



# Income Tax Department

Ministry of Finance, Government of India

## Capital Gains

## Capital Gains

### Introduction

Capital gain head is one of the five heads of income under the Income-tax Act, 1961, with its computation governed by the provisions in Part E of Chapter IV.

### Chargeability

As per Section 45(1), profits or gains from the transfer of a capital asset are taxable in the year of transfer. However, not all transfers are taxable due to exemptions under Section 47, exclusions under Section 2(14), or reinvestment benefits.

### Computation

Capital gain is calculated by deducting the following from the full value of consideration:

- Expenses wholly and exclusively related to the transfer
- Cost of acquisition
- Cost of improvementCapital gains taxable under Section 45(4), which is attributable to the capital asset remaining with the firm, AOP or BOI after reconstitution.
- Exemptions for reinvestment of capital gains or sale proceeds.

### Classification of Capital Gain

The Gain is classified as short-term or long-term capital gains.

### Tax Rates

- **Long-term Capital Gains (LTCG):** Taxable at 12.5% without indexation. However, resident individuals and HUFs can opt for a 20% rate with indexation for land, a building, or both acquired before July 23, 2024, and transferred on or after July 23, 2024.
- **Short-term Capital Gains (STCG):** Taxed at the applicable rates as per the assessee's status. In certain cases, concessional tax rates apply.

### Chargeability of capital gains

### Introduction

Section 45 of the Income Tax Act, 1961, governs the taxation of profits or gains arising from the transfer of a capital asset. Such income is generally taxable in the year of transfer unless specified otherwise.

### Key Provisions

- **General Rule (Section 45(1)):** Profits or gains from the transfer of a capital asset are taxable in the year of transfer. Deductions include expenses incurred in connection with the transfer, cost of acquisition, and cost of improvement. It's further reduced by the exemptions provided for reinvestment of capital gains or sale consideration.
- **Insurance Compensation (Section 45(1A)):** Gains from compensation for damage or destruction of a capital asset are taxable in the year the compensation is received.
- **Unit Linked Insurance Policy (ULIP) (Section 45(1B)):** If the amount received from a ULIP (including bonus) is not exempt under Section 10(10D), it shall be taxed as capital gains in the year of receipt. CBDT has prescribed Rule 8AD for computing such capital gains.
- **Conversion into Stock-in-Trade (Section 45(2)):** Any gains from converting a capital asset into stock-in-trade are taxable in the year the stock-in-trade is sold.
- **Demat Securities (Section 45(2A)):** Any gains from the transfer of securities held in Demat form are taxable in the year of transfer.
- **Capital Contribution (Section 45(3)):** Gains from the transfer of a capital asset by a partner or member to a firm, AOP, or BOI are taxable in the year of transfer. the value recorded in the firm's books is deemed to be the full consideration for such transfer.
- **Firm Reconstitution (Section 45(4)):** When a partner (or member of an AOP/BOI) receives money or a capital asset on reconstitution, the resulting profits are taxable as capital gains in the hands of the firm, AOP or BOI under Section 45(4). Similarly, under Section 9B, if a partner/member receives capital assets or stock-in-trade upon dissolution or reconstitution, the firm, AOP, or BOI is deemed to have transferred such assets and is taxed accordingly. In case of reconstitution, both Sections 9B and 45(4) apply independently.
- **Compulsory Acquisition (Section 45(5)):** Gains from compulsory acquisition or government/RBI-approved asset transfers are taxable in the year the initial or enhanced compensation is received.
- **Joint Development Agreements (Section 45(5A)):** Capital gains arising to an individual or HUF from the transfer of land or building under a Joint Development Agreement are taxed in the year the completion certificate is issued.



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- **Repurchase of ELSS Units (Section 45(6)):**Capital gains from Equity Linked Savings Scheme (ELSS) units (UTI/Mutual Funds) held by an individual or HUF are taxable in the year of repurchase or plan termination. The gain is the difference between the repurchase price and the investment amount.

## Capital Asset

### Capital Asset

#### Introduction

A capital asset includes movable and immovable property held by an assessee, excluding certain personal assets and rural agricultural land.

#### Definition [Section 2(14)]

A *capital asset* includes:

- Any kind of property held by an assessee (movable, immovable, tangible, or intangible), whether used for business purposes or not.
- Securities held by FIIs or Category I/II AIFs as per SEBI/IFSC regulations.
- ULIPs not exempt under Section 10(10D) on account of the applicability of the fourth and fifth provisos thereof.

#### Exclusions

- **Stock-in-trade:**Treated as business income when sold.
- **Personal Effects:**Excludes movable property held for personal or family use except jewellery, archaeological collections, drawings, paintings, sculptures, or works of art.
- **Rural Agricultural Land:**An agricultural land situated in any rural area in India is not treated as capital asset.
- **Specified Bonds:**Includes 6.5% Gold Bonds 1977, 7% Gold Bonds, 1980, National Defence Gold Bonds, 1980, Special Bearer Bonds (1991), Gold Deposit Bonds issued under Gold Deposit Scheme, 1999; and Deposit certificates issued under the Gold Monetisation Scheme, 2015.

#### Agriculture Land:

The Income-tax Act does not specifically define “*agricultural land*”, but Section 2(14)(iii) lays down conditions to determine when such land is treated as a capital asset and when it is excluded. Exemption from capital gains tax applies only to rural agricultural land.

- **When Treated as a Capital Asset**

Agricultural land is considered a capital asset in the following cases:

- It is situated outside India.
- It is located within the limits of a municipality or cantonment board with a population\* of 10,000 or more.
- It is situated within certain distances from such municipalities or cantonment boards (based on population):
  - **Within 2 km:** If population is more than 10,000 but not more than 1,00,000
  - **Within 6 km:** If population is more than 1,00,000 but not more than 10,00,000
  - **Within 8 km:** If population is more than 10,00,000

\*The population of the entire municipality or cantonment board is considered based on the most recent Census (e.g., 2011 Census).

#### Classification of Capital Assets

For capital gain computation, assets are classified as short-term or long-term based on the holding period. This distinction is important since short-term gains are taxed at higher rates than long-term gains.

The holding period for classification of an asset into short-term and long-term has been enumerated in the below table.

#### Holding Period for Determining Long-Term Capital Asset

| Nature of Security             | Transfer before 23 July, 2024 (Listed) | Transfer before 23 July, 2024 (Unlisted) | Transfer on or after 23 July, 2024 (Listed) | Transfer on or after 23 July, 2024 (Unlisted) |
|--------------------------------|--|--|---|---|
| Equity Shares                  | 12 months                              | 24 months                                | No change has been made                     |   |
| Units of Equity-oriented Funds | 12 months                              | 12 months                                |   |   |
| Units of UTI                   | 12 months                              | 12 months                                |   |   |
| Units of Business Trust        | 36 months                              | 36 months                                | 12 months                                   | 24 months                                     |
| Other Units                    | 36 months                              | 36 months                                | 12 months                                   | 24 months                                     |
| Preference Shares              | 12 months                              | 24 months                                | No change has been made                     |   |



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| Nature of Security                          | Transfer before 23 July, 2024 (Listed) | Transfer before 23 July, 2024 (Unlisted) | Transfer on or after 23 July, 2024 (Listed) | Transfer on or after 23 July, 2024 (Unlisted) |
|---|--|--|---|---|
| Debentures                                  | 12 months                              | 36 months                                | 12 months                                   | 24 months                                     |
| Government Securities                       | 12 months                              | 36 months                                | 12 months                                   | 24 months                                     |
| Zero Coupon Bonds                           | 12 months                              | 12 months                                | No change has been made                     |   |
| Other Bonds                                 | 12 months                              | 36 months                                | 12 months                                   | 24 months                                     |
| Other Securities                            | 12 months                              | 36 months                                | 12 months                                   | 24 months                                     |
| Immovable Property (Land and Building both) | 24 months                              | No change has been made                  |   |   |
| Any Other Capital Asset                     | 36 months                              | 24 months                                |   |   |

*Note:* Capital gains arising from depreciable assets, market-linked debentures (MLD), specified mutual funds (SMF), unlisted bonds and unlisted debentures shall be treated as capital gains arising from the transfer of short-term capital assets, irrespective of the period of holding.

## Transfer of Capital Asset

### Transfer of Capital Asset

#### Introduction

"Transfer" refers to the passage of rights in a property from one person to another. It is defined inclusively under Section 2(47) of the Income-tax Act.

#### Meaning of Transfer

Transfer of a capital assets includes:

- Sale, exchange or relinquishment of the assets
- Extinguishment of any rights
- Compulsory acquisition under any law
- Conversion into stock-in-trade
- Maturity or redemption of zero-coupon bonds
- Transaction involving the allowance of the possession of any immovable property
- any transaction (whether by way of becoming a member of, or acquiring shares in, a co-operative society, company or other association of persons or by way of any agreement or any arrangement or in any other manner whatsoever) which has the effect of transferring, or enabling the enjoyment of, any immovable property.

#### Transactions Not Regarded as 'Transfer' for Capital Gains

Certain transactions are specifically excluded from the scope of "transfer" under Section 47 of the Income-tax Act, 1961, thereby exempting them from capital gains tax.

#### Exempted Transactions under Section 47

- **Partition of HUF [Section 47(i)]:** Distribution of capital assets during the partition of a Hindu Undivided Family (HUF).
- **Gift, Will, or Trust [Section 47(iii)]:** Transfer of a capital asset by an individual or HUF under a gift, Will, or irrevocable trust.
- **Transfer of Capital Assets between Holding and Subsidiary Companies [Section 47(iv)/(v)]:** Transfer of capital assets from a holding company to its Indian subsidiary company, or from a subsidiary company to its Indian holding company, subject to certain conditions.
- **Transfer in Business Restructuring (Amalgamation/Demerger/business reorganisation) [Section 47(vi) to 47(vii)]:** Transfers of capital assets under schemes of amalgamation, demerger, or business reorganisation are not treated as "transfer" under the Income Tax Act if specified conditions are fulfilled. This includes:
  - **Amalgamation:**
    - Transfer of assets from amalgamating company to Indian amalgamated company;
    - Shareholders transferring shares in amalgamating company in exchange for shares in Indian amalgamated company;
    - Transfer of shares of Indian Co. under a scheme of amalgamation of two foreign companies; and
    - Transfer of shares of foreign co. which derives, directly or indirectly, its value substantially from the shares of an Indian company under a scheme of amalgamation of two foreign companies.
  - **Demerger:**
    - Transfer of assets from demerged company to Indian resulting company;
    - Shareholders receiving shares in resulting company;



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- Transfer of shares of Indian Co. under a scheme of demerger of two foreign companies; and
- Transfer of shares of foreign co. which derives, directly or indirectly, its value substantially from the share or shares of an Indian company under a scheme of demerger of two foreign companies.
- **Business Reorganisation of Co-operative Banks:**
  - Transfer of assets or shares under reorganisation is not regarded as transfer.
    - **GDRs/Bonds [Section 47(viia)/(viiaa)] :** Transfer of Global Depository Receipts (GDRs), Rupee-Denominated Bonds by a non-resident to another non-resident outside India.
    - **Specified securities [Section 47(viib)]:** Any transfer of specified capital assets by a non-resident on a recognised stock exchange located in any IFSC is not treated as a transfer, provided the consideration is paid or payable in foreign currency.
    - **Relocation of Offshore Fund to IFSC [Section 47(viic)/(viid)]:** Transfer of capital assets by the original fund to the resultant fund, or transfer of shares, units or interests by investors in the resultant fund.
    - **Transfer by India Infrastructure Finance Co. Ltd. (IIFCL) [Section 47(viie)]:** Transfer of capital asset by IIFCL to a notified statutory infrastructure financing institution is not treated as a transfer.
    - **Transfer under Government-approved Plan [Section 47(viif)]:** Transfer of capital asset by a PSU to another notified PSU or to the Central/State Government under a Central Government-approved plan.
    - **Government Securities [Section 47(viib)]:** Transfers of Government securities with interest by one non-resident to another non-resident outside India through an intermediary dealing in settlement of securities.
    - **Sovereign Gold Bonds [Section 47(vic)]:** Redemption of Sovereign Gold Bonds issued by RBI.
    - **Conversion of Gold into Electronic Gold Receipt or vice versa [Section 47(viid)]:** Conversion of gold into Electronic Gold Receipt (EGR) issued by a vault manager, or conversion of EGR into Gold.
    - **Transfer of Art, Painting, etc., to Govt. [Section 47(ix)]:** Transfer of art, books, manuscripts, or similar collectables to the Government, a University, or a notified museum/institution.
    - **Conversion of Securities [Section 47(x)/(xa)/(xb)]:** Conversion of bonds, debentures, debenture-stock, FCEBs deposit certificates into shares or debentures and preference shares into equity shares of the same company.
    - **Transfer of Land by a Sick Co. [Section 47(xii)]:** Transfer of land by a sick industrial company is not treated as a transfer if it is made under a sanctioned scheme and specified conditions are fulfilled.
    - Transfer of membership rights under a SEBI-approved demutualisation or corporatisation scheme. **[Section 47(xiii)]**
    - **Conversion of Entities [Section 47(xiii)/(xiib)/(xiv)]:** Conversion from one form of entity to another is not regarded as a transfer provided the specified conditions are satisfied.
    - **Lending of Securities [Section 47(xv)]:** Transfer of securities under a lending arrangement entered into by the assessee with the borrower, in accordance with SEBI or RBI guidelines.
    - **Transfer under Reverse Mortgage Scheme [Section 47(xvi)]:** Transfer of a capital asset under a reverse mortgage scheme notified by the Central Government.
    - **Transfer of Shares to Business Trust [Section 47(xvii)]:** Transfer of SPV shares by an Indian company to a business trust in exchange for units.
    - **Mutual Fund Consolidation [Section 47(xviii)/(xix)]:** Consolidation of mutual fund schemes.
    - Transfer of interest in a joint venture by a public sector company for shares of a foreign government company is not treated as a transfer. **[Section 47(xx)]**

## Key Conditions

Many of these exclusions are subject to the fulfilment of specific conditions, such as holding periods, compliance with regulations, and prior approvals.

## Withdrawal of Exemption- Section 47A

Exemption from capital gains under Section 47 can be withdrawn if certain conditions are not met after the transfer. In such cases, the transfer will be taxable in the year of non-compliance.

- **Conversion into stock-in-trade or change in shareholding**

If a capital asset transferred by a holding company to its subsidiary (or vice versa) is converted into stock-in-trade or the holding company ceases to hold 100% shareholding within 8 years, the earlier exemption is withdrawn, and the capital gain becomes taxable in the year of transfer.

- **Withdrawal of Exemption on Conversion or Succession:**

If the conversion or succession (e.g., firm to company, or company to LLP) is exempt under Section 47 but later conditions are not fulfilled, the earlier exempted capital gains shall become taxable in the hands of the successor entity or the shareholder of the predecessor company, as applicable, in the year of default.

## Transfer of capital asset between holding and subsidiary companies

### Transfer of Capital Asset Between Holding and Subsidiary Companies



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## Introduction

Transfers of capital assets between a holding company and its subsidiary (or vice-versa) are not regarded as "transfer" under Section 47 of the Income-tax Act, subject to specified conditions. Such transactions are exempt from capital gains tax unless certain conditions are breached.

## Conditions for Exemption

- **Transfer by Holding Company to Subsidiary Company:**
  - The holding company or its nominees must hold 100% of the subsidiary's share capital.
  - The subsidiary must be an Indian company.
  - The capital asset must not be transferred as stock-in-trade.
    - **Transfer by Subsidiary Company to Holding Company:**
  - The holding company must hold 100% of the subsidiary's share capital.
  - The holding company must be an Indian company.
  - The capital asset must not be transferred as stock-in-trade.

## Cost of Acquisition and Holding Period

- The cost of acquisition in the hands of the transferee is deemed to be the cost incurred by the transferor, including any improvements.
- The holding period of the transferred asset is calculated from the date of acquisition by the transferor.

## Withdrawal of Exemption

- The exemption is revoked if:
  - The transferee company treats the asset as stock-in-trade within 8 years from the date of transfer of the capital asset, or
  - The holding company ceases to hold 100% of the subsidiary's share capital within 8 years.

When exemption is withdrawn, the amount of capital gain exempted earlier is deemed to be the income of the transferor company chargeable under the head 'capital gain' in the year in which such transfer took place.

## Conversion or succession of entities not regarded as transfer

### Conversion or Succession of Entities Not Regarded as Transfer

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## Introduction

Transfers of capital assets during the conversion or succession of entities are not considered "transfer" under Section 47 of the Income-tax Act, subject to specific conditions. If conditions are not complied with, the exemption shall be withdrawn.

## Key Transactions Exempt from Capital Gains

- **Succession of Firm by Company [Section 47(xiii)]**
  - All business assets and liabilities of the firm must be transferred to the company.
  - All partners shall become shareholders in the successor company and shall be allotted shares in proportion to their respective capital balances in the firm.
  - Partners must hold at least 50% of the company's voting power for 5 years.
  - The Partners of the firm should not receive any consideration or benefit, directly or indirectly, other than by the way of allotment of shares (equity or preference shares) in the company.
    - **Conversion of Unlisted Company into LLP [Section 47(xiiiib)]**
  - Turnover should not exceed 60 lakhs, and assets should not exceed Rs. 5 crores in any of the 3 previous years.
  - All company assets and liabilities must become those of the LLP.
  - All shareholders of the company become partners of the LLP in the same proportion as their shareholding on the conversion date.
  - The shareholders' aggregate profit-sharing ratio in the LLP remains at least 50% for 5 years from the conversion date.
  - The shareholders of the company do not receive any consideration or benefit, directly or indirectly, in any form or manner, other than by way of share in profit and capital contribution in the LLP.
  - For three years post-conversion, no partner receives any amount from the company's accumulated profits as on the conversion date, directly or indirectly.
    - **Succession of Proprietary Concern by Company [Section 47(xiv)]**
  - The entire business must devolve upon the company.
  - The company should take over all the assets and liabilities of the proprietary concern.
  - Sole proprietor must hold at least 50% voting power in the company for 5 years.
  - Sole proprietor must not receive any consideration other than shares in the company.
    - **Corporatisation of Recognised Stock Exchanges [Section 47(xiii)]**



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Transfer of capital assets by an AOP/BOI to a company during demutualisation or corporatisation of a recognised stock exchange is not treated as a transfer, subject to conditions:

- All assets and liabilities of the AOP/BOI must transfer to the company;
- All members of the AOP or BOI before the succession become shareholders of the company;
- Members of the AOP/BOI receive no consideration or benefit, directly or indirectly, other than shares allotted by the company;
- AOP/BOI members must hold at least 50% voting power in the company, maintained for 5 years from succession; and
- Demutualisation/corporatisation must be SEBI-approved.

## Withdrawal of Exemption

If any of the prescribed conditions are violated, the capital gains earlier treated as exempt shall be deemed as income and become taxable in the year of such non-compliance, in the hands of the successor company or LLP, or the shareholder of the predecessor company, as applicable.

## Transfer of capital asset as a result of business restructuring

### Transfer of Capital Asset as a Result of Business Restructuring

#### Introduction

Transfers of capital assets under schemes like amalgamation, demerger, or business reorganisation are not considered "transfer" under Section 47 of the Income-tax Act, 1961, if specific conditions are met.

#### Key Transactions Exempt from Capital Gains

- **Amalgamation**
- **Meaning of Amalgamation [Section 2(1B)]:**

Amalgamation means the merger of one or more companies into another company, or the merger of two or more companies to form a new one, subject to:

- All properties and liabilities of the amalgamating company become those of the amalgamated company.
- At least 75% in value of shareholders of the amalgamating company become shareholders of the amalgamated company.
- The merger is not due to asset acquisition or distribution post-winding-up.
  - **Amalgamation with an Indian Company**
- Transfer of Capital Assets [Section 47(vi)/(vial)]

Transfer of capital assets by the amalgamating company to an Indian amalgamated company is not treated as transfer, including in the case of banking company mergers.

- Transfer of Shares by Shareholders [Section 47(vii)]

Transfer of shares by shareholders of the amalgamating company is exempt if:

- Consideration is in the form of shares in the Indian amalgamated company; and
- The amalgamated company is an Indian company.
  - **Amalgamation of Foreign Companies**
- Transfer of Shares of Indian Company [Section 47(vial)]

Transfer of shares in an Indian company by a foreign amalgamating company to another foreign company is not regarded as transfer if:

- The transfer occurs under a foreign amalgamation scheme,
- At least 25% of shareholders of the transferor remain shareholders in the transferee, and
- Capital gains are not taxable in the transferor's country.

- Transfer of Shares of Foreign Company [Section 47(viab)]

Transfer of shares of a foreign company deriving value from an Indian company is not treated as transfer if:

- It occurs under an amalgamation between two foreign companies,
- At least 25% of shareholders of the transferor remain in the transferee, and
- Capital gains are not taxable in the transferor's country.
  - **Demerger**
- **Definition:** As per Section 2(19AA), a *Demerger* refers to the transfer of an undertaking to a resulting company.



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## • Deemed Demergers:

- Splitting-up or reconstruction of any authority or a body.
- Splitting-up or reconstruction of a public sector company.
- Splitting-up or reconstruction of a company.
  - **Exempt Transfers:**
    - Capital assets transferred by a demerged company to an Indian resulting company (Section 47(vib)).
    - Shares exchanged by shareholders of a demerged company for shares in the resulting company (Section 47(vid)).
    - Transfers in the demerger of foreign companies, subject to conditions like shareholder continuity and tax exemptions (Sections 47(vic), 47(vicc)).
      - **Business Reorganization of Co-operative Banks**
  - **Exempt Transfers:**
    - Capital assets transferred by a predecessor co-operative bank to a successor or converted banking company (Section 47(vica)).
    - Shares transferred by shareholders in a co-operative bank for shares in a successor or converted banking company (Section 47(vicb)).

## Conditions and Additional Provisions

### • Conditions for Exemption:

- All properties and liabilities of the transferor must be transferred.
- Shareholders must receive shares in the transferee company.
- Shareholding or voting power continuity is required in many cases (e.g., 75% for foreign demergers).
  - **Other Provisions:**
- **Cost of Acquisition:** The cost for the transferee is deemed to be the cost incurred by the transferor, including improvements.
- **Holding Period:** The transferee's holding period includes the transferor's holding period.

## Capital gains on transfer of asset acquired from previous owner

### Capital Gains on Transfer of Asset Acquired from Previous Owner

#### Introduction

When a capital asset is acquired through specified circumstances (e.g., inheritance, gift, or reorganization), the period of holding and cost of acquisition are determined with reference to the previous owner.

#### Computation of Capital Gains

##### • Scenarios of Acquisition from Previous Owner

- Partition of HUF
- Gift or Will from an Individual or HUF
- By succession, inheritance or devolution
- Distribution on dissolution or liquidation
- Under a transfer to a revocable or an irrevocable trust
- Transfers under amalgamation, demerger, or business reorganization
- Transfers between holding and subsidiary companies (under Section 47(iv) and (v))
- Transfer of capital assets during the succession of a firm, sole proprietorship, or private/unlisted company into a company or LLP (47(xiii)/(xiib) and (xiv))
- Relocation to IFSC funds
- Transfer of property by a member to his HUF
  - **Key Factors**
- **Period of Holding:** Includes the period for which the previous owner held the asset.
- **Cost of Acquisition:**
  - Deemed to be the cost incurred by the previous owner.
  - If acquired before April 1, 2001, the higher of the actual cost or the fair market value (FMV) as on April 1, 2001, can be used.
- **Cost of Improvement:** Includes expenditure incurred on or after April 1, 2001, by either the assessee or the previous owner.

#### Computation of Capital Gains

#### Computation of Capital Gains



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## Introduction

Capital gains are computed based on the holding period, sale value, cost of acquisition and improvement, transfer expenses, reconstitution adjustments, and exemptions under Sections 54 to 54GB.

## Steps to Compute Capital Gains

- **Formula for Computation**

| <i>Particulars</i>   | <i>Rs.</i> |
|--|------------|
| Full value of consideration  | xxx        |
| Less:  |            |
| (a) Expenditure incurred wholly and exclusively in connection with transfer  | (xxx)      |
| (b) Cost of acquisition  | (xxx)      |
| (c) Cost of improvement  | (xxx)      |
| (d) Capital gains taxable under section 45(4), which is attributable to the capital asset remaining with the firm, AOP or BOI after reconstitution | (xxx)      |
| Less: Exemption under Sections 54 to 54GB  | (xxx)      |
| <b>Short-term/Long-term capital gain or Loss</b>   | <b>xxx</b> |

## Key Components

- **Period of holding:** For capital gain computation, assets are classified as short-term or long-term based on the holding period, which generally starts from the date of purchase.
- **Full Value of Consideration:** Includes cash or fair market value for non-cash consideration, adjusted as per specific provisions.
- **Transfer Expenses:** Includes brokerage, commission, stamp duty, legal fees, etc. However, no deduction is allowed for STT when computing capital gains on sale of securities.
- **Cost of Acquisition:** Purchase price or cost incurred during acquisition or cost of previous owner.
- **Cost of Improvement:** Includes capital expenditure incurred on or after April 1, 2001, by the assessee or the previous owner.
- **Exemptions:** Available under Sections 54 to 54GB for reinvestment in specified assets.
- **Adjustments under Section 45(4):** Deduction of attributed revaluation gains from capital assets retained by a firm (including AOP or BOI) after reconstitution.

## Tax Treatment and Indexation

- **General Rule:**
- Indexation is not available for short-term capital gains.
- For long-term capital gains on assets transferred on or after July 23, 2024, indexation has been removed.
  - **Grandfathering for Land/Buildings Acquired Before 23-07-2024:**
- Resident individuals and HUFs can opt for indexation and 20% tax if it results in lower tax liability compared to the new 12.5% rate without indexation.
  - **Indexed Cost of Acquisition/Improvement:**
- Formula for Indexation:  $\text{Indexed Cost} = \text{Original Cost} \times \text{CII}(\text{Year of Transfer}) / \text{CII}(\text{Year of Acquisition/Improvement or 2001-02, whichever is later})$

## Other Points (Provisos under Section 48)

- For non-residents, gains on shares/debentures of Indian companies are computed in the same foreign currency as used for purchase, then reconverted into INR (applies to every reinvestment and sale).
- Indexation benefit applies to long-term capital assets transferred before 23-07-2024, except for non-resident transfers of Indian shares/debentures.
- No indexation for LTCG under Section 112A (equity shares, equity-oriented funds, business trusts).
- No indexation for LTCG on bonds/debentures, except Capital Indexed Bonds and Sovereign Gold Bonds.
- In case of a non-resident holding rupee-denominated bonds, gains arising from rupee appreciation at redemption shall be ignored.
- For transfers of shares/debentures/warrants by gift or irrevocable trust (under section 47(iii)), FMV on the transfer date is deemed as consideration.

## Period of holding of a capital asset

### Period of Holding of a Capital Asset



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## Introduction

The period of holding is the duration for which a capital asset is held by the owner before its transfer. It determines whether the asset is classified as a short-term or long-term capital asset, which impacts the applicable tax rate.

## General Rule

The period of holding is calculated from the date of acquisition to the date of transfer. Special provisions apply in specific cases, as outlined below.

## Special Cases for Period of Holding

### • Securities and Shares

- Listed Shares: Shares are sold through brokers with delivery, the broker's note date is treated as the date of transfer, and the holding period is counted up to that date.
- Demat Securities: Determined using the FIFO method (First-In-First-Out).
- Bonus Shares: Period begins on the allotment date.
- Sweat Equity Shares: Starts from the allotment or transfer date.
- Conversion of Shares/Debentures: Includes the period for which the original asset (e.g., preference shares, bonds) was held.
- Rights Shares: Period begins on the allotment date.
- Renunciation of Right: A shareholder's right to subscribe is a capital asset, and if renounced, its holding period is from the offer date to the date of renunciation.
- Shares of Company in Liquidation: For shares in a company under liquidation, the holding period excludes the time after the liquidation date.
- Amalgamation and Demerger: Period of original shares held in the amalgamating or demerged company is included.
- Shares of Resulting Company: the holding period of resulting co. shares is counted from the date of holding of the shares in the demerged company.
  - **Acquisition by Operation of Law (Section 49(1))**
- Includes the holding period of the previous owner who acquired the asset through purchase.
  - **Conversion of Stock into Capital Asset**
- Holding period is counted from the date of conversion.
  - **In Case of Unit of Business Trust**
- For business trust units allotted against SPV shares, the holding period includes the time the shares were held.
  - **Conversion of Branch into Subsidiary**
- In case of conversion under Section 115JG, the holding period includes the time the asset was held by the branch or the previous owner under Section 49(1).
  - **Redemption of GDRs**
- For non-residents, the holding period of shares received on GDR redemption is counted from the date of redemption request.
  - **Mutual Fund Consolidation and Segregated Portfolios**
- The holding period includes the time the original units were held in the respective original scheme or main portfolio.
  - **Trading/Clearing Rights**
- Includes the period of membership in the stock exchange before demutualisation.
  - **Declared Assets Under IDS 2016**
- For immovable property: From the date of acquisition or June 1, 2016, if registered deed is missing.
- For other assets: From June 1, 2016.
  - **Electronic Gold Receipts (EGRs)**
- Combines the holding period of gold and the EGR.

## Cost of acquisition for computation of capital gains

### Cost of Acquisition and Cost of Improvement for Computation of Capital Gains

## Introduction

The cost of acquisition includes the purchase price and expenses incurred to acquire a capital asset. Special provisions apply to determine the cost in certain scenarios.

## How to Calculate the Cost of Acquisition

### • In General

- The cost of acquisition of an asset is the value for which it was acquired by the assessee. It is reasonable to include in the actual cost of a capital asset all the expenses which are incurred by the assessee to acquire it.



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## ◦ **Assets Acquired Before 01-04-2001**

- The cost of acquisition can be either the actual purchase price or the fair market value (FMV) as on 01-04-2001, at the assessee's option.
- For land/building, FMV cannot exceed stamp duty value as on 01-04-2001.
- FMV option is not available for intangible assets or rights
  - **House Property**
- Includes the cost of land and construction but excludes interest deductions claimed under Sections 24, 80EE, or 80EEA.
  - **Goodwill and Intangible Assets**
- Purchased goodwill and other intangible assets: Cost is the purchase price. However, if depreciation on goodwill was claimed before AY 2021-22, such depreciation must be reduced from the purchase price of goodwill to determine the actual cost.
- Self-generated goodwill and other intangible assets: Cost is deemed to be nil.
  - **Securities**
- **Original Shares:** If original shares were acquired before 01-04-2001, the cost can be the actual price or FMV as on 01-04-2001, at the option of the assessee. For shares acquired on or after 01-04-2001, cost is the actual purchase price.
- **Listed Securities (equity shares or units of equity oriented mutual fund or unit of business trust) Acquired on or Before 31-01-2018:** Cost is the higher of the cost of acquisition or the lower of FMV on 31-01-2018 and sale value.
- **Sweat Equity Shares:** the cost of acquisition of sweat equity shares is taken at the FMV on the date on which the option is exercised by the assessee.
- **Demat Accounts:** FIFO method applies for cost determination.
- **Right Shares:** Cost shall be the price paid by the shareholder for share acquisition. If there is a right renunciation, then the cost shall be nil. It is to be noted that if the right shares were acquired prior to 01-04-2001, the cost of acquisition may be taken as fair market value of such shares as on April 1, 2001.
- **Bonus Shares:** If bonus shares are issued to the assessee prior to 01-04-2001, the cost of acquisition of such shares is the fair market value as on 01-04-2001. Where bonus shares are issued on or after 01-04-2001, the cost of acquisition is taken as nil. However, if the bonus shares were allotted on or before 31-01-2018 and sold on or after 01-04-2018, the cost of acquisition of such shares shall be lower of the following:
  - Cost of acquisition ('Nil' if shares are issued on or after 01-04-2001); or
  - Lower of the fair market value of such shares as on 31-01-2018 or full value of consideration as a result of transfer.
- **Restructuring Events**

◦ **Amalgamation:** If shares are received in an Indian amalgamated company, their cost is taken as the price paid for original shares in the amalgamating company.

◦ **Shares Acquired in Resulting Co.:** The cost of acquisition of shares in the resulting company is determined by proportionately allocating the cost of shares held in the demerged company. This is done based on the ratio of the net book value of assets transferred to the resulting company to the net worth of the demerged company immediately before the demerger.

◦ **Shares in Demerged Co.:** Cost of acquisition of the shares held by the shareholders in the demerged company is reduced by the cost of acquisition of shares, acquired from resulting company.

## • **Conversion of Securitise**

◦ **Conversion of Debentures into Shares:** No capital gain arises on conversion. When converted shares are sold, their cost is taken as the price paid for the original debentures.

◦ **Conversion of Preference Shares into Equity Shares:** Cost of preference shares is deemed to be the cost of equity shares.

◦ **Consolidation or Conversion of Shares:** In cases of sub-division, consolidation, or conversion of shares (e.g., one kind to another), cost of the new shares is the same as the original shares.

## • **Acquisition by Operation of Law (Section 49)**

- If the assessee has acquired the property not by way of purchase but by way of operation of law (e.g., gift, will, inheritance or any other mode), the cost to the previous owner is deemed to be the cost to the assessee.

*Note: If the cost at which the previous owner acquired the asset is not ascertainable, the cost of acquisition is deemed to be the fair market value on the date the asset became the property of the previous owner.*

## • **Conversion of Stock into Capital Asset:**

- FMV on the conversion date is taxed as business income and is treated as the cost of acquisition of the capital asset.
  - **Cost of Capital Assets received on Liquidation:**
- If a capital asset is received upon the liquidation of a company, its cost of acquisition is deemed to be the fair market value on the date of distribution.
  - **Demutualisation of Stock Exchange:**



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- Shares received on demutualisation are valued at the cost of original stock exchange membership. Cost of trading or clearing rights received is taken as nil.
  - **Cost of Improvement**
- **General Rule:** Cost of improvement includes capital expenditure incurred on or after 01-04-2001 by the assessee or previous owner for additions/alterations to the asset.
- **Exclusions:** Expenses deductible under “Income from House Property,” “Profits and Gains of Business,” or “Other Sources,” and interest claimed under Section 24(b), 80EE , or 80EEA , are not considered.
- **Assets Acquired Before 01-04-2001:** Only improvements made on or after 01-04-2001 are allowed; earlier costs are ignored.
- **Assets from Previous Owner (Section 49(1)):** Includes capital improvements made by the previous owner or assessee on or after 01-04-2001.
- **Intangible Assets:** Cost of improvement for goodwill, business rights, or any other intangible assets or rights is not allowed and is treated as nil.

## Indexed cost of acquisition for computation of capital gains

### Indexed Cost of Acquisition and Cost of Improvement for Computation of Capital Gains

#### Introduction

Indexation adjusts the cost of acquisition and cost of improvement of a capital asset to neutralise inflation's impact, ensuring tax on actual gains. The Cost Inflation Index (CII) is used for this purpose. Indexation is no longer available for assets transferred on or after 23-07-2024, except for land or buildings acquired before this date by resident individuals or HUFs.

#### Indexed Cost of Acquisition and Cost of Improvement

Long-term capital gains arising from the transfer of capital assets on or after 23rd July 2024 will be taxed at a uniform rate of 12.5%, and the benefit of indexation will no longer be available

- **Grandfathering Provision for Land and Building**

To ease the transition, a grandfathering relief has been provided for resident individuals and HUFs. If they transfer land or building acquired before 23-07-2024, they can choose to pay tax at the old rate of 20% with indexation, instead of the new 12.5% without indexation, if it results in a lower tax liability.

- **Calculation of Indexation of Cost of Acquisition and Cost of Improvement**

- **Calculation of Indexed Cost of Acquisition**

Indexed Cost of Acquisition = Cost of Acquisition × CII of Transfer Year / CII of Acquisition Year (or 2001-02, whichever is later)

- **Calculation of Indexed Cost of Improvement** Indexed Cost of Improvement = Cost of Improvement × CII of Transfer Year / CII of Improvement Year

#### Notified Cost Inflation Index (CII)

The indexation of cost of improvement shall be done on the basis of following notified Cost Inflation Index:

#### Cost Inflation Index (CII) – Financial Year-wise

| Financial Year | CII | Financial Year | CII |
|----------------|-----|----------------|-----|
| 2001-02        | 100 | 2014-15        | 240 |
| 2002-03        | 105 | 2015-16        | 254 |
| 2003-04        | 109 | 2016-17        | 264 |
| 2004-05        | 113 | 2017-18        | 272 |
| 2005-06        | 117 | 2018-19        | 280 |
| 2006-07        | 122 | 2019-20        | 289 |
| 2007-08        | 129 | 2020-21        | 301 |
| 2008-09        | 137 | 2021-22        | 317 |
| 2009-10        | 148 | 2022-23        | 331 |
| 2010-11        | 167 | 2023-24        | 348 |
| 2011-12        | 184 | 2024-25        | 363 |
| 2012-13        | 200 | 2025-26        | 376 |
| 2013-14        | 220 |                |     |

Reference to Valuation Officer

Reference to Valuation Officer



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## Introduction

An Assessing Officer (AO) may refer a capital asset's valuation to a Valuation Officer to ascertain its fair market value (FMV). This referral is warranted when the declared value appears lower than the actual FMV or the asset's nature necessitates expert evaluation.

## Key Provisions

- **Purpose of Reference:**

To determine the FMV of a capital asset for computing capital gains. The AO must base the decision on material evidence, the asset's nature, or relevant circumstances.

- **Situations for Reference:**

- **Value Estimated by a Registered Valuer:**

The Assessing Officer may refer the asset's valuation to a Valuation Officer if there is a variance between the registered valuer's estimate and the fair market value.

- **Value Claimed by the Assessee:**

Referral occurs when the AO believes the FMV exceeds the claimed value by:

- 15% of the claimed value by assessee; or
- 25,000, whichever is less.

- **Special Nature of Asset:**

When the asset's unique nature or circumstances necessitate expert valuation.

## Computation of Capital Gains in Case of Depreciable Assets

### Computation of Capital Gains in Case of Depreciable Assets

## Introduction

Section 50 deals with how capital gains are computed when a depreciable asset is transferred. Regardless of the period of holding, any gain on the transfer of depreciable assets is always treated as short-term capital gain.

- **When Part of a Block is Sold**

If one or more depreciable assets forming part of a block are sold during a financial year, and the total sale consideration exceeds:

- the opening written down value (WDV) of the block,
- plus the cost of any new assets added to the block during the year,
- minus any expenses incurred on the transfer,

Then, such excess shall be deemed to be the capital gains arising from the transfer of short-term capital assets.

- **When Entire Block is Sold**

If all the assets in a block are sold during the year, and no asset remains in that block:

- The WDV at the beginning of the year, plus the cost of any new asset acquired during the year, is treated as the cost of acquisition.
- The difference between the sale proceeds and this cost is treated as short-term capital gain or loss.

- **Special Treatment of Goodwill**

From Assessment Year 2021–22, goodwill is no longer considered a depreciable asset, and depreciation cannot be claimed on it. Therefore, any transfer of goodwill is now governed by general capital gain provisions and not by Section 50.

However, if depreciation was claimed on goodwill up to AY 2020–21 (when it formed part of the intangible block of assets), the WDV of the block and any short-term capital gains arising from the reduction of goodwill from the block must be calculated as per Rule 8AC .

As per *Rule 8AC* , if the depreciated value of goodwill exceeds the sum of:

- the opening WDV of the block, and
  - the cost of new intangible assets acquired during the year,
- then the excess is deemed short-term capital gain.

Further, if goodwill was the only asset in the block as of 01-04-2020, and no other intangible asset was acquired during the previous year 2020–21, no capital gain or loss will arise due to the cessation of the block.



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## Capital Gains on Distribution of Assets by a Company in Liquidation

### Capital Gains on Distribution of Assets by a Company in Liquidation

- **No Capital Gains For Company**

When a company distributes its assets to its shareholders upon liquidation, such distribution shall not be regarded as a “transfer” by the company for the purposes of Section 45. [Section 46(1)]

- **Capital Gains For Shareholders**

When a shareholder receives money or other assets from a company on its liquidation, he shall be chargeable to income-tax under the head “Capital Gains”.

- **The Full value of consideration**

The net amount below shall be deemed to be the full value of consideration for the purposes of Section 48.

[Money received + Market value of assets received on the date of distribution] – [Amount assessed as dividend under Section 2(22)(c)]

## Capital Gains on Buy-Back of Shares

### Capital Gains on Buy-Back of Shares

#### Introduction:

Buy-back of shares is treated as a transfer, and income from it is taxable under "Capital Gains."

- From 01-10-2024, consideration received by shareholders from a domestic company's buy-back is deemed a dividend under Section 2(22)(f).
- The consideration for capital gains computation is treated as nil, resulting in a capital loss for the shareholder.

#### Taxation Scope:

- For domestic companies:
  - Before 01-10-2024: Exempt for shareholders; company paid tax under Section 115QA.
  - From 01-10-2024: Taxed as deemed dividend under Section 2(22)(f).
- For foreign companies: Taxed under Section 46A as capital gains.
- For securities other than shares: Taxed as capital gains under Section 46A.

#### Computation of Capital Gains:

The computation depends on whether the buy-back is subject to Section 2(22)(f):

- **If Section 2(22)(f) applies:**
- Full value of consideration is treated as nil, leading to a capital loss.
  - **If Section 2(22)(f) does not apply:**
- Capital gain = Full value of consideration - (Cost of acquisition + Cost of improvement + Transfer expenses).

#### Key Factors for Capital Gains Computation:

- **Period of Holding:** Determined from purchase date to buy-back date (FIFO method for Demat holdings).
- **Full Value of Consideration:** Amount received; deemed to be nil if consideration is taxable under Section 2(22)(f).
- **Cost of Acquisition:** General provisions apply.
- **Cost of Improvement:** As per general provisions.
- **Exemptions (Sections 54 to 54GB):** Available subject to conditions.

#### Year of Taxability:

Tax liability arises in the year the company executes the buy-back.

## Full Value of Consideration for Computation of Capital Gains

### Full Value of Consideration for Computation of Capital Gains

#### Introduction

Full value of consideration refers to the amount received or receivable by the owner upon the transfer of a capital asset. It may be received in cash or kind, with fair market value (FMV) considered for non-monetary consideration. It is to be noted that the Act has not defined the term ‘full value of consideration’; henceforth, it has to be interpreted in the common commercial sense according to the prevalent usage. However, specific rules apply under the Income-tax Act to determine the full value of consideration in various scenarios.



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## Key Provision

### • Immovable Property (Section 50C):

If the sale consideration for land, building, or both is less than the Stamp Duty Value (SDV):

• **Deeming provision**– SDV is deemed the full value of consideration, unless it does not exceed 110% of the actual consideration.

• **Date of agreement vs. registration**– SDV on the agreement date can be taken if consideration (wholly/partly) was received by account payee cheque/draft, ECS, or other prescribed electronic mode on or before the agreement date.

• **Dispute on SDV** – If the assessee claims SDV exceeds fair market value (FMV) and has not disputed it elsewhere, the Assessing Officer may refer valuation to a Valuation Officer; the lower of the SDV or Valuation Officer's value will apply.

#### ◦ Joint Development Agreements:

For immovable property transferred under a joint development agreement, the consideration equals the money received and the SDV of the owner's share in the developed project, as of the certificate of completion date.

#### ◦ Insurance Compensation:

Full value of consideration includes the aggregate of money received and the FMV of assets in kind.

#### ◦ Conversion into Stock-in-Trade (Section 45):

FMV on the date of conversion is deemed the full value of consideration.

#### ◦ Transaction with Firms or AOPs/BOIs:

• **Capital Contribution by Partners:** The value recorded in the firm's books for the capital asset is deemed the full value.

• **Reconstitution or Dissolution:** Distribution of capital assets is taxed as capital gains (Section 9B and 45(4)).

#### ◦ Unlisted Shares (Section 50CA):

If the sale consideration for shares of a company (other than quoted shares) is less than the FMV determined as prescribed (Rule 11UAA), such FMV shall be deemed the full value of consideration for capital gains purposes.

• **Exemption**– The provision does not apply to transfers by specified classes of persons and subject to prescribed conditions (e.g., certain court/tribunal-approved transactions).

#### ◦ Redemption of Rupee-Denominated Bonds:

In case of redemption of Rupee Denominated Bonds of an Indian company held by a non-resident assessee, any gains arising on account of appreciation of rupee against a foreign currency at the time of redemption of such bond shall be ignored for the purposes of computation of full value of consideration.

#### ◦ Liquidation of Companies (Section 46):

Full value equals money and FMV of assets received, less accumulated profits taxed as deemed dividends under Section 2(22)(c).

#### ◦ Unascertainable Consideration (Section 50D):

If consideration cannot be determined, the FMV on the transfer date is deemed the full value.

## Capital Gains on Slump Sale

### Capital Gains on Slump Sale

#### Introduction:

A slump sale involves transferring one or more undertakings for a lump sum consideration without assigning individual values to assets and liabilities. Capital gains are computed as the excess of the fair market value (FMV) of the undertaking over its net worth. [Section 50B]

#### Definition:

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

#### Computation of Capital Gains:

| Particulars                         | Amount (₹) |
|-------------------------------------|------------|
| Full value of consideration (FMV)   | xxx        |
| Less: Expenditure on transfer       | (xxx)      |
| Less: Net worth of the undertaking  | (xxx)      |
| Less: Exemptions (Sections 54-54GB) | (xxx)      |
| <b>Capital Gains</b>                | xxx        |

#### Key Factors for Capital Gains Computation:

##### • Period of Holding:



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- Short-term if held  $\leq 36$  months.
- Long-term if held for  $> 36$  months.
  - **Full Value of Consideration:**  
In slump-sale, FMV of transferred assets (as per Rule 11UAE) is deemed full consideration.
  - **Net Worth (Deemed to be Cost of Acquisition and Cost of Improvement):**
- Computed as: Written-down value of depreciable assets + Book value of non-depreciable assets - Liabilities.
- Adjustments:
- Assets fully deductible under Section 35AD: Value = Nil.
- Self-generated goodwill: Value = Nil.

*Note: Any change in the value of assets due to revaluation shall be ignored while computing the net worth.*

- **Exemptions:**  
Exemptions under Sections 54 to 54GB are available, subject to fulfilment of certain conditions.

## Year of Taxability:

Tax liability arises in the year the undertaking is transferred, through a slump sale.

## Net Worth Certification

- A Chartered Accountant's report in Form 3CEA certifying the net worth computation must be submitted one month before the due date for filing the return under Section 139(1).

## Capital Gains on Transfer of Market-Linked Debentures, Specified Mutual Funds, or Unlisted Bonds/Debentures

### Capital Gains on Transfer of Market-Linked Debentures, Specified Mutual Funds, or Unlisted Bonds/Debentures

#### Introduction:

Gains from the transfer, redemption, or maturity of specified mutual funds (SMFs), market-linked debentures (MLDs), and unlisted bonds or debentures are treated as short-term capital gains and taxed at the assessee's applicable rates. [Section 50AA]

#### Scope of Section 50AA:

Applicable to gains from:

- Market-linked debentures (MLDs).
- Specified mutual funds (SMFs).
- Unlisted bonds or debentures, if transferred, redeemed, or matured on or after 23 July 2024

#### Key Definitions:

- **Market-Linked Debentures (MLDs):** Security which has an underlying principle component in the form of debt security and where the returns are linked to the market returns on other underlying securities or indices and includes any security classified or regulated as an MLD by the SEBI.
- **Specified Mutual Funds (SMFs):**
  - Up to AY 2025-26: Mutual fund with not more than 35% of its total proceeds invested in equity shares of domestic company.
  - From AY 2026-27:
    1. Mutual fund investing more than 65% of its total proceeds in debt and money market instruments; or
    2. Fund investing 65% or more of its total proceeds in units of a fund covered under (a).
      - **Unlisted Bonds/Debentures:** Bonds and debentures are debt instruments issued by entities to raise capital for long-term financing, typically offering a fixed rate of interest to investors.

#### Computation of Capital Gains:

Gains are computed as:

Full value of consideration - Cost of acquisition - Expenses on transfer.

*Note: No deduction shall be allowed in respect of any sum paid on account of Securities Transaction Tax.*

- **Type of Capital Gain and Tax Rates:**

Gains from MLDs, SMFs, or unlisted bonds/debentures on transfer, redemption, or maturity are always taxed as short-term capital gains at the assessee's applicable rate without any concessional rate benefit.



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## Exemptions for Capital Gains

### Exemptions for Capital Gains

#### Introduction

Capital gains may be exempted if the capital asset meets specific criteria or if the gains are reinvested in prescribed assets.

#### Exemptions for Reinvestment

The Income-tax Act allows exemption from capital gains tax if the amount of capital gains or consideration, as the case may be, is further invested in specified new assets. These exemptions are as follows:

#### Capital Gains Exemptions on Reinvestment (Sections 54 Series)

| Section      | Eligible Assessee  | Nature of Capital Asset | Type of Original Asset   | Type of New Asset   | Time Limit for Investment  | Amount of Exemption   |
|--------------|--------------------|-------------------------|--|---|--|---|
| Section 54   | Individual and HUF | Long-term capital asset | Residential house property   | Residential house property situated in India  | <i>For purchase:</i> Within 1 year before or 2 years after the date of transfer<br><i>For construction:</i> Within 3 years from the date of transfer               | Lower of the following:<br>- Rs. 10 crore, or<br>- Aggregate of amount invested in new residential house property and amount deposited in the Capital Gains Account Scheme (See Note 1) |
| Section 54B  | Individual and HUF | Short-term or Long-term | Land used for agricultural purposes for at least 2 years immediately preceding transfer                                    | Agricultural land   | Within 2 years after the date of transfer  | Amount invested in new agricultural land and amount deposited in the Capital Gains Account Scheme   |
| Section 54D  | Any assessee       | Short-term or Long-term | Land and/or building used by the assessee for industrial purposes for 2 years immediately preceding compulsory acquisition | Land or building for shifting, re-establishing or setting up a new industrial undertaking | Within 3 years after the date of compulsory acquisition  | Aggregate of amount invested in new land or building and amount deposited in the Capital Gains Account Scheme   |
| Section 54EC | Any assessee       | Long-term capital asset | Land or building or both   | Bonds issued by NHAI, REC, HUDCO, IREDA or other notified bonds                           | Within 6 months after the date of transfer   | Lower of the following:<br>- Rs. 50,00,000, or<br>- Amount invested in specified bonds  |
| Section 54EE | Any assessee       | Long-term capital asset | Any capital asset  | Units of notified fund for financing start-ups  | Within 6 months after the date of transfer   | Lower of the following:<br>- Rs. 50,00,000, or<br>- Amount invested in notified fund  |
| Section 54F  | Individual and HUF | Long-term capital asset | Any capital asset other than residential house property  | Residential house property situated in India  | <i>For purchase:</i> Within 1 year before or 2 years after the date of transfer<br><i>For construction:</i> Within 3 years after the date of transfer (See Note 2) | Exemption is computed as per the following formula:<br>Eligible Investment × Long-term Capital Gain / Net Sale Consideration<br>Note: Eligible investment shall not exceed Rs. 10 crore |
| Section 54G  | Any assessee       | Short-term or Long-term | Specified assets of an industrial undertaking in an urban area   | Assets of an industrial undertaking in a non-urban area                                   | Within 1 year before or 3 years after the date of transfer   | Amount invested in new assets or amount deposited in the Capital Gains Account Scheme   |
| Section 54GA | Any assessee       | Short-term or Long-term | Specified assets of an industrial undertaking in an urban area   | Specified assets of an industrial undertaking in a Special Economic Zone (SEZ)            | Within 1 year before or 3 years after the date of transfer   | Aggregate of amount invested in new asset or transfer of establishment and deposited in capital gain account scheme   |

**Note 1** - Under Section 54, exemption for investment in two residential houses is allowed only if capital gains do not exceed Rs. 2 crores, and can be claimed only once in a lifetime.

**Note 2** - Under Section 54F, the exemption is denied if the assessee owns more than one house on the transfer date.



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## Deposit in Capital Gains Account Scheme (CGAS) – Common Provision (Sections 54 to 54GA):

Where the assessee has not utilised the capital gains for purchase or construction of the new asset up to the due date of filing the return under section 139(1), they may deposit the unutilized amount in CGAS with an authorised bank before the due date of filing the return.

The amount so deposited must be utilised within the prescribed time limit, as specified under the respective section.

However, no CGAS deposit is required for claiming exemption under Sections 54EC and 54EE.

## Withdrawal of Exemption

- **Non-utilisation of amount deposited in CGAS**

If the deposited amount is not utilised within the specified period, it is treated as a capital gain in the year in which the time limit expired.

- **Transfer of new asset within Lock-in Period**

If the new asset (house, land, bonds, or specified asset) is transferred, converted into money, or used as security for a loan within the prescribed period (generally 3 years; 5 years for 54EC), the exemption is withdrawn. The cost of acquisition is reduced by the amount of exemption claimed, or the exempted gain becomes taxable as capital gain.

- **Section 54F – Special Conditions:**

If the assessee acquires or constructs a second residential house (other than the new one) within 2/3 years of transfer, the exempted LTCG becomes taxable in the year of such acquisition or construction.

## Exemptions at Source (Section 10):

Section 10 of the Income-tax Act lists incomes that are fully excluded from total income and not taxed under any of the five heads.

Certain capital gains are also exempt under this section:

| Section  | Exempt Capital Gains  |
|----------|---|
| 10(4E)   | Gains from non-deliverable forward contracts or offshore derivatives (non-residents). |
| 10(H)    | Income from shares transfer in IFSC leasing   |
| 10(10D)  | Life insurance proceeds (including ULIPs)   |
| 10(23FF) | Gains from relocation of offshore funds (Indian company shares).                      |
| 10(33)   | Gains from Unit Scheme, 1964 units  |
| 10(37)   | Gains from compulsory acquisition of urban agricultural land.                         |
| 10(37A)  | Gains from Andhra Pradesh land pooling scheme   |

## Computation of Capital Gain on Dissolution or Reconstitution of Firm, AOP, or BOI

### Computation of Capital Gain on Dissolution or Reconstitution of Firm, AOP, or BOI

#### Introduction

When a firm, AOP, or BOI is dissolved or reconstituted, and a partner/member receives capital assets, stock-in-trade, or money, the entity is deemed to have transferred such assets. The resulting income is taxable in the year of receipt by the partner/member.

#### Applicability

- **Section 9B:** Applies where capital assets or stock-in-trade are distributed to partners/members on dissolution or reconstitution; FMV on receipt date is deemed full consideration.
- **Stock-in-trade:** Taxable as business income.
- **Capital assets:** Taxable under capital gains.
  - **Section 45(4):** Applies where money or capital assets are received by a partner/member on reconstitution; tax liability falls on the firm.
  - Both sections apply simultaneously and are computed independently.

#### Capital Gains Computation (under section 9B)



| Particulars   | Amount (₹) |
|---|------------|
| Full value of consideration (FMV of capital assets)   | xxx        |
| Less: Transfer expenses   | (xxx)      |
| Less: Cost of acquisition/improvement   | (xxx)      |
| Less: The amount chargeable to tax as income of firm under Section 45(4) which is attributable to capital asset being transferred by the firm (xxx) | (xxx)      |
| Net Capital Gain  | xxx        |

**Capital Gains Computation (under section 45(4))**

| Particulars                                      | Amount (₹) |
|--|------------|
| Money received by partner                        | xxx        |
| Add: FMV of asset received                       | xxx        |
| Less: Balance in partner's capital account (xxx) | (xxx)      |
| Net Capital Gain (if positive; otherwise nil)xxx | xxx        |

- Adjustments ensure revaluation/self-generated assets are not taxed twice.
- Gains are short-term if arising from depreciable/short-term/self-generated assets; otherwise long-term.

**Computation of Capital Gains in Case of Immovable Property**

**Computation of Capital Gains in Case of Immovable Property**

**Introduction**

Capital gains from transferring immovable property (land, building, or both) are subject to special rules regarding computation, exemptions, and tax rates.

**Key Provision**

- **Capital Gains Computation:**

| Particulars  | Amount |
|--|--------|
| Full value of consideration (Higher of actual consideration and stamp duty value)  | xxx    |
| Less:  |        |
| (a) Cost of acquisition  | (xxx)  |
| (b) Cost of improvement  | (xxx)  |
| (c) Expenditure in connection with transfer  | (xxx)  |
| (d) Capital gains taxable under section 45(4), which is attributable to the capital asset remaining with the firm, AOP or BOI after reconstitution | (xxx)  |
| Less:  |        |
| (a) Exemption under Section 54B to 54GB  | (xxx)  |

**Short-term capital gains or Long-term capital gains** xxx

- **Classification of Capital Gains:**
- Short-term: Held for less than 24 months before transfer.
- Long-term: Held for 24 months or more before transfer.

**Special Provision**

- **Full Value of Consideration (Section 50C):**
- If SDV (Stamp Duty Value) exceeds actual consideration by more than 10%, SDV is deemed the full value.
- Disputes may be referred to a Valuation Officer.
  - **Cost of Acquisition:**



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- For assets acquired prior to 01-04-2001, the cost of acquisition shall be taken as the higher of the actual purchase price or the FMV as on 01-04-2001, subject to the condition that such FMV does not exceed the SDV as on 01-04-2001.
- Deductions for interest claimed under Sections 24(b), 80EE, or 80EEA are not allowed.
  - **Cost of Improvement:**  
Includes capital expenditure on or after 01-04-2001; prior improvements are ignored.

## Tax Rates and Indexation

- LTCG are taxed at 5% (without indexation).
- Resident individuals and HUFs can apply the grandfathering provision for land/buildings acquired before 23-07-2024, opting for 20% tax with indexation if more beneficial.
- Short-term gains are taxed at the assessee's applicable rates.

## Exemptions (Sections 54 to 54GB)

- Exemptions apply for investments in new assets like residential properties, agricultural land, bonds, or shares, based on specific conditions and timelines.
- Special exemptions include:
  - **Section 10(37):** Compulsory acquisition of urban agricultural land.
  - **Section 10(37A):** Andhra Pradesh land pooling schemes.

## Tax on Short-Term Capital Gain from Sale of Securities Chargeable to STT

### Tax on Short-Term Capital Gain from Sale of Securities Chargeable to STT

#### Introduction

Short-term capital gains (STCG) from the sale of specified securities are taxable at a concessional rate of 20% or 15%, provided the Securities Transaction Tax (STT) is paid at the time of sale. Deductions under Chapter VI-A are not permitted against such gains.

#### Key Provisions

- **Eligibility for Concessional Tax Rate**
- Available to all assesseees on STCG arising from specified securities.
  - **Specified Securities**
- Equity shares.
- Units of equity-oriented mutual funds.
- Units of business trusts.
  - **Conditions for Concessional Rate**
- STT must be paid at the time of transfer.
- Exception: Transactions on recognised stock exchanges in International Financial Services Centres (IFSCs) do not require STT if consideration is in foreign currency.
  - **Tax Rate**
- 20% (15% if security is transferred before July 23, 2024), plus surcharge and health & education cess.

#### Restrictions and Exceptions

- **No Adjustment Against Basic Exemption Limit**
- Entire STCG is taxable at 20% or 15%, without adjustment for the basic exemption limit.
- **Exception:** Resident individuals and HUFs may adjust the basic exemption limit against such STCG. If total income (excluding STCG) is below the exemption limit, STCG can be reduced by the shortfall.
  - **No Deductions Under Sections 80C to 80U**
- Deductions under Chapter VI-A are not allowed from such STCG.

## Tax on Long-Term Capital Gain from Sale of Securities Chargeable to STT

### Tax on Long-Term Capital Gain from Sale of Securities Chargeable to STT



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## Introduction

Long-term capital gains (LTCG) from the sale of specified securities are exempt from tax if the aggregate gain during the year does not exceed Rs. 1,25,000. Gains above this threshold are taxable at a concessional rate of 12.5% or 10%.

## Key Provisions

- **Eligibility**
  - All assesseees can claim the benefit of Section 112A for LTCG arising from specified securities.
    - **Specified Securities**
  - Equity shares.
  - Units of equity-oriented mutual funds.
  - Units of business trusts.
    - **Conditions for Concessional Taxation**
  - STT must be paid at the time of transfer.
  - For equity shares, STT must also be paid at acquisition (However, there are some exceptions).

## Exceptions:

- Transactions on recognized stock exchanges in IFSCs are exempt from STT requirements if consideration is in foreign currency.
- CBDT permits exemptions for certain acquisitions, including shares purchased before October 1, 2004, or acquired through court orders, SEBI regulations, FDI guidelines, ESOPs, and specified corporate restructuring.

## Cost of Acquisition Rules

- **Shares Acquired on or Before January 31, 2018:**
  - Higher of:
    - Actual cost of acquisition.
  - Lower of:
    - Fair market value (FMV) as on January 31, 2018.
    - Full value of consideration at transfer.
      - **Shares Acquired on or After February 1, 2018:**
    - Actual cost of acquisition.

## Taxation Under Section 112A

- **Threshold Exemption:**
  - LTCG up to Rs. 1,25,000 is exempt.
    - **Tax Rate:**
  - LTCG exceeding Rs. 1,25,000 is taxed at 12.5%(10% if specified security transferred before 23<sup>rd</sup> July 2024) plus surcharge and health & education cess.

## Restrictions on Benefits

- **Adjustment of Basic Exemption Limit**
  - LTCG taxable under Section 112A cannot be adjusted against the basic exemption limit.
  - **Exception:** Resident individuals and HUFs can adjust LTCG if their total income (excluding LTCG) falls below the exemption limit.
    - **No Deductions or Rebates**
  - Deductions under Chapter VI-A are not allowed.
  - No rebate under Section 87A is available for LTCG taxed under Section 112A.

## Tax Rates on Capital Gains

### Tax Rates on Capital Gains

## Introduction

Tax rates on capital gains depend on the type of capital asset, holding period, and assessee's status. Short-term capital gains (STCG) are generally taxed at higher rates compared to long-term capital gains (LTCG).

## Short-Term Capital Gains



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## General Rule:

- Taxed at normal slab rates applicable to the assessee.

## Specified Listed Securities (Section 111A):

- Tax rate: 20% (15% if securities transferred before 23<sup>rd</sup> July 2024) if STT is paid at the time of transfer.
- Includes equity shares, equity-oriented mutual funds, and units of business trusts.

## Long-Term Capital Gains

### General Rule:

- Uniform tax rate of 12.5% (effective July 23, 2024).
- Indexation benefit abolished for assets transferred on or after July 23, 2024.
- Grandfathering provision: Resident individuals and HUFs, in respect of land or buildings acquired before July 23, 2024, may opt for taxation at 20% with indexation, if it is more beneficial.

### Specified Listed Securities (Section 112A):

Tax rate: 12.5% (10% if securities transferred before 23<sup>rd</sup> July 2024) on LTCG exceeding Rs. 1,25,000 (STT must be paid).

