A Primer on Section 9B and 45(4) as amended by Finance Act, 2021

The amendments brought forth by Finance Act, 2021 on Sections 45(4) and 9B are explained hereby with the help of an example. Basically, the amendments intends to tax:

a) the revaluation gains on transfer of CAPITAL assset through Section 9B
b) Gains arising on settlement paid in cash or kind to partner on reconsitution of the firm through Section 45(4)

It may be noted that reconsitution includes retirement of a partner or admission of a partner or change in profit sharing ratio among partners

The example is as follows

Abbreviations used
FMV = Fair Market Value
LTCA = Long Term CAPITAL Asset
STCA = Short Term CAPITAL Asset
ICOA = Indexed Cost of Acquisition
CAPITAL ASSET= CAPITAL Asset
CAPITAL A/C = CAPITAL Account

ABCD&CO				Fair market value	Nature of asset	Indexed cost of acquisition
A	1	CAPITAL ASSET A	1	FMV = 5	LTCA	ICOA = 2
B	1	CAPITAL ASSET B	1	FMV = 3	LTCA	
C	1	CAPITAL ASSET C	1	FMV = 5	STCA	
D	1	STOCK	1	FMV = 5		
LIABILITY	2	CASH IN HAND	2			
	6		6			

D RETIRES

FOLLOWING ASSETS ARE TRANSFERED TO D AS SETTLEMENT ON HIS RETIREMENT

-CAPITAL ASSET A

-STOCK

-CASH IN HAND OF 1 IS TRFD

STEP 1 SECTION 9B

AS PER SECTION 9B, TRANSFER OF CAPITAL ASSET AND STOCK ON RETIREMENT OF PARTNER IS TAXABLE WITH FIRM

A) CG ON CAPITAL ASSET A

SC	5
ICOA	-2
	3

B) PGBP ON STOCK

SC	5
BV	-1
	4

TAX PAID	1.8
PER PARTNER	0.45

STEP 2 RESTATE THE ACCOUNTS

A)	CAPITAL ASSET A	4	
	STOCK	4	
	A		2
	B		2
	C		2
	D		2

B)	A	0.45	
	B	0.45	
	C	0.45	
	D	0.45	
	TAX PAID		1.8

C)	REVISED CAPITAL ACCOUNT BALANCE	
	A	2.55
	B	2.55
	C	2.55
	D	2.55

STEP 3 SECTION 45(4)

MONEY PAID	1
FMV OF CAPITAL ASSET	5
FMV OF STOCK	5
	11
LESS: CAPITAL A/C BAL	2.55
	8.45

8.45 BIFURCATED IN THE PROPORTION OF INCREASE IN VALUE OF
REMAINING ASSETS CAPITAL ASSETS B AND C

8.45

	CAPITAL ASSET B		CAPITAL ASSET C
INCREASE IN VALUE	2		4
RATIO	1	:	2
AMOUNT TAXABLE	2.7885		5.6615
	LTCG		STCG
	Taxed at 20%		Taxed at 15%

STEP 4 SECTION 48

CAPITAL ASSET B TRFD IN THE FY 2022-23
2.7885 CAN BE REDUCED FROM SALE CONSIDERATION AS DEDUCTION U/S 48(iii)