Capital Gains

Capital Asset ------- Transfer ------- Year of Chargeability ------- Period of Holding ------- Short term/ Long Term ------- Ascertainment of Cost ------- Capital Gain calculation ------- Exemptions ------- Tax Computation

Sec	Related to	S.No	Particulars
45	Chargeability	i	Gains arising from " TRANSFER" of " CAPITAL ASSETS " in the previous Year
45 (1A)	Chargeability	ii	Receipts from Insurance parties
2(14)	Definition - Capital Assets		
	Includes :	**i**	Property of Any kind held by the assessee (whether or not related to Business or Profession)
		ii	Securities held by Foreign Institutional Investor
			Explanation :
			Any Institution incorporated / registered outside India and proposes to invest in India
			FDI Vs FII - FDIs should be holding minimum of 10% of Shares / Voting Power , FII need not
			Hence is FIIs hold more than 10% of Shares they become FDI.
	Excludes :	**i**	Stock-in-trade held for use in business or Profession (Not Applicable for B point in Includes definition)
		ii	Personal Effects excluding :
			Jewellery
			Archaeological Collections
			Drawings , Paintings , any work of Art.
			Sculptures
		iii	C. Gold bonds, Special Bearer bonds issued by central government
		iv	D. Gold deposit bonds issued under Gold deposit scheme notified by central government.
		v	**E. Rural Agricultural Land**
			Taxable :
			Urban Agri Land (Within jurisdiction of Municipality or cantonment borad)
			Agri land within :
			$\leq$ 2 KMS - Population is > 10,000 $\leq$ 1,00,000
			$\leq$ 6 KMS - Population is > 1,00,000 $\leq$ 10,00,000
			$\leq$ 8 KMS - Population is > 10,00,000

Capital Gains

Sec	Related to	S.No	Particulars
2(47)	Transfer	i	Sale , Exchange , Relinguishment , compulsory acquisition , Conversion into Stock-in-trade, Maturity of ZCB
		ii	Enabling enjoyment of Immovable property
47	Not A transfer		Refer Page (1)
45, 46, 47 A	Chargeability		Refer Page (2)
49(1)	Period of Holding		Refer Page (3)
2(42A)	Short-term Gain &		**< 36 Months**
	Long-term Gain		Listed Securities, ZCB , Units of UTI - **> 12 Months**
			Other Assets - **> 36 Months**
49	Cost of Acquisistion		Refer Page (4)
	Computation of Capital Gain		Refer Page (5)
50 C	Full Value of Consideration	i	(Actual Sale Consideration < Stamp Duty Value) < Valuation by Valuation officer - Stamp duty Value
		ii	(Actual Sale Consideration > Stamp Duty Value) > Valuation by Valuation officer - Actual sale consideration
		iii	(Actual Sale Consideration < Stamp Duty Value) > Valuation by Valuation officer - Valuation by valuation officer
51	Advance Money received	i	Advance Forfeited by the Transferor - Deduct from Cost of Acquisition (Before Indexation)
		ii	Advance Forfeited by the Previous owner - No Effect to be given
		iii	Forfeited after 01.04.2014 - Income from Other Sources
54 - 54GB	Exemptions from CG		Refer Page (6)
112	Tax Rates		Refer Page (7)
	Capital Gain A/c Scheme		**For** 54 , 54 B , 54 D , 54 F , 54 G
		i	Within Date of Filing or Actual Due date of filing whichever is eariler
		ii	If not Utilized within the Specified period - Taxed as Capital Gain in the Year of Expiry of the Term
54 H		iii	For Compulsory Acquisition - Due Date / Return filing Date will be of the year in which amount is received
55A	Valuation		Assessing officer may refer to Valuation officer if he considers that :
		i	FMV is > Actual value declared by assessee by Rs 25000 or by 15 %
		ii	FMV as on 01.04.1981 is in varience with the Cost declared by assessee

CAPITAL GAINS - SITUATIONS WHICH ARE NOT REGARDED AS A TRANSFER

S.NO	FROM	TO	TIME OF TRANSFER	ASSETS	CONDITIONS
1	HUF	Member	Partition of HUF	Any Assets	-
2	Any Person	Any Person	Gift / will / irrevocable trust	Any Assets	Not Applicable to Shares alloted under ESOP (it is a transfer)
3	Any Person	Any Person	-	Agricultural Land	Before 01-03-1970
4	Any Person	Government , Museum , Universities, National Art Galary , Archives	-	Work of Art , Archaeological / scientific collections , Book , Manuscript , Drawings / Paintings etc	-
5	Non-resident	Non-resident	-	Bonds of indian company , Global depository bonds	Transfer outside India Purchase should be in foreign currency
6	Non-resident	Non-resident	-	Government Securities	Made outside India through an intermediary dealing in settlment of securities
7	Holding	Subsidiary	-	Any Assets	100 % holding , Subsidiary Company is an Indian Company , Must not be transferred as Stock-in-trade.
8	Subsidiary	Holding	-	Any Assets	100 % holding , Holding Company is an Indian Company , Must not be transferred as Stock-in-trade.
9	Amalgamating Company	Amalgamated Company	Amalgamation	Any Assets	Amalgamated company is an Indian Company
10	Amalgamating Foreign Company	Amalgamated Foreign company	Amalgamation	Shares of an Indian Company	25% of Shares holders remain the same. No Capital Gain tax in Foreign country
11	Amalgamating Foreign Company	Amalgamated Foreign company	Amalgamation	Foreign Company which derives it value substantially from Indian Company's Shares	25% of Shares holders remain the same. No Capital Gain tax in Foreign country
12	Shareholder	Amalgamating company	Amalgamation	Shares of Amalgamating Company	Issues of Equavalent shares in Amalgamated company
13	Banking Company	Banking Institutions	Amalgamation	Any Assets	-
14	Demerged Company	Resulting Company	Demerger	Any Assets	Resulting company is an Indian Company
15	Demerged Foreign Company	Resulting Foreign Company	Demerger	Foreign Company which derives it value substantially from Indian Company's Shares	3/4th (75 %) of Shareholders in Value remain same , No tax in foreign country
16	Resulting Company	Shareholders of Demerged Company	Demerger	Any Assets including issue of Shares	-
17	Foreign Demerged company	Resulting company	Demerger	Shares of Indian Company	3/4th (75 %) of Shareholders in Value remain same , No tax in foreign country
18	Predecessor co-operative bank	Successor co-operative bank	Business re-organisation	Any Assets	-
19	Shareholder	Co-Operative Bank	Business re-organisation	Shares in Predecessor Co-operative Bank	Allotment of Shares in successor Co-operative Bank
20	Debenture holder	Company	Conversion	Debentures / Debenture stock / deposit certificates	Conversion into Shares of the same company

CAPITAL GAINS - SITUATIONS WHICH ARE NOT REGARDED AS A TRANSFER

S.NO	FROM	TO	TIME OF TRANSFER	ASSETS	CONDITIONS
21	Bond Holder	Company	Conversion	Foreign currency exchangeable bonds	Conversion into Shares or Debentures of the company
22	Member	Stock Exchange	Conversion	Membership	Conversion into Shares of the company, Before 31-12-1998, Held for Atleast 3 Years
23	Private / Unlisted public company	LLP	Conversion	Any Assets	< 60 Lakhs turnover in previous 3 Years, Shareholders becomes partners in Same proportion of Share, No other consideration other than allotment of Shares, Atleast 50% of Profit sharing to Shareholders for 5 Years, No amount paid to Partners out of Accumulated Profits for 3 Years, All assets & liabilities transferred.
24	Sole Proprietor	Company	Conversion	Any Assets	50% of Sharecapital held by Sole proprietor No consideration other than Shares
25	Firm / AOP / BOI	Company	Conversin	Any Assets	All Partners becomes shareholders in Same Proportion of shares, No consideration to partners other than Shares, Partners hold not less than 50 % Voting power for atleat 5 Years Carried out in accordance with SEBI Guidelines
26	Member	Stock Exchange	Corporatisation / Demutualisation	Membership	Acquire Shares / trading rights / clearing rights, Scheme is Approved by SEBI
27	Sick Industrial Company	Any Person	Scheme under SIC Act	Land	Transfer period - PY in which company became sick ending with PY where entire net worth is equal to or exceeds accumulated losses
28	Any Person	Borrower	Scheme of Lending / Borrowing of Securities	Securities	As per Guidelines of SEBI or RBI
29	Any Person	Any Person	Reverse Mortgage	-	As per Schemes notified by Central Government
30	Unit Holder	Mutual Fund	Consolidation of Units	Units	Allotment of Consolidated Units (Two or More schemes of Equity , Two or More schemes of Other than Equity funds)

CAPITAL GAINS - SCOPE & YEAR OF CHARGEABILITY

S.No	Particulars	Year of Chargeability - Prevoius Year in which	Taxed in the Hands of	Value of Consideration Received
1	General Provision - Sec 45	Capital Asset is Transferred (Not in the year of Registration)	Transferor	Actual Consideration Received
2	Insurance Receipts	Asset or Cash is received	Recepient	Actual Cash received / Fair market value of Asset received
3	Conversion of Stock-in-trade	Stock is Sold / Transferred	Transferor of Stock	Fair market value as on the date of Conversion
4	Securities Sold by Depository / Broker of Stock Exchange	Date of Broker's Note	Beneficiary	Actual Consideration Received
5	Introduction of capital Asset as Capital Contribution	Capital Asset is Transferred	Transferor	Amount recorded in Books of the Firm
6	Transfer on Dissolution of Firm / BOI / AOP	Capital Asset is Transferred	Firm	Fair market value as on the date of Transfer
7	Compensation on Compulsory Acquisition	Compensation is actually received	Recepient	Actual Consideration Received
8	Enhanced Compensation	Compensation is actually received	Recepient	Actual Consideration Received
9	Enhanced Compensation - Interim Year	Date of Final Order	Recepient	Actual Consideration Received
10	Reduction of Compensation	Compensation is Received (CG will be recomputed - Rectification u/s 155)	Recepient	Actual Consideration Received
11	Death of Transferor before receiving Compensation	Compensation is Received (Taxed in the hands of Recepient)	Recepient - Legal Hier	Actual Consideration Received
12	Liquidation of Company - Transfer to Shareholders	Capital Asset is Transferred	Shareholder	Fair Market value of Asset on date of Distribution Less Portion of Accumulated Profit deemed to be dividend
13	Liquidation of Company - Sold through Liquidator	Capital Asset is Transferred	Company	Actual Consideration Received
14	Buy Back of Shares - Unlisted	Capital Asset is Transferred	Company (Exempt for Shareholder)	Actual Consideration Received
15	Buy Back of Shares - Others	Capital Asset is Transferred	Shareholder	Actual Consideration Received
16	Holding To Subsidiary & vice-versa (i.If Asset is Converted as Stock-in-Trade within 8 years ii. If Ceases to be a holding company within 8 Years)	Year of Violation of condition	Transferor	Fair market value as on the date of Transfer
17	Transfer of Share received in Exchange of Membership of Recognized Stock Exchange within 3 Years	Year of Violation of condition	Shareholder	Fair market value as on the date of Transfer
18	Conversion of Company - LLP / Sole Proprietor - Company	Year of Violation of condition Specified in Section 47	Transferor	Fair market value as on the date of Transfer

CAPITAL GAINS - PERIOD OF HOLDING

S.No	Particulars	PERIOD FROM	PERIOD TO
1	Fixed Maturity Plans	Purchase	Redemption (and not on Maturity)
2	Shares of Company in Liquidation	Allotment	Date of Liquidation
3	Partition of HUF / Will / Inheritance / Gift	Date of Purchase by previous Owner	Transfer
4	Amalgamation	Purchase of Shares in Amalgamating Company	Transfer
5	Share of A company	Allotment	Transfer
6	Rights Offer	Offer Date	Date of Renouncement of Rights
7	Bonus	Allotment of Bonus Shares	Transfer
8	Demerger	Date of Purchase in Demerged Company	Transfer
9	Demutualisation / Corporatisation	Acquisition date prior to demutualisation	Transfer
10	Security / Sweat	Allotment	Transfer
11	Units under Consolidation scheme	Date of Acquisition of Units (before Consolidation)	Transfer
12	Redemption of Global Depository Bonds by Non-resident	Purchase	Date of request for redemption

CAPITAL GAINS - COST ASCERTAINMENT

S.No	Cost of Previous Owner
1	Partition of HUF
2	Gift / Inheritance / Will
3	Distribution of Assets by the company on liquidation
4	Transfer of Recoverable Trust
5	Holding To Subsidiary and vice-versa
6	Amalgamation
7	Amalgamation of Foreign company & Transfer of Shares in Indian Company
8	Amalgamation of Banking Company with Banking Institutions
9	Transfer of shares of Foreign copany which dervices its value from Indian Company's Share in a Scheme of Amalgamation or Demerger
10	Demerger
11	Business re-organisation of Co=operative Banks
12	Conversion between Sole Proprietor , Company , LLP , Firm
13	Conversion of Individual Property into HUF Property

S.No	Particulars	Cost
1	Amalgamation	Cost of Acquisition in the Amalgamating Company
2	Conversion of debenture into Shares	Debenture Cost
3	Sweat Equity Shares	Fair Market Value as on the Date of Allotment
4	Conversion of Company into LLP	Cost of Acquisition of Shares of the company
5	Redemption of GDB by Non-resident	Price at recognized Stock exchange on the date of Request for Redemption
6	Consolidation of units	Cost of Acquisition of units before consolidation
7	Demerger	A * (B/C)
		A = Cost of Acquisition of shares in demerged company
		B = Net book value of Assets transferred
		C = Net worth of Demerged company (ie, Paid-up Share capital + General Reserves)
8	Goodwill	Purchase Cost Nil for Self Generated (Goodwill of Profession is not taxable)
9	Rights issue	Nil
10	Bonus Issue	Before 01.04.1981 - FMV as on 01.04.1981 After - Nil
11	Trading Rights / Clearing Rights on demutualisation of Stock- exchanges	Nil
12	Slump Sale	Net Worth (WDV of depreciable assets + Nil for 35AD assets + Book value of other assets - Book value of liabilities)
13	Cost not ascertainable	FMV as on the date of Acquisition

CAPITAL GAIN - COMPUTATIION OF CAPITAL GAIN

	Particulars	Amount
	Sale Consideration	**XX**
Less :	Cost Attributable to transfer of Capital Asset	(XX)
	(No deduction of SST paid)	
=	**Net Sale Consideration Received**	**XX**
Less :	Cost of Acquisition (Indexed if Long Term)	(XX)
Less :	Cost of Improvement (Indexed if Long Term)	(XX)
	(No indexation for LTCG on bonds / debentures except Capital Indexed bonds of Government)	
Less :	Exemptions u/s 54 - 54GB	(XX)
=	**Taxable Capital Gain (Short / long Term)**	**XX**

Computation of Capital Gain in case of Depreciable Assets (Sec 50 & Sec 50A)

A.If Any one of the Asset on the Particular Block is transferred :

	Particulars	Amount
A	**Sale Consideration**	**XX**
Less :	Expenditure Wholly Incurred on Transfer	(XX)
Less :	WDV of the block of Asset as at the beginning of the financial year	(XX)
Less :	Cost of Assets in the block purchased during the year	(XX)
= B	**Net Gain**	**XX**

Note :

if A > B, short-term Capital Gain

if B > A, No STCG (Depreciation will be calculated on B)

B. If all the Assets in the Block is Sold :

	Particulars	Amount
	Sale Consideration	**XX**
Less :	Expenditure Wholly Incurred on Transfer	(XX)
Less :	WDV of the block of Asset as at the beginning of the financial year	(XX)
Less :	Cost of Assets in the block purchased during the year	(XX)
=	**Short-term Capital Gain**	**XX**

CAPITAL GAINS - EXEMPTIONS UNDER 54 - 54GB

Sec	Eligible Assessees	Assets Transferred	Term	New Asset	Conditions
54	Individual HUF	Residential House	Long Term	Residential House	Purchase within - 1 Year or before - 2 Year Construction within - 3 Years
54B	Individual HUF	Urban Agri. Land	Used for Agri. For 2 Years (By Own , Parents , HUF)	Agricultural Land (Urban or Rural)	Purchase within 2 Years
54D	Any Assessee	Land and Building of an Industrial Undertaking	Used for Business For 2 Years (By the Assessee)	Land or Building for Industrial Undertaking	Purchase within 3 Years
54EC	Any Assessee	Any Capital Asset	Long Term & Depreciable assets held for > 36 Months	Investment in Bonds (NHAI / RECL)	Invest within 6 Months from the date of Transfer Not Transfer or Convert or Avail loan on such bonds for 3 Years
54F	Individual HUF	Capital Assets other than Residential House	Long Term	Residential House	i) Purchase within - 1 Year or before - 2 Year Construction within - 3 Years ii) Not owing more than 1 house on the date of transfer iii) Should not purchase any other House within 1 Year Or Construct within 3 Years
54G	Any Assessee	Industrial Undertaking in Urban Area	-	Industrial Undertaking in other than Urban area	**Spend Before 1 Year or Within 3 Years for** Purchase New P&M , Shifting Expenses , Land/ Building
54GA	Any Assessee	Industrial Undertaking in Urban Area	-	Industrial Undertaking in SEZ	**Spend Before 1 Year or Within 3 Years for** Purchase New P&M , Shifting Expenses , Land/ Building
54GB	Individual HUF	Residential Property	Long Term (Section Applicable till 31.03.2017)	Equity Investment in Start-up Manufacturing SME Company	Amount Invested in Shares of Eligible Company within Due date Used for Purchase of Plant & Machinery by the company within 1 Year (if not purchased within due date -Deposit in Specified Bank)

Note : **P&M not Eligible :**

i) Second Hand Machinery ii) Installed in Office premises , Residential Accommodations iii) Office Equipements like computers iv) Vehicles v) 35AD Assets

Note : **Eligible Company :**

i) Incorporated in the FY of Transfer or Subsequent FY within Due date of filing for Individual / HUF ii) Engaged in Manufacturing of an article / thing
iii) Individual/HUF holds more than 50% of voting power or Shares iv) An SME under MSME Act

CAPITAL GAINS - EXEMPTIONS UNDER 54 - 54GB

Sec	Quantum	Violation
54	Cost of New House > Capital Gain - Entire Gain Cost of New House < Capital Gain - Upto Cost of New House	**New Assets Sold within 3 Years :** Capital Gain earlier exempted will be deducted from Cost of New House
54B	Cost of New Agri. Land > Capital Gain - Entire Gain Cost of New Agri. Land < Capital Gain - Upto Cost of New Agri. Land	**New Assets Sold within 3 Years :** Capital Gain earlier exempted will be deducted from Cost of New Agri.Land (No tax if New Agri. land is Rural Agri. Land
54D	Cost of New Asset > Capital Gain - Entire Gain Cost of New Asset < Capital Gain - Upto Cost of New Asset	**New Assets Sold within 3 Years :** Capital Gain earlier exempted will be deducted from Cost of New Asset
54EC	Amount Invested , 50 Lakhs or Capital Gain whichever is Lower	**Transfer / Coversion / Loans Availed within 3 Years :** Capital Gain earlier exempted will be taxed in the Year of Violation
54F	Cost of New Asset > Capital Gain - Entire Gain **Cost of New Asset < Capital Gain :** LTCG x <u>Amount Invested in new Residential House</u> Net Sale consideration	**New Assets Sold within 3 Years :** The Tax earlier exempted will be taxed as Long-term Capital Gain In the year of Violation Capital Gain from New House will be taxed as STCG
54G	Cost of shifting > Capital Gain - Entire Gain Cost of shifting < Capital Gain - Upto Cost of shifting	**New Assets Sold within 3 Years :** Capital Gain earlier exempted will be deducted from Cost of New Asset
54GA	Cost of shifting > Capital Gain - Entire Gain Cost of shifting < Capital Gain - Upto Cost of shifting	**New Assets Sold within 3 Years :** Capital Gain earlier exempted will be deducted from Cost of New Asset
54GB	Cost of New Asset > Capital Gain - Entire Gain **Cost of New Asset < Capital Gain :** LTCG x <u>Amount Invested in new Assets</u> Net Sale consideration	**Not used within 1 Year :** Tax in the Previous Year in which the condition of 1 Year is completed **If Shares subscribed is Transferred within 5 Years :** Eariler Exempted Amount will be taxed under " Capital Gain "

CAPITAL GAINS - TAX RATES

Short Term Capital Gains	Rate	Conditions
General Capital Assets	Slab Rate	Basic slab and Chapter IV A available
111 A - Tax rate on equity investment	15%	SST Paid , No Basic slab for Non-resident , Chapter IV A not available
(Equity Shares , Unit of Equity oriented investments , units of business trust)		Equity Oriented investment - 65% of Equity shares , Mutual fund under 23D

Long-Term Capital Gains	Rate	Conditions
Sec 112 - General Capital Assets	20%	No Chapter IV A deductions but basic slab available
Transfer of Unlisted securities	10%	No Indexation
Non Resident / Foreign Compaines / FII		(Capital Gain to be computed in Foreign currency And then recomputed into INR)
Provisio to Section 112		
If Tax payable with respect to LTCG on Listed securities , ZCB	Excess	-
Is > 10% of Capital Gain before indexation ,	Ignored	
Section 10(38)	Nil	SST paid
LTCG on Equity shares / Units of Equity oriented Mutual funds		Taken for Book Value and Calculation of MAT Tax under Sec 115JB

Buy-Back of Securities	Listed Securities	Others
Company	Additional Income Tax at 23.072%	Not subject to Tax
Shareholder	Exempt 10(34A)	Taxed under Capital Gain