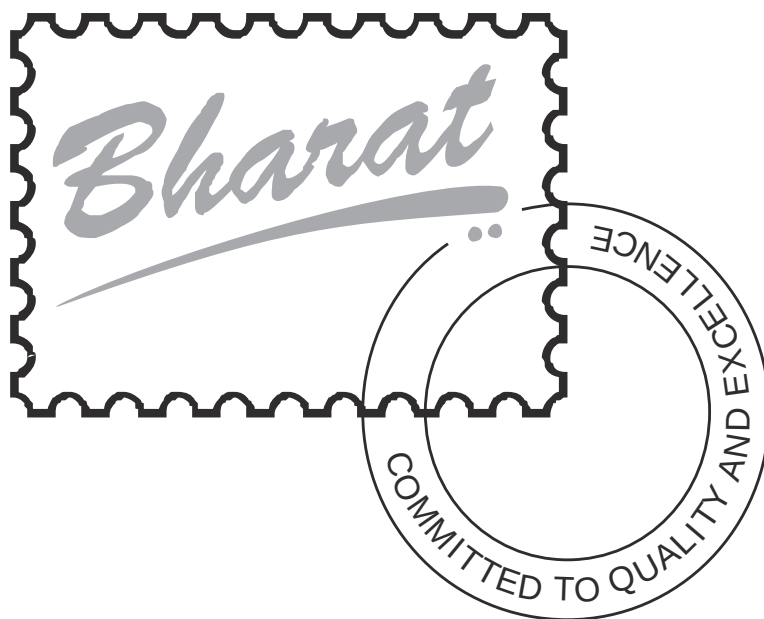


Bharat's
CAPITAL GAINS
Under the Income-tax Act, 2025
Law, Practice & Litigation



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Bharat's

CAPITAL GAINS

Under the Income-tax Act, 2025
Law, Practice & Litigation

By
CA. (Dr.) AKASH GARG

BHARAT LAW HOUSE PVT. LTD.
New Delhi

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Detailed Contents

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Bharat?

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Preface

For more than sixty years, capital gains in India had a settled home. It lived in the Income-tax Act, 1961, and an entire architecture of doctrine grew up around a familiar set of numbers — Section 45 for the charge, Section 47 for the transfers that escape it, Section 48 for the computation, Sections 49 and 55 for cost, and the long line of reinvestment reliefs that began at Section 54. A practitioner could find his way across that map in the dark.

Then the Income-tax Act, 2025 renumbered and recast the whole of it. In the months that followed, the question I was asked was almost never "what has changed?" It was quieter, and more anxious: *where has it gone — and does the old learning still hold?* This book is my attempt to answer both, in one place.

My premise is a simple one: for capital gains, the 2025 Act is far more a renumbering and a consolidation than a revolution. The charge survives in Section 67, the carve-outs in Section 70, the computation in Section 72, the reinvestment reliefs in Sections 82 to 89. The decided cases — from *Srinivasa Setty* and *Sunil Siddharthbhai* down through *Balbir Singh Maini*, *Vodafone* and the 2026 *Tiger Global* ruling — continue to apply, *mutatis mutandis*, save where the legislature has deliberately written in an override. So in every chapter I have held the new section and the old one side by side, and tried to show precisely where the continuity holds — and where it quietly breaks.

I have also tried, quite simply, to write the book I wanted on my own desk. One that moves in a single unbroken line: from the bare provision, to the statutory architecture, to the controlling case law, to worked illustrations with real numbers, and finally to the place where the Assessing Officer is most likely to strike. Where the Finance Act, 2026 has intervened — most visibly in the recast of the buy-back regime under Section 69 and in the rate provisions of Sections 196 to 198 — I have flagged the change and the date it takes effect, because in this field the date of the transaction so often decides the tax.

A word on the diagrams. Capital-gains analysis is, at the bottom, a sequence of decisions: Is there a capital asset? Is there a transfer? Is it lifted out by Section 70? In which year is it taxed? What is the cost? Which rate applies? Which exemption is available? That sequence asks to be drawn — and I have drawn it, in thirty flowcharts placed through the book to make each decision-path visible at a glance. They are meant to be read alongside the text, never instead of it.

A work of this kind is never truly finished; it is only handed over. I will be grateful to every reader who points out an error, an omission, or a better way of putting a thing, so that later editions can be made better still. Whatever is useful in these pages owes a great deal to the writers and the judges who built this subject before me. The mistakes that remain are my own.

6th July 2026

CA. (Dr.) AKASH GARG

Why this book belongs on your desk — not your shelf

A client calls. He's sold a flat, and he wants one number: how much tax.

You reach for the section you've quoted for twenty years — and you stop. Under the 2025 Act, what is it called now? Is the exemption still alive? Does *Ace Builders* still apply? Half an hour later you're three circulars deep, your junior is on the old numbers, the CBDT's own FAQ hasn't caught up — and the client is still waiting for a number you used to give in your sleep.

Multiply that one moment by every capital-gains matter on your desk this year. That is the real cost of the transition. Not in theory — in billable hours bled, in client confidence dented, in the quiet dread of quoting the wrong section in a return the department will read for the next six years.

Here is what no one has told you plainly: you have not lost your expertise. The Act renumbered capital gains — it did not reinvent it.

The charge survives. The exemptions survive. Sixty years of Supreme Court and High Court authority still wins your arguments — *mutatis mutandis* — exactly as before. The only thing that changed is the map. This book is that map — and it is the only one that puts both codes in your hand at once.

Open any page and you get:

Both numbers, side by side — "Section 72 of the 2025 Act/Section 48 of the 1961 Act" — so every case you've ever cited still works, and you see in one glance whether a provision is merely moved or actually changed.

The AO's playbook, exposed — every chapter ends at where the Assessing Officer will strike, and hands you the documentation to defend the claim before the notice ever arrives.

Real numbers, not narrative — worked illustrations you can lift straight into a computation, plus 30 decision-flowcharts that turn a tangled provision into a single Yes/No path.

The four desk tools you reach for daily — a complete 1961→2025 concordance, a Finance Act 2026 rate reckoner, a CGAS survival guide, and a cluster-wise case digest.

Now count the cost of not having it. One missed CGAS deposit — by a single day — and your client loses the entire exemption. Crores, gone on a date. One misquoted section in an appeal, and you lose something you can't bill back: the room's belief that you know this law cold. Against stakes like that, this book is the cheapest insurance you will buy all year.

So open it to the section you're working on tonight. Your old law, your new law, and the case that settles it — on the same page, in under a minute.

That is why this book belongs on your desk.

How to Use This Book

This book is built in eight Parts across twenty-six chapters — twenty-four principal chapters and two supplementary ones, 12A and 17A — following the natural order of a capital-gains enquiry: from charge, through computation, to exemption, rate, loss relief and procedure. If you are working a live problem, you can usually turn straight to the chapter you need. If you are new to the subject, you will find the Parts good to be read in sequence, each resting on the one before.

The dual-section convention. Throughout, every provision is cited in the form "Section 72 of the 2025 Act/Section 48 of the 1961 Act." The first reference is the operative law today; the second is the provision under which most of the reported case law was decided. This is the thread that lets you carry six decades of jurisprudence across to the new code with confidence — and see at a glance when a number has merely moved, and when its substance has truly changed.

How each chapter is built. Most chapters follow the same rhythm: a short synopsis; the statutory framework with the bare-Act extract; a scope-and-interpretation analysis anchored in the case law; worked illustrations on hypothetical figures; a litigation map of the points most often disputed; practitioner notes; and a set of key takeaways to close. The key-takeaways boxes are written to stand on their own — read them in a row and you have a rapid revision aid.

The flowcharts. Thirty flowcharts sit at the exact point in the text where their topic arises — the conversion-to-stock-in-trade chart in the year-of-taxability chapter, the cost-of-bonus-and-rights chart in the cost-of-acquisition chapter, and so on. The List of Figures after the Table of Contents shows where each one falls. Every chart distils a decision sequence; the conditions and exceptions live in the prose around it.

Finding your way. Use the Table of Contents for the chapter scheme and the List of Figures for the decision-charts. The Table of Cases and the list of Abbreviations sit together at the end of the book. Cross-references are given by chapter and paragraph, so a related point is never more than a moment away.

A note on the currency of the law. This edition states the position as amended by the Finance Act, 2026. Because rates, thresholds and monetary caps are revised often, always confirm the current figure against the latest Finance Act before relying on any rate or limit stated here.

Contents at a glance

<i>Bharat?</i>	5
<i>Preface</i>	7
<i>Why this book belongs on your desk — not your shelf</i>	9
<i>How to Use This Book</i>	11
<i>Detailed Contents</i>	17
<i>Table of Cases</i>	53
<i>Summary</i>	59
<i>Capital Gains (Income-tax Act, 2025) — Bare Act Extracts: Section-wise Page Index</i>	71
<i>List of Figures</i>	75
<i>Income-tax Act 1961 ↔ 2025 Capital Gains — Quick-Reference Mapping Table</i>	77

PART I

THE CHARGING ARCHITECTURE

Chapter 1	Chargeability of Capital Gains	3
Chapter 2	Understanding Capital Asset	37
Chapter 3	What Constitutes 'Transfer'	74
Chapter 4	Transactions Not Regarded as Transfer	98
Chapter 5	Year of Taxability of Capital Gains	135

PART II

THE COMPUTATION ENGINE

Chapter 6	Mode of Computation of Capital Gains	168
Chapter 7	Full Value of Consideration	207
Chapter 8	Cost of Acquisition	242
Chapter 9	Cost of Improvement	304
Chapter 10	Expenditure on Transfer	331

PART III

SPECIAL COMPUTATION REGIMES

Chapter 11	Special Cases of Computation — Market Linked Debentures, Specified Mutual Funds, Unlisted Bonds and Slump Sale	360
Chapter 12	Capital Gains in Corporate & Complex Transactions — Liquidation, Buyback, Conversion and Indirect Transfers	398
Chapter 12A	Business Trust Capital Gains	434

PART IV

REINVESTMENT EXEMPTIONS

Chapter 13	Capital Gains on the Residential House — Reinvestment Exemptions, the ₹10 Crore Cap and the Section 86 Trap	453
Chapter 14	Capital Gains on Agricultural Land and Compulsory Acquisition — The Three-Layer Framework, the RFCTLARR Carve-out and the Industrial Undertaking Exemption	493
Chapter 15	Investment-Based Exemptions (Specified Bonds — The ₹50 Lakh Route) — The Six-Month Window, the Aggregate Cap and the Five-Year Lock-in	533
Chapter 16	Exemption on Shifting of Industrial Undertaking — Urban to Non-Urban (Section 87) and Urban to Special Economic Zone (Section 88)	571
Chapter 17	Withdrawal of Exemption — Section 71 and the Consolidated Clawback Architecture	608
Chapter 17A	Capital Loss Set-off and Carry-Forward Framework	640

PART V

TAX RATES

Chapter 18	Tax Rates on Capital Gains — Sections 196, 197 and 198 of the Income-tax Act, 2025	665
-------------------	--	-----

PART VI**PROCEDURAL INFRASTRUCTURE**

Chapter 19	Documentation and Reporting Requirements	704
Chapter 20	Reference to Valuation Officer — Section 91	736

PART VII**LITIGATION & CASE STUDIES**

Chapter 21	Litigation Strategy and Judicial Principles	768
Chapter 22	Case Studies and Real-Life Scenarios	801

PART VIII**PRACTITIONER REFERENCE**

Chapter 23	FAQs for Professionals	830
Chapter 24	Professional Checklists	858

APPENDICES

Appendix A

Complete Section Mapping	889
---------------------------------	------------

Appendix B

Tax Rate Chart — Capital Gains	913
---------------------------------------	------------

Appendix C

Capital Gains Account Scheme	935
-------------------------------------	------------

Appendix D

Key Judicial Precedents	953
--------------------------------	------------

Abbreviations	983
----------------------	------------

Detailed Contents

<i>Bharat?</i>	5
<i>Preface</i>	7
<i>Why this book belongs on your desk — not your shelf</i>	9
<i>How to Use This Book</i>	11
<i>Contents at a glance</i>	13
<i>Table of Cases</i>	53
<i>Summary</i>	59
<i>Capital Gains (Income-tax Act, 2025) — Bare Act Extracts: Section-wise Page Index</i>	71
<i>List of Figures</i>	75
<i>Income-tax Act 1961 ↔ 2025 Capital Gains — Quick-Reference Mapping Table</i>	77

PART I

THE CHARGING ARCHITECTURE

Chapter 1

Chargeability of Capital Gains

1. Introduction	4
2. Statutory Framework	6
2.1 Section 67(1) — The Charging Sub-section	6
2.2 Chargeability versus Taxability — A Conceptual Distinction	7
3. Scope and Interpretation — The Four Essential Conditions	8
3.1 Condition 1 — There Must Be a Capital Asset	8
3.1.1 Stock-in-Trade — The Most Frequent Reclassification Battle (Section 2(22)(i) of the 2025 Act)	8
3.1.2 Personal Effects — The Jewellery Carve-out (Section 2(22)(ii) of the 2025 Act)	10
3.1.3 Rural Agricultural Land (Section 2(22)(iii) of the 2025 Act)	10
3.1.4 Gold Deposit Bonds and Gold Monetisation Deposit Certificates — A Narrow Statutory Exclusion (Section 2(22)(iv) of the 2025 Act)	10
3.2 Condition 2 — There Must Be a Transfer	11
3.3 Condition 3 — The Transfer Must Be Effected in the Tax Year	13
3.4 Condition 4 — Profits or Gains Must Arise	13
4. Practical Operation — The Eighteen Sub-sections Decoded	14

	<i>Detailed contents</i>	19
4.1	Section 67(2) to (4) of the 2025 Act — Insurance Proceeds (re-enacting Section 45(1A) of the 1961 Act)	14
4.2	Section 67(5) — ULIPs Above the Premium Threshold (re-enacting Section 45(1B) of the 1961 Act)	15
4.3	Section 67(6) — Conversion of Capital Asset into Stock-in-Trade (re-enacting Section 45(2) of the 1961 Act)	16
4.4	Section 67(7) and (8) — Demat Securities and the FIFO Rule (re-enacting Section 45 (2A) of the 1961 Act)	17
4.5	Section 67(9) — Capital Contribution to a Firm, AOP or BOI (re-enacting Section 45(3) of the 1961 Act)	17
4.6	Section 67(10) and (11) — Reconstitution of a Specified Entity (re-enacting Section 45(4) of the 1961 Act post-Finance Act, 2021).	18
4.7	Section 67(12) and (13) — Compulsory Acquisition and Enhanced Compensation (re-enacting Section 45(5) of the 1961 Act)	20
4.8	Section 67(14) to (16) — Joint Development Agreements (re-enacting Section 45(5) & (5A) of the 1961 Act)	22
4.9	Section 67(17) and (18) — Repurchase of Specified Units (re-enacting Section 45(6) of the 1961 Act)	24
5.	Illustrations	24
6.	Consolidated Judicial and Circular Support	26
6.1	Key Decisions	27
6.2	Principal CBDT Circulars and Instructions	28
7.	Critical Issues and Litigation Areas	29
7.1	Capital Gains versus Business Income	29
7.2	Real Income versus Deemed Income	30
7.3	Family Arrangements	30
7.4	Capital Gains versus Income from Other Sources — Two-Sided Transactions	30
7.5	Misclassification — Two Real-Life Scenarios	30
8.	Where the AO Will Likely Strike	31
8.1	Strike Point 1 — Reclassification of Capital Gains as Business Income	31
8.2	Strike Point 2 — Stamp Duty Value Mismatch under Section 78 of the 2025 Act/Section 50C of the 1961 Act	31
8.3	Strike Point 3 — Exemption Non-Compliance under Sections 82, 85 and 86 of the 2025 Act	32
8.4	Strike Point 4 — Joint Development Agreements under Sections 67(14) to (16) of the 2025 Act	32
8.5	Strike Point 5 — Reconstitution of Firms or LLPs under Sections 67(10) to (11) of the 2025 Act read with Section 8	32
8.6	Strike Point 6 — Interest on Enhanced Compensation	32
9.	1961 Act <i>versus</i> 2025 Act — Comparative Table	33
10.	Practitioner Notes	34
11.	Conclusion	35

Chapter 2

Understanding Capital Asset

1. Introduction — The Question Before All Questions	38
2. Statutory Framework — Section 2(22) of the 2025 Act (the successor to Section 2(14) of the 1961 Act)	39
2.1 Bare Act — Verbatim Extract	39
2.2 Layer-Wise Decoding	40
3. The Five Statutory Exclusions — A Section-Wise Analysis	42
3.1 Exclusion 1 — Stock-in-Trade, Consumable Stores and Raw Materials [Section 2(22)(i), Income-tax Act, 2025]	42
3.2 Exclusion 2 — Personal Effects [Section 2(22)(ii), Income-tax Act, 2025]	43
3.3 Exclusion 3 — Agricultural Land in a Rural Area [Section 2(22)(iii), Income tax Act, 2025]	44
3.3.1 Test 1 — "Agricultural Land": The Substantive-Use Test	44
3.3.2 Test 2 — "Rural Area": The Population-and-Distance Matrix	47
3.4 Exclusion 4 — Specified Gold Bonds [Section 2(22)(iv), Income tax Act, 2025]	48
3.5 Exclusion 5 — Gold Deposit Bonds and Gold Monetisation Certificates [Section 2(22)(v), Income tax Act, 2025]	48
4. Short-Term versus Long-Term Capital Asset — Sections 2(67) and 2(101)	49
4.1 Bare Act — Section 2(101), Income-tax Act, 2025 (Short-Term Capital Asset)	49
4.2 Bare Act — Section 2(67), Income-tax Act, 2025 (Long-Term Capital Asset)	51
4.3 Holding-Period Matrix (Post-23 July 2024)	51
5. Counting the Holding Period — Special Rules	52
5.1 Rule 1 — Inherited or Gifted Assets (Tacking of Previous Owner's Period)	52
5.2 Rule 2 — Bonus Shares (Holding Period from Date of Allotment)	55
5.3 Rule 3 — Rights Shares and Renounced Rights	55
5.4 Rule 4 — Shares Received on Amalgamation, Demerger or Conversion	56
5.5 Rule 5 — Conversion of Capital Asset into Stock-in-Trade [Section 67(6)]	57
5.6 Rule 6 — Depreciable Assets and the Dempo Principle	57
6. Listed versus Unlisted — Why the Distinction Now Matters Most	58
7. Virtual Digital Assets — A Special Regime	59
7.1 What Qualifies as a VDA	61
7.2 The Special Charging Regime	61
8. Judicial Expansion of "Property of Any Kind"	63
8.1 Held to Be Capital Assets	63
8.2 Held NOT to Be Capital Assets	64
9. Capital Asset versus Stock-in-Trade — The Battleground	64
9.1 The Supreme Court's Cumulative Multi-Factor Framework	64
9.2 CBDT Circular No. 6/2016, dated 29 February, 2016 — The Administrative Safe Harbour	65
9.3 The Six Practical Indicators in Operation	66

	<i>Detailed contents</i>	21
9.4	Recent Supreme Court Development — Amalgamation and Stock-in-Trade	66
9.5	Real Estate — Three Recurring Scenarios	67
10.	1961 Act versus 2025 Act — Comparative Map	67
11.	Critical Issues, Litigation Hotspots and Practitioner Notes	70
11.1	Litigation Hotspots — Consolidated View	70
11.2	Practitioner Notes	71
12.	Conclusion	72

Chapter 3

What Constitutes 'Transfer'

1.	Introduction — The Transfer Question, Stripped of Its Neighbours	75
2.	Statutory Framework	76
2.1	The Bare Text of Section 2(109) of the 2025 Act	76
2.2	Two Drafting Points to Note	77
3.	Limb-by-Limb Analysis	77
3.1	Sale, Exchange or Relinquishment — Clause (a) of Section 2(109), 2025 Act/Sub-clause (i) of Section 2(47), 1961 Act	77
3.2	Extinguishment of Rights — Clause (b) of Section 2(109), 2025 Act/Sub-clause (ii) of Section 2(47), 1961 Act	79
3.3	Compulsory Acquisition Under Any Law — Clause (c) of Section 2(109), 2025 Act/Sub-clause (iii) of Section 2(47), 1961 Act	81
3.3.1	The Section 96 RFCTLARR Exemption — Outside the Income-tax Act	81
3.3.2	Transfer Despite Absence of Voluntary Consent	82
3.4	Conversion of Capital Asset into Stock-in-Trade — Clause (d) of Section 2(109), 2025 Act/Sub-clause (iv) of Section 2(47), 1961 Act	82
3.5	Maturity or Redemption of a Zero-Coupon Bond — Clause (e) of Section 2(109), 2025 Act/Sub-clause (iva) of Section 2(47), 1961 Act	83
3.6	Enabling Enjoyment of Immovable Property — Clause (f) of Section 2(109), 2025 Act/Sub-clause (vi) of Section 2(47), 1961 Act	83
3.7	Part Performance under Section 53A, TPA — Clause (g) of Section 2(109), 2025 Act/Sub-clause (v) of Section 2(47), 1961 Act	84
3.8	Indirect Transfer — Clause (h) of Section 2(109), 2025 Act/ <i>Explanation 2</i> to Section 2(47), 1961 Act	86
4.	Indirect Transfer — The Vodafone Legacy in Detail	86
4.1	The Legislative Counter-Strike and the 2021 Rollback	87
4.2	Position Under the 2025 Act	88
5.	Substance v Form — The Trilogy and GAAR	88
5.1	The Three-Case Trilogy	88
5.2	GAAR — The Statutory Layer	89
6.	Special Categories — Where Transfer Is Said Not to Have Occurred	90
6.1	Family Settlements	90
6.2	Partition of a Hindu Undivided Family	90
6.3	Surrender Without Consideration	90
6.4	Power-of-Attorney Sales	91
7.	Where the Assessing Officer Will Likely Strike	91
8.	1961 Act vs 2025 Act — Mapping at the Section 2(109) Level	93
9.	Practitioner Notes	94
10.	Conclusion	96

Chapter 4**Transactions Not Regarded as Transfer**

1. Introduction — Why Section 70 Exists	100
2. Reader's Map — How This Chapter Is Laid Out	101
3. Clause (a) — Partition of a Hindu Undivided Family	102
4. Clause (b) — Gifts, Wills and Irrevocable Trusts	102
5. Clause (c) — Holding Company to Wholly-Owned Subsidiary	104
6. Clause (d) — Wholly-Owned Subsidiary to Holding Company	104
7. Clause (e) — Amalgamation: Transfer at the Company Level	105
8. Clause (f) — Amalgamation: Transfer at the Shareholder Level	106
9. Clauses (g) and (h) — Foreign Company Amalgamations Touching Indian Interests	107
10. Clause (i) — Banking Company/Banking Institution Amalgamations	108
11. Clause (j) — Demerger: Transfer at the Company Level	109
12. Clause (k) — Demerger: Allotment of Shares to Shareholders	110
13. Clauses (l) and (m) — Foreign Company Demergers Touching Indian Interests	110
14. Clauses (n) and (o) — Reorganisation of Co-operative Banks	111
15. Clauses (p) to (u) — Non-Resident, IFSC and Fund-Relocation Exemptions	111
16. Clauses (v) and (w) — Infrastructure Finance and Public-Sector Plans	113
17. Clauses (x) and (y) — Sovereign Gold Bonds and Electronic Gold Receipts	113
18. Clauses (z), (za) and (zb) — Financial-Instrument Conversions	114
19. Other Succession, Exchange and Market-Mechanics Clauses [Clauses (zc) to (zl) of Section 70(1)]	115
19.1 Clause (zc) — Donations of Art, Manuscripts and Collections to Public Institutions	115
19.2 Clause (zd) — Succession of a Firm by a Company	115
19.3 Clause (ze) — Conversion of a Private Company or Unlisted Public Company into an LLP	115
19.4 Clause (zf) — Succession of a Sole Proprietorship by a Company	116
19.5 Clause (zg) — Securities Lending and Borrowing	116
19.6 Clause (zh) — Reverse Mortgage	117
19.7 Clause (zi) — Exchange of SPV Shares for Business Trust Units	117
19.8 Clauses (zj) and (zk) — Mutual Fund Scheme and Plan Consolidations	117
19.9 Clause (zl) — Public-Sector Company Swapping JV Interest for Foreign-Government-Company Shares	118
20. Section 71 of the 2025 Act/Section 47A of the 1961 Act — Withdrawal of Exemption	118
20.1 When Does the Clawback Apply?	118
20.2 Year of Taxability — Read the Drafting Carefully	119
20.3 Worked Example — The Clawback on a Holding-Subsidiary Transfer	119
21. Cost of Acquisition and Holding Period After a Section 70 Event	120
22. Cross-Cutting Compliance Themes	122
22.1 GAAR and the Substance-versus-Form Question	122
22.2 Regulatory Clearances	123
22.3 Return Reporting and Documentary Trail	123

<i>Detailed contents</i>	23
23. Section 47 of the 1961 Act Compared with Section 70 of the 2025 Act	124
24. Where the Assessing Officer Will Strike	127
25. Practitioner Notes	129
26. Conclusion	130
27. Glossary of Technical Terms Used in Section 70 of the 2025 Act	131
27.1 Banking Company and Banking Institution	132
27.2 Business Reorganisation — Co-operative Banks	132
27.3 Derivative and Securities (IFSC Context)	132
27.4 Government Security	132
27.5 Original Fund, Resultant Fund and Relocation	132
27.6 Electronic Gold Receipt and Vault Manager	133
27.7 University	133
27.8 Private Company and Unlisted Public Company	133
27.9 Special Purpose Vehicle	133
27.10 Mutual Fund Schemes and Plans	134
27.11 Public-Sector Company Joint Venture	134

Chapter 5

Year of Taxability of Capital Gains

1. Introduction — Why Timing Is Determinative	136
2. Statutory Framework	137
2.1 Section 67(1) of the 2025 Act/Section 45(1) of the 1961 Act — The General Rule	137
2.2 Tax Year — The 2025 Act Unification	137
2.3 Charging, Deeming and Timing — Three-Layer Structure	138
3. Scope and Interpretation — When Does the Transfer Occur?	139
3.1 Immovable Property — Agreement, Possession, Registration	140
3.2 Shares and Securities	141
3.3 Partnership Interest — Retirement, Reconstitution, Dissolution	141
4. Practical Operation — Special Timing Rules Under Section 67 of the 2025 Act/Section 45 of the 1961 Act	142
4.1 Insurance Proceeds for Destroyed or Damaged Asset — Section 67(2) and (3) of the 2025 Act/Section 45(1A) of the 1961 Act	142
4.2 Unit-Linked Insurance Policies — Section 67(5) of the 2025 Act/Section 45(1B) of the 1961 Act	144
4.3 Conversion to Stock-in-Trade — Section 67(6) of the 2025 Act/Section 45(2) of the 1961 Act	144
4.4 Capital Contribution to Firm, AOP or BOI — Section 67(9) of the 2025 Act/Section 45(3) of the 1961 Act	146
4.5 Firm Reconstitution — Section 8 and Section 67(10)–67(11) of the 2025 Act/Sections 9B and 45(4) of the 1961 Act	146
4.6 Compulsory Acquisition — Section 67(12) and 67(13) of the 2025 Act/Section 45(5) of the 1961 Act	147
4.7 Joint Development Agreements — Section 67(14) to 67(16) of the 2025 Act/Section 45(5A) of the 1961 Act	151
4.8 Repurchase of Units of Equity-Linked Savings Schemes — Section 67(17)–67(18) of the 2025 Act/Section 45(6) of the 1961 Act	154
5. Illustrations	154
5.1 Agreement Year vs Registration Year — The Sanjeev Lal Matrix	154

5.2	Enhanced Compensation Timing	155
5.3	JDA with Pre-Completion Sale of Part Share	156
5.4	Conversion Followed by Sale — Two Tax Years	156
6.	The Accrual vs Receipt Tension	157
6.1	Instalment Sales — A Persistent Grey Area	158
7.	Critical Issues and Litigation Areas	159
7.1	Section 89 of the 2025 Act/Section 54H of the 1961 Act — The Reinvestment-Extension Lifeline	159
8.	The Transition Year — Straddling the 1961 and 2025 Acts	160
9.	Where the Assessing Officer Will Likely Strike	161
10.	Comparative Mapping — Year of Taxability under the 1961 and 2025 Acts	163
11.	Practitioner Notes	164
12.	Conclusion	166

PART II

THE COMPUTATION ENGINE

Chapter 6

Mode of Computation of Capital Gains

1.	Introduction	169
2.	Statutory Framework	171
2.1	Section 72(1) of the 2025 Act/Section 48 (main provision) of the 1961 Act — The Master Formula	171
2.2	Section 72(2) of the 2025 Act/Second Proviso to Section 48 of the 1961 Act — Indexation Enabling Clause	172
2.3	Section 72(3) of the 2025 Act/Second Proviso to Section 48 of the 1961 Act — Express Disallowances	172
2.4	Amount received by unit holder from a business trust	173
2.5	Deduction to specified entity in case of money or capital asset received by specified person	174
2.6	Foreign Currency Computation for Non-Residents	174
2.7	Rupee appreciation gain on redemption of rupee denominated bond held by non-resident	176
2.8	The Inter-Section Map	177
3.	Scope and Interpretation — Component by Component	179
3.1	Component A — Full Value of Consideration	179
3.1.1	Statutory Overrides of Actual Consideration	179
3.2	Component B — Expenditure on Transfer	180
3.2.1	Typically Deductible	180
3.2.2	Typically Not Deductible	180
3.2.3	Self-Created vs Inherited Encumbrances — The Litigation Fault-Line	181
3.3	Component C — Cost of Acquisition	181
3.3.1	General Rule — Actual Cost	182
3.3.2	Cost with Reference to a Previous Owner — Section 73 of the 2025 Act/Section 49 of the 1961 Act	182
3.3.3	FMV as on 1 April, 2001 — The Base-Year Option	183

	<i>Detailed contents</i>	25
3.3.4	Depreciable Assets — The Block Regime (Sections 74 and 75 of the 2025 Act/Section 50 read with Section 43(6) of the 1961 Act)	184
3.3.5	Goodwill, Self-Generated Intangibles and the Srinivasa Setty Residue	184
3.3.6	Slump Sale — Section 77 of the 2025 Act/Section 50B of the 1961 Act	185
3.4	Component D — Cost of Improvement	185
3.4.1	What Qualifies	185
3.4.2	What Does Not Qualify	185
4.	Practical Operation	185
4.1	The Section 72/Section 48 Computation Flow	185
4.2	Indexation — The Post-23 July, 2024 Operating Field	186
4.2.1	The Indexation Formulae	187
4.2.2	Cost Inflation Index — Notified Values	187
4.3	Non-Resident — Foreign Currency Computation [Section 72(6) of the 2025 Act/First Proviso to Section 48 of the 1961 Act]	188
4.4	Rupee-Denominated Bonds — Rupee Appreciation Rule [Section 72(7) of the 2025 Act/Third Proviso to Section 48 of the 1961 Act]	190
4.5	FIFO for Depository Securities — Cross-Reference	190
4.6	Listed Equity — Section 198 of the 2025 Act/Section 112A of the 1961 Act Grandfathering for Pre-1 February, 2018 Acquisitions	191
5.	Illustrations	191
6.	Judicial and Circular Support — Consolidated Compendium	195
7.	Critical Issues and Litigation Areas	197
7.1	FMV-2001 Valuation — The Ground-War	197
7.2	Self-Created vs Inherited Encumbrances — The Genesis Question	198
7.3	Transitional Property Computation — Three Independent Conditions	198
7.4	Srinivasa Setty — Last-Line Argument	198
7.5	The Section 79 of the 2025 Act/Section 50CA of the 1961 Act Two-Sided Charge — Seller and Buyer	198
8.	Where the Assessing Officer Will Likely Strike	199
9.	1961 Act vs 2025 Act — Comparative Table	201
10.	Practitioner Notes	203
11.	Conclusion	205

Chapter 7

Full Value of Consideration

1.	Introduction	208
2.	Statutory Framework	209
2.1	The FVC Architecture under the 2025 Act and the 1961 Act	209
2.2	Bare Act — Section 78 of the 2025 Act/Section 50C of the 1961 Act (Stamp Duty Value for Land or Building)	210
2.3	Bare Act — Section 79 of the 2025 Act/Section 50CA of the 1961 Act (FMV for Unquoted Shares)	211
2.4	Bare Act — Section 80 of the 2025 Act/Section 50D of the 1961 Act (FMV Where Consideration Not Ascertainable)	212
2.5	The Buyer-Side Mirror — Section 92(2)(m) of the 2025 Act/Section 56(2)(x) of the 1961 Act	212

3. Scope and Interpretation	212
3.1 Section 78 of the 2025 Act/Section 50C of the 1961 Act — Stamp Duty Value for Land or Building	212
3.1.1 Scope — Only ‘Land or Building or Both’	212
3.1.2 The 110 Per Cent Safe Harbour — Section 78(1)(b) of the 2025 Act/Third Proviso to Section 50C(1) of the 1961 Act	213
3.1.3 The Agreement-Date Carve-out — Section 78(1)(a) of the 2025 Act/First and Second Provisos to Section 50C(1) of the 1961 Act	215
3.1.4 Section 78(2) of the 2025 Act/Section 50C(2) of the 1961 Act — The Valuation Officer Reference	215
3.1.5 Section 78(3) of the 2025 Act/Proviso to Section 50C(2) of the 1961 Act — The DVO-Value Ceiling	216
3.2 Section 79 of the 2025 Act/Section 50CA of the 1961 Act — Unquoted Shares	217
3.2.1 Scope	218
3.2.2 FMV — Rule 57, read with Rule 56 of Income tax Rules, 2026 corresponding rule 11UAA of income tax rules 1962	218
3.2.3 NAV-Only, Not DCF — A Practitioner Trap	219
3.2.4 Section 79(2) of the 2025 Act/Proviso to Section 50CA of the 1961 Act — Prescribed Exemptions	220
3.3 Section 80 of the 2025 Act/Section 50D of the 1961 Act — Consideration Not Ascertainable	220
3.3.1 The Narrow Trigger	220
3.3.2 Contingent/Deferred Consideration is Outside Section 80	221
3.3.3 Residual Role Vis-à-Vis Srinivasa Setty	221
4. Practical Operation	222
4.1 The FVC Decision Tree	222
4.2 Section 78/Section 50C — Step-by-Step Procedural Flow	222
4.3 The Double-Incidence Problem — Seller and Buyer	223
4.4 Section 78/Section 50C Deeming and Reinvestment Exemptions — A Live Debate	224
5. Illustrations	225
6. Judicial and Circular Compendium	229
7. Critical Issues and Litigation Areas	231
7.1 Asset Classification — Is It Really ‘Land or Building’?	231
7.2 The 10 Per Cent Safe Harbour as a Cliff Edge	232
7.3 Stamp Duty Value — Choice of Forum	232
7.4 Rule 57 NAV Anomalies	232
7.5 Reinvestment Exemption — Unresolved at Supreme Court	233
7.6 Escrow, Earn-out and Contingent Consideration — SPA Drafting	233
8. Where the Assessing Officer Will Likely Strike	233
9. Comparison — 1961 Act vs 2025 Act	236
10. Consolidated Practitioner Notes	238
11. Conclusion	239

Chapter 8

Cost of Acquisition

1. Introduction	243
1.1 Cost of Acquisition — The Most Contested Number	243
1.2 Statutory Architecture under the 2025 Act	244
2. Statutory Framework — Bare Act Extracts	245
2.1 Section 73(1) of the 2025 Act/Section 49(1) of the 1961 Act — The Cost-Continuity Table	245
2.2 Section 74 of the 2025 Act/Section 50 of the 1961 Act — Block-of-Assets Regime	249
2.3 Section 75 of the 2025 Act/Section 50A of the 1961 Act — Depreciated Non-Block Asset	251
2.4 Section 90 — Cost of Acquisition and Cost of Improvement	251
3. Scope and Interpretation	262
3.1 The ‘Previous Owner’ Concept	262
3.2 Indexation for Inherited or Gifted Assets — Manjula J. Shah	264
3.3 FMV as on 1 April, 2001 — The Base-Year Option	265
3.4 Section 90(11) of the 2025 Act/Section 55(3) of the 1961 Act — The Residual Rule Where Cost Cannot Be Ascertained	265
3.5 Interlinkage with Section 70 — Deferral, Not Forgiveness	266
4. Practical Operation — Mode by Mode	267
4.1 Mode-by-Mode Mapping	267
4.2 Bonus Shares, Rights Shares and Renunciation [Section 90(5) and (6) of the 2025 Act/Section 55(2)(aa) of the 1961 Act]	269
4.2.1 Bonus Shares	271
4.2.2 Rights Shares and Renunciation	271
4.3 Shares Received on Amalgamation — Cost Continuity	271
4.4 Shares Received on Demerger — Proportionate Cost	272
4.5 Assets Received on Liquidation — Two-Track Treatment	272
4.6 Self-Generated Intangibles — Section 90(3) of the 2025 Act/Section 55(2)(a) of the 1961 Act	273
4.7 Section 74 of the 2025 Act/Section 50 of the 1961 Act Block Computation — Quick Recap	274
4.8 The Ace Builders/Dempo Principle — Fiction Limited to Computation	275
4.9 Rate-on-Deemed-STCG — An Unsettled Issue	275
4.10 Land — Never in the Block; Composite-Property Apportionment	276
5. Illustrations	277
6. Judicial and Circular Compendium	281
6.1 Case-Law Compendium	281
6.2 CBDT Circulars and Notifications	283
7. Critical Issues and Litigation Areas	284
7.1 Valuation Disputes — FMV as on 1 April, 2001	284
7.2 Tracing the Previous Owner — Documentation Gaps	284
7.3 Land-Building Apportionment in Composite-Property Sales	285
7.4 Goodwill — Self-Generated vs Purchased	285
7.5 Bonus Share Dating	285
7.6 Demerger — Net Book Value Disputes	285

7.7	Rate on Section 74 Deemed STCG — Unsettled	286
7.8	Forfeited Advance Money under Section 81 of the 2025 Act/Section 51 of the 1961 Act	286
8.	Where the Assessing Officer Will Likely Strike	290
9.	1961 Act vs 2025 Act — Comparative Table	292
10.	Consolidated Practitioner Notes	295
11.	Conclusion	297

Chapter 9

Cost of Improvement

1.	Introduction — The Forgotten Deduction	305
2.	Statutory Framework — Section 90(1) and Section 90(2) of the Income-tax Act, 2025 [corresponding to Section 55(1) of the Income-tax Act, 1961]	306
2.1	Section 90(1), Income-tax Act, 2025 — Cost of Improvement [corresponding to Section 55(1)(b) of the Income-tax Act, 1961]	306
2.2	Section 90(2), Income-tax Act, 2025 — The Anti-Double-Deduction Rule [corresponding to Section 55(1)(b) of the Income-tax Act, 1961]	307
2.3	The Three Legislative Choices	307
2.4	Companion Sub-sections — Cross-Reference to Chapter 8	308
3.	Scope & Interpretation	308
3.1	The Two-Category Divide — Intangibles and Others	308
3.1.1	Category A — Intangible Capital Assets — Nil COI	308
3.1.2	Category B — All Other Capital Assets	309
3.2	The Two Temporal Scenarios under Section 90(1)(b) of the Income-tax Act, 2025 [corresponding to Section 55(1)(b) of the Income-tax Act, 1961]	309
3.2.1	Scenario I — Asset acquired before 1 April, 2001 [Section 90(1)(b)(i) of the 2025 Act corresponding to Section 55(1)(b)(1) of the 1961 Act]	309
3.2.2	Scenario II — Asset acquired on or after 1 April, 2001 [Section 90(1)(b)(ii) of the 2025 Act corresponding to Section 55(1)(b)(2) of the 1961 Act]	309
4.	The Section 90 Decision Tree [Section 90 of the Income-tax Act, 2025 corresponding to Section 55 of the Income-tax Act, 1961]	310
5.	Capital vs Revenue — The Central Battleground	311
5.1	The Judicial Tests	311
5.1.1	The Enduring Benefit Test	311
5.1.2	The Value-Enhancement Test	311
5.1.3	The Identity/New-Asset Test	311
5.1.4	The Repair vs Renewal Test	312
5.2	Expenditure That Qualifies as COI — An Illustrative Catalogue	312
5.3	Expenditure That Does Not Qualify	312
6.	Section 90(2) of the Income-tax Act, 2025 — The Anti-Double-Deduction Rule [corresponding to Section 55(1)(b) of the Income-tax Act, 1961]	313
6.1	The Three Buckets of Exclusion	313
6.1.1	Income from House Property	313
6.1.2	Profits and Gains of Business or Profession	313
6.1.3	Income from Other Sources	314

	<i>Detailed contents</i>	29
6.2	The Practical Trap	314
7.	Indexation on Cost of Improvement	314
7.1	The Post-23 July, 2024 Position	314
7.2	The Per-Item CII Rule	315
8.	Illustrations	315
9.	Judicial & Circular Support	318
9.1	Leading Authorities on the Capital/Revenue Divide	318
9.2	Travelling Precedents — 1961 Act to 2025 Act	320
9.3	CBDT Guidance	320
10.	Critical Issues & Litigation Areas	320
10.1	Modular Kitchens, Wardrobes — Fixture or Furniture?	320
10.2	Tenant Improvements — Who Gets the Deduction?	321
10.3	FMV-2001 Option and Post-2001 Improvements — The Overlap Risk	321
10.4	Previous-Previous Owner Improvements — Chain-of-Title Discipline	321
10.5	Documentation Insufficiency — The Single Largest Cause of Disallowance	322
11.	Where the Assessing Officer Will Likely Strike	322
12.	1961 Act vs 2025 Act — Cost-of-Improvement Comparison	324
13.	Consolidated Practitioner Notes	327
14.	Documentation — A Compliance Checklist	328
15.	Conclusion	328

Chapter 10

Expenditure on Transfer

1.	Introduction — The Smallest Deduction with the Loudest Litigation	332
2.	Statutory Framework — Section 72(1)(a) of the Income-tax Act, 2025 [corresponding to Section 48(i) of the Income-tax Act, 1961]	333
2.1	Section 72(1), Income-tax Act, 2025 — Mode of Computation [corresponding to Section 48 of the Income-tax Act, 1961]	333
2.2	Section 72(3), Income-tax Act, 2025 — Express Disallowances [corresponding to the provisos to Section 48 of the Income-tax Act, 1961]	334
2.3	Section 72(6), Income-tax Act, 2025 — Non-Resident Foreign-Currency Computation [corresponding to the first proviso to Section 48 of the Income-tax Act, 1961]	334
2.4	Three Legislative Choices Embedded in Section 72 [corresponding to Section 48 of the 1961 Act]	334
2.5	Section 72 Sub-Sections — A Quick Map [Section 72 of the 2025 Act corresponding to Section 48 of the 1961 Act]	335
3.	Scope & Interpretation — "Wholly and Exclusively in Connection With"	336
3.1	The Four Working Words	336
3.1.1	"Expenditure"	336
3.1.2	"Incurred"	336
3.1.3	"Wholly and Exclusively"	337
3.1.4	"In Connection With Such Transfer"	337
3.2	The Three Concentric Circles of Deductible Expense	337
3.3	Interlinkages With Other Provisions	338

4. Practical Operation — The Section 72(1)(a) Decision Tree [Section 72(1)(a) of the 2025 Act corresponding to Section 48(i) of the 1961 Act]	338
5. What is Deductible — The Practitioner's Catalogue	339
6. What is Not Deductible — Express and Implied Exclusions	341
6.1 Express Statutory Exclusions — Section 72(3) of the Income-tax Act, 2025 [corresponding to the provisos to Section 48 of the Income-tax Act, 1961]	341
6.2 Implied Exclusions — By Judicial Interpretation	341
7. Compensation for Cancellation of a Prior Agreement	342
8. Special Issues for Non-Resident Assesseees	343
8.1 Travel and Stay for Executing the Transfer	343
8.2 Power-of-Attorney and Consulate Costs	343
8.3 Repatriation Costs (Form 15CA/15CB)	343
8.4 Foreign-Currency Computation Under Section 72(6) of the Income-tax Act, 2025 [corresponding to the first proviso to Section 48 of the Income-tax Act, 1961]	344
9. Securities Transaction Tax — Why It Cannot Be Deducted	344
9.1 The Double-Counting Trap	344
10. Illustrations	345
11. Judicial & Circular Compendium	347
11.1 Foundational Authorities on Section 72(1)(a)/Section 48(i)	347
11.2 Tribunal Authorities — PMS Fees (the Divided Line)	348
11.3 CBDT Circulars and Instructions	349
12. Critical Issues & Litigation Areas	349
12.1 Cross-Head Reclassification by the AO	349
12.2 Mixed-Purpose Expenses and the Apportionment Question	350
12.3 Cash Payments and the Section 36(4) Reference [Section 36(4) of the 2025 Act corresponding to Section 40A(3) of the 1961 Act]	350
12.4 Society Transfer Premium	350
12.5 TDS Hygiene	350
13. Where the Assessing Officer Will Likely Strike	350
14. 1961 Act vs 2025 Act — Comparative Table	353
15. Consolidated Practitioner Notes	356
16. Documentation — A Compliance Checklist	357
17. Conclusion	358

PART III

SPECIAL COMPUTATION REGIMES

Chapter 11

Special Cases of Computation — Market Linked Debentures, Specified Mutual Funds, Unlisted Bonds and Slump Sale

1. Introduction	361
2. Statutory Framework — Bare Act Extracts	363
2.1 Section 76 of the Income-tax Act, 2025 (corresponding broadly to Section 50AA of the Income-tax Act, 1961) — Special Provision for Computation of Capital Gains on Specified Mutual Fund, Unlisted Bond and Debenture	363

2.2	Section 77 of the Income-tax Act, 2025 (corresponding broadly to Section 50B of the Income-tax Act, 1961) — Special Provision for Computation of Capital Gains in Case of Slump Sale	364
3.	Section 76 of the 2025 Act/Section 50AA of the 1961 Act — Specified Securities, Specified Mutual Funds and Unlisted Bonds	367
3.1	The Categories Covered	368
3.2	The Deeming Mechanism — Holding Period Collapses Entirely	368
3.3	Computation under Section 76 of the 2025 Act/Section 50AA of the 1961 Act	370
3.4	Section 76 of the 2025 Act/Section 50AA of the 1961 Act — Illustration	371
3.5	Section 76 of the 2025 Act/Section 50AA of the 1961 Act — Planning Field	372
4.	Section 77 of the 2025 Act/Section 50B of the 1961 Act — Slump Sale	373
4.1	The Trigger — Slump Sale of an Undertaking	373
4.2	The Computational Code — Three Statutory Deemings	374
4.3	Net Worth — Section 77(5) of the 2025 Act	375
4.4	Fair Market Value Override — Section 77(3)(b) of the 2025 Act read with Rule 53 of the Income-tax Rules, 2026	376
4.5	Negative Net Worth — The Live Tribunal Conflict	378
4.6	The Accountant's Report — Section 77(4) of the 2025 Act/Section 50B(3) of the 1961 Act	379
5.	Section 78 of the 2025 Act/Section 50C of the 1961 Act — Executive Summary and Cross-Reference	380
6.	Section 79 of the 2025 Act/Section 50CA of the 1961 Act — Executive Summary and Cross-Reference	381
7.	The Pre-Finance Act, 2021 Slump-Exchange Controversy — Bharat Bijlee and Areva	382
8.	Judicial Compendium — Slump Sale Characterisation and Computation	383
9.	Critical Issues and Litigation Areas under Section 77 of the 2025 Act/Section 50B of the 1961 Act	385
9.1	Characterisation — Slump Sale or Itemised Sale?	385
9.2	The Going-Concern Requirement	386
9.3	Self-Generated Goodwill — Now Statutorily at Nil under Section 77(5)(b)(ii) of the 2025 Act	386
9.4	Negative Net Worth — Live Conflict	387
9.5	Interaction with Other Deeming Provisions	387
10.	Where the Assessing Officer Will Likely Strike	387
10.1	Section 76 Trap on Pre-1 April 2023 Mutual Fund Switching	387
10.2	Section 76 Coverage of an Instrument Marketed as Long-Term-Eligible	388
10.3	Slump Sale Recharacterised as Itemised Sale	388
10.4	Going-Concern Character Impeached	388
10.5	Net Worth Computation Disputed at the Depreciable-Block Level	388
10.6	Self-Generated Goodwill Wrongly Included at Book Value	389
10.7	Specified-Business Assets Wrongly Included at Book Value	389
10.8	Negative Net Worth Not Disclosed	389
10.9	FMV1/FMV2 Working Absent or Incomplete	389
10.10	Accountant's Report Filed Late or Not at All	390

11. Comparison — Sections 76 and 77 of the 2025 Act/Sections 50AA and 50B of the 1961 Act	390
12. Conclusion	394

Chapter 12

Capital Gains in Corporate & Complex Transactions — Liquidation, Buyback, Conversion and Indirect Transfers

1. Introduction — Where Company Law Meets Tax Law	400
2. Section 68 of the 2025 Act/Section 46 of the 1961 Act — Distribution of Assets on Liquidation	401
2.1 Bare Act Extract — Section 68 of the 2025 Act	401
2.2 Tax Treatment of the Company — Section 68(1) of the 2025 Act	401
2.3 Tax Treatment of the Shareholder — Section 68(2) of the 2025 Act	402
2.4 The Computation Steps	402
2.5 The Holding-Period Rule — Section 2(101)(c)(A) of the 2025 Act	403
3. Section 69 of the 2025 Act/Section 46A of the 1961 Act — Buyback of Own Shares: Four Eras of Reform	404
3.1 The Four Regimes — A Timeline	404
3.2 Bare Act Extract — Section 69 of the 2025 Act (Sub-sections (2) and (3) Substituted by Finance Act, 2026, with Effect from 1 April 2026)	405
4. The Finance Act, 2026 Restructuring of Section 69 of the 2025 Act	407
4.1 The Mechanics for Non-Promoters	407
4.2 The Mechanics for Promoters	407
4.3 The 12 Per Cent Surcharge — The CBDT Clarification	408
5. Promoter and Non-Promoter Buyback Taxation under Section 69(3) of the 2025 Act	408
5.1 The Definitions	408
5.2 The Companies Act, 2013 Definition — Section 2(69)	409
5.3 The 10 Per Cent Backstop — Section 69(3)(b)(ii) of the 2025 Act	409
6. Section 67(6) of the 2025 Act/Section 45(2) of the 1961 Act — Conversion of Capital Asset into Stock-in-Trade	410
6.1 Bare Act Extract — Section 67(6) of the 2025 Act	410
6.2 The Two-Component Gain	410
6.3 No Reverse Conversion Deemed Transfer	411
6.4 The FMV Determination	411
7. Indirect Transfers under Section 9(10) of the 2025 Act and the Tiger Global Watershed	412
7.1 The 50 Per Cent Value Derivation Test — Section 9(10) of the 2025 Act	412
7.2 The Tiger Global Watershed — 15 January 2026	412
7.3 CBDT Circular No. 1/2025 and the Tension	414
8. Worked Illustrations	414
8.1 Illustration 1 — Liquidation Distribution under Section 68 of the 2025 Act	414
8.2 Illustration 2 — Buyback: Promoter and Non-Promoter under Section 69 of the 2025 Act	415

	<i>Detailed contents</i>	33
8.3	Illustration 3 — Conversion of Capital Asset into Stock-in-Trade under Section 67(6) of the 2025 Act	416
9.	Judicial and Circular Support	417
9.1	Foundational Authorities	417
9.2	CBDT Circulars and Notifications	419
10.	Critical Issues and Litigation Areas	419
10.1	Liquidation — Determining the Dividend Component	419
10.2	Liquidation — Cost of Assets Received in Kind	420
10.3	Buyback — The Four-Regime Allocation	420
10.4	Promoter Classification — The 10 Per Cent Backstop	420
10.5	Buyback — The 12 Per Cent Surcharge Computation Error	420
10.6	Conversion — The FMV Battleground	421
10.7	Conversion — Year of Taxability of Capital Gain	421
10.8	Indirect Transfer — Post-Tiger-Global Substance Documentation	421
11.	Where the Assessing Officer Will Likely Strike	421
11.1	Liquidation: The Dividend Computation	421
11.2	Liquidation: FMV of Assets Received in Kind	422
11.3	Buyback: Wrong Regime Classification	422
11.4	Buyback: Promoter Classification Disputes	422
11.5	Buyback: The 12 Per Cent Surcharge Applied as Flat Tax	422
11.6	Conversion to Stock-in-Trade: FMV Manipulation	422
11.7	Conversion: Year of Taxability	423
11.8	Conversion: Reverse Conversion as a Planning Device	423
11.9	Indirect Transfer: Substance Challenge to Grandfathered Structures	423
11.10	Indirect Transfer: The 50 Per Cent/₹10 Crore Threshold	423
12.	Comparison Table — Income-tax Act, 1961 to Income-tax Act, 2025 (with Finance Act, 2026)	423
13.	Consolidated Practitioner Notes	427
14.	Documentation Checklists	429
14.1	Section 68 of the 2025 Act — Liquidation	429
14.2	Section 69 of the 2025 Act — Buyback (from 1 April 2026)	429
14.3	Section 67(6) of the 2025 Act — Conversion to Stock-in-Trade	430
14.4	Indirect Transfer/Offshore Exit	430
15.	Conclusion	431

Chapter 12A

Business Trust Capital Gains

1.	Introduction	435
2.	Statutory Framework	436
2.1	Definition of Business Trust under Section 2(21)	436
2.2	Bare Act — Section 223 (The Pass-Through and Character-Preservation Provision)	436
2.3	Bare Act — Section 70(1)(zi) (Sponsor Swap Carve-Out)	437
3.	Scope and Interpretation	437
3.1	The Three-Layer Income Architecture	437
3.2	Units as Capital Assets — The Four-Condition Test under Section 67(1)	438
3.3	Holding Period under Section 2(101)	439

3.4	Special Rate Provisions — Sections 196 and 198	440
3.5	The Distribution Character Preservation Rule under Section 223(1)	441
4.	Cost of Acquisition under Section 73 of the 2025 Act [corresponding to Section 49 of the 1961 Act]	442
4.1	The Mode-Wise Cost Table	442
4.2	STT as Part of Cost — Not as a Deductible Expense	442
4.3	Sponsor Swap Carry-Over Cost — The Section 70(1)(zi) Carve-Out	443
4.4	Return-of-Capital Distributions — Cost Amortisation	444
4.5	Pre-1-February-2018 Grandfathering — Section 198(5)	444
5.	Distribution Treatment in Unit-Holder's Hands	444
6.	Worked Illustrations	445
6.A	Listed REIT Unit Sale (Standard Retail Investor)	445
6.B	Sponsor Sale After Lock-In (Carry-Over Cost in Action)	446
6.C	Pre-1-February-2018 InvIT (Grandfathering Issue)	447
7.	Where the Assessing Officer Will Likely Strike	447
8.	Practitioner Notes — Reporting Discipline	449
9.	1961 Act versus 2025 Act Comparative Map	449
10.	Conclusion	451

PART IV

REINVESTMENT EXEMPTIONS

Chapter 13

Capital Gains on the Residential House — Reinvestment Exemptions, the ₹10 Crore Cap and the Section 86 Trap

1.	Introduction — Two Sections, One Object	455
2.	Section 82 of the 2025 Act/Section 54 of the 1961 Act — Sale of a Residential House and Reinvestment in Another Residential House	457
2.1	Bare Act Extract — Section 82 of the 2025 Act	457
2.2	Eligibility — Five Operative Conditions	458
2.3	The Computational Mechanism	460
2.4	The Two-House Option — Section 82(5) and Section 82(6) of the 2025 Act	460
2.5	The ₹10 Crore Cap — Section 82(7) and Section 82(8) of the 2025 Act	461
3.	Section 86 of the 2025 Act/Section 54F of the 1961 Act — Sale of Any Other Long-Term Capital Asset and Reinvestment in a Residential House	462
3.1	Bare Act Extract — Section 86 of the 2025 Act	462
3.2	The Proportionate-Exemption Formula	464
3.3	The Negative Covenants — Section 86(5) of the 2025 Act	465
4.	The Critical Differences Between Section 82 and Section 86 of the 2025 Act	466
5.	The Statutory Clawback Mechanisms — How Each Section Recovers an Excess Exemption	468
5.1	Section 82 of the 2025 Act — Cost-Reduction Clawback	468
5.2	Section 86 of the 2025 Act — Direct Reversal Clawback	469
5.3	Section 86(6) of the 2025 Act — The Subsequent-Purchase Reversal	469

<i>Detailed contents</i>	35
6. The “One Residential House” Question and the Two-House Option	470
6.1 The Doctrine — Functional Unity, Not Document Count	470
6.2 Practical Test — How an Assessing Officer and an Appellate Forum Will Look at the Question	471
6.3 The Two-House Option Revisited — Where It Bridges the Doctrine	471
7. Joint Ownership, Spouse Purchases and the DDA/Co-operative Allotment Position	472
7.1 Purchase in the Spouse’s Name	472
7.2 Co-ownership and Apportioned Investment	473
7.3 DDA or Co-operative Society Allotment as “Construction”	473
7.4 Under-Construction Builder Property — When Is Investment “Purchase”?	473
8. The Capital Gains Account Scheme — Mechanics, the Due-Date Trap, and the Death-of-Assessee Position	474
8.1 Mechanics — Type A versus Type B Account, Withdrawals and Closure	475
8.2 The Due-Date Trap — A Single Day Can Be Fatal	475
8.3 Death of the Assessee During the Prescribed Window	476
9. Worked Illustrations	476
9.1 Illustration 1 — Section 82 of the 2025 Act (Sale of Residential House, Below the ₹10 Crore Cap)	476
9.2 Illustration 2 — Section 86 of the 2025 Act (Sale of Unlisted Shares, Proportionate Exemption)	477
9.3 Illustration 3 — Section 82 of the 2025 Act with the ₹10 Crore Cap Engaged	478
10. Judicial and Circular Support — Consolidated Reference	479
11. Where the Assessing Officer Will Likely Strike	481
11.1 Misclassification at the Section Level	481
11.2 CGAS Deposit Timing Failures	481
11.3 Section 86(5)(a)(i) of the 2025 Act: Multiple Residences on the Transfer Date	482
11.4 Section 86(6) of the 2025 Act: Subsequent Purchase of Another House	482
11.5 The Two-House Option: Once-in-Lifetime Exhaustion	482
11.6 “One Residential House”: Disparately Located Flats	482
11.7 Cost of the New Asset: Exclusion of Stamp Duty, Registration and Improvements	483
11.8 Builder Delay Beyond the Construction Window	483
11.9 The ₹10 Crore Cap: Computation of “Cost of New Asset”	483
11.10 Forced Sale Within the Lock-in	483
12. Comparison Table — Income-tax Act, 1961 to Income-tax Act, 2025	484
13. Consolidated Practitioner Notes	486
14. Documentation Checklists	488
14.1 Section 82 of the 2025 Act — Sale of Residential House	488
14.2 Section 86 of the 2025 Act — Sale of Other LTCA	489
15. Conclusion	489

Chapter 14

**Capital Gains on Agricultural Land and Compulsory
Acquisition — The Three-Layer Framework, the
RFCTLARR Carve-out and the Industrial Undertaking
Exemption**

1. Introduction — Two Niche Exemptions for Two Distinct Constituencies	495
2. The Three-Layer Framework for Agricultural-Land and Compulsory-Acquisition Transactions	496
3. Layer 1 — Section 2(22)(iii) of the 2025 Act: The Rural Agricultural Land Exclusion	497
3.1 Bare Act Extract — Section 2(22)(iii) of the 2025 Act	497
3.2 Statutory Architecture — Population and Aerial Distance	497
3.3 The “Agricultural” Character — A Question of Use, Not of Document	498
3.4 The First Compliance Step — Obtain a Distance-and-Population Certificate	499
4. Layer 2 — Schedule III, Item 18 of the 2025 Act: Compulsory Acquisition of Urban Agricultural Land	500
4.1 Bare Act Extract — Schedule III, Item 18 of the 2025 Act	500
4.2 Eligibility — Five Conditions	500
4.3 Enhanced Compensation	501
5. Layer 2-bis — Section 96 of the RFCTLARR Act, 2013: The Blanket Exemption	502
5.1 Statutory Text — Section 96 of the RFCTLARR Act, 2013	502
5.2 Scope — Wider than Schedule III, Item 18 of the 2025 Act	502
5.3 Carve-outs — Acquisitions Outside the RFCTLARR Act	503
5.4 The 2026 Realignment — A Note on the Direction of Reform	504
6. Layer 3(a) — Section 83 of the 2025 Act/Section 54B of the 1961 Act: Voluntary Sale of Agricultural Land	504
6.1 Bare Act Extract — Section 83 of the 2025 Act	504
6.2 Eligibility — Five Operative Conditions	505
6.3 The Distinguishing Features — Section 83 versus Section 82 of the 2025 Act	506
6.4 The “Use by Parent” Concession — Scope	506
6.5 The Computational Mechanism and the Lock-in Clawback	507
7. Layer 3(b) — Section 84 of the 2025 Act/Section 54D of the 1961 Act: Compulsory Acquisition of an Industrial Undertaking’s Land or Building	508
7.1 Bare Act Extract — Section 84 of the 2025 Act	508
7.2 The Four Limbs of Section 84 of the 2025 Act	509
7.3 “Industrial Undertaking” — The Boundary	510
7.4 Available to All Assesseees — A Critical Distinction	511
7.5 The Three-Year Reinvestment Window and the Dual Permissibility (Purchase or Construction)	511
8. Section 89 of the 2025 Act/Section 54H of the 1961 Act — Time Extension Where Compensation Is Received Later	511
8.1 Bare Act Extract — Section 89 of the 2025 Act	511
8.2 Practical Operation	512

	<i>Detailed contents</i>	37
9.	Worked Illustrations	513
9.1	Illustration 1 — Section 83 of the 2025 Act: Voluntary Sale of Urban Agricultural Land	513
9.2	Illustration 2 — Mixed Compulsory and Voluntary Disposal	514
9.3	Illustration 3 — Section 84 of the 2025 Act: Compulsory Acquisition of Industrial Undertaking's Land	515
10.	Judicial and Circular Support — Consolidated Reference	516
11.	Where the Assessing Officer Will Likely Strike	518
11.1	The Agricultural-Use Test under Section 83(1)(a) of the 2025 Act and Schedule III, Item 18	518
11.2	The Two-Year Continuity Requirement	519
11.3	“Use by Parent” Scope under Section 83(1)(a) of the 2025 Act	519
11.4	“Industrial Undertaking” under Section 84 of the 2025 Act	519
11.5	“Compulsory Acquisition” Boundary under Section 84 of the 2025 Act	519
11.6	The “Which Act” Question for Compulsory Acquisitions	520
11.7	CGAS Deposit Before the Section 263(1) of the 2025 Act Due Date	520
11.8	New Land Must Be Agricultural at Acquisition (Section 83 of the 2025 Act)	520
11.9	Distance and Population Threshold	520
11.10	Section 89 of the 2025 Act Timing for Compulsory Acquisitions	521
11.11	Proving Acquisition Is Under the 2013 Act for Section 96 Purposes	521
11.12	Lock-in Breach Within 3 Years	521
12.	Comparison Table — Income-tax Act, 1961 to Income-tax Act, 2025	521
13.	Consolidated Practitioner Notes	524
14.	Documentation Checklists	526
14.1	Section 83 of the 2025 Act — Voluntary Sale of Agricultural Land	526
14.2	Schedule III, Item 18 of the 2025 Act — Compulsory Acquisition of Urban Agricultural Land	527
14.3	Section 84 of the 2025 Act — Compulsory Acquisition of Industrial Undertaking's Land or Building	527
14A.	Schedule III, Item 38D of the 2025 Act — The Andhra Pradesh Land-Pooling Exemption (New: Finance Act, 2026)	528
15.	Conclusion	529

Chapter 15

Investment-Based Exemptions (Specified Bonds — The ₹50 Lakh Route) — The Six-Month Window, the Aggregate Cap and the Five-Year Lock-in

1.	Introduction — The Default Reinvestment Relief	535
2.	Section 85 of the 2025 Act — The Statutory Architecture	536
2.1	Bare Act Extract — Section 85 of the 2025 Act	536
3.	Eligibility — The Five Cumulative Conditions	538
3.1	Condition 1 — The Original Asset Must Be Long-Term Land or Building (or Both)	538
3.2	Condition 2 — Investment in a “Long-Term Specified Asset”	539

3.3	Condition 3 — Investment within Six Months of the Date of Transfer	540
3.4	Condition 4 — The ₹50 Lakh Aggregate Cap under Section 85(2) of the 2025 Act	541
3.5	Condition 5 — The Five-Year Lock-in	542
3.6	The Five-Condition Test — A Sequential Diagram	542
4.	The Computational Mechanism	542
4.1	The Computational Sequence	543
5.	Date of Transfer and the Six-Month Window — A Litigation-Heavy Frontier	544
5.1	Sub-question 1 — Registered Conveyance versus Section 53A Possession	544
5.2	Sub-question 2 — Cheque Issue versus Cheque Encashment	544
5.3	Sub-question 3 — Where the Bond Series Is Closed	545
5.4	Sub-question 4 — Instalment Receipt of Consideration	546
6.	The Statutory Clawback — Sections 85(3) and 85(4) of the 2025 Act	546
6.1	The Three Triggers — Transfer, Conversion, Loan-on-Security	546
6.2	The Year of Charge — Re-charge in a Subsequent Year, Not Re-opening of the Original Year	547
6.3	The Clawback Visualised	547
7.	Interaction with Other Provisions of the 2025 Act	548
7.1	Section 74 of the 2025 Act — Depreciable Assets and the WDV-Block Mechanism	548
7.2	Section 78 of the 2025 Act — Stamp-Duty Value as Deemed Consideration	549
7.3	Section 89 of the 2025 Act — Time-Extension for Compulsory Acquisitions	550
7.4	Section 67(14) of the 2025 Act — Specified Agreements (Joint Development Agreements)	550
7.5	Combination with Section 86 of the 2025 Act — Stacking, Not Overlap	550
7.6	Section 85(5) of the 2025 Act — No Double Deduction with Section 123	551
8.	Worked Illustrations	551
8.1	Illustration 1 — Single Tax Year, Within the Cap	551
8.2	Illustration 2 — Cross-Year Aggregation (the Closed Jaichander Loophole)	552
8.3	Illustration 3 — Co-Owners and the Per-Assessee Cap	553
8.4	Illustration 4 — The Clawback in Operation under Section 85(4) of the 2025 Act	553
10.	Critical Issues and Litigation Areas	556
10.1	The Depreciable-Building Position under Section 74 of the 2025 Act	556
10.2	The Section 78 of the 2025 Act/Section 50C of the 1961 Act Deemed-Consideration Issue	556
10.3	The Date of Transfer in Joint-Development and Slum-Rehabilitation Transactions	557
10.4	Foreign-Currency Sales and the Section 85 of the 2025 Act Position	557
11.	Where the Assessing Officer Will Likely Strike	557
11.1	Six-Month Window: Cheque, Encashment and Allotment Dates	557
11.2	Date of Transfer in Agreement-and-Possession Transactions	557

	<i>Detailed contents</i>	39
11.3	Section 85(2) of the 2025 Act Two-Limb Cap: Cross-Year Subscriptions	558
11.4	Section 85(4) of the 2025 Act Premature Pledge: Loan-Against-Bonds	558
11.5	Stamp-Duty Value (Section 78 of the 2025 Act) and the Deemed-Gain Dispute	558
11.6	Depreciable-Building Disposal: Section 74 of the 2025 Act/Section 85 Interaction	558
11.7	Co-Owner Subscriptions in a Single Name	559
11.8	Bond Non-Availability Claims: Proof Burden on the Assessee	559
11.9	Combined Section 85 + Section 86 of the 2025 Act Claims: Overstated Cumulative Exemption	559
11.10	Family-Trust and HUF Holdings: Counting Against the “Assessee”	559
11.11	Section 85(5) of the 2025 Act Double-Deduction Bar with Section 123	559
11.12	Section 89 of the 2025 Act Reckoning for Compulsory Acquisitions	560
12.	Comparison Table — Income-tax Act, 1961 to Income-tax Act, 2025	560
13.	Consolidated Practitioner Notes	564
14.	Documentation Checklist	566
15.	Conclusion	567

Chapter 16

Exemption on Shifting of Industrial Undertaking — Urban to Non-Urban (Section 87) and Urban to Special Economic Zone (Section 88)

1.	Introduction — Industrial Relocation as a Forced Commercial Reality	572
2.	Statutory Framework	574
2.1	Section 87 of the 2025 Act — Shifting from Urban Area to Non-Urban Area	574
2.2	Section 88 of the 2025 Act — Shifting from Urban Area to a Special Economic Zone	575
2.3	Capital Gains Account Scheme under Sections 87(2) and (3) and 88(2) and (3) of the 2025 Act	577
2.4	Definition of “Urban Area” — Section 87(5) of the 2025 Act and the Fibre Boards Doctrine	578
3.	Scope and Interpretation	578
3.1	Conditions Precedent — Cumulative and Non-Severable	578
3.2	Interlinking with Other 2025 Act Provisions	580
3.3	“Shifting” versus “Expansion” — A Critical Distinction	581
4.	Practical Operation	583
4.1	Step-by-Step Working	583
4.2	Year of Charge — When Does Tax Bite?	584
4.3	The 3-Year Lock-in Clawback under Clause (B)	584
5.	Worked Illustrations	586
5.1	Illustration 1 — Full Exemption under Section 87 of the 2025 Act (Urban to Non-Urban)	586
5.2	Illustration 2 — Partial Exemption with CGAS Deposit (Section 88 of the 2025 Act, Urban to SEZ)	587

5.3	Illustration 3 — Clawback on Premature Sale of New Asset under Section 87(1)(B) of the 2025 Act	588
6.	Judicial and Circular Support	589
7.	Critical Issues and Litigation Areas	591
7.1	“Used for the Purposes of the Business” — The Functional-Use Test	591
7.2	Date of Transfer — Particularly for Compulsory Acquisitions	591
7.3	“Other Specified Expenses” — Scheme-Dependent Limb	592
7.4	Multiple Undertakings — Aggregation versus Asset-Wise Test	592
7.5	SEZ Status of the Destination — Section 88 of the 2025 Act Only	592
7.6	Stamp-Duty Value Interaction under Section 78 of the 2025 Act	592
8.	Where the Assessing Officer Will Likely Strike	593
8.1	Shifting versus Expansion Attack	593
8.2	Functional-Use Attack on the Original Asset	593
8.3	Notification-Gap Attack on Urban-Area Status	593
8.4	Date-of-Transfer Mismatch — Particularly for Compulsory Acquisitions	594
8.5	CGAS Due-Date Attack	594
8.6	Premature-Transfer Attack on New Asset under Clause (B)	594
8.7	Common-Pooling Attack across Multiple Undertakings	594
8.8	Specified-Expenses Attack under Clause (b)(iv)	595
8.9	Cost-of-New-Asset Double-Dip Attack	595
8.10	Section 89 of the 2025 Act Misapplication Attack in Compulsory-Acquisition Cases	595
8.11	SEZ De-notification Attack under Section 88 of the 2025 Act	596
8.12	Goodwill or Customer-Base-Only Shift Attack	596
9.	Comparison Table — Income-tax Act, 1961 to Income-tax Act, 2025	596
10.	Consolidated Practitioner Notes	601
11.	Documentation Checklist	603
12.	Conclusion	604

Chapter 17

Withdrawal of Exemption — Section 71 and the Consolidated Clawback Architecture

1.	Introduction — Two Distinct Worlds of Withdrawal	609
2.	Section 71 of the 2025 Act — The Statutory Text and Its Three Categories	610
2.1	Bare Act Extract — Section 71 of the 2025 Act	610
2.2	Section 71(1) of the 2025 Act — Holding-Subsidiary Transfers under Section 70(1)(c) and (d)	611
2.3	Section 71(2) of the 2025 Act — Firm-to-Company and Sole-Proprietorship-to-Company Succession under Sections 70(zd) and 70(zf)	612
2.4	Section 71(3) of the 2025 Act — Company-to-LLP Conversion under Section 70(ze)	613
3.	Section 70 of the 2025 Act in Context — Which Clauses Are Within Section 71’s Scope	614
4.	Worked Illustration — Section 71(1) of the 2025 Act Reversal in a Holding-Subsidiary Transaction	617
5.	Consolidated Taxonomy — All Clawback Triggers under the 2025 Act	618

	<i>Detailed contents</i>	41
6.	Consolidated Interest Exposure — Sections 424 and 425 of the 2025 Act	623
7.	Penalty Position — Section 439 of the 2025 Act	625
8.	Judicial and Circular Support — Cross-Section Synthesis	626
9.	Assessing Officer Strike Zones Specific to Section 71 of the 2025 Act	628
9.1	Section 71(1) of the 2025 Act Holding-Subsidiary 8-Year Tail Monitoring	628
9.2	Section 71(1) of the 2025 Act Conversion-to-Stock-in-Trade Detection	628
9.3	Section 71(2) of the 2025 Act Firm-to-Company Shareholding-Continuity Breach	629
9.4	Section 71(3) of the 2025 Act Company-to-LLP Conversion: The Seven-Condition Tail	629
9.5	Section 71 of the 2025 Act Dual-Attribution Question for LLP Conversion	630
9.6	Cross-Year Interest Exposure on Section 71(1) of the 2025 Act Retrospective Reversal	630
10.	Comparison Table — Income-tax Act, 1961 to Income-tax Act, 2025	630
11.	Consolidated Practitioner Notes	633
12.	Documentation — Compliance Discipline Across the Withdrawal Architecture	635
12.1	Section 71 of the 2025 Act Reversal — Documentation Checklist	635
12.2	Cross-Section Lock-In Tracking — Documentation Checklist	636
13.	Conclusion	636

Chapter 17A

Capital Loss Set-off and Carry-Forward Framework

1.	Introduction	641
2.	Statutory Framework	642
2.1	Bare Act — Section 108 of the 2025 Act (Set-Off Within Same Head) [corresponding to Section 70 of the 1961 Act]	642
2.2	Bare Act — Section 109 of the 2025 Act (Inter-Head Set-Off Restriction) [corresponding to Section 71 of the 1961 Act]	642
2.3	Bare Act — Section 111 of the 2025 Act (Carry-Forward of Capital Gains Loss) [corresponding to Section 74 of the 1961 Act]	643
2.4	Bare Act — Section 113 of the 2025 Act (Speculation Loss) [corresponding to Section 73 of the 1961 Act]	643
2.5	Bare Act — Section 194(7) of the 2025 Act (VDA Loss Absolute Bar) [corresponding to Section 115BBH(2)(b) of the 1961 Act]	644
2.6	Bare Act — Section 116(1) of the 2025 Act (Carry-Forward Return-Filing Condition) [corresponding to Section 80 of the 1961 Act]	644
3.	Scope & Interpretation — The Two-Tier Asymmetric Architecture	644
3.1	The Two-Tier Comparison	646
3.2	The STCG Asymmetry — Single Most-Litigated Operational Point	646
3.3	The Original-Due-Date Trap	646
4.	Section 198 Listed-Equity Losses — The Cross-Set-Off Question	647
4.1	The Three Operational Questions	647
4.2	Judicial Position — ITAT Authority on Cross-Set-Off	648
5.	VDA Losses — The Absolute Bar	648

5.1	The Section 194(7) Framework — Five Prohibitions	648
5.2	Raunaq Prakash Jain — The Pre-Cut-Off Doctrine	649
6.	Speculation Loss — Section 113	649
6.1	The Gopal Purohit Dual-Portfolio Doctrine	650
6.2	Section 113 Compared with Capital-Loss Framework	650
7.	Loss Denial on Change of Hands — Section 119	651
7.1	Bare Act — Section 119 of the 2025 Act [corresponding to Sections 78 and 79 of the 1961 Act]	653
7.2	How the Three Limbs Operate	653
7.3	Exceptions to the 51% Test	654
7.4	Relevance to the Capital-Gains Practitioner	654
8.	The Search-and-Survey Bar — Section 120	654
8.1	The Bar	654
8.2	Bare Act — Section 120 of the 2025 Act [corresponding to Section 79A of the 1961 Act]	654
8.3	The Policy and the Capital-Gains Angle	655
9.	Loss Harvesting — The Practitioner Discipline	655
9.1	The Four-Stage Practitioner Protocol	655
9.2	No Wash-Sale Rule — But Watch for GAAR	656
10.	Transition: Losses Carried Forward from the 1961 Act	657
10.1	Why This Matters in the First Year of the New Act	657
10.2	The Saving Clause	657
11.	Worked Illustrations	657
12.	Where the Assessing Officer Will Likely Strike	659
13.	Practitioner Notes — Documentation Discipline	661
14.	Comparison — 1961 Act vs 2025 Act Framework	661
15.	Conclusion	662
16.	Key Takeaways for Chapter 17A	663

PART V

TAX RATES

Chapter 18

Tax Rates on Capital Gains — Sections 196, 197 and 198 of the Income-tax Act, 2025

1.	Introduction — The Rate Determines Everything	667
2.	Section 196 of the 2025 Act — Short-Term Capital Gains on STT-Paid Equity-Linked Assets	669
2.1	Bare Act Extract — Section 196 of the 2025 Act	669
2.2	Section 196(1) of the 2025 Act — The Three Conditions and the 20 Per Cent Rate	670
2.3	The Rate Increase — 15 Per Cent to 20 Per Cent from 23 July, 2024	670
2.4	Section 196(2) of the 2025 Act — Marginal Relief for Resident Individual or HUF Below Exemption Limit	671
2.5	Section 196(3) of the 2025 Act — IFSC Carve-Out	672
2.6	Section 196(4) of the 2025 Act — Chapter VIII Deduction Allocation	672

Detailed contents

43

3.	Section 197 of the 2025 Act — Long-Term Capital Gains on General Assets	673
3.1	Bare Act Extract — Section 197 of the 2025 Act	673
3.2	Section 197(1) of the 2025 Act — The 12.5 Per Cent Rate Without Indexation	674
3.3	Section 197(3) of the 2025 Act — The Immovable Property Grandfathering Formula	675
3.4	Section 197(4) of the 2025 Act — Non-Resident Unlisted Securities Carve-Out	676
3.5	NRI Taxation under Section 197 of the 2025 Act — TDS and the Practical Picture	677
3.6	Section 197(5) of the 2025 Act — Chapter VIII Deduction Allocation	678
3.7	Section 197(6) of the 2025 Act — Definitions	678
4.	Section 198 of the 2025 Act — Long-Term Capital Gains on STT-Paid Equity-Linked Assets	678
4.1	Bare Act Extract — Section 198 of the 2025 Act	679
4.2	Section 198(2)(a) of the 2025 Act — The 12.5 Per Cent Rate and the ₹1.25 Lakh Threshold	680
4.3	Section 198(1)(c) of the 2025 Act — The STT Trail Requirement	681
4.4	The Equity Pre-2018 Grandfathering — FMV-as-on-31-January-2018	681
4.5	Section 198(4) of the 2025 Act — IFSC Carve-Out	683
4.6	Section 198(7) of the 2025 Act — Express Ouster of the Section 156 Rebate	684
4.7	Section 198(8) of the 2025 Act — The “Equity Oriented Fund” 65 Per Cent or 90 Per Cent Test	684
5.	Short-Term Capital Gains Outside Section 196 of the 2025 Act — Slab-Rate Taxation	685
6.	The Section 156 of the 2025 Act (Old Section 87A) Rebate and Special-Rate Capital Gains	686
6.1	The Statutory Framework under the 2025 Act	686
6.2	Consolidated Position under the 2025 Act (TY 2026-27 Onwards)	687
6.3	The Legacy Section 87A Controversy — AY 2024-25 and AY 2025-26	688
7.	Surcharge and Cess — The 15 Per Cent Cap on Special-Rate Capital Gains	689
8.	Worked Illustrations — Getting the Rate Right	690
8.1	Illustration — Mixed Portfolio with Section 197(3) of the 2025 Act Grandfathering	690
8.2	Illustration — NRI Property Sale (No Section 197(3) of the 2025 Act Grandfathering)	692
9.	Where the Assessing Officer Will Likely Strike on Rate Issues	692
9.1	Holding-Period Misclassification	692
9.2	Denial of the STT Condition	693
9.3	Questioning the Section 197(3) of the 2025 Act Grandfathering Eligibility	693
9.4	Reclassifying Capital Gains as Business Income	694
9.5	Equity-Oriented Fund Disqualification under Section 198(8) of the 2025 Act	694

9.6	Section 87A or Section 156 of the 2025 Act Rebate Denial on Special-Rate Tax	694
9.7	VDA Misclassification under Section 194 of the 2025 Act	695
9.8	Surcharge Cap Misapplication	695
9.9	Section 197(4) of the 2025 Act Non-Resident Unlisted Securities Misapplication	695
9.10	Date of Transfer for the Section 197(3) of the 2025 Act Cutoff	696
10.	Comparison Table — Income-tax Act, 1961 to Income-tax Act, 2025	696
11.	Key CBDT Circulars Relevant to the Rate Framework	699
12.	Conclusion	700

PART VI

PROCEDURAL INFRASTRUCTURE

Chapter 19

Documentation and Reporting Requirements

1.	Introduction — The Paper Trail That Saves or Sinks the Client	705
2.	ITR Disclosures — Section 263 Return-Filing Framework and the Schedule CG	707
2.1	ITR Form Selection — The Threshold Classification Decision	707
2.2	Schedule CG — Transaction-by-Transaction Reporting	708
2.3	The 23 July, 2024 Bifurcation — Persistence Across Tax Years	708
2.4	Schedule 198 (Replacing Old Schedule 112A) — Scrip-by-Scrip Reporting and AIS Reconciliation	709
2.5	Schedule AL — Asset and Liability Disclosure (Threshold Raised to ₹1 Crore)	710
3.	The Capital Gains Account Scheme, 1988 — The Parking Mechanism	711
3.1	Why CGAS Exists — The Structural Necessity	711
3.2	CGAS Account Types	711
3.3	Opening and Operating CGAS — The Forms Framework	712
3.4	CGAS for Non-Resident Indians — NRCGAS	715
4.	Valuations and Accountant Certifications	715
4.1	Form 28 — Slump Sale Certification under Section 77(4)	715
4.2	Registered Valuer Reports — When Statutorily Required	717
4.3	Other Accountant Certifications under Sections 82 to 88	717
5.	Advance-Tax Obligations on Capital Gains — Sections 423, 424 and 425 of the 2025 Act	718
5.1	The General Rule — Four Quarterly Instalments	718
5.2	The Capital-Gains Relaxation under the Section 425 Framework	718
6.	TDS Framework on Capital Gains — Sections 393 and 395 of the 2025 Act	720
6.1	Section 393(1) Table Sl. No. 3 — TDS on Immovable Property by Buyer (Replacing Section 194-IA)	720
6.2	Section 393(1) Table — TDS on Non-Resident Capital Gains (Replacing Section 195)	720
6.3	Section 395 — Lower-TDS Certificate Framework (Replacing Section 197 of the 1961 Act)	721
6.4	Mutual Fund Redemptions and Equity Transactions	722
7.	The AIS and SFT — The Department's Cross-Verification Infrastructure	723

	<i>Detailed contents</i>	45
7.1	What the AIS Contains for Capital-Gains Purposes	723
7.2	Reconciliation is Mandatory — The Pre-Filing Discipline	723
7.3	SFT — The Statement of Financial Transactions	724
8.	Comparison Table — Income-tax Act, 1961 to Income-tax Act, 2025	724
9.	Where the AO Will Likely Strike on Documentation	728
9.1	CGAS Deposit Not Made Before Return Filing	729
9.2	Missing or Deficient Form 28 (Slump Sale Report)	729
9.3	AIS Mismatch — Unreported Property Transaction	729
9.4	Scrip-by-Scrip Data Mismatch in Schedule 198	730
9.5	Advance Tax Not Paid Promptly on Capital Gains	730
9.6	Valuation Report Not Supporting FMV-as-on-1-April-2001	730
9.7	Wrong ITR Form (Section 263 Defective Return)	731
9.8	Section 395 Lower-TDS Certificate Not Obtained for NRI Sales	731
9.9	Section 92(2)(m) IFOS Charge on Receipt-of-Property at Below FMV	731
10.	The Working Documentation Checklist — Every Capital Gains File	732
11.	Conclusion	733

Chapter 20

Reference to Valuation Officer — Section 91

1.	Introduction — The Number That Decides Everything	738
2.	Section 91 — The Statutory Framework	739
2.1	Bare Act Extract — Section 91 of the 2025 Act	739
2.2	The Two Pathways — Section 91(1)(a) and Section 91(1)(b)	739
2.2.1	Pathway A — Registered Valuer's Report Exists (Section 91(1)(a))	739
2.2.2	Pathway B — No Registered Valuer's Report (Section 91(1)(b))	740
2.3	Section 91(2) — The Imported Procedural Framework from Section 269(1) to (10)	741
2.4	Bare Act Extract — Section 269(1) to (10) of the 2025 Act (Imported Procedural framework)	741
3.	The District Valuation Officer — Role, Powers, and Limitations	743
3.1	What the DVO Does	743
3.2	Powers of the DVO under Section 269(3) to (8) — Practical Summary	744
4.	The Evidentiary Weight of the DVO Report	745
4.1	Binding on the AO — Yes, With Qualifications	745
4.2	Binding on the Assessee — No	746
4.3	Binding on Appellate Authorities — No	746
4.4	The Section 78(3) Ceiling — DVO Cannot Increase the Stamp-Duty Value	747
5.	FMV Disputes — Burden of Proof and Procedural Timelines	748
5.1	Who Bears the Burden?	748
5.2	Procedural Timelines	749
6.	Challenging DVO Reports — The Practitioner's Toolkit	750

6.1	Ground 1 — No Opportunity of Being Heard (Section 269(4) Violation)	750
6.2	Ground 2 — Wrong Valuation Date	750
6.3	Ground 3 — Non-Comparable Transactions Used	751
6.4	Ground 4 — Property Condition Not Considered	751
6.5	Ground 5 — Methodology Errors	751
6.6	Ground 6 — DVO Valuation Lower Than Assessee's Claim (Pre-2012 Reference)	751
6.7	Ground 7 — Registered Valuer's Report is Superior Evidence	752
6.8	Ground 8 — Section 78(3) Ceiling	752
7.	Section 91 versus Section 269 — The Two Reference Powers	753
8.	Worked Illustrations — How Valuation Disputes Play Out	754
8.1	Illustration A — The Property Seller with a High FMV Claim under Section 73	754
8.2	Illustration B — The Section 78 Trap (DVO Higher than Stamp-Duty Value)	755
8.3	Illustration C — The Jurisdictional Knockout (Wrong Pathway)	756
9.	Litigation Hotspots	756
9.1	Hotspot 1 — FMV-as-on-1-April-2001 under Section 73 (Chapter 8, paragraph 4)	757
9.2	Hotspot 2 — DVO Reference Made Without Jurisdiction	757
9.3	Hotspot 3 — DVO Report Issued Without Hearing the Assessee	757
9.4	Hotspot 4 — Stamp-Duty Value versus DVO Value: The Section 78 Trap	757
9.5	Hotspot 5 — Conflicting Valuations: Registered Valuer versus DVO	758
9.6	Hotspot 6 — DVO Reference as a Delay Tactic	758
10.	Section 55A (1961 Act) versus Section 91 (2025 Act) — Comparative Snapshot	758
11.	Where the AO Will Likely Strike — Section 91 Strike Zones	761
11.1	Refusing the DVO Reference on Assessee Request (Section 78/Section 92(2)(m) Cases)	761
11.2	Reference under the Wrong Section (Section 91 versus Section 269)	761
11.3	Reference under the Wrong Pathway (Section 91(1)(a) Without Registered Valuer Report)	762
11.4	Reference under Pathway B Without Threshold Finding	762
11.5	DVO Report Issued Without Hearing the Assessee (Section 269(4) Violation)	762
11.6	DVO Adoption of Wrong Valuation Date	762
11.7	AO Adopting DVO Figure Higher Than Stamp-Duty Value Despite Section 78(3) Ceiling	763
11.8	AO Substituting Own Estimate Without DVO Reference	763
12.	Documentation Discipline for Section 91 Cases	763
13.	Conclusion	764

PART VII

LITIGATION & CASE STUDIES

Chapter 21

Litigation Strategy and Judicial Principles

1. Introduction — The Case Begins Before the Notice Arrives	769
2. Burden of Proof in Capital Gains Proceedings	770
2.1 The General Rule — Initial Burden on the Assessee	770
2.2 The Two-Stage Framework — Daulat Ram Rawatmull	771
2.3 When the Burden Shifts to Revenue — Four Specific Contexts	771
3. Substance Over Form — The Doctrine and Its Limits	772
3.1 The Trilogy — McDowell, Azadi Bachao, Vodafone	772
3.2 Applying the Doctrine to Capital Gains — Recurring Contexts	774
4. GAAR Interplay with Capital Gains Planning — Sections 178 to 184 of the 2025 Act	774
4.1 The 2025 Act GAAR Framework — Sections 178 to 184	775
4.2 The Two-Cumulative-Test Architecture for IAA Determination	775
4.3 Pre-1-April-2017 Investment Grandfathering — The Foundational Protection	777
4.4 GAAR and Capital Gains — Three Recurring Scenarios	778
5. The Ten Common AO Positions — Practitioner's Defence Playbook	779
5.1 Position 1 — "This Is Business Income, Not Capital Gains"	779
5.2 Position 2 — "The Transfer Occurred in a Different Year"	779
5.3 Position 3 — "Stamp Duty Value Must Be Adopted Under Section 78"	779
5.4 Position 4 — "The Exemption Conditions Are Not Satisfied"	780
5.5 Position 5 — "The FMV as on 1 April 2001 Is Inflated"	780
5.6 Position 6 — "The Family Settlement Is a Disguised Transfer"	781
5.7 Position 7 — "The Computation Machinery Does Not Fail"	781
5.8 Position 8 — "The Transaction Is a Sham"	781
5.9 Position 9 — "Section 92(2)(m) Applies — Buyer's IFOS on Receipt of Property"	781
5.10 Position 10 — "GAAR Applies — The Arrangement Is Impermissible"	782
6. Key Judicial Precedents — The Practitioner's Arsenal	782
7. How to Handle Capital Gains Scrutiny — The Five-Stage Operational Guide	786
7.1 Stage 1 — The Scrutiny Notice (First 48 Hours)	786
7.2 Stage 2 — The First Hearing (Setting the Narrative)	787
7.3 Stage 3 — The Questionnaire (Responding to Specific Queries)	788
7.4 Stage 4 — Show Cause Notice (SCN)	789
7.5 Stage 5 — The Assessment Order and Post-Order Remedies	789
8. 1961 Act versus 2025 Act — Procedural Comparison for Litigation	791
9. Where the AO Will Likely Strike — Litigation Strike Zones	795
9.1 Limited Scrutiny Expanded Beyond Scope Without Authorisation	795
9.2 GAAR Threat Without Section 178 to 184 Compliance	795

9.3	Reclassification to Business Income without G. Venkataswami Naidu Analysis	795
9.4	Section 78 Stamp-Duty Value Adoption without DVO Reference Option	796
9.5	Section 91 DVO Reference under Wrong Pathway	796
9.6	Sham Allegation without Positive Evidence	796
9.7	Section 425 CG Relaxation Denied Without Annapoorneshwari Analysis	796
9.8	Section 197(3) Grandfathering Denied for Eligible Resident Individual or HUF Land or Building	796
9.9	Section 411(12) Stay-of-Demand Denied Without Prima Facie Analysis	797
9.10	Faceless Assessment Hearing Denied	797
10.	Conclusion	797

Chapter 22

Case Studies and Real-Life Scenarios

1.	Introduction — Why Case Studies Matter	803
2.	Case Study 1 — Property Sale with Section 197(3) Grandfathering Option E = A – B	803
2.1	The Facts	803
2.2	Computation A — Un-indexed at 12.5 per cent under Section 197(1)(b)	804
2.3	Computation B — Indexed at 20 per cent under Section 197(1) with CII Multipliers	804
2.4	Section 197(3) Result — The Lower-of-A-and-B Formula	805
2.5	Documentation Discipline for Case Study 1	805
2.6	ITR Reporting	806
3.	Case Study 2 — Listed Equity Threshold Planning under Section 198	806
3.1	The Facts	806
3.2	The Threshold Planning Question	807
3.3	The Staggered Approach — Tax-Gain Harvesting	807
3.4	Documentation Discipline for Case Study 2	808
4.	Case Study 3 — Buyback of Shares under Three Successive Regimes	808
4.1	The Facts	808
4.2	Three Regimes in Rapid Succession — The Date of Buyback Is Determinative	808
4.3	Bare Act Extract — Section 69 of the 2025 Act	809
4.4	Computation for Mr. Vikram (Non-Promoter) — Buyback in February 2026	811
4.5	Mrs. Sunita (Promoter) — Buyback in February 2026	811
4.6	What Changes from 1 April, 2026 — Section 69 Capital-Gains Regime	812
4.7	Timing Is Everything	813
5.	Case Study 4 — Slump Sale under Section 77(4) with Form 28 Certification	813
5.1	The Facts	813
5.2	Computation of Capital Gains under Section 77(4)	814
5.3	Critical Points in the Net Worth Computation	814

	<i>Detailed contents</i>	49
5.4	Form 28 (Replacing Form 3CEA) — The Mandatory Accountant's Certification	815
5.5	Documentation Discipline for Case Study 4	816
6.	Case Study 5 — Joint Development Agreement: Year of Chargeability under Section 67(14) to (16)	816
6.1	The Facts	816
6.2	Bare Act Extract — Section 67(14) to (16) of the 2025 Act	816
6.3	When Is the Capital Gain Taxable? The Deferral Mechanism	817
6.4	Computation in the Year of Completion Certificate (TY 2027-28)	818
6.5	Section 67(16) — When the Deferral Is Lost	819
6.6	Documentation Discipline for Case Study 5	819
7.	Case Study 6 — Compulsory Acquisition under RFCTLARRA with Section 89 Time Extension	820
7.1	The Facts	820
7.2	Bare Act Extract — Section 89 Time Extension	820
7.3	Tax Treatment under the 2025 Act	820
7.4	Computation — Initial Compensation (TY 2024-25)	821
7.5	Computation — Enhanced Compensation (TY 2027-28)	822
7.6	Section 89 Time Extension — Practical Operation	822
7.7	Documentation Discipline for Case Study 6	823
8.	AO Strike Zones — Predictable Challenges in Each Case Study	823
8.1	Case Study 1 — AO Denying Section 197(3) Grandfathering for Pre-23-July-2024 Property	823
8.2	Case Study 2 — AO Reclassifying Listed-Equity Sales as Business Income	823
8.3	Case Study 3 — AO Confusion on Buyback Regime and Timing	824
8.4	Case Study 4 — AO Challenging Slump-Sale Net Worth or Form 28	824
8.5	Case Study 5 — AO Taxing JDA in the Year of Possession Rather than the CC Year	824
8.6	Case Study 6 — AO Refusing Schedule II Sl. No. 38C Solatium Exemption	825
8.7	Case Study 6 — AO Treating Solatium Deposited in CGAS as Taxable	825
8.8	Cross-Case — AIS/SFT Mismatch on Property and Equity Transactions	825
9.	Summary Comparison Table — Six Case Studies	826
10.	Conclusion	828

PART VIII

PRACTITIONER REFERENCE

Chapter 23

FAQs for Professionals

1.	Introduction — The Chapter That Should Have Come First	832
2.	Block A — Practical Queries from Advisory and Litigation Practice	833
2.1	FAQ 1 — My client sold shares partly before and partly after 23 July 2024. Do different rates apply to the same financial year?	833

2.2	FAQ 2 — Can the AO reclassify my client's share transactions from capital gains to business income despite CBDT Circular No. 6/2016?	834
2.3	FAQ 3 — My client entered into a Joint Development Agreement (JDA) for his residential property. When does capital gains arise?	835
2.4	FAQ 4 — My client received enhanced compensation from the Court for land compulsorily acquired ten years ago. How is this taxed?	835
2.5	FAQ 5 — My client is a partner who is retiring from a firm. The firm is distributing immovable property to him. What are the tax consequences?	837
2.6	FAQ 6 — My client sold a residential property and wants to claim exemption under Section 82 (replacing Section 54). What are the common traps?	838
2.7	FAQ 7 — The stamp duty value of my client's property exceeds the sale consideration. What happens?	839
2.8	FAQ 8 — Is a family settlement a "transfer" attracting capital gains?	840
3.	Block B — Rate Changes from 23 July, 2024: Transitional Issues	840
3.1	FAQ 9 — What exactly changed on 23 July, 2024?	840
3.2	FAQ 10 — My client sold property on 20 July 2024 and another property on 25 July, 2024. Different regimes apply?	841
3.3	FAQ 11 — My client signed the sale agreement on 15 July, 2024 and received part consideration, but registration happened on 28 July, 2024. Which regime applies?	842
3.4	FAQ 12 — Are exemptions under Sections 82, 85 and 86 affected by the rate change?	843
4.	Block C — Indexation: When Available, When Not	844
4.1	FAQ 13 — Is indexation completely dead after 23 July, 2024?	844
4.2	FAQ 14 — How is the Cost Inflation Index (CII) used in the grandfathering computation?	845
4.3	FAQ 15 — My client inherited property in 2010. The original owner purchased it in 1985. How is the cost computed?	845
4.4	FAQ 16 — My NRI client sold Indian property bought in 2005. Can he claim indexation?	846
5.	Block D — Virtual Digital Asset (VDA) Taxation	847
5.1	FAQ 17 — What is a Virtual Digital Asset (VDA) and how is it taxed?	847
5.2	Bare Act Extract — Section 194(1) Table Sl. No. 4 of the 2025 Act	847
5.3	FAQ 18 — My client sold Bitcoin in 2020-21 (before the VDA regime). How is that taxed?	848
5.4	FAQ 19 — Can my client claim any exemption on VDA gains from a transfer after 1 April, 2022?	849
5.5	FAQ 20 — What constitutes "cost of acquisition" for VDAs? Can mining costs or gas fees be included?	850
5.6	FAQ 21 — My client exchanged Bitcoin for Ethereum. Is this a taxable event?	851
6.	The Three-Step Diagnostic Framework for Every Capital-Gains Advisory	852
7.	Conclusion	853
8.	Case Law Index — The Practitioner's 15-Case Working Arsenal	855

Chapter 24

Professional Checklists

1. Why Checklists Matter More Than Knowledge	860
2. The Section 72 Framework	861
2.1 Bare Act Extract — Section 72(1) and 72(3) of the 2025 Act	861
3. The 15-Step Computation Checklist	862
3.1 Step 1 — Identify the Asset	862
3.2 Step 2 — Confirm Transfer	862
3.3 Step 3 — Determine the Date of Transfer	862
3.4 Step 4 — Classify as Short-Term or Long-Term	862
3.5 Step 5 — Determine Full Value of Consideration (FVC)	863
3.6 Step 6 — Deduct Expenditure on Transfer	863
3.7 Step 7 — Determine Cost of Acquisition	863
3.8 Step 8 — Apply Indexation (Where Applicable)	866
3.9 Step 9 — Determine Cost of Improvement	866
3.10 Step 10 — Compute the Raw Capital Gain	867
3.11 Step 11 — Apply Section 197(3) Grandfathering Comparison (If Applicable)	867
3.12 Step 12 — Check for Exemptions (Sections 82 to 89)	867
3.13 Step 13 — Apply the Correct Tax Rate	867
3.14 Step 14 — Compute Surcharge and Cess	868
3.15 Step 15 — Verify Set-Off and Carry-Forward	868
4. Why Documentation Is Your First Line of Defence	869
5. Asset-Wise Documentation Matrix	870
A. Immovable Property (Land or Building)	870
B. Listed Equity Shares/Equity Mutual Funds	871
C. Gold/Jewellery/Paintings/Collectibles	872
D. Unlisted Shares	872
E. Virtual Digital Assets (VDAs/Cryptocurrency)	873
6. The AO's Playbook — Anticipating Scrutiny Triggers	873
6.1 The Five Most Common Scrutiny Triggers in Capital Gains	874
7. The 12-Point Scrutiny Defence Checklist	874
7.1 Point 1 — Cross-verify AIS and Form 26AS against your computation	874
7.2 Point 2 — Ensure the return discloses all capital-gains transactions	874
7.3 Point 3 — Prepare a transaction-wise computation schedule	875
7.4 Point 4 — Pre-prepare the Section 78 stamp-duty value comparison	875
7.5 Point 5 — Keep the CBDT Circular No. 6/2016 file ready for share transactions	875
7.6 Point 6 — For exemption claims, verify every timeline INDEPENDENTLY	875
7.7 Point 7 — Obtain and retain the registered valuer's report BEFORE filing	875
7.8 Point 8 — For JDA transactions, file the completion certificate on record	875
7.9 Point 9 — For firm reconstitution, attach the valuer's report and the revaluation entries	876
7.10 Point 10 — Anticipate the penny-stock defence	876

7.11	Point 11 — Maintain a "legal position note" for each non-routine transaction	876
7.12	Point 12 — Never concede an AO's addition at the assessment stage without considering appellate prospects	876
8.	The Exemption Matrix	877
8.1	Section 82 of the 2025 Act (replacing Section 54) — Reinvestment in Residential Property	877
8.2	Section 85 of the 2025 Act (replacing Section 54EC) — Specified Bonds	878
8.3	Section 86 of the 2025 Act (replacing Section 54F) — Any Long-Term Asset to Residential Property	879
8.4	Sections 83, 84, 87, 88 of the 2025 Act — Quick Reference	879
9.	The Capital Gains Account Scheme — The Most Overlooked Procedural Requirement	880
10.	The CGAS Compliance Checklist	881
10.1	Opening the Account	881
10.2	Withdrawing from the Account	882
10.3	Utilisation and Closure	882
11.	CGAS Timeline Chart with Deadline Consequences	883
12.	Practitioner's Summary — Five Checklists, One System	884
13.	Case Law Index — The Practitioner's 14-Case Working Arsenal for Chapter 26	887

APPENDICES

Appendix A

Complete Section Mapping	889
---------------------------------	------------

Appendix B

Tax Rate Chart — Capital Gains	913
---------------------------------------	------------

Appendix C

Capital Gains Account Scheme	935
-------------------------------------	------------

Appendix D

Key Judicial Precedents	953
--------------------------------	------------

Abbreviations	983
----------------------	------------

Table of Cases

A grud Partners v ITO (ITAT Mum)	966
Ahmed G.H. Ariff v CWT (1970) 76 ITR 471	41
Alapati Venkataramiah v CIT (1965) 57 ITR 185 (SC)	157,158,165
Amiya Bala Paul v CIT (2003) 262 ITR 407 (SC)	745,754,760,765,783
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Areva T&D India Ltd. v DCIT (2020) 428 ITR 1 (Mad)	382
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Assam Bengal Cement Co. Ltd. v CIT (1955) 27 ITR 34 (SC)	311,319
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Table of Cases

55

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Table of Cases

57

January 2026)	66,107
Joy Beauty Care P. Ltd. v DCIT (Kolkata ITAT, 2018)	349
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Mansukh Dyeing & Printing Mills v PCIT ITAT Mumbai/Bom HC	974
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Summary

Capital Gains in One Sitting

The substance of the entire treatise, distilled into one continuous read — what the law actually says, with worked numbers, so that you finish it knowing how the tax really works.

This overview stands on its own. Read it from the first line to the last and you will hold the working substance of capital-gains taxation under the Income-tax Act, 2025 — what is taxed, how the gain is measured, how to make it shrink or vanish lawfully, what you finally pay, how to report it, and how to defend it. The chapters that follow carry the full detail, the complete figures and the case law; here is the law itself, in plain language, with small worked examples wherever a number makes the idea click.

The idea at the centre

Capital-gains tax is not a tax on owning. It is a tax on **parting with** something you own. An asset can multiply in value in your hands for decades and nothing is due; the charge arises only when you **transfer** it — sell, exchange, give it up. And when it arises, the taxable gain is, at heart, a single subtraction: the **money you received, minus what the asset cost you, minus what you spent improving it, minus the cost of selling**. If the result is negative, it is a capital loss — never taxed, and capable of being carried into future years to soften a later gain.

One distinction governs everything: **being charged is not the same as being taxed**. A sale can trigger the charge (Section 67, the old Section 45) and still bear no tax once an exemption applies. They are two stages, asked in order — first, is the gain charged; second, is the charged gain relieved. An exemption usually only **defers** the levy, so break its conditions later and the tax revives. Hold these as two separate questions and most of the fog clears.

A reassurance that runs through the book: for capital gains, the 2025 Act is overwhelmingly a **renumbering and consolidation**, not a new code. The charge moved from 45 to 67; computation from 48 to 72; the reinvestment reliefs from the famous 54-family to Sections 82–89; the rates from 111A, 112 and 112A to 196, 197 and 198. Decades of court rulings still apply, except where Parliament has deliberately written in an override. If you once half-understood the old law, you are only learning new room numbers.

When the tax wakes up

Four conditions must hold **together** for a gain to be charged: there must be a **capital asset**, a **transfer**, occurring in a **tax year**, producing a **gain**. Miss any one and the charge fails. The charging section now gathers eighteen sub-sections in a single place — the ordinary charge plus a battery of deeming rules: money received under an insurance policy, gains inside non-exempt unit-linked policies, the conversion of an investment into business stock, the first-in-first-out rule for

dematerialised shares, the taxation of partnership reconstitution, compulsory acquisition, joint-development agreements and share buybacks. You do not need all eighteen by heart; you need to know that if your situation feels unusual, there is almost certainly a specific sub-section written for it.

A deep principle decides the hardest cases: where the Act gives no machinery to compute an asset's cost, the **charge itself collapses** (the *Srinivasa Setty* “integrated-code” rule). Parliament has reversed this for self-generated goodwill — now expressly costed at nil — but it survives elsewhere and remains a genuine defence when a gain simply cannot be computed in the way the law prescribes.

Is it even a capital asset?

“Capital asset” is defined as widely as language allows — property of any kind — and courts have stretched it to cover goodwill, tenancy rights, options, even domain names. Five categories are carved **out**: stock-in-trade; personal effects in actual use; **rural** agricultural land; and two narrow gold-instrument categories. These are exclusions, not exemptions — the capital-gains machinery never starts at all. But beware the trap inside “personal effects”: jewellery, paintings, archaeological collections and the like are **expressly kept inside** the net even when personal, so the silver kept for Diwali or the family's gold remains a capital asset.

Whether farmland escapes tax turns on a **population-and-distance** test — land beyond prescribed limits from a municipality, measured by straight-line aerial distance, can be rural and outside the net — and on proof of **actual cultivation**. A revenue record marked “agricultural” is necessary but never sufficient; the file must show crops, not just paper.

The single most litigated boundary in Indian direct tax is **capital asset versus stock-in-trade** — investor versus trader. The same shares yield gentle capital gains in an investor's hands and full-rate business income in a trader's. The line is drawn by **intention and conduct**: how often you deal, how long you hold, where the money came from, how you account for it. For listed shares held over twelve months, a longstanding circular (No. 6/2016) lets a taxpayer's consistent “investor” treatment stand — the strongest shield in any reclassification fight.

Virtual digital assets — crypto, NFTs — are expressly **inside** the net, but taxed on uniquely harsh terms set out later.

What counts as a transfer — and what does not

“Transfer” is among the widest words in the Act. It reaches not only sale and exchange but **relinquishment**, the **extinguishment of rights**, compulsory acquisition, the conversion of an investment into business stock, the contribution of an asset to a firm, and the **indirect transfer** of Indian assets dressed up as the sale of an offshore holding company. This breadth is where anti-avoidance doctrine and the general anti-avoidance rule first bite.

Against that breadth sits a deliberate list of transactions **not regarded as transfer**: gifts and inheritances; transfers between a holding company and its wholly-owned subsidiary; and a family of amalgamations, demergers and

business conversions. These carve-outs are how ownership is rearranged within families and groups **without** a tax event — provided the conditions are met and, crucially, **kept** for the years that follow, because breaking them later can pull the gain back into charge.

Which year does the gain belong to?

Timing fixes both the rate regime and the interest exposure, so the Act pins down the **year of taxability** with care. Hand land to a builder under a **registered** joint-development agreement, and — if you are an individual or HUF — the gain is deferred to the year the **completion certificate** issues, not the year you signed [Section 67(14)–(16)]; an **unregistered** agreement is treated, after the *Balbir Singh Maini* ruling, as no transfer at all. Where a sale agreement is backed by substantial payment and delivery of possession, the transfer can be anchored to the **agreement date** (the *Sanjeev Lal* principle) — which can decide whether you fall before or after the 23 July 2024 rate line. On **compulsory acquisition**, the initial compensation is taxed in the year of receipt and any enhanced compensation in its own later year. On **conversion** of an investment into stock-in-trade, the market value at conversion is frozen as the deemed sale price, but the gain is taxed only when the converted stock is finally sold.

A worked number. You give your plot to a builder in 2025 under a **registered** development agreement, to receive four flats once the project is built. No capital-gains tax arises in 2025. It falls only in the year the **completion certificate** is issued — say 2028 — on the value of your share at that point. Sign the very same arrangement **unregistered**, and there is no taxable transfer at all until something more happens. The stamp paper, quite literally, moves the tax by years.

Short-term or long-term: the cheapest decision you will make

The law treats the patient owner far more kindly, which makes the **holding period** the most under-used planning tool an ordinary person owns. The thresholds are now clean: **twelve months** for listed shares and equity-fund units; **twenty-four months** for nearly everything else — property, gold, unlisted shares. The old thirty-six-month bucket is gone. For inherited or gifted assets the clock does not restart: you **inherit the previous owner's holding period**, so a flat your parent bought decades ago is long-term in your hands from day one.

A worked number. Priya buys listed shares for ₹6,00,000 and they rise to ₹9,00,000 — a ₹3,00,000 gain. Sell at **eleven months** (short-term) and she pays 20 per cent: ₹60,000. Sell at **thirteen months** (long-term) and the first ₹1,25,000 is tax-free, leaving ₹1,75,000 taxed at 12.5 per cent: ₹21,875. Two months of patience saves her ₹38,125 — for doing nothing at all.

Measuring the gain: the master formula

Computation is that single subtraction, refined in four directions.

The sale price the law may impose. You cannot simply write down a low figure. For land or buildings, if the **stamp-duty value** exceeds your stated price by more than a **10 per cent** tolerance, that higher value is **deemed** to be your sale consideration (Section 78, the old 50C). A sister rule can then tax the **buyer**

separately on the bargain element as income from other sources — so underpricing a property quietly creates tax on **both** sides of the deal. You may challenge the stamp value through a valuation officer.

A worked number. You sell a plot for ₹50,00,000, but its stamp-duty value is ₹60,00,000 — a 20 per cent gap, beyond the 10 per cent cushion. The law treats your sale price as ₹60,00,000. If the plot cost you ₹35,00,000, you are taxed on a ₹25,00,000 gain, not ₹15,00,000 — and the buyer can be taxed on the ₹10,00,000 difference too. Had the stamp value been ₹54,00,000 (an 8 per cent gap), your declared ₹50,00,000 would have stood.

What it cost you. For purchased assets, the actual cost. For **inherited or gifted** assets, you step into the previous owner's cost. For assets owned a very long time, you may substitute the **fair market value as on 1 April 2001** for an ancient cost. For listed equity held since before **1 February 2018**, a separate grandfathering protects the value built up to that date. Used correctly, these substitutions are among the largest and quietest gain-reducers in the whole book.

A worked number. Your father bought land in 1985 for ₹2,00,000; you inherited it in 2015 and sell in 2026 for ₹90,00,000. Your holding period runs from **1985**, so it is long-term from the start. And instead of the ₹2,00,000 historic cost you may use the land's fair market value as on 1 April 2001 — say ₹12,00,000 (to be fixed by a registered valuer). That single substitution moves the taxable gain from ₹88,00,000 down to ₹78,00,000.

A worked number. You bought a listed share in 2012 for ₹100; its market value on 31 January 2018 was ₹400; you sell in 2026 for ₹600. The grandfathering lets you treat ₹400 as your cost — so only the ₹200 of gain that arose **after** January 2018 is taxed, not the full ₹500. The appreciation you earned before the rule began is protected.

Indexation and the great watershed. For years, inflation “indexation” lifted your cost and softened the gain. From **23 July 2024** that relief is largely withdrawn. It survives in one narrow but valuable case: a resident individual or HUF selling **land or a building acquired before that date** computes the tax **two ways** — 12.5 per cent without indexation, and 20 per cent with indexation — and pays the **lower**. The rule of thumb is absolute: always run both, because for long-held property the indexed route still often wins.

A worked number. A resident sells a flat for ₹1,10,00,000 that cost ₹30,00,000 long ago. Method A (no indexation): gain ₹80,00,000 at 12.5 per cent = ₹10,00,000. Method B (with indexation): suppose the official index lifts the cost to about ₹65,00,000, leaving a ₹45,00,000 gain at 20 per cent = ₹9,00,000. She pays the **lower** — ₹9,00,000 — and saves a lakh by checking both.

Improvements and selling costs. Genuine **capital** improvement — a new floor, a boundary wall, an added room — is added to cost, and each improvement is indexed from its **own** year; but routine repairs never count. Selling costs — brokerage, legal fees, the seller's stamp duty, valuation charges, even an NRI's travel to complete the sale — are deductible. The securities transaction tax is

expressly **not** deductible, and interest already claimed elsewhere cannot be claimed again. A practical commandment governs all of it: **pay through banking channels, never cash, and keep every receipt** — the deduction lives or dies on the documentation.

A worked number. Over the years you spend ₹5,00,000 adding a room (2012) and ₹3,00,000 building a boundary wall (2018): both are **capital** improvements, added to your cost — and where indexation applies, each is indexed from its own year. But the ₹2,00,000 you spent repainting and fixing leaks is **revenue** — ordinary upkeep — and adds nothing to cost. The bills you keep for the first two save tax; the receipts for the third do not, however large.

A special kindness for depreciable assets. When a business sells a depreciated asset, the law deems the gain short-term for computation. Yet the courts (*Ace Builders*, *Dempo*) have held that if the asset was actually held long enough, its **long-term character survives for claiming exemptions** — a valuable, frequently-disputed point worth knowing if a factory building or plant is sold.

The assets that play by their own rules

A cluster of modern instruments and corporate events follow their own regimes, and getting the basket wrong is a common, expensive error.

Debt funds and market-linked debentures are, by statute, **always short-term and taxed at slab rates** — no indexation, no long-term reliefs, regardless of how long you held them. **Slump sale** — selling an entire business as a going concern for one lump sum — is computed on the undertaking's **net worth** (book values, with self-generated goodwill taken at nil), needs a mandatory accountant's certificate, and where net worth is negative the loss is added back to the gain rather than ignored.

On the corporate side, **company buybacks** have changed regime four times in a decade; from **1 April 2026** they are once again taxed in the **shareholder's** hands as capital gains, with an additional layer of tax on promoters. **Liquidation** proceeds are taxed to the shareholder after stripping out the dividend element. The **indirect-transfer** rule catches offshore deals that draw more than half their value — above a ₹10 crore floor — from Indian assets; and the 2026 **Tiger Global** ruling settled that a tax-residency certificate is necessary but **not sufficient** — genuine commercial substance, not paperwork, controls treaty relief, with avoidance-era grandfathering keyed to the date of investment.

A worked number. You receive ₹10,00,000 in a share buyback. If it completed on **30 September 2024**, it fell in the deemed-dividend regime — the whole ₹10,00,000 taxed at your slab rate, with no cost allowed. The same ₹10,00,000 received on or after **1 April 2026** is taxed instead as a **capital gain** — your cost is subtracted, the holding-period rate applies, and a promoter pays a little extra. The date the money actually reaches you, not the board resolution, decides which world you are in.

Income from a **REIT or InvIT** keeps its **character** as it flows to you — interest stays interest, rental stays rental, capital gain stays capital gain. The recurring, avoidable trap is the unit-holder who reports the entire distribution as “dividend” and then receives a mismatch notice; the trust's annual statement is the document to reconcile against, every year.

The reliefs that can wipe out the tax

This is the heart of practical planning. The reliefs are generous and built for ordinary families — but every one rewards foresight and punishes the last-minute.

Roll a gain into a home. Sell a **residential house** and reinvest the **gain** into another house, and the gain is exempt (Section 82). Sell almost **any other** long-term asset and reinvest the **entire net sale proceeds** into a house, and the same relief opens (Section 86 — which also forbids owning more than one other house). The difference between “gain” and “net proceeds” is where people slip.

A worked number. Sell your old house for ₹1,50,00,000 that cost ₹50,00,000 — a ₹1,00,00,000 long-term gain. Under Section 82 you need only put the **gain** (₹1,00,00,000) into a new house to exempt it entirely; the other ₹50,00,000 — your original capital back — is yours to keep and spend freely. Contrast Section 86 below, where, because the asset sold was **not** a house, the **whole** ₹1,50,00,000 would have had to be reinvested for full relief.

A worked number. You sell gold for ₹80,00,000 that cost ₹30,00,000 — a ₹50,00,000 long-term gain — and want the house relief under Section 86. To exempt the **whole** ₹50,00,000 you must put the **entire ₹80,00,000** into the new house. Invest only ₹40,00,000 and the exemption is proportionate — just ₹25,00,000 of the gain is spared, and the rest is taxed.

Both house reliefs are capped at **₹10 crore** — proof they are meant for real families, not mega-deals. A **once-in-a-lifetime** option lets a modest gain (up to ₹2 crore) be spread across **two** homes. “One residential house” has been read to include adjacent flats forming a single living unit; a purchase funded by your own gains but registered in a **spouse's** name can qualify; and where a builder delays, substantial payment within the window protects the claim. Even a development-authority allotment counts as “construction”.

The bond route. Long-term gains on land or buildings can be sheltered by investing up to **₹50 lakh** in specified government-backed bonds (REC, PFC, IRFC and the like) **within six months** of the sale, locked for **five years** (Section 85). Each co-owner gets a separate ₹50 lakh cap. It is also the natural mop-up for gains that overflow the ₹10 crore house cap — but the bonds must not be pledged or sold early, or the relief is clawed back.

Agricultural and business land. Farmland is handled in layers, and walking them in order saves tax. First, **rural** agricultural land is not a capital asset at all — no gain arises. Next, **urban** agricultural land that an individual or HUF cultivated for at least two years and that is **compulsorily acquired** is fully exempt. Land taken under the 2013 land-acquisition law is, by a separate route,

broadly exempt outright — any land, any owner, no reinvestment. Only if none of these apply do you reach the rollover reliefs: reinvesting agricultural-land proceeds into new agricultural land is exempt and — uniquely among the reliefs — covers **both** short and long-term gains (Section 83); industrial undertakings shifting out of urban areas have their own rollover (Sections 87–88).

Compulsory acquisition: split the cheque. When the government takes your land, the money arrives in parts, and each part is taxed differently. The **principal** compensation is a capital gain in the year of receipt; any **enhanced** compensation is taxed in its own later year; the **solatium** (the statutory premium for forced acquisition) is exempt for an individual or HUF; and the **interest** is taxed as other income, but only after a 50 per cent standard deduction. Beware a popular myth here — there is no blanket rule that half of the whole compensation is tax-free; only the interest gets the 50 per cent, and the solatium its own exemption.

A worked number. Your land is acquired for ₹50,00,000 principal, ₹5,00,000 solatium and ₹8,00,000 interest. The ₹50,00,000 is a capital gain (eligible for the reinvestment reliefs); the ₹5,00,000 solatium is exempt; and of the ₹8,00,000 interest, only ₹4,00,000 is taxable after the 50 per cent deduction. Three different treatments, one cheque.

The deposit deadline that breaks hearts. If you cannot complete the reinvestment **before your return is due**, you must first park the unutilised gain in a **Capital Gains Account Scheme** deposit at a bank. Miss this by a single day and the exemption is lost — no appeal, no condonation — even if you buy the property a month later.

A worked number. You sell a flat in August 2026 with a large gain, planning to buy a new home, but the new purchase will only close in December. If the new home is not bought (or the money not deposited in a Capital Gains Account) **by the date your return is due**, the exemption is gone — the December purchase cannot rescue it. The fix is one line in a diary: **deposit first, file second.**

The strings attached. Every reinvestment relief carries a **lock-in** — typically three years on the new asset, five on the bonds, longer for some corporate reliefs. Sell too soon, pledge the bonds, or breach a covenant, and the exemption is **clawed back**: the earlier-exempt gain is taxed in the year of breach (and, in one corporate case, the original year is reopened). The discipline the book teaches is simple — claim at filing, then **defend across the lock-in's whole life** with an annual confirmation that no condition has been broken. Helpfully, an unutilised deposit left behind on the **death** of the taxpayer is not taxed in anyone's hands — it passes as part of the estate.

When a loss is a kind of asset

Losses are not wasted, but they travel only in fixed channels. A **short-term** capital loss can be set against **any** capital gain — short or long-term. A **long-term** loss can shelter **only** long-term gains. Capital losses can never touch salary, business profit or other income. Unused losses **carry forward for eight years** — but **only if the return was filed by the original due date**; a late return forfeits

the carry-forward, though set-off **within** the same year survives even on a late return. Speculation losses run on a shorter four-year leash. And crypto losses are walled off entirely — no set-off against anything, no carry-forward.

A worked number. You have a ₹2,00,000 **short-term** loss and a ₹2,00,000 **long-term** gain on a property. The short-term loss can wipe out the long-term gain, saving 12.5 per cent — ₹25,000. Reverse the labels, though, and it fails: a **long-term** loss could not have sheltered a short-term gain. The category, not just the amount, decides the saving.

Because India has **no wash-sale rule**, deliberately booking a loss — or a tax-free gain — and repurchasing the same security at once is permitted, which turns disciplined year-end **harvesting** into a genuine, lawful tool.

A worked number. A portfolio sits on ₹5,00,000 of unrealised long-term equity gain. Sell it all in one year and ₹3,75,000 (above the annual ₹1,25,000 shield) is taxed at 12.5 per cent — ₹46,875. Instead, harvest ₹1,25,000 of gain each year for four years, repurchasing immediately: every slice sits inside the yearly tax-free shield, and the total tax is **zero**.

What you finally pay: the rates

The rate landscape reduces to **three baskets**. Listed equity sold **short-term** (with securities transaction tax paid) is taxed at **20 per cent** (Section 196). **General long-term** gains — property, gold, unlisted shares — are taxed at **12.5 per cent** (Section 197). Listed equity held **long-term** is taxed at **12.5 per cent, with the first ₹1.25 lakh of such gain each year entirely tax-free** (Section 198) — the shield that renews annually.

Three refinements carry the real weight. For resident individuals and families selling land or a building bought before 23 July 2024, the **lower-of-two** computation applies. A **surcharge cap** of 15 per cent keeps the effective rate on these gains gentle even at the highest incomes — long-term gains top out under 15 per cent all-in, against the roughly 40-per-cent-plus that ordinary short-term gains can attract for top earners. Transactions on an international-finance-centre exchange enjoy further relief. And, apart from everything else, **virtual digital assets are taxed at a flat 30 per cent**, with no deduction except cost, no set-off and no carry-forward — the single harshest rate in the Act.

A worked number. Buy one crypto-asset for ₹3,00,000 and sell for ₹5,00,000: the ₹2,00,000 gain is taxed flat at 30 per cent — ₹60,000 — with no ₹1.25 lakh shield and no expenses allowed. And if a second coin lost you ₹1,00,000 the same year, you still cannot net it: the ₹60,000 stands in full. Compare an identical ₹2,00,000 gain on long-term listed shares — sheltered by the annual shield, possibly **nil**.

One more kindness: where a resident's other income falls below the basic exemption limit, the unused slack first reduces the special-rate gain before the rate bites (marginal relief).

A worked number. For a top-bracket earner the surcharge cap is worth more than the headline rates suggest. An ordinary **short-term** non-equity gain can carry an all-in effective rate above 40 per cent once full surcharge and cess pile on; a **long-term** gain, with surcharge frozen at 15 per cent, stays under about 15 per cent all-in. For a wealthy seller, crossing into long-term is the difference between roughly a seventh and nearly half of the gain.

What happens when you sell — asset by asset

The same principles land differently on different assets. Here is the whole machine applied, in plain terms, to the things people actually sell.

Your house or a plot. Long-term after 24 months; taxed at 12.5 per cent, or — if bought before 23 July 2024 by a resident individual or HUF — at the **lower** of 12.5 per cent un-indexed and 20 per cent indexed. The big reliefs are the house rollover (Section 82) and the ₹50 lakh bonds (Section 85). The classic traps: the stamp-duty floor, and missing the deposit-account deadline.

Listed shares and equity mutual funds. Long-term after just 12 months; the first ₹1.25 lakh of long-term gain each year is free, the rest taxed at 12.5 per cent. Short-term (under 12 months) is 20 per cent. No reinvestment relief — but the annual shield, harvested deliberately, is the planning tool. Keep the investor-not-trader line clean.

Debt mutual funds and market-linked debentures. A nasty surprise for many: regardless of how long you hold them, the gain is **always short-term and taxed at your slab rate** — no 12.5 per cent, no indexation, no rollover relief. Treat them as fully taxable from day one when you plan.

Gold, jewellery and bullion (including gold funds and ETFs). Long-term after 24 months at 12.5 per cent. Physical gold and jewellery are capital assets even though they sit at home. The gain can be rolled into a house under Section 86 — but only if you reinvest the **whole** sale value, not merely the gain.

Unlisted shares and start-up ESOPs. Long-term after 24 months at 12.5 per cent; short-term at slab rates. Watch the deeming rule that can substitute a higher fair value as your sale price when unlisted shares change hands cheaply, and the separate point at which ESOPs are first taxed as salary — only the **later** rise is a capital gain.

Crypto and other virtual digital assets. A flat 30 per cent on the gain, no holding-period benefit, no shield, no expense except cost, and no setting losses off against anything — not even against another coin. The harshest treatment in the Act; plan for it before you trade, not after.

Agricultural land. Often outside the net entirely if it is genuinely rural; generous exemptions for urban farmland that is compulsorily acquired or taken under the 2013 law. But the file must prove real cultivation — a record marked “agricultural” is not enough on its own.

Inherited or gifted assets. Inheritance and gifts are not themselves taxed; the gain is tested only when **you** later sell. You take the previous owner's cost and

holding period, and you may use the 1 April 2001 value for old assets — so the eventual tax is usually far smaller than the headline price suggests.

Who you are changes the answer: families, joint owners and NRIs

The third of the three questions — **who are you** — quietly reshapes the tax, and three situations come up constantly.

Joint owners are separate taxpayers. A property or portfolio in two names is **two** returns, each owner taxed on their share of the gain — and, valuably, each owner gets a **separate** ₹50 lakh bond limit and a **separate** ₹1.25 lakh annual equity shield. A couple who co-own can shelter twice as much, entirely lawfully, provided the ownership and the funding are genuine.

The HUF is its own person. A Hindu Undivided Family is a distinct taxpayer with its own basic exemption and its own annual shields. Holding some family assets in the HUF and some individually can multiply the small recurring reliefs — again, only where the ownership is real, not a paper arrangement.

Inheritance and gifts are not the taxable moment. Receiving an asset by will or as a gift from a relative is outside the net; the gain is tested only when **you** later sell it — on the previous owner's cost (including their improvements) and their holding clock, with the 1 April 2001 value available for old assets. This is why an inherited property so often carries a far smaller tax than its sale price suggests.

NRIs sell under special rules. A non-resident who bought Indian shares or debentures in foreign currency gets a special **foreign-currency computation** that neutralises mere rupee depreciation. But a non-resident seller faces tax deducted at source by the buyer — often on the gross price — which can lock up far more cash than the real tax. The remedy is to apply **in advance** for a lower-deduction certificate so the deduction tracks the actual gain. Treaty relief may reduce or remove Indian tax, but after the Tiger Global ruling it must be backed by genuine **substance**, not merely a residence certificate.

A worked number. An NRI sells an Indian flat for ₹1,00,00,000 on which the real long-term gain is only ₹15,00,000. Without planning, the buyer may deduct tax on a far larger base and tie up lakhs until a refund arrives. A lower-deduction certificate, obtained before closing, aligns the deduction to the ₹15,00,000 actual gain — the same tax, without the cash-flow trap.

A few myths worth killing

Half of capital-gains trouble comes from confident misbeliefs. The book quietly demolishes the common ones. **“All farmland is tax-free”** — no; only genuinely rural land escapes, and urban farmland is taxable unless a specific exemption applies. **“I can invest ₹50 lakh in bonds in this year and ₹50 lakh next year and exempt a crore”** — no; the cap is ₹50 lakh across the year of sale and the following year combined. **“Half of all land-acquisition money is exempt”** — no; only the interest gets a 50 per cent deduction, and the solatium its own exemption — the principal is fully a capital gain. **“Buyback proceeds are tax-free in my hands”** — not from 1 April 2026, when they become a taxable capital

gain again. “**If I just don't show it, who will know?**” — the department's pre-filled statement already lists most large transactions; the mismatch finds you. And “**debt funds get the 12.5 per cent long-term rate**” — they do not; they are slab-taxed however long you hold.

Doing it on paper: reporting and procedure

A correct computation reported carelessly invites a dispute. Capital gains cannot be declared in the simplest return form; they need the proper schedule, reported transaction by transaction — and, for listed equity, scrip by scrip with each security's identifier. The most valuable habit in the entire book lives here: **reconcile your return against the tax department's pre-filled data (the Annual Information Statement) before you file.** Thirty minutes of matching prevents months of automated mismatch notices, and an unexplained gap can turn a limited query into a full scrutiny.

The deposit-account scheme has its own suite of forms and an absolute utilisation clock. When property changes hands, the buyer deducts tax at source — one per cent above a threshold value — and a seller whose real gain is small can apply **in advance** for a **lower-deduction certificate**, so the deduction tracks the true liability rather than the gross price. Where capital-gains tax is paid in the very next advance-tax instalment after the sale, a special relaxation can spare the usual interest for the shortfall — worth knowing for a large, late-in-the-year sale.

Two more procedural points catch people out. A **slump sale** requires a chartered accountant's certificate (the prescribed form) filed with the return — without it, the relief is vulnerable. And once your total assets cross a one-crore threshold, the return asks for a statement of assets and liabilities — a disclosure, not a tax, but one that must reconcile with everything else you have filed.

A worked number. You buy a flat for ₹80,00,000. As the **buyer**, you must deduct 1 per cent — ₹80,000 — and deposit it against the seller's account; the seller then claims it back against their tax. Forget to deduct and the liability lands on **you**, with interest. If the seller is an NRI, the deduction is instead at the full capital-gains rate on the gain — far larger — which is exactly why an NRI seller arranges a lower-deduction certificate first.

When the department disagrees

If a dispute arises, a small set of principles decides most of them. The burden first lies on the taxpayer to establish genuineness with documents; once that is discharged, it shifts to the Revenue, and **suspicion alone is never enough.** Legitimate tax planning is permitted — only artificial, substance-free arrangements are struck down. The general anti-avoidance rule is a heavy weapon: it needs senior approval, an approving-panel process, applies only above a ₹3 crore tax benefit, and dissolves more often than not under procedural scrutiny; investments made before 1 April 2017 are protected by date-based grandfathering.

In valuation fights, the officer may bring a government valuer, but a vital safeguard works as a **one-way ratchet**: that valuer can never push your sale

value **above** the stamp-duty figure already on the table — the worst case is simply what was already proposed, which makes a reference all but risk-free for the taxpayer. Beyond the assessment lie ordinary rights of appeal (typically within thirty days), a stay of demand on paying the admitted tax, and rectification of obvious errors.

A worked number. The officer doubts the 1 April 2001 value you used and refers it to a departmental valuer. Because of the ratchet, even a hostile valuation cannot lift your taxable sale figure above the stamp-duty value the officer had already proposed — so asking for the reference can only help you, never hurt. Knowing this turns a frightening letter into a routine one.

But the deepest lesson of the book is a discipline, not a remedy: **the case is won at the time of the transaction, not at the time of the notice.** The invoice, the bank trail, the valuation report, the photographs and the agreements must be built when the asset is bought and sold — because by the time a query lands, the evidence either exists or it does not, and no argument can manufacture it afterwards.

How to actually decide

Distil the thousand pages to their marrow and a handful of habits protect almost anyone. Before selling anything that has grown in value, settle the **three questions** the whole subject turns on — **when** are you selling (which fixes the rate regime around the 23 July 2024 line), **what** are you selling (which fixes the holding period and the rate), and **who** are you (which fixes the reliefs you may claim). Test whether a little **patience** carries the asset into the cheaper long-term bracket. See whether a **reinvestment relief** fits — a home, the bonds, the annual equity shield — and diarise its deadlines, the deposit cut-off above all. And **open a documentation folder on the day you acquire**, not the day a notice arrives.

The Income-tax Act, 2025 is intimidating because it is **large**, not because it is **hostile**. Learn the levers set out here and you already understand more about capital gains than most people who will ever pay the tax. Then do the one thing no book can do for you: take your **actual numbers** to a qualified professional. This is the map; your adviser knows the ground; and the decisions, in the end, are yours to make well — and to keep more of what is rightfully yours.

A note for the reader: this is a plain-language distillation of the law as this book explains it, for the tax year it addresses, and is not individual tax or legal advice. The worked examples are illustrative and simplified — some figures (such as indexed costs and 2001 fair market values) are assumed for clarity and must be established from official indices and valuations in a real case. Rates, limits and provisions may change with future amendments and notifications. For any actual decision, verify the current law and consult a qualified professional with the specific facts of your case.

Capital Gains (Income-tax Act, 2025) — Bare Act Extracts: Section-wise Page Index

Chapter	Part	Section (2025 Act)	Provision/Subject	Old Section (1961 Act)	Page
1	I	S. 67(1)	Charging provision — gains from transfer of a capital asset	45(1)	6
1	I	S. 67(2)–(3)	Insurance/destruction compensation; conversion into stock-in-trade	45(1A),(2)	14
1	I	S. 67(5)	ULIP proceeds (high-premium policies) brought into the charge	45(1B)	15
1	I	S. 67(6)	Conversion of capital asset into stock-in-trade	45(2)	16
1	I	S. 67(7)–(8)	FIFO holding rule; introduction of asset into firm	45(2A),(3)	17
1	I	S. 67(9)	Capital contribution of asset to a firm/AOP/BOI	45(3)	17
1	I	S. 67(10)–(11)	Reconstitution of a specified entity — receipt by partner/member	9B; 45(4)	18
1	I	S. 67(12)–(13)	Compulsory acquisition; enhanced compensation	45(5)	20
1	I	S. 67(14)–(16)	Joint Development Agreement — deferral to completion-certificate year	45(5A)	22
1	I	S. 67(17)–(18)	JDA deeming provisions	45(5A)	24
2	I	S. 2(22)	Capital Asset — exclusions + agricultural-land Table	2(14)	40
2	I	S. 2(101) + 2(101)(c)	Short-Term Capital Asset; holding period	2(42A)	49
2	I	S. 2(67)	Long-Term Capital Asset	2(29A)	51
3	I	S. 2(109)	Transfer — meaning of "immovable property"	2(47)	76
4	I	S. 70(1)(a)	Partition of a Hindu Undivided Family	47(i)	102
4	I	S. 70(1)(b)	Gifts, wills and irrevocable trusts (individual/HUF only)	47(iii)	102
4	I	S. 70(1)(c)	Holding company to wholly-owned subsidiary	47(iv)	104
4	I	S. 70(1)(d)	Wholly-owned subsidiary to holding company	47(v)	104
4	I	S. 70(1)(e) to (zl)	Amalgamation, demerger, cross-border & fund-	47 (various)	105

Capital Gains (ITA, 2025) — Bare Act Extracts: Section-wise Page Index 73

Chapter	Part	Section (2025 Act)	Provision/Subject	Old Section (1961 Act)	Page
			relocation carve-outs		
6	II	S. 72(4), (5), (7)	Mode of computation — provisos	48	173- 176
6	II	S. 90(1 to 12)	Cost of acquisition & improvement — full provision (FMV-2001/grandfathering)	55	229
7	II	S. 78	Full value of consideration — Stamp Duty Value	50C	210
7	II	S. 79	FMV for unquoted shares	50CA	211
7	II	S. 80	FMV where consideration not ascertainable	50D	220
8	II	S. 90(4),(5),(6), (8),(12)	Cost of acquisition/ improvement definitions	55	254- 261
8	II	S. 81	Advance money received/ forfeited	51	286
8	II	S. 73(1) Table	Cost of acquisition — 24 specified modes (verbatim Table)	49	300
11	III	S. 76	Market Linked Debentures/ specified MFs — deemed short-term	50AA	363
11	III	S. 77	Slump sale — net-worth computation	50B	364
12	III	S. 68	Distribution of assets on liquidation	46	401
12	III	S. 69	Buy-back of shares (subs. by FA 2026)	46A	404
12	III	S. 67(6)	Conversion of debentures/ firm provisions	—	410
12A	III	S. 223	Business Trust — pass- through (REITs/InvITs)	115UA/UB	436
12A	III	S. 70(1)(zi)	Sponsor swap carve-out	47	437
13	IV	S. 82	Residential house exemption	54	457
13	IV	S. 86	Investment in a residential house	54F	462
14	IV	S. 2(22)(iii)	Agricultural land — definitional exclusion	2(14)(iii)	497
14	IV	Schedule III, Item 18	Agricultural land mapping	—	500
14	IV	S. 83	Transfer of agricultural land	54B	504
14	IV	S. 84	Compulsory acquisition of land & buildings	54D	508
14	IV	S. 89	Extension of time / CGAS deposit	54H	511

74 *Capital Gains (ITA, 2025) — Bare Act Extracts: Section-wise Page Index*

Chapter	Part	Section (2025 Act)	Provision/Subject	Old Section (1961 Act)	Page
15	IV	S. 85	Investment in specified bonds (REC/PFC/IRFC)	54EC	536
16	IV	S. 87	Shifting of industrial undertaking (non-urban)	54G	574
16	IV	S. 88	Shifting of industrial undertaking to SEZ	54GA	576
17	IV	S. 71	Withdrawal of exemption	47A	610
17A	IV	S. 108, 109, 111	Set-off (intra/inter-head); carry-forward of capital loss	70,71,74	642-643
17A	IV	S. 113, 194(7), 116(1)	Speculation loss; VDA loss bar; return-filing condition	73,115BBH, 80	643-644
17A	IV	S. 113(4)–(6)	Speculation loss — sub-clauses	73	649
17A	IV	S. 119	Loss denial on change of hands	78/79	651
17A	IV	S. 120 + 120(2)	Search-and-survey loss bar	79A	654
18	V	S. 196	STCG on equity (STT-paid) @ 20%	111A	669
18	V	S. 197	LTCG — general @ 12.5% (transitional choice)	112	673
18	V	S. 198	LTCG on equity (STT-paid) @ 12.5% > Rs.1.25L	112A	678
20	VI	S. 91	Reference to Valuation Officer (DVO)	55A	739
20	VI	S. 269(1)–(10)	Imported procedural framework	—	741
22	VII	S. 179(1)	Case-study architecture (verbatim)	—	838
22	VII	S. 69	Buy-back (case study)	46A	809
22	VII	S. 67(14)–(16)	Compulsory acquisition / enhanced comp. (case study)	45(5)	816
22	VII	S. 89	Time-extension (case study)	54H	820
24	VIII	S. 194(1) Table, Sl. No. 4	VDA reporting — checklist	115BBH	868
24	VIII	S. 72(1) & 72(3)	Mode of computation — checklist	48	861

List of Figures

The thirty decision-charts below appear at the point in the text where their subject is discussed. The chapter in which each chart appears is shown in the final column.

Figure	Flowchart	Chapter	Page
1	The whole journey (master roadmap)	1	1
2	Is there a chargeable capital gain?	1	6
3	Short-term or long-term? (period of holding)	2	53
4	How to compute the gain (s.72)	6	171
5	What is the cost of acquisition? (s.73)	6	182
6	Stamp-duty value as full value (s.78)	7	214
7	Depreciable assets / block of assets (s.74–75)	8	250
8	Slump sale (s.77)	11	366
9	Converting a capital asset into stock-in-trade (s.67)	5	145
10	Buy-back of shares (post-Oct-2024)	12	404
11	Which capital-gains exemption applies? (s.82–89)	13	456
12	Residential-house exemption: s.82 vs s.86	13	466
13	Capital Gains Account Scheme (ss.82–88)	13	474
14	What rate applies? (shares & securities)	18	668
15	Set-off & carry-forward of capital losses (s.111)	17A	645
16	Joint Development Agreement: when is it taxed?	5	151
17	Money or asset received on destruction (s.67)	5	142
18	Compulsory acquisition: when is it taxed? (s.67)	5	147
19	Transactions NOT regarded as transfer (s.70)	4	100
20	Firm reconstitution / partner payout (s.8 & s.67(10))	5	146
21	Advance money forfeited on a failed deal (s.81)	8	286
22	Unquoted shares: full value of consideration (s.79)	7	217
23	Always short-term: MLDs, debt funds, unlisted bonds (s.76)	11	367
24	Grandfathering of listed equity (cost on 31 Jan 2018)	18	682
25	Virtual Digital Assets (crypto, NFTs)	2	60
26	Cost of bonus & rights shares	8	270
27	Non-resident: shares bought in foreign currency	6	189
28	ESOP / sweat equity: cost of acquisition	8	267
29	Business trust units (REITs & InvITs)	12A	440
30	Self-generated assets: is there a charge?	8	273

Income-tax Act 1961 ↔ 2025 Capital Gains — Quick-Reference Mapping Table

Effective date: The Income-tax Act, 2025 came into force on 1 April 2026 — applicable from Tax Year 2026-27. For periods before that date, the Income-tax Act, 1961 continues to apply. Rates are fixed by the Finance Act, 2026.

1961 Act (Old Section)	2025 Act (New Section)	Subject Matter	Book Chapter
1. Definitions			
2(14)	2(22)	Capital Asset — now expressly includes Virtual Digital Assets	Chapter 2
2(29A)	2(67)	Long-Term Capital Asset	Chapter 2
2(42A)	2(101)	Short-Term Capital Asset — 24/ 12 months holding	Chapter 2
2(47)	2(109)	Transfer — sale, exchange, relinquishment, extinguishment of rights, etc.	Chapter 3
2. Charging Architecture			
45	67	Chargeability of Capital Gains — the deeming provisions formerly in s.45(1A) to 45(5A) and s.9B are now consolidated into a single section 67 (eighteen sub-sections)	Chapters 1, 5
9B	8	Deemed transfer on dissolution/ reconstitution of a firm	Chapter 12
46	68	Distribution of assets on liquidation — now on a capital-gains basis	Chapter 12
46A	69	Buy-back of own shares — now on a capital-gains basis	Chapter 12
3. Computation Engine			
47	70	Transactions not regarded as transfer	Chapter 4
47A	71	Withdrawal of exemption	Chapter 17
48	72	Mode of computation of capital gains	Chapter 6
49	73	Cost with reference to certain modes of acquisition (Cost of Acquisition)	Chapter 8

1961 Act (Old Section)	2025 Act (New Section)	Subject Matter	Book Chapter
55	90	Meaning of “adjusted”, Cost of Improvement and Cost of Acquisition	Chapter 9
51	81	Advance money received	Chapter 8 (Para 7.8)
55A	91	Reference to Valuation Officer (DVO)	Chapter 20
4. Special Computation Regimes			
50	74	Depreciable assets — computation	Chapter 11
50A	75	Depreciable asset — cost of acquisition	Chapter 11
50AA	76	Market Linked Debenture	Chapter 11
50B	77	Slump sale	Chapter 11
50C	78	Full value of consideration in certain cases — stamp-duty value override (10% safe-harbour)	Chapter 7
50CA	79	Full value of consideration for transfer of unquoted shares	Chapter 7
50D	80	Fair market value deemed to be full value of consideration	Chapter 7
5. Reinvestment Exemptions — Sections 82 to 89			
54	82	Profit on sale of property used for residence	Chapter 13
54B	83	Transfer of agricultural land	Chapter 14
54D	84	Compulsory acquisition of land and buildings	Chapter 16
54EC	85	Investment in specified bonds (NHAI / REC / PFC / IRFC — ₹50 lakh cap)	Chapter 15
54F	86	Investment in a residential house	Chapter 13
54G	87	Shifting of industrial undertaking from an urban area	Chapter 16

1961 Act (Old Section)	2025 Act (New Section)	Subject Matter	Book Chapter
54GA	88	Shifting of industrial undertaking to a Special Economic Zone (SEZ)	Chapter 16
54H	89	Extension of time for acquiring a new asset/depositing under CGAS	Chapters 13–16
6. Tax Rates			
111A	196	Short-term gains on equity (STT-paid) — STCG at 20%	Chapter 18
112	197	Long-term gains — general (LTCG) at 12.5%; transitional choice for land/building: 20% with indexation or 12.5% without — whichever is more beneficial	Chapter 18
112A	198	Long-term gains on equity (STT-paid) — 12.5% above ₹1.25 lakh	Chapter 18
7. Other Relevant Provisions			
115UA / 115UB	223	Business Trust — REITs and InvITs	Chapter 12A
70–80 (Ch. VI)	108–115, 121	Set-off and carry-forward of losses	Chapter 17A
2nd proviso to s. 48 / CII	Schedule II	Indexation / Cost Inflation Index — now in Schedule II	Chapters 6, 8

Notes

1. Section 67 (2025) absorbs all sub-sections of the old section 45 — insurance compensation, conversion into stock-in-trade, introduction of an asset into a firm, reconstitution, and compulsory acquisition / JDA deeming provisions.
2. The entire body of case law under the 1961 Act (Supreme Court and High Court decisions) continues to apply *mutatis mutandis* to the 2025 Act, except where a specific legislative override has been introduced.
3. Indexation now sits in Schedule II (replacing the second proviso to section 48); for assets transferred on or after 23 July 2024, the rate is generally 12.5% without indexation.

