Income under the head capital gain

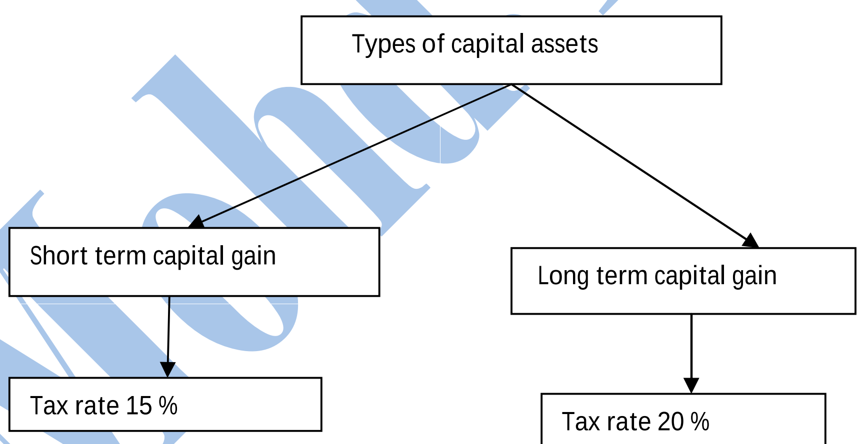
Charging section (Sec-45)

Any capital gain arises on the transfer of any capital assets in any previous shall be deemed income of the previous year, shall be chargeable under the head of capital gain.

Capital assets (sec-2(14))

Capital asset means property of any kind held by asseessee, whether or not connected with business or profession. However it does not include to the following:

- Any stock in trade
- Personal effects
    - Drawing
    - Painting
    - Jewelers
    - Any work of art
- Any agricultural land in India
- 6.5 % gold bonds
- Special clearer bonds
- Gold deposit bonds under the gold deposit scheme 1999



Note: where, any long term capital assets have been transfer without indexation, the rate of tax shall be 10%.

Short term capital gain (sec-2(42 A))

A capital assets held by an asseessee for not more than 36 months immediately preceding the date of its transfer is called short term capital assets (STCG).

However, in the following cases period of holding shall be less than 12 months for the purpose of short term capital gain:

1. Equity and preference share held in accompany
2. Any other security listed in a stock exchange
3. UTI mutual funds
4. Zero coupon bonds

Long term capital asset

Where any capital assets held by assessee for more than 36 months preceding the date of transfer of capital asset, shall be deemed long term capital asset. However, in the following cases while, period of holding of capital assets is more than 12 months, shall be deemed long term capital assets:

- Equity and preference share held in accompany
- Any other security listed in a stock exchange
- UTI mutual funds
- Zero coupon bonds

Meaning of transfer SEC-2(47)

Transfer in relation to the capital gain include to the following:

I. The sale ,exchange or relinquishment of the assets; or
II. The extinguishment of any right there in or
III. The compulsory acquisition thereof under any law or
IV. Any assets converted by owner in stock in trade; or
V. The maturity or redemption of zero coupon bonds.

Transaction not regards as transfer SEC-46 and 47

Following transactions are not considered to be transfer for the purpose of capital gain:

A. Where the any assets distributed to shareholder's on the liquidation of company.
B. Any distribution of capital assets in the HUF.
C. Any transfer of capital assets by holding company to its subsidiary company and subsidiary company is Indian company.
D. Any transfer of capital assets by subsidiary company to its holding company and holding company is Indian company.
E. Where in case of amalgamation, transfer of capital assets by the amalgamating company to the amalgamated company and amalgamated company is Indian company.
F. Any transfer of urban agriculture land in India before 1-3-1970
G. Any transfer of bonds or GDR, made outside India by one non-resident to another non resident.

H. Any transfer of a capital assets, being any work of art, archeological, scientific or art collection, painting to the Government or the national museum, art gallery.

I. Any conversion of bond or debenture, debenture-stock or deposit certificate of company into shares of that company.

J. Any transfer of by way of conversion of bonds referred in SEC-115 AC into shares and debenture of any company.

<u>Computation of capital gain SEC-48 (SHORT TERM CAPITAL GAIN)</u>

Full value of consideration			XXX
Less:	(1) expense of transfer	XXX	
	(2)COA and COI	XXX	XXX
GROSS SHORT TERM CAPITAL GAIN			XXX
Less: Exemption if available u/s 54B, 54D, 54G &54GA			XXX
TAXABLE SHORT TERM CAPITAL GAINS			XXX

<u>Computation of capital gain SEC-48 (LONG TERM CAPITAL GAIN)</u>

Full value of consideration			XXX
<u>Less:</u>	(1) expense of transfer	XXX	
	(2)ICOA and ICOI	XXX	XXX
GROSS LONG TERM CAPITAL GAIN			XXX
Less: Exemption if available u/s 54, 54B, 54D, 54EC, 54F, 54G &54GA			XXX
TAXABLE LONG TERM CAPITAL GAINS			XXX

<u>NOTE</u>: security transaction tax neither form part of the cost of purchase nor allowed as deduction as expense in the case of sale of such equity shares.

Cost of acquisition SEC-55(2)

Cost of acquisition is the price which the assessee has paid, or the amount which the assessee has incurred for the acquisition of the assets. Expense incurred for completing the title forming part of the cost of acquisition.

Deemed cost of acquisition SEC-49

In the following cases the cost of acquisition shall be deemed to be the cost for which previous owner of the property acquired it:

- Under the gift or will.
- On the distribution or partition of assets in HUF
- Distribution of assets on the liquidation of company.
- Transfer under a scheme of amalgamation of two foreign companies subject to certain condition.
- On transfer to revocable trust or irrevocable trust.

Treatment of advance money received (SEC-51)

Where any capital assets ,was on any previous occasion , the subject of negotiation for its transfer ,any advances or any money received or retained by the assessee in respect of such negotiation ,shall be deducted from the cost for which the assets was acquired or the written down value or the fair market value ,as the case may be in computation of cost of acquisition.

Types of exemption of capital gain

Exemption U/S 10 | Exemption U/S 54 to 54GA

Exemption under section 10(37)

Where any agricultural land compulsorily acquired by state government or local authority etc, compensation received on the acquisition of such land shall be exempted while, if assessee satisfy to following conditions

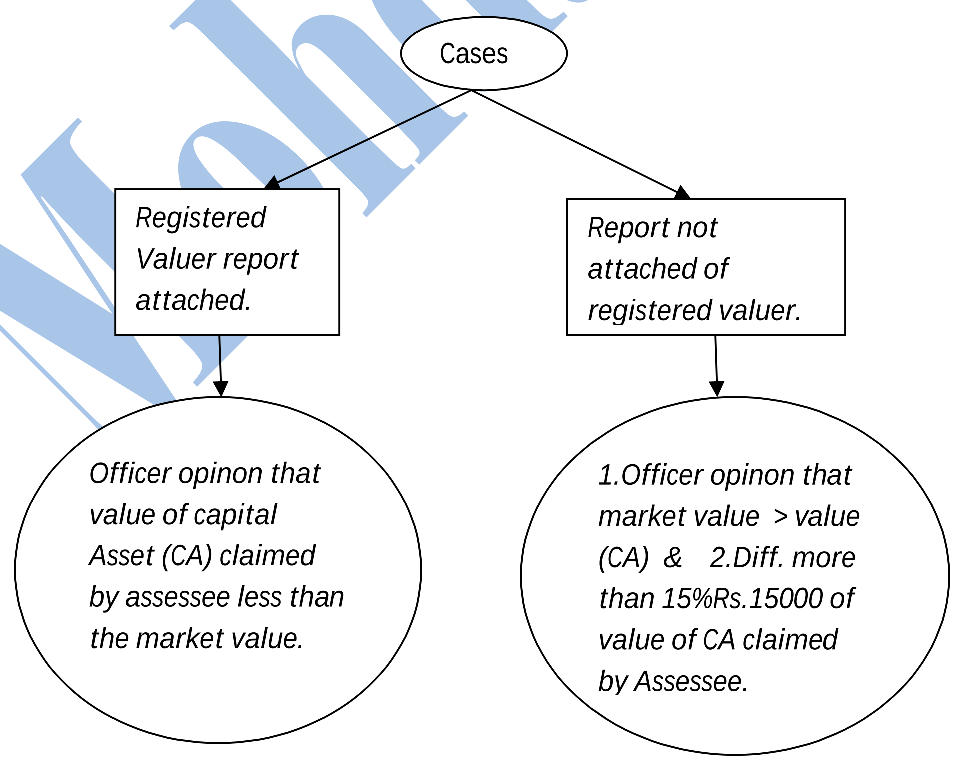
- That land should be used by the assessee or there parents at least 24 months before the acquisition of such land
- The land should belongs to urban area
- Under this section exemption available only to INDIVIDUAL and HUF
- Such compensation should be received by the assessee after 1-4-2004

Exemption under section 10(38)

Any listed shares of company sale through the recognized stock exchange & security transaction tax charged on sale of such shares shall be exempted. While, such shares is long term capital assets or held by assessee more than 12 months preceding the date of its transfer.

Reference to valuation Officer (Sec-55A)

For ascertaining the market value of capital Asset ,the Assessing Officer may refer to the valuation of capital Asset in the following cases.



Exemption available in computation of capital gain under section 54 to 5GA

Section	Exemption allowed to	Nature of capital asset	Type of cap. Asset(trans.)	New asset purchase	Prescribe time (investment)	exemption
54	HUF & INDIVIDUAL	Residential house	LTCA	Residential house	Purchase before one year OR within 2 year from the date of transfer OR Construction completed with in 3 year from the date of transfer	Amount invested OR capitals gain whichever, is lower.
54B	INDIVIDUAL	Agricultural land OTHER THAN COMPULSORY ACUIRED LAND	Used cy him or parents for more than 2 years (STCA OR LTCA)	Agricultural land	Within 2 year from the date of transfer	Amount invested OR capital gain whichever, is lower.
54D	ALL	I/b for industrial undertaking COMPULSORLY ACUIRED	Used for 24 month or more By the assessee (STCA OR LTCA)	I/b for industrial undertaking	With in 3 years from the date of receipt of compensation	Amount invested OR capital gain whichever, is lower.
54EC	ALL	Any type of assets	LTCA	NHAI & RECI bonds (MAX.INV. RS. 50 LAC)	With in 6 months from the date of transfer.	Amount invested OR capital gain whichever, is lower.
54F	HUF & INDIVIDUAL	Any assets other than residential house	LTCA	Residential house	Same as SEC-54	Proportionate
54G	ALL	P/M or L/B industrial undertaking in urban area	----------------------	P/M or L/B for IU in non urban area or shifting exp.	With in one year before or within 3 year after the date of transfer.	Amount invested OR capital gain whichever, is lower.
54GA	ALL	P/M or L/B industrial undertaking in urban area.	----------------------	P/M or L/B for IU in special economic zone AREA or shifting exp.	Same as SEC-54G	Amount invested OR capital gain whichever, is lower.

Note : where the assessee have not been invested their amount of capital gain in the capital gain gold deposit scheme before the due date of filling return, that capital gain shall be deemed to be income of the previous year, shall be taxable under the head income under the head CAPITAL GAIN.