Comparative Analysis of Section 56 OF Income Tax Act

S.No.	Section 56 (2)(vii)(b)/(c)	Section (56)(2)(viia)	Section 56(2)(viib)
	Any person to Individual/HUF (Transfer of property)	*Any person to Company (Transfer of shares)*	*Company to any Resident person (Issue of Shares)*
Transferor	Any person	Any person	Closely held Company
Transferee	Individual /HUF	Firm or closely held company	Resident person
Asset	Property i.e. 1. Immovable property i.e. land or building or both 2. Share 3. Securities 4. Jewellery 5. Archaeological collection 6. Drawing 7. Painting 8. Sculpture 9. Work of art 10. Bullion	Shares of closely held company	Issue of shares(equity and preference)
Transfer	1. At consideration less than FMV or 2. without consideration	1. At consideration less than FMV or 2. without consideration	At consideration more than Face value
Condition	1. FMV less Consideration exceeds Rs. 50000 2. FMV exceeds Rs. 50000	1. FMV less consideration exceeds Rs 50000 or 2. FMV exceeds Rs. 50000	Consideration exceeds FMV
Taxability	1. FMV Less Consideration will be other source income of recipient of property. 2. FMV will be other source income of recipient of property.	1. FMV Less Consideration or FMV will be other source income of Recipient of property. 2. FMV will be other source income of recipient of property.	Consideration less FMV will be other source income of the issuing company receiving consideration for share issue.

SIMPLE CASE STUDIES

Property (movable + Immovable)

(Less than FMV)

Case Study 1: Individual A → Individual B

← Consideration or without consideration

Tax Treatment: In the Hands of A

1. If property is capital asset for A
   - Capital Gain: sale consideration less COA or Indexed COA
   - Section 50 c will attract in case of land or Building or Both i.e. SDV will be full value of consideration
2. If property is Stock in trade for A
   - Business profit : Sales less COA
   - Section 43 CA will attract in case of Land or building or both i.e. SDV will full value of consideration

Tax Treatment: In the Hands of B

1. If (FMV – consideration) > Rs 50000 then (FMV-Consideration) will be other source income of B.
2. If (FMV – consideration) ≤ Rs 50000 then nothing will be other source income of B.

Property (movable + Immovable)

(Less than FMV)

Case Study 2: Company → Individual B

← Consideration or without consideration

Tax Treatment: In the hands of company

Same as in case of Individual A in case study 1

Tax Treatment: In the hands of Individual B

Same as in case of Individual B in case study 1

Case Study 3: Transfer of shares of closely held company

(Less than FMV)

Individual A ⟶ company

⟵

Consideration or without consideration

Tax Treatment: In the Hands of A

1. If property is capital asset for A
   - Capital Gain: sale consideration less COA or Indexed COA

2. If property is Stock in trade for A
   - Business profit : Sales less COA

Tax Treatment: In the hands of company

1. If (FMV – consideration) > Rs 50000 then (FMV-Consideration) will be other source income of B.
2. If (FMV – consideration) ≤ Rs 50000 then nothing will be other source income of B.

Case Study 4:

Transfer of shares of closely held company

(Less than FMV)

Company A ⟶ Company B

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Consideration or without consideration

Tax Treatment: In the hands of company A

Same as in case of Individual A in case study 3

Tax Treatment: In the hands of Company B

Same as in case of company in case study 3

Case Study 5:

Issue of Shares

(More than Face value)

Company A ⟶ Resident Company B

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Consideration

Tax Treatment: In the hands of company A

1. (FMV – Consideration) will be other source income in the hands of company A.
2. If the shares are issued at FMV or Less than FMV then nothing shall be taxable in the hands of company A.

Case Study 6:

Issue of Shares

(More than Face value)

Company A → Other Resident person

Company A ← Other Resident person

Consideration

Tax Treatment: In the hands of company A

Treatment will be same as in the hands of company A in case study 5.