP/ BOI ceases to be partner or member
    - ▶ New Partner/Member admitted to AOP/ BOI along with the existing partners/ members
    - ▶ All the existing partners/ members continue with change in their share

# Scope and Year of Chargeability

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- ▶ **Distribution of capital assets on dissolution of firm/AOP or BOI [Section 45(4)]**
- ▶ Section 9B- Receipt of Asset or Stock in Trade from Firm /AOP/BOI to Partner or Member
  - ▶ Deemed Transfer in the hands of the entity
  - ▶ In the year in which asset received by the person and not in year of reconstitution
  - ▶ Fair Market Value on the date of transfer deemed to be full value of consideration
  - ▶ Taxed as Capital Gain or PGBP as the case may be
  - ▶ Section 45(4) -For the amount received by Partners or Members
  - ▶  $\text{Capital Gain} = \text{Amount of money received from the specified entity} + \text{Fair Market Value of Asset transferred on date of transfer} - \text{Amount of Balance in the Capital Account at the time of reconstitution (not at the time of transfer) of the Person in the books of the Entity w/o taking into account the revaluation of any asset or any self generated asset including good will}$
  - ▶ Firm will be required to pay tax(deemed basis) on the capital gain in the hands of partner for partner's receipt of asset or money and partnership firm is taxable for the transfer of money and capital asset.
  - ▶ Section 45(iii)- the tax borne by partnership firm for the capital gains in the hands of partner can be deducted from the tax on capital gain in the hands of partnership firm in section 9B

# Scope and Year of Chargeability

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

- ▶ When the Central Government pays the above compensation, capital gains may arise. Such capital gains are **chargeable as income of the previous year in which such compensation or part thereof, was first received.**
- ▶ **Enhanced 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 in case of enhanced compensation - 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 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 subsequently Enhanced 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 under section 155.
- ▶ **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 receives the same.

# Scope and Year of Chargeability

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- ▶ **Taxability of capital gains in case of Specified Agreement [Section 45(5A)]**
- ▶ **Genuine hardship on account of taxability of capital gains in the year of transfer of property to developer:** The definition of 'transfer', *inter alia*, includes any arrangement or transaction where any rights are handed over in execution of part performance of contract, even though the legal title has not been transferred.
- ▶ Consequently, the capital gains tax liability in the hands of the owner would arise in the year in which the possession of immovable property is handed over to the developer for development of a project, in spite of the fact that the consideration thereof (i.e. the actual constructed property) will be received only after a couple of years.
- ▶ **Deferment of taxability of capital gains:** To minimise the genuine hardship which the owner of land or building may face in paying capital gains tax in the year of transfer, section 45(5A) provides that
- ▶ 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 shall be chargeable to tax in the **previous year in which the certificate of completion for the whole or part of the project is issued by the competent authority.**

# Scope and Year of Chargeability

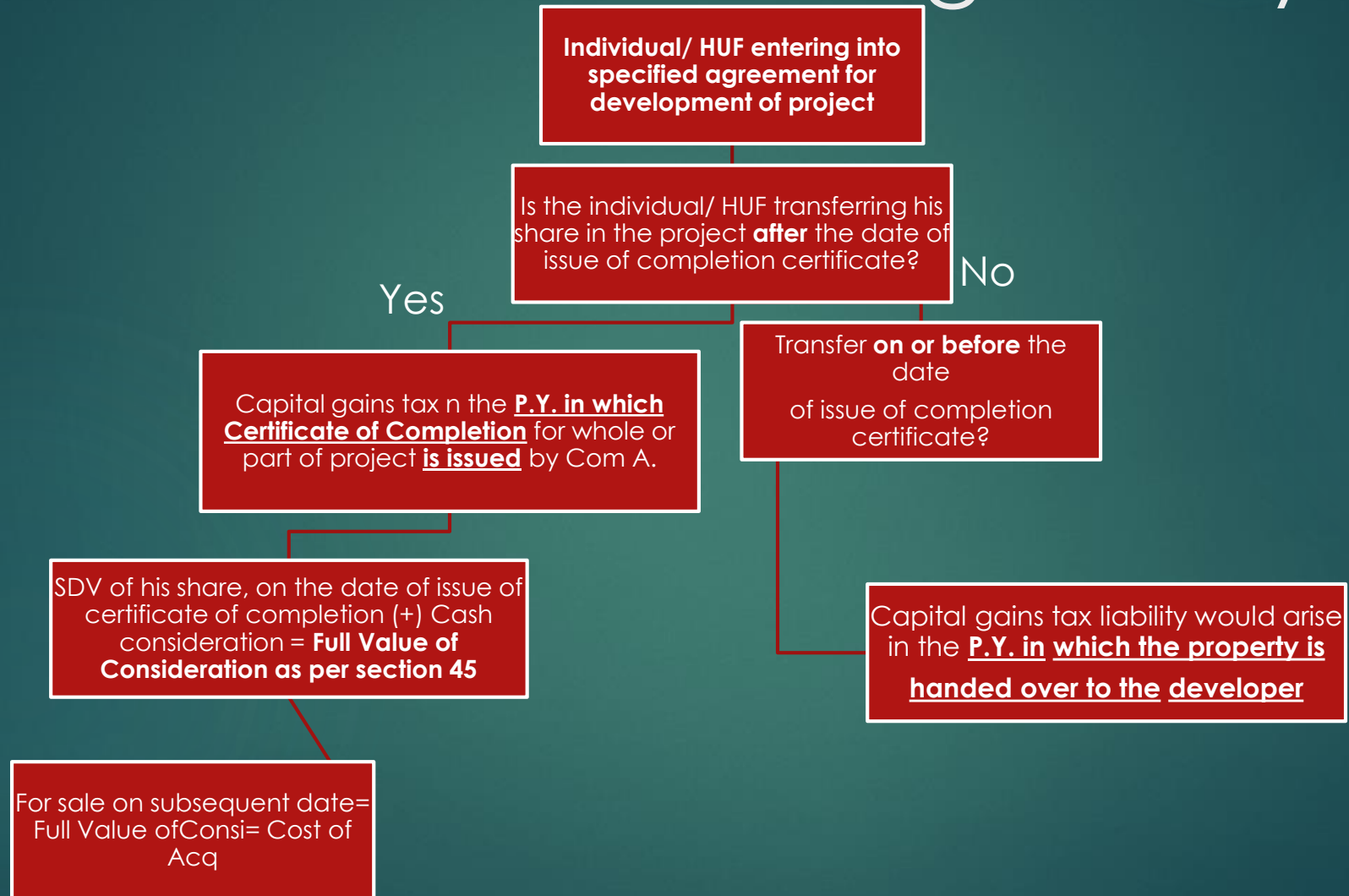
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- ▶ **Taxability of capital gains in case of Specified Agreement [Section 45(5A)]**
- ▶ **Meaning of Specified Agreement:** Specified agreement means the registered agreement in which a person owing land or building or both, agrees to allow another 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.
- ▶ **Full value of consideration:** For the purpose of section 48, **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**, 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 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 gain 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. [Proviso to section 45(5A)]
- ▶ Full value of consideration deemed to be the cost of acquisition for determining capital gains on subsequent sale of share of developed property [Section 49(7)]



# Scope and Year of Chargeability

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# CAPITAL GAINS ON DISTRIBUTION OF ASSETS BY COMPANIES IN LIQUIDATION [SECTION 46]

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- ▶ **In the hands of liquidated company:** If Assets distributed to shareholders- Not Taxable
  - ▶ If Assets sold and consideration out of it distributed- Taxable
- ▶ **In the hands of shareholders-** money or other assets Received on Liquidation.
- ▶ chargeable to income-tax under the head 'capital gains' in respect of the market value of the assets received on the date of distribution, or the moneys so received by them.
- ▶ The portion of the distribution which is attributable to the accumulated profits of the company is to be treated as dividend income of the shareholder under section 2(22)(c), Taxable under the head "Income from other sources". The same will be deducted from the amount received/ fair market value for the purpose of determining the full value of consideration for computation of capital gains.
- ▶ **Capital gains tax on subsequent sale by the shareholders:** If the shareholder, after receipt of any such asset on liquidation of the company, transfers it, then Fair Market Value on the date of distribution would be treated as cost of acquisition of such asset.

# TRANSACTIONS NOT REGARDED AS TRANSFER [SECTION 47]

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1. **Total or partial partition of a HUF**
2. **A gift or will or an irrevocable trust:**
3. **Transfer of capital asset by holding company to its wholly owned Indian subsidiary company:**
4. **Transfer of capital asset by a subsidiary company to its 100% holding company, being an Indian company:**
5. **Conditions –**
  1. The whole of shares of the subsidiary company must be held by the holding company; and
  2. The holding company must be an Indian company in case of transfer from Subs to hold and Subsidiary should be Indian in case of t/f from H to S Co..
  3. **Not apply if a capital asset is transferred as stock-in-trade**

# TRANSACTIONS NOT REGARDED AS TRANSFER [SECTION 47]

20

7. **Transfer of capital asset by amalgamating company to amalgamated Indian company, in a scheme of amalgamation**
8. **Transfer of share(s) held in the amalgamating company by a shareholder, in a scheme of amalgamation:** Any transfer by a shareholder, in a scheme of amalgamation, of shares held by him in the amalgamating company [Section 47(vii)] (The transfer is made in consideration of the allotment to him of any share/s in the amalgamated company, except where the shareholder itself is the amalgamated company)

## *Example*

*M held 2000 shares in a company ABC Ltd., an Indian company. This company amalgamated with another Indian company XYZ Ltd. during the previous year ending 31-3-2022. Under the scheme of amalgamation, M was allotted 1000 shares in the new company. The market value of shares allotted is higher by ₹ 50,000 than the value of holding in ABC Ltd. The Assessing Officer proposes to treat the transaction as an exchange and to tax ₹ 50,000 as capital gain. Is he justified?*

# TRANSACTIONS NOT REGARDED AS TRANSFER [SECTION 47]

21

9. **Transfer of share(s) held in an Indian company by amalgamating foreign company to amalgamated foreign company, in a scheme of amalgamation:**

**Conditions –**

1. At least 25 percent of the shareholders of the amalgamating foreign company must continue to remain shareholders of the amalgamated foreign company; and
  2. Such transfer should not attract tax on capital gains in the country in which the amalgamating company is incorporated.
10. **Transfer of capital asset by banking company to banking institution, in a scheme of amalgamation**
11. **Transfer of share(s) of foreign company by amalgamating foreign company to amalgamated foreign company, in a scheme of amalgamation: Same Conditions as provided Above**
12. **Transfer of capital asset by the demerged company to the resulting Indian company, in a scheme of demerger:**

# TRANSACTIONS NOT REGARDED AS TRANSFER [SECTION 47]

22

8. **Transfer of share(s) held in an Indian company by demerged foreign company to resulting foreign company, in a scheme of demerger: Same Conditions as above**
9. **Transfer of capital asset by the predecessor co-operative bank to successor co-operative bank in business reorganization:**
15. **Transfer of share(s) of foreign company by demerged foreign company to resulting foreign company, in a scheme of demerger:** Any transfer, in a scheme of demerger, of a capital asset, being a share of a foreign company referred to in *Explanation 5* to section 9(1)(i), which derives, directly or indirectly, its value substantially from the share or shares of an Indian company, held by the demerged foreign company to the resulting foreign company [Section 47(vicc)].

## Conditions –

- ▶ The shareholders holding at least three-fourths in value of the shares of the demerged foreign company continue to remain shareholders of the resulting foreign company; and
- ▶ Such transfer does not attract tax on capital gains in the country, in which the demerged foreign company is incorporated.

16. **Transfer or issue of shares by the resulting company to the shareholder of demerged company, in a scheme of demerger:** Any transfer or issue of shares by the resulting company, in a scheme of demerger to the shareholders of the demerged company, if the transfer or issue is made in consideration of demerger of the undertaking [Section 47(vid)].

# TRANSACTIONS NOT REGARDED AS TRANSFER [SECTION 47]

- ▶ **Transfer on conversion of bonds or debentures etc. into shares or debentures:** Any transfer by way of conversion of bonds or debentures, debenture-stock or deposit certificates in any form, of a company into shares or debentures of that company [Section 47(x)].
- ▶ **Conversion of Foreign Currency Exchangeable Bonds into shares or debentures:** Any transfer by way of conversion of Foreign Currency Exchangeable Bonds referred to in clause
- ▶ (a) of section 115AC(1) into shares or debentures of a company [Section 47(xa)].
- ▶ **Conversion of preference shares into equity shares:** Any transfer by way of conversion of preference shares of a company into equity shares of that company [Section 47(xb)].
- ▶ **Transfer of capital asset or intangible asset on succession of the firm by a company or by AOP/ BOI to company consequent to demutualisation or corporatisation of a recognised stock exchange:** Any transfer of a capital asset or intangible asset (in the case of a firm) –
  - ▶ by a firm to a company where such firm is succeeded by that company; or
  - ▶ to a company in the course of demutualisation or corporatisation of a recognised stock exchange in India as a result of which an AOP or BOI is succeeded by that company [Section 47(xiii)].

# TRANSACTIONS NOT REGARDED AS TRANSFER [SECTION 47]

- ▶ *In which of the following situations capital gains tax liability does not arise?*
  - ▶ *Mr. A purchased gold in 1970 for ₹ 25,000. In the P.Y. 2021-22, he gifted it to his son at the time of marriage. Fair market value (FMV) of the gold on the day the gift was made was ₹ 1,00,000.*
  - ▶ *A house property is purchased by a Hindu undivided family in 1945 for ₹ 20,000. It is given to one of the family members in the P.Y. 2021-22 at the time of partition of the family. FMV on the date of partition was ₹ 12,00,000.*
  - ▶ *Mr. B purchased 50 convertible debentures for ₹ 40,000 in 1995 which are converted into 500 shares worth ₹ 85,000 in November 2021 by the company.*



# TRANSACTIONS NOT REGARDED AS TRANSFER [SECTION 47]

- ▶ As per the provisions of section 47(iii), transfer of a capital asset under a gift is **not** regarded as transfer for the purpose of capital gains. Therefore, capital gains tax liability does not arise in the given situation.
- ▶ As per the provisions of section 47(i), transfer of a capital asset (being in kind) on the total or partial partition of Hindu undivided family is **not** regarded as transfer for the purpose of capital gains. Therefore, capital gains tax liability does not arise in the given situation.
- ▶ As per the provisions of section 47(x), transfer by way of conversion of bonds or debentures, debenture stock or deposit certificates in any form of a company into shares or debentures of that company is **not** regarded as transfer for the purpose of capital gains. Therefore, capital gains tax liability does not arise in the given situation.

# TRANSACTIONS NOT REGARDED AS TRANSFER [SECTION 47]

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- ▶ **Transfer of capital asset or intangible asset by sole proprietary concern to a company in a succession of sole proprietary concern by a company:** Where a sole proprietary concern is succeeded by a company in the business carried out by it, as a result of which the sole proprietary concern transfers or sells any capital asset or intangible asset to such company [Section 47(xiv)].
- ▶ **Transfer in a scheme for lending of any securities:** Any transfer in a scheme for lending of any securities under an agreement or arrangement which the assessee has entered into
- ▶ **Transfer of capital asset under Reverse Mortgage:** Any transfer of a capital asset in a transaction of reverse mortgage under a scheme made and notified by the Central Government [Section 47(xvi)].
- ▶ The Reverse Mortgage scheme is for the benefit of senior citizens, who own a residential house property. In order to supplement their existing income, they can mortgage their house property with a scheduled bank or housing finance company, in return for a lump-sum amount or for a regular monthly/ quarterly/ annual income. The senior citizens can continue to live in the house and receive regular income, without the botheration of having to pay back the loan.
- ▶ **Transfer of unit(s) by a unit holder under consolidating plan of Mutual Fund scheme:** Any transfer by a unit holder of a capital asset, being a unit or units, held by him in the consolidating plan of a mutual fund scheme, made in consideration of the allotment to him of a capital asset, being a unit or units, in the consolidated plan of that scheme of the mutual fund [Section 47(xix)].

# TRANSACTIONS NOT REGARDED AS TRANSFER [SECTION 47]

27

- ▶ *Mr. Abhishek a senior citizen, mortgaged his residential house with a bank, under a notified reverse mortgage scheme. He was getting loan from bank in monthly installments. Mr. Abhishek did not repay the loan on maturity and hence gave possession of the house to the bank, to discharge his loan. How will the treatment of long-term capital gain be on such reverse mortgage transaction?*
- ▶ Section 47(xvi) provides that any transfer of a capital asset in a transaction of reverse mortgage under a scheme made and notified by the Central Government shall not be considered as a transfer for the purpose of capital gain.
- ▶ Accordingly, the mortgaging of residential house with bank by Mr. Abhishek will not be regarded as a transfer. Therefore, no capital gain will be charged on such transaction.
- ▶ Further, section 10(43) provides that the amount received by the senior citizen as a loan, either in lump sum or in installment, in a transaction of reverse mortgage would be exempt from income-tax. Therefore, the monthly installment amounts received by Mr. Abhishek would not be taxable.

# TRANSACTIONS NOT REGARDED AS TRANSFER [SECTION 47]

28

- ▶ **Transfer of capital asset or intangible asset on succession of firm/ sole proprietary concern by a company [Section 47(xiii) or 47(xiv)]:** Where any of the conditions laid down in section 47(xiii) or (xvi), as the case may be, for succession of a firm or sole proprietary concern by a company are not complied with, the amount of profits or gains arising from the transfer of such capital asset or intangible asset shall be deemed to be the profits and gains **chargeable to tax of the successor company** for the previous year in which the conditions are not complied with.

# WITHDRAWAL OF EXEMPTION IN CERTAIN CASES (47A)

29

- ▶ Section 47A provides for withdrawal of the benefit of exemption given by section 47 in certain cases.  
**Conditions for transfer of capital asset by holding to its wholly owned subsidiary and vice versa [Section 47(iv) or 47(v)]:** Section 47A provides that the above exemption will be withdrawn if at any time before the expiry of 8 years from the date of transfer of a capital asset referred to above
  - ▶ such capital asset is converted by the transferee company or is treated by it as stock-in-trade of its business; or
  - ▶ the parent company or its nominees ceases to hold the whole of the share capital of the subsidiary company.
- ▶ In the above two cases, the amount of capital gains exempt from tax by virtue of the provisions contained in section 47 will be deemed to be the income of the transferor company chargeable under the head 'capital gains' of the year in which such transfer took place.
- ▶ **Transfer of membership of a recognised stock exchange for shares [Section 47(xi)]:** Deemed to be income under the head "capital gains" in which such transfer took place if shares of the company received in exchange for **transfer of membership** in a recognised stock exchange, are transferred at any time from the date of such transfer, **before the expiry of 3 years**

# WITHDRAWAL OF EXEMPTION IN CERTAIN CASES (47A)

30

- ▶ **Transfer of a membership right of recognised stock exchange in a scheme for demutualisation or corporatisation approved by SEBI:** Any transfer of a membership right by a member of recognised stock exchange in India
  - ▶ for acquisition of shares and
  - ▶ trading or clearing rights
  - ▶ acquired by such member in that recognised stock exchange in accordance with a scheme for demutualisation or corporatisation approved by SEBI [Section 47(xiiiia)].
- ▶ **Transfer of capital asset or intangible asset by private company and share held by shareholder to LLP in a conversion of private company into a LLP:**
  - ▶ Any transfer of a capital asset or intangible asset by a private company or unlisted public company to a LLP or
  - ▶ Any transfer of a share or shares held in a company by a shareholder on conversion of a company into a LLP

# MODE OF COMPUTATION OF CAPITAL GAINS (SECTION 48)

- ▶ **Computation of capital gains:** Deduct
  - ▶ Expenditure incurred wholly and exclusively in connection with such transfer.
  - ▶ The cost of acquisition and cost of any improvement thereto.
- ▶ **No deduction in respect of STT:** No deduction shall, however, be allowed in computing the income chargeable under the head “Capital Gains” in respect of any amount paid on account of securities transaction tax (STT) under Chapter VII of the Finance (No.2) Act, 2004.
- ▶ **Cost inflation index:** Under section 48, for computation of long-term capital gains, the cost of acquisition and cost of improvement will be increased by applying the cost inflation index (CII).
- ▶ *The benefit of indexation will **not** apply to the long-term capital gains arising from the transfer of bonds or debentures **other than** –*
  - ▶ *Capital indexed bonds issued by the Government; or*
  - ▶ *Sovereign Gold Bond issued by the RBI under the Sovereign Gold Bond Scheme, 2015.*
- ▶ *In case of depreciable assets, there will be no indexation and the capital gains will always be short-term capital gains.*
- ▶ Base Year -2001-02, if property acquired prior to FY 2001-02, the FMV on 01.04.2001 or COA whichever is higher is COA and improvement before 01.04.2001 to be ignored, but this FMV cannot be more than SDV

# MODE OF COMPUTATION OF CAPITAL GAINS (SECTION 48)

- Cost of Asset  $\times$  CII of year of Sale / CII of year of purchase or PY 2001-02 whichever = Indexed Cost

Cost Inflation Index of different Years

Financial Year	Cost Inflation Index
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



# MODE OF COMPUTATION OF CAPITAL GAINS (SECTION 48)

## ▶ Example

- ▶ MR A acquired a House Property on 16.07.1990 for INR 200000, FMV as on 01.04.2001 is INR 450000 , Stamp Duty Value is INR 360000.
- ▶ Property Sold in FY 2020-21.
- ▶ COA= 200000 or 450000 whichever is higher
- ▶ As per Amendment , Compare with SDV= 450000 or 360000 whichever is lower= 360000
- ▶ For the purpose of Capital Gain , compute indexed value
- ▶ Cost of Asset  $\times$  CII of year of Sale / CII of year of purchase or PY 2001-02 whichever is later = Indexed Cost

Indexed cost of Acquisition =  $360000 \times 301/100 = 1083600$

# MODE OF COMPUTATION OF CAPITAL GAINS (SECTION 48)

- ▶ **Full value of consideration of shares, debentures or warrants issued under ESOP in case of transfer under a gift etc. -** Are transferred under a gift or irrecoverable trust, then the market value on the date of such transfer shall be deemed to be the full value of consideration received or accruing as a result of transfer of such asset.
- ▶ **Special provision for non-residents** – In case of non-residents who invest foreign exchange to acquire capital assets, capital gains arising from the transfer of shares or debentures of an Indian company is to be computed in the following manner:
  - ▶ COA, Expenditure incurred wholly and exclusively in connection with the transfer , Full value of consideration= convert in forex at average of TTBR and TTSR at respective rates
  - ▶ Resulting capital gains = reconverted into Indian currency by applying the TTBR on the date of transfer.
  - ▶ Benefit of indexation will **not** be available in this case.
- ▶ **Rupee Denominated Bonds (RDBs)**
  - ▶ As a measure to enable Indian companies to raise funds from outside India, the RBI has permitted them to issue rupee denominated bonds outside India. Accordingly, in case of non-resident assessee, any gains arising on account of appreciation of rupee against a foreign currency between the date of purchase and the date of redemption of rupee denominated bond of an Indian company held by him shall not be included for the purpose of computation of full value of consideration. This would provide relief to the non-resident investor from the risk of currency fluctuation.

# ASCERTAINMENT OF COST IN SPECIFIED CIRCUMSTANCES [SECTION 49]

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- ▶ **Cost to previous owner deemed as cost of acquisition of asset:** 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
  - ▶ 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 section 47(iv) and 47(v) respectively;
  - ▶ transfer by amalgamating company to the amalgamated Indian company, in a scheme of amalgamation;
  - ▶ transfer by the demerged company to the resulting Indian company, in a scheme of demerger;
  - ▶ by conversion by an individual of his separate property into a HUF property.
- ▶ 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.

# ASCERTAINMENT OF COST IN SPECIFIED CIRCUMSTANCES [SECTION 49]

- ▶ **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)].
- ▶ **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)].
- ▶ **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)].
  - ▶ **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

# COST OF ACQUISITION [SECTION 55(2)]

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- ▶ **Goodwill of a business or profession or a trademark or brand name associated with a business or profession or a right to manufacture, produce or process any article or thing, or right to carry on any business or profession, tenancy rights, stage carriage permits and loom hours**
- ▶ **In case of acquisition from previous owner:**
  - ▶ **In case of circumstances mentioned under section 49(1)(i)/(ii)/(iii)/(iv)** In cases where the capital asset became the property of the assessee by any of the following modes from the previous owner, and such capital assets were acquired by the previous owner by purchase, cost of acquisition to the assessee will be the amount of the purchase price for such previous owner:-
    - ▶ On any distribution of assets on the total or partial partition of a Hindu undivided family.
    - ▶ 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 a revocable or an irrevocable trust.
    - ▶ Under any transfer of a capital asset referred to in 49(1)(i) to 49(1)(iv)
    - ▶ Where the assessee is a Hindu undivided family, by the mode referred to in section 64(2) i.e., conversion of self-acquired property of a member of a HUF into the property of the HUF (For details, read Chapter 5).
- ▶ However, in case of a capital asset being goodwill of a business or profession, in respect of which depreciation

# COST OF ACQUISITION [SECTION 55(2)]

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- ▶ **In any other case [i.e., in case of self-generated assets]:** In case of self-generated assets namely, goodwill of a business or profession or a trademark or brand name associated with a business or profession or a right to manufacture, produce or process any article or thing, or right to carry on any business or profession, tenancy rights, stage carriage permits, or loom hours, the cost of acquisition will be taken to be nil.
- ▶ **Financial assets**
- ▶ Many a time, persons who own shares or other securities become entitled to subscribe to any additional shares or securities. Further, they are also allotted additional shares or securities without any payment. Such shares or securities are referred to as financial assets in Income-tax Act. Section 55 provides the basis for ascertaining the cost of acquisition of such financial assets.
  - ▶ **Original shares (which form the basis of entitlement of rights shares):** In relation to the original financial asset on the basis of which the assessee becomes entitled to any additional financial assets, cost of acquisition means the amount actually paid for acquiring the original financial assets.
  - ▶ **Rights entitlement (which is renounced by the assessee in favour of a person):** In relation to any right to renounce the said entitlement to subscribe to the financial asset, when such a right is renounced by the assessee in favour of any person, cost of acquisition shall be taken to be *nil* in the case of such assessee.
  - ▶ **Rights shares acquired by the assessee:** In relation to the financial asset, to which the assessee has subscribed on the basis of the said entitlement, cost of acquisition means the amount actually paid by him for acquiring such asset.

# COST OF ACQUISITION [SECTION 55(2)]

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- ▶ **Bonus Shares:** In relation to the financial asset allotted to the assessee without any payment and on the basis of holding of any other financial assets, cost of acquisition shall be taken to be nil in the case of such assessee.
- ▶ In other words, where bonus shares are allotted without any payment on the basis of holding of original shares, the cost of such bonus shares will be nil in the hands of the original shareholder.
- ▶ **Bonus shares allotted before 01.04.2001:** However, in respect of bonus shares allotted before 1.4.2001, although the cost of acquisition of the shares is nil, the assessee may opt for the fair market value as on 1.4.2001 as the cost of acquisition of such bonus shares.
- ▶ **Bonus shares allotted before 1.2.2018, on which STT has been paid at the time of transfer** – In case of transfer of bonus shares allotted before 1.2.2018 on which STT has been paid at the time of transfer, the cost would be the higher of –
- ▶ **Actual cost of acquisition** (i.e., Nil, in case of bonus shares allotted on or after 1.4.2001; and FMV on 1.4.2001, in case of business shares allotted before 1.4.2001)
- ▶ **Lower of –**
  - ▶ FMV as on 31.1.2018; and
  - ▶ Actual sale consideration

# COST OF ACQUISITION [SECTION 55(2)]

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**Rights shares which are purchased by the person in whose favour the assessee has renounced the rights entitlement:** In the case of any financial asset purchased by the person in whose favour the right to subscribe to such assets has been renounced, cost of acquisition means the aggregate of the amount of the purchase price paid by him to the person renouncing such right and the amount paid by him to the company or institution for acquiring such financial asset.

- ▶ **Long-term capital assets referred to in section 112A**
- ▶ The cost of acquisition in relation to the long-term capital assets being,
- ▶ equity shares in a company on which STT is paid both at the time of purchase and transfer or
- ▶ unit of equity oriented fund or unit of business trust on which STT is paid at the time of transfer.
- ▶ acquired before 1<sup>st</sup> February, 2018 shall be the higher of
  - ▶ cost of acquisition of such asset; and
  - ▶ lower of
- ▶ the fair market value of such asset; and
- ▶ the full value of consideration received or accruing as a result of the transfer of the capital asset.



# COST OF ACQUISITION [SECTION 55(2)]

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- ▶ **Any other capital asset**
  - ▶ **Where the capital asset become the property of the assessee before 1-4-2001**, cost of acquisition means the cost of acquisition of the asset to the assessee or the fair market value of the asset on 1-4-2001, at the option of the assessee.
- ▶ However, in case of capital asset, being land or building or both, the fair market value of such asset on 1-4-2001 shall not exceed the stamp duty value, wherever available, of such asset as on 1-4-2001.

# COST OF ACQUISITION [SECTION 55(2)]

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Sl. No.	Nature of asset	Cost of acquisition
1	Goodwill of business, trademark, brandname etc., - - Self generated - Acquired from previous owner	Nil Purchase price
2	Rights Shares: Original shares (which form the basis of entitlement of rights shares)	Amount actually paid for acquiring the original shares
	Rights entitlement (which is renounced by the assessee in favour of a person)	Nil
	Rights shares acquired by the assessee	Amount actually paid for acquiring the rights shares
	Rights shares which are purchased by the person in whose favour the assessee has renounced the rights entitlement	Purchase price paid to the renouncer of rights entitlement as well as the amount paid to the company which has allotted the rights shares.
3.	Equity shares received on demutualisation or corporatisation of a recognised stock exchange	Cost of acquisition of such shares shall be the cost of acquiring his original membership of the exchange.
4.	Clearing or trading right acquired on demutualisation or corporatisation of a recognised stock exchange	NIL
5.	<b>Long term capital assets being,</b> - <b>equity shares in a company on</b>	Cost of acquisition shall be the higher of

# COST OF ACQUISITION [SECTION 55(2)]

Sl. No.	Nature of asset	Cost of acquisition
	<p>which STT is paid both at the time of purchase and transfer or</p> <ul style="list-style-type: none"> <li>- unit of equity oriented fund or unit of business trust on which STT is paid at the time of transfer,</li> </ul> <p>acquired before 1st February, 2018</p>	<p>(i) cost of acquisition of such asset; and</p> <p>(ii) lower of</p> <ul style="list-style-type: none"> <li>- the fair market value of such asset; and</li> <li>- the full value of consideration received or accruing as a result of the transfer of the capital asset.</li> </ul>
6.	<p>Any other capital asset</p> <p>Where such capital asset became the property of the assessee before 1.4.2001</p>	<p>Cost of the asset to the assessee, or FMV as on 1.4.2001, at the option of the assessee.</p> <p>However, in case of capital asset being land or building, FMV as on 1.4.2001 shall not exceed stamp duty value as on 1.4.2001.</p>
	<p>Where capital assets became the property of the assessee by way of distribution of assets on total or partial partition of HUF, under a gift or will, by succession, inheritance, distribution of assets on liquidation of a company, etc.</p>	<p>Cost to the previous owner or FMV as on 1.4.2001, at the option of the assessee.</p> <p>However, in case of capital asset being land or building, FMV as on 1.4.2001 shall not exceed stamp duty value as on 1.4.2001.</p>
7.	<p>Where cost of the property in the hands of previous owner cannot be ascertained</p>	<p>The FMV on the date on which the capital asset became the property of the previous owner would be considered as cost of acquisition.</p>

# COST OF IMPROVEMENT [SECTION 55(1)]

- ▶ **Goodwill of a business, etc. [Section 55(1)(b)(1)]: NIL**
- ▶ **Any other capital asset [Section 55(1)(b)(2)]:**
  - ▶ Where the capital asset became the property of the previous owner or the assessee before 1-4-2001, cost of improvement means all expenditure of a capital nature incurred in making any addition or alteration to the capital asset on or after the said date by the previous owner or the assessee.
  - ▶ In any other case, cost of improvement means all expenditure of a capital nature incurred in making any additions or alterations to the capital assets by the assessee after it became his property. However, there are cases where the capital asset might become the property of the assessee by any of the modes specified in section 49(1). In that case, cost of improvement means capital expenditure in making any addition or alterations to the capital assets incurred by the previous owner.
- ▶ However, cost of improvement does not include any expenditure which is deductible in computing the income chargeable under the head “Income from house property”, “Profits and gains of business or profession” or “Income from other sources”.

# COMPUTATION OF CAPITAL GAINS IN CASE OF DEPRECIABLE ASSETS SECTION 50

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- ▶ Considered along with PGBP

## CAPITAL GAINS IN RESPECT OF SLUMP SALE [SECTIONS 50 & 50A]

Slump sale means transfer of one or more **undertakings, by any means**, for a lump sum consideration without values being assigned to the individual assets and liabilities in such sales.

# CAPITAL GAINS IN RESPECT OF SLUMP SALE

## SECTION 50B

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- ▶ **Capital gains – Whether long-term or short-term? [Section 50B(1)]** - undertakings held for more than 36 months, shall be of long-term capital assets and shall be deemed to be the income of the previous year in which the transfer took place.
- ▶ undertakings held by the assessee for not more than 36 months shall be deemed to be short-term capital gains.
- ▶ **Deemed cost of acquisition and cost of improvement [Section 50B(2)(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 in relation to capital assets of such undertaking or division transferred. **No indexation benefit** available, even if the slump sale has taken place of an undertaking held for more than 36 months.
- ▶ **Deemed full value of consideration [Section 50B(2)(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.*
- ▶ **Report of a Chartered Accountant** -Every assessee in the case of slump sale shall furnish in the prescribed form on or before 30<sup>th</sup> September of the A.Y. [i.e., the specified date referred under section 44AB, being the date one month prior to the due date for filing return of income under section 139(1)], a report of a chartered accountant indicating the computation of net worth of the undertaking or division, as the case may be, and certifying that the net worth of the undertaking or division has been correctly arrived at in accordance with the provisions of this section [Sub-section (3)].

# CAPITAL GAINS IN RESPECT OF SLUMP SALE

## SECTION 50B

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- ▶ Undertaking: It includes any part of an undertaking, or a unit or division of an undertaking or a business activity taken as a whole, but does not include individual assets or liabilities or any combination thereof not constituting a business activity.

# DEEMED FULL VALUE OF CONSIDERATION FOR COMPUTING CAPITAL GAINS [SECTIONS 50C, 50CA & 50D]

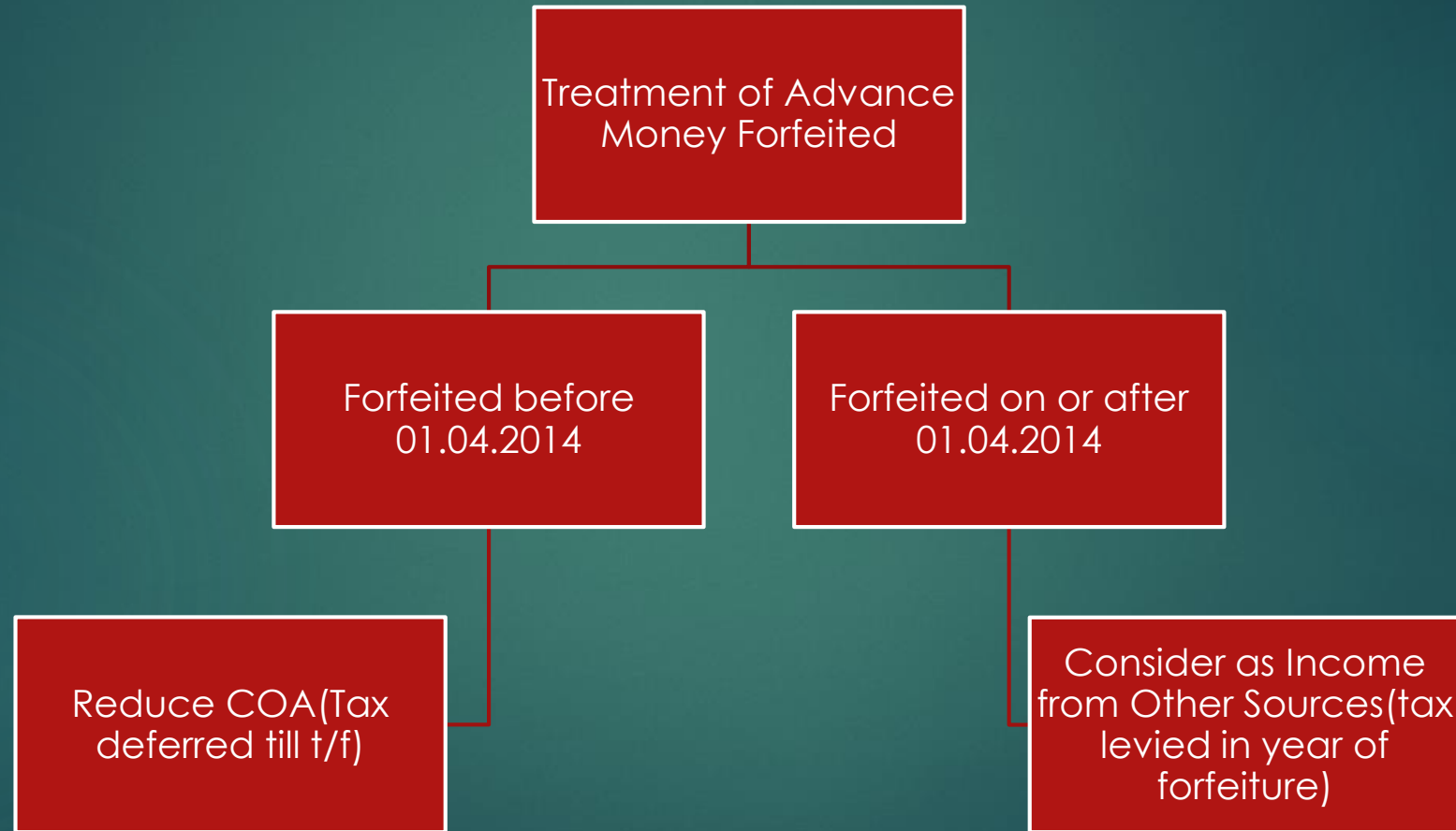
S. No.	Capital Asset	Section	Circumstance	Deemed Full Value of consideration for computing Capital Gains
1.	Land or Building or both	50C	(1) If Stamp Duty Value >110% of consideration received or accruing as a result of transfer	Stamp Duty Value
			(a) If date of agreement is different from the date of transfer and whole or part of the consideration is received by way of account payee cheque or account payee bank draft or ECS or through such other prescribed electronic modes (IMPS, UPI, RTGS, NEFT, Net banking, debit card, credit card or BHIM Aadhar Pay) on or before the date of agreement	Stamp Duty Value on the date of agreement
			(b) If date of agreement is different from the date of transfer but the whole or part of the consideration has not been received by way of account payee cheque or account payee bank draft or ECS or through such other prescribed <b>electronic mode on or before the date of agreement</b> However, if the stamp duty value on the date of agreement or the date of transfer, as the case may be 110% of the sale consideration received	Stamp Duty Value on the date of transfer  <b>Consideration so received</b>



# DEEMED FULL VALUE OF CONSIDERATION FOR COMPUTING CAPITAL GAINS [SECTIONS 50C, 50CA & 50D]

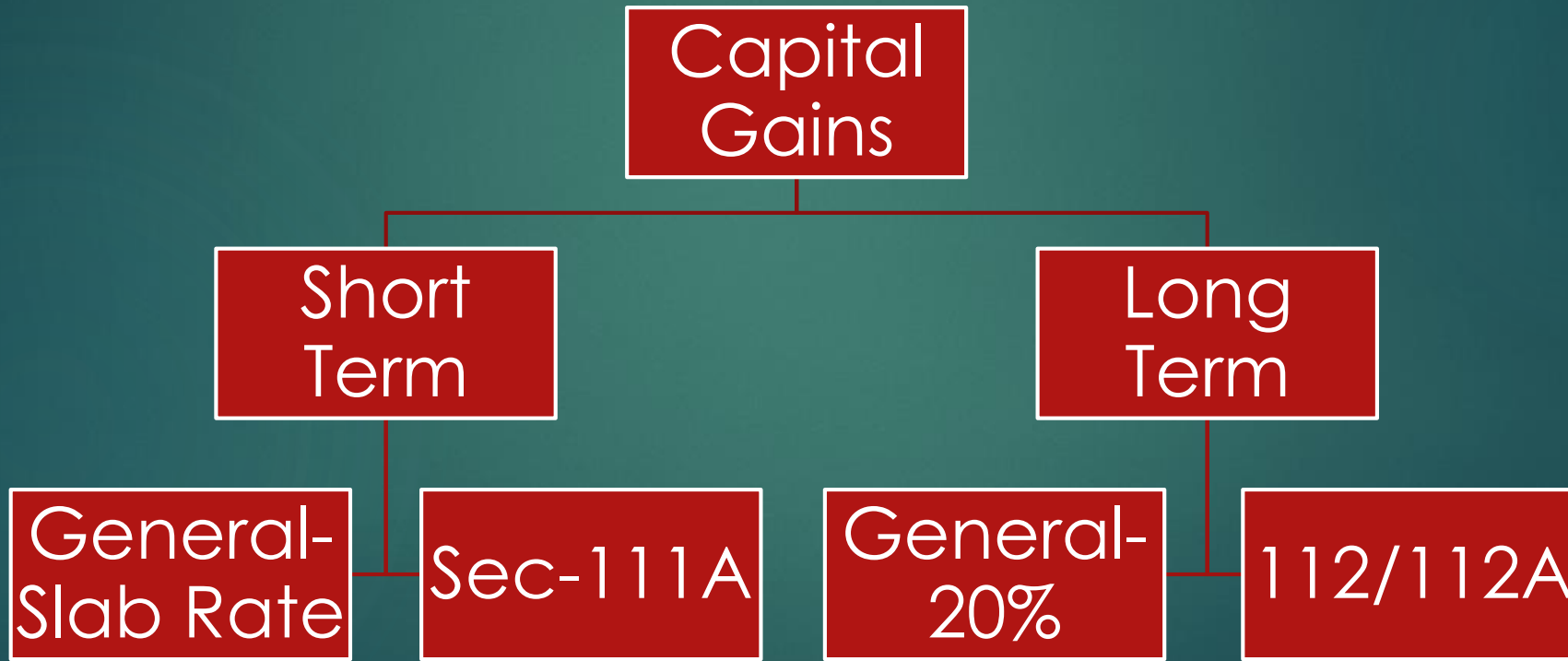
S. No.	Capital Asset	Section	Circumstance	Deemed Full Value of consideration for computing Capital Gains
1.	Land or Building or both	50C	Where the Assessing Officer refers the valuation to a Valuation Officer, on the assessee's claim that the stamp duty value exceeds the FMV of the property on the date of transfer and the stamp duty value has not been disputed in any appeal or revision or no reference has been made before any other authority, court or High Court A. Valuation Amount >SDV B. Valuation < SDV	Stamp duty Value  Valuation Amount
2.	Unquoted shares	50CA	Consideration received or receivable < FMV of shares	FMV of shares
3.	<b>Any Capital asset</b>	<b>50D</b>	Consideration received or receivable is not ascertainable	<b>FMV of the said asset on the date of transfer</b>

# Advance Money Received Sec 51



# TAX ON SHORT TERM CAPITAL GAINS and LONG TERM CAPITAL GAINS

## ► General Rate



# TAX ON SHORT TERM CAPITAL GAINS IN RESPECT OF EQUITY SHARES/ UNITS OF AN EQUITY ORIENTED FUND [SECTION 111A]

- ▶ **Concessional rate of tax in respect of STCG on transfer of certain assets:** 15% on the short-term capital gains on transfer of -
  - ▶ an equity share in a company; or
  - ▶ a unit of a business trust; or
  - ▶ unit of an equity oriented fund *i.e.*, a fund set up under a scheme of mutual fund specified u/s 10(23D) or under a scheme of an insurance company comprising ULIPs issued on or after 1.2.2021, to which exemption under section 10(10D) does not apply on account of –
    - ▶ premium payable exceeding ` 2,50,000 for any of the previous years during the term of such policy; or
    - ▶ the aggregate amount of premium exceeding ` 2,50,000 in any of the previous years during the term of any such ULIP(s), in a case where premium is payable by a person for more than one ULIP issued on or after 1.2.2021

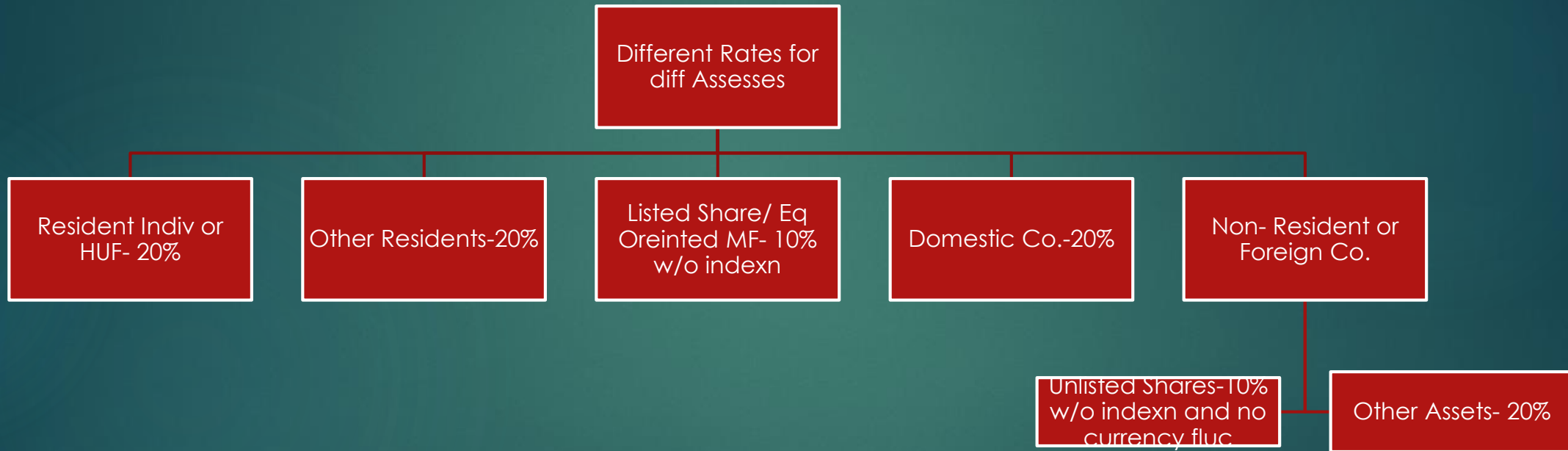
# TAX ON SHORT TERM CAPITAL GAINS IN RESPECT OF EQUITY SHARES/ UNITS OF AN EQUITY ORIENTED FUND [SECTION 111A]

## ▶ **Conditions**

- ▶ transaction of sale of such should be entered into on or after 1.10.2004
- ▶ such transaction should be chargeable to securities transaction tax under the said Chapter
- ▶ 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.
- ▶ **Adjustment of Unexhausted Basic Exemption Limit:** Resident individuals or HUF, if the basic exemption is not fully exhausted by any other income, can , reduced STCG by the unexhausted basic exemption limit and only the balance would be taxed at 15%. However, the benefit of availing the basic exemption limit is not available in the case of non-residents.
- ▶ **No deduction under Chapter VI-A against STCG taxable under section 111A**

# TAX ON LONGTERM CAPITALGAINS [SECTION 112]

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# TAX ON LONG TERM CAPITAL GAINS

## [SECTION 112]

- (i) **No Chapter VI-A deduction against LTCG:** The provisions of section 112 make it clear that the deductions under Chapter VIA cannot be availed in respect of the long-term capital gains included in the total income of the assessee.

### TAX ON LONG TERM CAPITAL GAINS [SECTION 112A}

- a concessional rate of tax @10% will be leviable on the long-term capital gains exceeding ` 1,00,000 on transfer of –
  - an equity share in a company; or
  - a unit of a business trust; or
  - a unit of an equity oriented fund (*i.e., a fund set up under a scheme of mutual fund specified u/s 10(23D) or under a scheme of an insurance company comprising ULIPs issued on or after 1.2.2021, to which exemption under section 10(10D) does not apply on account of –*
    - *premium payable exceeding ` 2,50,000 for any of the previous years during the term of such policy; or*
    - *the aggregate amount of premium exceeding ` 2,50,000 in any of the previous years during the term of any such ULIP(s), in a case where premium is payable by a person for more than one ULIP issued on or after 1.2.2021).*
- STT to be paid to avail this rate, except IFSC

# TAX ON LONG TERM CAPITAL GAINS

## [SECTION 112]

### TAX ON LONG TERM CAPITAL GAINS [SECTION 112A}

- In the case of resident individuals or HUF, if the basic exemption is not fully exhausted by any other income, then such long-term capital gain exceeding ` 1 lakh will be reduced by the unexhausted basic exemption limit and only the balance would be taxed at 10%.
- However, the benefit of adjustment of unexhausted basic exemption limit is not available in the case of non-residents.
- **No deduction under Chapter VI-A against LTCG taxable under section 112A**
- Rebate under section 87A is not available in respect of tax payable @10% on LTCG under section 112A.
- **point of chargeability of the tax?**
  - The tax will be levied only upon transfer of the long-term capital asset on or after 1st April, 2018, as defined in clause (47) of section 2 of the Act.
- **cost of acquisition for assets acquired on or before 31st January, 2018**
  - Actual COA
  - However, if the actual cost is less than the fair market value of such asset as on 31st of January, 2018, the fair market value will be deemed to be the cost of acquisition.
  - Further, if the full value of consideration on transfer is less than the fair market value, then such full value of consideration or the actual cost, whichever is higher, will be deemed to be the cost of acquisition.
- Indexation benefit not available



# TAX ON LONG TERM CAPITAL GAINS [SECTION 112]

## TAX ON LONG TERM CAPITAL GAINS [SECTION 112A}

- **Tax treatment of transfer made on or after 1st April 2018**

The long-term capital gains exceeding ₹ 1 lakh will be taxed at 10 per cent. However, there will be no tax on gains accrued upto 31st January, 2018.

- **Holding period of the Shares**

The holding period will be counted from the date of acquisition.

- **Whether tax will be deducted at source in case of gains by resident tax payer?**

There will be no deduction of tax at source from the payment of long-term capital gains to a resident tax payer.

- **treatment of long-term capital loss arising from transfer made on or after 1st April, 2018**

Long-term capital loss arising from transfer made on or after 1st April, 2018 will be allowed to be set-off and carried forward in accordance with existing provisions of the Act. Therefore, it can be set-off against any other long-term capital gains and unabsorbed loss can be carried forward to subsequent eight years for set-off against long-term capital gains.

# TAX ON LONG TERM CAPITAL GAINS

## [SECTION 112]

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**Scenario 1** – An equity share is acquired on 1st of January, 2017 at ` 100, its fair market value is ` 200 on 31st of January, 2018 and it is sold on 1st of April, 2021 at ` 250. As the actual cost of acquisition is less than the fair market value as on 31st of January, 2018, the fair market value of ` 200 will be taken as the cost of acquisition and the long-term capital gain will be ` 50 ( $` 250 - ` 200$ ).

**Scenario 2** – An equity share is acquired on 1st of January, 2017 at ` 100, its fair market value is ` 200 on 31st of January, 2018 and it is sold on 1st of April, 2021 at ` 150. In this case, the actual cost of acquisition is less than the fair market value as on 31st of January, 2018. However, the sale value is also less than the fair market value as on 31st of January, 2018. Accordingly, the sale value of ` 150 will be taken as the cost of acquisition and the long-term capital gain will be NIL ( $` 150 - ` 150$ ).

**Scenario 3** – An equity share is acquired on 1st of January, 2017 at ` 100, its fair market value is ` 50 on 31st of January, 2018 and it is sold on 1st of April, 2021 at ` 150. In this case, the fair market value as on 31st of January, 2018 is less than the actual cost of acquisition, and therefore, the actual cost of ` 100 will be taken as actual cost of acquisition and the long-term capital gain will be ` 50 ( $` 150 - ` 100$ ).

**Scenario 4** – An equity share is acquired on 1st of January, 2017 at ` 100, its fair market value is ` 200 on 31st of January, 2018 and it is sold on 1st of April, 2021 at ` 50. In this case, the actual cost of acquisition is less than the fair market value as on 31st January, 2018. The sale value is less than the fair market value as on 31st of January, 2018 and also the actual cost of acquisition. Therefore, the actual cost of ` 100 will be taken as the cost of acquisition in this case. Hence, the long-term capital loss will be ` 50 ( $` 50 - ` 100$ ) in this case.

# Exemption u/s 54 from Capital Gain

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At the time of sale of any Long Term Capital Asset, the Gains are usually very large and are taxed @ 20%. The Resultant Figure to be paid as Tax usually comes out to be a very large amount liable to be paid as Long Term Capital Gain Tax.

However, the Govt. of India has given the option of claiming exemption from paying this Capital Gains Tax if the taxpayer reinvests the amount in certain specified forms of Investment and can thereby save Long Term Capital Gain Tax as provided in the Table along with the slides.

# Computation of Capital Gains

	Particulars	Amt(`)	Amt(`)	
In case of a Short-term capital asset	Full value of consideration received or accruing as a result of transfer	xxx		
	Less: Expenditure incurred wholly and exclusively in connection with such transfer (for e.g., brokerage on sale)	xxx		
	(Note: Deduction on account of STT paid will not be allowed)			
	Net Sale Consideration		xxx	
	Less: Cost of acquisition (COA)	xxx		
	Cost of improvement (COI)	xxx	xxx	
	Short-term capital gain (STCG)		xxx	
	Less: Exemption under sections 54B/54D		xxx	
	<b>Short-term capital gain chargeable to tax</b>		xxx	
In case of a Long-term	Full value of consideration received or accruing as a result of transfer	xxx	xxx	
	Less: Expenditure incurred wholly and exclusively in connection with such transfer (for e.g., brokerage on sale)	xxx		
	(Note: Deduction on account of STT paid will not be allowed)			
	Net Sale Consideration			
	Less: Indexed cost of acquisition (ICOA)	xxx		
	Cost of transferred _____ acquisition × CII for the year in which the asset was first held by the assessee or P.Y. 2001-02, whichever is later			
	<b>Note: [Benefit of indexation will, however, not be available in respect of long-term capital gains chargeable to tax under section 112A and long-term capital gains from transfer of bonds or debentures (other than capital indexed bonds issued by the Government and sovereign gold bonds issued by RBI)]</b>			

# Computation of Capital Gains

Less: Indexed cost of improvement (ICOI)	xxx	Xxx
$\frac{\text{Cost of improvement} \times \text{CII for the year in which the asset is transferred}}{\text{CII for the year in which the improvement took place}}$		
Long-term capital gains (LTCG)		
Less: Exemption under sections 54/54B/54D/54EC/54F [Refer Table at pages 4.441-4.443]		xxxxxxx
Long-term capital gains chargeable to tax		Xxx

# THANKYOU

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