

CAPITAL GAIN

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graph LR; CG[CAPITAL GAIN] --- BC[Basis of Charge]; CG --- CA[Capital Asset]; CG --- T[Transfer]; CG --- LTCG[LTCG/STCG]; CG --- I[Indexation]; CG --- E[Exemption form Capital Gain]
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Basis of Charge

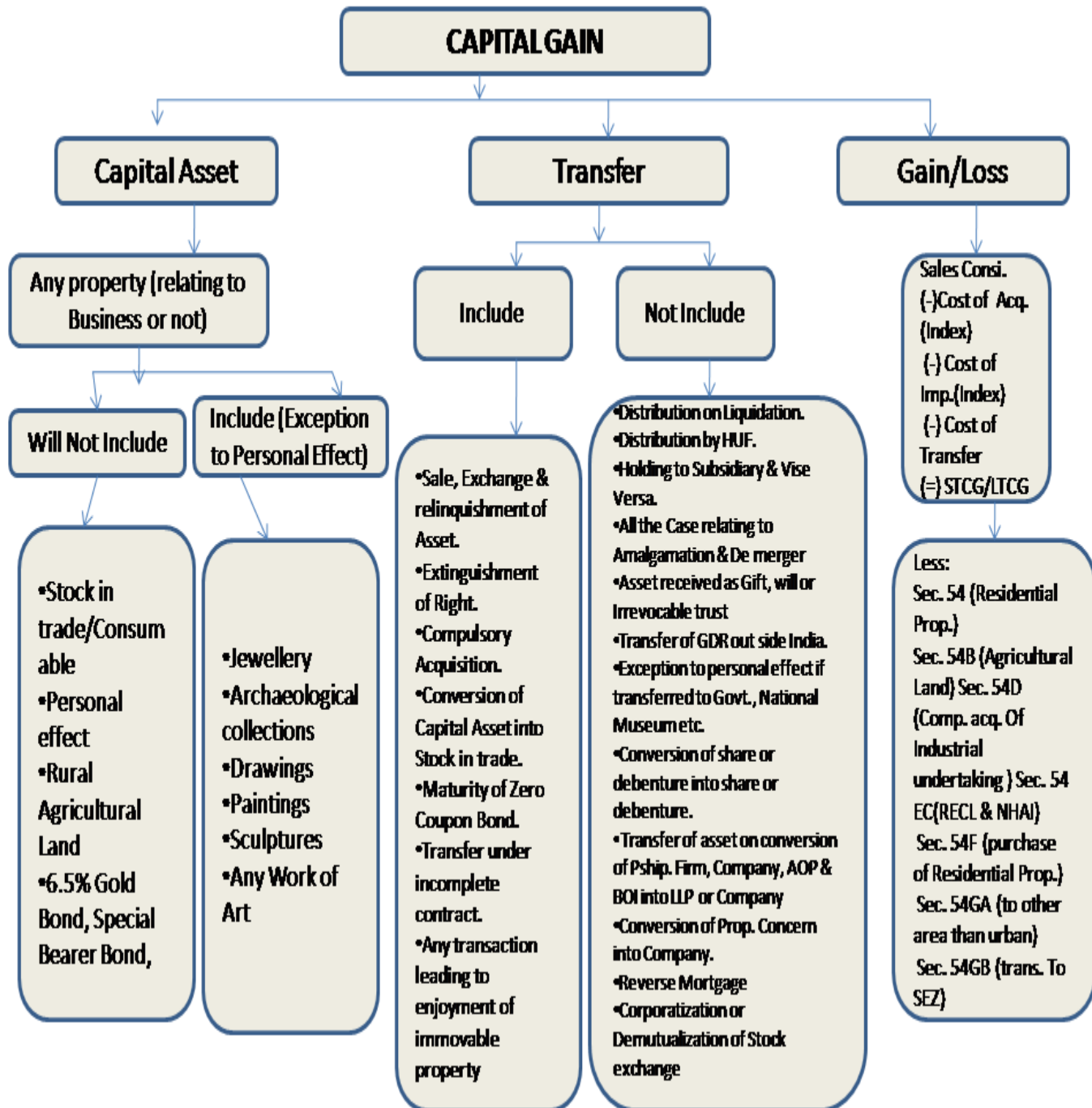
Capital Asset

Transfer

LTCG/STCG

Indexation

Exemption form
Capital Gain



Note: If the Capital Asset is held for more than 36 month then it is long term otherwise short term in certain cases it is 12 month.

In certain Cases we have to check for Deemed Sale Consideration & Cost of Acquisition.

SECTION 45(1): Basis of Charge	Any profit or gain arising from transfer of a capital asset effected in P.Y. shall be chargeable to Income Tax under the head 'Capital Gain' and shall be deemed to be the income of the P.Y. in which the transfer took place unless such Capital Gain is exempt under section 54, 54B, 54D, 54EC, 54F, 54G or 54GA Conditions for Capital Gains: - There must be a capital asset - The capital asset must have been transferred - There must be profit or gains on such transfer, which will be known as capital gain. - Such gain should not be exempt under section 54, 54B, 54D, 54EC, 54F, 54G or 54GA.
Section 2(14): Capital Assets	Capital asset means property of any kind held by the assessee, whether or not connected with his business with his business or profession, but does not include: - Any stock in trade, consumable stores or raw materials held for the purpose of his business or profession - Personal effects, that is to say, movable property (including wearing apparel and furniture), held for personal use by the assessee or any member of his family dependent on him. However, the following assets shall not be treated as personal effect though these assets are movable & may be of personal use: - Jewellery - Archaeological collection - Drawing - Painting - Sculpture or - Any work of art - Agricultural land in India, which is not an urban agricultural land i.e. rural agricultural land. 6.5% Gold Bonds, 1977, 7% Gold Bonds 1980 or National Defense Gold Bond Gold Bond 1980 issued by central government - Special Bearer Bonds, issued under Gold Deposit Scheme 1999 - Gold Deposit Bond issued under the Gold Deposit Scheme 1999.
Type of Capital Assets	Short Term Capital Assets (Section 2(42A)): A capital Asset held for a Period not more than 36 months immediately preceding the date of its transfer in known as a short term capital assets. However, the following asset shall be treated as short – term capital assets if they are held for not more than 12 Months. - Equity or Preference Share held in a company. - Any other security listed in a recognized stock exchange in India. - Units of the Unit Trust of India or units of a Mutual Fund specified under section 10(23D) - Zero coupon bond Long Term Capital Asset 2(29A): it means a capital asset which is not a short term capital asset i.e. more than 36 months or 12 months as the case may be.

Period of Holding

Includes

1. Property received as gift, will etc. the period of holding of previous owner.
2. In case of Amalgamation: Assess hold share in Amalgamating company & gets share of Amalgamated co. Period of holding of Amalgamating company should be included.
3. In case of Demerger: Assess hold share in Demerged company & gets share of Demerging co. Period of holding of Demerged company should be included.
4. In case of Corporatisation or Demutualization of Recognised Stock Exchange: Member receiving Membership right & Share shall include the period of Original membership

Excludes

Share in Liquidating Co.: Date on which co. goes into Liquidation & Discharge of Liability.

Illustration 1

In the following cases, determine whether the asset held was short term or long term capital asset.

- a. Madhav holds 1000 shares in Madhu Ltd., which goes into liquidation on 31.10.2012. Madhav purchased these shares on 31.01.2012. The company made the payment to R on 31.03.2013.
- b. Madhav got a diamond ring by way of gift from his uncle on 01.01.2012. This ring was purchased by the uncle on 30.12.2009. R sold the ring on 31.12.2012.
- c. Madhav acquired 1000 shares in Madhu Ltd., on 28.02.2012. He surrendered these shares to the company on 31.08.2012 in pursuance of scheme of amalgamation. He is allotted 500 share in S Ltd., the amalgamated company in lieu of such share surrendered. Madhav sell these shares on 31.03.2013.
- d. Madhav acquires 100s in Madhu Ltd. on 29.03.2012. He is allotted 500 shares of a resulting company S Ltd., in the scheme of demerger on 01.04.2012. He transfers these shares on 29.03.2013.

Type of Capital Gain	i. Short Term Capital Gain (Section 2(42B)): A gain arising from transfer of Short term capital asset is known as STCG. ii. Long Term Capital Asset 2(29B): A gain arising from transfer of Long term capital asset is known as LTCG.
Section 2(47): Transfer	Transfer, relation to a capital asset, includes: i. The sale, exchange or relinquishment of the asset ii. The extinguishment of any right therein iii. The compulsory acquisition thereof under any law iv. In a case where the asset is covered by the owner thereof into, or treated by him, as stock in trade of a business carried on by him, such conversion Or treatment. v. The maturity or redemption of zero coupon bond vi. Any transaction involving the allowing of the possession of any immovable property to be taken or retained in part performance of a contract of the nature referred to in section 53A of Transfer of Property Act 1882 vii. Any transaction (whether by way of becoming a member of, or acquiring shares in a co-operative society, company or other

	association of persons or by way of any agreement or arrangement or in any other manner whatsoever) which has the effect of transferring or enabling the enjoyment of any immovable property.
Section 46 & 47: Transaction which are not regarded as transfer	Following transactions are not regarded as transfer: i. Capital gains on distribution of assets by companies in liquidation. ii. Any distribution of capital assets on the total or partial partition of a Hindu undivided family; iii. any transfer of a capital asset under a gift or will or an irrevocable trust : Provided that this clause shall not apply to transfer under a gift or an irrevocable trust of a capital asset being shares, debentures or warrants allotted by a company directly or indirectly to its employees under [any Employees' Stock Option Plan or Scheme of the company offered to such employees in accordance with the guidelines issued by the Central Government in this behalf];] iv. any transfer of a capital asset by a company to its subsidiary company, if— (a) the parent company or its nominees hold the whole of the share capital of the subsidiary company, and (b) the subsidiary company is an Indian company; v. any transfer of a capital asset by a subsidiary company to the holding company, if— (a) the whole of the share capital of the subsidiary company is held by the holding company, and (b) the holding company is an Indian company : Provided that nothing contained in clause (iv) or clause (v) shall apply to the transfer of a capital asset made after the 29th day of February, 1988, as stock-in-trade;] vi. any transfer, in a scheme of amalgamation, of a capital asset by the amalgamating company to the amalgamated company if the amalgamated company is an Indian company; vii. any transfer, in a scheme of amalgamation, of a capital asset being a share or shares held in an Indian company, by the amalgamating foreign company to the amalgamated foreign company, if— (a) at least twenty-five per cent of the shareholders of the amalgamating foreign company continue to remain shareholders of the amalgamated foreign company, and (b) such transfer does not attract tax on capital gains in the country, in which the amalgamating company is incorporated; viii. any transfer, in a scheme of amalgamation of a banking company with a banking institution sanctioned and brought into force by the Central Government under sub-section (7) of section 45 of the Banking Regulation Act, 1949 (10 of 1949), of a capital asset by the banking company to the banking institution. ix. any transfer, in a demerger, of a capital asset by the demerged company to the resulting company, if the resulting company is an Indian company; x. any transfer in a demerger, of a capital asset, being a share or shares held in an Indian company, by the demerged foreign

company to the resulting foreign company, if—

(a) the shareholders holding not less than three-fourths in value of the shares of the demerged foreign company continue to remain shareholders of the resulting foreign company; and

(b) such transfer does not attract tax on capital gains in the country, in which the demerged foreign company is incorporated :

Provided that the provisions of sections 391 to 394 of the Companies Act, 1956 (1 of 1956) shall not apply in case of demergers referred to in this clause;

xi. Any transfer in a business reorganization, of a capital asset by the predecessor co-operative bank to the successor co-operative bank;

xii. Any transfer by a shareholder, in a business reorganization, of a capital asset being a share or shares held by him in the predecessor co-operative bank if the transfer is made in consideration of the allotment to him of any share or shares in the successor co-operative bank.

xiii. Any transfer or issue of shares by the resulting company, in a scheme of demerger to the shareholders of the demerged company if the transfer or issue is made in consideration of demerger of the undertaking;

xiv. Any transfer by a shareholder, in a scheme of amalgamation, of a capital asset being a share or shares held by him in the amalgamating company, if—

(a) the transfer is made in consideration of the allotment to him of any share or shares in the *amalgamated company except where the shareholder itself is the amalgamated company (FA 2012) similar amendment were made in the definition of demerger under section 2(19AA) and*

(b) the amalgamated company is an Indian company;

xv. any transfer of a capital asset, being bonds or Global Depository Receipts referred to in sub-section (1) of section 115AC, made outside India by a non-resident to another non-resident;

xvi. any transfer of agricultural land in India effected before the 1st day of March, 1970;

xvii. any transfer of a capital asset, being any work of art, archaeological, scientific or art collection, book, manuscript, drawing, painting, photograph or print, to the Government or a University or the National Museum, National Art Gallery, National Archives or any such other public museum or institution as may be notified by the Central Government in the Official Gazette to be of national importance or to be of renown throughout any State or States.

xviii. any transfer by way of conversion of bonds or debentures, debenture-stock or deposit certificates in any form, of a company into shares or debentures of that company;

xix. any transfer by way of conversion of bonds referred to in clause (a)

	of sub-section (1) of section 115AC into shares or debentures of any company; xx. any transfer made on or before the 31st day of December, 1998 by a person (not being a company) of a capital asset being membership of a recognized stock exchange to a company in exchange of shares allotted by that company to the transferor. xxi. any transfer of a capital asset, being land of a sick industrial company, made under a scheme prepared and sanctioned under section 18 of the Sick Industrial Companies (Special Provisions) Act, 1985 (1 of 1986) where such sick industrial company is being managed by its workers' co-operative : Provided that such transfer is made during the period commencing from the previous year in which the said company has become a sick industrial company under sub-section (1) of section 17 of that Act and ending with the previous year during which the entire net worth of such company becomes equal to or exceeds the accumulated losses. xxii. any transfer of a capital asset or intangible asset by a firm to a company as a result of succession of the firm by a company in the business carried on by the firm, or any transfer of a capital asset to a company in the course of demutualization or corporatization of a recognized stock exchange in India as a result of which an association of persons or body of individuals is succeeded by such company : Provided that— (a) all the assets and liabilities of the firm or of the association of persons or body of individuals relating to the business immediately before the succession become the assets and liabilities of the company; (b) all the partners of the firm immediately before the succession become the shareholders of the company in the same proportion in which their capital accounts stood in the books of the firm on the date of the succession; (c) the partners of the firm do not receive any consideration or benefit, directly or indirectly, in any form or manner, other than by way of allotment of shares in the company; and (d) the aggregate of the shareholding in the company of the partners of the firm is not less than fifty per cent of the total voting power in the company and their shareholding continues to be as such for a period of five years from the date of the succession; (e) the demutualization or corporatization of a recognized stock exchange in India is carried out in accordance with a scheme for demutualization or corporatization which is approved by the Securities and Exchange Board of India established under section 3 of the Securities and Exchange Board of India Act, 1992 (15 of 1992); xxiii. any transfer of a capital asset being a membership right held by a
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member of a recognized stock exchange in India for acquisition of shares and trading or clearing rights acquired by such member in that recognized stock exchange in accordance with a scheme for demutualization or corporatization which is approved by the Securities and Exchange Board of India established under section 3 of the Securities and Exchange Board of India Act, 1992 (15 of 1992);

- xxiv. any transfer of a capital asset or intangible asset by a private company or unlisted public company (hereafter in this clause referred to as the company) to a limited liability partnership or any transfer of a share or shares held in the company by a shareholder as a result of conversion of the company into a limited liability partnership in accordance with the provisions of section 56 or section 57 of the Limited Liability Partnership Act, 2008 (6 of 2009):

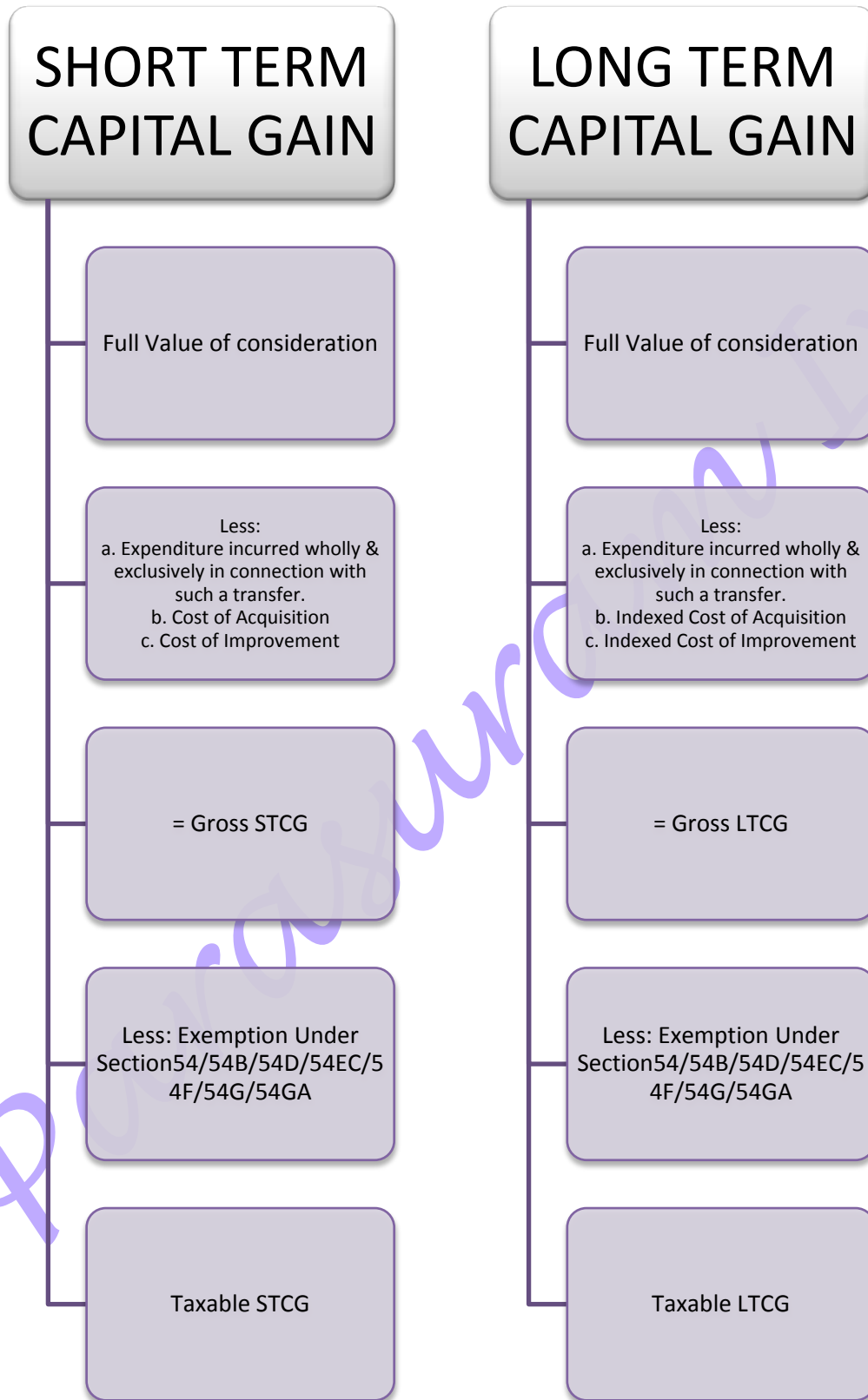
Provided that—

- (a) all the assets and liabilities of the company immediately before the conversion become the assets and liabilities of the limited liability partnership;
 - (b) all the shareholders of the company immediately before the conversion become the partners of the limited liability partnership and their capital contribution and profit sharing ratio in the limited liability partnership are in the same proportion as their shareholding in the company on the date of conversion;
 - (c) the shareholders of the company do not receive any consideration or benefit, directly or indirectly, in any form or manner, other than by way of share in profit and capital contribution in the limited liability partnership;
 - (d) the aggregate of the profit sharing ratio of the shareholders of the company in the limited liability partnership shall not be less than fifty per cent at any time during the period of five years from the date of conversion;
 - (e) the total sales, turnover or gross receipts in the business of the company in any of the three previous years preceding the previous year in which the conversion takes place does not exceed sixty lakh rupees; and
 - (f) no amount is paid, either directly or indirectly, to any partner out of balance of accumulated profit standing in the accounts of the company on the date of conversion for a period of three years from the date of conversion.
- xxv. where a sole proprietary concern is succeeded by a company in the business carried on by it as a result of which the sole proprietary concern sells or otherwise transfers any capital asset or intangible asset to the company :

Provided that—

- (a) all the assets and liabilities of the sole proprietary concern relating to the business immediately before the succession become the assets and liabilities of the company;
- (b) the shareholding of the sole proprietor in the company is not less than fifty per cent of the total voting power in the company and his shareholding continues to remain as such

	for a period of five years from the date of the succession; and (b) the sole proprietor does not receive any consideration or benefit, directly or indirectly, in any form or manner, other than by way of allotment of shares in the company; xxvi. any transfer in a scheme for lending of any securities under an agreement or arrangement, which the assessee has entered into with the borrower of such securities and which is subject to the guidelines issued by the Securities and Exchange Board of India, established under section 3 of the Securities and Exchange Board of India Act, 1992 (15 of 1992) or the Reserve Bank of India constituted under sub-section (1) of section 3 of the Reserve Bank of India Act, 1934 (2 of 1934)], in this regard; xxvii. any transfer of a capital asset in a transaction of reverse mortgage under a scheme made and notified by the Central Government.
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COMPUTATION OF CAPITAL GAIN SECTION 48:

DEEMED VALUE OF CONSIDERATION:

Sr. No.	MODE OF TRANSFER	DEEMDED FULL VALUE OF CONSIDERATION	RELAVENT SECTION APPLICABLE
1	Money or asset received from an insurer on account of damage or destruction of any Capital Assets	Value of Money and/or F.M.V. of asset on the date of receipt.	45(1A)
2	Conversion into or treatment of asset as Stock in Trade	F.M.V. of asset as on Date of its conversion or treatment.	45(2)
3	Introduction of Capital in kind into Firm or AOP/BOI by partner/member	Amount recorded in the books of account of Firm or AOP/BOI as the value of Capital Asset	45(3)
4	Distribution of asset in kind on dissolution of Firm or AOP/BOI	F.M.V. as on the date of distribution	45(4)
5	Shareholders receiving money and assets from the liquidator on the liquidation of the company	Money and market value of Assets on the date of distribution minus amount assessed as deemed dividend u/s 2(22)(c)	46(2)
6	Transfer of Land or Building or both	Not less than value adopted by or assessed by "stamp valuation authority" if consideration declared by assessee is less.	50C

Section 55(2): Cost of acquisition

It is the price which the assessee had paid or the amount which the assessee has incurred for acquiring the Asset.
It also includes any Interest on borrowed capital for acquiring the capital assets form part of cost of asset.

Deemed Cost of Acquisition**Section 49(1) Cost to the previous owner**

In the following case the cost to the previous owner shall be considered as Cost of Acquisition in the hands of the assessee.

- On the distribution of asset on total/partial partition of HUF.
- Under a will or gift
- By succession, inheritance or devolution
- On distribution of asset on the liquidation of the company
- On a transfer to a revocable or irrevocable trust
- On a transfer to a wholly owned Indian subsidiary company to its holding company & vise-versa.
- On any transfer in a scheme of amalgamation of 2 Indian companies subject to certain conditions 47(vi).
- On any transfer in a scheme of amalgamation of 2 foreign company subject to certain conditions.
- On any transfer of a capital asset by the banking company to the banking institution in a scheme of amalgamation of a banking company with a banking institution
- On transfer in a banking reorganization of a capital asset by the predecessor co-operative bank to the successor co-operative bank
- On conversion of a private limited company or an unlisted company into a LLP.
- On conversion of self acquired property of a member of a HUF to the joint family property.
- In case of conversion of firm or LLP or sole proprietorship into a company which is not regarded as a transfer as per section 47(xiii) or 47(xiiib) or 47(xiv) respectively, the cost of**

	acquisition of asset in the hands of the company would be the same as that in the hands of firm or LLP or the sole proprietor concern, as the case may be (F.A. 2012w.e.f A.Y. 1999-2000).
Section 49(2) Cost of share of amalgamated company.	Where the share holder gets the share of amalgamated company in lieu of the original shares in amalgamating company then the cost of share of amalgamated company shall be the cost of the original share in which the assessee had actually made an investment.
Section 49(2A) Cost of acquisition in case of share/ debenture acquired on conversion of debenture.	Where the debenture holder gets the share/ debenture on conversion by company in lieu of the original debenture then the cost of original debenture had actually made an investment (upto that part of conversion).
Section 49(2AA) Cost of specified security or Sweat Equity share already treated as perquisite.	Fire Market value which has been taken for the purpose of perquisite valuation.
Section 49(2AAA) Cost of right of partner on conversion of Company into LLP.	Where the capital asset being rights of the partner of LLP become the property of the assessee on conversion of company to LLP the cost of acquisition of the asset shall be deemed to be the cost of acquisition to him of the share or shares in the company immediately before the conversion.
Section 49(2C) Cost of Share in the Resulting company in case of De - merger.	$= \text{Cost of acquisition held by the assessee} \times \text{Net book value of the Asset transferred in a demerged Company}$ Net worth of the demerged company immediately before demerger Net Worth = Aggregate of Paid up share capital & general reserve as appearing in the books of accounts of the demerged company immediately before demerger.
Section 49(2D) Cost of Share in the Original company in case of De - merger.	$= \text{Cost of Acquisition of original share} (-) \text{Cost of acquisition of resulting company as computed above.}$
Section 49(3) Cost of Asset by the resulting company in case of De - merger.	The cost of asset for the transferee company shall be the cost for which the asset was acquired by it.
Section 49(4) Cost of acquisition of property received without consideration or for inadequate consideration.	The value shall be such as determined & taxed under section 56(2)(vii) & incase of share it is 56(2)(viiia).

SECTION	DISCREPTION	COST OF ACQUISITION
55(2)(a)(i) & 55(2)(a)(ii)	Goodwill of the business, trademark, or brand name associated with a business right to manufacture or produce or process any article or thing or right to carry on any business or tenancy rights, state carriage permits or lorry house if purchased by the assessee or the previous owner.	Amount of purchased consideration (FMV on 01.04.1981 if acquired before it) Self generated = Nil Goodwill of Profession not liable to tax.
55(2)(aa)	Allotment of financial asset i.e. share or securities If allotted free of cost (Bonus share or rights of right share)	Amount actually paid for them Nil (but if received before 01.04.1981 the FMV as on that date)
55(2)(b)(i)	Any other asset becoming the property of the assessee before 01.04.1981	Cost of acquisition to the assessee or its FMV as on 01.04.1981 at the option of assessee (i.e. higher of the two)
55(2)(b)(ii)	Capital asset becoming the property of assessee in any mode specified in 49(1) & it becoming the property of the Previous owner before 01.04.1981	Cost of acquisition to the Previous owner or its FMV as on 01.04.1981 at the option of assessee (i.e. higher of the two)
55(2)(b)(iii)	Capital asset becoming the property of the assessee on distribution by the company on liquidation provided capital gain tax has been assessed under section 46(2)	F.M.V. of the asset on the date of distribution.
55(2)(b)(v)	Share or Stock of the company becoming assessee's property by consolidation, conversion etc of stock or share	Cost of acquisition calculated with reference to cost of acquisition of share stock from which asset is derived.

Illustration 2

Compute the capital gain in the following cases:

- Attamaram commenced a business on 18.08.1987. The said business is sold by Attamaram on 14.07.2012 and received ₹ 14,52,000 towards goodwill.
 - What will be your answer in the same case, if Attamaram has acquired the goodwill for this business for a consideration ₹ 4,50,000.
- Rajesh has been living in a rented accommodation since June 1992, and he is paying a rent of ₹ 800 per month. The landlord got the house vacated from Rajesh on 14.12.2012 and paid a sum of ₹ 8,12,000 for vacating the house.
- Sumit a Chartered Accountant practicing in Delhi since June 1986. He transfers the practice to another Chartered Accountant Sujit on 12.12.2012 and charges ₹ 5,00,000 towards goodwill.
- Ruchir purchased tenancy right on 01.04.1979 for ₹ 1,60,000. The same was sold by him on 14.04.2012 for ₹ 15,00,000. Fair Market Value of tenancy right as on 01.04.1981 was ₹ 2,50,000.

Treatment of any advance money received (section 51):

If any advance money is received & retained / forfeited by the assessee shall be deducted from the cost of acquisition (even if the amount is received by the assessee is before 01.04.1981). And only the amount forfeited by the assessee shall be allowed as deduction not any amount forfeited by the previous owner.

Illustration 3

Anita purchased a house in Delhi on 08-04-2009 for ₹ 18,17,000. In June, 2011 she entered into an agreement to sell the property to Ashish for a consideration of ₹ 36,19,000 and received token money of ₹ 4,20,000. As per the terms of the agreement, the balance payment was to be made within 30 days of the agreement. If the intending purchaser does not make the payment within 30 days, the token money would be forfeited. As Ashish could not make the payment within the stipulated time the amount of ₹ 4,20,000 was forfeited by Anita. Subsequently on 12-12-2012, Anita sold the house to Ankit for ₹ 50,20,000. He paid 1 % brokerage on sale of the house. Compute the capital gains chargeable to tax for the assessment year 2013-14.

Section 55(1)(b) Cost of improvement	In case of capital assets such as goodwill or a right to manufacture, produce or process any article or thing or right to carry on any business shall be NIL . In relation to asset acquired before 01.04.1981 but expenditure done after 01.04.1981 shall be allowed but before 01.04.1981 NIL . Asset acquired after 01.04.1981 & improvement done shall be completely allowed as expenditure.
Explanation (iii) to section 48 Indexed Cost of acquisition Explanation (iv) Also allowed in case of Improvement	= Cost of acquisition $\times \frac{\text{CII of the year of transfer}}{\text{CII of the year of acquisition}}$ CII = Cost of Inflation Index

Cost of Inflation Index

Financial Year	Cost of Inflation Index (CII)	Financial Year	Cost of Inflation Index (CII)
1981-82	100	1997-98	331
1982-83	109	1998-99	351
1983-84	116	1999-00	389
1984-85	125	2000-01	406
1985-86	133	2001-02	426
1986-87	140	2002-03	447
1987-88	150	2003-04	463
1988-89	161	2004-05	480
1989-90	172	2005-06	497
1990-91	182	2006-07	519
1991-92	199	2007-08	551
1992-93	223	2008-09	582
1993-94	244	2009-10	632
1994-95	259	2010-11	711
1995-96	281	2011-12	785
1996-97	305	2012-13	852

Illustration 4

Ishan purchased a piece of land on 15.12.1976 for ₹ 75,000. This land was sold by him on 20.06.2012 for ₹ 17,25,000. The market value of the land as on 01.04.1981 was ₹ 2,10,000. Expenses on transfer were 2% of the sale price. Compute the capital gain for the assessment year 2013-14. What will be the situation if land was purchased on 12.09.1989 for ₹ 3,23,000?

Illustration 5

Pritam acquired the property in the previous year 1982-83 for ₹ 5,00,000 and paid ₹ 18,000 as registration charges. Pritam died on 15.09.2009 and the property was transferred to his son Rakesh through inheritance. The market value of the property as on 15.09.2009 is ₹ 1,00,000. Rakesh sold this property on 31.05.2012 for ₹ 52,00,000. Compute the capital gain for the assessment year 2013-14.

Illustration 6

Rohit acquired a land in 1977-78 for ₹ 2,00,000 and gifted it to his major son Rajiv on 01.06.1980, when the market value of the land was ₹ 2,50,000. The fair market value of the land as on 01.04.1981 was ₹ 3,00,000. Rajiv sold the land on 15.9.2012 for ₹ 30,00,000. Compute the capital gain for assessment year 2013-14, assuming that the expenses on the transfer were ₹1,00,000. What would be the capital gain if the land was gifted by Rohit to his son Rajiv on 15.5.1995?

Illustration 7

Keyur purchased a house on 28.06.1990 for ₹ 1,10,000 and ₹ 10,000 forgetting the property registered in his name. On 15.06.1991, he spent ₹ 80,000 on improvement of the house. The house was sold on 20.10.2012 for ₹ 11,00,000. Commission of ₹ 11,000 was paid on the sale of the house. Compute the capital gains. CII for the financial year 1990-91 and 1991-92 is 182 and 199 respectively.

In the following cases Indexation is not allowed:

- Transfer of bond & debenture other than capital indexed bonds issued by Central Government (3rd proviso to section 48). Indexation of cost will be allowed in case of capital indexed bond.
- Transfer of share or debenture acquired by non-resident in foreign currency in an Indian Company (proviso 1 & 2 to section 48)
- Transfer of undertaking or division in a slump sale (section 50B)
- Transfer of Unit of UTI or Mutual Fund covered under section 10(23D) purchased in foreign currency by overseas financial organization also known as Offshore funds (section 115AB)
- Transfer of GDR or bond of an Indian company or shares or bonds of public sector company sold by the Government & Purchased in foreign currency by a non resident (section 115AC)
- Transfer of GDR purchased in foreign currency by an individual resident in India and employee of an Indian Company (Section 115ACA).
- Transfer of security by Foreign Institutional Investors (Section 115AD)
- Transfer of Foreign exchange assets forming by a Non-Resident Indian (Section 115D).

COMPUTATION OF CAPITAL GAIN IN CERTAIN CASES:	
Taxation of Zero Coupon Bond	Meaning: - Issued by any Infrastructure Company or Infrastructure Capital Fund or a Public Sector Company. - In respect of which no payment & benefit is received or receivable before maturity or redemption from infrastructure capital company or infrastructure capital fund or public sector company & - Which the central government may, by notification in the official gazette, specify in this behalf. Maturity & redemption shall be regarded as transfer & thus liable to capital gain. If the bonds are held for more than 12 months they will be regarded as Long term Capital Asset. On long term capital gain on Zero Coupon bond shall be liable to a special rate of tax i.e. 10% but without Indexation.
Section 45(1A): Amount received from an insurer on account of damage or destruction of any capital asset	Person receives at any time during any previous year any money or other assets under an insurance from an insurer on account of damage to, or destruction of, any capital asset, as insurance from an insurer on account of damage to, or destruction of, any capital asset, as a result of:- - Flood, typhoon, hurricane, cyclone earthquake or other convulsion of nature or - Riot or civil disturbance - Accidental fire or explosion - Action by an enemy or action taken in combating the enemy (whether with or without a declaration of war) Then, any profit or gain arising from receipt of such money or other asset shall be chargeable to tax under the head "Capital Gain". The gain is taxed in the year in which the money is received. Fair value of consideration shall be value of any money or the fair value of other assets on the date of such receipt.

Illustration 8

Aishwaria owns a house property which was purchased by her on 01.05.1979 for ₹ 3,00,000. The said property was destroyed by fire on 03.04.2012 and Aishwaria received a sum of ₹ 38,00,000 for the insurance company during the previous year. The market value of above property as on 01.04.1981 was ₹ 4,00,000.

Illustration 9

The written down value of the block of asset as on 01.04.2012 was ₹ 5,00,000. An asset of the same block was acquired on 11.05.2012 for ₹ 3,50,000. There was a fire on 18.09.2012 and the assets were destroyed by the fire and the assessee received a sum of ₹ 11,00,000 from the insurance company. Compute the Capital Gain assuming:

- All the assets were destroyed by fire.
- Part of the block was destroyed by the fire.

What will be the answer if the assessee received ₹ 6,00,000 for insurance company and

- All the asset were destroyed by the fire.
- Part of the block was destroyed by the fire.

Section 45(2): Conversion of capital asset into stock in trade	• Conversion of Capital Asset into Stock in Trade will transfer of the previous year in which the asset is so converted. • But it will be charged to tax in the year in which such converted asset has been sold. • Indexation will be allowed upto the year of conversion. • Fair market value of the asset on the date of conversion shall be treated as Sales Consideration. • The sale price MINUS FMV on the date of conversion shall be chargeable under the head "PGBP".
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Illustration 10

Rahul invested ₹ 1,00,000 on purchase of gold ornaments on 04.01.1989. He holds the ornaments as investments. On 12.01.2010 he started a business of dealing in jewellery and converts his holding into stock in trade. The market value of the gold ornaments as on the date of conversion was ₹ 4,00,000 and debited his stock account by ₹ 4,00,000. The gold ornaments are now reflected in the business of Rahul as stock in trade. These gold ornaments were sold in the previous year 2012-13 for a sum of ₹ 5,00,000.

- Compute the capital gain and business income.
- What would be the answer if the gold ornaments are held by the assessee till 31.03.2013?

Section 45(3): Capital gain on transfer of Capital Asset by a partner/ member of a firm/ AOP/BOI as Capital Contribution.	• Capital Asset of a person transferred to a Fir or other AOP or BOI in which he is or becomes a partner or member. • The gain will arise in the year of transfer • The sale consideration will be the AMOUNT RECORDED IN THE BOOKS OF FIRM. • It will be taxed in the hands of partner/member.
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Illustration 11

Deepika acquired a property by way of gift from her father in the previous year 1991-92 when its FMV was ₹ 3,00,000. The father had acquired the property in the previous year 1983-84 for ₹ 2,00,000. The property was introduced as capital contribution to a partnership firm in which Deepika became a partner on 05.05.2012. The market value of the property as on 05.05.2012 was ₹ 20,00,000, but it was recorded in the books of account of the firm at ₹ 18,00,000. Is there any capital gain in the hands of Deepika? If yes, compute the amount.

Illustration 12

Anushka has two motor car which are used by her exclusively for her personal purpose. The cost of car was ₹ 1,50,000 and ₹ 1,80,000. The first car was transferred by her on 05.01.2013 to a firm in which she is a partner as her capital contribution. The market value of the car as on 05.01.2013 is ₹ 1,00,000, but it was recorded in the books of accounts of the firm at ₹ 2,00,000. Compute the capital gain if any for the assessment year 2013-14. What will be the answer if Anushka converts car into stock in trade of her business?

Section 45(4): Capital gain on transfer of Capital Asset by	• The profit or gains arising from transfer of a capital asset in specie to the partner/member thereof by way of way of distribution on the dissolution of a firm or other association of a person. • It will be taxed in the hand of the Firm.
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a firm/ AOP/BOI to its member.	The sale consideration will be the F.M.V. ON THE DATE OF TRANSFER.
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Illustration 13

M&M Associates is a partnership firm, consisting of 3 partners Mamta, Mahima & Manisha. The

Particulars	Block of Machinery (given to Mamta)	Stock (given to Mahima)	Land (given to Manisha)
Year of acquisition	1989-90	2001-02	1977-78
	₹	₹	₹
Cost of acquisition	7,20,000	4,00,000	10,000
Market value as on 31.03.2013	5,00,000	5,00,000	7,00,000
WDV as on 31.03.2013	4,40,000	----	----
Value at which given to partner as per agreement	3,00,000	4,10,000	3,00,000
Market value as on 01.04.1981	----	----	70,000

Compute the income taxable in the hands of the firm for the assessment year 2013-14. Further what shall be the cost of acquisition of the assets to the partner of the firm?

Section 45(5): Capital gain on transfer of Compulsory Acquisition of Assets.	- Where a capital asset, other than urban agriculture land has been compulsorily acquired under any law, it will be treated as a transfer of the P.Y. in which the asset is compulsorily acquired. - Indexation, if required, will be done till the P.Y. of compulsory acquisition. - However, the capital gain will be taxable in the P.Y. in which the compensation is received. - If there is transfer of capital asset other than urban agricultural land, the consideration for which was determined or approved by the Central Government or the RBI it will be treated as transfer of the P.Y. in which the consideration is determined but capital gain will be taxable in the P.Y. in which such consideration is received. - Initial compensation will be used to calculate capital gain. And it will be taxable in the P.Y. in which either whole or a part of the compensation / consideration is actually received. - Enhanced compensation shall be fully taxable as C.G. in the year of Compensation.
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Illustration 14

Ronita acquired a house for 20,000 in 1977-78. On her death in October 1986 the house was acquired by her son Ridhimesh. The market value of house as on 01.04.1981 was ₹ 80,000. This house was acquired by the Government on 15.03.2010 for ₹ 6,00,000 and a compensation of ₹ 5,20,000 is paid to him on 25.03.2012 and the balance ₹ 80,000 on 15.04.2012. Ridhimesh filed a suit against the Government challenging the quantum of amount of compensation and the court ordered for giving of additional compensation of ₹ 1,00,000. He incurred an expenditure of ₹ 2,000 in connection with the suit. The additional compensation is received on 14.03.2013. Compute the capital gains chargeable to tax.

Conversion of debenture into shares.	• Conversion of debenture into equity is not regarded as transfer. • But when these shares are transferred capital gain shall arise and chargeable to tax in the previous year in which such shares are transferred. • The cost of acquisition of shares shall be that part of the cost of debenture in relation to which shares were acquired by the assessee.
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Illustration 15

Mohit acquired 200 listed debenture of ₹ 100 each on 15.05.2006. 50% value of the debenture was converted into 4 listed equity shares of the face value of ₹ 10 each on 20.08.2011. Mohit therefore, received 800 shares of face value ₹ 10 each and left with 200 debenture of ₹ 50 each. The shares were sold on 15.06.2012 @ ₹ 100 per share through recognized stock exchange and Mohit paid ₹ 80 as security transaction tax. Compute the capital gains chargeable for the assessment year 2013-14.

Conversion of preference shares into equity shares.	• Conversion of debenture into equity is not regarded as transfer. • But conversion of preference share into equity share will be regarded as transfer and there will be capital gain to the shareholder on the date of allotment of equity share in exchange of preference share & full consideration in this case shall be FMV of equity shares on the date of its allotment.
Section 46: Capital gain on distribution of asset by company in liquidation.	• When the asset is transfer at the time of liquidation of the company shall not be regarded as transfer. • But when the shareholder receives money on account of such transfer will be liable to capital gain. • Consideration = Money received & or market value of asset received Less deemed dividend under section 2(22)(c). • When such asset is sold the Cost of acquisition shall be FMV on the date of distribution. Section 55(2)(b)(iii).

Illustration 16

Juhi holds 5,000 shares (10% of total share holding) in Reliance Ltd. which she had purchased on 05.03.1994 for ₹ 2,00,000. The company went into liquidation on 16.07.2012 and paid a sum of ₹ 40 per share in cash and an asset whose market value as on the date of distribution i.e. 28.09.2012 was ₹ 6,40,000 to Juhi. The accumulated profits of the company were ₹ 5,00,000.

- Compute the income of Juhi for the assessment year 2013-14 assuming that she has no other income.
- Compute the capital gain chargeable to income tax if the asset M is sold by Juhi for ₹ 5,00,000.

Section 50: Capital gain on transfer of depreciable assets.	• In case of the Block of Asset the transfer of each asset will not be taxed as Capital gain. • But when the consideration on transfer of the Capital asset exceeds the value of the block it leads to Short term Capital Gain. • But when there is no asset in the block but there is still the positive closing value of the block it will lead to Short term Capital Loss.
Section 50A: Cost of acquisition & Capital Gain in case of depreciable assets of electricity companies (SLM).	• Cost of acquisition shall be = Actual cost of acquisition but not be WDV. • But on transfer the difference between actual cost & WDV will be taxable as Balancing Charge.

Illustration 17

Munni owns the following assets as on 01.04.2012.

Assets	Rate of Depreciation	W.D.V. as on 01.04.2012 ₹
Plant P	15%	80,000
Plant Q	15%	60,000

The following assets have been acquired during the year.

Assets	Rate of Depreciation	W.D.V. as on 01.04.2012 ₹
Plant R	15%	40,000 (15.04.2012)
Plant S	15%	20,000 (15.09.2012)

Plant P is sold on 15.03.2013 for ₹ 2,20,000. Compute the depreciation if any and capital gain. What shall be the gain if the sales consideration of Plant P is ₹ 1,80,000

Section 50B: Slump Sale.	- Cost of Acquisition & Cost of Improvement = “net worth” of the undertaking or the division. - Net Worth = Book value of Asset – Book value of liability. (revaluation is to be ignored) - Where the asset is asset referred in section 35AD=nil. - In case of depreciable asset value = cost less individual depreciation. But total WDV cannot exceed individual blocks WDV.
Section 50C: Computation in case of real estate transaction.	- There is a special provision in relation to transfer of immovable property. - If the consideration declared to be received or accruing as a result of the transfer of land or building or both, is less than the value adopted or assessed or assessable by any authority of a State Government (i.e. stamp valuation authority) for the purpose of payment of stamp duty. - The value so adopted or assessed or assessable shall be deemed value of consideration & accordingly capital gain will be computed. - But case can be referred to valuation officer for valuation in the following case: - Where the assessee claim before Assessing officer that the value adopted or assessed by the Stamp valuation authority is more than FMV. and - The value so adopted or assessed or assessable by the stamp valuation authority has not been disputed, in any appeal or revision or reference before any authority of Court.
Section 55A: Reference valuation officer.	When assessee claims the value of asset in accordance with the provision of section 50C and assessing officer is of the opinion that the value of asset so claimed is not in accordance with the fair market value. He can refer the case to valuation officer at his own discretion. (FA 2012)

Section 50D: F.M.V. to be full value of consideration in certain case	- Capital gains are calculated on transfer of a capital asset, as sale consideration Less Cost of Acquisition. - In the recent Judgment of Dana Corporation, In re (2010) 186 Taxman 187 (AAR New Delhi), Amiantit International Holding Ltd., In re (2010) 189 Taxman 149 (AAR New Delhi), Good year Tyre & Rubber Co., In re (2011) 199 Taxman 121 (AAR New Delhi) it has been held that where the consideration in respect of transfer of an asset is not determinable under the existing provision of the Income Tax Act, then, as the machinery provision fails, the gains arising from the transfer of such assets is not taxable. - Due to which this new Section has been inserted which means: - Where the consideration received or accruing as a result of the transfer of capital assessee is not ascertainable or cannot be determined, then, for the purpose of computing income chargeable to tax as capital gain, the fair market value of the said asset on the date of transfer shall be deemed to be the full value of the consideration received or accruing as a result of such transfer. (F.A. 2012)
Section 46A: Capital gain on purchase by company of its own shares or other specified security.	In this case the Difference between the Cost of Acquisition & the value of consideration received by the shareholder or the holder of the specified security as the case may be the deemed capital gain in the hands of the holder.
Section 45(2A): Transfer of securities by depository.	- In respect of the share held in D-MAT the capital gain will be computed on FIFO basis. - But indexation or cost of acquisition or period of holding will be considered for the date of actual purchase.
Section 48 Proviso 1 & Rule 115A: Capital Gain in the case of transfer of share/debenture by the non-resident.	- Cost of acquisition shall be converted into foreign currency by applying average TT rate (buying & selling) on the date of acquisition. - Expenses of transfer will be converted into foreign currency by applying average TT rate (buying & selling) on the date of Transfer. - Full value of consideration will be converted into foreign currency by applying average TT rate (buying & selling) on the date of sale. - Capital Gain will be computed in foreign currency without giving Indexation - Gain will be converted into foreign currency by applying buying TT rate on the date of Transfer.
Section 115F: Exception of Long term Capital gain arising to non-resident on transfer of foreign exchange assets.	- If the foreign exchange asset has been transferred by the non – resident it shall be exempt from tax if the assessee acquires new asset with that foreign exchange. - If the assessee invests more than the net consideration then the total amount is exempt. - But if the investment is less than the net consideration the exemption shall be $= \text{Long term Capital gain} \times \frac{\text{Amount Invested}}{\text{Net Consideration}}$ - This exemption shall be withdrawn if the new asset is sold within 3 years.

Illustration 18

Sunny Leon a non - resident Indian, remits US \$ 40,000 on 16.09.1989. The amount is partly utilized on 03.10.1989 for purchasing 10,000 shares in Bhat Ltd. an Indian Company at the rate of ₹ 12 per share. These shares were sold for ₹ 36 per share on 30.03.2013.

The telegraphic transfer buying and selling rate of US \$ adopted by State Bank of India is as follows:

Date	Buying Rate (1U.S. \$)	Selling Rate (1U.S. \$)
16.09.1989	18	20
03.10.1989	19	21
30.03.2013	44	46

Compute capital gain chargeable to tax for the assessment year 2013-14 on the assumption that:-

- These shares have not been sold through a recognized stock exchange.
- These shares have been sold through a recognized stock exchange and Security Transaction tax of ₹ 704 was paid by Sunny Leon.

If she deposits ₹ 1,80,000 with an Indian Public Company on 01.08.2013 (due date of filing Return of Income 31.07.2013). Compute the capital gain chargeable to tax for the assessment year 2013-14.

Section 111A & Section 10(38): Short term & Long term capital gains in case of equity share & units of equity oriented mutual fund.	- If the following conditions are satisfied the short term capital gain arising on transfer of Short Term Equity share & units of equity oriented fund shall be taxed at a special rate of 15%. - The transaction of sale of such equity share or unit is entered into on or after 01.10.2004. - Such transaction is chargeable to Securities Transaction Tax (STT). - Such equity shares are transferred through the recognized stock exchange or such units are transferred through a recognized stock exchange or sold to the mutual fund. - If all the above conditions are satisfied & the nature of gain is Long term then such gain will be exempt from tax under section 10(38). Equity oriented fund means: - Where the investible funds are invested by way of equity share in domestic companies to the extent of more than 65% of the total proceeds of such fund. - Which has been setup under a scheme of a Mutual Fund specified under clause (23D). - Any other short term capital gain will be calculated using AOP Rate.
Section 112: Long term capital gains.	- Long term Capital gain shall be taxed at a special rate of 20%. - But in the following circumstances it shall be taxed at a rate of 10% (without Indexation) or 20% (with Indexation) whichever is less: - LTCG on listed security on recognized stock exchange in India. - Units of UTI or Mutual Fund Covered under section 10(23D) & Zero Coupon Bond. LTCG on unlisted security to be taxed at 10% (without indexation) in case of FII, other non - resident investors, including private equity investors (F.A. 2012).
Common points for Section 111A & 112	- The two shall be kept separate from the Gross Total Income. - Deduction under chapter VIA shall not be allowed.

- | | |
|--|---|
| | <ul style="list-style-type: none"> • Deduct the Basic exemption limit from the total Income if Total income is less than Basic exemption limit. • Set off that difference from the LTCG 1st & then STCG u/s 111A and then apply the specific rate of LTCG & STCG. • Total Tax = Tax on normal income @ Normal Rate + Tax on LTCG & STCG u/s 111A. |
|--|---|

Illustration 19

Mukesh purchased 200 shares on 1.4.1978 for ₹80 each. He was allotted 200 right shares on 1.5.1979 for ₹100 each. He was also allotted 400 bonus shares on 1.5.1980. On 4.5.1990, he was further allotted 800 right shares 160 each. Again on 7.8.1996, he was allotted 800 bonus shares. The fair market value of these shares as on 1.4.1981 was ₹120 each. All the above shares are sold by Mukesh on 16.10.2012 for ₹1200 per share. Compute the capital gain for assessment year 2013-14 assuming:

- The above shares are not sold through recognized stock exchange.
- The above share are sold through recognized stock exchange and necessary securities transaction tax was paid by Mukesh.

Illustration 20

The income of Rahul, who is totally blind, for the previous year 2012-13, is under:

(i)	Income from house property	1,82,000
(ii)	Income from interest on loan	27,000
(iii)	Income from interest on bank deposits under recurring	10,000
(iv)	Long-term capital gains	1,20,000

He is eligible for deduction of 10,000 u/s 80C on account of PPF and 50,000 under section 80U. Compute his tax liability.

Illustration 21

Sachin, a resident of India, aged 81 years, submits the following information for the previous year 2012-13:

	₹
(1) Income from salary	4,86,000
(2) Interest on fixed Deposits with Banks (gross)	49,000
(3) Long-terms capital gains	1,10,000
(4) Short-term capital gains on the sale of equity shares on which Securities transaction tax has been paid	10,000

He pays ₹5,000 as life Insurance Premium on a policy of ₹40,000 and deposits ₹22,000 In Public Fund account. Compute the tax payable By Sachin for the assessment year 2013-14.

EXEMPTIONS FROM CAPITAL GAIN

Section 10(37): Exemption of Capital Gains on Compensation received on Compulsory Acquisition of Agricultural Land situated in specified Urban Area.

- The urban land should belong to an Individual or HUF.
- Land must have been used by the individual or his parents or in case of HUF members of HUF for the agricultural purpose for at least 2 year immediately preceding the acquisition.
- The compensation or the enhanced compensation or consideration, as the case may be received on or after 01.04.2004.
- The gain can be long term or short term.

Illustration 22

Vikram acquired agricultural land in Delhi, on 15.5.1992 for ₹4,00,000. The land is compulsorily acquired by the Delhi Government on 15.4.2012 and the compensation fixed was ₹25,00,000. ₹10,00,000 was received by Ankush on 15.4.2004 and the balance on 6.4.2004. Ankush was not satisfied with the compensation and filed a suit in the court. The compensation was enhanced by ₹5,00,000 which was received on 25.3.2013.

(a) Compute the capital gain taxable in the hands of Ankush for various assessment years.

(b) What shall be the answer if the entire original compensation of ₹25,00,000 was received on 6.4.2004.

SPECIAL EXEMPTIONS FROM CAPITAL GAIN			
Section	Assessee to whom allowed	Condition to be satisfied	Quantum of exemption
54	Individual/ HUF	- Transfer of Residential house whose income is chargeable under the head House Property - Gain should be Long Term - Purchase of Another Residential House Property within 1 year before or 2 year after, or construction should be within 3 year after the date of transfer.	Actual amount invested in new asset or the Capital Gain whichever is less
54B	Individual/ HUF (F.A.2012)	- Transfer of agricultural land (except compulsory acquisition). - It must have been used in the 2 year immediately preceding the date of transfer for agricultural purpose either by the assessee or his parents. - Another agricultural land should be purchased within 2 year after the date of transfer.	Actual amount invested in new asset or the capital gain whichever is less.
54D	Any Assessee which is an Industrial Undertaking	- There must be compulsory acquisition. - The property compulsorily acquired should be land and building forming part of an industrial undertaking. - The asset must have been used in the 2 year immediately preceding the date of transfer of the assessee for the purpose of the undertaking. - Within a period of 3 year after the date of compulsory acquisition any other land or building should be purchased or constructed for the use of existing or newly setup industrial undertaking.	Actual amount invested in new asset or the capital gain whichever is less.
54EC	Any Assessee	- The asset transferred should be a long term capital asset. - Within a period of 6 months after the date of transfer, the capital gain must be invested in the specified assets i.e. bonds redeemable after 3 years issued by NHAI & RECL.	Actual amount invested subject to maximum ₹ 50 lakhs per financial year in new asset or the capital gain whichever is less.
54F	Individual/ HUF	- The asset transferred should be a long term capital asset, not being residential house. - Within a period of 1 year before or 2 years after	If the cost of the new residential house is not less than the net

		the date of transfer, a residential house should be purchased or constructed within a period of 3 year after the date of transfer. - The assessee should not own more than one residential house on the date of transfer. - The assessee should not within a period of 2 year of 2 years purchase or should not within a period of 3 years construct any residential house other than the new asset.	consideration then the whole of the Capital Gain. Otherwise, <u>LTCG X Amt. Invest.</u> Net Consideration Price
54G	Any Assessee being an Industrial Undertaking	- Machinery, Plant, building or land used for the business of an industrial undertaking situated in an urban area should have been transferred. - Transfer should be due to shifting to any other than an urban area. - Within a period of 1 year before or 3 year after the date of transfer purchased machinery, plant or acquired building or land or constructed building & completed shifting to the new area.	If the cost of new assets and expenses incurred for shifting are greater than the capital gain, the whole of such Capital Gain. Otherwise capital to the extent of the new asset.
54GA	Any Assessee being an Industrial Undertaking	- Machinery, Plant, building or land used for the business of an industrial undertaking situated in an urban area should have been transferred. - Transfer should be due to shifting to any Special Economic Zone whether developed in any urban area or any other area. - Within a period of 1 year before or 3 year after the date of transfer purchased machinery, plant or acquired building or land or constructed building & completed shifting to the new area.	If the cost of new assets and expenses incurred for shifting are greater than the capital gain, the whole of such Capital Gain. Otherwise capital to the extent of the new asset.
54GB (F.A.2012)	Individual or HUF On sale of a Residential property (house or land)	- There should be a Long term Capital Gain from transfer of a residential property (i.e. a house or a Plot of Land). - The assessee should subscribe for equity share of eligible company. - If the full amount of net consideration is not utilized for subscription in equity share, the exemption shall be allowed proportionate to the amount so invested. - The amount of subscription as share capital is to be utilized by the company for purchase of new asset (eligible plant and machinery) within 1 year from the date of subscription in the equity share. - The equity share so subscribed or the new asset so acquired by the company should not be sold or otherwise transfer by the assessee or the company as the case may be within a period of 5 year from the date of acquisition. - The exemption is available in case of residential property made on or before	If the amount invested in equity share of a new start up SME Company in manufacturing sector which is utilized for purchase of new plant & machinery is not less than the net consideration then the whole of the Capital Gain. Otherwise, <u>LTCG X Amt. Invest.</u> Net Consideration Price

		31.03.2017 • Eligible company means: ○ It is a company incorporated in India during the period from 1st day of April of the P.Y. relevant to the A.Y. in which the capital gain arises to the due date of furnishing of return of income u/s 139(1) by the assessee. ○ It is engaged in Manufacturing of articles or things. ○ It is a company in which the assessee has more than 50% of share or more than 50% voting rights after subscription of the share. ○ It is qualified as Small or Medium Enterprise. • New Asset means new plant & machinery but does not include : ○ Any machinery or plant which before its installation by the assessee was used anywhere in the world. ○ Any machinery or plant installed in any office premises or any residential accommodation including accommodation in the nature of guest house. ○ Any office appliances including computers or computer software. ○ Any vehicle or ○ Any machinery or plant, the whole of the actual cost of which is allowed as a deduction (whether by way of depreciation or otherwise) in computing the income chargeable under the head PGBP.	
Special Points to remember for this exemptions	Capital Gain Scheme:- If the new asset is not acquired under section 54, 54B, 54D, 54F, 54G, 54GA & 54GB or the full amount could not be invested upto the due date of furnishing the return of income, the assessee can deposit the desired amount under the Capital Gain Scheme on or before the due date of return and thus can acquire the asset within the stipulated time out of money withdrawn from such scheme at a later date. In the case of section 54EC the Capital Gain Scheme is not applicable. Consequences if the new asset acquired is transferred within 3 years of its acquisition: Under Section 54, 54B, 54D, 54G & 54GA - for computation of new Capital Gain (which will be Short term), the cost of acquisition of such new asset shall be reduced by the amount of Capital Gain exempt under section 54, 54B, 54D, 54G & 54GA earlier. Under Section 54F & 54GB – Beside the new Capital Gain (which shall be short term), the Capital Gain exempt earlier under section 54F, 54GB shall be long term capital gain of the P.Y. in which new asset is transferred. Under Section 54EC – If such securities acquired is covered into money or any loan is taken against such securities within 3 years, the Capital Gain exempt under sections		

	54EC for such securities earlier shall be long term Capital Gain of the P.Y. in which such conversion takes place or the loan is taken. Consequence if the amount deposited in Capital Gain Scheme is not utilized within the stipulated time of 3 years (2 years in case of section 54B):- The unutilized amount shall be Capital Gain (ST or LT depending upon original transfer) of the P.Y. in which such period has expired. However, in case of Section 54F, proportionate amount shall be taxable. Consequences if the share acquired by the assessee or new asset acquired by the company is transferred within 5 years of its acquisition under section 54GB: Sale of Share: - The capital gain arising from transfer of equity share shall be taxable in the previous year in which such share are transferred, which can be short term or long term depending upon period. & - The amount of Capital Gain arising from transfer of residential property not chargeable to tax earlier shall be deemed to be the LTCG of the P.Y. in which such share are transferred. Sale of Asset: - The capital gain on transfer of asset will be taxed in the hands of the company which will be STCG as asset is a depreciable asset. & - The amount of capital gain which was exempt earlier shall be as LTCG in the hands of Individual or HUF in the P.Y. in which such asset is sold or otherwise transfer.
Section 54H: Exemption of time limit for acquiring new asset or depositing or investing amount of Capital Gain, in case of compulsory acquisition.	- There can be time lag between the compensation received & the date on which the Compulsory Acquisition took place. - In such case the asset referred under section 54, 54B, 54D, 54EC and 54F shall relate to be acquired the asset from the date of each part of compensation received within such period as may be specified in the above mentioned section.

Illustration 23

Isha owns a residential house which was purchased by her in 1975 for ₹ 60,000. The fair market value of the house as on 01.04.1981 was ₹ 1,70,000. This house was sold by her on 16.07.2012 for a consideration of ₹ 20,00,000. The brokerage and other expenses on transfer were ₹ 12,000. The due date of furnishing the return of income is 31.07.2013. Compute the capital gain for the assessment year 2013-14 in the following situations:

- She invests ₹ 3,00,000 for purchase of house on 14.05.2013.
- She purchased a piece of land for construction of house on 21.10.2012 for ₹ 1,60,000 and deposited ₹ 1,30,000 in the Capital Gain Account Scheme on 15.07.2013 and further sum of ₹ 1,50,000 on 31.07.2014.
- She invested ₹ 3,15,000 on construction of an additional floor at a residential house already owned by her. The investment is made during the period 01.10.2012 to 31.12.2012.
- He invested ₹ 3,40,000 in Capital Gain Account Scheme on 29.07.2013 and ₹ 1,00,000 on 01.08.2013. She purchased a house property on 05.08.2013 for ₹ 3,25,000 by withdrawing this amount from the Scheme. No further investments were made by her.

Illustration 24

Mukesh had purchased certain land in 1985-86 for ₹ 3,00,000. The land was being used for agricultural purpose by him. This land was sold on 02.09.2012 for ₹ 25,00,000. He spent

TAXATION

₹ 1,70,000 for acquiring an urban agricultural land on 21.10.2012 and has deposited ₹ 2,00,000 under the Capital Gain Account Scheme on 15.04.2013. Out of the amount deposited, he withdrew ₹ 1,70,000 for purchase of agricultural land on 15.03.2014.. The remaining amount could not be utilized by him for purchase of agricultural land upto 14.04.2015. Compute the taxable capital gain for the assessment year 2013-14, 2014-15, 2015-16 and 2016-17 if:

1. The agricultural land which was sold is urban agricultural land.
2. The agricultural land which was sold is rural agricultural land.

Illustration 25

Iyer & Iyer Ltd. purchased a building for an industrial undertaking on 10.01.2011 for ₹ 4,00,000. Prior to this the company had taken this building on rent for the last 2 years and was using it for its industrial activities. There is no other building in the block. This property was compulsorily acquired by the state government on 14.08.2012 and a compensation of ₹ 6,00,000 was given to the company on 21.03.2013. The company purchased another building for shifting its industrial undertaking for ₹ 3,00,000 on 15.09.2013. Compute the capital gain for the assessment year 2013-14.

Illustration 26

Aman acquired of Madhuban Ltd. on 15.12.1988 for ₹ 5,00,000 which were sold on 15.05.2012 for ₹ 19,50,000. Expenses of transfer were ₹ 20,000. He invests ₹ 6,00,000 in the bonds of Rural Electrification Corporation Ltd. on 16.10.2012.

- a. Compute the capital gain for the assessment year 2013-14.
- b. State the period for which the bond should be held by the assessee. What will be the consequences if such bonds are sold within that period.
- c. What will be the consequences if Aman takes a loan against the security of such bonds.

Illustration 27

Mayuri sold gold ornaments on 16.07.2012 for a sum of ₹ 20,00,000. This gold was purchased in 1978 for ₹ 60,000 by her father. The fair market value of the gold as on 01.04.1981 was ₹ 1,00,000. Her father gifted the gold to Mayuri on 14.07.2012. She spent ₹ 8,00,000 till 31.07.2013 (the due date for filing of the return) on construction of a house property and deposited ₹ 9,00,000 on 31.07.2013 under capital gain scheme and a further sum of ₹ 1,50,000 on 31.08.2013. She withdrew from the capital gain scheme a sum ₹ 8,00,000 for construction of the house property till the stipulated time. Compute the Capital gain chargeable to tax on this transaction for various relevant assessment year.