

UNIT – 4 : CAPITAL GAINS

LEARNING OUTCOMES

After studying this unit, you would be able to –

- ◆ **comprehend** the scope of income chargeable under this head;
- ◆ **comprehend** and identify the assets classified as “capital assets” for the purposes of chargeability under this head;
- ◆ **comprehend** the meaning of short-term capital asset and long-term capital asset;
- ◆ **compute** the period of holding for determining whether an asset is a short-term capital asset or long-term capital asset;
- ◆ **identify** the transactions to be considered as transfer for the purpose of capital gains;
- ◆ **identify** the transactions not regarded as transfer;
- ◆ **compute** the capital gains from transfer of capital assets in the manner prescribed;
- ◆ **determine** the cost of acquisition;
- ◆ **compute** capital gains in case of depreciable assets;
- ◆ **compute** capital gains in case of market linked debentures and other specified securities;
- ◆ **compute** capital gains in case of slump sale;
- ◆ **compute** the deduction available for investment of capital gains/net consideration on transfer of certain assets;
- ◆ **compute** the capital gains chargeable to tax after reducing the deductions available in respect of capital gains;
- ◆ **appreciate** the concessional tax treatment available for short-term capital gains and for long-term capital gains on transfer of listed equity shares/units of an equity oriented fund;
- ◆ **compute** the tax liability applying the special rates of tax on long-term capital gains and short-term capital gains and the normal rates of tax.

Proforma for computation of income under the head "Capital Gains"

	Particulars	Amt (₹)	Amt (₹)
In case of a Short-term capital asset (STCA)	Full value of consideration received or accruing as a result of transfer	xxx	
	Less: Expenditure incurred wholly and exclusively in connection with such transfer (for e.g., brokerage on sale)	xxx	
	<i>(Note: Deduction on account of STT paid will not be allowed)</i>		
	Net Sale Consideration		xxx
	Less: Cost of acquisition (COA) [Refer table at page 3.503]	xxx	
	Cost of improvement (COI) [Refer table at page 3.505]	xxx	xxx
	Short-term capital gain (STCG)		xxx
	Less: Deduction under sections 83/84		xxx
	Short-term capital gain chargeable to tax		xxx
In case of a Long-term capital asset (LTCA)	Full value of consideration received or accruing as a result of transfer	xxx	
	Less: Expenditure incurred wholly and exclusively in connection with such transfer (for e.g., brokerage on sale)	xxx	
	<i>(Note: Deduction on account of STT paid will not be allowed)</i>		
	Net Sale Consideration		xxx
	Less: Cost of acquisition (COA) [Refer table at page 3.503]	xxx	
	Less: Cost of improvement (COI) [Refer table at page 3.505]	xxx	xxx
	Long-term capital gains (LTCG)		xxx
	Less: Deduction under sections 82/83/84/85/86 [Refer Table at pages 3.507-3.509]		xxx
	Long-term capital gains chargeable to tax		xxx

Rate of tax on Short-term Capital Gains (STCG)

Section	Rate of tax
196	• STCG arising on transfer of listed equity shares, units of equity-oriented fund and unit of business trust¹ would be taxable at 20%. STT should have been paid on such sale. • STCG arising from transaction undertaken on a recognized stock exchange located in an International Financial Services Centre (IFSC) would be taxable at a concessional rate of 20%, where the consideration for transfer is received or receivable in foreign currency, even though STT is not paid in respect of such transaction.
Note - STCG arising on transfer of other Short-term Capital Assets would be chargeable at normal rates of tax.	

Rates of tax on Long-term Capital Gains (LTCG)

Section	Rate of tax
198	♦ LTCG exceeding ₹ 1,25,000 would be taxable @12.5%, on the transfer of following long-term capital assets - • listed equity shares, if STT has been paid on acquisition and transfer of such shares • units of equity-oriented funds and unit of business trust, if STT has been paid on transfer of such units ♦ If such transaction is undertaken on a recognized stock exchange located in an IFSC, LTCG would be taxable at a concessional rate 12.5%, where the consideration for transfer is received or receivable in foreign currency, even though STT is not paid in respect of such transaction. ♦ Provisions of currency fluctuation would not be applicable.
197	♦ LTCG on transfer of all long-term capital assets (other than referred u/s 198) would be taxable @12.5%.

¹The provisions relating to business trust would be dealt at Final level.

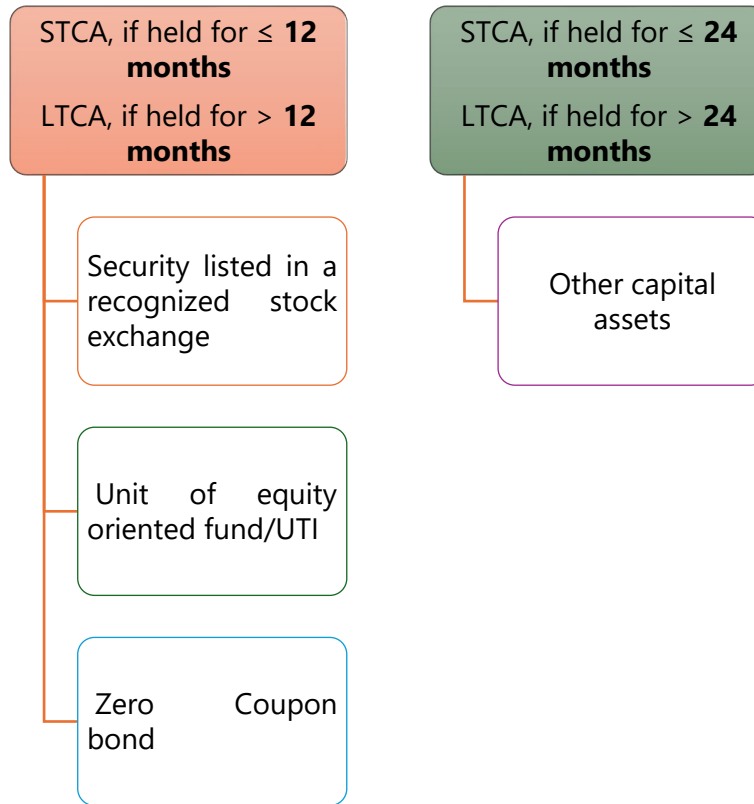
However, in case of an individual or HUF, being a resident in India, long-term capital gains arising on transfer of long-term capital asset, being land or building or both if acquired before 23.7.2024, the excess income-tax shall be ignored.

Excess income-tax = Tax computed @12.5% without indexation – Tax computed @ 20% with indexation

- ◆ Further, in case of **non-corporate non-resident or foreign company, LTCG** on transfer of **unlisted securities, or shares of a closely held company**, would be taxable **@12.5% without foreign currency fluctuation.**

Notes:

- ◆ In case of a resident individual or a Hindu Undivided Family (HUF), the LTCG taxable u/s 197 or 198 or STCG taxable u/s 196 shall be reduced by the unexhausted basic exemption limit, and the balance shall be subject to tax.
- ◆ No deduction under Chapter VIII can be claimed in respect of such LTCG chargeable to tax u/s 197 or 198 or STCG chargeable to tax u/s 196.
- ◆ In case the assessee is paying tax under default tax regime, rebate u/s 156 is not available in respect of tax payable on LTCG taxable u/s 197 or 198 or STCG taxable u/s 196.
- ◆ However, in case the assessee opts out of the default tax regime, rebate u/s 156 is available in respect of tax payable on LTCG u/s 197 or STCG u/s 196 but not against LTCG u/s 198, subject to the satisfaction of other conditions.
- ◆ In case the assessee pays tax under default tax regime, enhanced surcharge of 25% would not be levied on dividend income, STCG taxable u/s 196 and LTCG taxable u/s 197 and 198.
- ◆ In case the assessee exercises the option under section 202(4) of shifting out of the default tax regime, enhanced surcharge of 25% or 37% would not be levied on dividend income, STCG taxable u/s 196 and LTCG taxable u/s 197 and 198.

Period of holding [Section 2(101)]

Note – It is to be noted that as per section 76, capital gains arising from transfer of the following assets would always be short term capital gains irrespective of the period of holding of such assets:

- ♦ units of a specified mutual fund acquired on or after 1.4.2023,
- ♦ market linked debentures and
- ♦ unlisted bond and unlisted debenture

**4.1 STRUCTURED SECTIONAL LEARNING**

Section	Particulars
2(6)	Meaning of amalgamation
2(22)	Meaning of capital asset
2(34)	Demerged company

2(35)	Demerger
2(67)	Meaning of long term capital asset
2(97)	Meaning of resulting company
2(101)	Meaning of short term capital asset
2(103)	Meaning of slump sale
2(109)	Meaning of transfer
2(112)	Meaning of zero coupon bond
67	Capital gains
68	Capital gains on distribution of assets by companies in liquidation
69	Capital gains on purchase by company of its own shares or other specified securities
70	Transactions not regarded as transfer
72	Mode of computation of capital gains
73	Cost with reference to certain modes of acquisition
74	Special provision for computation of capital gains in case of depreciable assets
75	Special provision for cost of acquisition in case of depreciable asset
76	Special provision for computation of capital gains in case of Market Linked Debenture
77	Special provision for computation of capital gains in case of slump sale
78	Special provision for full value of consideration in certain case
79	Special provision for full value of consideration for transfer of share other than quoted share
80	Fair market value deemed to be full value of consideration in certain cases
81	Advance money received
82	Profit on sale of property used for residence

83	Capital gains on transfer of land used for agricultural purposes not to be charged in certain case
84	Capital gains on compulsory acquisition of land and building not to be charged in certain cases
85	Capital gains not to be charged on investment in certain bonds
86	Capital gains on transfer of certain capital assets not to be charged in case of investment in residential house
89	Extension of time for acquiring new assets or depositing or investing amount of capital gains
90	Meaning of "adjusted", "cost of improvement" and "cost of acquisition"
91	Reference to Valuation Officer
196	Tax on short-term capital gains in certain cases
197	Tax on long-term capital gains
198	Tax on long- term capital gains in certain cases

4.2 INTRODUCTION

Section 67 provides that any profits or gains arising from the **transfer** of a **capital asset** effected in a tax year will be chargeable to income-tax under the head 'Capital Gains'. Such capital gains will be deemed to be the income of the tax year in which the transfer took place. In this charging section, two terms are important. One is "**capital asset**" and the other is "**transfer**".

Hence, in this unit on capital gains, we begin our discussion with the definition of "capital asset" and "transfer". Thereafter, we will proceed to discuss the various circumstances under which capital gains tax is levied. There are certain transactions which are not to be regarded as transfer for the purposes of capital gains. These transactions have also been discussed in this unit. There is a separate method of computation of capital gains in respect of depreciable assets. Also, there are deductions in cases where capital gains are invested in specified assets. All these aspects are being discussed in this unit.



4.3 CAPITAL ASSET

Definition: According to section 2(22), a capital asset means –

Capital Asset

- (a) property of any kind held by an assessee, whether or not connected with his business or profession.
- (b) any securities held by
 - a Foreign Institutional Investor which has invested in such securities in accordance with the SEBI regulations; or
 - an investment fund specified in section 224(10)(a)² which has invested such securities in accordance with the SEBI regulations or IFSC regulations.
- (c) any unit linked insurance policy (ULIP) to which exemption under Schedule II (Table: Sl. No. 2) does not apply.

Note – Provisions relating to taxability or otherwise of ULIPs issued on or after 1.2.2021 are not being made applicable at Intermediate level. Accordingly, section 67(5) has been excluded by way of Study Guidelines. Consequently, reference to such ULIPs has not been made in the discussion of Schedule II (Table: Sl. No. 2) and in the definition of equity oriented fund for the purpose of section 196 and 198 in the Study Material.

However, capital assets do not include—

- (i) **Stock-in trade:** Any stock-in-trade [other than securities held by FII or investment fund], consumable stores or raw materials held for business or profession;

Whether a particular asset is stock-in-trade or capital asset does not depend upon the nature of the item, but the manner in which the same is held. The item would be stock-in-trade in the hands of the assessee who deals or trades in that item; however, the same item would be capital asset for the assessee who holds it as an investment.

² The provisions of section 224(10)(a) will be dealt with at the Final level.



A dealer in real estate holds a piece of land as stock-in-trade. But the same will be capital asset for an assessee who holds it as an investment.

The exclusion of stock-in-trade from the definition of capital asset is only in respect of (a) above and not (b). This implies that even if the nature of such security in the hands of the Foreign Portfolio Investor is stock in trade, the same would be treated as a capital asset and the profit on transfer would be taxable as capital gains.

Further, the Explanatory Memorandum to the Finance (No.2) Bill, 2014 clarifies that the income arising from transfer of such security by a Foreign Portfolio Investor (FPI) would be in the nature of capital gain, irrespective of the presence or otherwise in India, of the Fund manager managing the investments of the assessee.

- (ii) **Personal effects:** Personal effects mean movable property (including wearing apparel and furniture) held for personal use by the assessee or any family member dependent on him.

EXCLUSIONS:

- (a) jewellery;
- (b) archaeological collections;
- (c) drawings;
- (d) paintings;
- (e) sculptures; or
- (f) any work of art.

Definition of Jewellery- Jewellery is a capital asset and the profits or gains arising from the transfer of jewellery held for personal use are chargeable to tax under the head "capital gains". For this purpose, the expression 'jewellery' includes the following:

- (i) Ornaments made of gold, silver, platinum or any other precious metal or any alloy of such precious metals, with or without precious or semi-precious stones, and whether or not worked or sewn into any wearing apparel;
- (ii) Precious or semi-precious stones, whether or not set in any furniture, utensil or other article or worked or sewn into any wearing apparel.

- (iii) **Rural agricultural land** in India i.e., agricultural land in India which is not situated in any specified area.

As per the definition, **only rural agricultural lands in India are excluded** from the purview of the term 'capital asset'. Hence urban agricultural lands constitute capital assets.



Accordingly, the agricultural land described in (a) and (b) below, being land situated within the specified urban limits, would fall within the definition of "capital asset", and transfer of such land would attract capital gains tax -

(a) **Land situated within Municipality / Cantonment**

- The agricultural land is located within the limits of:
 - a municipality (municipal corporation, town committee, etc.), or
 - a cantonment board,
- AND the population of that area is not less than 10,000.

(b) **Land near Municipality (Aerial Distance Rule)**

Even if the land is outside municipal limits, it is still urban if it lies within the following distance:

Within distance, measured aerially, from local limits of any municipality or cantonment board not being more than	Population according to the last preceding census of which the relevant figures have been published before the first day of the tax year.
2 kms	> 10,000 but ≤ 1,00,000
6 kms	> 1,00,000 but ≤ 10,00,000
8 kms	> 10,00,000

EXAMPLE

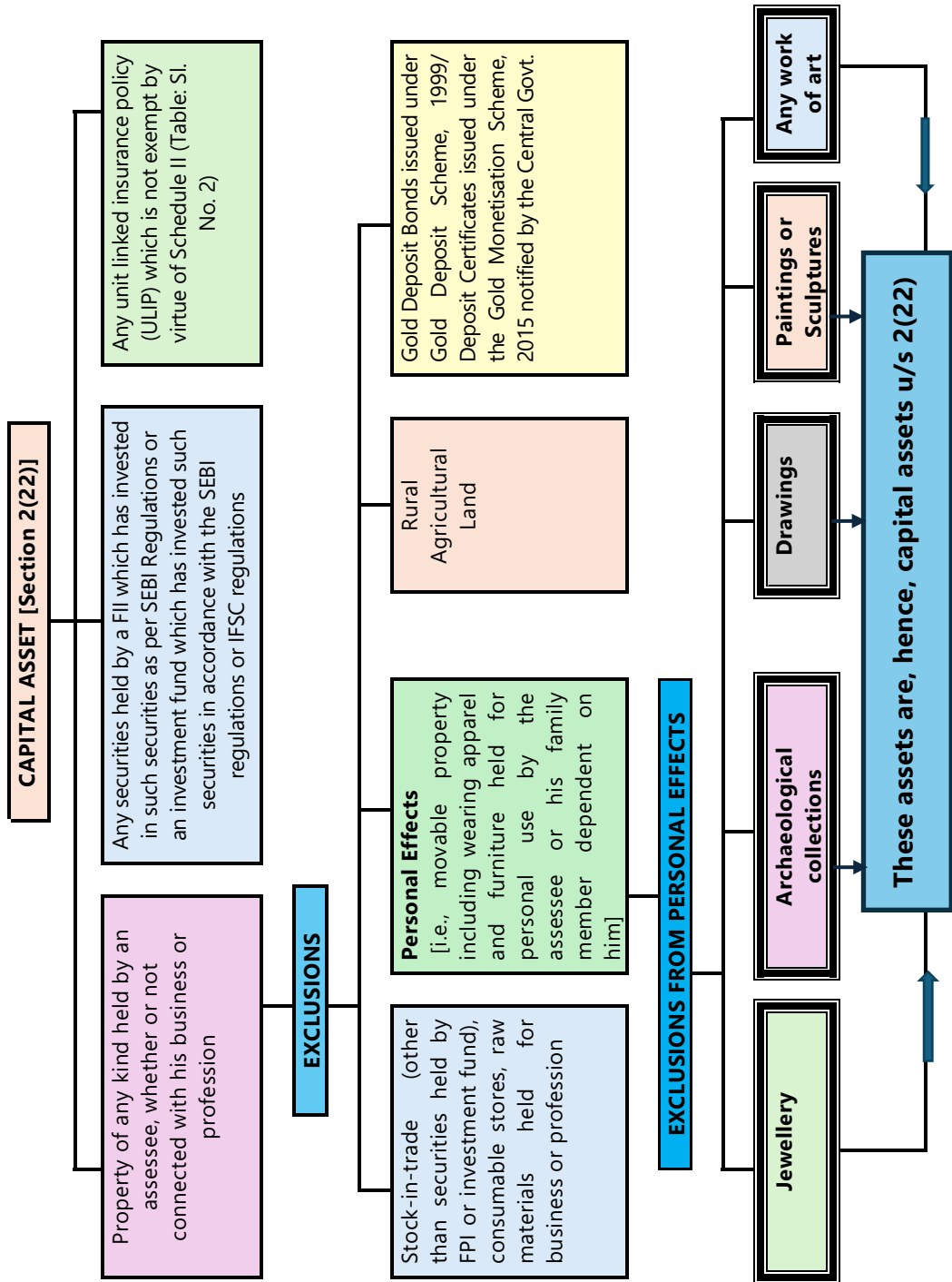
	Area	Aerial distance from the local limits of a municipality or cantonment board referred to in item (a)	Population according to the last preceding census of which the relevant figures have been published before the first day of the tax year.	Is the land situated in this area a capital asset?
(i)	A	1 km	9,000	No
(ii)	B	1.5 kms	12,000	Yes
(iii)	C	2 kms	11,00,000	Yes
(iv)	D	3 kms	80,000	No
(v)	E	4 kms	3,00,000	Yes
(v)	F	5 kms	12,00,000	Yes
(vi)	G	6 kms	8,000	No
(vii)	H	7 kms	4,00,000	No
(viii)	I	8 kms	10,50,000	Yes
(ix)	J	9 kms	15,00,000	No

Gains arising on the transfer of urban agricultural land – Section 2(5)(ii) clarifies that capital gains arising from transfer of any agricultural land situated in any non-rural area (as explained above) will not constitute agricultural revenue within the meaning of section 2(5).

In other words, the capital gains arising from the transfer of such urban agricultural land would not be treated as agricultural income for the purpose of exemption under Schedule II (Table: Sl. No. 1). Hence, such gains would be eligible to tax under section 67.

- (iv) Gold Deposit Bonds** issued under the Gold Deposit Scheme, 1999 or deposit certificates issued under the Gold Monetisation Scheme, 2015 and Gold Monetisation Scheme, 2019 notified by the Central Government.

Note – ‘Property’ includes any rights in or in relation to an Indian company, including rights of management or control or any other rights.





1.	Mr. A purchased a plot of land as an investment. Mr. B, a real estate dealer, purchased a similar plot for resale purposes. Which of the following is correct?
(a)	Both lands are capital assets
(b)	Both lands are stock-in-trade
(c)	Land held by Mr. A is capital asset and land held by Mr. B is stock-in-trade
(d)	Depends only on type of property
2.	A Foreign Portfolio Investor (FPI) is engaged in trading in shares of Indian companies. On transfer of such shares, income would be taxable as:
(a)	Business income
(b)	Capital gains
(c)	Income from other sources
(d)	Agricultural income
3.	Which of the following personal assets is treated as a capital asset?
(a)	Personal wearing apparel
(b)	Household furniture for personal use
(c)	Jewellery used personally
(d)	Personal motor car

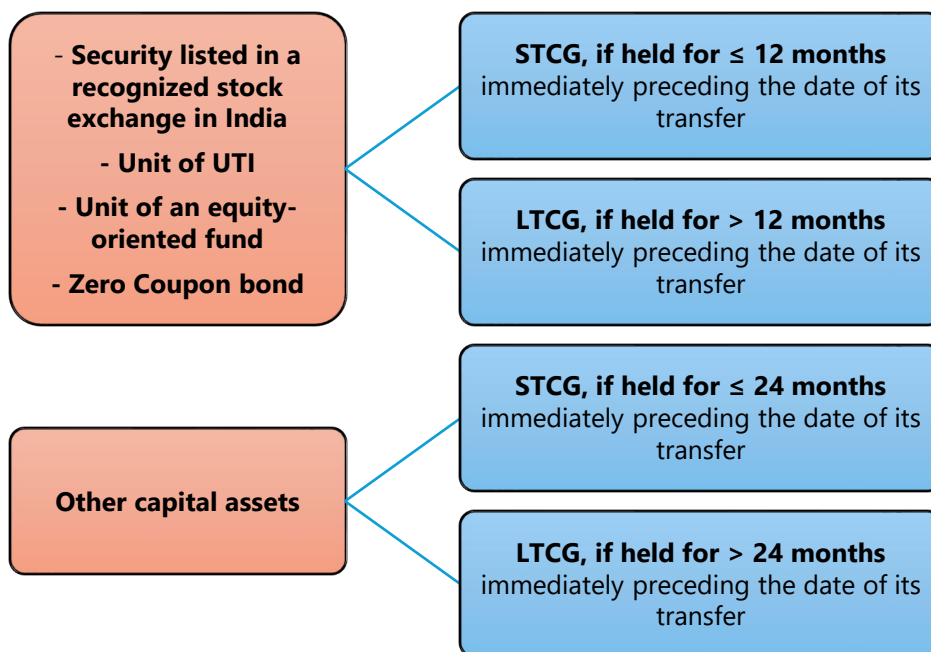


4.4 SHORT TERM AND LONG TERM CAPITAL ASSETS

- ◆ **Definition:** As per section 2(101), **short-term capital asset** means a capital asset held by an assessee **for not more than 24 months** immediately preceding the date of its transfer.

As per section 2(67), long-term capital asset means a capital asset which is not a short-term capital asset.

Accordingly, based on the period of holding capital assets would be classified as short-term or long-term capital asset as follows:



As per section 76, capital gains arising from transfer of the following assets would always be short term capital gains irrespective of the period of holding of such assets –

- ♦ units of a specified mutual fund acquired on or after 1.4.2023,
- ♦ market linked debentures and
- ♦ unlisted bond and unlisted debenture.

♦ **Meaning of certain terms:**

Term	Meaning
Equity oriented fund	A fund set up under a scheme of a mutual fund ³ and (i) in a case where the fund invests in the units of another fund which is traded on a recognised stock exchange –

³Specified in Schedule VII (Table: S. No. 20 or 21)

	I. a minimum of 90% of the total proceeds of such fund is invested in the units of such other fund; and II. such other fund also invests a minimum of 90% of its total proceeds in the equity shares of domestic companies listed on a recognised stock exchange; and (ii) in any other case, a minimum of 65% of the total proceeds of such fund is invested in the equity shares of domestic companies listed on a recognised stock exchange. However, the percentage of equity shareholding or unit held in respect of the fund shall be computed with reference to the annual average of the monthly averages of the opening and closing figures.
Zero Coupon Bond [Section 2(112)]	A bond - issued by any infrastructure capital company or infrastructure capital fund or infrastructure debt fund⁴ or a public sector company or a scheduled bank on or after 1st June, 2005, - for which no payment and benefit is received or receivable before maturity or redemption from such issuing entity and - which the Central Government may notify in this behalf.

- ♦ **Determination of period of holding [Section 2(101)(c)]:** In determining the period for which capital asset is held by the assessee, the following will be taken into consideration.

A. Period to be excluded: In the circumstances stated in column (1), the period specified in column (2) **shall be excluded:**

Circumstances (Column 1)	Period to be excluded (Column 2)
Where shares held in a company in liquidation	The period subsequent to the date on which the company goes into liquidation.

⁴ Infrastructure debt fund notified by Central Government under Schedule VII (Table: Sl. No. 46)

- B. Period to be included:** In the circumstances stated in column (1), the period specified in column (2) **shall be included:**

S. No.	Circumstances (Column 1)	Period of holding (Column 2)
1	Where capital asset becomes the property of the assessee in the circumstances mentioned in section 73(1)(Table: Sl. No. 1)	The period for which the capital asset was held by the previous owner.
2	Where share(s) in an Indian company (amalgamated company), becomes the property of an assessee in lieu of share(s) held by him in the amalgamating company at the time of transfer referred to in section 70(1)(f).	The period for which the share(s) in the amalgamating company were held by the assessee.
3.	Where share(s) in an Indian company being a resulting company becomes the property of an assessee in consideration of demerger.	The period for which the share(s) in the demerged company was held by the assessee.
4	Where equity shares in a company becomes the property of the assessee by way of conversion of preference shares into equity shares referred under section 70(1)(zb)	The period for which the preference shares were held by the assessee.
5	In case of Electronic Gold Receipt [EGR] issued by a Vault Manager in respect	The period for which such gold was held by the assessee before

	of gold deposited as referred to in section 70(1)(y)	conversion into the Electronic Gold Receipt
6	In case of Gold released in respect of an Electronic Gold Receipt as referred to in section 70(1)(y)	The period for which such Electronic Gold Receipt was held by the assessee before its conversion into gold.

- C. Period to be reckoned from a date:** In the circumstances stated in column (1), the period **shall be reckoned from the date** specified in column (2):

S. No.	Circumstances (Column 1)	Period to be reckoned (Column 2)
1	Where inventory of business is converted into or treated as a capital asset by the assessee [as referred to in section 26(2)(j)]	From the date of conversion or treatment as a capital asset.
2	Where the share or any other security is subscribed by the assessee on the basis of right to subscribe to any share or security or subscribed by the person in whose favour the assessee has renounced his right	From the date of allotment of such share or security.
3.	Where the right to subscribe to any share or security, which is renounced in favour of any other person	From the date of offer of such right by the company or institution.
4	Where any financial asset is allotted without any payment and on the basis of holding of any other financial asset	From the date of allotment of such financial asset.

5	Where any specified security or sweat equity shares allotted or transferred, directly or indirectly, by the employer free of cost or at concessional rate to his employees (including former employees)	From the date of allotment or transfer of such specified security or sweat equity shares.
“Specified security” means the securities as defined in section 2(h) of the Securities Contracts (Regulation) Act, 1956 and, where employees’ stock option has been granted under any plan or scheme therefor, includes the securities offered under such plan or scheme. “Sweat equity shares” means equity shares issued by a company to its employees or directors at a discount or for consideration other than cash for providing know-how or making available rights in the nature of intellectual property rights or value additions, by whatever name called.		

- D. Period of holding in respect of other capital assets** - The period for which any capital asset is held by the assessee shall be determined in accordance with any rules made by the CBDT in this behalf.

Accordingly, Rule 6 in the Income-tax Rules, 2026 provides for method of determination of period of holding of capital assets, other than the capital assets mentioned in items (A) to (C) of section 2(101)(c).

In the case of a capital asset, **being a share or debenture of a company**, which **becomes the property** of the assessee in the circumstances mentioned in **section 70(1)(z)**, there shall be **included the period** for which the bond, debenture, debenture-stock or deposit certificate, as the case may be, was held by the assessee **prior to the conversion**.

Note: Section 70(1)(z) provides that 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 shall not be regarded as transfer for the purposes of levy of capital gains tax.



4.5 TRANSFER [SECTION 2(109)]

Section 2(109) contains an inclusive definition of the term 'transfer'. Accordingly, transfer in relation to a capital asset includes the following types of transactions -

- (a) the sale, exchange or relinquishment of the asset; or
- (b) the extinguishment of any rights therein; or
- (c) the compulsory acquisition thereof under any law; or



Acquisition of industrial undertaking under the Industries (Development and Regulation) Act, 1951.

- (d) the owner of a capital asset may convert the same into the stock-in-trade of a business carried on by him. Such conversion is treated as transfer; or



Where an investor in shares starts a business of dealing in shares and treats existing investments as stock-in-trade of the newly set up business, such conversion shall be regarded as transfer for the purpose of capital gains.

- (e) the maturity or redemption of a zero-coupon bond; or
- (f) transactions which have the effect of transferring or enabling the enjoyment of an immovable property.



A person may become a member of a co-operative society, company or other association of persons which may be building houses/flats. When he pays an agreed amount, the society etc. hands over possession of the house to the person concerned. No conveyance is registered. For the purpose of income-tax, the above transaction is a transfer.

- (g) possession of an immovable property in consideration of part-performance of a contract referred to in section 53A of the Transfer of Property Act, 1882.



A enters into an agreement for the sale of his house. The purchaser gives the entire sale consideration to A. A hands over complete rights of possession to the purchaser since he has received the entire sale consideration though house is not yet registered in the name of the buyer. The above transaction is considered as transfer.

- (h) disposing of, or parting with, an asset or any interest therein, or creating any interest in any asset in any manner directly or indirectly, absolutely or

conditionally, voluntarily or involuntarily by way of an agreement (whether entered into in India or outside India) or otherwise.

The above transactions would be treated as a transfer irrespective of whether such transfer of rights has been characterised as being effected or dependent upon or flowing from the transfer of a share or shares of a company registered or incorporated outside India.

Meaning of Immovable Property:

The expression "immovable property" means -

- (i) any land or any building or part of a building, and includes
 - where any land/building/part of a building is to be transferred together with any machinery, plant, furniture, fittings or other things, such machinery, plant, furniture, fittings or other things are also included in the "immovable property",
 - the land, building, part of a building, machinery, plant, furniture, fittings and other things include any rights therein.
- (ii) any rights in or with respect to any land or any building or a part of a building (whether or not including any machinery, plant, furniture, fittings or other things therein), which has been constructed or which is to be constructed, accruing or arising from 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 any arrangement of whatever nature), not being a transaction by way of sale, exchange or lease of such land, building or part of a building.

ILLUSTRATION 1

How will you calculate the period of holding in case of the following assets?

- (1) *Shares held in a company in liquidation*
- (2) *Bonus shares*
- (3) *Flat in a co-operative society*

SOLUTION

- (1) **Shares held in a company in liquidation** - The period after the date on which the company goes into liquidation shall be excluded while calculating the period of holding. Therefore, the period of holding shall commence from the date of acquisition and end with the date on which the company goes into liquidation.
- (2) **Bonus shares** - The period of holding shall be reckoned from the date of allotment of bonus shares and will end with the date of transfer.
- (3) **Flat in a co-operative society** - The period of holding shall be reckoned from the date of allotment of shares in the society and will end with the date of transfer.

Note – Any transaction whether by way of becoming a member of, or acquiring shares in, a co-operative society or by way of any agreement or any arrangement or in any other manner whatsoever which has the effect of transferring, or enabling enjoyment of, any immovable property is a transfer as per section 2(109)(f).

Hence, it is possible to take a view that any date from which such right is obtained may be taken as the date of acquisition.

	
4.	<i>Unlisted securities are treated as long-term capital assets, if they are held for a period of more than -</i>
	(a) 12 Months
	(b) 36 Months
	(c) 24 Months
	(d) 48 Months
5.	<i>Mr. Raj converted preference shares of ABC Ltd. into equity shares of the company and later on sold the equity shares. For determining period of holding of equity shares, period of holding of:</i>
	(a) equity shares alone is considered
	(b) preference shares is also included
	(c) only post-conversion period is considered
	(d) no period is counted



4.6 SCOPE AND YEAR OF CHARGEABILITY [SECTION 67]

(i) General Provision [Section 67(1)]

Any profits or gains arising from the transfer of a capital asset effected in a tax year (other than exemptions covered under this unit) shall be chargeable to income-tax under this head **in the tax year in which the transfer took place.**



Capital gains are chargeable as the income of the tax year in which the sale or transfer takes place. In other words, for determining the year of chargeability, the relevant date of transfer is not the date of the agreement to sell, but the actual date of sale *i.e.*, the date on which the effect of transfer of title to the property as contemplated by the parties has taken place⁵.

However, as already noted, Income-tax Act has recognised certain transactions as transfer in spite of the fact that conveyance deed might not have been executed and registered.

(ii) Insurance Receipts [Section 67(2)]

If a person receives during any tax year any money or other assets under an 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 any other convulsion of nature,
- ◆ riot or civil disturbance,
- ◆ accidental fire or explosion or
- ◆ action by an enemy or action taken in combating an enemy (whether with or without declaration of war),

then, any profits or gains arising from receipt of such money or other assets shall be chargeable to income-tax under the head "Capital gains" and shall be deemed to be the income of **such person for the tax year in which such money or other asset was received.**

⁵*Alapati Venkatramiah v. CIT [1965] 57 ITR 185 (SC)*

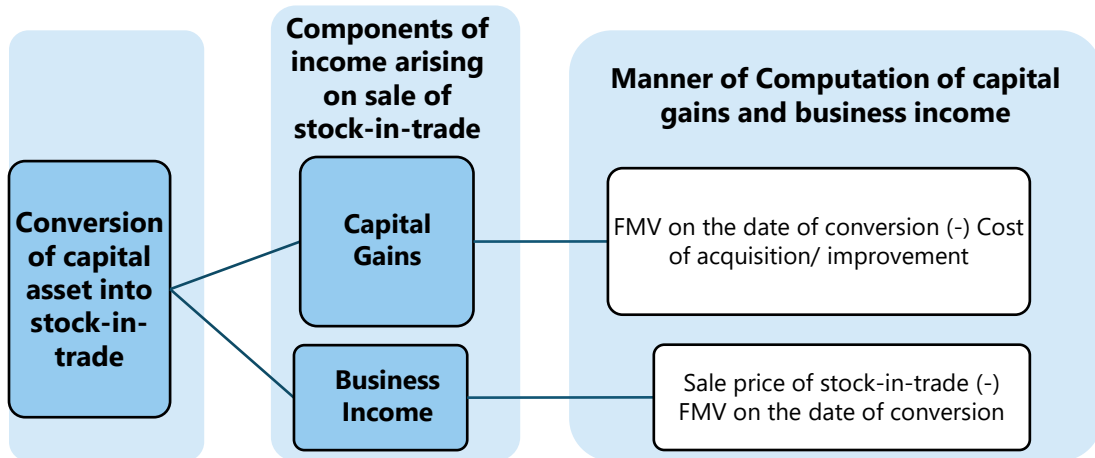
Full value of consideration: In order to compute capital gains, the value of any money or the fair market value of other assets on the date of such receipt shall be deemed to be the full value of the consideration received or accruing as a result of the transfer of such capital assets.

(iii) Conversion or treatment of a capital asset as stock-in-trade [Section 67(6)]

A person who is the owner of a capital asset may convert the same or treat it as stock-in-trade of the business carried on by him. As noted above, the above transaction is a transfer.

As per section 67(6), irrespective of anything contained in section 67(1), being the charging section, the profits or gains arising from the above conversion or treatment will be chargeable to income-tax as **his income of the tax year in which such stock-in-trade is sold or otherwise transferred by him.**

Full value of consideration: In order to compute the capital gains, the fair market value of the asset on the date of such conversion or treatment shall be deemed to be the full value of the consideration received or accruing as a result of the transfer of such capital asset.



Note – Both Capital Gains and Business income are chargeable to tax in the year in which stock-in-trade is sold or otherwise transferred.

ILLUSTRATION 2

A is the owner of a car which he uses for his personal purposes. On 1-4-2026, he starts a new business of purchase and sale of motor cars. He treats the above car as part of the stock-in-trade of his new business. He sells the same on 31-3-2027 and gets a profit of ₹ 1 lakh. Discuss the tax implication in his hands under the head "Capital gains".

SOLUTION

Since car is a personal asset, conversion or treatment of the same as the stock-in-trade of his business will not be trapped by the provisions of section 67(6). Hence, A is not liable to capital gains tax. Profit on sale of car as stock in trade would be taxable under the head "Profits and gains of business or profession".

ILLUSTRATION 3

X converts his capital asset (shares of company acquired on June 10, 2020 for ₹ 60,000) into stock-in-trade on March 10, 2026. The fair market value on the date of the above conversion was ₹ 5,50,000. He subsequently sells the stock-in-trade so converted for ₹ 6,00,000 on June 10, 2026. Discuss the year of chargeability of capital gain and business income.

SOLUTION

Since the capital asset is converted into stock-in-trade during the tax year 2025-26, it will be a transfer under section 2(109) during the T.Y. 2025-26. However, the profits or gains arising from the above conversion will be chargeable to tax during the T.Y. 2026-27, since the stock-in-trade has been sold only on June 10, 2026. For this purpose, the fair market value on the date of such conversion (i.e. 10th March, 2026) will be the full value of consideration for computation of capital gains.

The capital gains would be computed by reducing the cost of acquisition therefrom. ₹ 4,90,000 (i.e., ₹ 5,50,000 – ₹ 60,000) will be treated as long-term capital gains chargeable to tax during the T.Y. 2026-27. The business income of ₹ 50,000 (i.e., ₹ 6,00,000 (-) ₹ 5,50,000, being the fair market value on the date of conversion) would also be taxable in the T.Y. 2026-27. Thus, both capital gains and business income would be chargeable to tax in the T.Y. 2026-27.

(iv) Compensation on compulsory acquisition [Section 67(12)]

Sometimes, a building or some other capital asset belonging to a person is taken over by the Central Government by way of compulsory acquisition. In that case, the consideration for the transfer is determined by the Central Government or RBI. When the Central Government pays the above compensation, capital gains may arise. Such capital gains are **chargeable as income of the tax year in which such compensation or part thereof, was first received.**

Enhanced Compensation - Many times, persons whose capital assets have been taken over by the Central Government and who get compensation from the Government go to the Court of law for enhancement of compensation. If the court awards compensation which is higher than the original compensation, the difference thereof will be chargeable to capital gains in the year in which the same is received from the government.

Compensation received in pursuance of an interim order deemed as income chargeable to tax in the year of final order - Section 67(12)(c) provides that compensation received in pursuance of an interim order of the court, tribunal or other authority, compensation shall be deemed to be income chargeable under the head 'Capital gains' in the tax year in which the final order of such court, tribunal or other authority is made.

Cost of acquisition in case of enhanced compensation - For this purpose, the cost of acquisition and cost of improvement shall be taken to be nil.

Reduction of enhanced compensation - Where capital gain has been charged on the compensation received by the assessee for the compulsory acquisition of any capital asset or enhanced compensation received by the assessee and subsequently such compensation is reduced by any Court, Tribunal or any authority, the assessed capital gain of that year shall be recomputed by taking into consideration the reduced amount. This re-computation shall be done by way of rectification⁶.

Enhanced consideration received by any other person - Where the enhanced compensation or consideration is received by any other person due to death of the transferor or for any other reason, such sum will be chargeable to tax in the hands of the person who receives the same.



6.	<i>Compensation received pursuant to an interim order shall be deemed to be income chargeable under the head "Capital Gains" in the tax year in which _____.</i>
(a)	<i>the final order of such Court, Tribunal or other authority is made</i>
(b)	<i>the compensation accrued</i>
(c)	<i>the appeal was first filed before such Court, Tribunal or other authority</i>
(d)	<i>the interim order is passed</i>

⁶under section 288

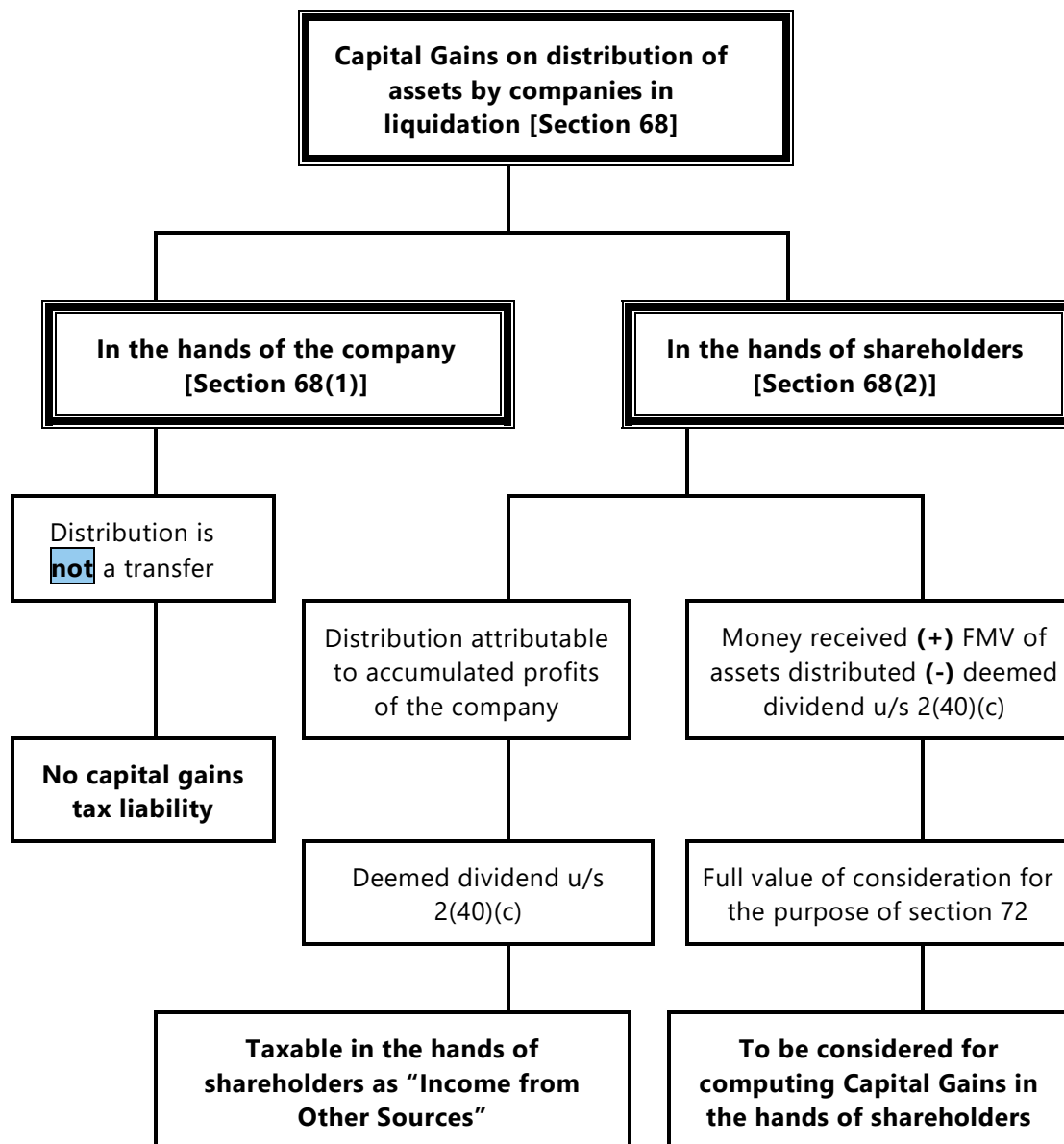


4.7 CAPITAL GAINS ON DISTRIBUTION OF ASSETS BY COMPANIES IN LIQUIDATION [SECTION 68]

- (1) **In the hands of liquidated company:** Where the assets of a company are distributed to its shareholders on its liquidation, such distribution shall **not** be regarded as a transfer by the company for the purposes of section 67 [Section 68(1)].

The above section is restricted in its application to the circumstances mentioned therein i.e., the assets of the company must be distributed in specie to shareholders on the liquidation of the company. If, however, the liquidator sells the assets of the company resulting in a capital gain and distributes the funds so collected, the company will be liable to pay tax on such gains.

- (2) **In the hands of shareholders:** Shareholders receive money or other assets from the company on its liquidation. They will be chargeable to income-tax under the head 'capital gains' in respect of the market value of the assets received on the date of distribution, or the moneys so received by them. The portion of the distribution which is attributable to the accumulated profits of the company is to be treated as dividend income under section 2(40)(c), which would be taxable in the hands of shareholders under the head "Income from other sources". The same will be deducted from the amount received or fair market value or both for the purpose of determining the consideration for computation of capital gains.
- (3) **Capital gains tax on subsequent sale by the shareholders:** If the shareholder, after receipt of any such asset on liquidation of the company, transfers it, then Fair Market Value on the date of distribution would be treated as cost of acquisition of such asset.





7.	On liquidation of XYZ Pvt. Ltd., shareholder Mr. X received cash of ₹ 3 lakhs and land having FMV of ₹ 7 lakhs. The accumulated profit of the company as on date was ₹ 2 lakhs. The full value of consideration for capital gains purposes in the hands of Mr. X would be:
(a)	₹ 10 lakhs
(b)	₹ 8 lakhs
(c)	₹ 7 lakhs
(d)	₹ 5 lakhs



4.8 CAPITAL GAINS ON BUYBACK OF SHARES OR SPECIFIED SECURITIES [SECTION 69]

- (1) **Taxability of consideration received by shareholders of holder of other specified securities on buy-back of shares or specified securities:** Any consideration received by a shareholder or holder of other specified securities from any company on purchase of its own shares or other specified securities is chargeable to tax in the hands of the shareholder or the holder of specified securities.
- (2) **Capital gains on buy-back of shares or specified securities:** The difference between the cost of acquisition and the value of consideration received by the shareholder or holder of other specified securities is chargeable to tax as capital gains in his hands. The computation of capital gains shall be made as per the provisions of section 72.
- (3) **Year of Taxability:** Such capital gains shall be chargeable to tax in the year in which such shares or specified securities were purchased by the company.
- (4) **Additional income-tax payable by promoters:** Where the shareholder or the holder of other specified securities is a person other than the promoter of the company, the capital gains arising on the transfer of such shares or specified securities shall be taxable at the applicable rate of tax.

However, where the shareholder or the holder of other specified securities is a promoter of the company and the capital gains arising on the transfer of such shares or specified securities are taxable under section 196, 197 or 198, such promoter shall, in addition to the tax payable under the said sections, be liable to pay an additional income-tax on the capital gains arising from such transfer.

The rate of such additional income tax are as follow:

Sr. No.	Nature of Capital Gains	Rate of additional tax, where the promoter is a domestic company	Rate of additional tax, where the promoter is other than a domestic company
1.	Short-term capital gains referred to in section 196 arising from the transfer of such shares or specified securities.	2%	10%
2.	Long-term capital gains referred to in section 197 or section 198 arising from the transfer of such shares or specified securities.	9.5%	17.5%

- (5) **Surcharge on additional income tax:** Further, **a flat surcharge @12% shall be levied on additional tax payable** on buy-back of shares, irrespective of the amount of the total income.

- (6) **Meaning of certain terms:**

Sr. No.	Terms	Meaning
1.	Specified securities	As per <i>Explanation 1</i> to section 68 of the Companies Act, 2013, "specified securities" include employees' stock option or other securities as may be notified by the Central Government from time to time.

2.	Promoter	In the case of a company whose shares are listed on a recognised stock exchange in India 'Promoter' shall have the same meaning as assigned to it in regulation 2(k) of the SEBI (Buy-Back of Securities) Regulations, 2018 made under the SEBI Act, 1992. In any other case "Promoter" means - - a "promoter" as defined in section 2(69) of the Companies Act, 2013 i.e., a person who has been named as such in a prospectus or is identified by the company in the annual return or who has control over the affairs of the company, directly or indirectly whether as a shareholder, director or otherwise or in accordance with whose advice, directions or instructions the Board of Directors of the company is accustomed to act except if such person who is acting merely in a professional capacity or - a person who holds, directly or indirectly, more than 10% of the shareholding in the company.
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ILLUSTRATION 4

ABC Pvt. Ltd. issued 20,000 equity shares to Mr. Amit, a promoter, on 8th April, 2020 at ₹20 per share (face value ₹10 per share). Subsequently, in May 2026, the company bought back 15,000 of these shares at ₹35 per share from Mr. Amit. What would be the tax treatment of buy back in the hands of Mr. Amit?

SOLUTION

On buy back of shares by ABC Pvt. Ltd., long-term capital gain would arise in the hands of Mr. Amit since equity shares were held for more than 24 months.

Long term capital gain = Value of consideration received - cost of acquisition

= ₹ 5,25,000 (15,000 x ₹ 35) - ₹ 3,00,000 (15,000 x ₹ 20)

= ₹ 2,25,000

Tax on long term capital gain u/s 197 = 12.5% of ₹ 2,25,000 = ₹ 28,125

As Amit is a non-corporate promoter of ABC Pvt. Ltd., he is liable to pay additional income tax at the rate of 17.5%. Thus, additional income tax shall be ₹ 39,375 (17.5% of ₹ 2,25,000). Further, he is required to pay a surcharge of 12% on additional income tax amounting to ₹ 4,725 (12% of ₹ 39,375).

Taxes on buy back in the hands of Amit –

Tax u/s 197 on long term capital gains = ₹ 28,125

Additional income tax on buy back = ₹ 39,375

Surcharge on additional income-tax = ₹ 4,725

4.9 IMPORTANT DEFINITIONS

(a) Amalgamation [Section 2(6)] - "Amalgamation", in relation to companies, means -

- the merger of one or more companies with another company or
- the merger of two or more companies to form one company

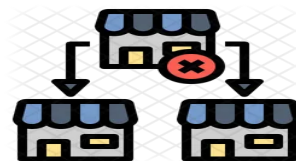


(the company or companies which so merge being referred to as the amalgamating company or companies and the company with which they merge or which is formed as a result of the merger, as the amalgamated company) in such a manner that -

- (i) all the property of the amalgamating company or companies immediately before the amalgamation becomes the property of the amalgamated company by virtue of the amalgamation;
- (ii) all the liabilities of the amalgamating company or companies immediately before the amalgamation become the liabilities of the amalgamated company by virtue of the amalgamation;
- (iii) the shareholders holding not less than three-fourth in value of the shares in the amalgamating company or companies (other than shares already held therein immediately before the amalgamation by, or by a nominee for, the amalgamated company or its subsidiary) become shareholders of the amalgamated company by virtue of the amalgamation,

otherwise than as a result of the acquisition of the property of one company by another company pursuant to the purchase of such property by the other company or as a result of the distribution of such property to the other company after the winding up of the first mentioned company.

- (b) Demerger [Section 2(35)]** - "Demerger", in relation to companies, means the transfer, pursuant to a scheme of arrangement under sections 230 to 232 of the Companies Act, 2013, by a demerged company of its one or more undertakings to any resulting company in such a manner that -



- (i) all the property of the undertaking, being transferred by the demerged company, immediately before the demerger, becomes the property of the resulting company by virtue of the demerger;
- (ii) all the liabilities relatable to the undertaking, being transferred by the demerged company, immediately before the demerger, become the liabilities of the resulting company by virtue of the demerger;
- (iii) the property and the liabilities of the undertaking or undertakings being transferred by the demerged company are transferred at values appearing in its books of account immediately before the demerger;

However, this provision does not apply where, in compliance to the Indian Accounting Standards specified in Annexure to the Companies (Indian Accounting Standards) Rules, 2015.

- (iv) the resulting company issues, in consideration of the demerger, its shares to the shareholders of the demerged company on a proportionate basis;

Note - If the resulting company is a shareholder of the demerged company, it cannot issue shares to itself. However, the resulting company has to issue shares to the other shareholders of the demerged company.

- (v) the shareholders holding not less than three-fourths in value of the shares in the demerged company (other than shares already held therein immediately before the demerger, or by a nominee for, the resulting company or, its subsidiary) become shareholders of the resulting company or companies by virtue of the demerger, otherwise than as a

result of the acquisition of the property or assets of the demerged company or any undertaking thereof by the resulting company;

- (vi) the transfer of the undertaking is on a going concern basis;
- (vii) the demerger is as per the conditions, if any, notified⁷ by the Central Government in this behalf.

Reconstruction or splitting up of a public sector company into separate companies shall be deemed to be a demerger, if it has been made to transfer any asset of the demerged company to the resulting company and the resulting company –

- (a) is a public sector company on the appointed day indicated in such scheme approved by the Central Government or any other body authorized under the Companies Act, 2013 or any other applicable law governing such public sector companies; and
 - (b) fulfils such other conditions as may be notified by the Central Government.
- (c) **Demerged Company** - Demerged company means the company whose undertaking is transferred, pursuant to a demerger, to a resulting company.
- (d) **Resulting Company** - Resulting company means one or more companies (including a wholly owned subsidiary thereof) to which the undertaking of the demerged company is transferred in a demerger and, the resulting company in consideration of such transfer of undertaking, issues shares to the shareholders of the demerged company and includes any authority or body or local authority or public sector company or a company established, constituted or formed as a result of demerger.



4.10 TRANSACTIONS NOT REGARDED AS TRANSFER [SECTION 70]

Section 70 specifies certain transactions which will not be regarded as transfer for the purpose of capital gains tax:

⁷under sub-section (7) of section 116

- (1) **Total or partial partition of a HUF:** Any distribution of capital assets on the total or partial partition of a HUF [Section 70(1)(a)].
- (2) **A gift or will or an irrevocable trust by individual or HUF:** Any transfer of a capital asset by an individual or HUF under a gift or will or an irrevocable trust [Section 70(1)(b)].
- (3) **Transfer of capital asset by holding company to its wholly owned Indian subsidiary company:** Any transfer of capital asset, not being stock-in-trade, by a company to its subsidiary company [Section 70(1)(c)].

Conditions:

- (i) The parent company or its nominee must hold the whole of the shares of the subsidiary company; and
 - (ii) The subsidiary company must be an Indian company.
- (4) **Transfer of capital asset by a subsidiary company to its 100% holding company, being an Indian company:** Any transfer of capital asset, not being stock-in-trade, by a subsidiary company to the holding company [Section 70(1)(d)].

Conditions:

- (i) The whole of shares of the subsidiary company must be held by the holding company; and
 - (ii) The holding company must be an Indian company.
- (5) **Transfer of capital asset by amalgamating company to amalgamated Indian company, in a scheme of amalgamation:** 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 [Section 70(1)(e)].
 - (6) **Transfer of shares by a shareholder in a scheme of amalgamation:** Any transfer by a shareholder, in a scheme of amalgamation, of shares held by him in the amalgamating company [Section 70(1)(f)].

Conditions:

- (i) The transfer is made in consideration of the allotment to him of any share/s in the amalgamated company, except where the shareholder itself is the amalgamated company;
- (ii) The amalgamated company is an Indian company.



Let us take a case where A Ltd., an Indian company, holds 60% of shares in B Ltd. B Ltd. amalgamates with A Ltd. Since A Ltd. itself is the shareholder of B Ltd., A Ltd., being the amalgamated company, cannot issue shares to itself. However, A Ltd. has to issue shares to the other shareholders of B Ltd.

ILLUSTRATION 5

M held 2000 shares in a company ABC Ltd., an Indian company. This company amalgamated with another Indian company XYZ Ltd. during the tax year ending 31.3.2027. Under the scheme of amalgamation, M was allotted 1000 shares in the new company. The market value of shares allotted is higher by ₹ 50,000 than the value of holding in ABC Ltd. The Assessing Officer proposes to treat the transaction as an exchange and to tax ₹ 50,000 as capital gain. Is he justified?

SOLUTION

In the above example, the transaction is squarely covered by the exemption explained above and the proposal of the Assessing Officer to treat the transaction as a transfer is not justified.

- (7) Transfer of capital asset by the demerged company to the resulting Indian company, in a scheme of demerger:** 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 [Section 70(1)(j)].
- (8) Transfer or issue of shares by a resulting company, in a scheme of demerger:** 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 is made in consideration of the demerger of the undertaking [Section 70(1)(k)].
- (9) Redemption of sovereign gold bonds:** Redemption of sovereign gold bonds issued by RBI under the Sovereign Gold Bond Scheme, 2015 or

subsequent Sovereign Gold Bond Scheme, if held by an individual from the date of original issue till maturity [Section 70(1)(x)]

- (10) **Conversion of gold into Electronic Gold Receipt or vice versa:** Any transfer of a capital asset, being conversion of gold into Electronic Gold Receipt issued by a Vault Manager, or conversion of Electronic Gold Receipt into gold [Section 70(1)(y)]
- (11) **Conversion of bonds or debentures, debenture-stock or deposit certificates in any form, of a company into shares or debentures:** 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 [Section 70(1)(z)]
- (12) **Conversion of preference shares into equity shares:** Any transfer by way of conversion of preference shares of a company into equity shares of that company [Section 70(1)(zb)]
- (13) **Transfer of specified capital asset to the Government or university etc.:** Any transfer of any of the following capital asset to the Government or to the University or the National Museum, National Art Gallery, National Archives or any other public museum or institution notified by the Central Government to be of national importance or to be of renown throughout any State
- (i) work of art
 - (ii) archaeological, scientific or art collection
 - (iii) book
 - (iv) manuscript
 - (v) drawing
 - (vi) painting
 - (vii) photograph or
 - (viii) print [Section 70(1)(zc)].
- (14) **Transfer of capital asset under Reverse Mortgage:** Any transfer of a capital asset in a transaction of reverse mortgage under a scheme made and notified by the Central Government [Section 70(1)(zh)].

The Reverse Mortgage scheme is for the benefit of senior citizens, who own a residential house property. In order to supplement their existing income,

they can mortgage their house property with a scheduled bank or housing finance company, in return for a lump-sum amount or for a regular monthly/quarterly/annual income. The senior citizens can continue to live in the house and receive regular income, without the botheration of having to pay back the loan.

The loan will be given up to, say, 60% of the value of residential house property mortgaged. Also, the bank/housing finance company would undertake a revaluation of the property once every 5 years. The borrower can use the loan amount for renovation and extension of residential property, family's medical and emergency expenditure etc., amongst others. However, he cannot use the amount for speculative or trading purposes.

The Reverse Mortgage Scheme, 2008, now includes within its scope, disbursement of loan by an approved lending institution, in part or in full, to the annuity sourcing institution, for the purposes of periodic payments by way of annuity to the reverse mortgagor. This would be an additional mode of disbursement i.e., in addition to direct disbursements by the approved lending institution to the Reverse Mortgagor by way of periodic payments or lump sum payment in one or more tranches.

An annuity sourcing institution has been defined to mean Life Insurance Corporation of India or any other insurer registered with the Insurance Regulatory and Development Authority.

Maximum Period of Reverse Mortgage Loan:

	Mode of disbursement	Maximum period of loan
(a)	Where the loan is disbursed directly to the Reverse Mortgagor	20 years from the date of signing the agreement by the reverse mortgagor and the approved lending institution.
(b)	Where the loan is disbursed, in part or in full, to the annuity sourcing institution for the purposes of periodic payments by way of annuity to the Reverse mortgagor	The residual life time of the borrower.

The bank will recover the loan along with the accumulated interest by selling the house after the death of the borrower. The excess amount will be given to the legal heirs. However, before resorting to sale of the house, preference will be given to the legal heirs to repay the loan and interest and get the mortgaged property released.

Therefore, section 70(1)(zh) clarifies that any transfer of a capital asset in a transaction of reverse mortgage under a scheme made and notified by the Central Government would not amount to transfer for the purpose of capital gains.

Exemption of income received in a transaction of reverse mortgage
[Schedule III (Table: S. No. 35): [Schedule III (Table: S. No. 35) provides that the amount received by the senior citizen as a loan, either in lump sum or in installments, in a transaction of reverse mortgage would be exempt from income-tax.

ILLUSTRATION 6

In which of the following situations capital gains tax liability does not arise?

- (i) Mr. A purchased gold in 1970 for ₹ 25,000. In the T.Y. 2026-27, he gifted it to his son at the time of marriage. Fair market value (FMV) of the gold on the day the gift was made was ₹ 1,00,000.
- (ii) A house property is purchased by a Hindu undivided family in 1945 for ₹ 20,000. It is given to one of the family members in the T.Y. 2026-27 at the time of partition of the family. FMV on the date of partition was ₹ 12,00,000.
- (iii) Mr. B purchased 50 convertible debentures for ₹ 40,000 in 1995 which are converted into 500 shares worth ₹ 85,000 in November 2026 by the company.

SOLUTION

We know that capital gains arises only when we transfer a capital asset. The liability of capital gains tax in the situations given above is discussed as follows:

- (i) As per the provisions of section 70(1)(b), gift of a capital asset by an individual is **not** regarded as transfer for the purpose of capital gains. Therefore, capital gains tax liability does not arise in the given situation.
- (ii) As per the provisions of section 70(1)(a), distribution of a capital asset (being in kind) on the total or partial partition of Hindu undivided family is **not**

regarded as transfer for the purpose of capital gains. Therefore, capital gains tax liability does not arise in the given situation.

- (iii) As per the provisions of section 70(1)(z), conversion of bonds or debentures, debenture stock or deposit certificates in any form of a company into shares or debentures of that company is **not** regarded as transfer for the purpose of capital gains. Therefore, capital gains tax liability does not arise in the given situation.

ILLUSTRATION 7

Mr. Abhishek a senior citizen, mortgaged his residential house with a bank, under a notified reverse mortgage scheme. He was getting loan from bank in monthly installments. Mr. Abhishek did not repay the loan on maturity and hence gave possession of the house to the bank, to discharge his loan. How will the treatment of long-term capital gain be on such reverse mortgage transaction?

SOLUTION

Section 70(1)(zh) provides that any transfer of a capital asset in a transaction of reverse mortgage under a scheme made and notified by the Central Government shall not be considered as a transfer for the purpose of capital gain.

Accordingly, the mortgaging of residential house with bank by Mr. Abhishek will not be regarded as a transfer. Therefore, no capital gain will be charged on such transaction.

Further, Schedule III (Table: S. No. 35) provides that the amount received by the senior citizen as a loan, either in lump sum or in installment, in a transaction of reverse mortgage would be exempt from income-tax. Therefore, the monthly installment amounts received by Mr. Abhishek would not be taxable.

ILLUSTRATION 8

Examine, with reasons, whether the following statements are True or False.

- (i) *Alienation of a residential house in a transaction of reverse mortgage under a scheme made and notified by the Central Government is treated as "transfer" for the purpose of capital gains.*
- (ii) *Zero coupon bonds of eligible corporation, held for 14 months, will be long-term capital assets.*
- (iii) *Zero Coupon Bond means a bond on which no payment and benefits are received or receivable before maturity or redemption.*

SOLUTION

- (i) **False:** As per section 70(1)(zh), such alienation in a transaction of reverse mortgage under a scheme made and notified by the Central Government is not regarded as "transfer" for the purpose of capital gains.
- (ii) **True:** Section 2(101) defines the term 'short-term capital asset'. Under the proviso to section 2(101), zero coupon bond held for not more than 12 months will be treated as a short-term capital asset. Consequently, such bonds held for more than 12 months will be a long-term capital asset.
- (iii) **True:** As per section 2(112), 'Zero Coupon Bond' means a bond issued by any infrastructure capital company or infrastructure capital fund or infrastructure debt fund or a public sector company, or Scheduled Bank on or after 1st June 2005, in respect of which no payment and benefit is received or receivable before maturity or redemption from such issuing entity and which the Central Government may notify in this behalf.



4.11 MODE OF COMPUTATION OF CAPITAL GAINS [SECTION 72]

- (i) **Computation of capital gains:** The income chargeable under the head 'Capital gains' shall be computed by deducting the following items from the full value of the consideration received or accruing as a result of the transfer of the capital asset:
 - (1) Expenditure incurred wholly and exclusively in connection with such transfer like brokerage, stamp duty, registration fee, legal expenses etc.
 - (2) The cost of acquisition of the asset and cost of any improvement thereto.
- (ii) **Cost inflation index:** In case of a resident individual or HUF, while computing tax on transfer of long term capital asset, being land or building or both, which was acquired before 23.7.2024, the excess income-tax computed by following formula shall be ignored -

$$E = A - B$$

E = Excess income-tax to be ignored

A = Long term capital gain without indexation benefit @12.5%

B = Long term capital gain with indexation benefit @20%

Accordingly, for computing B under the aforesaid formula, the cost of acquisition and cost of improvement will be increased by applying the cost inflation index (CII). Once the cost inflation index is applied to the cost of acquisition and cost of improvement, it becomes indexed cost of acquisition and indexed cost of improvement.



It may be noted that the above provision to a resident individual or HUF is only while computing tax on LTCG under section 197 on transfer of land or building or both and not while computing Income under the head "Capital Gains" which would form part of gross total income/total income. Thus, for computing income under the head "Capital Gains" to be included in gross total income, indexation benefit is **not** to be given.

"Cost Inflation Index" in relation to a tax year means such index as may be notified by the Central Government having regard to 75% of average rise in the Consumer Price Index (Urban) for the immediately preceding tax year to such tax year.

Indexed cost of acquisition means an amount which bears to the cost of acquisition, the same proportion as CII for the year in which the asset is transferred bears to the CII for the first year in which the asset was held by the assessee or for the year beginning on 1st April, 2001, whichever is later.

Similarly, indexed cost of any improvement means an amount which bears to the cost of improvement, the same proportion as CII for the year in which the asset is transferred bears to the CII for the year in which the improvement to the asset took place.

The cost inflation indices for the financial years so far have been notified as under:

Financial Year	Cost Inflation Index
2001-02	100
2002-03	105
2003-04	109

2004-05	113
2005-06	117
2006-07	122
2007-08	129
2008-09	137
2009-10	148
2010-11	167
2011-12	184
2012-13	200
2013-14	220
2014-15	240
2015-16	254
2016-17	264
2017-18	272
2018-19	280
2019-20	289
2020-21	301
2021-22	317
2022-23	331
2023-24	348
2024-25	363
2025-26	376
2026-27	Yet to be notified⁸

(iii) No deduction in respect of interest and STT: No deduction shall be allowed in computing the income chargeable under the head "Capital Gains" in respect of:

- (a) the interest claimed as deduction under section 22(1)(b) or under Chapter VIII

⁸ As on the date of release of this Study Material

- (b) any amount paid on account of securities transaction tax under Chapter VII of the Finance (No.2) Act, 2004.

(iv) Special provision for non-residents – In case of non-residents who invest foreign exchange to acquire capital assets, capital gains arising from the transfer of shares or debentures of an Indian company is to be computed in the following manner:

- The cost of acquisition, the expenditure incurred wholly and exclusively in connection with the transfer and the full value of the consideration received or accruing as a result of the transfer of the capital asset are to be converted into the same foreign currency which was initially utilized in purchase of the shares or debentures. The conversion has to be done at the average of Telegraphic Transfer Buying Rate (TTBR) and Telegraphic Transfer Selling Rate (TTSR) on the respective dates.
- The resulting capital gains shall be reconverted into Indian currency by applying the TTBR on the date of transfer.

The aforesaid manner of computation of capital gains shall be applied for every purchase and sale of shares or debentures in an Indian company. This will provide relief from risk of foreign currency fluctuation to non-residents.

Note – The provisions of currency fluctuation would not be applicable to the long-term capital gains arising from the transfer of equity share in a company on which STT is paid both at the time of acquisition and transfer as referred to in section 198.

4.12 ASCERTAINMENT OF COST IN SPECIFIED CIRCUMSTANCES [SECTION 73]

A person becomes the owner of a capital asset not only by purchase but also by several other methods. Section 73(1) gives guidelines as to how to compute the cost under different circumstances.

S. No.	Circumstance	Cost of acquisition
1.	Cost to previous owner deemed as cost of acquisition of asset	
	Where the capital asset became the property of the assessee:	Cost for which the previous owner of the property acquired

	(i) under a gift or will; (ii) by succession, inheritance or devolution; (iii) on any distribution of assets on the liquidation of a company; (iv) under a transfer to revocable or an irrevocable trust; (v) in case of an HUF, by the mode referred to in section 99(3) i.e., conversion by an individual of his separate property into a HUF property; (vi) on any distribution of assets on the total or partition of a HUF; (vii) under any transfer of capital asset by a holding company to its wholly owned subsidiary Indian company or by a subsidiary company to its 100% holding Indian company, referred to in section 70(1)(c) and 70(1)(d), respectively; (viii) under any transfer referred to in section 70(1)(e) of a capital asset by amalgamating company to the amalgamated Indian company, in a scheme of amalgamation; (viii) under any transfer referred to in section 70(1)(j), of a capital asset by the demerged company to the resulting Indian company, in a scheme of demerger;	it. Previous owner of the property means the last previous owner of the capital asset who acquired it by a mode of acquisition other than that referred to in (1). Notes – Cost of improvement – <i>To the cost of acquisition, the cost of improvement to the asset, incurred by the previous owner or the assessee on or after 1.4.2001 must be added.</i> Period of holding – <i>It may be noted that section 2(101)(c) provides that in all such cases, for determining the period for which the capital asset is held by the transferee, the period of holding of the asset by the previous owner shall also be considered.</i> <i>In case of gifted asset, the indexed cost of acquisition has to be computed with reference to the year in which the previous owner first held the asset and not the year in which the assessee became the owner of the asset⁹.</i>
2.	Shares received under the scheme of amalgamation	
	Where shares in an amalgamated	The cost of acquisition to him of

⁹ As decided in Bombay High Court, in CIT v. Manjula J. Shah 16 Taxman 42

	company which is an Indian company become the property of the assessee in consideration of the transfer of shares referred to in section 70(1)(f) held by him in the amalgamating company under a scheme of amalgamation.	the shares in the amalgamated company shall be taken as the cost of acquisition of the shares in the amalgamating company.
3.	Shares or debentures received during the process of conversion of bonds or debentures, debenture stock or deposit certificates	
	Where a person becomes the owner of shares or debentures of a company in consideration of conversion of bonds or debentures, debenture stock or deposit certificates referred under section 70(1)(z).	That part of the cost of debentures, debenture stock, bond or deposit certificate in relation to which such asset (shares or debentures) is acquired by that person.
4.	Specified security or sweat equity shares	
	Where the capital gain arises from the transfer of specified security or sweat equity shares referred to in section 17(1)(d)	Fair market value taken into account for perquisite valuation.
5.	Equity shares received at the time of conversion of preference shares	
	Where equity shares of a company, became the property of the assessee in consideration of transfer by way of conversion of preference shares of the company [Section 70(1)(zb)]	That part of the cost of the preference share in relation to which such equity shares are acquired by the assessee.
6.	Shares received in the resulting company in the scheme of demerger	
	Shares in the resulting company received in case of demerger	The cost of acquisition of the shares in the resulting company shall be computed as per following formula: $X = \frac{A \times B}{C}$

		Where - X = Cost of acquisition of shares in the resulting company A = Cost of acquisition of shares held in the demerged company B = Net book value of the assets transferred in a demerger C = Net worth of the demerged company immediately before the demerger
“Net worth” means the total of the paid up share capital and general reserves as appearing in the books of account of the demerged company immediately before the demerger.		
7.	Shares held in the demerged company	
	Original shares held by the shareholder in the demerged company	The cost of acquisition of the original shares held by the shareholder in the demerged company shall be deemed to have been reduced by the amount as so arrived under serial number 6.
8.	Property subject to tax under section 92(2)(m)	
	Where the capital gain arises from the transfer of such property which has been subject to tax under section 92(2)(m)	The value taken into account for the purposes of section 92(2)(m).
9.	Capital asset which was used by the assessee as an inventory before its conversion into capital asset	
	Where the capital gain arises from the transfer of a capital asset which was used by the assessee as inventory earlier before its conversion into capital asset	The fair market value of the inventory as on the date on such conversion determined in the prescribed manner
10.	Capital asset, being an Electronic Gold Receipt or Gold	
	Where a capital asset, being an Electronic Gold Receipt issued by a	The cost of gold in the hands of the person in whose name

Vault Manager became the property of the person as consideration for transfer of gold [Section 70(1)(y)]	Electronic Gold Receipt is issued.
Where gold is released against an Electronic Gold Receipt, which became the property of the person as consideration for transfer of Electronic Gold Receipt [Section 70(1)(y)]	The cost of the Electronic Gold Receipt in the hands of such person.

4.13 COST OF ACQUISITION [SECTION 90]

Cost of acquisition is the price that the assessee has paid, or the amount that the assessee has incurred, for acquisition of the asset. Expenses incurred for completing the title are a part of the cost of acquisition. For eg: Stamp duty.

Cost of acquisition in relation to the following assets is as follows:

(1) Goodwill of a business or profession or a trademark or brand name associated with a business or profession or any other intangible asset or a right to manufacture, produce or process any article or thing, or right to carry on any business or profession, tenancy rights, stage carriage permits and loom hours, or any other right

(i) In case of acquisition from previous owner [Section 90(3)(a)]: In the case of the above capital assets, if the assessee has purchased them from a previous owner, the cost of acquisition means the amount of the purchase price.



If A purchases a stage carriage permit from B for ₹ 2 lakhs, ₹ 2 lakhs will be the cost of acquisition for A.

(ii) In case of circumstances mentioned under section 73 (Table: S. No. 1) [Section 90(3)(b)]: In cases where the capital asset became the property of the assessee from the previous owner by any of the modes mentioned under Section 73 (Table Sl. No. 1) discussed above, and such capital assets were acquired by the previous owner by purchase, cost of acquisition to the assessee will be the amount of the purchase price for such previous owner.

However, in both the above cases, if capital asset is a goodwill of a business or profession and the assessee has obtained depreciation under section 32(1) of the Income-tax Act, 1961 in a tax year preceding the tax year 2020-21, then the amount of depreciation obtained before T.Y. 2020-21 shall be reduced from the amount of the purchase price.

- (iii) **In any other case [Section 90(3)(c)]:** In any other case **i.e., when assets are self-generated**, the cost of acquisition of above assets will be taken to be Nil.
- (2) **Financial assets [Section 90(5) and 90(6)]** - Many a time, persons who own shares or any other securities become entitled to subscribe to any additional shares or securities. Further, they are also allotted any additional shares or securities without any payment. Such shares or securities are referred to as financial assets. Section 90(5) and (6) provides the basis for ascertaining the cost of acquisition of such financial assets.
- (i) **Original shares (which form the basis of entitlement of rights shares):** In relation to the original financial asset on the basis of which the assessee becomes entitled to any additional financial assets, cost of acquisition means the amount actually paid for acquiring the original financial assets.
- (ii) **Rights entitlement (which is renounced by the assessee in favour of a person):** In relation to any right to renounce the said entitlement to subscribe to the financial asset, when such a right is renounced by the assessee in favour of any person, cost of acquisition shall be taken to be *nil* in the case of such assessee.
- (iii) **Rights shares acquired by the assessee:** In relation to the financial asset, to which the assessee has subscribed on the basis of the said entitlement, cost of acquisition means the amount actually paid by him for acquiring such asset.
- (iv) **Bonus Shares:** In relation to the financial asset allotted to the assessee without any payment and on the basis of holding of any other financial assets, **cost of acquisition shall be taken to be nil.**

In other words, where bonus shares are allotted without any payment on the basis of holding of original shares, the cost of such bonus shares will be nil.

- (v) **Rights shares which are purchased by the person in whose favour the assessee has renounced the rights entitlement:** In relation to any financial asset purchased by the person in whose favour the right to subscribe to such assets has been renounced, cost of acquisition means the total amount of the purchase price paid by him to the person renouncing such right and the amount paid by him to the company or institution for acquiring such financial asset.

(3) Long-term capital assets referred to in section 198 [Section 90(7)]

The cost of acquisition in relation to the long-term capital assets being,

- equity shares in a company on which STT is paid both at the time of purchase and transfer or
- unit of equity oriented fund or unit of business trust on which STT is paid at the time of transfer.

acquired before 1st February, 2018 shall be the higher of

- (i) cost of acquisition of such asset; and
- (ii) lower of
 - (a) the fair market value of such asset; and
 - (b) the full value of consideration received or accruing as a result of the transfer of the capital asset.

Meaning of Fair Market value [Section 90(8)(b)]

S. No.	Circumstance	Fair Market Value
(i)	In a case where the capital asset is listed on any recognized stock exchange as on 31.01.2018	<u>If there is trading in such asset on such exchange on 31.01.2018</u> The highest price of the capital asset quoted on such exchange on the said date <u>If there is no trading in such asset on such exchange on 31.01.2018</u> The highest price of such asset on such exchange on a date immediately preceding 31.01.2018

		when such asset was traded on such exchange.
(ii)	If the capital asset is a unit which is not listed on any recognized stock exchange as on 31.01.2018	The net asset value of such unit as on the said date
(iii)	If the capital asset is an equity share in a company which is - not listed on a recognized stock exchange as on 31.01.2018 but listed on such exchange on the date of transfer - not listed on a recognized stock exchange as on 31.01.2018 or which became the property of the assessee in consideration of shares which is not listed on such exchange as on 31.1.2018 by way of transaction not regarded as transfer under section 70 but listed on such exchange subsequent to the date of transfer (where transfer is in respect of sale of unlisted equity shares under an offer for sale to the public included in an initial public offer) - listed on a recognized stock exchange on the date of transfer and which became the property of the assessee in consideration of share	An amount which bears to the cost of acquisition the same proportion as Cost Inflation Index for the financial year 2017-18 bears to the Cost Inflation Index for the first year in which the asset was held by the assessee or on 01.04.2001, whichever is later.

	which is not listed on such exchange as on 31.01.2018 by way of transaction not regarded as transfer under section 70	
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(4) Any other capital asset [Section 90(9)]

(i) Where the capital asset become the property of the assessee before

1.4.2001 - The cost of acquisition means the cost of acquisition of the asset to the assessee or its fair market value on 1.4.2001, at the option of the assessee.



A house property was purchased by Mr. A on 1.1.1992 for ₹ 30,000 and the fair market value of the same was ₹ 1,40,000 as on 1.4.2001. Cost of acquisition of the said property would be ₹ 1,40,000.

However, in case of capital asset, being land or building or both, the fair market value of such asset on 1.4.2001 shall not exceed the stamp duty value, wherever available, of such asset as on 1.4.2001.



In the above example, if the stamp duty value of the property was ₹ 1,20,000 as on 1.4.2001, cost of acquisition of such property would be ₹ 1,20,000, being the stamp value as on 1.4.2001 and not ₹ 1,40,000.

(ii) Where the capital asset became the property of the assessee by any of the modes specified in section 73 (Table Sl. No. 1):

The cost of acquisition to the assessee will be the cost of acquisition to the previous owner. Even in such cases, where the capital asset became the property of the previous owner before 1-4-2001, the assessee can opt the fair market value as on 1-4-2001 as the cost of acquisition.

However, in case of capital asset, being land or building or both, the fair market value of such asset on 1-4-2001 shall not exceed the stamp duty value, wherever available, of such asset as on 1-4-2001.

Note: The provisions contained in (i) & (ii) of (4) above shall also apply to the financial assets mentioned in (i) to (v) of (2) and long term capital assets referred to in section 198 of (3) above.

(iii) **Where the capital asset became the property of the assessee on the distribution of the capital assets of a company on its liquidation** and the assessee has been assessed to income tax under the head "capital gains" in respect of that asset under section 68, the cost of acquisition means the fair market value of the asset on the date of distribution.

(iv) **A share or a stock of a company** may become the property of an assessee under the following circumstances:

- (a) the consolidation and division of all or any of the share capital of the company into shares of larger amount than its existing shares.
- (b) the conversion of any shares of the company into stock,
- (c) the re-conversion of any stock of the company into shares,
- (d) the sub-division of any of the shares of the company into shares of smaller amount, or
- (e) the conversion of one kind of shares of the company into another kind.

In the above circumstances the cost of acquisition to the assessee will mean the cost of acquisition of the asset calculated with reference to the cost of acquisition of the shares or stock from which such asset is derived.

(5) **If the cost for which the previous owner acquired the property cannot be ascertained**, the cost of acquisition to the previous owner means the fair market value on the date on which the capital asset became the property of the previous owner. [Section 90(11)]

Cost of Acquisition of certain assets: At a Glance

Sl. No.	Nature of asset	Cost of acquisition
1	Goodwill of business or profession, trademark, brand name or any other intangible asset etc., - Self generated	Nil

	- Acquired from previous owner However, in case of capital asset, being goodwill of a business or profession, in respect the assessee has obtained depreciation u/s 32(1) of Income Tax Act, 1961 in any T.Y. (upto T.Y. 2019-20) - became the property of the assessee by way of distribution of assets on total or partial partition of HUF, under a gift or will by an individual or HUF by succession, inheritance, distribution of assets on liquidation of a company, etc. and previous owner has acquired it by purchase However, in case of capital asset, being goodwill of a business or profession which was acquired by the previous owner by purchase and in respect the assessee has obtained depreciation u/s 32(1) of the Income-tax Act, 1961 in any T.Y. (upto T.Y.2019-20)	Purchase price Purchase price as reduced by the total amount of depreciation obtained by the assessee under the said section 32(1). Purchase price for such previous owner Purchase price for such previous owner as reduced by the total amount of depreciation obtained by the assessee under the said section 32(1).
2.	Bonus Shares: Allotted before 1.4.2001 Allotted on or after 1.4.2001 Bonus shares allotted before 1.2.2018, on which STT has been paid at the time of transfer	FMV as on 1.4.2001 Nil The higher of – (i) Actual cost of acquisition (i.e., Nil, in case of bonus

		shares allotted on or after 1.4.2001; and FMV on 1.4.2001, in case of bonus shares allotted before 1.4.2001) (ii) Lower of – (a) FMV as on 31.1.2018; and (b) Actual sale consideration
3.	Rights Shares: Original shares (which form the basis of entitlement of rights shares) Rights entitlement (which is renounced by the assessee in favour of a person) Rights shares acquired by the assessee Rights shares which are purchased by the person in whose favour the assessee has renounced the rights entitlement	Amount actually paid for acquiring the original shares Nil Amount actually paid for acquiring the rights shares Purchase price paid to the renouncer of rights entitlement as well as the amount paid to the company which has allotted the rights shares.
4	Long term capital assets being, - equity shares in a company on which STT is paid both at the time of purchase and transfer or - unit of equity oriented fund or unit of business trust on which STT is paid at the time of transfer, acquired before 1st February, 2018	Cost of acquisition shall be the higher of (i) actual cost of acquisition of such asset; and (ii) lower of - the fair market value of such asset; and - the full value of consideration received or accruing as a result of the transfer of the capital asset.

5	Any other capital asset Where such capital asset became the property of the assessee before 1.4.2001 Where capital assets became the property of the assessee by way of distribution of assets on total or partial partition of HUF, under a gift or will by an individual or HUF, by succession, inheritance, distribution of assets on liquidation of a company, etc. and the capital asset became the property of the previous owner before 1.4.2001	Cost of the asset to the assessee, or FMV as on 1.4.2001, at the option of the assessee. However, in case of capital asset being land or building, FMV as on 1.4.2001 shall not exceed stamp duty value as on 1.4.2001. Cost to the previous owner or FMV as on 1.4.2001, at the option of the assessee. However, in case of capital asset being land or building, FMV as on 1.4.2001 shall not exceed stamp duty value as on 1.4.2001.
	<i>The provisions contained in (5) above shall also apply to the assets mentioned in (3) and (4) above.</i>	
6	Where cost of the property in the hands of previous owner cannot be ascertained	The FMV on the date on which the capital asset become the property of the previous owner would be considered as cost of acquisition.

ILLUSTRATION 9

Mr. A converts his capital asset acquired for an amount of ₹50,000 in June, 2004 into stock-in-trade in the month of November, 2025. The fair market value of the asset on the date of conversion is ₹4,50,000. The stock-in-trade was sold for an amount of ₹6,50,000 in the month of September, 2026. What will be the tax treatment?

SOLUTION

The capital gains on the sale of the capital asset converted to stock-in-trade is taxable in the given case. It arises in the year of conversion (i.e. T.Y. 2025-26) but will be taxable only in the year in which the stock-in-trade is sold (i.e. T.Y. 2026-27). Profits from business will also be taxable in the year of sale of the stock-in-trade (T.Y. 2026-27).

The LTCG and business income for T.Y.2026-27 are calculated as under:

Particulars	₹	₹
Profits and Gains from Business or Profession		
Sale proceeds of the stock-in-trade	6,50,000	
Less: Cost of the stock-in-trade (FMV on the date of conversion)	4,50,000	2,00,000
Long Term Capital Gains		
Full value of the consideration (FMV on the date of the conversion)	4,50,000	
Less: Cost of acquisition	50,000	4,00,000

4.14 COST OF IMPROVEMENT [SECTION 90(1)]

(1) **Goodwill or any other intangible asset of a business, etc. [Section 90(1)(a)]:** In relation to a capital asset being goodwill or any other intangible asset of a business or a right to manufacture, produce or process any article or thing, or right to carry on any business or profession or any other right, the cost of improvement shall be taken to be **Nil**.

(2) **Any other capital asset [Section 90(1)(b)]:**

Circumstance		Cost of improvement
(i)	Where the capital asset became the property of the previous owner or the assessee before 1.4.2001	
	(a) In a case covered u/s 73 (Table: S. No. 1), where the capital asset became the property of the previous owner and the assessee before 1.4.2001	All expenditure of a capital nature incurred in making any addition or alteration to the capital asset on or after 1.4.2001 by the assessee.

	(b)	In a case covered u/s 73 (Table: S. No. 1), where the capital asset became the property of the previous owner before 1.4.2001 but became the property of the assessee on or after 1.4.2001	All expenditure of a capital nature incurred in making any addition or alteration to the capital asset on or after 1.4.2001 by the previous owner and the assessee.
	(c)	In a case <u>not</u> covered u/s 73 (Table: S. No. 1)	All expenditure of a capital nature incurred in making any addition or alteration to the capital asset on or after 1.4.2001 by the assessee.
(ii) Where the capital asset became the property of the previous owner and the assessee on or after 1.4.2001			
	(a)	In a case covered u/s 73 (Table: S. No. 1)	All expenditure of a capital nature incurred in making any addition or alteration to the capital asset by the previous owner and the assessee.
	(b)	In a case not covered u/s 73 (Table: S. No. 1)	All expenditure of a capital nature incurred in making any addition or alteration to the capital asset by the assessee after it became the assessee's property.

In a nutshell, in a case covered under section 73 (Table: S. No. 1), cost of improvement would include expenditure of a capital nature on addition or alteration to the capital asset by the previous owner or the assessee or both on or after 1.4.2001. In a case not covered under section 73 (Table: S. No. 1), cost of improvement would include expenditure of a capital nature on addition or alteration to the capital asset by the assessee on or after 1.4.2001.

However, cost of improvement does not include any expenditure which is deductible in computing the income chargeable under the head "Income from house property", "Profits and gains of business or profession" or "Income from other sources". Routine expenses on repairs and maintenance do not form part of cost of improvement.



8.	Ms. Kavya inherited a residential plot after the death of her mother on 15th August, 2012. The plot had originally been purchased by her mother on 20th May, 1995 for ₹ 50,000. The fair market value of the plot as on 1st April, 2001 was ₹ 75,000 and its fair market value on the date of inheritance, i.e., 15th August, 2012 was ₹ 3,20,000. The cost of acquisition for Ms. Kavya would be –
(a)	₹ 50,000
(b)	Nil
(c)	₹ 75,000
(d)	₹ 3,20,000
9.	Cost of Acquisition in case of bonus shares allotted before 1-4-2001 will be:
(a)	Nil
(b)	FMV as on 1-4-2001
(c)	₹ 10,000
(d)	Cost of Original shares on the basis of which bonus shares are allotted.
10.	Compute the capital gains for the Tax Year 2026-27 if Mr. Arjun sells his personal motor car on 18-05-2026 for ₹ 3,20,000, which was acquired on 12-02-2018 for ₹ 7,50,000. Expenses incurred on transfer amounted to 3% of the selling price.
(a)	Nil
(b)	₹ 4,30,000
(c)	₹ 3,10,400
(d)	₹ 4,39,600
11.	Mr. Karan sold the self-generated goodwill of his business on 15-03-2027 for ₹ 42,00,000. He had incurred expenditure towards improvement of such goodwill amounting to ₹ 6,20,000 on 1-4-2017. Compute the taxable capital gains arising on sale of goodwill.
(a)	₹ 42,00,000
(b)	₹ 35,80,000
(c)	Nil
(d)	₹ 6,20,000



4.15 COMPUTATION OF CAPITAL GAINS IN CASE OF DEPRECIABLE ASSETS [SECTIONS 74 & 75]

- (1) **Transfer of depreciable assets [Section 74]:** Section 74 provides for the computation of capital gains in case of depreciable assets. It may be noted that where the capital asset is a depreciable asset forming part of a block of assets, section 74 will have over-riding effect in spite of anything contained in section 2(101) which defines a short-term capital asset.

Accordingly, where the capital asset is an asset forming part of a block of assets in respect of which depreciation has been allowed, the provisions of sections 72 and 73 shall be subject to the following modifications:

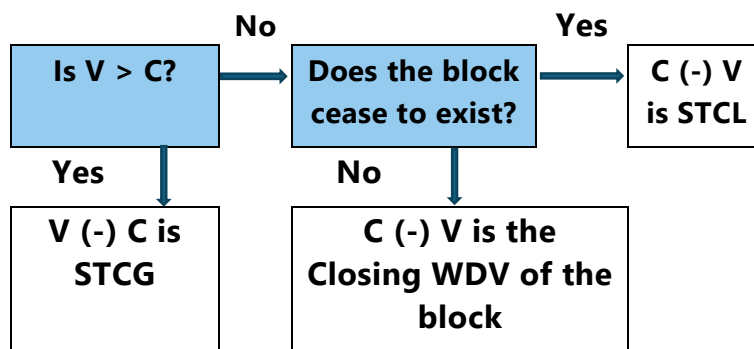
- If, during the tax year, the full value of consideration received or accruing for the transfer of one or more assets exceeds the total of the following amounts:
 - (1) expenditure incurred wholly and exclusively in connection with such transfer;
 - (2) WDV of the block of assets at the start of the tax year;
 - (3) the actual cost of any asset falling within the block of assets acquired during the tax year

such excess shall be deemed to be the capital gains arising from the transfer of short-term capital assets.

- If any block of assets cease to exist for the reason that all the assets in that block are transferred during the tax year then the cost of acquisition of the block of assets shall be the WDV of the block of assets at the beginning of the tax year as increased by the actual cost of any asset falling within that block of assets, acquired by the assessee during the tax year.

The income received or accruing will be deemed to be the capital gains arising from the transfer of short-term capital assets.

Transfer of depreciable assets: Tax consequences



Symbol	Description
V	Full value of consideration
C	Opening WDV of Block (+) Actual Cost of Asset acquired in the Block during the T.Y. (+) Expenses in connection with transfer of asset
STCG	Short Term Capital Gain
STCL	Short Term Capital Loss
WDV	Written Down Value

- (2) **Cost of acquisition in case of power sector assets [Section 75]:** With respect to the power sector, in case of depreciable assets referred to in section 33(2), the provisions of sections 72 and 73 shall apply subject to the modification that the WDV of the asset [as defined in section 41], as adjusted, shall be taken to be the cost of acquisition.

ILLUSTRATION 10

Singhania & Co., a sole proprietorship owns six machines, put in use for business in March, 2024. The depreciation on these machines is charged @15%. The opening balance of the block for T.Y. 2026-27 was ₹ 8,50,000. Three of the old machines were sold on 10th June, 2026 for ₹ 11,00,000. A second hand plant was bought for ₹ 8,50,000 on 30th November, 2026.

You are required to:

- (i) determine the claim of depreciation for Tax Year 2026-27.
- (ii) compute the capital gains liable to tax for Tax Year 2026-27.
- (iii) If Singhanian & Co. had sold the three machines in June, 2026 for ₹ 21,00,000, will there be any difference in your above workings? Explain.

SOLUTION

(i) **Computation of depreciation for T.Y.2026-27**

Particulars	₹
Opening balance of the block as on 1.4.2026 [i.e., W.D.V. as on 31.3.2026 after providing depreciation for T.Y. 2025-26]	8,50,000
Add: Purchase of second-hand plant during the year	8,50,000
	17,00,000
Less: Sale consideration of old machinery during the year	11,00,000
W.D.V of the block as on 31.03.2027	6,00,000

Since the value of the block as on 31.3.2027 comprises of a new asset which has been put to use for less than 180 days, depreciation is restricted to 50% of the prescribed percentage of 15% i.e. depreciation is restricted to 7½%. Therefore, the depreciation allowable for the year is ₹ 45,000, being 7½% of ₹ 6,00,000.

- (ii) The provisions under section 74 for computation of capital gains in the case of depreciable assets can be invoked only under the following circumstances:
- (a) When one or more assets in the block are sold for consideration more than the value of the block.
 - (b) When all the assets are transferred for a consideration more than the value of the block.
 - (c) When all the assets are transferred for a consideration less than the value of the block.

Since in the first two cases, the sale consideration is more than the written down value of the block, the computation would result in short term capital gains.

In the third case, since the written down value of the block exceeds the sale consideration, the resultant figure would be a short-term capital loss of the block.

In the given case, capital gains will not arise as the block of asset continues to exist, and some of the assets are sold for a price which is lesser than the written down value of the block.

- (iii) If the three machines are sold in June, 2026 for ₹ 21,00,000, then short term capital gains would arise, since the sale consideration is more than the aggregate of the written down value of the block at the beginning of the year and the additions made during the year.

Particulars	₹	₹
Sale consideration		21,00,000
Less: Opening balance of the block as on 1.4.2026 [i.e., W.D.V. as on 31.3.2026 after providing depreciation for T.Y. 2025-26]	8,50,000	
Purchase of second plant during the year	8,50,000	17,00,000
Short term capital gains		4,00,000

4.16 COMPUTATION OF CAPITAL GAINS IN CASE OF MARKET LINKED DEBENTURES, SPECIFIED MUTUAL FUND ETC. [SECTION 76]

- (1) **Transfer of unit of a Specified Mutual Fund or Market Linked Debenture or unlisted bond or unlisted debenture:** Section 76 provides that capital gain on the transfer or redemption or maturity of unit of the following capital asset would always be treated as short term capital gains and accordingly chargeable to tax at normal rate of tax -

- unit of a Specified Mutual Fund acquired on or after 1.4.2023 or
- a Market Linked Debenture or
- an unlisted bond or unlisted debentures.

Section 76 will have an overriding effect in spite of anything contained in section 2(101) which defines a short-term capital asset based on holding period and section 72 providing the manner of computation of capital gains.

- (2) **Computation of capital gains:** The short term capital gain will be computed as per the following formula –

$$X = A - B - C$$

X = Short-term capital gains

A = Full value of consideration received or accruing as a result of the transfer or redemption or maturity of such debenture or unit or bond

B = the cost of acquisition of the debenture or unit or bond

C = the expenditure incurred wholly and exclusively in connection with such transfer or redemption or maturity

- (3) **No deduction in respect of STT:** No deduction would be allowed in computing the income chargeable under the head "Capital Gains" in respect of any sum paid on account of securities transaction tax (STT).

- (4) **Meaning of certain terms:**

S. No.	Term	Meaning
(i)	Market Linked Debenture	A security (i) which has an underlying principal component in the form of debt security; and (ii) where the returns are linked to market returns on other underlying securities or indices. It includes any security classified or regulated as a market linked debenture by the SEBI.
(ii)	Specified Mutual Fund	A Mutual Fund which invests more than 65% of its total proceeds in debt and money market instruments or a fund which invests 65% or more of its total proceeds in units of above fund. However, the percentage of investment in debt and money market instruments or in units of a

		fund shall be computed with reference to the annual average of the daily closing figures.
(iii)	Debt and money market instrument	It includes any securities classified or regulated as debt and money market instruments by the SEBI.



12.	Mr. Rohit owns two machines forming part of a block of assets eligible for depreciation @15%. The written down value (WDV) of the block as on 1-4-2026 was ₹ 90,000. No new asset was acquired during the year. Both the machines were sold during the Tax Year 2026-27 for ₹ 78,000. Compute the capital gain/loss arising from the transaction.
(a)	Short-term capital gain of ₹ 12,000
(b)	Short-term capital loss of ₹ 12,000
(c)	Long-term capital gain of ₹ 12,000
(d)	No capital gain, since depreciation would continue to be allowable on the block
13.	A mutual fund investing more than 65% of its total proceeds in debt and money market instruments is known as:
(a)	Equity oriented fund
(b)	Specified mutual fund
(c)	Venture capital fund
(d)	Infrastructure fund
14.	Capital gains arising on maturity of an unlisted debenture held for 10 years would be taxed at:
(a)	12.5% u/s 197 as long-term capital gains
(b)	20% u/s 196 as short-term capital gains
(c)	Normal rates applicable to short-term capital gains
(d)	Not taxable



4.17 CAPITAL GAINS IN RESPECT OF SLUMP SALE [SECTION 77]

- (1) **Meaning of slump sale [Section 2(103)]** – Slump sale means transfer of one or more undertakings, by any means, for a lump sum consideration without values being assigned to the individual assets and liabilities in such transfer.

Term	Meaning
Undertaking	It includes any part of an undertaking, or a unit or division of an undertaking or a business activity taken as a whole, but does not include individual assets or liabilities or any combination thereof not constituting a business activity.

The determination of the value of an asset or liability for the sole purpose of payment of stamp duty, registration fees or other similar taxes or fees shall not be regarded as assignment of values to individual assets or liabilities.

- (2) **Capital gains – Whether long-term or short-term?** - Any profits or gains arising from the slump sale effected in the tax year shall be chargeable to income-tax as long term capital gains shall be deemed to be the income of the tax year in which the transfer took place.

Any profits and gains arising from slump sale involving transfer of a capital asset being one or more undertakings or divisions owned and held by the assessee for 36 months or less, immediately before the date of its transfer, shall be deemed to be short-term capital gains.

- (3) **Deemed cost of acquisition and cost of improvement [Section 77(3)(a)]** - The net worth of the undertaking or the division shall be deemed to be the cost of acquisition and the cost of improvement for the purposes of sections 72 and 73 in relation to capital assets of such undertaking or division transferred.
- (4) **Deemed full value of consideration [Section 77(3)(b)]** – Fair market value of the capital assets as on the date of transfer, calculated in the prescribed manner, shall be deemed to be the full value of the consideration received or accruing as a result of the transfer of such capital asset.

Accordingly, Rule 53 prescribes that the fair market value (FMV) of capital assets would be the higher of –

- (i) FMV 1, being the fair market value of capital assets transferred by way of slump sale (determined on the date of slump sale); or
- (ii) FMV 2, being the fair market value of the consideration received or accruing as a result of transfer by way of slump sale

(5) Report of a Chartered Accountant [Section 77(4)] - Every assessee, in the case of slump sale, shall furnish in the prescribed form a report of a chartered accountant on or before 30th September of the year succeeding to the T.Y.¹⁰ [i.e., the specified date referred under section 63, being the date one month prior to the due date for filing return of income under section 263(1)], and the report shall include the computation of net worth of the undertaking or division and certify that the net worth has been correctly arrived at as per the provisions of this section.

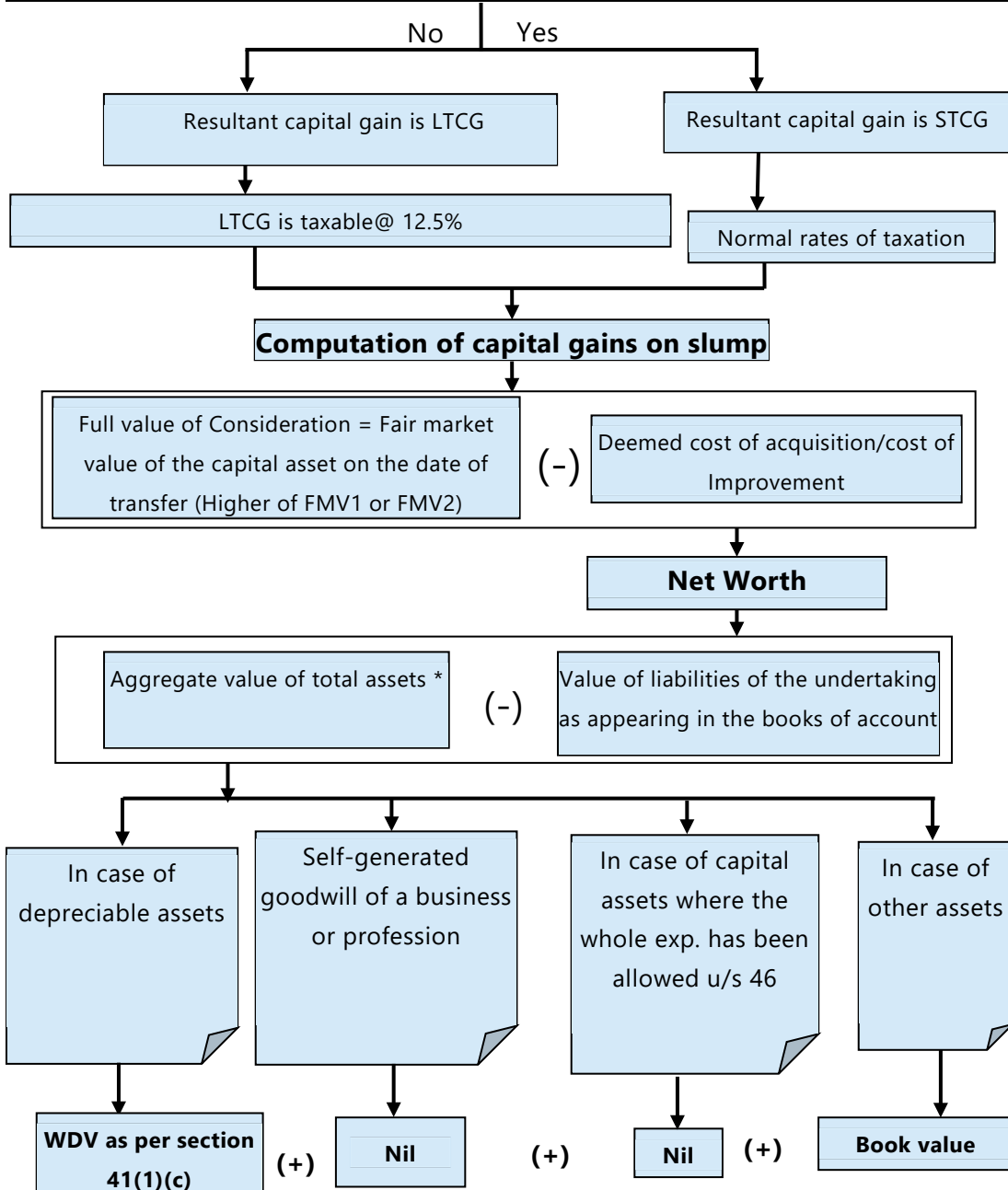
(6) Meaning of Certain Terms [Section 77(5)]:

Clause	Term	Particulars
(a)	Net worth	Aggregate value of total assets of the undertaking or division as reduced by the value of liabilities as appearing in the books of account. For computing net worth, any change in the value of assets due to revaluation of assets shall be ignored.
(b)	Aggregate value of total assets	For depreciable assets: The written down value of block of assets determined under Section 41(1)(c); For capital asset, being goodwill of a business or profession, which has not been acquired by the assessee by purchase from a previous owner [Self-generated goodwill]: Nil For Capital asset for which the entire expenditure has been allowed or allowable as deduction u/s 46: Nil For other assets: Book value

¹⁰ In case of a person whose due date for filing return of income is 30th November of the financial year succeeding the relevant tax year, the specified date for tax audit would be 31st October of the financial year succeeding the relevant tax year

Capital Gains on Slump Sale of an Undertaking [Section 77]

Is the undertaking held for 36 months or less before the date of its transfer?



* Ignore revaluation effect



15.	<i>Profits or gains arising from a slump sale effected during the tax year shall be chargeable to income-tax as:</i>	
(a)	<i>Short-term capital gains only</i>	
(b)	<i>Short-term capital gains or long-term capital gains, depending upon the period for which the undertaking is held</i>	
(c)	<i>Long-term capital gains only</i>	
(d)	<i>Business income and not capital gains</i>	
16.	<i>In the computation of capital gains arising on a slump sale, the _____ of the undertaking transferred shall be deemed to be its cost of acquisition.</i>	
(a)	<i>Book value</i>	
(b)	<i>Net worth</i>	
(c)	<i>Written Down Value (WDV)</i>	
(d)	<i>Fair Market Value as on 1-4-2001</i>	

ILLUSTRATION 11

Mr. A is a proprietor of Akash Enterprises, having 2 units. He transferred on 1.4.2026 his Unit 1 by way of slump sale for a total consideration of ₹25 lakhs. The fair market value of capital assets of unit 1 on 1.4.2026 is ₹30 lakhs. Unit 1 was started in the year 2006-07. The expenses incurred for this transfer were ₹28,000. His Balance Sheet as on 31.3.2026 is as under:

Liabilities	Total (₹)	Assets	Unit 1(₹)	Unit 2 (₹)	Total (₹)
Own Capital	15,00,000	Land	12,00,000	2,00,000	14,00,000
Revaluation Reserve (for land of unit 1)	3,00,000	Machinery	3,00,000	1,00,000	4,00,000
Bank loan (70% for unit 1)	2,00,000	Debtors	1,00,000	40,000	1,40,000
Trade creditors (25% for unit 1)	1,50,000	Other assets	1,50,000	60,000	2,10,000
Total	21,50,000	Total	17,50,000	4,00,000	21,50,000

Other information:

- (i) Revaluation reserve is created by revising upward the value of the land of Unit 1.
- (ii) No individual value of any asset is considered in the transfer deed.
- (iii) Other assets of Unit 1 include patents acquired on 1.7.2024 for ₹ 50,000 on which no depreciation has been charged.
- (iv) The value of machinery represents the written down value as per the Income-tax Act, 2025.

Compute the capital gain for the tax year 2026-27.

SOLUTION

Computation of capital gains on slump sale of Unit 1

Particulars	₹
Full value of consideration [Higher of FMV of capital assets of Unit 1 on 1.4.2026 or FMV of monetary consideration received]	30,00,000
Less: Expenses for transfer	28,000
	29,72,000
Less: Net worth (See Note 1 below)	12,50,625
Long-term capital gain	17,21,375

Notes:

1. Computation of net worth of Unit 1 of Akash Enterprises

Particulars	₹	₹
Land (excluding ₹ 3 lakhs on account of revaluation)		9,00,000
Machinery		3,00,000
Debtors		1,00,000
Patents (See Note 2 below)		28,125
Other assets (₹ 1,50,000 – ₹ 50,000)		1,00,000
Total assets		14,28,125
Less: Creditors (25% of ₹ 1,50,000)	37,500	
Bank Loan (70% of ₹ 2,00,000)	1,40,000	1,77,500
Net worth		12,50,625

2. Written down value of patents as on 1.4.2026

Value of patents:	₹
Cost as on 1.7.2024	50,000
Less: Depreciation @ 25% for Tax Year 2024-25	12,500
Balance as on 1.4.2025	37,500
Less: Depreciation for Financial Year 2025-26	9,375
Balance as on 1.4.2026	28,125

3. Since the Unit is held for more than 36 months, capital gain arising would be long term capital gain.



4.18 DEEMED FULL VALUE OF CONSIDERATION FOR COMPUTING CAPITAL GAINS [SECTIONS 78, 79 & 80]

S. No.	Capital Asset	Section	Circumstance	Deemed Full Value of consideration for computing Capital Gains
1.	Land or Building or both	78	(1) If Stamp Duty Value > 110% of consideration received or accruing as a result of transfer (a) If date of agreement fixing the consideration and the date of registration for the transfer of capital asset are not the same and part or full consideration is received on or before the date of agreement in specified banking or online mode (b) If date of agreement fixing the consideration and the date of registration for the transfer of	Stamp Duty Value Stamp Duty Value on the date of agreement Stamp Duty Value on the date of

			capital asset are not the same but the part or full consideration is not received on or before the date of agreement in specified banking or online mode If the stamp duty value on the date of agreement or the date of transfer, as the case may be $\leq 110\%$ of the sale consideration received  EXAMPLE Let us take a case where for transfer of building – - the actual consideration is ₹ 100 lakhs; - the stamp duty value on the date of agreement is ₹ 109 lakhs; and - the stamp duty value on the date of registration for transfer is ₹ 112 lakhs (i) If any part of the consideration is received by “specified banking or online mode” on or before the date of agreement The actual consideration of ₹ 100 lakhs would be the full value of consideration, since stamp duty value of ₹ 109 lakhs on the date of agreement does not exceed 110% of actual consideration of ₹ 100 lakhs. (ii) If no part of the consideration is received by “specified banking or online mode” on or before the date of agreement Stamp duty value of ₹ 112 lakhs on the date of registration for transfer would be the full value of consideration, since the same	registration for transfer Actual consideration so received
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			exceeds 110% of actual consideration of ₹ 100 lakhs.	
			(2) The Assessing Officer may refer the valuation of the capital asset to a Valuation Officer, where the assessee's claim that the stamp duty value > the FMV of the property as on the date of transfer and the stamp duty value has not been disputed in any appeal or revision or no reference has been made before any other authority, court or High Court	
			(a) If Valuation by Valuation Officer > Stamp Duty Value	Stamp Duty Value
			(b) If Valuation by Valuation Officer < Stamp Duty Value	Valuation by Valuation Officer

For the above purposes, "specified banking or online mode", as defined in section 66(32) shall mean transaction by an account payee cheque or an account payee bank draft or use of electronic clearing system through a bank account or through such other electronic mode, as may be prescribed.

As per Rule 48 of the Income-tax Rules, 2026, "other electronic modes of payment" are the following:

- Credit Card;
- Debit Card;
- Net Banking;
- IMPS (Immediate Payment Service);
- UPI (Unified Payment Interface);
- RTGS (Real Time Gross Settlement);
- NEFT (National Electronic Funds Transfer);
- BHIM (Bharat Interface for Money) Aadhaar Pay, and
- Tier-III: Full KYC Central Bank Digital Currency wallets, P-CBDC, Wholesale/Cross-border CBDC.

2.	Shares other than quoted shares	79	If consideration received or accruing as a result of transfer < FMV of such share determined in the prescribed manner The provisions of this section would not, however, apply to any consideration received or accruing as a result of transfer by such class of persons and subject to such conditions as may be prescribed.	FMV of such share determined in the prescribed manner
Meaning of Quoted Shares: The share quoted on any recognised stock exchange with regularity from time to time, where the quotation of such share is based on current transaction made in the ordinary course of business.				
3.	Any Capital asset	80	Where the consideration received or accruing as a result of the transfer of a capital asset by an assessee is not ascertainable or cannot be determined	FMV of the said asset on the date of transfer



17.	Mr. R entered into an agreement to sell a property on 10.1.2027 for ₹ 1 crore. The registration for transfer took place on 15.3.2027. The Stamp duty value on agreement date was ₹ 1.08 crore and on registration date was ₹ 1.20 crore. An advance of ₹ 20 lakhs was received by Mr. R through account payee cheque before agreement date. In this case, the full value of consideration would be:	
	(a)	₹ 1 crore
	(b)	₹ 1.08 crore
	(c)	₹ 1.20 crore
	(d)	₹ 1.10 crore
18.	Where consideration received on transfer of unquoted shares is lower than FMV determined in prescribed manner, the full value of consideration shall be:	
	(a)	Actual consideration
	(b)	Book value
	(c)	FMV determined in prescribed manner
	(d)	Indexed value



4.19 ADVANCE MONEY RECEIVED [SECTION 81]

It is possible for an assessee to receive some advance in regard to the transfer of capital assets. Due to the break-down of the negotiation, the assessee may have retained the advance.

Section 81 provides that in computing the cost of acquisition, the above advance received and retained by the assessee shall be reduced from the cost of acquisition or WDV or the FMV, as the case may be.

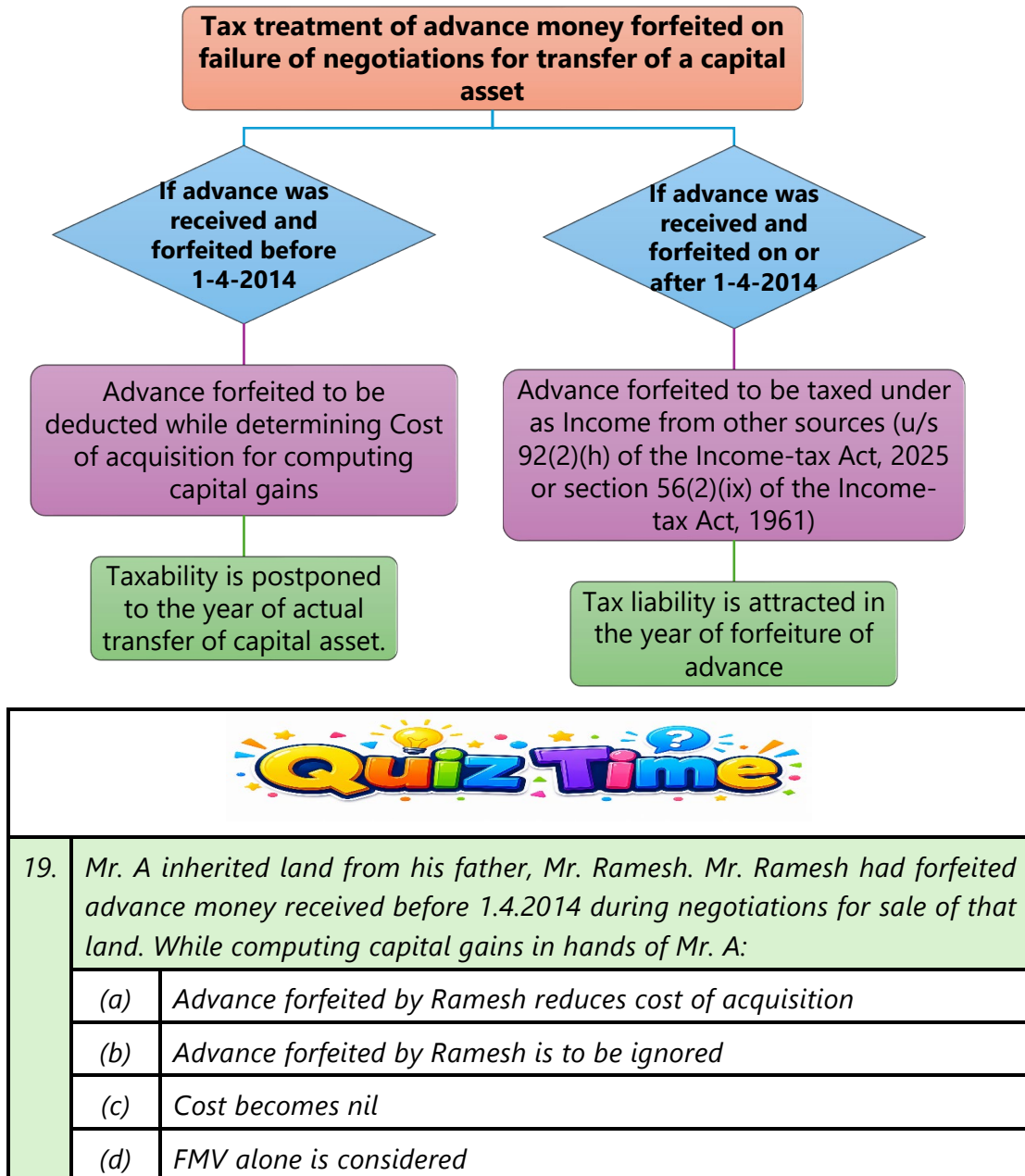
If advance has been received and retained by the previous owner and not the assessee himself, then the same will not go to reduce the cost of acquisition of the assessee.

Section 92(2)(h) provides for the taxability of any sum of money received as an advance or otherwise during negotiations for the transfer of a capital asset. As per that section, such sum shall be chargeable to income-tax under the head 'Income from other sources', if such sum is forfeited and the negotiations do not result in transfer of such capital asset.

Further, section 56(2)(ix) of the Income-tax Act, 1961 also provided for the taxability under the head 'Income from other sources' of any sum of money, received as an advance or otherwise in the course of negotiations for transfer of a capital asset, if such sum had been forfeited on or after 1st April 2014 till 31.3.2026.

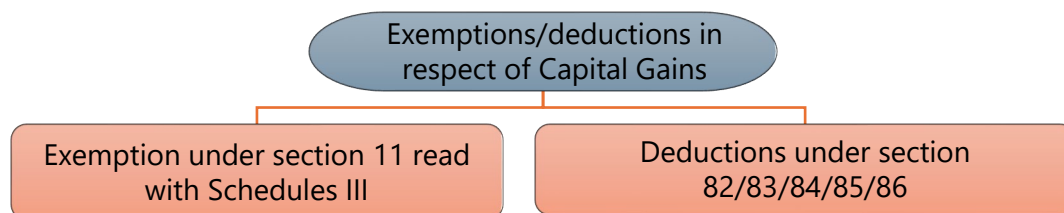
In order to avoid double taxation of the advance received and retained, section 81 provides that where any sum of money received as an advance or otherwise in the course of negotiations for transfer of a capital asset has been included in the total income of the assessee for any tax year as per section 92(2)(h) of the Income-tax Act, 2025 or section 56(2)(ix) of the Income-tax Act, 1961, then, such amount shall not be deducted from the cost for which the asset was acquired or the written down value or the fair market value, as the case may be.

Consequently, any such sum of money forfeited before 1st April, 2014 only, will be deducted from the cost of acquisition, for computing capital gains.





4.20 EXEMPTIONS/DEDUCTIONS IN RESPECT OF CAPITAL GAINS



I. Exemptions under section 11 read with Schedule III

The following are the exemptions in respect of capital gains in schedule III

i. **Exemption of capital gains on compulsory acquisition of agricultural land situated within specified urban limits [Schedule III (Table: S. No. 18)]**

This entry aims to exempt the capital gains arising to an individual or a HUF from transfer of agricultural land provided the following conditions are satisfied:

- such land is situated in specified urban limits
- such land was being **used for agricultural purposes** by such individual or HUF or a parent of his during the period of 2 years immediately preceding the date of transfer
- such transfer is by way of compulsory acquisition under any law or a transfer, the consideration for which is determined or approved by the Central Government or the RBI and
- such income has arisen from the compensation or consideration for such transfer received by such assessee on or after 1.4.2004.

ii **Income in respect of any award or agreement made under the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 [Schedule III (Table: SI. No. 38C)]**

Any income arising to an individual or a HUF in respect of any award or agreement made on account of compulsory acquisition of any land shall be exempt from tax if such award or agreement is made under the provisions of

the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, except under section 46 of the said Act.

II. Deductions in respect of Capital Gains under section 82/83/84/85/86

(i) *Capital Gains on sale of property used for residence [Section 82]*

Eligible assessee – Individual & HUF

Conditions to be fulfilled

- There should be a transfer of buildings or lands appurtenant thereto, being a residential house
- Assessee must have long-term capital gains
- Income from such house should be chargeable under the head "Income from house property"
- Where the amount of capital gain exceeds ₹ 2 crore, **one residential house in India** should be –

Where the amount of capital gains > ₹ 2 crores

 - purchased within 1 year before or 2 years after the date of transfer; (or)
 - constructed within a period of 3 years after the date of transfer.
- Where the amount of capital gains does not exceed ₹ 2 crore, the assessee i.e., individual or HUF, may at his option,

Where the amount of capital gains ≤ ₹ 2 crores

 - purchase **two residential houses in India** within 1 year before or 2 years after the date of transfer (or)
 - construct **two residential houses in India** within a period of 3 years after the date of transfer.

If during any tax year, the assessee has exercised the option to purchase or construct two residential houses in India, he shall not be subsequently entitled to exercise the option for the same tax year or any other tax year.

EXAMPLE

This implies that if an assessee has availed the option of claiming benefit of section 82 in respect of purchase of two residential houses in Jaipur and Jodhpur, say, in respect of capital gains of ₹ 1.50 crores arising from transfer of residential house at Mumbai in the T.Y.2026-27 then, he will not be entitled to avail the benefit of section 82 again in respect of purchase of two residential houses in, say, Pune and Baroda, in respect of capital gains of ₹ 1.20 crores arising from transfer of residential house in Jaipur in the T.Y.2028-29, even though the capital gains arising on transfer of the residential house at Jaipur does not exceed ₹ 2 crore.

- If such investment is not made before filing the return of income under section 263, then the unutilized amount has to be deposited in a specified bank or institution and utilized as per the scheme notified by the Central Government [CGAS] before the filing of the return and not later than the due date applicable in the case of the assessee for filing the return of income under section 263(1). [Refer points (vi) and (vii) of this sub-heading (2)]. If the capital gain exceeds ₹ 10 crores, the amount exceeding ₹ 10 crores would not be taken into account for the purpose of deposit in a specified bank or institution.
- Amount utilized by the assessee for purchase or construction of new asset and the amount so deposited shall be deemed to be the cost of new asset. The deemed cost of the new asset would be restricted to ₹ 10 crores for the purpose of deduction under section 82.

Quantum of Deduction

- If long-term capital gains > cost of new residential house or houses, as the case may be, long-term capital gains to the extent of cost of new residential house is allowed as deduction and the excess shall be charged under section 67.
- If long-term capital gains ≤ cost of new residential house or houses, as the case may be, entire long-term capital gains is allowed as deduction and no capital gain shall be charged under section 67.

However, if the cost of new residential house(s) exceeds ₹ 10 crores, the amount exceeding ₹ 10 crore would not be taken into account for deduction. It means the maximum deduction that can be claimed by the assessee u/s 82 is ₹ 10 crore.

EXAMPLE

1. If the long-term capital gains is ₹ 2.05 crore and the cost of the new house is ₹ 3 crore, then, the entire long-term capital gains of ₹ 2.05 crore is allowed as deduction and no capital gain shall be charged under section 67.
2. If long-term capital gains is ₹ 2.05 crore and cost of new house is ₹ 1.55 crore, then, long-term capital gains is allowed as deduction only upto ₹ 1.55 crore. Balance ₹ 50 lakhs is taxable u/s 67.

EXAMPLE

(1)	(2)	(3)	(4)	(5)
S. No.	LTCG computed	Cost of new residential house	Amount in column (3) or ₹ 10 crore, whichever is lower	Deduction in respect of LTCG [Lower of column (2) and column (4)]
(1)	₹ 7 crore	₹ 12 crore	₹ 10 crore	₹ 7 crore
(2)	₹ 12 crore	₹ 14 crore	₹ 10 crore	₹ 10 crore
(3)	₹ 11 crore	₹ 9 crore	₹ 9 crore	₹ 9 crore
(4)	₹ 15 crore	₹ 13 crore	₹ 10 crore	₹ 10 crore

EXAMPLE

1. If the LTCG is ₹ 8 crore and the assessee has incurred ₹ 5 crore in construction of new residential house upto the due date u/s 263(1) i.e., 31.7.2027/31.8.2027/31.10.2027, as the case may be, then, as per section 82(2), he can deposit the amount of ₹ 3 crore not appropriated by him towards construction of house upto 31.7.2027/31.8.2027/31.10.2027, as the case may be, in Capital Gains Account Scheme (CGAS) for claiming deduction under section 82. If he deposits, say, ₹ 2 crore, in CGAS on or before the due date u/s 263(1), the deemed cost of the new residential house would be ₹ 7 crore (₹ 5 crore + ₹ 2 crore). The amount of deduction u/s 82 would be ₹ 7 crore.

2. If the LTCG is ₹ 14 crore and the assessee has already incurred ₹ 7 crore in construction of new residential house upto 31.7.2027/31.8.2027/31.10.2027, as the case may be, then, as per section 82(2), he can deposit the difference of ₹ 3 crore (₹ 10 crore - ₹ 7 crore) in CGAS for claiming deduction u/s 82. If he deposits, say, ₹ 2 crore in CGAS on or before the due date u/s 263(1), the deemed cost of the new residential house would be ₹ 9 crore (₹ 7 crore + ₹ 2 crore). The amount of deduction under section 82 would be ₹ 9 crore.

If the amount deposited in CGAS is not fully utilized

- If the amount deposited in CGAS is not fully utilised for purchasing or constructing the new asset within 3 years from the date of transfer, then the unutilised amount shall be charged to tax under section 67 as the income of the tax year in which the period of 3 years from the date of the transfer of the original asset expires.
- The assessee is entitled to withdraw such unutilised amount in accordance with the scheme

Consequences of transfer of new asset before 3 years

- If the new asset is transferred before 3 years from the date of its acquisition or construction, then cost of the asset will be reduced by capital gains allowed as deduction earlier for computing capital gains.



EXAMPLE

The long-term capital gains is ₹ 2.05 crore and the cost of the new house is ₹ 3 crore, the entire long-term capital gains of ₹ 2.05 crore will be allowed as deduction. If the new house was sold after 18 months for ₹ 5 crore, then, short term capital gain chargeable to tax would be –

Particulars	₹
Net Consideration	5,00,00,000
Less: Cost of acquisition minus capital gains allowed as deduction earlier (₹ 3,00,00,000 – ₹ 2,05,00,000)	95,00,000
Short term capital gains chargeable to tax	4,05,00,000

ILLUSTRATION 12

Mr. Cee purchased a residential house on July 20, 2024 for ₹ 10,00,000 and made some additions to the house incurring ₹ 2,00,000 in August 2024. He sold the house property in April 2026 for ₹ 20,00,000. Out of the sale proceeds, he spent ₹ 5,00,000 to purchase another house property in September 2026.

What is the amount of capital gains taxable in the hands of Mr. Cee for the T.Y.2026-27?

SOLUTION

The house is sold before 24 months from the date of purchase. Hence, the house is a short-term capital asset

Particulars	₹
Sale consideration	20,00,000
Less: Cost of acquisition	10,00,000
Cost of improvement	2,00,000
Short-term capital gains	8,00,000

Note - The deduction from capital gains under section 82 is available only in case of long-term capital gain arising from transfer of a residential house. As short-term capital gain arise on transfer, Mr. Cee cannot claim deduction under section 82. Thus, the amount of taxable short-term capital gains is ₹ 8,00,000.



20. For claiming deduction under section 82, new residential house property must be purchased within ____ after the date of transfer of capital asset:	
(a)	1 year
(b)	2 years
(c)	3 years
(d)	4 years

21.	<i>For claiming deduction under section 82, which of the following amounts would qualify for deduction?</i>
(a)	<i>Amount invested in purchase or construction of one residential house property up to the due date of filing return of income only</i>
(b)	<i>Amount deposited in the Capital Gains Account Scheme up to the due date of filing return of income only</i>
(c)	<i>Amount invested in purchase or construction of one residential house property up to the due date of filing return of income and amount deposited in the Capital Gains Account Scheme up to such due date</i>
(d)	<i>Amount invested in purchase or construction after three years from the date of transfer</i>

(ii) Capital gains on transfer of agricultural land [Section 83]

Eligible assessee – Individual & HUF

Conditions to be fulfilled

- There should be a transfer of urban agricultural land.
- Such land must have been used by the assessee, being an individual or his parent, or a HUF for agricultural purpose in 2 years immediately preceding the date of transfer.
- He should purchase another agricultural land (urban or rural) within 2 years from the date of transfer.
- If such investment is not made before filing the return of income under section 263, then the unutilized amount has to be deposited in a specified bank or institution and utilized as per the scheme notified by the Central Government [CGAS] before the filing of the return and not later than the due date applicable in the case of the assessee for filing the return of income under section 263(1). [Refer points (vi) and (vii) of this sub-heading (2)]
- Amount utilised by the assessee for purchase of new asset and the amount so deposited shall be deemed to be the cost of new asset

Quantum of deduction

- If capital gains > cost of new agricultural land, capital gains to the extent of cost of new agricultural land is allowed as deduction and the excess shall be charged under section 67.
- If capital gains $\leq$ cost of new agricultural land, entire capital gains is allowed as deduction and no capital gain shall be charged under section 67.



1. *If the capital gains is ₹3 lakhs and the cost of the new agricultural land is ₹4 lakhs, then, the entire capital gains of ₹3 lakhs is allowed as deduction.*
2. *If capital gains is ₹3 lakhs and cost of new agricultural land is ₹2 lakhs, then, capital gains is allowed as deduction only upto ₹2 lakhs.*

If the amount deposited in CGAS is not fully utilized

- If the amount deposited in CGAS is not fully utilised for purchasing the new asset within 2 years from the date of transfer, then the unutilised amount shall be charged to tax under section 67 as the income of the tax year in which the period of 2 years from the date of the transfer of the original asset expires.
- The assessee is entitled to withdraw such unutilised amount in accordance with the scheme.

Consequences of transfer of new agricultural land before 3 years

- If the new agricultural land is transferred before 3 years from the date of its acquisition, then cost of the land will be reduced by capital gains allowed as deduction earlier for computing capital gains of new agricultural land.
- However, if the new agricultural land is a rural agricultural land, there would be no capital gains on transfer of such land.
- Continuing in the above example 1, if the new agricultural land (urban land) is sold after, say, 1 year for ₹6 lakhs, then short term capital gain chargeable to tax would be –

Particulars	₹
Net consideration	6,00,000
Less: Cost of acquisition minus capital gains allowed as deduction earlier (₹ 4,00,000 – ₹ 3,00,000)	1,00,000
Short-term capital gains chargeable to tax	5,00,000

(iii) Capital Gains on compulsory acquisition of lands and buildings of an industrial undertaking [Section 84]

Eligible assessee – Any assessee

Conditions to be fulfilled

- There must be compulsory acquisition of land or building or any right in land or building forming part of an industrial undertaking belonging to assessee.
- The land and building should have been used by the assessee for the business of the industrial undertaking in the 2 years immediately preceding the date of transfer.
- The assessee must purchase any other land or building or construct any building (for shifting or re-establishing the existing undertaking or setting up a new industrial undertaking) within 3 years from the date of transfer.
- If such investment is not made before filing the return of income under section 263, then the unutilized amount has to be deposited in a specified bank or institution and utilized as per the scheme notified by the Central Government [CGAS] before the filing of the return and not later than the due date applicable in the case of the assessee for filing the return of income under section 263(1). [Refer points (vi) and (vii) of this sub-heading (2)].
- Amount utilised by the assessee for purchase of new asset and the amount so deposited shall be deemed to be the cost of new asset.

Quantum of deduction

- If capital gains > cost of new asset, capital gains to the extent of cost of new asset is allowed as deduction and the excess shall be charged under section 67.

- If capital gains $\leq$ cost of new asset, entire capital gains is allowed as deduction and no capital gain shall be charged under section 67.

Note: The deduction in respect of capital gains from transfer of capital asset would be available even in respect of short-term capital asset, being land or building or any right in any land or building, provided such capital asset is used by assessee for the industrial undertaking belonging to him, even if he was not the owner for the said period of 2 years.

If the amount deposited in CGAS is not fully utilized

- If the amount deposited in CGAS is not fully utilised for purchasing or constructing the new asset within 3 years from the date of transfer, then the unutilised amount shall be charged to tax under section 67 as the income of the tax year in which the period of 3 years from the date of the transfer of the original asset expires.
- The assessee is entitled to withdraw such unutilised amount in accordance with the scheme.

Consequences of transfer of new asset before 3 years

- If the new asset is transferred before 3 years from the date of its acquisition, then cost of the asset will be reduced by capital gains allowed as deduction earlier for computing capital gains.

(iv) Capital Gains not chargeable on investment in certain bonds [Section 85]

Eligible assessee – Any assessee

Conditions to be fulfilled

- Assessee must have long-term capital gains on transfer of **land or building or both**.
- The long term capital gains arising from such transfer should be invested in a long-term specified asset within 6 months after the date of transfer.
- **Long-term specified asset** means any bonds, redeemable after 5 years, issued on or after 1.4.2018 by the National Highways Authority of India (NHAI) or the Rural Electrification Corporation Limited (RECL) or any other bond notified by the Central Government in this behalf [Bonds of Power

Finance Corporation (PFC), Indian Railways Finance Corporation (IRFC)]. Bonds, redeemable after 5 years, issued on or after 1.4.2025 by Housing and Urban Development Corporation Limited (HUDCO) and bonds, redeemable after 5 years, issued on or after 9.7.2025 by the Indian Renewable Energy Development Agency (IREDA) are also specified by the Central Government for this purpose.

- The assessee should not transfer or convert or avail loan or advance on the security of such bonds within **5 years** from the date of acquisition of such bonds.

Note - In case of conversion of capital asset into stock in trade and subsequent sale of stock in trade - Period of 6 months to be reckoned from the date of sale of stock in trade for the purpose of section 85 deduction [CBDT Circular No.791 dated 2-6-2000].

Quantum of deduction

- Capital gains or amount invested in long term specified asset, whichever is lower.
- The maximum investment which can be made in long term specified asset from capital gains arising from transfer of one or more assets, during any tax year or in the year of transfer of original asset and in the subsequent tax year **cannot exceed ₹ 50 lakhs**.

Violation of condition

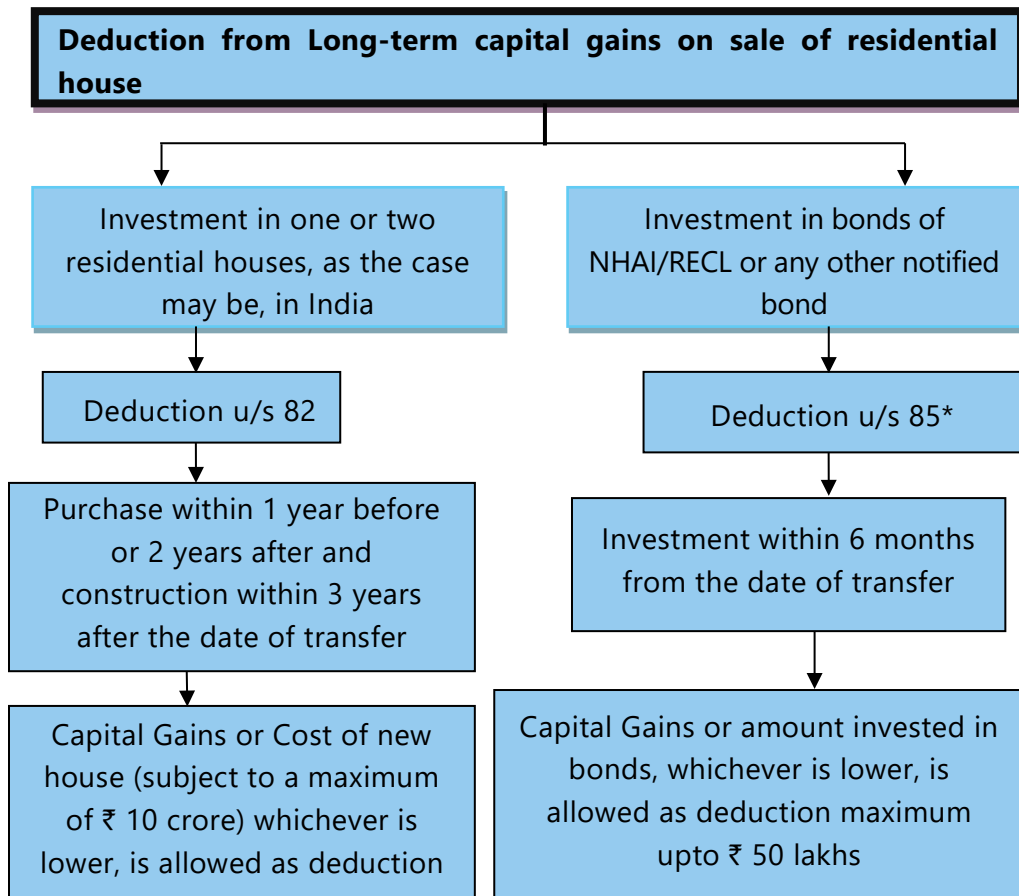
- In case of transfer or conversion of such bonds or availing loan or advance on security of such bonds within 5 years, the capital gain allowed as deduction earlier shall be taxed as long-term capital gain in the year of violation of condition.

ILLUSTRATION 13

Long term capital gain of ₹ 75 lakhs arising from transfer of building on 1.5.2026 will be allowed as deduction if such capital gain is invested in the bonds redeemable after five years, issued by NHAI under section 85. Examine with reasons whether the given statement is true or false having regard to the provisions of the Income-tax Act, 2025.

SOLUTION

False: The deduction under section 85 has been restricted, by limiting the maximum investment in long term specified assets (i.e. bonds of NHAI or RECL or any other bond notified by Central Government in this behalf, redeemable after 5 years) to ₹ 50 lakhs. Therefore, in this case, the deduction under section 85 can be allowed only to the extent of ₹ 50 lakhs, provided the investment is made before 1.11.2026 (i.e., within six months from the date of transfer).



**The deduction under section 85 is available in respect of capital gains on transfer of capital asset, being land or building or both.*

(v) Capital gains in case of investment in residential house [Section 86]

Eligible assessee: Individuals/ HUF

Conditions to be fulfilled

- There must be transfer of a **long-term capital asset**, not being a residential house.
- Transfer of plot of land is also eligible for deduction
- The assessee should -
 - Purchase **one residential house situated in India** within a period of 1 year before or 2 years after the date of transfer; or
 - **Construct one residential house in India** within 3 years from the date of transfer.
- If such investment is not made before filing the return of income under section 263, then the unutilized amount has to be deposited in a specified bank or institution and utilized as per the scheme notified by the Central Government [CGAS] before the filing of the return and not later than the due date applicable in the case of the assessee for filing the return of income under section 263(1). [Refer points (vi) and (vii) of this sub-heading (2)]. If the net consideration exceeds ₹ 10 crores, the amount exceeding ₹ 10 crores would not be taken into account for the purpose of deposit in a specified bank or institution.
- Amount utilized by the assessee for purchase or construction of new asset and the amount so deposited shall be deemed to be the cost of new asset. The deemed cost of new asset would be restricted to ₹ 10 crores for the purpose of deduction under section 84.
- The assessee should **not** own more than one residential house on the date of transfer.
- The assessee should **not** –
 - purchase any other residential house within a period of 2 years or
 - construct any other residential house within a period of 3 years from the date of transfer of the original asset.

- Income from such residential house should be chargeable under the head "Income from house property"

Quantum of deduction

- If the net consideration > cost of new residential house, only proportionate capital gains is allowed as deduction i.e.

$$\text{LTCG} \times \frac{\text{Amount invested in new residential house}}{\text{Net sale consideration}}$$

- If the net consideration $\leq$ cost of new residential house, entire long-term capital gains is allowed as deduction and no capital gain shall be charged under section 67

However, if the cost of new residential house/ amount invested in new residential house exceeds ₹ 10 crore, the amount exceeding ₹ 10 crore would not be taken into account for deduction.

EXAMPLE

	(1) Net Consideration	(2) LTCG computed	(3) Cost of new residential house	(4) Amount in column (3) or ₹10 crores, whichever is lower	(5) Deduction in respect of LTCG
(1)	₹ 15 crore	₹ 7.5 crore	₹ 12 crore	₹ 10 crore	₹ 7.5 crore $\times$ 10/15 = ₹ 5 crore
(2)	₹ 20 crore	₹ 12 crore	₹ 15 crore	₹ 10 crore	₹ 12 crore $\times$ 10/20 = ₹ 6 crore
(3)	₹ 16 crore	₹ 12 crore	₹ 8 crore	₹ 8 crore	₹ 12 crore $\times$ 8/16 = ₹ 6 crore
(4)	₹ 10 crore	₹ 6 crore	₹ 10 crore	₹ 10 crore	₹ 6 crore $\times$ 10/10 = ₹ 6 crore
(5)	₹ 12 crore	₹ 6 crore	₹ 12 crore	₹ 10 crore	₹ 6 crore $\times$ 10/12 = ₹ 5 crore

EXAMPLE

1. *If the net consideration is ₹9 crore, the capital gain is ₹4.50 crore and the amount incurred for construction of new residential house upto 31.7.2027/31.8.2027/31.10.2027, as the case may be, is ₹5 crore, then, as per section 86(4), the assessee can deposit the amount of ₹4 crore (i.e., ₹9 crore – ₹5 crore) not appropriated towards construction upto 31.7.2027/ 31.8.2027/31.10.2027, as the case may be, in CGAS for claiming deduction u/s 86. If the assessee has deposited, say, ₹3 crore on or before 31.7.2027/ 31.8.2027/31.10.2027, as the case may be, the deemed cost of new residential house would be ₹8 crore (₹5 crore + ₹3 crore). The deduction u/s 86 would be ₹4 crore [i.e., ₹4.50 crore x ₹8 crore/ ₹9 crore].*
2. *If the net consideration is ₹15 crore, the capital gain is ₹7.50 crore and the amount incurred for construction of new residential house upto 31.7.2027/31.8.2027/31.10.2027, as the case may be, is ₹6 crore, the assessee can deposit ₹4 crore [i.e., ₹10 crore – ₹6 crore] on or before 31.7.2027/31.8.2027/31.10.2027, as the case may be, in CGAS for claiming deduction u/s 86. If the assessee has deposited, say, ₹3 crore on or before the due date of filing return u/s 263(1), the deemed cost of new residential house would be ₹9 crore (₹6 crore + ₹3 crore). The deduction u/s 86 would be ₹4.50 crore [i.e., ₹7.50 crore x ₹9 crore/ ₹15 crore].*

If the amount deposited in CGAS is not fully utilized

- If the amount deposited in CGAS is not fully utilised for purchasing or constructing the new asset within 3 years from the date of transfer, then the following amount shall be charged to tax under section 67 as the income of the tax year in which the period of 3 years from the date of the transfer of the original asset expires.

Capital gains allowed as deduction earlier - Capital gains that would have been deducted, if the cost of the new asset had been taken to be the amount actually utilised for purchase or construction of the new asset

- The assessee is entitled to withdraw such unutilised amount in accordance with the scheme.

Consequences where the assessee purchases any other residential house within a period of 2 years or constructs any other residential house within a period of 3 years from the date of transfer of original asset

The capital gains allowed as deduction earlier under section 86 shall be deemed to be taxable as long-term capital gains in the tax year in which such residential house is purchased or constructed.

Consequences if the new house is transferred within a period of 3 years from the date of its purchase

- Capital gains would arise on transfer of the new house; and
- The capital gains allowed as deduction earlier under section 86 would be taxable as long-term capital gains.

Note – In case the new residential house is sold after 2 years, the capital gains would be long-term capital gains.

(vi) Capital Gains Account Scheme (CGAS)

Under sections 82, 83, 84 and 86, capital gains is allowed as deduction to the extent of investment of such gains/ net consideration (in the case of section 86) in specified assets within the specified time. If such investment is not made before filing the return of income, then the capital gain or net consideration (in case of deduction under section 86) has to be deposited under the CGAS. However, the capital gain in excess of ₹ 10 crore would not be taken into account for the purpose of deposit in CGAS in case of section 82 and the net consideration in excess of ₹ 10 crore would not be taken into account for the purpose of deposit in CGAS in case of section 86.

Time limit

Such deposit in CGAS should be made before filing the return of income and not later than the due date applicable in the case of the assessee for filing the return of income under section 263(1). In such cases, the amount already utilized for purchase or construction of new asset plus the amount deposited under the CGAS on or before due date u/s 263(1) would be deemed to be the cost of new asset. However, for the purpose of sections 82 and 86, the amount so deemed to be the cost of the new asset cannot exceed ₹ 10 crore.

Proof of such deposit should be attached with the return. The deposit can be withdrawn for utilization for the specified purposes in accordance with the scheme.

Consequences if the amount deposited in CGAS is not utilized within the stipulated time of 2 years / 3 years

If the amount deposited is not utilized for the specified purpose within the stipulated period, then the **unutilized amount shall be charged as capital gain** of the tax year in which the specified period expires. In the case of section 86, proportionate amount will be taxable.

CBDT Circular No.743 dated 6.5.96 clarifies that in the event of death of an individual before the stipulated period, the unutilized amount is not chargeable to tax in the hands of the legal heirs of the deceased individual. Such unutilized amount is not income but is a part of the estate devolving upon them.

(vii) Extension of time for acquiring new asset or depositing or investing amount of Capital Gain [Section 89]

In case of compulsory acquisition of the original asset, where the compensation is not received by the assessee on the date of transfer, then the period available for acquiring a new asset or making investment in CGAS under sections 82, 83, 84, 85 and 86 would be considered from the date of receipt of such compensation and not from the date of the transfer.



22.	To claim deduction under section 85, the assessee must invest the long-term capital gains in specified bonds within a period of _____ after the date of transfer.
(a)	36 months
(b)	4 months
(c)	6 months
(d)	12 months

23.	<i>The maximum investment that can be made in specified bonds for claiming deduction under section 85 is:</i>	
	(a)	₹ 10 lakhs
	(b)	No limit
	(c)	₹ 25 lakhs
	(d)	₹ 50 lakhs
24.	<i>For claiming deduction under section 86, the assessee is required to invest _____ in the purchase or construction of a residential house property.</i>	
	(a)	Full value of consideration
	(b)	Net consideration
	(c)	Amount of capital gains only
	(d)	Cost of the asset transferred



4.21 REFERENCE TO VALUATION OFFICER [SECTION 91]

Section 91 provides that the Assessing Officer may refer the valuation of a capital asset to a Valuation Officer in the following circumstances for ascertaining the fair market value of a capital asset for the purposes of capital gains -

- (i) If the value of the asset claimed by the assessee is as per the estimate by a registered valuer, but the Assessing Officer is of the opinion that the value so claimed is at variance with its fair market value.

Under this provision, the Assessing Officer can make a reference to the Valuation Officer in cases where the fair market value is taken to be the sale consideration of the asset. An Assessing Officer can also make a reference to the Valuation Officer in a case where the fair market value of the asset as on 01.04.2001 is taken as the cost of the asset, if he is of the view that there is any variation between the value as on 01.04.2001 claimed by the assessee as per the estimate made by a registered valuer and the fair market value of the asset on that date.

- (ii) If the Assessing Officer is of the opinion that the fair market value of the asset exceeds the value of the asset as claimed by the assessee by more than the prescribed percentage of value of such asset or the Assessing Officer is of the opinion that, having regard to the nature of asset and other relevant circumstances, it is necessary to make the reference.



4.22 TAX ON SHORT TERM CAPITAL GAINS IN RESPECT OF EQUITY SHARES/ UNITS OF AN EQUITY ORIENTED FUND [SECTION 196]

- (i) **Applicability of concessional rate of tax:** This section provides for a concessional rate of tax on the short-term capital gains on transfer of -
- (1) an equity share in a company; or
 - (2) a unit of a business trust¹¹; or
 - (3) a unit of an equity oriented fund
- (ii) **Concessional rate of tax in respect of STCG on transfer of certain assets:** The concessional rate of tax on the short-term capital gain in respect of transfer of above-mentioned assets is 20%.
- (iii) **Condition:** The transaction of sale of such equity shares or units should be chargeable to securities transaction tax under Chapter VII of the Finance (No. 2) Act, 2004.

Tax @20%

However, short-term capital gains arising from transactions undertaken in foreign currency on a recognized stock exchange located in an International Financial Services Centre (IFSC) would be taxable at a concessional rate of 20%, even though STT is not leviable in respect of such transaction.

- (iv) **Adjustment of unexhausted basic exemption limit:** In the case of resident individuals or HUF, if the basic exemption is not fully exhausted by any other income, then, such short-term capital gain will be reduced by the unexhausted basic exemption limit and only the balance would be taxed at

¹¹ Chapter XIII-F of the Income-tax Act, 2025 and the related provisions dealing with the taxation aspects of business trust would be dealt with at the Final level.

20%. However, the benefit of adjustment of unexhausted basic exemption limit is not available in the case of non-residents.

- (v) **No deduction under Chapter VIII against STCG taxable under section 196:** Deductions under Chapter VIII cannot be availed in respect of such short-term capital gains on equity shares of a company or units of an equity oriented mutual fund or unit of a business trust included in the total income of the assessee.

4.23 TAX ON LONG TERM CAPITAL GAINS [SECTION 197]

- (i) **Concessional rate of tax:** Long term capital gains on transfer of all long-term capital assets (other than referred u/s 198) would be taxable 12.5%.

In case of non-residents, LTCG on transfer of unlisted securities, or shares of a closely held company, would be taxable @12.5% without foreign currency fluctuation adjustments mentioned in section 72(6).

Important Points to remember –

- (1) **For Individuals or HUF (Residents):** In the case of resident individuals or HUF, if the basic exemption is not fully exhausted by any other income, then, such long-term capital gain will be reduced by the unexhausted basic exemption limit and only the balance would be taxed at 12.5%. However, the benefit of adjustment of unexhausted basic exemption limit is not available in the case of non-residents.
 - (2) **Non-residents and Foreign Companies:** Long-term capital gains from the transfer of listed shares (other than listed equity shares covered u/s 198) or debentures of an Indian company (acquired in foreign currency) will be taxed at 12.5% (with foreign currency fluctuation adjustments).
 - (3) **No deduction under Chapter VIII against LTCG taxable under section 197:** The provisions of section 197 make it clear that the deductions under Chapter VIII cannot be availed in respect of the long-term capital gains included in the total income of the assessee.
- (ii) **Benefit of indexation:** In case of resident individual or HUF, in case of long-term capital gains arising on transfer of land or building or both which was

acquired before 23.7.2024, the excess income-tax computed as per the following formula shall be ignored :—

$$E = A - B$$

where—

E = excess income tax to be ignored;

A = income-tax on long term capital gains computed without indexation @12.5%;

B = income-tax on long-term capital gains computed with indexation @20%.



4.24 TAX ON LONG TERM CAPITAL GAINS ON CERTAIN ASSETS [SECTION 198]

- (i) **Applicability of the section:** Section 198 provides that irrespective of anything contained in section 197, rate of tax of 12.5% will be leviable on the long-term capital gains exceeding ₹ 1,25,000 on transfer of –
- (a) an equity share in a company; or
 - (b) a unit of a business trust; or
 - (c) a unit of an equity oriented fund
- (ii) **Conditions:** The conditions for availing the benefit of Section 198 are –
- (a) In case of equity share in a company, STT has been paid on acquisition and transfer of such capital asset
 - (b) In case of unit of an equity oriented fund or unit of business trust, STT has been paid on transfer of such capital asset.

The requirement of payment of STT is not applicable in respect of long-term capital gains arising from transfer undertaken on a recognized stock exchange located in an International Financial Service Centre (IFSC), where the consideration for transfer is received or receivable in foreign currency

The Central Government may, by notification, specify the nature of acquisition of equity share in a company on which the condition of payment of STT on acquisition would not be applicable.

- (iii) **Adjustment of unexhausted basic exemption limit:** In the case of resident individuals or HUF, if the basic exemption limit is not fully exhausted by any other income, then such long-term capital gain will be reduced by the unexhausted basic exemption limit and only the balance exceeding ₹ 1,25,000 would be taxed at 12.5%.

However, the benefit of adjustment of unexhausted basic exemption limit is not available in the case of non-residents.

- (iv) **No deduction under Chapter VIII against LTCG taxable under section 198:** Deductions under Chapter VIII cannot be availed in respect of such long-term capital gains on equity shares of a company or units of an equity oriented mutual fund or unit of a business trust included in the total income of the assessee.
- (v) **No benefit of rebate under section 156 against LTCG taxable under section 198:** Rebate under section 156 is not available in respect of tax payable @12.5% on LTCG under section 198.

ILLUSTRATION 14

Calculate the income-tax liability for the tax year 2026-27 in the following cases:

	Mr. A (age 45)	Mrs. B (age 62)	Mr. C (age 81)	Mr. D (age 82)
Status	Non-resident	Non-resident	Resident	Non-resident
<i>Total income other than long-term capital gain</i>	2,40,000	4,10,000	5,90,000	4,80,000
<i>Long-term capital gain</i>	85,000 from sale of vacant site	10,000 from sale of listed equity shares (STT paid on sale and purchase of shares)	60,000 from sale of agricultural land in rural area	Nil

- (i) If Mr. A, Mrs. B, Mr. C and Mr. D pay tax under default tax regime u/s 202(1).
- (ii) If Mr. A, Mrs. B, Mr. C and Mr. D exercise the option to shift out of the default tax regime and pay tax under the optional tax regime as per the normal provisions of the Act.

SOLUTION

- (i) If Mr. A, Mrs. B, Mr. C and Mr. D pay tax under default tax regime u/s 202(1).

Computation of income-tax liability for the T.Y.2026-27

Particulars	Mr. A (age 45)	Mrs. B (age 62)	Mr. C (age 81)	Mr. D (age 82)
Residential Status	Non-resident	Non-resident	Resident	Non-resident
Applicable basic exemption limit	₹ 4,00,000	₹ 4,00,000	₹ 4,00,000	₹ 4,00,000
Asset sold	Vacant site	Listed equity shares (STT paid on both sale and purchase of shares)	Rural agricultural land	-
Long-term capital gain (on sale of above asset)	₹ 85,000 [Taxable @12.5% u/s 197]	₹ 10,000 [Exempt u/s 198 since it is less than ₹ 1,25,000]	₹ 60,000 (Exempt – not a capital asset)	-
Other income	₹ 2,40,000	₹ 4,10,000	₹ 5,90,000	₹ 4,80,000
Tax liability				
On LTCG	₹ 10,625	-	-	-
On Other income	Nil	₹ 500	₹ 9,500	₹ 4,000
	₹ 10,625	₹ 500	₹ 9,500	₹ 4,000
Less: Rebate u/s 156	-	-	₹ 9,500	-
	₹ 10,625	₹ 500	Nil	₹ 4,000
Add: Health & education cess (HEC) @4%	₹ 425	₹ 20	Nil	₹ 160
Total tax liability	₹ 11,050	₹ 520	Nil	₹ 4,160

Note: Since Mr. C is a resident whose total income does not exceed ₹ 12 lakhs, he is eligible for rebate of ₹ 60,000 or the actual tax payable, whichever is lower, under section 156.

- (ii) If Mr. A, Mrs. B, Mr. C and Mr. D exercise the option to shift out of the default tax regime and pay tax under the optional tax regime as per the normal provisions of the Act

Computation of income-tax liability for the T.Y.2026-27

Particulars	Mr. A (age 45)	Mrs. B (age 62)	Mr. C (age 81)	Mr. D (age 82)
Residential Status	Non-resident	Non-resident	Resident	Non-resident
Applicable basic exemption limit	₹ 2,50,000	₹ 2,50,000	₹ 5,00,000	₹ 2,50,000
Asset sold	Vacant site	Listed equity shares (STT paid on both sale and purchase of shares)	Rural agricultural land	-
Long-term capital gain (on sale of above asset)	₹ 85,000 [Taxable @12.5% u/s 197]	₹ 10,000 [Exempt u/s 198 since it is less than ₹ 1,25,000]	₹ 60,000 (Exempt – not a capital asset)	-
Other income	₹ 2,40,000	₹ 4,10,000	₹ 5,90,000	₹ 4,80,000
Tax liability				
On LTCG	₹ 10,625	-	-	-
On Other income	Nil	₹ 8,000	₹ 18,000	₹ 11,500
	₹ 10,625	₹ 8,000	₹ 18,000	₹ 11,500
Less: Rebate u/s 156	-	-	-	-
	₹ 10,625	₹ 8,000	₹ 18,000	₹ 11,500
Add: Health & education cess (HEC) @4%	₹ 425	₹ 320	₹ 720	₹ 460
Total tax liability	₹ 11,050	₹ 8,320	₹ 18,720	₹ 11,960

Notes:

Since Mrs. B and Mr. D are non-residents, they cannot avail the higher basic exemption limit of ₹ 3,00,000 and ₹ 5,00,000 for persons over the age of 60 years and 80 years, respectively. Also, they along with Mr. A, being non-residents are not eligible for rebate under section 156 even though their total income does not exceed ₹ 5 lakh.



LET US RECAPITULATE

Scope and year of chargeability [Section 67]

Any profits or gains arising from the transfer of a capital asset effected in the tax year will be chargeable to tax under the head 'Capital Gains', and shall be deemed to be the income of the tax year in which the transfer took place [Section 67(1)]

Section	Profits and gains arising from the following transactions chargeable as income	T.Y. in which income is chargeable to tax	Deemed Full Value of consideration for computation of capital gains under section 72
67(2)	Money or other asset received under an insurance from an insurer on account of damage/ destruction of any capital asset, as a result of, flood, hurricane, cyclone, earthquake or other convulsion of nature, riot or civil disturbance, accidental fire or explosion, action by an enemy or action taken in combating an enemy	The tax year in which such money or other assets are received.	The value of money or the fair market value of other assets received.

67(6)	Transfer by way of conversion of a capital asset into or its treatment by the owner as stock-in-trade of a business carried on by him.	The tax year in which such stock-in-trade is sold or otherwise transferred by him	The fair market value of the capital asset on the date of such conversion or treatment
67(12)	Transfer by way of compulsory acquisition under any law, or a transfer, the consideration for which was determined or approved by the Central Government or RBI	The tax year in which the consideration or part thereof is first received.	Compensation or consideration determined or approved in the first instance by the Central Government or RBI
	If the compensation or consideration is further enhanced by any court, Tribunal or other authority, the enhanced amount will be deemed to be the income. However, any amount of compensation received in pursuance of an interim order of a court, Tribunal	The tax year in which the amount was received by the assessee.	Amount by which the compensation or consideration is enhanced or further enhanced. For this purpose cost of acquisition and cost of improvement shall be taken as 'Nil'.

	or other authority shall be deemed to be income chargeable under the head "Capital Gains" of the tax year in which the final order of such court, Tribunal or other authority is made.		
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Definitions [Section 2]

Section	Term	Definition
2(22)	Capital Asset	Capital Asset means – (a) property of any kind held by an assessee, whether or not connected with his business or profession; (b) any securities held by a FII which has invested in such securities in accordance with the regulations made under the SEBI Act, 1992 or an investment fund¹² which has invested such securities in accordance with the SEBI regulations or IFSC regulations; (c) any unit linked insurance policy (ULIP) to which exemption under Schedule II (Table: Sl. No. 2) does not apply. Exclusions from the definition of Capital Asset: ➤ Stock in trade [other than securities referred to in (b) above], raw materials or consumables held for business or profession; ➤ Personal effects except jewellery, archeological collections, drawings, paintings, sculptures or any work of art;

¹² specified in section 224(10)(a)

- Rural agricultural land in India i.e. agricultural land not situated within specified urban limits.

The agricultural land described in (a) and (b) below, being land situated within the specified urban limits, would fall within the definition of "capital asset", and transfer of such land would attract capital gains tax -

- (a) agricultural land situated in any area within the jurisdiction of a municipality or cantonment board having population of not less than 10,000, or
 (b) agricultural land situated in any area within such distance, measured aerially, in relation to the range of population as shown hereunder -

	Aerial distance from the local limits of a municipality or cantonment board referred to in item (a)	Population according to the last preceding census of which the relevant figures have been published before the first day of the tax year.
(i)	≤ 2 kms	> 10,000 but ≤ 1,00,000
(ii)	≤ 6 kms	> 1,00,000 but ≤ 10,00,000
(iii)	≤ 8 kms	> 10,00,000

- Gold Deposits Bonds issued under the Gold Deposit Scheme, 1999 or deposit certificates issued under the Gold Monetisation Scheme, 2015 and Gold Monetisation Scheme, 2019 notified by the Central Government;

Note: 'Property' includes any rights in or in relation to an Indian company, including rights of management or control or any other rights.

2(101)/ 2(67)	Short-term capital asset/ long-term capital asset	Capital Asset	STCG, if held for	LTCG, if held for
		• Security listed in a recognized stock exchange in India	≤ 12 months immediately preceding	> 12 months immediately preceding

	• Unit of equity-oriented fund/unit of UTI • Zero Coupon bond	the date of its transfer	the date of its transfer
	• Other capital assets	≤ 24 months immediately preceding the date of its transfer	> 24 months immediately preceding the date of its transfer

Note – As per section 76, capital gains arising from transfer of the following assets would always be short-term capital gain irrespective of the period of holding of such assets:

- units of a specified mutual fund acquired on or after 1.4.2023,
- market linked debentures and
- unlisted bond and unlisted debenture.

Transactions not regarded as transfer [Section 70]: Some Examples

- Any distribution of capital assets on the **total or partial partition of a HUF**
- Any transfer of capital asset by an individual or HUF under a **gift or will or an irrevocable trust**
- Any transfer of capital asset by a **holding company to its 100% subsidiary Indian company or by a subsidiary company to its 100% holding Indian company**
- Any transfer **by a shareholder in a scheme of amalgamation** of shares held by him in the amalgamating company
- Any transfer or **issue of shares by the resulting company, in a scheme of demerger** to the shareholders of the demerged company
- Any transfer by an individual of **sovereign gold bonds issued by RBI by way of redemption**
- Any transfer of a capital asset, being **conversion of gold into Electronic Gold Receipt issued by a Vault Manager, or conversion of Electronic Gold Receipt into gold.**
- Any transfer by way of **conversion of bonds, debentures, debenture stock, deposit certificates of a company, into shares or debentures of that company.**

- Any transfer by way of **conversion of preference shares of a company into equity shares** of that company
- Any transfer of a capital asset in a **transaction of reverse mortgage** under a scheme made and notified by the Central Government

Mode of computation of Capital Gains [Section 72]

Computation of long-term capital gains

Full value of consideration received or accruing as a result of transfer	xx
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Less: Expenditure incurred wholly and exclusively in connection with such transfer (e.g. brokerage on sale)

xx

(Note: Deduction on account of STT paid and in respect of interest u/s 22(1)(b) or under the provisions of Chapter VIII will not be allowed)

Net Sale Consideration

xx

Less: Cost of acquisition and Cost of improvement

xx

Less: Deduction under sections 82/83/84/85/86

xx

Long-term capital gains

xx

Notes:

- (i) In case of a resident individual or HUF, **while computing tax** on transfer of long term capital asset, being land or building or both, which was acquired before 23.7.2024, the excess income-tax computed by following formula shall be ignored –

$$E = A - B$$

E = Excess income-tax to be ignored

A = Long term capital gain without indexation benefit @12.5%

B = Long term capital gain with indexation benefit @20%

- (ii) Indexed Cost of Acquisition =

$$\text{Cost of acquisition} \times \frac{\text{CII for the year in which the asset is transferred}}{\text{CII for the year in which the asset was first held by the assessee or 2001-02, whichever is later}}$$

- (iii) Indexed Cost of Improvement =

$$\text{Cost of improvement} \times \frac{\text{CII for the year in which the asset is transferred}}{\text{CII for the year in which the improvement took place}}$$

Computation of short-term capital gains	
Full value of consideration received or accruing as a result of transfer	xxx
Less: Expenditure incurred wholly and exclusively in connection with such transfer (e.g. brokerage on sale)	<u>xxx</u>
<i>(Note: Deduction on account of STT paid and in respect of interest u/s 22(1)(b) or under the provisions of Chapter VIII will not be allowed)</i>	
Net Sale Consideration	xxx
Less: Cost of acquisition and cost of improvement	xxx
Less: Deduction under sections 83/84	<u>xxx</u>
Short-term capital gains	<u>xxx</u>
Capital Gains: Special Provisions	
Section	Particulars
74	Any income from transfer of depreciable assets is deemed to be capital gains arising from transfer of short-term capital assets , irrespective of the period of holding.
76	Any income from transfer of unit of a Specified Mutual Fund acquired on or after 1.4.2023 or Market Linked Debenture or unlisted bond and unlisted debenture is deemed to be short-term capital gain.
77	Capital Gains on Slump Sale Any profits and gains arising from slump sale effected in the tax year shall be chargeable to income-tax as capital gains arising from the transfer of capital assets and shall be deemed to be the income of the tax year in which the transfer took place. Where the undertaking being transferred under slump sale is held for more than 36 months, the resultant gain is long-term. If the undertaking is held for less than 36 months, the resultant gain is short-term. Net worth is deemed to be the cost of acquisition and the cost of improvement - 'Net worth' shall be aggregate value of total assets <i>minus</i> value of liabilities of such undertaking as per books of account. Fair market value is deemed to be the full value of consideration - Fair market value of the capital asset as on the date of transfer, calculated in the prescribed manner, shall be deemed to be the full

	value of the consideration received or accruing as a result of the transfer of such capital asset. Accordingly, Rule 53 prescribes that the fair market value (FMV) of capital assets would be the higher of – (i) FMV 1, being the fair market value of capital assets transferred by way of slump sale (determined on the date of slump sale); or (ii) FMV 2, being the fair market value of the consideration (monetary and non-monetary) received or accruing as a result of transfer by way of slump sale Capital gains = Fair market value – Net Worth Aggregate value of total assets would be the aggregate of the following: i) Written Down Value of depreciable assets; ii) Nil, in case of self generated goodwill iii) Nil, in case of capital assets in respect of which the whole of the expenditure has been allowed or is allowable as deduction under section 46; and iv) Book value for other assets. Revaluation of assets shall be ignored for computing Net Worth.															
78	Computation of capital gains on sale of land or building or both <table><tr><th>Sl. No.</th><th>Condition</th><th>Deemed Sale Consideration</th></tr><tr><td>1.</td><td>Stamp Duty Value > Actual Consideration If Stamp Duty Value > 110% of actual consideration If Stamp Duty Value ≤ 110% of actual sale consideration</td><td>Stamp Duty Value Actual sale consideration</td></tr><tr><td>2.</td><td>Actual Consideration > Stamp Duty Value</td><td>Actual Sale Consideration</td></tr><tr><td>3.</td><td>Value ascertained by Valuation Officer > Stamp Duty Value</td><td>Stamp Duty Value</td></tr><tr><td>4.</td><td>Value ascertained by Valuation Officer < Stamp Duty Value</td><td>Value ascertained by Valuation Officer</td></tr></table>	Sl. No.	Condition	Deemed Sale Consideration	1.	Stamp Duty Value > Actual Consideration If Stamp Duty Value > 110% of actual consideration If Stamp Duty Value ≤ 110% of actual sale consideration	Stamp Duty Value Actual sale consideration	2.	Actual Consideration > Stamp Duty Value	Actual Sale Consideration	3.	Value ascertained by Valuation Officer > Stamp Duty Value	Stamp Duty Value	4.	Value ascertained by Valuation Officer < Stamp Duty Value	Value ascertained by Valuation Officer
Sl. No.	Condition	Deemed Sale Consideration														
1.	Stamp Duty Value > Actual Consideration If Stamp Duty Value > 110% of actual consideration If Stamp Duty Value ≤ 110% of actual sale consideration	Stamp Duty Value Actual sale consideration														
2.	Actual Consideration > Stamp Duty Value	Actual Sale Consideration														
3.	Value ascertained by Valuation Officer > Stamp Duty Value	Stamp Duty Value														
4.	Value ascertained by Valuation Officer < Stamp Duty Value	Value ascertained by Valuation Officer														

	Note – If the date of agreement is different from the date of transfer, stamp duty value on the date of agreement can be considered, if whole or part of the consideration is received by way of specified banking or online mode on or before the date of agreement. Otherwise, stamp duty value on the date of transfer has to be considered.	
79	Fair Market Value deemed to be full value of consideration in case of transfer of unlisted shares in certain cases	
	If consideration received or accruing as a result of transfer of unquoted share < FMV of such share determined in the prescribed manner The provisions of this section would not, however, be applicable to any consideration received or accruing as a result of transfer by such class of persons and subject to such conditions as may be prescribed.	FMV of such share determined in the prescribed manner would be deemed as the full value of consideration
80	Fair Market Value deemed to be full value of consideration in certain cases	
	Where the consideration received or accruing as a result of the transfer of a capital asset by an assessee is not ascertainable or cannot be determined	FMV of the said asset on the date of transfer would be deemed as the full value of consideration
81	Advance money received and forfeited upto 31.3.2014 Where the assessee has received advance money on an earlier occasion for transfer of capital asset, but the transfer could not be effected due to failure of negotiations, then, the advance money forfeited by the assessee has to be reduced from the cost of acquisition (and indexation, if any would be calculated on the cost so reduced) while computing capital gains, when the capital asset is transferred or sold. Advance money received and forfeited on or after 1.4.2014 Such advance money received on or after 1.4.2014 would be taxable under the head "Income from other sources". Therefore, advance money received and forfeited on or after 1.4.2014 should not be	

	deducted from the cost while computing capital gains arising on transfer of the asset.
196	Tax on short-term capital gains on transfer of equity shares and units of equity oriented fund on which STT is chargeable ➤ Any short-term capital gains on transfer of equity shares or units of an equity oriented fund on which securities transaction tax has been paid on such sale shall be liable to tax @20%. ➤ In case of resident individuals and HUF, the short-term capital gain shall be reduced by the unexhausted basic exemption limit and the balance shall be taxed at 20%. ➤ No deduction under Chapter VIII can be claimed in respect of such short-term capital gain. ➤ Short-term capital gains arising from transaction undertaken in foreign currency on a recognized stock exchange located in an International Financial Services Centre (IFSC) would be taxable at a concessional rate of 20%, even when STT is not paid in respect of such transaction.
197	Tax on long term capital gains on transfer of capital asset other than referred to in section 198 ➤ LTCG on transfer of all long-term capital assets (other than referred u/s 198) would be taxable @12.5%. However, in case of an individual or HUF, being a resident in India, while computing long-term capital gains arising on transfer of long-term capital asset, being land or building or both if acquired before 23.7.2024, the excess income-tax computed as per the following formula shall be ignored :— E = A – B E = excess income tax to be ignored; A = income-tax on long term capital gains computed without indexation @12.5% B = income-tax on long term capital gains computed with indexation @20% ➤ Further, in case of non-residents, LTCG on transfer of unlisted securities, or shares of a closely held company, would be taxable @12.5% without foreign currency fluctuation.

	➤ For Individuals or HUF (Residents): If their total income (excluding long-term capital gains) is below the basic exemption limit, the unadjusted basic exemption limit can be reduced from the long-term capital gains. The remaining amount of long-term capital gains will be taxed at 12.5%. ➤ Non-Residents and Foreign Companies: Long-term capital gains from the transfer of listed shares or debentures of an Indian company (acquired in foreign currency) will be taxed at 12.5% (with foreign currency fluctuation adjustments). ➤ No Chapter VIII deduction against LTCG: The provisions of section 197 make it clear that the deductions under Chapter VIII cannot be availed in respect of the long-term capital gains included in the total income of the assessee.
198	Tax on long-term capital gains on certain assets ➤ Any long-term capital gains exceeding ₹ 1,25,000 on transfer of equity shares or units of an equity oriented fund shall be liable to tax @12.5% on capital gains, if securities transaction tax has been paid on acquisition and such sale in case of equity share, and on such sale in case of units of an equity oriented mutual fund. ➤ In case of resident individuals and HUF, the long-term capital gain shall be reduced by the unexhausted basic exemption limit and the balance shall be taxed at 12.5%. ➤ No deduction under Chapter VIII or rebate under section 156 can be claimed in respect of such long-term capital gain. ➤ Long-term capital gains (in excess of ₹ 1,25,000) arising from transaction undertaken on a recognized stock exchange located in an International Financial Services Centre (IFSC) would be taxable at a concessional rate of 12.5%, where the consideration for transfer is received or receivable in foreign currency, even when STT is not paid in respect of such transaction.

Cost of Acquisition [Section 90]

Sl. No.	Nature of asset	Cost of acquisition
1	Goodwill of business or profession, trademark, brand name or any other intangible asset etc., (a) Self generated (b) Acquired from previous owner (c) In case of circumstances mentioned under Section 73 (Table S. No.1) However, in points (b) and (c) above, in case of capital asset, being goodwill of a business or profession, in respect of which depreciation u/s 32(1) of Income-tax Act 1961, has been obtained by the assessee in any T.Y. (upto T.Y.2019-20) The cost of improvement of such assets would be Nil.	Nil Purchase price Purchase price for such previous owner Purchase price as reduced by the total amount of depreciation obtained by the assessee under section 32(1) of Income-tax Act 1961.
2.	Bonus shares If bonus shares are allotted before 1.4.2001 If bonus shares are allotted on or after 1.4.2001 Bonus shares allotted before 1.2.2018, on which STT has been paid at the time of transfer	FMV on 1.4.2001 Nil The higher of – (i) Actual cost of acquisition (i.e., Nil, in case of bonus shares allotted on or after 1.4.2001; and FMV on 1.4.2001, in case of bonus shares allotted before 1.4.2001) (ii) Lower of – (a) FMV as on 31.1.2018; and (b) Actual sale consideration

3.	Rights Shares Original shares (which forms the basis of entitlement of rights shares) Rights shares subscribed for by the assessee Rights entitlement (which is renounced by the assessee in favour of a person) Rights shares which are purchased by the person in whose favour the assessee has renounced the rights entitlement	Amount actually paid for acquiring the original shares Amount actually paid for acquiring the rights shares Nil Purchase price paid to the renouncer of rights entitlement as well as the amount paid to the Co. which has allotted the rights shares.
4.	Long term capital assets being, - equity shares in a company on which STT is paid both at the time of purchase and transfer or - unit of equity oriented fund on which STT is paid at the time of transfer. acquired before 1st February, 2018	Cost of acquisition shall be the higher of - (i) cost of acquisition of such asset; and (ii) lower of - the FMV of such asset on 31.1.2018; and - the full value of consideration received or accruing as a result of the transfer of the capital asset.
5.	Any other capital asset Where such capital asset became the property of the assessee before 1.4.2001	Cost of the asset to the assessee, or FMV as on 1.4.2001, at the option of the assessee. However, in case of capital asset being land or building, FMV as on 1.4.2001 shall not exceed stamp duty value as on 1.4.2001.
	Where capital assets became the property of the assessee by any of the modes specified in section 73 (Table: Sl. No. 1).	Cost to the previous owner or FMV as on 1.4.2001, at the option of the assessee. However, in case of capital asset being land or building, FMV as

		on 1.4.2001 shall not exceed stamp duty value as on 1.4.2001.
	<i>The provisions contained in (5) above shall also apply to the assets mentioned in (3) and (4) above.</i>	
	Cost of the property in the hands of previous owner cannot be ascertained	The FMV on the date on which the capital asset become the property of the previous owner would be considered as cost of acquisition.

Cost of improvement of certain assets [Section 90]

Sl. No.	Nature of asset	Cost of improvement
1	Goodwill or any other intangible asset of a business, right to manufacture, produce or process any article or thing, right to carry on any business or profession or any other right.	Nil
2	Where the capital asset became the property of the previous owner or the assessee before 1-4-2001	All expenditure of a capital nature incurred in making any addition or alteration to the capital asset on or after 1.4.2001 by the previous owner or the assessee.
3	In relation to any other capital asset	All capital expenditure incurred in making additions or alterations to the capital asset on or after 1.4.2001 – - by the assessee after it became his property; and - by the previous owner [in a case where the assessee acquired the property by modes specified in section 73(1)].

Capital Gains: Exemptions under section 11

Schedule	Particulars
Schedule III (Table: S. No. 18)	Where any individual or HUF owns urban agricultural land which has been used for agricultural purposes for a period of two years immediately preceding the date of transfer by such individual or a parent of his or by such HUF and the same is compulsorily acquired under any law or the consideration for such transfer is determined or approved by the Central Government or the RBI, resultant capital gain will be exempt provided the compensation or consideration for such transfer is received on or after 1.4.2004.
Schedule III (Table: S. No. 35)	The amount received by the senior citizen as a loan, either in lump sum or in installments, in a transaction of reverse mortgage would be exempt from income-tax.
Schedule III (Table: S. No. 38C)	Any income arising to an individual or a HUF in respect of any award or agreement made on account of compulsory acquisition of any land shall be exempt from tax if such award or agreement is made under the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, except under section 46 of the said Act.

Deduction in respect of Capital Gains [Sections 82 to 86]						
S. No.	Particulars	Section 82	Section 83	Section 84	Section 85	Section 86
1	Eligible Assessee	Individual/ HUF	Individual/ HUF	Any assessee	Any assessee	Individual/ HUF
2	Asset transferred	Residential House (LTCG)	Urban Agricultural Land	Land & building forming part of an industrial undertaking	Land or building or both (LTCG)	Any LTCA other than Residential House.
3	Other Conditions	Income from such house should be chargeable under the head "Income from house property"	Land should be used for agricultural purposes by assessee or his parents or HUF for 2 years immediately preceding the date of transfer	Land & building have been used for business of undertaking for at least 2 years immediately preceding the date of transfer. The transfer should be by	-	Assessee should not own more than one residential house on the date of transfer. He should not purchase within 2 years or construct within 3 years after the date of transfer, another residential house.

4	Qualifying asset i.e., asset in which capital gains has to be invested	One Residential House situated in India/Two residential houses in India, at the option of the assessee, where capital gains does not exceed ₹ 2 crore	Land for being used for agricultural purpose (Urban/Rural)	Land or Building or right in land or building	Bonds of NHAI or RECL or any other bond notified by C.G. (Redeemable after 5 years)	One Residential House situated in India
5	Time limit for purchase/construction	Purchase within 1 year before or 2 years after the date of transfer (or) construct within 3 years after the date of transfer	Purchase within a period of 2 years after the date of transfer	Purchase/construct within 3 years after the date of transfer, for shifting or re-establishing the existing undertaking or setting up a new industrial undertaking.	Purchase within a period of 6 months after the date of transfer	Purchase within 1 year before or 2 years after the date of transfer (or) Construct within 3 years after the date of transfer

6	Amount of Deduction	Cost of new Residential House or two houses, as the case may be or Capital Gain, whichever is lower, is allowed as deduction. However, if the cost of new residential house exceeds ₹ 10 crore, the amount exceeding ₹ 10 crore would not be taken into account for deduction. The maximum deduction that can be claimed by the assessee is ₹ 10 crore.	Cost of new Agricultural Land or Capital Gain, whichever is lower, is allowed as deduction	Cost of new asset or Capital Gain, whichever is lower.	Capital Gain or amount invested in specified bonds, whichever is lower. Maximum permissible investment out of capital gains arising in any financial year is ₹ 50 lakhs, whether such investment is made in the current TY or subsequent TY or both.	Cost of new Residential House $\geq$ Net sale consideration of original asset, entire Capital gain is allowed as deduction. Cost of new Residential House $<$ Net sale consideration of original asset, proportionate capital gain is allowed as deduction. However, if the cost of new residential house exceeds ₹ 10 crore, the amount exceeding ₹ 10 crore would not be taken into account for deduction.
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TEST YOUR KNOWLEDGE

1. Mr. Mithun purchased 100 equity shares of M/s Goodmoney Co. Ltd. on 01-04-2007 at rate of ₹ 1,000 per share in public issue of the company by paying securities transaction tax.

Company allotted bonus shares in the ratio of 1:1 on 01.12.2025. He has also received dividend of ₹ 10 per share (gross) on 01.05.2026.

He sold all the shares on 01.10.2026 at the rate of ₹ 4,000 per share through a recognized stock exchange and paid brokerage of 1% and securities transaction tax of 0.02%.

Compute his total income and tax liability for T.Y. 2026-27 if Mr. Mithun opts out of the default tax regime, assuming that he is having other income of ₹ 8,00,000. Fair market value of each share of M/s Goodmoney Co. Ltd. on 31.1.2018 is ₹ 2,000.

2. Aarav converts his plot of land purchased in July, 2004 for ₹ 80,000 into stock-in-trade on 31st March, 2026. The fair market value as on 31.3.2026 was ₹ 3,00,000. The stock-in-trade was sold for ₹ 3,25,000 in the month of January, 2027.

Find out the taxable income, if any, and if so under which head of income and for which Tax Year?

3. Mrs. Harshita purchased a land at a cost of ₹ 35 lakhs in the T.Y. 2004-05 and held the same as her capital asset till 20th March, 2025.

She started her real estate business on 21st March, 2025 and converted the said land into stock-in-trade of her business on the said date, when the fair market value of the land was ₹ 210 lakhs.

She constructed 15 flats of equal size, quality and dimension. Cost of construction of each flat is ₹ 10 lakhs. Construction was completed in February, 2027. She sold 10 flats at ₹ 30 lakhs per flat in March, 2027. The remaining 5 flats were held in stock as on 31st March, 2027.

She invested ₹ 50 lakhs in bonds issued by National Highways Authority of India on 31st March, 2027 and another ₹ 50 lakhs in bonds of Rural Electrification Corporation Ltd. in April, 2027.

Compute the amount of chargeable capital gain and business income in the hands of Mrs. Harshita arising from the above transactions for T.Y. 2026-27 indicating clearly the reasons for treatment for each item.

4. Mr. A is an individual carrying on business. His stock and machinery were damaged and destroyed in a fire accident which occurred in December 2026.

The value of stock lost (total damaged) was ₹ 6,50,000. Certain portion of the machinery could be salvaged. The opening balance of the block as on 1.4.2026 (i.e., WDV as on 31.3.2026 after providing depreciation for T.Y. 2025-26) was ₹ 10,80,000.

During the process of safeguarding machinery and in the fire fighting operations, Mr. A lost his gold chain and a diamond ring, which he had purchased in April, 2005 for ₹ 1,20,000. The market value of these two items as on the date of fire accident was ₹ 1,80,000.

Mr. A received the following amounts from the insurance company:

- | | |
|---|------------|
| (i) Towards loss of stock | ₹ 4,80,000 |
| (ii) Towards damage of machinery | ₹ 6,00,000 |
| (iii) Towards gold chain and diamond ring | ₹ 1,80,000 |

You are requested to briefly comment on the tax treatment of the above three items under the provisions of the Income-tax Act, 2025.

5. Mr. Sarthak entered into an agreement with Mr. Jaikumar to sell his residential house located at Kanpur on 16.08.2026 for ₹ 1,50,00,000.

The sale proceeds were to be paid in the following manner:

- (i) 20% through account payee bank draft on the date of agreement.
- (ii) 60% on the date of the possession of the property.
- (iii) Balance after the completion of the registration of the title to the property.

Mr. Jaikumar was handed over the possession of the property on 15.12.2026 and the registration process was completed on 14.01.2027. He paid the sale proceeds as per the sale agreement.

The value determined by the Stamp Duty Authority-

- (a) on 16.08.2026 was ₹ 1,70,00,000;

- (b) on 15.12.2026 was ₹ 1,71,00,000; and
- (c) on 14.01.2027 was ₹ 1,71,50,000.

Mr. Sarthak had acquired the residential house at Kanpur on 01.04.2001 for ₹ 30,00,000. After recovering the sale proceeds from Jaikumar, he purchased two residential house properties, one in Kanpur for ₹ 20,00,000 on 24.3.2027 and another in Delhi for ₹ 35,00,000 on 28.5.2027.

Compute the income chargeable under the head "Capital Gains" of Mr. Sarthak for the Tax Year 2026-27.

6. Mrs. Yuvika bought a vacant land for ₹ 80 lakhs in May 2005. Registration and other expenses were 10% of the cost of land. She constructed a residential building on the said land for ₹ 100 lakhs during the financial year 2007-08.

She entered into an agreement for sale of the above said residential house with Mr. Johar (not a relative) in April 2015. The sale consideration was fixed at ₹ 700 lakhs and on 23.4.2015, Mrs. Yuvika received ₹ 20 lakhs as advance in cash by executing an agreement. However, due to failure on part of Mr. Johar, the said negotiation could not materialise and hence, the said amount of advance was forfeited by Mrs. Yuvika.

Mrs. Yuvika, again entered into an agreement on 01.05.2026 for sale of this house at ₹ 810 lakhs. She received ₹ 80 lakhs as advance by RTGS. The stamp duty value on the date of agreement was ₹ 890 lakhs. The sale deed was executed and registered on 14.07.2026 for the agreed consideration. However, the State stamp valuation authority had revised the values, hence, the value of property for stamp duty purposes was ₹ 900 lakhs. Mrs. Yuvika paid 1% as brokerage on sale consideration received.

Subsequent to sale, Mrs. Yuvika made following acquisition/investments:

- (i) Acquired two residential houses at Delhi and Chandigarh for ₹ 130 lakhs and ₹ 50 lakhs, respectively, on 31.1.2027 and 15.5.2027
- (ii) Acquired a residential house at UK for ₹ 180 lakhs on 23.3.2027.
- (iii) Subscribed to NHAI capital gains bond (approved under section 85) for ₹ 50 lakhs on 30.11.2026 and for ₹ 40 lakhs on 9.1.2027.

Compute the income chargeable under the head 'Capital Gains' of Mrs. Yuvika for T.Y.2026-27. The choice of deduction must be in the manner most beneficial to the assessee.

7. Mr. Shiva purchased a house property on February 15, 1979 for ₹ 3,24,000. In addition, he has also paid stamp duty @10% on the stamp duty value of ₹ 3,50,000.

In April, 2008, Mr. Shiva entered into an agreement with Mr. Mohan for sale of such property for ₹ 14,35,000 and received an amount of ₹ 1,11,000 as advance. However, the sale consideration did not materialize and Mr. Shiva forfeited the advance. In May 2015, he again entered into an agreement for sale of said house for ₹ 20,25,000 to Ms. Deepshikha and received ₹ 1,51,000 as advance. However, as Ms. Deepshikha did not pay the balance amount, Mr. Shiva forfeited the advance. In August, 2015, Mr. Shiva constructed the first floor by incurring a cost of ₹ 3,90,000.

On November 15, 2026, Mr. Shiva entered into an agreement with Mr. Manish for sale of such house for ₹ 30,50,000 and received an amount of ₹ 1,50,000 as advance through an account payee cheque. Mr. Manish paid the balance entire sum and Mr. Shiva transferred the house to Mr. Manish on February 20, 2027. Mr. Shiva has paid the brokerage @1% of sale consideration to the broker.

On April 1, 2001, fair market value of the house property was ₹ 11,85,000 and Stamp duty value was ₹ 10,70,000. Further, the Stamp duty Value of such house on 15th November, 2026 was ₹ 39,00,000 and on 20th February, 2027 was ₹ 41,00,000.

Compute the capital gains in the hands of Mr. Shiva for T.Y.2026-27.

8. Determine the capital gains/loss on transfer of listed equity shares (STT paid both at the time of acquisition and transfer of shares) and units of equity oriented mutual fund (STT paid at the time of transfer of units) for the T.Y.2026-27 and tax, if any, payable thereon, in the following cases, assuming that these are the only transactions covered under section 198 during the T.Y.2026-27 in respect of these assesseees:

- (i) Mr. Shagun purchased 300 shares in A Ltd. on 20.5.2017 at a cost of ₹ 400 per share. He sold all the shares of A Ltd. on 31.5.2026 for ₹ 1200. The price at which these shares were traded in National Stock Exchange on 31.1.2018 is as follows –

Particulars	Amount in ₹
Highest Trading Price	700
Average Trading Price	680
Lowest Trading Price	660

- (ii) Mr. Raj purchased 200 units of equity-oriented fund, Fund A on 1.2.2017 at a cost of ₹ 550 per unit. The units were not listed at the time of purchase. Subsequently, units of Fund A were listed on 1.1.2018 on the National Stock Exchange. Mr. Raj sold all the units on 3.4.2026 for ₹ 900 each. The details relating to quoted price on National Stock Exchange and net asset value of the units are given hereunder:

Particulars	Fund A
	Amount in ₹
Highest Trading Price	750 (on 31.1.2018)
Average Trading Price	700 (on 31.1.2018)
Lowest Trading Price	650 (on 31.1.2018)
Net Asset Value on 31.1.2018	800

ANSWERS

1. Computation of total income & tax liability of Mr. Mithun for T.Y. 2026-27

Particulars	₹
Long term capital gains on sale of original shares	
Gross sale consideration (100 x ₹ 4,000)	4,00,000
Less: Brokerage@1%	4,000
Net sale consideration	3,96,000
Less: Cost of acquisition (100 x ₹ 2,000) (Refer Note 1)	2,00,000
Long term capital gains	1,96,000
Short term capital gains on sale of bonus shares	
Gross sale consideration (100 x ₹ 4,000)	4,00,000
Less: Brokerage@1%	4,000
Net sale consideration	3,96,000

Less: Cost of acquisition of bonus shares [Nil as such shares are allotted after 1.04.2001]	NIL
Short term capital gains [Since bonus shares are held for less than 12 months before sale]	3,96,000
Income from other sources	
Dividend received from M/s Goodmoney Co. Ltd. is taxable in the hands of shareholders [200 shares x 10 per share]	2,000
Other income	8,00,000
Total Income	13,94,000
Tax Liability	
Tax on STCG u/s 196	
20% of ₹ 3,96,000	79,200
Tax on LTCG u/s 198	
12.5% of ₹ 71,000 (₹ 1,96,000 - ₹ 1,25,000)	8,875
Tax on other income of ₹ 8,02,000	
₹ 2,50,000 to ₹ 5,00,000 @5%	12,500
₹ 5,00,000 to ₹ 8,02,000 @20%	60,400
	1,60,975
Add: Health and education cess @4%	6,439
Tax liability	1,67,414
Tax liability (rounded off)	1,67,410

Notes:

- (1) Cost of acquisition of such equity shares acquired before 1.2.2018 is higher of
 - Cost of acquisition i.e., ₹ 1,000 per share and
 - lower of
 - Fair market value of such asset i.e., ₹ 2,000 per share and
 - Full value of consideration i.e., ₹ 4,000 per share.

Therefore, the cost of acquisition of original share is ₹ 2,000 per share.
- (2) Securities transaction tax is not allowable as deduction.

2. Conversion of a capital asset into stock-in-trade is a transfer within the meaning of section 2(109) in the tax year in which the asset is so converted. However, the capital gains will be charged to tax only in the year in which the stock-in-trade is sold.

The fair market value on the date of conversion would be deemed to be the full value of consideration for transfer of the asset as per section 67(6). The sale price less the fair market value on the date of conversion would be treated as the business income of the year in which the stock-in-trade is sold.

Therefore, in this problem, both capital gains and business income would be charged to tax in the T.Y. 2026-27.

Particulars	₹	
Profits & Gains of Business or Profession		
Sale price of stock-in-trade	3,25,000	
Less: Fair market value on the date of conversion	3,00,000	
Capital Gains		25,000
Full value of consideration (Fair market value on the date of conversion)	3,00,000	
Less: Cost of acquisition	80,000	
Long-term capital gain		2,20,000
Taxable Income		2,45,000

3. **Computation of capital gains and business income of Harshita for T.Y. 2026-27**

Particulars	₹
Business Income	
Sale price of flats [10 × ₹ 30 lakhs]	3,00,00,000
Less: Cost of flats	
Fair market value of land on the date of conversion [₹ 210 lakhs × 2/3]	1,40,00,000
Cost of construction of flats [10 × ₹ 10 lakhs]	1,00,00,000
Business income chargeable to tax for T.Y.2026-27	60,00,000

Capital Gains	
Fair market value of land on the date of conversion deemed as the full value of consideration for the purposes of section 67(6)	2,10,00,000
Less: Cost of acquisition	35,00,000
	1,75,00,000
Proportionate capital gains arising during T.Y. 2026-27 [₹ 1,75,00,000 x 2/3]	1,16,66,667
Less: Deduction under section 85	50,00,000
Capital gains chargeable to tax for T.Y.2026-27	66,66,667

Notes:

- (1) The conversion of a capital asset into stock-in-trade is treated as a transfer under section 2(109). It would be treated as a transfer in the year in which the capital asset is converted into stock-in-trade (i.e., T.Y.2024-25, in this case).
- (2) As per section 67(6), the capital gains arising from the transfer by way of conversion of capital assets into stock-in-trade will be chargeable to tax only in the year in which the stock-in-trade is sold.
- (3) For the purpose of computing capital gains in such cases, the fair market value of the capital asset on the date on which it was converted into stock-in-trade shall be deemed to be the full value of consideration received or accruing as a result of the transfer of the capital asset.

In this case, since only 2/3rd of the stock-in-trade (10 flats out of 15 flats) is sold in the T.Y.2026-27, only proportionate capital gains (i.e., 2/3rd) would be chargeable to tax in the T.Y.2026-27.
- (4) On sale of such stock-in-trade, business income would arise. The business income chargeable to tax would be the difference between the price at which the stock-in-trade is sold and the fair market value on the date of conversion of the capital asset into stock-in-trade.
- (5) In case of conversion of capital asset into stock-in-trade and subsequent sale of stock-in-trade, the period of 6 months is to be reckoned from the date of sale of stock-in-trade for the purpose of deduction under section 85 [CBDT Circular No.791 dated 2.6.2000]. In this case, since the investment in bonds of NHAI has been made within 6 months of sale of

flats, the same qualifies for deduction under section 85. With respect to long-term capital gains arising on land or building or both in any financial year, the maximum deduction under section 85 would be ₹ 50 lakhs, whether the investment in bonds of NHAI or RECL are made in the same financial year or next financial year or partly in the same financial year and partly in the next financial year.

Therefore, even though investment of ₹ 50 lakhs has been made in bonds of NHAI during the T.Y. 2026-27 and investment of ₹ 50 lakhs has been made in bonds of RECL during the T.Y. 2027-28, both within the stipulated six month period, the maximum deduction allowable for T.Y. 2026-27, in respect of long-term capital gain arising on sale of long-term capital asset(s) during the T.Y. 2026-27, is only ₹ 50 lakhs.

4. (i) **Compensation towards loss of stock:** Any compensation received from the insurance company towards loss/damage to stock in trade is to be construed as a trading receipt. Hence, ₹ 4,80,000 received as insurance claim for loss of stock has to be assessed under the head "Profit and gains of business or profession".

Note - The assessee can claim the value of stock destroyed by fire as revenue loss, eligible for deduction while computing income under the head "Profits and gains of business or profession".

- (ii) **Compensation towards damage to machinery:** The question does not mention whether the salvaged machinery is taken over by the Insurance company or whether there was any replacement of machinery during the year. Assuming that the salvaged machinery is taken over by the Insurance company, and there was no fresh addition of machinery during the year, the block of machinery will cease to exist. Therefore, ₹ 4,80,000 being the excess of written down value (i.e. ₹ 10,80,000) over the insurance compensation (i.e. ₹ 6,00,000) will be assessable as a short-term capital loss.

Note – If new machinery is purchased in the next year, it will constitute the new block of machinery, on which depreciation can be claimed for that year.

- (iii) **Compensation towards loss of gold chain and diamond ring:** Gold chain and diamond ring are capital assets as envisaged by section 2(22). They are not "personal effects", which alone are to be excluded. If any

profit or gain arises in a tax year owing to receipt of insurance claim, the same shall be chargeable to tax as capital gains. The capital gains has to be computed by reducing the cost of acquisition of jewellery from the insurance compensation of ₹ 1,80,000.

5. **Computation of income chargeable under the head “Capital Gains” of Mr. Sarthak for T.Y. 2026-27**

Particulars	₹
Capital Gains on sale of residential house	
Actual sale consideration ₹ 1,50,00,000	
Value adopted by Stamp Valuation Authority on the date of agreement ₹ 1,70,00,000	
[As per section 78, where the actual sale consideration is less than stamp duty value, the stamp duty value on the date of agreement may be taken as full value of consideration if the date of agreement and the date of registration are not same and part or full consideration is received on or before the date of agreement in specified banking or online mode and such stamp duty value exceed 110% of the consideration received.	
In this case, since 20% of ₹ 150 lakhs is received through account payee bank draft on the date of agreement and stamp duty value on the date of agreement exceed 110% of consideration, stamp duty value on the date of agreement would be considered for determining the full value of consideration]	
Full value of sale consideration	1,70,00,000
Less: Cost of acquisition of residential house	30,00,000
Long-term capital gains [Since the residential house property was held by Mr. Sarthak for more than 24 months immediately preceding the date of its transfer]	1,40,00,000
Less: Deduction u/s 82	55,00,000
Since, long-term capital gains does not exceed ₹ 2 crore, he would be eligible for deduction in respect of both the residential house properties purchased in India. The capital gain arising on transfer of a long-term residential property shall not be chargeable to tax to the extent such capital	

gain is invested in the purchase of these residential house properties in India within one year before or two years after the date of transfer of original asset. Thus, he would be eligible for deduction of ₹ 55,00,000 being ₹ 20,00,000 and ₹ 35,00,000 invested on acquisition of residential house property in Kanpur and Delhi, respectively.

Long term capital gains chargeable to tax

85,00,000

Note: It may be noted that since Sarthak has transferred residential house which was acquired before 23.7.2024, the excess income-tax computed by following formula shall be ignored –

$$E = A - B$$

E = Excess income-tax to be ignored

A = Tax on long term capital gain without indexation benefit @12.5%

B = Tax on long term capital gain with indexation benefit @20%.

6. Computation of income chargeable under the head “Capital Gains” of Mrs. Yuvika for T.Y.2026-27

Particulars	₹ (in lakhs)	₹ (in lakhs)
Capital Gains on sale of residential building Actual sale consideration ₹ 810 lakhs Stamp duty value on the date of agreement ₹ 890 lakhs [Where the actual sale consideration is less than stamp duty value, the stamp duty value on the date of agreement may be taken as full value of consideration if the date of agreement and the date of registration are not same and part or full consideration is received on or before the date of agreement in specified banking or online mode. However, if such stamp duty value does not exceed 110% of the consideration received, such consideration shall be deemed to be the full value of consideration.]		

In this case, advance of ₹ 80 lakh is received by RTGS. However, stamp duty value on the date of agreement does not exceed 110% of consideration. Therefore, actual sale consideration would be taken as the full value of consideration]		
Gross Sale consideration		810.00
Less: Brokerage @1% of sale consideration (1% of ₹ 810 lakhs)		8.10
Net Sale consideration		801.90
Less: Cost of acquisition		
- Cost of vacant land, ₹ 80 lakhs, <i>plus</i> registration and other expenses i.e., ₹ 8 lakhs, being 10% of cost of land	88	
- Construction cost of residential building	100	188.00
Long-term capital gains		613.90
Since the residential house property was held by Mrs. Yuvika for more than 24 months immediately preceding the date of its transfer, the resultant gain is a long-term capital gain]		
Less: Deduction under section 82		130.00
Where long-term capital gains exceed ₹ 2 crore, the capital gain arising on transfer of a long-term residential property shall not be chargeable to tax to the extent such capital gain is invested in the purchase of one residential house property in India, one year before or two years after the date of transfer of original asset.		
Therefore, in the present case, the deduction would be available only in respect of the one residential house		

acquired in India and not in respect of the residential house in UK. It would be more beneficial for her to claim the cost of acquisition of residential house at Delhi, i.e., ₹ 130 lakhs as deduction.		
Less: Deduction under section 85		50.00
Amount invested in capital gains bonds of NHAI within six months after the date of transfer (i.e., on or before 13.1.2027), of long-term capital asset, being land or building or both, would qualify for deduction, to the maximum extent of ₹ 50 lakhs, whether such investment is made in the current financial year or subsequent financial year. Therefore, in the present case, deduction can be availed only to the extent of ₹ 50 lakh out of ₹ 90 lakhs, even if the both the investments are made on or before 13.1.2027 (i.e., within six months after the date of transfer).		
Long term capital gains chargeable to tax		433.90

Notes:

- (1) Advance of ₹ 20 lakhs received from Mr. Johar, would have been chargeable to tax under the head "Income from other sources", in the T.Y. 2015-16, since the same was forfeited on or after 01.4.2015 as a result of failure of negotiation. Hence, the same should not be deducted while computing indexed cost of acquisition.
- (2) It may be noted that since Yuvika has transferred residential building which was acquired before 23.7.2024, the excess income-tax computed by following formula shall be ignored –

$$E = A - B$$

E = Excess income-tax to be ignored

A = Tax on long term capital gain without indexation benefit @12.5%

B = Tax on long term capital gain with indexation benefit @20%.

7.

**Computation of Capital gains in the hands
of Mr. Shiva for T.Y. 2026-27**

Particulars	Amount (₹)	Amount (₹)
Actual sale consideration	30,50,000	
Stamp duty Value on the date of agreement	39,00,000	
(Where the actual sale consideration is less than stamp duty value, the stamp duty value on the date of agreement may be taken as full value of consideration if the date of agreement and the date of registration are not same and part or full consideration is received on or before the date of agreement in specified banking or online mode and such stamp duty value exceed 110% of the consideration received. In the present case, since part of consideration is received by account payee cheque on the date of agreement and stamp duty value on the date of agreement exceed 110% of consideration, stamp duty value on the date of agreement would be considered for determining the full value of consideration]		
Deemed Full value of consideration		39,00,000
Less: Expenses on transfer (Brokerage @1% of ₹ 30,50,000)		30,500
Net sale consideration		38,69,500
Less: Cost of acquisition (Note 1)	9,59,000	
Less: Cost of improvement	3,90,000	13,49,000
Long term capital gain		25,20,500

Notes:**(1) Computation of cost of acquisition**

Particulars	Amount (₹)	Amount (₹)
Cost of acquisition, Being the higher of		10,70,000
(i) lower of Fair market value i.e., ₹ 11,85,000 and Stamp duty value i.e., ₹ 10,70,000, on April 1, 2001	10,70,000	
(ii) Actual cost of acquisition (₹ 3,24,000 + ₹ 35,000, being stamp duty @10% of ₹ 3,50,000)	3,59,000	
Less: Advance money taken from Mr. Mohan and forfeited		1,11,000
Cost of acquisition		9,59,000

- (2) Where advance money has been received by the assessee, and retained by him, as a result of failure of the negotiations, section 81 will apply. The advance retained by the assessee will go to reduce the cost of acquisition. Accordingly, cost of acquisition after reducing the advance money forfeited would be ₹ 9,59,000 [i.e. ₹ 10,70,000 – ₹ 1,11,000 (being the advance money forfeited during the T.Y. 2008-09)]. However, where the advance money is forfeited during the tax year 2015-16 or thereafter, the amount forfeited would be taxable under the head "Income from Other Sources" and such amount will not be deducted from the cost of acquisition of such asset while calculating capital gains. Hence, ₹ 1,51,000, being the advance received from Ms. Deepshikha and retained by him, would have been taxable under the head "Income from other sources" in the hands of Mr. Shiva in T.Y.2015-16.

8. For the purpose of computation of long-term capital gains chargeable to tax under section 198, the cost of acquisition in relation to the long-term capital asset, being an equity share in a company or a unit of an equity oriented fund or a unit of a business trust acquired before 1st February, 2018 shall be the higher of
- (a) cost of acquisition of such asset, i.e., actual cost; and

- (b) lower of
- (i) the fair market value of such asset as on 31.1.2018; and
 - (ii) the full value of consideration received or accruing as a result of the transfer of the capital asset.

- (i) The fair market value of listed equity shares as on 31.1.2018 is the highest price quoted on the recognized stock exchange as on that date.

Accordingly, long-term capital gain on transfer of STT paid listed equity shares by Mr. Shagun would be determined as follows:

The FMV of shares of A Ltd. would be ₹ 700, being the highest price quoted on National Stock Exchange on 31.1.2018. The cost of acquisition of each equity share in A Ltd. would be ₹ 700, being higher of actual cost i.e., ₹ 400 and ₹ 700 [being the lower of FMV of ₹ 700 as on 31.1.2018 (i.e., the highest trading price) and actual sale consideration of ₹ 1,200]. Thus, the long-term capital gain would be ₹ 1,50,000 i.e., $(₹ 1,200 - ₹ 700) \times 300$ shares. The long-term capital gain of ₹ 25,000 (i.e., the amount in excess of ₹ 1,25,000) would be subject to tax@12.5% under section 198 (*plus* cess@4%), without benefit of indexation. The tax on capital gain @13% would be ₹ 3,250 $(₹ 25,000 \times 13\%)$

- (ii) In the case of units listed on recognised stock exchange on the date of transfer, the FMV as on 31.1.2018 would be the highest trading price on recognised stock exchange as on 31.1.2018 (if units are listed on that date), else, it would be the net asset value as on 31.1.2018 (where units are unlisted on that date).

Accordingly, the FMV of units of Fund A as on 31.1.2018 would be ₹ 750 (being the highest trading price on 31.1.2018, since the units of Fund A are listed on that date).

The cost of acquisition of a unit of Fund A would be ₹ 750, being higher of actual cost i.e., ₹ 550 and ₹ 750 (being the lower of FMV of ₹ 750 as on 31.1.2018 and actual sale consideration of ₹ 900). Thus, the long-term capital gains on sale of units of Fund A would be ₹ 30,000 $(₹ 900 - ₹ 750) \times 200$ units.

Since the long-term capital gains on sale of units of Fund A is ₹ 30,000, which is less than ₹ 1,25,000, the said sum is not chargeable to tax under section 198.



Q.NO.	ANSWERS	
1.	(c)	Land held by Mr. A is capital asset and land held by Mr. B is stock-in-trade
2.	(b)	Capital gains
3.	(c)	Jewellery used personally
4.	(c)	24 Months
5.	(b)	preference shares is also included
6.	(a)	the final order of such Court, Tribunal or other authority is made.
7.	(b)	₹ 8 lakhs
8.	(c)	₹ 75,000
9.	(b)	FMV as on 1-4-2001
10.	(a)	Nil
11.	(a)	₹ 42,00,000
12.	(b)	Short-term capital loss of ₹ 12,000
13.	(b)	Specified mutual fund
14.	(c)	Normal rates applicable to short-term capital gains
15.	(b)	Short-term capital gains or long-term capital gains, depending upon the period for which the undertaking is held.
16.	(b)	Net worth
17.	(a)	₹ 1 crore
18.	(c)	FMV determined in prescribed manner
19.	(b)	Advance forfeited by Ramesh is to be ignored
20.	(b)	2 years
21.	(c)	Amount invested in purchase or construction of one residential house property up to the due date of filing return of income and amount deposited in the Capital Gains Account Scheme up to such due date
22.	(c)	6 months
23.	(d)	₹ 50 lakhs
24.	(b)	Net consideration