CHAPTER 4

CAPITAL GAINS



LEARNING OUTCOMES

After studying this chapter, you would be able to -

- **appreciate** the scope of income chargeable under this head;
- **examine** the provisions of section 2(101), relating to period of holding, for classification of a capital asset as short-term capital asset and long-term capital asset;
- **analyse and apply** the provisions of section 70 to determine whether a particular transaction would be considered/not be considered as transfer for the purpose of capital gains taxation;
- **determine** the cost of acquisition/ improvement for the purpose of computing the capital gains;
- **compute** capital gains on transfer of depreciable assets;
- **compute** capital gains in case of market linked debenture and other specified securities;
- **compute** capital gains in case of slump sale;
- **determine** the quantum of deduction available on investment of capital gains/ net consideration arising on transfer of certain assets and appreciate the conditions to be satisfied to avail such deductions;
- **identify** the cases where an Assessing Officer can make a reference to the Valuation Officer;
- **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/ units of a business trust;
- **compute** the tax liability applying the special rates of tax on long-term capital gains and short-term capital gains arising on transfer of listed equity shares/ units of an equity oriented fund and the normal rates of tax on capital gains arising on transfer of other short-term capital assets and other long-term capital assets.

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4.1 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 chapter 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 chapter. There is a separate method of computation of capital gains in respect of depreciable assets. Also, there are exemptions/ deductions in cases where capital gains/net sales consideration are invested in specified assets. All these aspects are being discussed in this chapter.

4.2 CAPITAL ASSET

According to section 2(22), a 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 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) which has invested such securities in accordance with the SEBI regulations or under the IFSC Authority Act, 2019.

(c) any unit linked insurance policy (ULIP) to which exemption under Schedule II (Table: Sl. No. 2) does not apply.

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However, **it does not include**—

(i) **Stock-in trade:** Any stock-in-trade [other than securities referred to in (b) above], 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.



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 sub-clause (a) above and not sub-clause (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 means 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.

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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:

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	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.
(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

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
(vi)	F	5 kms	12,00,000	Yes
(vii)	G	6 kms	8,000	No
(viii)	H	7 kms	4,00,000	No
(ix)	I	8 kms	10,74,000	Yes
(x)	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).

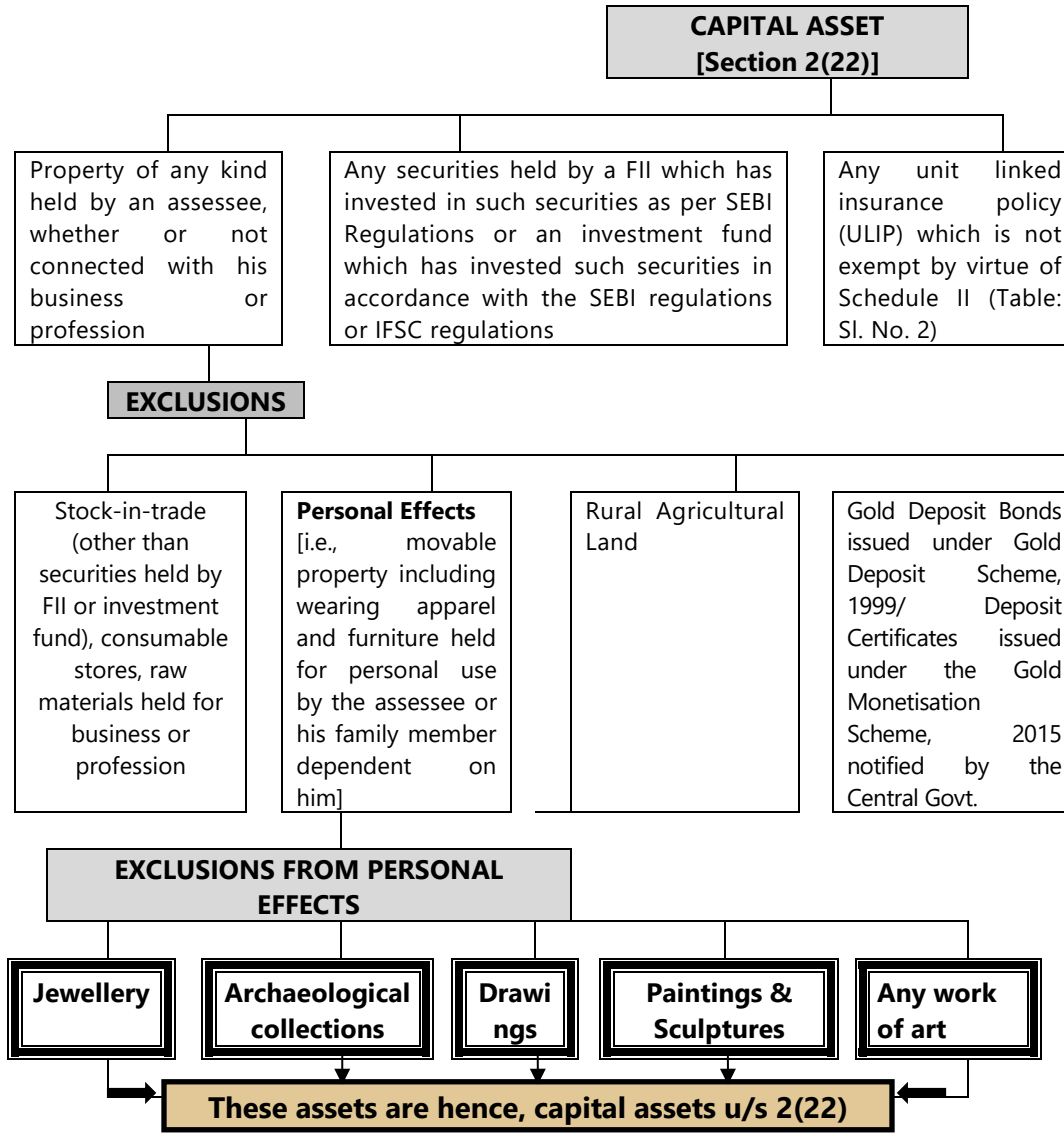
In other words, the capital gains arising from the transfer of such urban agricultural lands would not be treated as agricultural income for the

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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.*



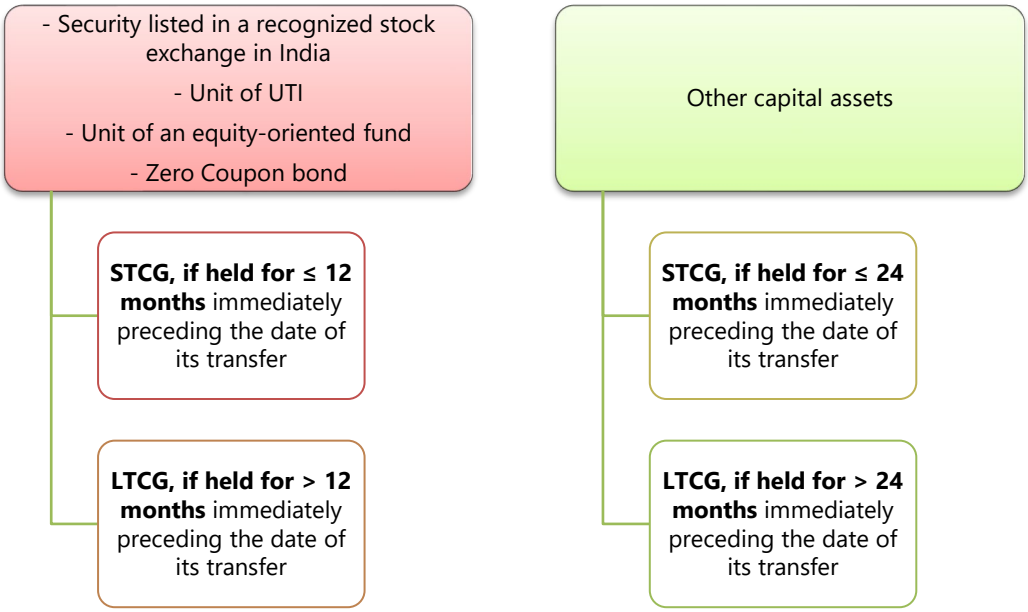
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4.3 SHORT TERM AND LONG TERM CAPITAL ASSETS

- **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:



Note – *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 -*

- unit of a specified mutual fund acquired on or after 1.4.2023,
- market linked debentures,
- unlisted bond or unlisted debenture transferred or matured or redeemed on or after 23.7.2024.

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Meaning of certain terms:

Term	Meaning
Equity oriented fund [Section 198(8)]	A fund set up under a scheme of a mutual fund specified in Schedule VII (Table: S. No. 20 or 21) or under a scheme of an insurance company comprising unit linked insurance policies which are not exempt in Schedule II (Table: S. No. 2) and (i) in a case where the fund invests in the units of another fund which is traded on a recognised stock exchange – 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. In case of a scheme of an insurance company comprising ULIPs to which exemption in Schedule II (Table: S. No. 2) does not apply, the minimum requirement of 90% or 65%, as the case may be, mentioned in (i) and (ii) above, is required to be satisfied throughout the term of such insurance policy.
Zero Coupon Bond [Section 2(112)]	A bond - issued by any infrastructure capital company or infrastructure capital fund or infrastructure debt fund notified by the Central Government under Schedule VII (Table: S. No. 46) 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.

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The definitions of the terms "infrastructure capital company" and "infrastructure capital fund" have already been discussed in Chapter 3 – "Profits and gains from business and profession".



Applicability of tax on capital gains in the hands of the unit holders where the term of the units of Mutual Funds under the Fixed Maturity Plans has been extended ***[Circular No. 6/2015, dated 09-04-2015]***

Fixed Maturity Plans (FMPs) are closed ended funds having a fixed maturity date wherein the duration of investment is decided upfront.

Some Asset Management Companies (AMCs) administering mutual funds have offered extension of the duration of the FMPs by providing to the investor an option of roll-over of FMPs in accordance with the provisions of Regulation 33(4) of the SEBI (Mutual Funds) Regulation, 1996.

The CBDT has, vide this Circular, clarified that the roll over in accordance with the aforesaid regulation will not amount to transfer as the scheme remains the same.

Accordingly, no capital gains will arise at the time of exercise of the option by the investor to continue in the same scheme. The capital gains will, however, arise at the time of redemption of the units or opting out of the scheme, as the case may be.

- **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.

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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 to be included (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 **trading or clearing rights of a recognised stock exchange** in India is acquired by a person pursuant to demutualisation or corporatisation of a recognised stock exchange in India.	The period for which the person was a member of such recognised stock exchange immediately before its demutualisation or corporatisation.
5.	Where equity share(s) **in a company allotted** pursuant to demutualisation or corporatisation of a recognised stock exchange in India	The period for which the person was a member of the recognised stock exchange immediately before its demutualisation or corporatisation.

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6.	Where **unit of a business trust**, allotted pursuant to transfer of share(s) as referred to in section 70(1)(zi)	The period for which the share(s) were held by the assessee.
7.	Where **unit(s)** becomes the property of the assessee in consideration of **transfer of unit(s) in the consolidated scheme of the mutual fund** referred to in section 70(1)(zj)	The period for which the unit(s) in the consolidating scheme of the mutual fund were held by the assessee.
8.	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.
9.	Where **unit(s)** becomes the property of the assessee in consideration of **transfer of unit(s) in the consolidated plan of a mutual fund scheme** as referred to in section 70(1)(zk)	The period for which the unit(s) in the consolidating plan of a mutual fund scheme were held by the assessee.
10.	In case of a unit or units in a segregated portfolio referred to in section 73(1) (Table: Sl. No. 11)	The period for which the original unit or units in the main portfolio were held by the assessee.
11.	In case of Electronic Gold Receipt [EGR] issued by a Vault Manager in respect of gold deposited as referred to in section 70(1)(y)	The period for which such gold was held by the assessee before conversion into the Electronic Gold Receipt
12.	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.

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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.		

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"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.		
6.	Where **share(s) of a company is acquired by the non-resident** assessee on redemption of **Global Depository Receipts** referred to in section 209(1) (Table: S. No. 2) held by such assessee	From the date on which a request for such redemption was made.

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 of 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).

Rule 6(2) provides that for the capital asset mentioned in column (B) of the Table below, the holding period shall be determined in accordance with column (C) thereof.

S. No.	Nature of Assets (B)	Period of holding (C)
1.	Shares or debentures of a company, which becomes the property of the assessee on conversion of bonds or debentures, debenture-stock or deposit certificates in any form, of that company as referred to in section 70(1)(z).	The period of holding shall include 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.
2.	Capital asset which became the property of the Indian subsidiary company in	The period of holding shall include the following: (i) the period for which the

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	consequence to conversion of a branch of a foreign company referred to in section 219(1). **Note:** Section 219 has been discussed in detail in Chapter 21: Non-resident Taxation in Module 4.	asset was held by the said branch of the foreign company (ii) the period for which the asset was held by the previous owner, if any, who has acquired the capital asset by a mode of acquisition referred to in section 73(1) (Table Sl. No.1) or section 219(1).

Rule 6(3) provides that in case of the amount which is chargeable to tax as income of specified entity under section 67(10) under the head - "Capital gains", the amount or a part of it shall be deemed to be from transfer of short-term capital asset or long term capital asset, as the case may be, mentioned in column (2), if it is attributed to capital asset mentioned in the corresponding row in column (3) –

	Deemed capital gains from transfer of capital asset	Type of capital asset of specified entity
	(2)	(3)
1.	Capital gains from transfer of a short term capital asset	(a) capital asset which is short term capital asset at the time of taxation of amount under section 67(10); or (b) capital asset forming part of block of asset; or (c) capital asset being self-generated asset and self-generated goodwill as defined in section 67(11)(b).
2.	Capital gains from transfer of a long term capital asset	Capital asset which is not covered in 1(a) above and is long term capital asset at the time of taxation of amount under section 67(10).

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4.4 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/treated the same into/as the stock-in-trade of a business carried on by him. Such conversion/treatment 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 any 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 deed 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.

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(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.



PCIT and another vs Jupiter Capital Pvt. Ltd. [2025] 472 ITR 616 (SC)

Issue: Whether the reduction in share capital by a company, without any change in the shareholding pattern and face value of shares, constitutes a "transfer" under section 2(109) in the hands of shareholders?

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Facts of the case: The assessee company held 15,33,40,900 shares, representing 99.88% of total shares of an Indian company. That company incurred losses, as a result of which the net worth of the company got eroded. On petition filed by the Company, the High Court ordered a reduction in the share capital of the company from 15,35,05,750 shares to 10,000 shares. Consequently, the shareholding of the assessee was reduced proportionately from 15,33,40,900 shares to 9,988 shares. However, the face value of the shares remained the same at ₹ 10 even after the reduction in the share capital. The High Court also directed the company to pay ₹ 3,17,83,474 to the assessee as consideration. The assessee claimed long-term capital loss accrued on the reduction in share capital. However, the Assessing Officer and CIT(A) disallowed the assessee's claim for capital loss, arguing there was no "transfer". The Tribunal reversed the order passed by CIT (A) and High Court also affirmed the order passed by the Tribunal.

Analysis: The Apex Court observed that the expression "extinguishment of any right therein" is of wide import. It covers every possible transaction which results in the destruction, annihilation, extinction, termination, cessation or cancellation, by satisfaction or otherwise, of all or any of the bundle of rights qualitative or quantitative, which the assessee has in a capital asset, whether such asset is corporeal or incorporeal.

In the present case, the face value per share has remained the same before the reduction of share capital and after the reduction of share capital. However, as the total number of shares have been reduced from 15,35,05,750 to 10,000 and out of this the assessee was holding 15,33,40,900 shares prior to reduction and 9,988 shares after reduction, it can be said that on account of reduction in the number of shares, the assessee has extinguished its right of 15,33,40,900 shares, and in lieu thereof, the assessee received 9,988 shares at ₹ 10 each along with an amount of ₹ 3,17,83,474.

The Supreme Court in the case of *Karthikeya V. Sarabhai v. CIT* observed that reduction of right in a capital asset would amount to "transfer" under section 2(109). Sale is only one of the modes of transfer envisaged by

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section 2(109). Relinquishment of any rights in it, which may not amount to sale, can also be considered as transfer and any profit or gain which arises from the transfer of such capital asset is taxable under section 67.

Accordingly, the Apex Court held that reduction in share capital results in "transfer" under the provisions of the Income-tax Act as there is extinguishment of rights qua such shares. The capital loss arising on proportionate reduction in share capital of the company is admissible even if the overall shareholding of the taxpayer in the company remains unchanged post reduction.



Seshasayee Steels P. Ltd. v. ACIT (2020) 421 ITR 46 (SC)

Issue: Can any transaction which enables the enjoyment of immovable property be considered as enjoyment as a purported owner thereof for being treated as a "transfer" of a capital asset u/s 2(109)(f) and levy of tax on capital gains arising therefrom?

Analysis: Any transaction which has the effect of transferring or enabling the enjoyment of any immovable property would come within the purview of section 2(109)(f). **Section 2(109)(f) appears to be to bring within its tax net, a *de facto* transfer of any immovable property. The expression 'enabling the enjoyment of' takes colour from the earlier expression 'transferring', so that it is clear that any transaction which enables the enjoyment of immovable property must be enjoyment as a purported owner thereof.** The idea is to bring within the tax net, transactions, where, though title may not be transferred in law, there is, in substance, a transfer of title in fact.

In this case, the assessee's rights in the immovable property were extinguished on the receipt of the last cheque. Further, the compromise deed could be stated to be a transaction which had the effect of transferring the immovable property in question. Accordingly, the transaction fell u/s 2(109)(b) and (f). Hence, it is a transfer in relation to the capital asset and capital gains tax liability would be attracted.

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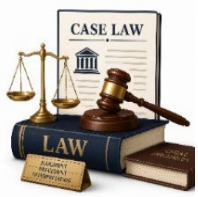
4.5 SCOPE AND YEAR OF CHARGEABILITY [SECTION 67]

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 chapter) shall be chargeable to income-tax under this head **in the tax year in which the transfer took place.**

***Note* -** 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 place [Alapati Venkataramiah v. CIT [1965] 57 ITR 185 (SC)].

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.



Principal CIT v. Gujarat State Fertilizers and Chemicals Limited (2018) 409 ITR 378 (Guj)

Issue: Would sale of fertilizer bonds (issued in lieu of government subsidy) at loss be treated as a business loss or a loss under the head "Capital gains"?

Analysis & Decision: Fertilizer subsidy given to an assessee to compensate the loss on sale of fertilisers should be treated as business income of the assessee. Due to cash crunch, the Government of India had discharged its dues of paying the subsidy by issue of fertilizer bonds. These bonds are saleable in the open market and the prices of such bonds are varying. In this case also, the assessee received fertilizer bonds (in lieu of subsidy) which were sold at a loss in the open market.

Since the subsidy would have been treated as business income**, loss on sale of fertilizer bonds issued is to be allowed as business loss.**

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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; or
- riot or civil disturbance; or
- 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.**

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.

Unit Linked Insurance Policy Receipts [Section 67(5)]

If any profits or gains arises to a person from receipt of any amount, including a bonus under a unit linked insurance policy (ULIP), to which exemption specified at Schedule II (Table: S. No. 2) does not apply, then, such profits or gains shall be chargeable to income-tax under the head "Capital gains" and shall be deemed to be the income of such person in the tax year in which such amount was received.

Exemption specified at Schedule II (Table: S. No. 2)

Any sum received under a life insurance policy, including the sum allocated by way of bonus on such policy would not be included in the total income of a person.

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The following table summarizes the conditions to be satisfied for exemption specified in Schedule II (Table: S. No. 2) *vis-a-vis* the date of issue of such policies -

Period of Issue of Policy	Condition for Exemption: Premium to sum assured ratio	Additional Condition for Exemption
Before 1.4.2003	Any sum received under a LIP including the sum allocated by way of bonus is exempt without any further condition.	
Between 1.4.2003 and 31.3.2012	Exemption would be <u>available only if the premium to sum assured ratio is ≤ 20%</u> i.e., the highest % of annual premium payable to the actual capital sum assured, during the term of the policy is 20%.	
Between 1.4.2012 and 31.3.2013	Exemption would be <u>available only if the premium to sum assured ratio is ≤ 10%</u> i.e., the highest % of annual premium payable to the actual capital sum assured, during the term of the policy is 10%.	
Between 1.4.2013 and 1.2.2021	Exemption would be available only if the premium to sum assured ratio is • <u>≤ 15% for "special policies" and</u> • <u>≤ 10% for other policies</u> i.e., the highest % of annual premium payable to the actual capital sum assured, during the term of the policy is 15% for special policies and 10% for other policies. "Special policy" means any policy issued on life of any person, who is -	

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	(i) a person with disability or a person with severe disability as referred to in section 154; or (ii) suffering from disease or ailment as specified in the rules made under section 128.	
Between 1.2.2021 and 31.3.2023	Exemption would be available only if the premium to sum assured ratio is • ≤ 15% for "special policies" and • ≤ 10% for other policies i.e., the highest % of annual premium payable to the actual capital sum assured, during the term of the policy is 15% for special policies and 10% for other policies.	With respect to ULIP, exemption would be available if the aggregate of premium for all such policies in any of the tax year during the term of all of such policies is ≤ ₹ 2,50,000.
On or after 1.4.2023	Exemption would be available only if the premium to sum assured ratio is • ≤ 15% for "special policies" and • ≤ 10% for other policies i.e., the highest % of annual premium payable to the actual capital sum assured, during the term of the policy is 15% for special policies and 10% for other policies.	With respect to ULIP, exemption would be available if the aggregate of premium for all such policies in any of the tax year during the term of all of such policies is ≤ ₹ 2,50,000. With respect to LIP, exemption would be available if the aggregate of premium for all such policies in any of the tax year during the term of all of such policies is ≤ ₹ 5,00,000.

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Any sum received on the death of a person is exempt irrespective of the annual premium payable on the ULIP/LIP.

The conditions of aggregate premium of ₹ 2,50,000 and ₹ 5,00,000 mentioned above shall not apply to any sum received under a life Insurance policy issued on or after 1.4.2025, by the International Financial Services Centre Insurance Office.

Exemption is not available

Exemption for sum received under a life insurance policy is not available in respect of following:

(i) **In respect of amount received from an insurance policy taken for disabled person under section 127(4):** Any sum received under section 127(4) i.e., In the event of the death of the dependent with disability, in respect of whom an individual or the member of the HUF has paid or deposited any amount in any scheme of LIC or any other insurer, before such individual or member of the HUF, the amount so paid or deposited shall be deemed to be the income of the assessee of the tax year in which such amount is received. Such amount would not be exempt in Schedule II (Table: Sl. No. 2).

(ii) **In respect of the sum received under a Keyman insurance policy:** Any sum received under a Keyman insurance policy shall also not be exempt.

"Keyman insurance policy" means a life insurance policy

- taken by one person on the life of another person
- such person is or was the employee of the first-mentioned person or is or was connected in any manner whatsoever with the business of the first-mentioned person and
- includes such policy which has been assigned to any person at any time during the term of the policy, with or without consideration.

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Guidelines by CBDT [Unit Linked Insurance Policies]

For removal of difficulties, the CBDT may issue guidelines with the previous approval of the Central Government, which shall be binding on the income-tax authority and the assessee.

The CBDT has, with the approval of the Central Government, vide Circular No. 2/2022, dated 19.01.2022, issued the following guidelines in respect of ULIPs (for the purpose of Schedule II (Table: S. No. 2) of the Income-tax Act, 2025)[1] –

Situation 1: No sum including any sum allocated by way of bonus (such sum hereinafter referred as "consideration") is received by the assessee on any ULIPs which are issued on or after 1.2.2021 (such ULIPs hereinafter referred as "eligible ULIPs") during any Tax year preceding the current Tax year or consideration has been received on such eligible ULIPs in an earlier Tax year but has not been claimed exempt. In such a situation, the exemption would be determined as under:

I. <u>Where the assessee has received consideration, during the current T.Y., under one eligible ULIP only</u>

Circumstance	Eligibility for exemption
If the amount of premium payable on such eligible ULIP does not exceed ₹ 2,50,000 for any of the TYs during the term of such eligible ULIP and premium to sum assured does not exceed 10%	Such consideration would be eligible for exemption. **[Refer Example 1 given below]**
If the amount of premium payable on such eligible ULIP > ₹ 2,50,000 for any of the TYs during the term of such eligible ULIP	Such consideration would **<u>not</u>** be eligible for exemption. **[Refer Example 2 given below]**

[1] *section 10(10D) of the Income-tax Act ,1961*

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Example 1:

ULIP	A
Date of issue	1.4.2021
Annual premium	2,50,000
Sum assured	25,00,000
Consideration received as on 01.11.2031 on maturity	32,00,000
Note – *The assessee did not receive any consideration under any other eligible ULIPs in earlier T.Y. preceding the T.Y.2031-32.*	

Eligibility for exemption - The consideration received would be exempt in T.Y. 2031-32, since the annual premium payable on the policy does not exceed ₹ 2,50,000 and also premium to sum assured does not exceed 10%.

Example 2:

ULIP	A
Date of issue	1.4.2021
Annual premium	5,00,000
Sum assured	50,00,000
Consideration received as on 01.11.2031 on maturity	60,00,000
Note – *The assessee did not receive any consideration under any other eligible ULIPs in earlier T.Y. preceding the T.Y.2031-32.*	

Eligibility for exemption - The consideration received would **not** be exempt in T.Y. 2031-32 since the annual premium payable on the eligible ULIP exceeds ₹ 2,50,000.

II. Where the assessee has received consideration, during the current T.Y., under more than one eligible ULIP

Circumstance	Eligibility for exemption
If the aggregate of the amount of premium payable on such eligible ULIPs does not exceed ₹ 2,50,000 for any of the TYs during the term of such eligible ULIPs and the premium to sum assured ≤ 10%	Such consideration would be eligible for exemption. **[Refer Example 3 given below]**
If the aggregate of the amount of premium payable on such eligible	Consideration in respect of any of those eligible ULIPs whose

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ULIPs > ₹ 2,50,000 for any of the TYs during the term of such eligible ULIP	aggregate amount of premium payable does not exceed ₹ 2,50,000 for any of the TYs during their term would be eligible for exemption, provided their premium to sum assured ≤ 10%. **[Refer Examples 4 and 5 given below]**

Example 3:

ULIP	A	B
Date of issue	1.4.2021	1.4.2021
Annual premium	1,00,000	1,50,000
Sum assured	10,00,000	15,00,000
Consideration received as on 01.11.2031 on maturity	12,00,000	18,00,000
Note – *The assessee did not receive any consideration under any other eligible ULIPs in earlier T.Y. preceding the T.Y.2031-32.*		

Eligibility for exemption – In this case, the aggregate of the annual premium payable for ULIP "A" and ULIP "B" does not exceed ₹ 2,50,000 during the term of these policies.

Further, premium to sum assured in respect of ULIP "A" and ULIP "B" does not exceed 10%. Therefore, the consideration received under ULIP "A" and "B" would be exempt in T.Y. 2031-32

Example 4:

ULIP	A	B	C
Date of issue	1.4.2021	1.4.2021	1.4.2021
Annual premium	1,00,000	1,50,000	3,00,000
Sum assured	10,00,000	15,00,000	30,00,000
Consideration received as on 01.11.2031 on maturity	12,00,000	18,00,000	34,00,000
Note – *The assessee did not receive any consideration under any other eligible ULIPs in earlier T.Y. preceding the T.Y.2031-32.*			

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Eligibility for exemption – In this case, the aggregate of the annual premium payable for ULIP "A", ULIP "B" and ULIP "C" exceeds ₹ 2,50,000 during the term of these policies.

However, the consideration received under ULIPs "A" and "B" would be exempt in T.Y. 2031-32, since aggregate of annual premium payable for these two policies does not exceed ₹ 2,50,000 for any tax year during the term of these two policies and also premium to sum assured does not exceed 10%.

Consequently, the consideration received under ULIP "C" alone would **not** be exempt in T.Y. 2031-32.

Example 5:

ULIP	X	A	B	C
Date of issue	1.4.2020	1.4.2021	1.4.2021	1.4.2021
Annual premium	2,50,000	1,00,000	1,50,000	3,00,000
Sum assured	25,00,000	10,00,000	15,00,000	30,00,000
Consideration received as on 01.11.2030 on maturity	30,00,000			
Consideration received as on 01.11.2031 on maturity		12,00,000	18,00,000	34,00,000
Note – *The assessee did not receive any consideration under any other eligible ULIPs in earlier T.Y. preceding the T.Y.2031-32.*				

Eligibility for exemption - The consideration received under ULIP "X" would be exempt in T.Y. 2030-31 since premium to sum assured does not exceed 10%. Moreover, as the policy has been issued before 1.2.2021, limit of ₹ 2,50,000 of amount of premium payable is not applicable.

The aggregate of annual premium payable for ULIP "A", ULIP "B" and ULIP "C" (being ULIPs issued on or after 1.2.2021) exceeds ₹ 2,50,000 during the term of these policies.

However, the consideration received under ULIPs "A" and "B" would be exempt in T.Y. 2031-32, since aggregate of annual premium payable for these two policies does not exceed ₹ 2,50,000 for any tax year during the

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term of these two policies and premium to sum assured in respect of these policies does not exceed 10%.

Consequently, the consideration received under ULIP "C" alone would not be exempt u/s in T.Y. 2031-32.

Situation 2: Consideration has been received by the assessee under any one or more eligible ULIPs during any T.Y. preceding the current T.Y. and it has been claimed to be exempt. Such eligible ULIPs are referred as "Earlier Exempt Eligible ULIPs (EEE ULIPs)" in this paragraph and corresponding examples and reference to eligible ULIPs shall not include EEE ULIPs. The exemption would be determined as under:

I. Where the assessee has received consideration, during the current T.Y., under one eligible ULIP only

Circumstance	Eligibility for exemption
If aggregate amount of premium payable on such eligible ULIP and EEE ULIPs does not exceed ₹ 2,50,000 for any of the TYs during the term of such eligible ULIP and premium to sum assured in respect of eligible ULIP does not exceed 10%.	Consideration under such eligible ULIP would be eligible for exemption. **[Refer Example 6]**
If aggregate amount of premium payable on such eligible ULIP and EEE ULIPs > ₹ 2,50,000 for any of the TYs during the term of such eligible ULIP	Consideration under such eligible ULIP would **not** be eligible for exemption. **[Refer Example 7]**

Example 6:

ULIP	X	A
Date of issue	1.4.2021	1.4.2022
Annual premium	2,00,000	50,000
Sum assured	20,00,000	5,00,000
Consideration received as on 01.11.2031 on maturity	25,00,000	

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Consideration received as on 01.11.2032 on maturity		6,00,000

Note – *The assessee did not receive any consideration under any other eligible ULIPs in earlier T.Y. preceding the T.Y.2032-33, except ULIP X in T.Y. 2031-32.*

Eligibility for exemption – The consideration under ULIP "X" would be exempt in T.Y. 2031-32, since the annual premium does not exceed ₹ 2,50,000 and also premium to sum assured does not exceed 10%.

The consideration received under ULIP "A" will also be exempt in T.Y. 2032-33 since aggregate of the annual premium payable for ULIP "A" and ULIP "X" does not exceed ₹ 2,50,000 for the T.Ys. 2022-23 to 2031-32 and the premium to sum assured of ULIP "A" does not exceed 10%.

Example 7:

ULIP	X	A
Date of issue	1.4.2021	1.4.2022
Annual premium	2,00,000	1,00,000
Sum assured	20,00,000	10,00,000
Consideration received as on 01.11.2031 on maturity	25,00,000	
Consideration received as on 01.11.2032 on maturity		12,00,000

Note – *The assessee did not receive any consideration under any other eligible ULIPs in earlier T.Y. preceding the T.Y.2032-33, except ULIP X in T.Y. 2031-32.*

Eligibility for exemption – The consideration under ULIP "X" would be exempt in T.Y. 2031-32, since the annual premium does not exceed ₹ 2,50,000 and also premium to sum assured does not exceed 10%.

The consideration received under ULIP "A" will **not** be exempt in T.Y. 2032-33 since aggregate of the annual premium payable for ULIP "A" and ULIP "X" (both ULIPs issued on or after 1.2.2021) exceeds ₹ 2,50,000.

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II. Where the assessee has received consideration, during the current T.Y., under more than one eligible ULIP

Circumstance	Eligibility for exemption
If aggregate of the amount of premium payable on such eligible ULIPs and EEE ULIPs does not exceed ₹ 2,50,000 for any of the TYs during the term of such eligible ULIPs and annual premium in respect of eligible ULIPs also premium to sum assured does not exceed 10%.	Consideration received would be eligible for exemption.
If aggregate of the amount of premium payable on such eligible ULIPs and EEE ULIPs > ₹ 2,50,000 for any of the TYs during the term of such eligible ULIPs	Consideration in respect of any of those eligible ULIPs (whose aggregate amount of premium along with the aggregate amount of premium of EEE ULIPs does not exceed ₹ 2,50,000 for any of the TYs during their term) would be eligible for exemption. **[Refer Examples 8, 9 and 10 given below]**

Example 8:

ULIP	X	A	B	C
Date of issue	1.4.2021	1.4.2022	1.4.2022	1.4.2022
Annual premium	2,00,000	1,00,000	1,50,000	3,00,000
Sum assured	20,00,000	10,00,000	15,00,000	30,00,000
Consideration received as on 01.11.2031 on maturity	25,00,000			
Consideration received as on 01.11.2032 on maturity		12,00,000	18,00,000	34,00,000

Note – *The assessee did not receive any consideration under any other eligible ULIPs in earlier T.Y. preceding the T.Y.2032-33, except ULIP X in T.Y. 2031-32.*

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Eligibility for exemption - The consideration under ULIP "X" would be exempt in T.Y. 2031-32, since the annual premium does not exceed ₹ 2,50,000 and also premium to sum assured does not exceed 10%.

In this case, the aggregate of the annual premium payable for ULIP "A", ULIP "B" and ULIP "C" along with the premium for ULIP "X" exceeds ₹ 2,50,000 during the term of these policies. Hence, the consideration received under ULIPs "A", "B" and "C" will **not** be exempt from tax in T.Y. 2032-33.

Alternative treatment: If the consideration under ULIP "X" was not claimed to be exempt in T.Y. 2031-32 by the assessee, then, the consideration received under ULIP "A" and ULIP "B" would be exempt from tax in T.Y. 2032-33 since the aggregate of the annual premium payable for the ULIPs "A" and "B" together did not exceed ₹ 2,50,000 for any of the tax years during the term of these two policies.

Example 9:

ULIP	X	A	B	C
Date of issue	1.4.2021	1.4.2022	1.4.2022	1.4.2022
Annual premium	1,00,000	1,00,000	1,50,000	3,00,000
Sum assured	10,00,000	10,00,000	15,00,000	30,00,000
Consideration received as on 01.11.2031 on maturity	12,00,000			
Consideration received as on 01.11.2032 on maturity		12,00,000	18,00,000	34,00,000
Note – *The assessee did not receive any consideration under any other eligible ULIPs in earlier T.Y. preceding the T.Y.2032-33, except ULIP X in T.Y. 2031-32.*				

Eligibility for exemption from tax - The consideration under ULIP "X" would be exempt from tax in T.Y. 2031-32, since the annual premium does not exceed ₹ 2,50,000 and also premium to sum assured does not exceed 10%.

In this case, the aggregate of the annual premium payable for ULIP "A", ULIP "B" and ULIP "C" along with the premium for ULIP "X" exceeds ₹ 2,50,000 during the term of these policies.

However, the consideration received under ULIPs "A" or "B" (any one) can be claimed as exempt from tax in T.Y. 2032-33.

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If the consideration received under ULIP "A" claimed to be exempt as aggregate of the annual premium payable for ULIP "X" and "A" did not exceed ₹ 2,50,000 for any of the TYs., the consideration received under ULIP "B" would not be exempt.

If the consideration received under ULIP "B" claimed to be exempt as aggregate of the annual premium payable for ULIP "X" and "B" did not exceed ₹ 2,50,000 for any of the TYs., the consideration received under ULIP "A" would not be exempt. Exemption for consideration received under ULIP "B" is preferred as it is more beneficial to the assessee.

Alternative treatment: If the consideration under ULIP "X" was not claimed to be exempt from tax in T.Y. 2031-32 by the assessee, then the consideration received under ULIP "A" and ULIP "B" would be exempt in T.Y. 2032-33 since the aggregate of the annual premium payable for the ULIPs "A" and "B" together did not exceed ₹ 2,50,000 for any of the tax years during the term of these two policies.

It may be noted that in every case, the consideration received for ULIP "C" would not be exempt from tax.

Example 10:

ULIP	X	Y	A	B	C
Date of issue	1.4.2021	1.4.2021	1.4.2022	1.4.2022	1.4.2022
Annual premium	1,00,000	1,00,000	1,00,000	1,50,000	3,00,000
Sum assured	10,00,000	10,00,000	10,00,000	15,00,000	30,00,000
Consideration received on surrender as on 1.7.2025	6,00,000				
Consideration received as on 01.11.2031 on maturity		12,00,000			
Consideration received as on 01.11.2032 on maturity			12,00,000	18,00,000	34,00,000
Note – *The assessee did not receive any consideration under any other eligible ULIPs in earlier T.Y. preceding the T.Y.2032-33, except ULIP "X" and "Y".*					

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Eligibility for exemption from tax - The consideration under ULIP "X" would be exempt from tax in T.Y.2025-26, since the annual premium does not exceed ₹ 2,50,000 and also premium to sum assured does not exceed 10%.

The consideration received under ULIP "Y" would be exempt from tax in T.Y. 2031-32, since the aggregate of annual premium payable for ULIP "X" and "Y" does not exceed ₹ 2,50,000 and premium to sum assured for ULIP "Y" does not exceed 10%.

The consideration received under ULIPs "A", ULIP "B" and ULIP "C" would not be exempt from tax in T.Y. 2032-33, since aggregate of annual premium payable for these three policies and ULIP "X" and "Y" exceeds ₹ 2,50,000.

Alternative treatment: If the consideration on surrender under ULIP "X" was not claimed to be exempt from tax in T.Y. 2025-26 by the assessee, then the consideration received under ULIP "Y" would be exempt and the consideration received under ULIP "A" **or** ULIP "B" (any one) can be exempt from tax in T.Y. 2032-33. If the consideration received under ULIP "A" claimed to be exempt, as aggregate of the annual premium payable for ULIP "Y" and "A" did not exceed ₹ 2,50,000 for any of the TYs., the consideration received under ULIP "B" would not be exempt.

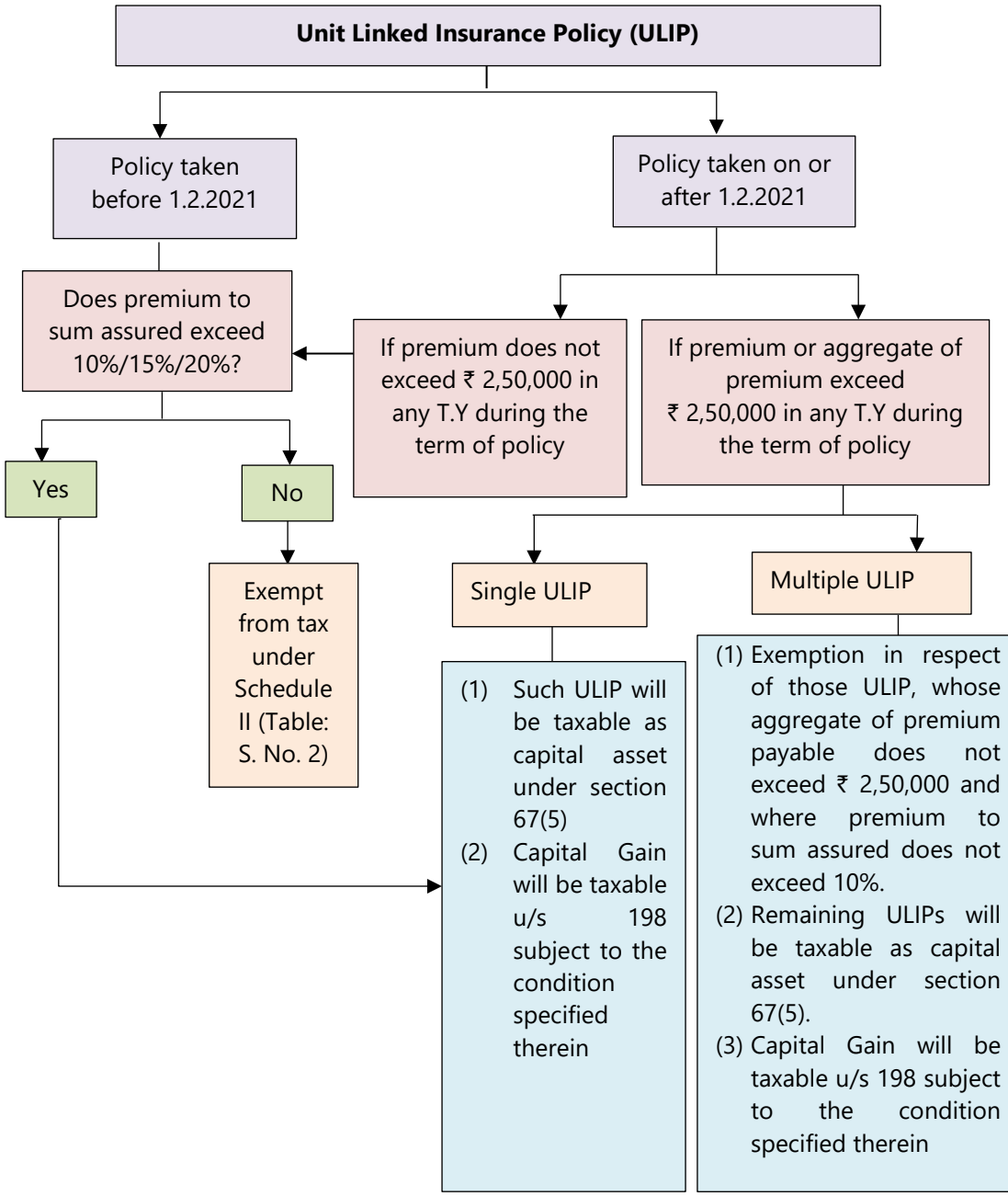
If the consideration received under ULIP "B" is claimed to be exempt as aggregate of the annual premium payable for ULIP "Y" and "B" did not exceed ₹ 2,50,000 for any of the TYs., the consideration received under ULIP "A" would not be exempt. Exemption for consideration received under ULIP "B" is preferred as it is more beneficial to the assessee.

If the consideration on surrender of ULIP "X" and on maturity of ULIP "Y" were not claimed to be exempt from tax in T.Y.2025-26 and T.Y.2031-32, respectively, then consideration received under both ULIP "A" and ULIP "B" would be exempt in T.Y.2032-33 (being ULIPs issued on or after 1.2.2021, whose aggregate consideration does not exceed ₹ 2,50,000).

It may be noted that, in every case, consideration received under ULIP "C" would not be exempt from tax.

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Summary



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Manner of Computing Capital Gain on ULIP not exempted

Any ULIP which is not exempt under Schedule II (Table: Sl. No. 2) will be a capital asset and taxable under section 67(5).

Where any person receives any amount under a specified ULIP, including any bonus allocated by on such policy, then, Rule 49 prescribes the manner to compute capital gain arising from receipt of such amount -

	Situation	Capital gains arising from receipt of amount during the tax year in which such amount is received
(i)	Where the amount is received for the first time during the tax year	**A-B,** where **A** = the amount received for the first time, including the amount allocated by way of bonus on such policy; and **B** = the aggregate of the premium paid during the term of such specified ULIP till the date of receipt of the amount as referred to in "A"
(ii)	Where the amount is received during the tax year, at any time after the receipt of the amount as referred to in (i)	**C-D,** where **C** = the amount received during the tax year, at any time after the receipt of the amount as referred to in (i) above, including the amount allocated by way of bonus on such policy. **Note** - The amount which has already been considered for calculation of taxable amount during the earlier tax year(s) would not be included in "C". **D** = the aggregate of the premium paid during the term of such specified ULIP till the date of receipt of the amount as referred to in "C" as reduced by the premium that has already been considered for calculation of taxable amount during the earlier tax year(s).

The capital gains as computed in above would be deemed to be the capital gains arising from the transfer of a unit of an equity-oriented fund set up under a scheme of an insurance company comprising unit linked insurance policies.

Meaning of specified ULIP – Any ULIP which is not exempt under Schedule II (Table: Sl. No. 2).

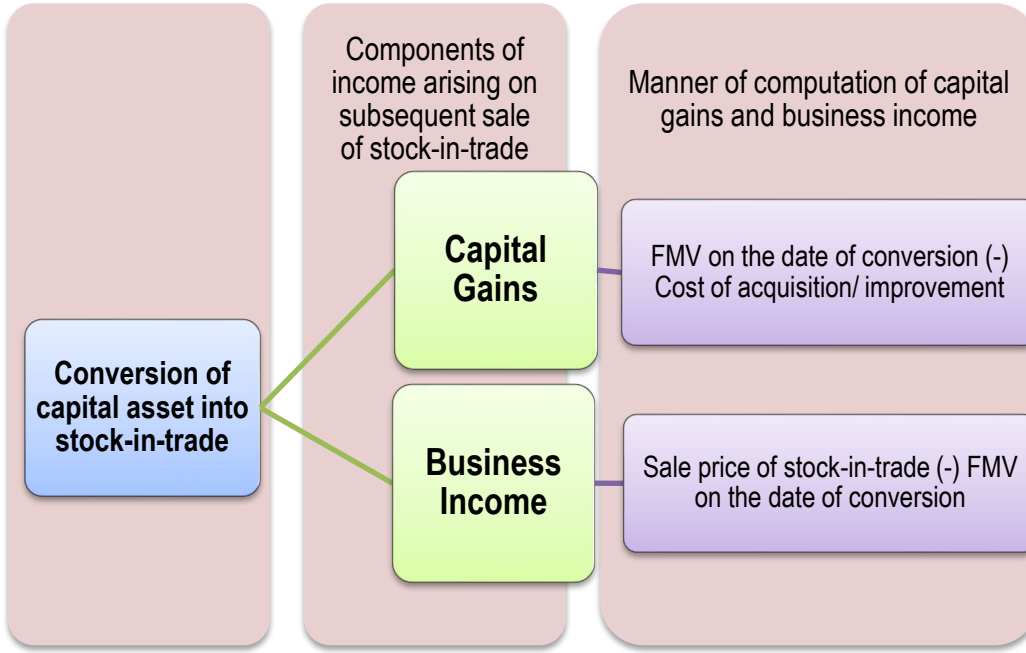
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Conversion or treatment of a capital asset as stock-in-trade [Section 67(6)]

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 conversion/treatment 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.*

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ILLUSTRATION 1

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. Examine the tax implication.

SOLUTION

Since the capital asset is converted into stock-in-trade on March 10, 2026, 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 will be computed after deducting the cost of acquisition from the full value of consideration. ₹ 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. During the same tax year, ₹ 50,000 (₹ 6,00,000 - ₹ 5,50,000) will be chargeable to tax as business profits.

Transfer of beneficial interest in securities [Section 67(7)]

As per section 67(7), if any person, at any time during the tax year, had any beneficial interest in any securities, then, any profits or gains arising from the transfer made by the depository or participant of such beneficial interest in respect of securities shall be chargeable to income-tax as the income of the beneficial owner of the tax year in which such transfer took place and shall not be regarded as income of the depository who is deemed to be the registered owner of the securities by virtue of section 10(1) of the Depositories Act, 1996.

Full value of consideration and period of holding: In order to compute the capital gains and period of holding, the cost of acquisition and the period of holding of securities shall be determined on the basis of the first-in-first-out (FIFO) method.

When the securities are transacted through stock exchanges, it is the established procedure that the brokers first enter into contracts for purchase/ sale of

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securities and thereafter, follow it up with delivery of shares, accompanied by transfer deeds duly signed by the registered holders.

- The seller is entitled to receive the consideration agreed to as on the date of contract.
- Thus, it is the date of broker's note that should be treated as the date of transfer in case of sale transactions of securities provided such transactions are followed up by delivery of shares and also the transfer deeds.
- Similarly, in respect of the purchasers of the securities, the holding period shall be reckoned to take place directly between the parties and not through stock exchanges.
- The date of contract of sale as declared by the parties shall be treated as the date of transfer provided it is followed up by actual delivery of shares and the transfer deeds.

Where securities are acquired in several lots at different points of time, the First-In-First-Out (FIFO) method shall be adopted to reckon the period of the holding of the security, in cases where the dates of purchase and sale could not be correlated through specific numbers of the scrips.

In other words, the assets acquired last will be taken to be remaining with the assessee while assets acquired first will be treated as sold - *CBDT Circular No. 704, dated 28.4.1995*.

Meaning of certain terms

Term	Meaning
Beneficial owner	A person whose name is recorded as such with a depository.
Depository	A company formed and registered under the Companies Act, 2013 and which has been granted a certificate of registration under section 12(1A) of the SEBI Act, 1992.
Security	Such security as may be specified by SEBI.

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Introduction of capital asset as capital contribution [Section 67(9)]

Where a person transfers a capital asset to a firm, AOP or BOI (not being a company or co-operative society) in which he is already a partner/ member or is to become a partner/ member by way of capital contribution or otherwise, the profits or gains arising from such transfer will be **chargeable to tax as income of the tax year in which such transfer takes place.**

Full value of consideration: For this purpose, the amount recorded in the books of account of the firm, AOP or BOI as the value of the capital asset will be deemed to be the full value of the consideration received or accruing.

Tax implications on receipt of money or capital asset or stock-in trade by a partner or a member on dissolution or reconstitution of firm/AOPs/BOIs [Section 8 and 67(10)]

Tax implications on receipt of capital assets or stock in trade or both on dissolution or reconstitution of firm/AOP/BOI [Section 8]

(i) **Deemed transfer in the hands of specified entity -** Where a **specified person (partner of a firm/member of AoP/BoI) receives** during the tax year **any capital asset or stock in trade or both** from a specified entity (firm/AoP/BoI) in connection with the **dissolution or reconstitution** of such specified entity, then **such specified entity** would be **deemed to have transferred** such capital asset or stock in trade or both to the specified person **in the year in which such capital asset or stock in trade or both** are received by the specified person.

(ii) **Year of taxability –** Any profits and gains from such deemed transfer of capital asset or stock in trade or both by the specified entity shall be deemed to be the **income of such specified entity of the tax year in which such capital asset or stock in trade or both were received by the specified person.**

(iii) **Head of income –** Any profit and gains from such deemed transfer of capital asset would be chargeable to income-tax as income of such specified entity under the head "Capital gains". Any profits and gains from

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such deemed transfer of stock in trade would be chargeable to tax under the head "Profits and gains from business or profession".

(iv) **Full value of consideration -** In order to compute the capital gains, the **fair market value of the capital asset or stock in trade or both** on the date of its receipt by the specified person shall be **deemed to be the full value of the consideration** received or accruing as a result of such deemed transfer of the capital asset or stock in trade or both by the specified entity.

Tax implications on receipt of money or capital assets or both on reconstitution of firm/AOP/BOI [Section 67(10)]

(i) **Deemed income in the hands of specified entity –** If a specified person receives during the tax year, **any money or capital asset or both** from a specified entity in connection with the **reconstitution of such specified entity**, then any profits or gains arising from such receipt shall be chargeable to income-tax under the head "Capital gains".

(ii) **Year of taxability** – Such profits and gains shall be deemed to be the income of **specified entity of the tax year in which such money or capital asset or both were received by the specified person.**

(iii) **Computation of profits and gains from such receipt –** Such profits or gains shall be determined in accordance with the following formula –

A = B + C – D**

A = Income chargeable to income-tax u/s 67(10) as income of the specified entity under the head "Capital gains"

B = Value of any money received by the specified person from the specified entity on the date of such receipt.

C = The amount of fair market value of the capital asset received by the specified person from the specified entity on the date of such receipt.

D = The amount of balance in the capital account (represented in any manner) of the specified person in the books of account of the specified entity at the time of its reconstitution.

** If the value of "A" in the above formula **is negative**, its value shall be **deemed to be zero.**

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Balance in the capital account of the specified person in the books of account of the specified entity is to be calculated without considering any increase in the capital account of the specified person due to the following

- revaluation of any asset or
- self-generated goodwill or
- any other self-generated asset.

"self-generated goodwill" and "self-generated asset" mean goodwill or asset, as the case may be, which has been acquired without incurring any cost for purchase or which has been generated during the course of the business or profession.

(iv) Taxability u/s 67(10) is in addition to taxability under section 8 – When a capital asset is received by a specified person from a specified entity in connection with the reconstitution of such specified entity, the provisions of this section shall operate in addition to the provisions of section 8 and the taxation under section 8 shall be worked out independently.

Definition of certain terms commonly used under both section 8 and 67(10):

Terms	Meaning
Specified person	a person, who is a partner of a firm or member of other AOPs or BOIs (not being a company or a co-operative society) in any tax year.
Specified entity	a firm or other AOPs or BOIs (not being a company or a co-operative society)
Reconstitution of the specified entity	Where (a) one or more of its partners or members of such specified entity **ceases** to be partners or members; **or** (b) one or more new partners or members are **admitted** in such specified entity in such circumstances that **one or more of the persons who were partners or members**, of the specified entity, before the change, **continue as partner or partners or member or members after the change; or**

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	(c) **all the partners or members**, of such specified entity **continue with a change in their respective share or in the shares of some of them**



The case of dissolution of specified entity which is dealt in section 8 is not covered under section 67(10). The taxability of receipt of money by a partner of a firm/ member of AOP/BOI on reconstitution of firm/AOP/BOI is dealt with only in section 67(10) and not in section 8. The taxability of receipt of stock-in-trade by a partner of a firm/member of AOP/BOI on reconstitution is dealt with in section 8. Therefore, it is only receipt of capital asset by a partner of a firm/member of an AOP/BOI on reconstitution of the firm/AOP/BOI which is taxable under section 8 and under section 67(10).

(vi) Type of capital gain from capital asset received by specified person from specified entity in connection with its reconstitution [Section 2(101) read with Rule 6]: In case of the amount which is chargeable to tax as income of specified entity under section 67(10) under the head "Capital gains", the amount or a part of it shall be deemed to be from transfer of short-term capital asset or long term capital asset, as the case may be, mentioned in column (2), if it is attributed to capital asset mentioned in the corresponding row in column (3) -

	Deemed capital gains from transfer of capital asset	Type of capital asset of specified entity
	(2)	**(3)**
1.	Capital gains from transfer of a short term capital asset	(a) capital asset which is short term capital asset at the time of taxation of amount under section 67(10); or (b) capital asset forming part of block of asset; or (c) capital asset being self-generated asset and self-generated goodwill as defined in section 67(11)(b)

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2.	Capital gains from transfer of a long term capital asset	Capital asset which is not covered in 1(a) above and is long term capital asset at the time of taxation of amount under section 67(10).

(vii) Attribution of capital gains: For the purpose of section 72(5), where the amount is chargeable to income-tax as income of specified entity under section 67(10), the specified entity shall attribute such amount to capital asset remaining with the specified entity in the prescribed manner.

Accordingly, Rule 50 provides that the specified entity shall attribute such amount to capital asset remaining with the specified entity in the following manner:

<table>
<tr><th>S. No.</th><th>Particulars</th><th>Attribution to the capital assets remaining with the specified entity</th></tr>
<tr><td colspan="3">Where the aggregate of the value of money and the fair market value of the capital asset received by the specified person from the specified entity, in excess of the balance in his capital account, chargeable to tax under section 67(10) -</td></tr>
<tr><td>(i)</td><td>relates to revaluation of any capital asset or valuation of self-generated asset or self-generated goodwill, of the specified entity.
The revaluation should be based on a valuation report obtained from a registered valuer.</td><td>B x C/D
B [the amount charged u/s 67(10)] x
C = increase in, or recognition of, value of that asset because of revaluation or valuation [C]
D = aggregate of increase in, or recognition of, value of all assets because of the revaluation or valuation [D]</td></tr>
<tr><td>(ii)</td><td>does not relate to revaluation of any capital asset or valuation of self generated asset or self-</td><td>the amount charged to tax under section 67(10) shall not be attributed to any capital asset</td></tr>
</table>

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	generated goodwill, of the specified entity	
(iii)	relate only to the capital asset received by the specified person from the specified entity	the amount charged to tax under section 67(10) shall not be attributed to any capital asset

The specified entity shall furnish the details of amount attributed to capital asset remaining with the specified entity in Form No. 27.

The Form shall be furnished on or before the due date referred to in section 263(1)(c) for the relevant tax yearin which the amount is chargeable to tax under section 67(10).

The specified entity shall not be entitled for the depreciation on the increase in value of an asset on account of its revaluation or the recognition of the value of self-generated asset or self-generated goodwill due to its valuation.



Guidelines under section 8 and section 67(10) of the Income tax Act, 2025 [Circular No. 14/2021 dated 2.7.2021]

The amount taxed under section 67(10) is required to be attributed to the remaining capital assets of the specified entity, so that when such capital assets get transferred in the future, the amount attributed to such capital assets gets reduced from the full value of the consideration and to that extent the specified entity does not pay tax again on the same amount.

This attribution is given only for the purposes of section 72. Section 72 only applies to capital assets which are not forming block of assets. For capital assets forming block of assets there is section 41(1)(c) to determine written down value of the block of asset and section 74 to determine the capital gains arising on transfer of such assets.

However, the Act has not provided that amount taxed under section 67(10) can also be attributed to capital assets forming part of block of assets and which are covered by these two provisions.

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The CBDT has, vide this circular, clarified that Rule 50 of Income-tax Rules, 2026 also applies to capital assets forming part of block of assets. Wherever the terms capital asset is appearing in Rule 50 of Income-tax Rules, 2026, it refers to capital asset whose capital gains is computed under section 72 as well as capital asset forming part of block of assets. Further, wherever reference is made for the purposes of section 72, such reference may be deemed to include reference for the purposes of section 41(1)(c) and section 74.

It is further clarified that in case the capital asset remaining with the specified entity is forming part of a block of asset, the amount attributed to such capital asset under Rule 50 of Income-tax Rules, 2026 shall be reduced from the full value of the consideration received or accruing as a result of subsequent transfer of such asset by the specified entity, and the net value of such consideration shall be considered for reduction from the written down value of such block under section 41(1)(c) or for calculation of capital gains, as the case may be, under section 74.

For the purposes of understanding and for removing difficulties, if any, the application of section 8 and section 67(10) is explained with the help of the following examples:

Example 1: There are three partners "A", "B" and "C" in a firm "FR", having one third share each. Each partner has a capital balance of ₹ 10 lakhs in the firm. There are three pieces of lands "S", "T" and "U" in that firm and there is no other capital asset in that firm. Book value of each of the land is ₹ 10 lakhs which is the cost of acquisition. All these three lands were acquired by the firm more than two years ago.

Partner "A" wishes to exit. The firm revalues its lands based on valuation report from a registered valuer as defined in Rule 56[2](f), and as per that valuation report fair market value of lands "S" and "T" is ₹ 70 lakhs each, while fair market value of land "U" is ₹ 50 lakhs. On the exit of partner "A", the firm decides to give him ₹ 11 lakhs of money and land "U" to settle his capital balance on 14.5.2026.

In accordance with the provisions of section 8, it would be deemed that the firm "FR" has transferred land "U" to the partner "A" at its fair market value of ₹ 50 lakhs.

[2] *Refer Annexure 2 at the end of this module for Rule 56 of the Income-tax Rules, 2026*

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Now on account of the deeming provisions of section 8, it is deemed that the firm "FR" has transferred land "U" to partner "A". Thus, an amount of ₹ 50 lakhs less ₹ 10 lakhs would be charged to tax in the hands of firm "FR" under the head "Capital gains". For partner "A", the cost of acquisition of this land would be ₹ 50 lakhs. Hence, the amount of ₹ 40 lakhs is charged to long term capital gains and let us assume that the tax is ₹ 5,00,000 (assume no surcharge or cess just for ease of calculation and illustration purposes).

This net book profit after tax of ₹ 35 lakhs (capital gains of ₹ 40 lakhs less tax of ₹ 5 lakhs) is to be credited in the capital account of each of the three partners, i.e. ₹ 11,66,667 each. Thus, partner "A" capital account would increase to ₹ 21,66,667. This exercise is required to be carried out since section 8 mandates that it is to be deemed that the firm "FR" has transferred the land "U" to partner "A" and the long term capital gains of ₹ 40 lakhs is chargeable to tax in the hands of the firm "FR".

As against capital balance of ₹ 21,66,667, partner "A" has received ₹ 61 lakhs (₹ 11 lakhs of money plus land "U" of fair market value of ₹ 50 lakhs). Thus, ₹ 39,33,333 is required to be charged to tax under section 67(10). This shall be in addition to an amount of ₹ 40 lakhs charged to tax under section 8.

On account of provisions of section 72(5), read with Rule 50, this ₹ 39,33,333 is to be attributed to the remaining assets of the firm "FR" on the basis of increase in their value due to revaluation based on the valuation report of registered valuer. In this case as per revaluation there are only two capital assets remaining; lands "S" and "T". In both cases the value has increased by ₹ 60 lakhs each. Thus, out of ₹ 39,33,333, ₹ 19,66,666.50 shall be attributed to land "S" and ₹ 19,66,666.50 to land "T". When either of these lands gets sold, this amount attributed to them would be reduced from sales consideration under section 72(5).

The amount of ₹ 39,33,333 which is charged to tax under section 67(10) shall be charged as long term capital gains in view of Rule 6(3), since the amount of ₹ 39,33,333 is attributed to land "S" and land "T" which are both long term capital assets at the time of taxation of ₹ 39,33,333 under section 67(10).

Example 2: There are three partners "A", "B" and "C" in a firm "FR", having one third share each. Each partner has a capital balance of ₹ 10 lakhs in the firm. There

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are three pieces of lands "S", "T" and "U" in that firm and there is no other capital asset in that firm. All these three lands were acquired by the firm more than two years ago.

Book value of each of the land is ₹ 10 lakhs. Partner "A" wishes to exit. The firm sells land "U" on 20.6.2026 for its fair market value of ₹ 50 lakhs. The cost of acquisition of land "U" is same as its book value. Thus, an amount of ₹ 50 lakhs less ₹ 10 lakhs would be charged to tax in the hands of firm "FR" under the head "Capital gains". Hence, the amount of ₹ 40 lakhs is charged to long term capital gains and let us assume that the tax is ₹ 5 lakhs (assume no surcharge or cess just for ease of calculation and illustration purposes).

This net book profit after tax of ₹ 35 lakhs (capital gains of ₹ 40 lakhs less tax of ₹ 5 lakhs) is to be credited in the capital account of each of the three partners, i.e. ₹ 11,66,667 each. Thus, partner "A" capital account would increase to ₹ 21,66,667 lakhs.

Partner "A" decides to exit the firm "FR". The firm revalues its lands "S" and "T" based on valuation report from a registered valuer, as defined in Rule 56(f), and as per that valuation report fair market value of lands "S" and "T" is ₹ 70 lakhs each. On the exit of partner "A", the firm decides to give him ₹ 61 lakhs of money to settle his capital balance. Thus, as against capital balance of ₹ 21,66,667, partner "A" has received ₹ 61 lakhs of money. Thus ₹ 39,33,333 is required to be charged to tax section 67(10). This will be in addition to ₹ 40 lakhs already charged to capital gains.

On account of section 72(5), read with Rule 50, this ₹ 39,33,333 is to be attributed to the remaining assets of the firm "FR" on the basis of increase in their value due to revaluation based on the valuation report of registered valuer. In this case, as per revaluation, there are only two capital assets remaining: lands "S" and "T". In both cases, the value has increased by ₹ 60 lakhs each. Thus, out of ₹ 39,33,333, ₹ 19,66,666.50 shall be attributed to land "S" and ₹ 19,66,666.50 to land "'T''. When either of these lands gets sold, this amount attributed to them would be reduced from sales consideration under section 72(5).

The amount of ₹ 39,33,333 which is charged to tax under section 67(10) shall be charged as long term capital gains in view of Rule 6(3), since the amount of

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₹ 39,33,333 is attributed to land "S" and land "T" which are both long term capital assets at the time of taxation of ₹ 39,33,333 under section 67(10).

Note: The final result in both examples 1 and 2 is same due to the operation of section 8.

Example 3: There are three partners "A", "B" and "C" in a firm "FR", having one third share each. Each partner has a capital balance of ₹ 100 lakhs in the firm. There is a piece of land "S" of book value of ₹ 45 lakhs. There is patent "T" of written down value of ₹ 45 lakhs. And there is cash of ₹ 225 lakhs. The land was acquired by the firm more than two years ago. The patent was acquired/ developed/ registered one year back.

Partner "A" wishes to exit. The firm revalues its land and patent based on valuation report from a registered valuer, as defined in Rule 56(f), and as per that valuation report, fair market value of land "S" is ₹ 45 lakhs and fair market value of patent "T" is ₹ 60 lakhs. As per the valuation report, there is also self-generated goodwill of ₹ 30 lakhs. On the exit of partner "A", the firm decides to give him ₹ 75 lakhs in money and land "S" to settle his capital balance on 14.7.2026.

In accordance with the provisions of section 8, it would be deemed that the firm "FR" has transferred land "S" to the partner "A" at its fair market value of ₹ 45 lakhs. The cost of acquisition of land "S" is same as its book value.

Now, on account of the deeming provisions of section 8, it is deemed that the firm "FR" has transferred land "S" to partner "A". However, since the sale consideration is equal to cost of acquisition, there will not be any capital gains tax. For partner "A", the cost of acquisition of this land would be ₹ 45 lakhs.

As against capital balance of ₹ 100 lakhs, partner "A" has received ₹ 120 lakhs (money of ₹ 75 lakhs plus land "S" of fair market value of ₹ 45 lakhs). Thus, ₹ 20 lakhs is required to be charged to tax under section 67(10).

On account of section 72(5) read with Rule 50 and this guidance note, this ₹ 20 lakhs is to be attributed to the remaining capital assets of the firm "FR" on the basis of increase in the value due to revaluation of existing capital assets, or due to recognition of the value of self-generated goodwill, based on the valuation report of registered valuer. In this case, as per this report, the value of

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patent "T" has increased by ₹ 15 lakhs and the self-generated goodwill value has been recognised at ₹ 30 lakhs. Thus, one third of ₹ 20 lakhs (i.e. ₹ 6,66,667) would be attributed to patent "T", while two third of ₹ 20 lakhs (i.e. ₹ 13,33,333) would be attributed to self-generated goodwill. ₹ 6,66,667 attributed to patent "T" shall not be added to the block of the assets and no depreciation shall be available on the same. When patent "T" gets transferred subsequently, this ₹ 6,66,667 attributed shall be reduced from the full value of the consideration received or accruing as a result of transfer of patent "T" by the firm "FR", and the net value shall be considered for reduction from the written down value of the intangible block under section 41(1)(c) or for calculation of capital gains, as the case may be, under section 74. Let us say that Patent T is sold for ₹ 25 lakhs. ₹ 6,66,667 shall be reduced from ₹ 25 lakh and only net amount of ₹ 18,33,333 shall be considered for reduction from the written down value of the intangible block under section 41(1)(c) or for calculation of capital gains, as the case may be, under section 74. Similarly, when goodwill gets sold subsequently, ₹ 13,33,333 would be reduced from its sales consideration under section 72(5).

The amount ₹ 20 lakhs which is charged to tax under section 67(10) shall be charged as short term capital gains, as ₹ 6,66,667 is attributed to the Patent "T" which is part of block of assets and ₹ 13,33,333 is attributed to self-generated goodwill. In accordance with Rule 6(3), both of these are to be characterised as short term capital gains.

Note: For the purpose of calculation of depreciation under section 33, the written down value of the block of asset "intangible" of which Patent "T" is part, would remain ₹ 45 lakhs and would not be increased to ₹ 60 lakhs due to revaluation during the year. In this regard it may be highlighted that the following provisions are relevant in determining the amount on which depreciation is allowable under the Act:

- Section 33(12)(d) provides that the term "written down value of the block of assets" shall have the same meaning as in section 41(1)(c).
- Section 41(1)(c), with respect to block of assets, *inter alia*, provides that the aggregate of the written down values of all the assets falling within that block of assets at the beginning of the tax year is to be increased by the

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actual cost of any asset falling within that block, acquired during the tax year. This clause does not allow any increase on account of revaluation.

- Section 39(1) which defines "Actual cost" as actual cost of the assets to the assessee. In revaluation, there is no actual cost to the assessee.

Further, section 33 does not allow depreciation on goodwill. If in the given example "self-generated goodwill" is replaced by "self-generated asset", even then, the depreciation will not be admissible on the amount of ₹ 30 lakhs recognised in valuation. In this regard it may be highlighted that the above mentioned provisions, in the immediate preceding paragraph, are also applicable to "self-generated asset" and since there is no actual cost to assessee in case of "self-generated asset", depreciation is not allowable under section 33 on an asset whose actual cost is nil.

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 a 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

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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 rectification under section 288.

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.

Taxability of capital gains in case of Specified Agreement [Section 67(14)]

Genuine hardship on account of taxability of capital gains in the year of transfer of property to developer: The definition of 'transfer', *inter alia*, includes any arrangement or transaction where any rights are handed over in execution of part performance of contract, even though the legal title has not been transferred.

Applying the definition of transfer, under these development agreements, the transfer took place in the year in which the owner of the immovable property, being land or building or both handed over the immovable property to the developer.

Consequently, the capital gains tax liability in the hands of the owner would arise in the year in which the possession of immovable property is handed over to the developer for development of a project, in spite of the fact that the consideration thereof (i.e. the actual constructed property) will be received only after a couple of years.

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Deferment of taxability of capital gains: With a view to minimise the genuine hardship which the owner of land or building may face in paying capital gains tax in the year of transfer, section 67(14) provides that

- in case of a person **being individual or Hindu undivided family**,
- who enters into a specified agreement for development of a project,
- the capital gain arises from such transfer shall be chargeable to income-tax for the **tax year in which the certificate of completion for the whole or part of the project is issued by the competent authority**.

Full value of consideration: For the purpose of section 72, the stamp duty value, on the date of issue of the said certificate, of his share, being land or building or both, in the project as increased by any consideration received in cash or by a cheque or draft or by any other mode shall be deemed to be the full value of the consideration received or accruing as a result of the transfer of the capital asset.

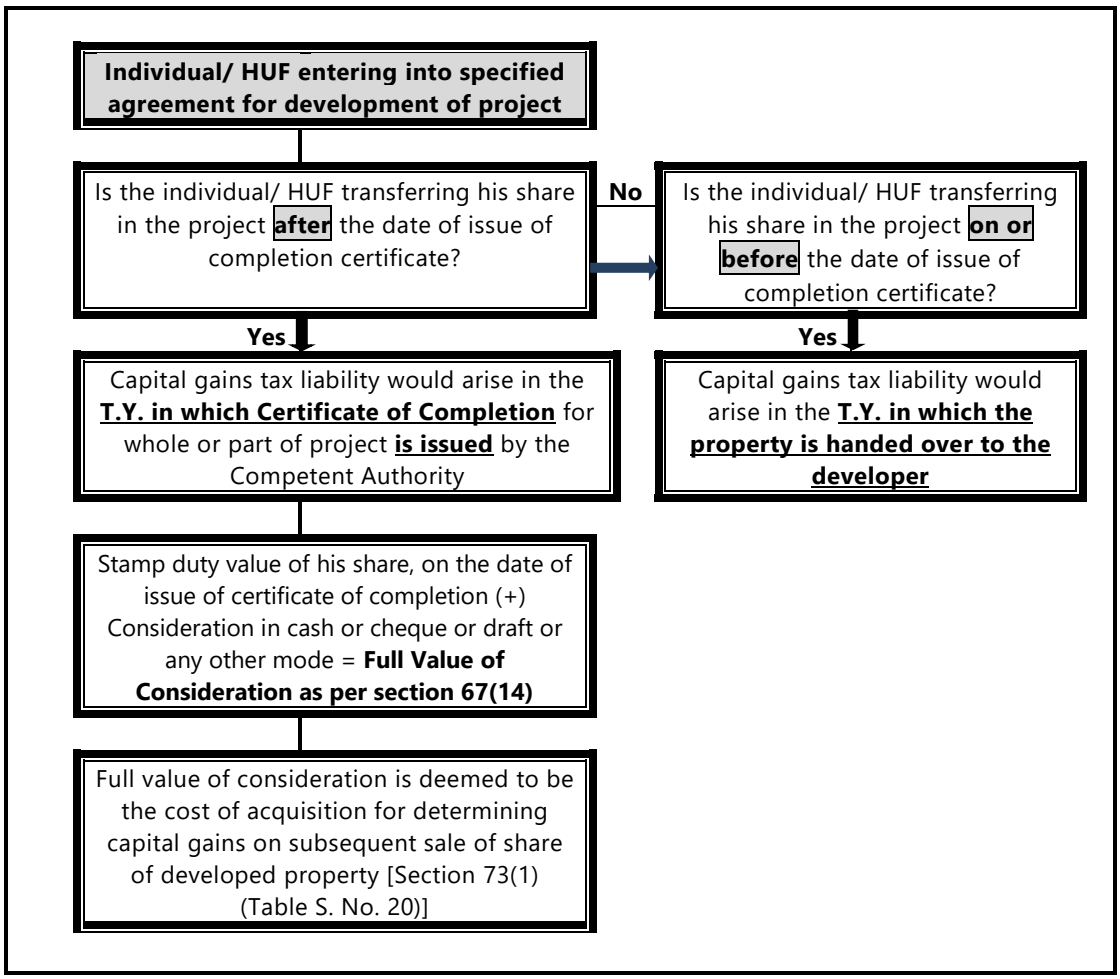
Non-applicability of the provision: It may, however, be noted these provisions would not apply, if the person transfers his share in the project on or before the date of issue of said completion certificate and the capital gain tax liability would be deemed to arise in the tax year in which such transfer took place. In such a case, full value of consideration received or accruing shall be determined by the general provisions of the Act [Section 67(16)].

Meaning of certain terms

Term	Meaning
Specified Agreement	Specified agreement means the registered agreement in which a person owing land or building or both, agrees to allow another person to develop a real estate project on such land or building or both, in consideration of a share, being land or building or both in such project, whether with or without payment of part of the consideration in cash.
Competent authority	The authority empowered to approve the building plan under any law.

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Taxability of capital gains in case of Specified Agreement: At a Glance



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

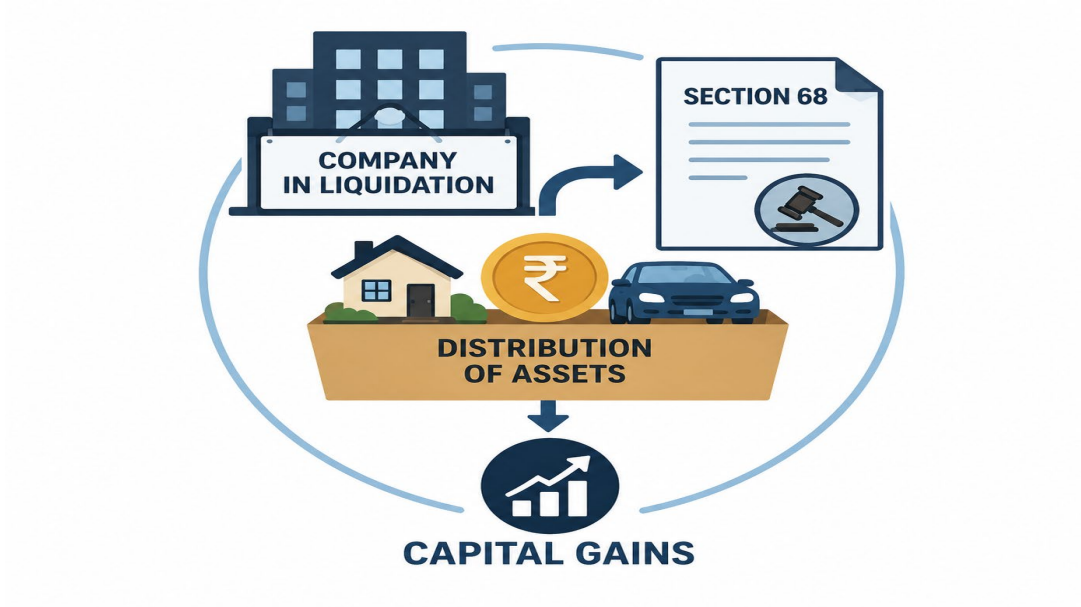
(1) In the hands of liquidated company: Where the assets of a company are distributed to its shareholders on its liquidation, such distribution shall **not** be regarded as a transfer by the company for the purposes of section 67 [Section 68(1)].

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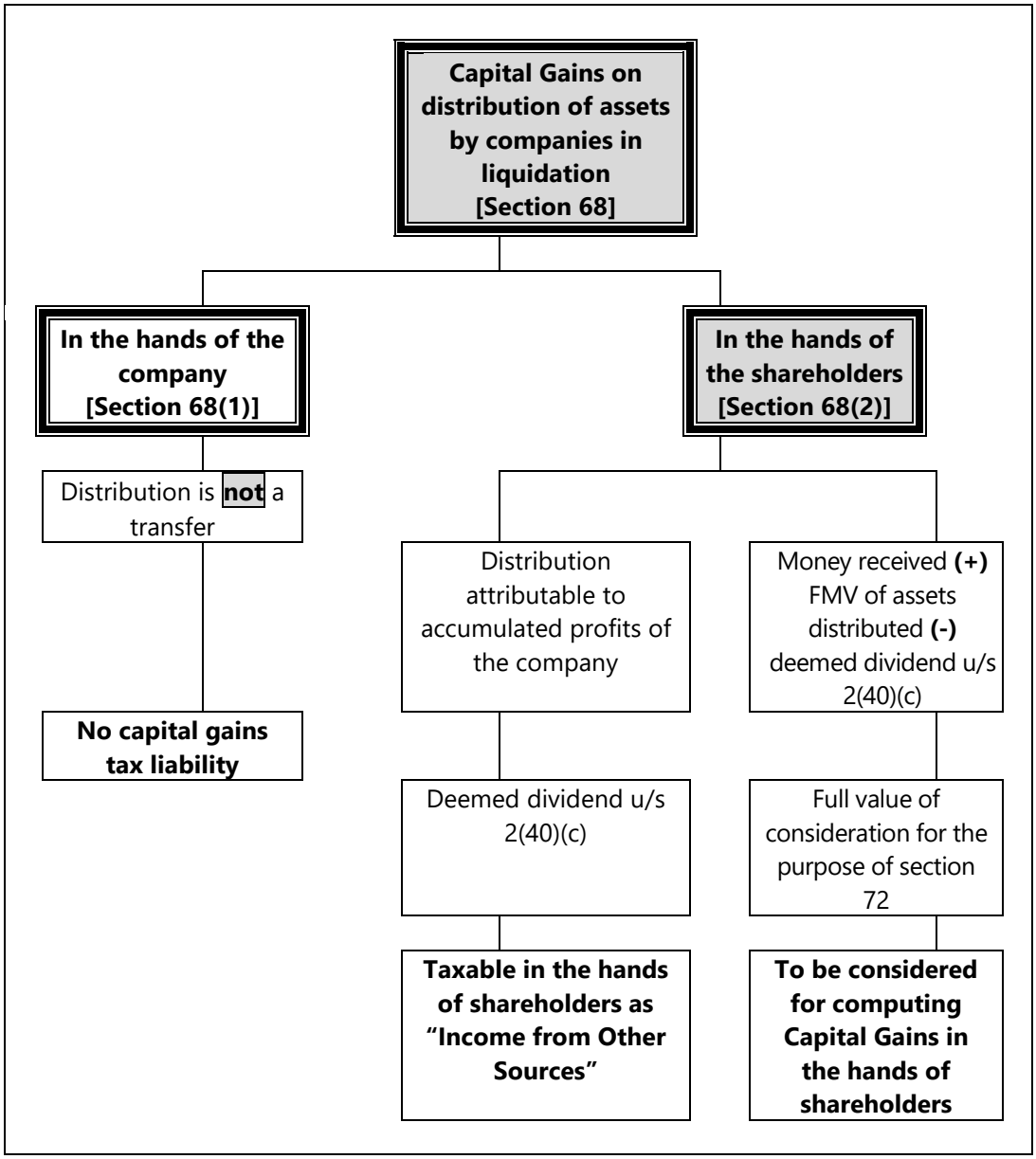
The above section is restricted in its application to the circumstances mentioned therein *i.e.*, the assets of the company must be distributed to shareholders on the liquidation of the company. If, however, the liquidator sells the assets of the company resulting in a capital gain and distributes the 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 money so received or the market value of the assets received on the date of distribution. The portion of the distribution which is attributable to the accumulated profits of the company is to be treated as dividend income of the shareholder 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/ fair market value for the purpose of determining the full value of 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.



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4.7 CAPITAL GAINS ON BUYBACK OF SHARES OR OTHER 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

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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 is as follows:

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%

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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.

Meaning of certain terms:

Sl. No.	Terms	Meaning
1.	Specified securities	As per *Explanation 1* to section 68 of the Companies Act, 2013, "specified securities" includes 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 - (i) 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 (ii) a person who holds, directly or indirectly, more than 10% of the shareholding in the company.

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4.8 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 undertaking to any resulting company in such a manner that -

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(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 the property and the liabilities are transferred at values 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, notified under section 116(7) by the Central Government.

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Meaning of certain terms

Term	Particulars
Undertaking	Includes - any part of an undertaking or a unit or division of an undertaking or - a business activity taken as a whole, However, it does not include individual assets or liabilities or any combination thereof not constituting a business activity.
Liabilities	Includes (a) the liabilities which arise out of the activities or operations of the undertaking; (b) the specific loans or borrowings (including debentures) raised, incurred and utilised solely for the activities or operations of the undertaking; and (c) the amounts of general or multipurpose borrowings of the undertaking as computed below in cases, other than those referred to in clause (a) or clause (b) N = K x (L/M) N = the amounts of general or multipurpose borrowings of the undertaking K = the amounts of general or multipurpose borrowings of the demerged company L = the value of the assets transferred in a demerger M = the total value of the assets of such demerged company immediately before the demerger.
For determining the value of the property	Any change in the value of assets consequent to their revaluation shall be ignored.
Splitting up or reconstruction	(i) Splitting up or the reconstruction of - any authority or - a body constituted or established under a Central, State or Provincial Act, or - a local authority or - a public sector company, into separate authorities or bodies or local authorities

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	or companies, as the case may be, shall be deemed to be a demerger if it fulfils such conditions as may be notified by the Central Government. (ii) The reconstruction or splitting up of a company, which ceased to be a public sector company as a result of transfer of its shares by the Central Government, into separate companies, shall be deemed to be a demerger, if it has been made to give effect to any condition attached to the said transfer of shares and also fulfils such other conditions as may be notified by the Central Government.
Reconstruction or splitting up of a public sector company	The 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 — (i) is a public sector company on the appointed day indicated in such scheme approved by the Central Government or any other body authorised under the provisions of the Companies Act, 2013 or any other applicable law governing such public sector companies; and (ii) fulfils such other conditions as may be notified by the Central Government.

(c) Demerged company [Section 2(34)] - Demerged company means the company whose undertaking is transferred, pursuant to a demerger, to a resulting company.

(d) Resulting company [Section 2(97)] - 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.

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4.9 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:

(1)	(2)	(3)	(4)
Clause of section 70(1)	**Particulars of transfer of capital asset referred to in column (3)**	**Asset transferred**	**Conditions to be fulfilled**
(a)	Any distribution on the **total or partial partition of a HUF**	Any capital asset	-
(b)	Any transfer **by an individual or HUF** under a will or gift or an irrevocable trust	Any capital asset.	-
(c)	Any transfer by a holding company to its subsidiary company	Any capital asset, not being stock-in trade	(a) The parent company or its nominees must hold the whole of the share capital of the subsidiary company; and (b) The subsidiary company must be an Indian company.
(d)	Any transfer by a subsidiary company to the holding company	Any capital asset, not being stock-in trade	(a) The whole of share capital of the subsidiary company must be held by the holding company; and (b) The holding company must be an Indian company.

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(e)	Any transfer by the amalgamating company to the amalgamated company, in a scheme of amalgamation.	Any capital asset	The amalgamated company should be an Indian company
(f)	Any transfer by the shareholder of amalgamating company in a scheme of amalgamation	Capital asset, being shares held by him in the amalgamating company	(i) the transfer is made in consideration of allotment to him of any share or shares in the amalgamated company except when the shareholder itself is the amalgamated company; and (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.*			
(g)	Any transfer by the amalgamating foreign company to the amalgamated foreign company, in a scheme of amalgamation of two foreign companies.	Capital asset, being shares held in an Indian company	(a) At least 25% of the shareholders of the amalgamating foreign company must continue to remain shareholders of the amalgamated foreign company; (b) Such transfer should not attract capital gains in the country in which the amalgamating company is incorporated.

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(h)	Any transfer by the amalgamating foreign company to the amalgamated foreign company, in a scheme of amalgamation of two foreign companies.	Capital asset, being share of a foreign company, referred to in section 9(10)(a), which derives, directly or indirectly, its value substantially from the share or shares of an Indian company	(a) At least 25% of the shareholders of the amalgamating foreign company must continue to remain shareholders of the amalgamated foreign company; (b) Such transfer should not attract capital gains in the country in which the amalgamating company is incorporated.
(i)	Any transfer by a banking company to banking institution under a scheme of amalgamation of a banking company with a banking institution sanctioned and brought into force by the Central Government under section 45(7) of the Banking Regulation Act, 1949.	Any capital asset	-
(j)	Any transfer, in a demerger, by the demerged company to the resulting company	Any capital asset	The resulting company should be an Indian company.
(k)	Any transfer or issue of shares by the resulting company, in a scheme of	Capital asset, being shares	The transfer or issue should be made in consideration of demerger of the undertaking.

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	demerger to the shareholders of the demerged company.		
(l)	Any transfer by the demerged foreign company to the resulting foreign company, in a scheme of demerger of a foreign company.	Capital asset, being a share or shares held in an Indian company	(a) The shareholders holding not less than 75% in value of the shares of the demerged foreign company continue to remain shareholders of the resulting foreign company; (b) Such transfer should not attract tax on capital gains in the country, in which the demerged foreign company is incorporated. However, the provisions of sections 230 to 232 of the Companies Act, 2013, shall not apply in case of demergers referred to in this clause.
(m)	Any transfer by the demerged foreign company to the resulting foreign company, in a scheme of demerger of a foreign company	Capital asset, being a share of a foreign company referred to in section 9(10)(a), which derives, directly or indirectly, its value substantially from the share or shares of an Indian company	(a) The shareholders holding not less than 75% in value of the shares of the demerged foreign company continue to remain shareholders of the resulting foreign company; (b) Such transfer should not attract capital gains in the country in which the demerged foreign company is incorporated.

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			However, the provisions of sections 230 to 232 of the Companies Act, 2013, shall not apply in case of demergers referred to in this clause.
(n)	Any transfer by the predecessor co-operative bank to the successor co-operative bank or to the converted banking company, in a business reorganization of co-operative bank.	Any capital asset	-
(o)	Any transfer by a shareholder of predecessor co-operative bank, in a business reorganization.	Capital asset, being a share or shares held by him in the predecessor co-operative bank	If the transfer is made in consideration of the allotment to him of any share or shares in the successor co-operative bank or the converted banking company.
(p)	Any transfer by a non-resident to another non-resident outside India.	Capital asset, being bonds or Global Depository Receipts (GDRs) referred to in section 209(1)	Conditions laid down in section 209(1) should be fulfilled: (a) Bonds should be of: (i) an Indian company issued as per notified scheme of Central Government); or (ii) a public sector company sold by the Government and purchased by the

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			non-resident in foreign currency (b) GDRs should be issued: (i) as per notified scheme of Central Government against initial issue of shares of an Indian company and purchased by the non-resident in foreign currency through an approved intermediary; or (ii) against the shares of a public sector company sold by the Government and purchased by him in foreign currency through an approved intermediary; or (iii) issued or reissued as per notified scheme of Central Government against the existing shares of an Indian company purchased by him in foreign currency through an approved intermediary.
(q)	Any transfer, made outside India, by a	Capital asset, being a rupee denominated	-

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	non-resident to another non-resident.	bond of an Indian company issued outside India	
(r)	Any transfer of specified capital assets by a non-resident on a recognised stock exchange located in any International Financial Services Centre (IFSC)	Capital asset, being - A bond or GDR referred to in section 209(1) (or) - A rupee denominated bond of an Indian company (or) - A derivative (or) - Any other security notified by the Central Government. Accordingly, the Central Government has, vide Notification No. 16/2020, dated 5.3.2020, Notification No. 89/2022 dated 3.8.2022 and Notification No. 71/2023 dated 12.9.2023, specified the following securities: (i) foreign currency denominated bond; (ii) unit of a Mutual Fund; (iii) unit of a business trust; (iv) foreign currency	The consideration for such transaction is paid or payable in foreign currency.

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		denominated equity share of a company; (v) unit of Alternative Investment Fund; (vi) Bullion Depository Receipt with underlying bullion (vii) unit of investment trust, being REITs or an InvITs; (viii) unit of a scheme (a scheme of a fund management entity launched under IFSC Authority (Fund Management) Regulations, 2022); (ix) unit of a Exchange Traded Fund launched under IFSC Authority (Fund Management) Regulations, 2022 which are listed on a recognised stock exchange located in any IFSC in accordance with the	

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		regulations made by the SEBI under the SEBI Act 1992 or the IFSC Authority under the IFSC Authority Act 2019, as the case may be.	
(s)	Any transfer of a capital asset made outside India by a non-resident to another non-resident.	Capital asset, being a Government Security carrying a periodic payment of interest.	The transfer should be through an intermediary dealing in settlement of securities.
(t)	Any transfer, in a relocation, of a capital asset by the original fund to the resulting fund	Any capital asset	-
(u)	Any transfer by a shareholder or unit holder or interest holder of original fund, in a relocation of fund.	Capital asset, being share or unit or interest held by the shareholder in the original fund	Transfer of capital asset should be in consideration for the share or unit or interest in the resultant fund.

Original fund – Original Fund means

(A) a fund established or incorporated or registered outside India, which collects funds from its members for investing it for their benefit and fulfils the following conditions -

(i) the fund is not a person resident in India;

(ii) the fund is a resident of a country or a specified territory with which an agreement referred to in section 159(1) or 159(2) has been entered into; or is established or incorporated or registered in a country or a specified territory as may be notified by the Central Government;

(iii) the fund and its activities are subject to applicable investor protection regulations in the country or specified territory where it is established or incorporated or is a resident; and

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(iv) fulfils such other conditions as may be prescribed;

Accordingly, Rule 51 prescribes that the aggregate participation or investment in the original fund, directly or indirectly, by persons resident in India shall not exceed 5% of the corpus of such fund at the time of transfer of a capital asset to a resultant fund being a Category III AIF.

(B) an investment vehicle, in which Abu Dhabi Investment Authority is the direct or indirect sole shareholder or unit holder or beneficiary or interest holder and such investment vehicle is wholly owned and controlled, directly or indirectly, by the Abu Dhabi Investment Authority or the Government of Abu Dhabi; or

(C) a fund notified by the Central Government subject to the conditions specified.

Relocation - Transfer of assets of the original fund, or of its wholly owned special purpose vehicle, to a resultant fund on or before 31.3.2030, where consideration for such transfer is discharged in the form of share or unit or interest in the resulting fund to –

(i) shareholder or unit holder or interest holder of the original fund, in the same proportion in which the share or unit or interest was held by such shareholder or unit holder or interest holder in such original fund, in lieu of their shares or units or interests in the original fund; or

(ii) the original fund, in the same proportion as referred to in (i), in respect of which the share or unit or interest is not issued by resultant fund to its shareholder or unit holder or interest holder.

Resultant fund - A fund established or incorporated in India in the form of a trust or a company or a LLP, which is located in any IFSC as referred to in section 147 and has been granted

- a certificate of registration as a Category I or Category II or Category III AIF or
- a certificate as a retail scheme or an Exchange Traded Fund,

and is regulated under the SEBI (Alternative Investment Fund) Regulations, 2012 made under the SEBI Act, 1992 or regulated under the IFSC Authority (Fund Management) Regulations, 2022 made under the IFSC Authority Act, 2019.

(v)	Any transfer by India Infrastructure Finance Company Limited to an	Any capital asset	The institution should be set up under an Act of Parliament and notified by the Central Government.

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	institution established for financing the infrastructure and development.		
(w)	Any transfer by a public sector company to another public sector company notified by the Central Government for this purpose or to the Central Government or to a State Government.	Any capital asset	Transfer should be under a plan approved by the Central Government.
(x)	Any transfer by way of redemption by an individual	Sovereign Gold Bond issued by the RBI under the Sovereign Gold Bond Scheme	the bond must be held by an individual from the date of original issue till maturity.
(y)	Any transfer of a capital asset	Capital asset, being conversion of gold into Electronic Gold Receipt issued by a Vault Manager, or conversion of Electronic Gold Receipts into gold.	**Vault Manager –** Any person who carries on or intends to carry on the business of providing vaulting services. Vaulting service" in relation to gold means the storage and safekeeping of gold deposited with the Vault Manager, by the depositor, for the purpose of trading in Electronic Gold Receipt and providing services incidental thereto, and includes—(i) utilizing the services of assayers empaneled with the Stock Exchanges for testing as

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			per the gold standard, wherever required; (ii) coordination with depositories for creation, transfer and extinguishment of Electronic Gold Receipt; and (iii) providing deposit, storage and withdrawal services to the beneficial owners
(z)	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	Capital asset, being bonds or debentures, debenture-stock or deposit certificates in any form, of a company	-
(za)	Any transfer by way of conversion of bonds into shares or debentures of any company	Capital asset, being bonds referred to in section 209(1) (Table: S. No. 1)	Conditions laid down in section 209(1) should be fulfilled i.e., Bonds should be of: (i) an Indian company issued as per notified scheme of Central Government; or (ii) a public sector company sold by the Government and purchased by the non-resident in foreign currency
(zb)	Any transfer by way of conversion of preference shares of a company into equity	Conversion of preference shares of a company	-

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	shares of that company		
(zc)	Any transfer to the Government or a University or the National Museum, National Art Gallery, National Archives or such 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.	-
(zd)	Transfer of a capital asset or intangible asset by a firm to a company on succession of the firm by a company in the business carried on by the firm	Any capital asset or intangible asset	**Discussed in detail at the end of this table**
(ze)	- Transfer of capital asset or intangible asset by private company or unlisted public company to LLP - Transfer of shares held in the company by the shareholder as a result of conversion of the company into a LLP	- Any Capital asset or intangible asset - Capital asset, being shares in the company	**Discussed in detail at the end of this table**

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(zf)	Transfer of capital asset or intangible asset by sole proprietary concern to a company on succession of the sole proprietary concern by the company	Capital asset or intangible asset	(i) All assets and liabilities related to the business of the sole proprietary concern, immediately before the succession, should become the assets and liabilities of the company; (ii) The shareholding of the sole proprietor in the company should not less than 50% of the total voting power and such shareholding should continue in such manner for a period of 5 years from the date of succession; (iii) The sole proprietor should not receive any consideration or benefit in any form, directly or indirectly, except through allotment of shares in the company.
(zg)	Any transfer in a scheme for lending of any securities under an agreement or arrangement entered by the assessee with the borrower of such securities and which is subject to the guidelines issued by SEBI or the RBI	-	-

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(zh)	Transfer of capital asset under Reverse Mortgage		**Discussed in detail at the end of this table**
(zi)	Any transfer of a capital asset to a business trust	Capital asset, being share of a special purpose vehicle	Capital asset should be transferred in exchange of units allotted by that trust to the transferor
(zj)	Any transfer by a unit holder in the consolidating scheme of a mutual fund	A unit or units, held by him in the consolidating scheme of a mutual fund	Transfer is made in consideration of the allotment to unit holder of a capital asset, being a unit or units, in the consolidated scheme of the mutual fund. However, this exemption would be available only if, the consolidation takes place of two or more schemes of equity oriented fund or of two or more schemes of a fund other than equity oriented fund.
(zk)	Any transfer by a unit holder in the consolidating plan of a mutual fund scheme	A unit or units, held by him in the consolidating plan of a mutual fund scheme	Transfer should be made in consideration of the allotment to unit holder of a capital asset, being a unit or units, in the consolidated plan of that scheme of the mutual fund.

Consolidated scheme - The scheme with which the consolidating scheme merges or which is formed as a result of such merger.

Consolidating scheme - The scheme of a mutual fund which merges under the process of consolidation of the schemes of mutual fund as per the SEBI (Mutual Funds) Regulations, 1996 made under SEBI Act, 1992.

Consolidating plan - The plan within a scheme of a mutual fund which merges under the process of consolidation of the plans within a scheme of mutual fund as per the SEBI (Mutual Funds) Regulations, 1996 made under SEBI Act, 1992.

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Consolidated plan - The plan with which the consolidating plan merges or which is formed as a result of such merger. **Mutual Fund -** A mutual fund specified Schedule VII (Table: S. No. 20 or 21)., i.e., (i) a Mutual Fund registered under the SEBI Act, 1992 or regulations made thereunder; (ii) Any Mutual Fund set up by a public sector bank or a public financial institution or authorised by the Reserve Bank of India and subject to conditions notified by the Central Government.			
(zl)	Any transfer of a capital asset held by a public sector company	Capital asset, being an interest in a joint venture.	Transfer should be in exchange of shares of a company incorporated outside India by the Government of a foreign State, as per the laws of that foreign State. "Joint venture" means a business entity, as may be notified by the Central Government.

ILLUSTRATION 2

M held 2000 shares in company ABC Ltd. This company amalgamated with another company 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 exchange and to tax ₹ 50,000 as capital gain. Is he justified?

SOLUTION

In the above example, assuming that the amalgamated company is an Indian company, the transaction is squarely covered by the exemption under section 70(1)(f) and the proposal of the Assessing Officer to treat the transaction as an exchange is not justified.

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Transfer of capital asset or intangible asset on succession of the firm by a company [Section 70(1)(zd)]

Any transfer of a capital asset or intangible asset by a firm to a company where such firm is succeeded by that company is not treated as transfer u/s 70(1)(zd)

Conditions –

(i) All the assets and liabilities of the firm relating to the business immediately before the succession become the assets and liabilities of the company;

(ii) All the partners of the firm immediately before the succession become the shareholders of the company in the same proportion in which their capital accounts stood in the books of the firm on the date of succession;

(iii) The partners of the firm do not receive any consideration or benefit, directly or indirectly, in any form or manner, other than by way of allotment of shares in the company;

(iv) The aggregate of the shareholding of the partners in the company is not less than 50% of the total voting power and their shareholding continues in such manner for a period of 5 years from the date of succession;

Transfer of capital asset or intangible asset by private company or unlisted public company and share held by shareholder to LLP in a conversion of private company or unlisted public company into a LLP [Section 70(1)(ze)]

(a) Any transfer of a capital asset or intangible asset by a private company or unlisted public company to a LLP or

(b) Any transfer of a share or shares held in the company by a shareholder on conversion of a company into a LLP

in accordance with section 56 and section 57 of the Limited Liability Partnership Act, 2008.

Conditions –

(i) All the assets and liabilities of the company immediately before the conversion become the assets and liabilities of the LLP;

(ii) all the shareholders of the company immediately before the conversion become the partners of the LLP and their capital contribution and profit

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sharing ratio in the LLP are in the same proportion as their shareholding in the company on the date of conversion;

(iii) No consideration other than share in profit and capital contribution in the LLP arises to the shareholders;

(iv) The erstwhile shareholders of the company continue to be entitled to receive at least 50% of the profits of the LLP for a period of 5 years from the date of conversion;

(v) The total sales, turnover or gross receipts in business of the company should not exceed ₹ 60 lakh in any of the three tax years preceding the tax year in which the conversion takes place;

(vi) The total value of assets as appearing in the books of account of the company in any of the three tax years preceding the tax year in which the conversion takes place, should not exceed ₹ 5 crore; and

(vii) No amount is paid, either directly or indirectly, to any partner out of the accumulated profit of the company as on the date of conversion for a period of 3 years from the date of conversion.

Transfer of capital asset under Reverse Mortgage [Section 70(1)(zh)]

Any transfer of a capital asset in a transaction of reverse mortgage under a scheme made and notified by the Central Government.

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, includes within its scope, disbursement of loan by an approved lending institution, in part or in full, to the annuity sourcing

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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 a 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 instalments, in a transaction of reverse mortgage would be exempt from income-tax.

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ILLUSTRATION 3

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

(i) Mr. A purchased gold in 1970 for ₹ 2,500. In the T.Y. 2026-27, he gifted it to his son at the time of marriage. Fair market value (FMV) of gold on the day the gift was made was ₹ 1,00,000.

(ii) A house property is purchased by a Hindu undivided family in 1967 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 day of partition was ₹ 12,00,000.

(iii) Mr. B purchased 74 convertible debentures for ₹ 40,000 in 1995 which are converted into 740 shares worth ₹ 85,000 in November 2026 by the company.

SOLUTION

We know that capital gains arise 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), transfer of a capital asset by an individual under a gift 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), transfer 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), 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 is **not** regarded as transfer for the purpose of capital gains. Therefore, capital gains tax liability does not arise in the given situation.

ILLUSTRATION 4

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?

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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 instalment, in a transaction of reverse mortgage would be exempt from income-tax. Therefore, the monthly instalment amounts received by Mr. Abhishek would not be taxable.

4.10 WITHDRAWAL OF EXEMPTION IN CERTAIN CASES

Section 71 provides for withdrawal of the benefit of exemption given by section 70 in certain cases.

(1) Conditions for transfer of capital asset by holding to its wholly owned subsidiary and *vice versa* [Section 70(1)(c) and (d)]: As noted above, capital gains arising from the transfer of a capital asset by a company to its wholly owned subsidiary company is exempt from tax.

Similarly, capital gains arising from the transfer of a capital asset by the subsidiary company to its 100% holding company is also exempt from tax, provided under both circumstances the transferee is an Indian company.

Section 71 provides that the above exemption will be withdrawn if at any time before the expiry of 8 years from the date of transfer of a capital asset referred to above

(1) the transferee company converts the capital asset into or treats it as stock-in-trade of its business; or

(2) the parent company or its nominees ceases to hold the whole of the share capital of the subsidiary company.

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In the above two cases, the amount of capital gains exempt from tax by virtue of the provisions contained in section 70 will be deemed to be the income of the transferor company chargeable under the head 'capital gains' of the tax year in which such transfer took place.

(2) **Transfer of capital asset or intangible asset on succession of firm/ sole proprietary concern by a company [70(1)(zd) or (zf)]**: Where any of the conditions laid down in 70(1) (zd) or (zf) for succession of a firm or sole proprietary concern by a company are not complied with, the profits or gains arising from the transfer of such capital asset or intangible asset shall be deemed to be the profits and gains **chargeable to tax** under the head 'capital gains' **of the successor company** for the tax year in which the conditions are not complied with.

(3) **Transfer of capital asset or intangible asset by private company or unlisted public company and share held by shareholder to LLP in a conversion of private company or unlisted public company by a LLP [Section 70(1)(ze)]**: If subsequent to the conversion of a private company or unlisted company into an LLP, any of the conditions laid down in section 70(1)(ze) are not complied with, the profits or gains arising from such transfer not charged under section 67 would be deemed to be the profits and gains **chargeable to tax** under the head 'capital gains' of the **successor LLP or the or the shareholder of the predecessor company** for the tax year in which the conditions are not complied with.

4.11 MODE OF COMPUTATION OF CAPITAL GAINS [SECTION 72]

(1) **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:

(i) Expenditure incurred wholly and exclusively in connection with such transfer like, brokerage, stamp duty, registration fee, legal expenses etc.

(ii) The cost of acquisition of the asset and cost of any improvement thereto.

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(2) 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.

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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	***384***

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(3) 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

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

(4) Deduction from cost of acquisition of a unit of a business trust - If a unit holder receives any amount from a business trust with respect to a unit that is not in the nature of income under Schedule V (Table: S. No. 3 or 4) i.e., **not in the nature of interest and dividend** or **rental income** and is not chargeable to tax under section 92(2)(k) **in the hands of unit holders** or 223(2) **in the hands of business trust**, then such amount shall be reduced from the cost of acquisition of such unit.

If the transaction of transfer of a unit is not considered as transfer under section 70 and cost of acquisition of such unit is determined under section 73, the amount received with respect to such unit before such transaction as well as after such transaction has to be reduced from the cost of acquisition.

(5) Deduction in case of a specified entity taxable u/s 67(10) - In case of value of any money or capital asset received by a specified person from a specified entity referred to in section 67(10), the specified entity shall also be allowed to deduct **the amount chargeable to income-tax as income of such specified entity** under that section **which is attributable to the capital asset being transferred by the specified entity**, calculated in the prescribed manner ***[The manner of attribution is prescribed under Rule 50, which has been discussed in earlier paras along with section 67(10)]***.

(6) 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

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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 so computed in such foreign currency 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 applicable in respect of capital gains accruing or arising from every reinvestment thereafter in and sale of shares or debentures of an Indian company. This will provide relief from risk of foreign currency fluctuation to non-residents. Rule 52 is relevant for this purpose.

Note – *Refer to Chapter 21: Non-resident Taxation of Module 4 where Rule 52 is detailed.*



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.

(7) Rupee Denominated Bonds (RDBs) - As a measure to enable Indian companies to raise funds from outside India, the RBI has permitted them to issue rupee denominated bonds outside India. Accordingly, in case of non-resident assessees, any gains arising on account of appreciation of rupee against foreign currency between the date of purchase and the date of redemption of rupee denominated bond of an Indian company held by him in which investment is made shall not be included in computation of full value of consideration. This would provide relief to the non-resident investor who bears the risk of currency fluctuation.

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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.

Sl. 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: (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 a 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;	Cost for which the previous owner of the property acquired 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*** – *To the cost of acquisition, the cost of improvement to the asset, incurred or borne by the previous owner or the assessee on or after 1.4.2001 must be added.* ***Period of holding*** - *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.* *In case of gifted asset, the indexed cost of acquisition has to be computed with reference*

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	(ix) under any transfer referred to in section 70(1)(g) of shares held in an Indian company, in a scheme of amalgamation, by amalgamating foreign company to the amalgamated foreign company; (x) under any transfer of a capital asset, being a share of a foreign company, which derives directly or indirectly its value substantially from the share(s) of an Indian company, held by the amalgamating foreign company to the amalgamated foreign company, in the scheme of amalgamation referred to under section 70(1)(h); (xi) under any transfer referred to in section 70(1)(i) by a banking company to the banking institution, in a scheme of amalgamation of the banking company with a banking institution; (xii) 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; (xiii) by any transfer of a capital asset, being share(s) held in an Indian company, by the demerged foreign company to the resulting foreign company, in a scheme of demerger referred to in section 70(1)(l); (xiv) by transfer of a capital asset, being a share in a foreign company,	*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 asset*[3].

[3] *As decided in Bombay High Court, in CIT v. Manjula J. Shah 16 Taxman 42*

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	which derives, directly or indirectly, its value substantially from the share or shares of an Indian company, held by the demerged foreign company to the resulting foreign company in the scheme of demerger referred under section 70(1)(m); (xv) by any transfer of a capital asset in a business reorganization under section 70(1)(n), by the predecessor co-operative bank to the successor co-operative bank; (xvi) by any transfer by a shareholder, in a business reorganisation referred to under section 70(1)(o), of a capital asset being a share or shares held by him in the predecessor co-operative bank, if the transfer is made in consideration of the allotment to him of any share or shares in the successor co-operative bank; (xvii) by any transfer referred to in section 70(1)(t), in a relocation, of a capital asset by the original fund to the resulting fund; (xviii) under any transfer referred to in section 70(1)(u) by a shareholder or unit holder or interest holder, in a relocation, of a capital asst being a share or unit or interest held by him in the original fund in consideration for the share or unit or interest in the resultant fund; (xix) under any transfer referred to in section 70(1)(v) of capital asset by India Infrastructure Finance	

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	Company Limited to an institution established for financing the infrastructure and development, set up under any Act of Parliament and notified by the Central Government; (xx) under any transfer referred to in section 70(1)(w) of a capital asset, under a plan approved by the Central Government, by a public sector company to another public sector company notified by the Central Government for this purpose or to the Central Government or to a State Government; (xxi) by any transfer of capital asset or intangible asset on succession of a firm by a company in a business carried on by it referred to in section 70(1)(zd); (xxii) under any transfer under section 70(1)(ze) of a capital asset or intangible asset by a private company or unlisted public company to a LLP; (xxiii) by any transfer of capital asset or intangible asset on succession of a sole proprietorship concern by a company in a business carried on by it, fulfilling the conditions mentioned in section 70(1)(zf).	
(2)	**Shares received under the scheme of amalgamation**	
	Where shares in an amalgamated 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)	The cost of acquisition to him of the shares in the amalgamated company shall be taken as the cost of acquisition of the shares in the amalgamating company.

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(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) or (za).	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)	**Rights received in a firm by shareholders on conversion of private or unlisted public company into LLP**	
	Where a shareholder of a company receives rights in a partnership firm as consideration for transfer of shares on conversion of a company into a LLP referred to in section 70(1)(ze).	The cost of acquisition of the capital asset being rights of a partner referred to in section 42 of the LLP Act, 2008 shall be deemed to be the cost of acquisition to him of the shares in the predecessor company, immediately before its conversion.
(6)	**Shares acquired on redemption of Global Depository Receipts**	
	Where the capital asset, being share or shares of a company is acquired by a non-resident on redemption of GDR referred to in section 209(1) (Table: S. No. 2) held by such assessee	The cost of acquisition of the share or shares would be the price of such share or shares prevailing on any recognized stock exchange on the date on which a request for such redemption was made.
(7)	**Unit of business trust in consideration of shares of a special purpose vehicle**	
	Where the capital asset, being unit of a business trust, became the property of	The cost of acquisition of the unit would be deemed to be

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	the assessee in consideration of transfer of shares of a special purpose vehicle as referred to in section 70(1)(zi).	the cost of acquisition of the shares to him.
(8)	**Units acquired under consolidated scheme of Mutual Fund**	
	Where the capital asset, being a unit or units in a consolidated scheme of a mutual fund, became the property of the assessee in consideration of a transfer referred to in section 70(1)(zj)	The cost of acquisition of the asset shall be deemed to be the cost of acquisition to him of the unit or units in the consolidating scheme of the mutual fund.
(9)	**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.
(10)	**Units acquired under consolidated plan of Mutual Fund scheme**	
	Where the capital asset, being a unit or units in a consolidated plan of a mutual fund scheme, became the property of the assessee in consideration of a transfer referred to in section 70(1)(zk)	The cost of acquisition of the asset shall be deemed to be the cost of acquisition to him of the unit or units in the consolidating plan of the scheme of the mutual fund.
(11)	**A unit or units in the segregated portfolio and original units held in the main portfolio**	
	Units in the segregated portfolio	The cost of acquisition of a unit or units in the segregated portfolio shall be computed as per following formula: $X = \frac{A \times B}{C}$ where – X = cost of acquisition of the unit or units in segregated portfolio;

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		A = cost of acquisition of unit or units in the total portfolio; B = Net Asset Value of the asset transferred to the segregated portfolio; and C = Net Asset Value of the total portfolio immediately before segregation of portfolios.
(12)	**Original units held in the main portfolio**	
	Original Units held by the unit holder in the main portfolio	The Cost of acquisition of the original units held by the unit holder in the main portfolio shall be deemed to have been reduced by the amount as so arrived at under serial number 11.
(13)	**Shares of a company incorporated outside India by the Government of a foreign State, in accordance with the laws of that foreign State**	
	Where the capital asset, being shares of a company incorporated outside India by the Government of a foreign State, as per the laws of that foreign State as referred to in section 70(1)(zl), became the property of the assessee	The cost of acquisition of such asset would be deemed to be the cost of acquisition to it of the interest in the joint venture.
(14)	**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

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		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.	
(15)	**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 14.
(16)	**Capital asset transferred by holding company to its wholly owned subsidiary Indian company or *vice a versa*, in case of attraction of section 71**	
	Where the capital gain arising from the transfer of a capital asset referred to in section 70(1)(c) or section 70(1)(d) is deemed to be income chargeable under the head "Capital gains" by virtue of the provisions contained in section 71	The cost of acquisition of such asset to the transferee-company shall be the cost for which such asset was acquired by it.
(17)	**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*).

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(19)	**Specified capital asset referred under clause (c) of the *Explanation* to section 10(37A) of the Income-tax Act, 1961 (corresponding to Note 13(c) of Schedule III in relation to (Table: Sl. No. 38D)] [Refer diagram at the end of this table]**	
	Where the capital gain arises from the transfer of a reconstituted plot or land, (received by the assessee in lieu of land or building or both transferred under the Land Pooling Scheme of Andhra Pradesh) which has been transferred after the expiry of 2 years from the end of the tax year in which the possession of such plot or land was handed over to the assesse.	The cost of acquisition of such reconstituted plot or land shall be deemed to be its stamp duty value as on the last day of the second tax year after the end of the tax year in which the possession of the said plot or land was handed over to the assessee.

Exemption in respect of capital gains arising on transfer of Specified Capital Assets under the Land Pooling Scheme covered under the Andhra Pradesh Capital Region Development Authority Act, 2014 [Schedule III (Table: Sl. No. 38D)] [Corresponding to section 10(37A) of the Income-tax Act, 1961]

- As per section 96 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, the specified compensation received by the landowner in lieu of acquisition of land is exempt from income tax. The Land Pooling Scheme is an alternative form of arrangement made by the Government of Andhra Pradesh for formation of new capital city of Amaravati to avoid land acquisition disputes and lessen the financial burden associated with payment of compensation under that Act.
- In Land Pooling Scheme, the compensation in the form of reconstituted plot or land is provided to land owners.
- With a view to provide relief to an individual or Hindu undivided family
  - who was the owner of such land as on 2nd June, 2014,
  - who has transferred their land under the Land Pooling Scheme covered under the Andhra Pradesh Capital City Land Pooling Scheme (Formulation and Implementation) Rules, 2015 made under the provisions of the Andhra Pradesh Capital Region Development Authority Act, 2014, and

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- was handed over possession of reconstituted plot or land on or before 31.3.2031

Schedule III (Table: Sl. No. 38D) provides that in respect of said persons, capital gains arising from the transfer of the specified capital assets shall not be included in total income.

Meaning of Specified Capital Asset:

Specified Capital Assets means

- the land or building or both owned by the assessee as on 2nd June, 2014 and which has been transferred under the scheme; or
- the land pooling ownership certificate (LPOC) issued under the scheme to the assessee in respect of transferred land or building or both or
- the reconstituted plot or land, as the case may be, received by the assessee in lieu of land or building or both in accordance with the scheme, if such plot or land, as the case may be, so received is transferred within two years from the end of the financial year in which the possession of such plot or land was handed over to him.

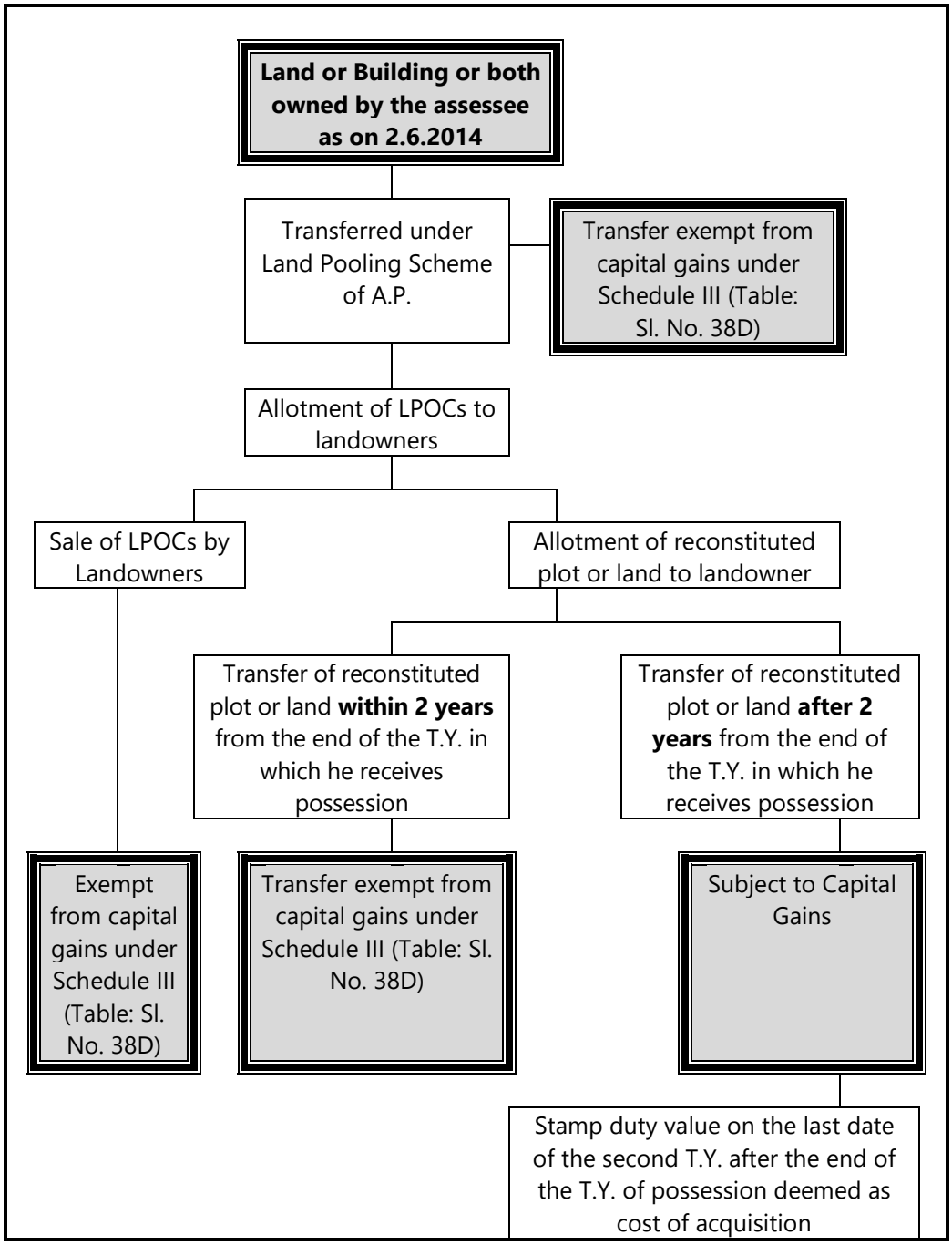
(20)	**Capital asset, being share in the project referred under section 67(14)**	
	Where the capital gain arises from the transfer of a capital asset, being share in the project, in the form of land or building or both, referred to in section 67(14) which is chargeable to tax in the tax year in which the certificate of completion for the whole or part of the project is issued by the competent authority. However, this does not apply to a capital asset, being share in the project which is transferred on or before the date of issue of said completion certificate.	The cost of acquisition of such asset, would be the amount which is deemed as full value of consideration in that sub-section i.e., stamp duty value on the date of issue of certificate of completion plus cash consideration.
(21)	**Capital assets of entities in case of levy of tax on accreted income under section 352**	
	Where the capital gain arises from the transfer of an asset, being the asset	The cost of acquisition of such asset shall be deemed to be the

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	held by a trust or an institution in respect of which accreted income has been computed, and the tax has been paid thereon as per section 352 i.e., the provisions relating to tax on accreted income of certain trusts and institutions	fair market value of the asset considered for computation of accreted income as on the specified date referred to in section 352(2). ***Note:*** *Refer to Chapter 10 on "Assessment of Registered Non-Profit Organisation, Political Party and other Special Entities for understanding the concept of related income.*
(22)	**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
(23)	**Capital asset, being an Electronic Gold Receipt**	
	Where a capital asset, being an Electronic Gold Receipt issued by a Vault Manager became the property of the person as consideration for transfer of gold [Section 70(1)(y)]	The cost of gold for the person in whose name Electronic Gold Receipt is issued.
(24)	**Capital asset, being Gold**	
	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 for such person.

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Taxability/ Exemption of Capital Gains arising on transfer of Specified Capital Assets



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ILLUSTRATION 5

Neerja was carrying on the textile business under a proprietorship concern, Neerja Textiles. On 30.12.2026 the business of Neerja Textiles was succeeded by New Look Textile Private Limited and all the assets and liabilities of Neerja Textiles on that date became the assets and liabilities of New Look Textile Private Limited and Neerja was given 52% share in the share capital of the company. No other consideration was given to Neerja on account of this succession.

The assets and liabilities of Neerja Textiles transferred to the company include an urban land which was acquired by Neerja on 19.7.2013 for ₹ 9,80,000. The company sold the same on 30.03.2027 for ₹ 16,00,000.

Examine the tax implication of the above-mentioned transaction and compute the income chargeable to tax in such case(s).

SOLUTION

Taxability in case of succession of Neerja Textiles by New Look Textile Private Limited

As per provisions of section 70(1)(zf), in case a proprietorship concern is succeeded by a company in the business carried by it and as a result of which any capital asset or intangible asset is transferred to the company, then the same shall not be treated as transfer and will not be chargeable to capital gain tax in case the following conditions are satisfied:

(1) all the assets and liabilities of sole proprietary concern becomes the assets and liabilities of the company.

(2) the shareholding of the sole proprietor in the company is not less than 50% of the total voting power of the company and continues to remain as such for a period of 5 years from the date of succession.

(3) the sole proprietor does not receive any consideration or benefit in any form from the company except through allotment of shares in the company.

In the present case, all the conditions mentioned above are satisfied therefore, the transfer of capital asset by Neerja Textiles to New Look Textile Private Limited shall not attract capital gain tax provided Neerja continues to hold 50% or more of voting power of New Look Textiles Private Limited for a minimum period of 5 years.

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Taxability in case of transfer of land by New Look Textile Private Limited

As per the provisions of section 73(1) (Table :S. No. 1), in case a capital asset is transferred in the circumstances mentioned in section 70(1)(zf), the cost of the asset in the hands of the company shall be the cost of the asset in the hands of the sole proprietor. Further, as per provisions of section 2(101)(c)(B)(I), for determining the period of holding of the asset, the period for which the asset is held by the sole proprietor shall also be considered.

Therefore, in the present case, the urban land shall be a long-term capital asset since it is held for more than 24 months by New Look Textile Private Limited and Neerja Textiles taken together. Cost of acquisition of land in the hands of the company shall be ₹ 9,80,000 i.e., the purchase cost of the land in the hands of Neerja.

Computation of capital gain chargeable to tax in the hands of New Look Textile Private Ltd.

Particulars	₹
Net Sale Consideration	16,00,000
Less: Cost of acquisition	9,80,000
Long-term capital gain	6,20,000

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 [Section 90(3)]

(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

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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: S. 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.



CIT v. Aditya Kumar Jajodia (2018) 407 ITR 107 (Cal)

Issue: Can the amount incurred by the assessee towards perfecting title of property acquired through will, for making further sale, be included in the cost of acquisition for computing capital gains?

Analysis & Decision: The assessee had inherited the immovable property under a will and the **costs incurred by him for perfection of the title from perpetual leasehold rights to the complete ownership had to be regarded as a cost of acquisition** within the meaning of sections 72 and 90, as the assessee was transferring the complete ownership rights to the transferee, and not the leasehold rights.

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(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) provide 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.

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(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 recognised stock exchange as on 31.01.2018	**If there is trading in such asset on such exchange on 31.01.2018** The highest price of the capital asset quoted on such exchange on the said date **If there is no trading in such asset on such exchange on 31.01.2018** 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 recognised stock exchange as on 31.01.2018	The net asset value of such unit as on the said date

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(iii)	If the capital asset is an equity share in a company which is - not listed on a recognised 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 recognised stock exchange on the date of transfer and which became the property of the assessee in consideration of share which is not listed on such exchange as on 31.01.2018 by way of transaction not regarded as transfer under section 70	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.

(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

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acquisition of the asset to the assessee or its fair market value on 1-4-2001 at the option of the assessee.

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.

(ii) **Where the capital asset became the property of the assessee by any of the modes specified in section 73 (Table: S. 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 has got a right to opt for the fair market value as on 1-4-2001.

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

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(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)].

(6) Equity shares received on demutualisation or corporatisation of a recognised stock exchange [Section 90(12)(a)] – In relation to equity shares allotted to a shareholder of a recognised stock exchange in India under a scheme for demutualisation or corporatisation approved by SEBI, the cost of acquisition of such shares shall be the cost of acquiring his original membership of the exchange.

(7) Clearing or trading right acquired on demutualisation or corporatisation of a recognised stock exchange [Section 90(12)(b)] – The cost of a capital asset, being trading or clearing rights of a recognised stock exchange acquired by a shareholder (who has been allotted equity share or shares under such scheme of demutualisation or corporatisation), shall be deemed to be nil.

Cost of Acquisition of 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 - 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 the	 Nil Purchase price Purchase price as reduced by the total amount of depreciation obtained by the assessee under the said section 32(1).

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	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 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

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3	**Right 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) 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	 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 way of distribution of assets on total or	Cost to the previous owner or FMV as on 1.4.2001, at the option of the assessee.

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	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	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.
	The provisions contained in (5) above shall also apply to the assets mentioned in (2), (3) and (4) above.	
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.
7.	Equity shares received on demutualisation or corporatisation of a recognised stock exchange	Cost of acquisition of such shares shall be the cost of acquiring his original membership of the exchange.
8.	Clearing or trading right acquired on demutualisation or corporatisation of a recognised stock exchange	NIL

ILLUSTRATION 6

ABC Ltd. converts its 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).

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The long-term capital gains and business income for the 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

ILLUSTRATION 7

Ms. Usha purchases 1,000 equity shares in X (P) Ltd., an unlisted company, at a cost of ₹ 30 per share (brokerage 1%) in January 1996. She gets 100 bonus shares in August 2000. She again gets 1,100 bonus shares by virtue of her holding in February 2006. Fair market value of the shares of X (P) Ltd. on April 1, 2001 is ₹ 80.

On 1st January 2027, she transfers all her shares @ ₹ 200 per share (brokerage 2%).

Compute the capital gains taxable in the hands of Ms. Usha for the T.Y. 2026-27

SOLUTION

Computation of capital gains for the T.Y. 2026-27

Particulars	₹
1000 Original shares	
Sale proceeds (1000 × ₹ 200)	2,00,000
Less: Brokerage paid (2% of ₹ 2,00,000)	4,000
Net sale consideration	1,96,000
Less: Cost of acquisition [₹ 80 × 1000]	80,000
Long term capital gains (A)	**1,16,000**
100 Bonus shares	
Sale proceeds (100 × ₹ 200)	20,000

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Less: Brokerage paid (2% of ₹ 20,000)		400
Net sale consideration		19,600
Less: Cost of acquisition [₹ 80 × 100] [See Note below]		8,000
Long term capital gains	**(B)**	**11,600**
1100 Bonus shares		
Sale proceeds (1100 × ₹ 200)		2,20,000
Less: Brokerage paid (2% of ₹2,20,000)		4,400
Net sale consideration		2,15,600
Less: Cost of acquisition		NIL
Long term capital gain	**(C)**	**2,15,600**
Long term capital gain	**(A+B+C)**	**3,43,200**

***Note**: Cost of acquisition of bonus shares acquired before 1.4.2001 is the FMV as on 1.4.2001 (being the higher of the cost or the FMV as on 1.4.2001).*

ILLUSTRATION 8

Mr. R holds 1,000 shares in Star Minus Ltd., an unlisted company, acquired in the year 2001-02 at a cost of ₹ 75,000. He has been offered right shares by the company in the month of April, 2026 at ₹ 160 per share, in the ratio of 2 for every 5 held. He retains 50% of the rights and renounces the balance right shares in favour of Mr. Q for ₹ 30 per share in May 2026. All the shares are sold by Mr. R for ₹ 300 per share on 15.7.2026 and Mr. Q sells his shares in December 2026 at ₹ 280 per share. What are the capital gains taxable in the hands of Mr. R and Mr. Q?

SOLUTION

Computation of capital gains in the hands of Mr. R for the T.Y.2026-27

Particulars		₹
1000 Original shares		
Sale proceeds (1000 × ₹ 300)		3,00,000
Less: Cost of acquisition		75,000
Long-term capital gain **[Note 1]**	(A)	2,25,000
200 Right shares		
Sale proceeds (200 × ₹ 300)		60,000

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Less: Cost of acquisition [₹ 160 × 200]		32,000
Short-term capital gain **[Note 2]**	(B)	28,000
Sale of Right Entitlement		
Sale proceeds (200 × ₹ 30)		6,000
Less: Cost of acquisition		NIL
Short-term capital gain **[Note 3]**	(C)	6,000
Capital Gains	**(A+B+C)**	**2,59,000**

Note 1: Since the holding period of these shares is more than 24 months, they are long term capital assets.

Note 2: Since the holding period of these right shares is not more than 24 months, they are short term capital assets.

Note 3: The cost of the rights renounced in favour of another person for a consideration is taken to be nil. The consideration so received is taxed as short-term capital gains in full. The period of holding is taken from the date of the rights offer to the date of the renouncement.

Computation of capital gains in the hands of Mr. Q for the T.Y.2026-27

Particulars	₹
Sale proceeds (200 shares × ₹ 280)	56,000
Less: Cost of acquisition [200 shares × (₹ 30 + ₹ 160)] ***[See Note below]***	38,000
Short-term capital gain	**18,000**

Note: The cost of the rights is the amount paid to Mr. R as well as the amount paid to the company. Since the holding period of these shares is less than 24 months, they are short term capital assets.

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**.

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(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.**

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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.

ILLUSTRATION 9

X & sons, HUF, purchased a land for ₹ 1,20,000 in the T.Y. 2002-03. In the T.Y. 2006-07, a partition took place when Mr. A, a coparcener, is allotted this plot valued at ₹ 1,50,000. In T.Y. 2007-08, he had incurred expenses of ₹ 2,35,000 towards fencing of the plot. Mr. A sells this plot of land for ₹ 15,00,000 in June 2026 after incurring expenses to the extent of ₹ 20,000. You are required to compute the capital gain for the T.Y.2026-27.

SOLUTION

Computation of taxable capital gains for the T.Y.2026-27

Particulars	₹	₹
Sale consideration		15,00,000
Less: Expenses incurred for transfer		20,000
		14,80,000
Less: (i) Cost of acquisition	1,20,000	
(ii) Cost of improvement	2,35,000	3,55,000
Long term capital gains		**11,25,000**

ILLUSTRATION 10

Mr. C purchases a house property for ₹ 1,06,000 on May 15, 1975. The following expenses are incurred by him for making addition/alternation to the house property:

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	Particulars	*₹*
a.	*Cost of construction of first floor in 1982-83*	*3,10,000*
b.	*Cost of construction of the second floor in 2002-03*	*7,35,000*
c.	*Reconstruction of the property in 2012-13*	*5,50,000*

Fair market value of the property on April 1, 2001 is ₹ 8,50,000 and stamp duty value on the said date was ₹ 8,10,000. The house property is sold by Mr. C on July 10, 2026 for ₹ 78,00,000 (expenses incurred on transfer: ₹ 50,000). Compute the capital gain for the tax year2026-27.

SOLUTION

Computation of capital gain of Mr. C for the T.Y.2026-27

Particulars	₹	₹
Gross sale consideration		78,00,000
Less: Expenses on transfer		50,000
Net sale consideration		77,50,000
Less: Cost of acquisition (Note 1)	8,10,000	
Less: Cost of improvement (Note 2)	12,85,000	20,95,000
Long-term capital gain		**56,55,000**

Notes:

1. Fair market value on April 1, 2001 (actual cost of acquisition is ignored as it is lower than market value on April 1, 2001) however, it should not exceed ₹ 8,10,000, being the stamp duty value on 1.4.2001.

2. **Cost of improvement is determined as under:**

Particulars	₹
Construction of first floor in 1982-83 (Expenses incurred prior to April 1, 2001 are not considered)	Nil
Construction of second floor in 2002-03	7,35,000
Alternation/reconstruction in 2012-13	5,50,000
Cost of improvement	**12,85,000**

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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 overriding 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;

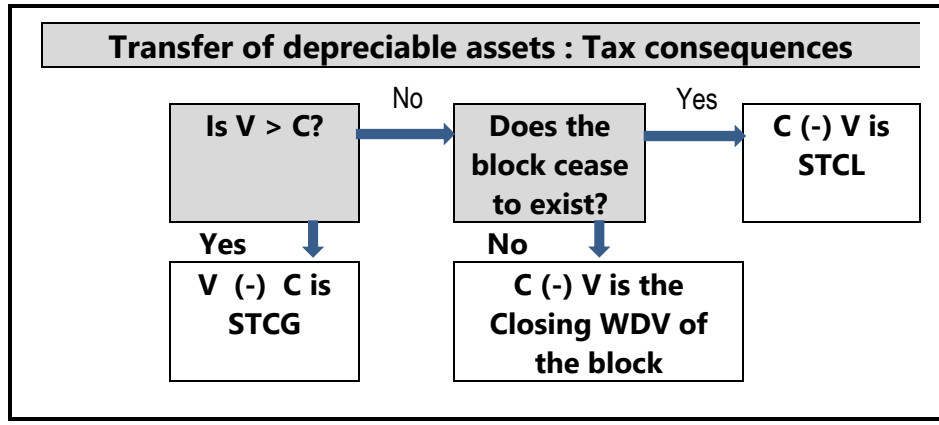
  (3) the actual cost of any asset falling within the block of assets acquired during the tax year,

  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.

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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.



Sakthi Metal Depot v. CIT [2021] 436 ITR 1 (SC)

Issue: Would the depreciable asset forming part of block of assets on which depreciation is being allowed since its acquisition change its character if it is not used for business purpose for the last two years, to the effect that gain arising from its transfer be considered as long term capital gain instead of short-term capital gains?

Analysis & Decision: The depreciable asset forming a part of block of assets within the meaning of section 2(17) would not cease to be a part of the block of assets so long as the assessee continued business. In this case,

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the building forming part of the block of assets would retain its character as such, even if one or two of the assets in the block were not used for the business purposes in the last couple of years. Consequently, the profits arising on sale of such asset would be short-term capital gains.

ILLUSTRATION 11

Rajawat & 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 Rajawat & Co. had sold the three machines in June, 2026 for ₹ 21,00,000, will there be any difference in your above workings? Examine.

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 in November, 2026	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.

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(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 exceeds the sale consideration, the resultant figure would be a short-term capital loss.

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 hand plant during the year	8,50,000	17,00,000
Short term capital gains		**4,00,000**

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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 transferred or matured or redeemed on or after 23.7.2024.

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).

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(4) Meaning of certain terms:

Term	Meaning
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.
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.
Debt and money market instrument	It includes any securities classified or regulated as debt and money market instruments by the SEBI.

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.

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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 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 the manner to determine fair market value of the capital assets.

The fair market value of the capital assets shall be the FMV1 or FMV2, whichever is higher.

FMV1 = The fair market value of the capital assets transferred by way of slump sale determined in accordance with the formula

A+B+C+D - L, where,

A = Book value of all the assets (other than jewellery, artistic work, shares, securities and immovable property) as appearing in the books of accounts of the undertaking or the division transferred by way of slump sale as reduced by the following amount which relate to such undertaking or the division, —

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(i) any amount of income-tax paid, if any, less the amount of income-tax refund claimed, if any; and

(ii) any amount shown as asset including the unamortised amount of deferred expenditure which does not represent the value of any asset;

B = The price which the jewellery and artistic work would fetch if sold in the open market on the basis of the valuation report obtained from a registered valuer;

C = Fair market value of shares and securities as determined in the manner provided in Rule 57[4]

D = The value adopted or assessed or assessable by any authority of the Government for the purpose of payment of stamp duty in respect of the immovable property;

L = Book value of liabilities as appearing in the books of accounts of the undertaking or the division transferred by way of slump sale, but not including the following amounts which relates to such undertaking or division, namely: —

(i) the paid-up capital in respect of equity shares;

(ii) the amount set apart for payment of dividends on preference shares and equity shares where such dividends have not been declared before the date of transfer at a general body meeting of the company;

(iii) reserves and surplus, by whatever name called, even if the resulting figure is negative, other than those set apart towards depreciation;

(iv) any amount representing provision for taxation, other than amount of income-tax paid, if any, less the amount of income-tax claimed as refund, if any, to the extent of the excess over the tax payable with reference to the book profits in accordance with the law applicable thereto;

[4] *Refer Annexure 2 at the end of this module for Rule 57 of the Income-tax Rules, 2026*

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(v) any amount representing provisions made for meeting liabilities, other than ascertained liabilities;

(vi) any amount representing contingent liabilities other than arrears of dividends payable in respect of cumulative preference shares

FMV2 = The fair market value of the consideration received or accruing as a result of transfer by way of slump sale determined in accordance with the formula –

E+F+G+H, where,

E = value of the monetary consideration received or accruing as a result of the transfer;

F = fair market value of non-monetary consideration received or accruing as a result of the transfer represented by property referred to in Rule 57 (Table: Sl.No 1 to 5) determined in the manner provided therein for the property covered in that sub-rule;

G = the price which the non-monetary consideration received or accruing as a result of the transfer represented by property, other than immovable property, which is not referred to in Rule 57 (Table: Sl.No 1 to 5) would fetch if sold in the open market on the basis of the valuation report obtained from a registered valuer, in respect of property;

H = the value adopted or assessed or assessable by any authority of the Government for the purpose of payment of stamp duty in respect of the immovable property (i.e., Stamp duty value) in case the non-monetary consideration received or accruing as a result of the transfer is represented by the immovable property.

The **fair market value of the capital assets** shall be determined **on the date of slump sale** and for this purpose, **valuation date** shall also mean the **date of slump sale**.

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(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.[5] [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.

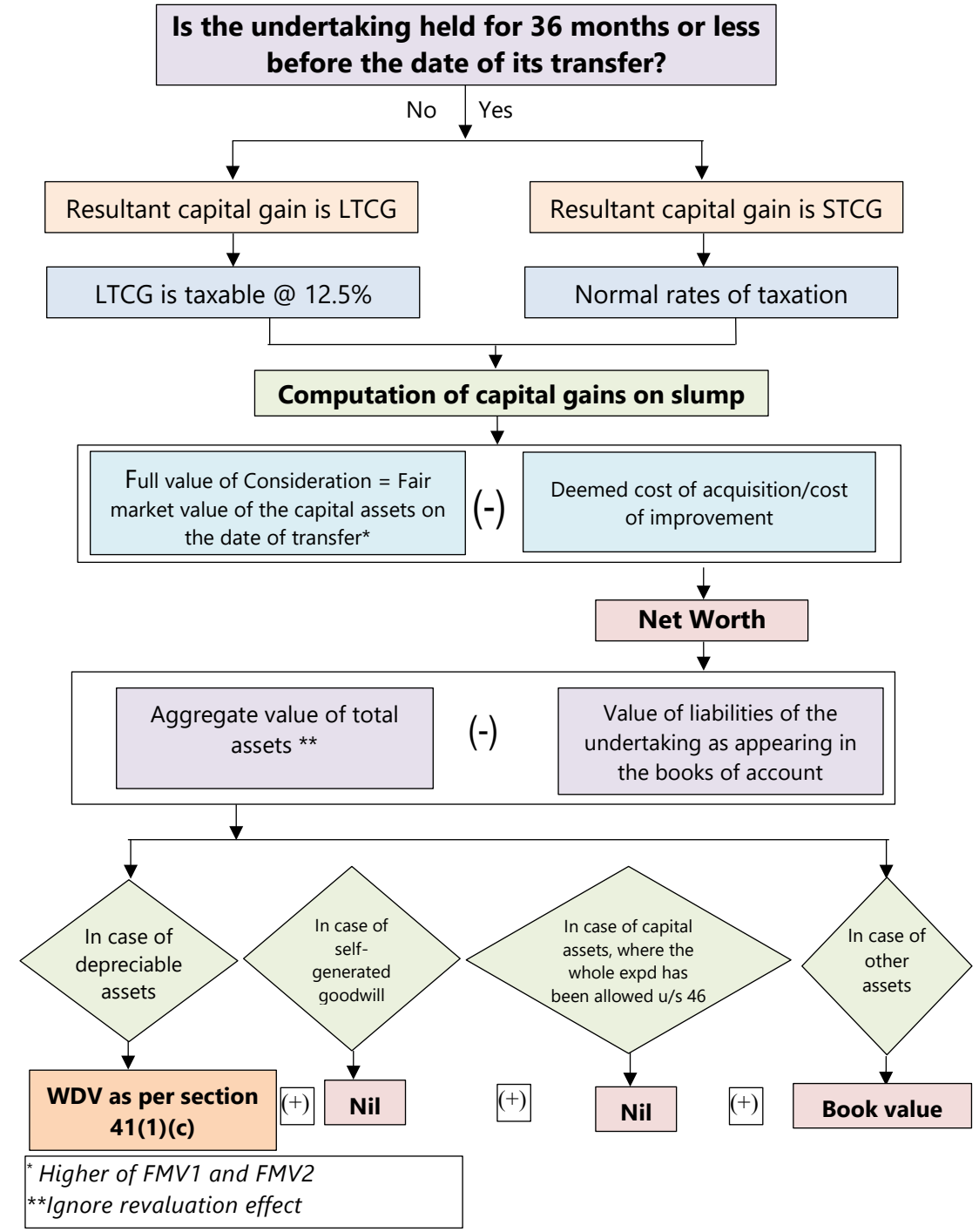
(6) Meaning of Certain Terms [Section 77(5)]:

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

[5] *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*

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



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ILLUSTRATION 12

M/s Sriram Enterprises, a proprietorship having 2 units. Unit 1 is transferred on 1.4.2026 by way of slump sale for a total consideration of ₹ 14 lakhs. Unit 1 was started in the year 2005-06. The expenses incurred for this transfer were ₹ 38,000. Balance Sheet as on 31.3.2026 is as under:

Liabilities	Total (₹)	Assets	Unit 1(₹)	Unit 2(₹)	Total (₹)
Own Capital	17,00,000	Land	13,00,000	3,00,000	16,00,000
Revaluation Reserve (for land of unit 1)	5,00,000	Machinery	4,00,000	2,00,000	6,00,000
Bank loan (70% for unit 1)	4,00,000	Debtors	2,00,000	1,40,000	3,40,000
Trade creditors (25% for unit 1)	3,50,000	Patents	2,50,000	1,60,000	4,10,000
Total	**29,50,000**	**Total**	**21,50,000**	**8,00,000**	**29,50,000**

Other information:

(i) Revaluation reserve is created by revising upward the value of the land of Unit 1. The stamp duty value on 1.4.2026 is ₹ 10 lakhs.

(ii) No individual value of any asset is considered in the transfer deed.

(iii) Patents were acquired on 1.7.2024 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 [Fair market value on 1.4.2026] **(Refer Note 1)**	14,82,500
Less: Expenses on sale	38,000
Net sale consideration	14,44,500
Less: Net worth **(Refer Note 2)**	11,73,125
Long-term capital gain	**2,71,375**

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Notes:

1. Computation of Full value of consideration

Particulars			₹
Fair market value of the capital assets transferred by way of slump sale			
Land, being an immovable property [stamp duty value on 1.4.2026, being the date of slump sale] **[A]**			10,00,000
Machinery [Book value as appearing in the books of accounts] **[B]**			4,00,000
Debtors [Book value as appearing in the books of accounts] **[C]**			2,00,000
Patents [Book value as appearing in the books of accounts] **[D]**			2,50,000
			18,50,000
Less: Liabilities of Unit 1 [₹ 29,50,000 - ₹ 1,20,000 - ₹ 2,62,500] **[L]**		25,67,500	
Excluding			
(i) Own Capital	17,00,000		
(ii) Revaluation reserve	5,00,000	22,00,000	3,67,500
Fair market value of the capital assets transferred by way of slump sale [A+B+C+D- L] **[FMV1]**			14,82,500
Fair market value of the consideration received or accruing as a result of transfer by way of slump sale [Value of the monetary consideration received] **[FMV2]**			14,00,000
Full value of consideration [Higher of FMV1 or FMV2]			14,82,500

2. Computation of net worth of Unit 1 of Sriram Enterprises

Particulars	₹	₹
Land (excluding ₹ 5 lakhs on account of revaluation)		8,00,000
Machinery		4,00,000
Debtors		2,00,000

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Patents **(Refer Note 3)**		1,40,625
Total assets		15,40,625
Less: Creditors [₹ 3,50,000 x 25%]	87,500	
Bank Loan [₹ 4,00,000 x 70%]	2,80,000	3,67,500
Net worth		**11,73,125**

3. Written down value of patents as on 1.4.2026

Value of patents	**₹**
Cost as on 1.7.2024	2,50,000
Less: Depreciation @ 25% for Tax Year 2024-25	62,500
WDV as on 1.4.2025	1,87,500
Less: Depreciation for Tax Year 2025-26	46,875
WDV as on 1.4.2026	**1,40,625**

For the purposes of computation of net worth, the written down value determined as per section 41(1)(c) has to be considered in the case of depreciable assets. The problem has been solved assuming that the Balance Sheet values of ₹ 4 lakh represent the written down value of machinery of Unit 1.

4. 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 [SECTION 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	Stamp Duty Value

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				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"	Stamp Duty Value on the date of agreement
				(b)	If date of agreement fixing the consideration and the date of registration for the transfer 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"	Stamp Duty Value on the date of registration for transfer
				If the stamp duty value on the date of agreement or the date of transfer, as the case may be ≤ 110% of the sale consideration received.		Actual consideration so received
				EXAMPLE Let us take a case where for transfer of building – • the actual consideration is ₹ 100 lakhs;		

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				• the stamp duty value on the date of agreement is ₹ 109 lakhs; and • the stamp duty value on the date of 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 transfer would be the full value of consideration, since the same exceeds 110% of actual consideration of ₹ 100 lakhs.	

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<table>
<tr><td rowspan="4"></td><td rowspan="4"></td><td rowspan="4"></td><td rowspan="4">(2)</td><td colspan="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.</td><td></td></tr>
<tr><td>(a)</td><td>If Valuation by Valuation Officer > Stamp Duty Value</td><td>Stamp Duty Value</td></tr>
<tr><td>(b)</td><td>If Valuation by Valuation Officer < Stamp Duty Value</td><td>Valuation by Valuation Officer</td></tr>
<tr><td>288(1) (Table: S. No. 8)</td><td>(3)</td><td colspan="2">If stamp duty value has been adopted as full value of consideration, and subsequently the value is revised in any appeal or revision</td><td>Value so revised in such appeal or revision</td></tr>
<tr><td colspan="7">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);</td></tr>
</table>

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<table>
<tr><td colspan="5">- 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.</td></tr>
<tr><td rowspan="3">2.</td><td>Shares other than quoted shares</td><td>79</td><td>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.</td><td>FMV of such share determined in the prescribed manner</td></tr>
<tr><td colspan="4">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.</td></tr>
<tr><td colspan="4">Prescribed class of persons for the purpose of section 79
Rule 58(2) provides that the provisions of section 79 shall not apply to transfer of any movable property, being unquoted shares, of a company and its subsidiary and the subsidiary of such subsidiary by an assessee, where -
(i) the Tribunal, on an application moved by the Central Government under section 241 of the Companies Act, 2013, has suspended the Board of Directors of such company and has appointed new directors nominated by the Central Government under section 242 of the said Act; and
(ii) share of such company and its subsidiary and the subsidiary of such subsidiary has been transferred pursuant to a resolution plan approved by the Tribunal under section 242 of the Companies Act, 2013 after affording a reasonable opportunity of being heard to the jurisdictional Principal Commissioner or Commissioner.</td></tr>
</table>

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	Meaning of certain terms **(1)** **A company shall be a subsidiary of another company**, if such other company holds more than half in nominal value of the equity share capital of the company. **(2)** **Tribunal** shall have the same meaning assigned to it in section 2(90) of the Companies Act, 2013 i.e., National Company Law Tribunal constituted under section 408 of the said Act.			
Note: *The fair market value of the shares other than quoted shares would be determined in the manner provided in Rule 57 and for this purpose the reference to valuation date shall mean the date on which the capital asset, being share other than quoted shares of a company is transferred [Rule 56(i)].*				
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

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.

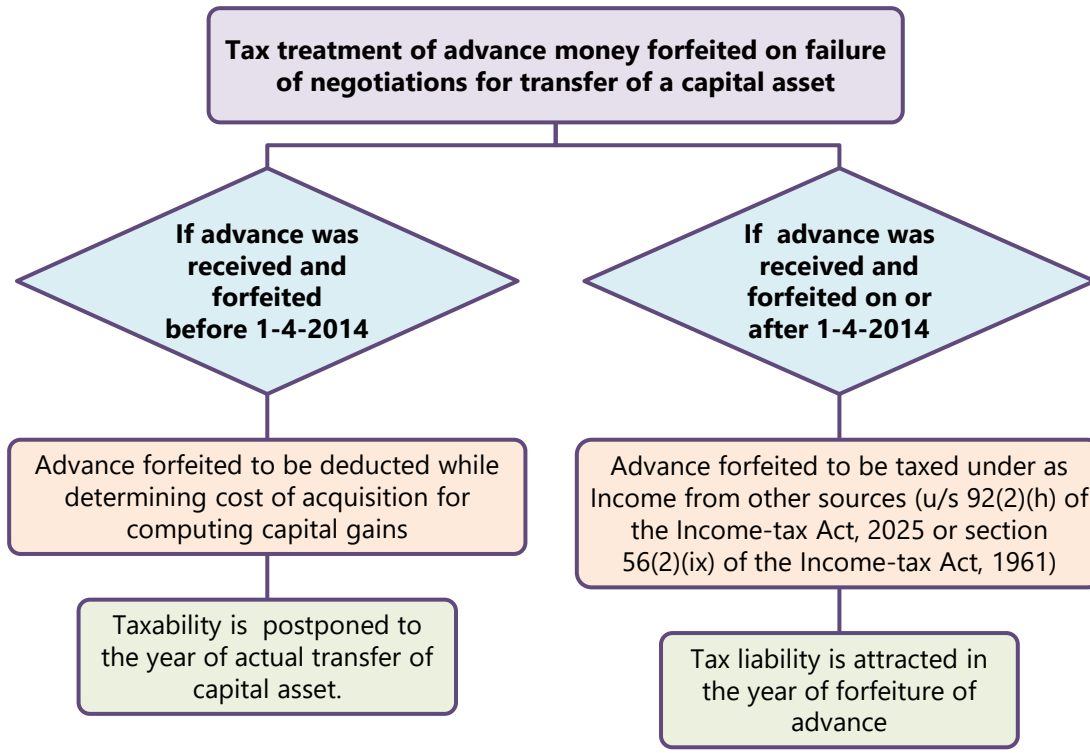
Section 92(2)(h) provides for the taxability of any sum of money received as an advance or otherwise during negotiations for the transfer of a capital asset. As per that section, such sum shall be chargeable to income-tax under the head 'Income from other sources', if such sum is forfeited and the negotiations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

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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.



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ILLUSTRATION 13

Mr. Kay purchases a house property on April 10, 1992 for ₹ 65,000. The fair market value of the house property on April 1, 2001 was ₹ 2,70,000 and Stamp duty value was ₹ 2,20,000. On August 31, 2004, Mr. Kay enters into an agreement with Mr. Jay for sale of such property for ₹ 3,70,000 and received an amount of ₹ 60,000 as advance. However, as Mr. Jay did not pay the balance amount, Mr. Kay forfeited the advance. In May 2008, Mr. Kay constructed the first floor by incurring a cost of ₹ 2,35,000. Subsequently, in January 2009, Mr. Kay gifted the house to his brother Mr. Dee. On June 10, 2026, Mr. Dee sold the house for ₹ 15,00,000.

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

SOLUTION

Computation of taxable capital gains of Mr. Dee for T.Y.2026-27

Particulars		₹	₹
Sale consideration			15,00,00
Less:	Cost of acquisition	2,20,000	
	Cost of improvement	2,35,000	4,55,000
Long-term capital gain			**10,45,000**

Note: For the purpose of capital gains, holding period is considered from the date on which the house was purchased by Mr. Kay, till the date of sale. The house property was acquired before 1st April, 2001, higher of fair market value on 1.4.2001 or actual cost of acquisition can be considered as cost of acquisition. However, fair market value cannot exceed stamp duty value on 1.4.2001.

Amount forfeited by previous owner, Mr. Kay, shall not be deducted from cost of acquisition.

Note - *Since the property has been received by way of gift from brother, it is a case falling u/s 73(1) (Table S. No. 1). Accordingly, the cost of acquisition of the previous owner, Mr. Kay, or the FMV as on 1.4.2001 (since the asset was acquired by the previous owner, Mr. Kay, before 1.4.2001), has to be considered.*

ILLUSTRATION 14

Mr. X purchases a house property in December 1993 for ₹ 5,25,000 and an amount of ₹ 1,75,000 was spent on the improvement and repairs of the property in March, 1997. The property was proposed to be sold to Mr. Z in the month of

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May, 2007 and an advance of ₹ 40,000 was taken from him. As the entire money was not paid in time, Mr. X forfeited the advance and subsequently sold the property to Mr. Y in the month of March, 2027 for ₹ 52,00,000. The fair value of the property on April 1, 2001 was ₹ 11,90,000 and Stamp duty value on the said date was ₹ 10,20,000. What is the capital gain chargeable in the hands of Mr. X for the T.Y. 2026-27?

SOLUTION

Capital gains in the hands of Mr. X for the T.Y.2026-27

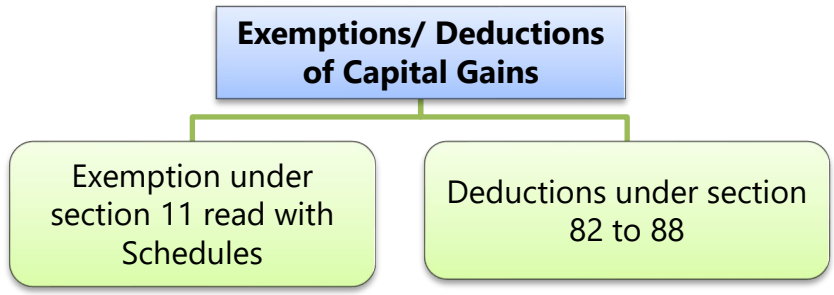
Particulars	₹
Sale proceeds	52,00,000
Less: Cost of acquisition **[Note 1]**	9,80,000
Cost of improvement **[Note 2]**	-
Long term capital gains	**42,20,000**

Note 1: Computation of cost of acquisition

Cost of acquisition (higher of fair market value as on April 1, 2001 and the actual cost of acquisition. Fair market value, however, should not exceed ₹ 10,20,000, being the stamp duty value on 1.4.2001)	10,20,000
Less: Advance taken and forfeited before 1.4.2014	40,000

Note 2: Any improvement cost incurred prior to 1.4.2001 is to be ignored.

4.20 EXEMPTIONS/ DEDUCTIONS OF CAPITAL GAINS



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(1) Exemption under section 11 read with Schedules

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

(i) Exemption of capital gain on transfer of a unit of Unit Scheme, 1964 (US 64) [Schedule II (Table: Sl. No. 14)]

This entry provides that any income arising from the transfer of unit of US 64, shall be exempt from tax. Such transfer should take place on or after 1.4.2002.

(ii) Exemption of capital gains on compulsory acquisition of agricultural land situated within specified urban limits [Schedule III (Table: Sl. 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.



Balakrishnan v. Union of India & Others (2017) 391 ITR 178 (SC)

Issue: Would receipt of higher compensation after notification of compulsory acquisition change the character of transaction into a voluntary sale, so as to deny exemption under Schedule III (Table: Sl. No. 18)?

Analysis: When proceedings were initiated under the Land Acquisition Act, 1894, even if the compensation is negotiated and fixed, it would continue to remain as compulsory acquisition. **Merely because the compensation amount is agreed upon, the character of acquisition will not change from compulsory acquisition to a voluntary sale.** The claim of exemption from capital gains under Schedule III (Table: Sl. No. 18) is, therefore, tenable in law.

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ILLUSTRATION 15

Mr. Kumar has an agricultural land costing ₹ 6 lakhs in Lucknow on 1.4.2003 and has been using it for agricultural purposes till 1.8.2012 when the Government took over compulsory acquisition of this land. A compensation of ₹ 12 lakhs was settled. The compensation was received by Mr. Kumar on 1.7.2026. Compute the amount of capital gains taxable in the hands of Mr. Kumar.

SOLUTION

In the given problem, compulsory acquisition of an urban agricultural land has taken place and the compensation is received after 1.4.2004. This land had also been used for at least 2 years by the assessee himself for agricultural purposes. Thus, as per Schedule III (Table: Sl. No. 18), entire capital gains arising on such compulsory acquisition will be fully exempt and nothing is taxable in the hands of Mr. Kumar in the year of receipt of compensation i.e., T.Y.2026-27.

ILLUSTRATION 16

Will your answer be different if Mr. Kumar had on his own sold this land to his friend Mr. Sharma? Examine.

SOLUTION

As per Schedule III (Table: Sl. No. 18), exemption is available if compulsory acquisition of urban agricultural land takes place. Since the sale is out of own will and desire, the exemption provisions are not attracted and the capital gains arising on such sale will be taxable in the hands of Mr. Kumar.

ILLUSTRATION 17

Will your answer be different if Mr. Kumar had not used this land for agricultural activities? Examine and compute the amount of capital gains taxable in the hands of Mr. Kumar, if any.

SOLUTION

As per Schedule III (Table: Sl. No. 18), exemption is available only when such land has been used for agricultural purposes during the preceding two years by such individual or his parent or by such HUF. Since the assessee has not used it for agricultural activities, the exemption provisions are not attracted and the capital gains arising on such compulsory acquisition will be taxable in the hands of Mr. Kumar in the year of receipt of compensation i.e., T.Y. 2026-27.

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Computation of capital gains

Particulars	Amount (₹)
Sales consideration	12,00,000
Less: Cost of acquisition	6,00,000
Long term capital Gains	6,00,000

ILLUSTRATION 18

Will your answer be different if the land belonged to ABC Ltd. and not Mr. Kumar and compensation on compulsory acquisition was received by the company? Examine.

SOLUTION

Schedule III (Table: Sl. No. 18) exempts capital gains arising to an individual or a HUF from transfer of agricultural land by way of compulsory acquisition. If the land belongs to ABC Ltd., a company, the exemption provisions are not available and the capital gains arising on such compulsory acquisition will be taxable in the hands of ABC Ltd.

(iii) 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: Sl. 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.

(2) Deduction of Capital Gains under sections 82 to 88

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

Eligible assessees – Individual & HUF

Conditions to be fulfilled:

- There should be a transfer of buildings or lands appurtenant thereto, being a residential house.

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- 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 crores, **one residential house in India** should be –

  Where capital gains > ₹ 2 crores

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

  Where 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 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.

  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

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income under section 263(1). *[Refer points (viii) and (ix) 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 utilised 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.



1. If the long-term capital gains is ₹ 2.05 crores and the cost of the new house is ₹ 3 crores, then, the entire long-term capital gains of ₹ 2.05 crores is allowed as deduction and no capital gain shall be charged under section 67.

2. If long-term capital gains is ₹ 2.05 crores and cost of new house is ₹ 1.55 crores, then, long-term capital gains is allowed as deduction only upto ₹ 1.55 crores and balance ₹ 50 lakhs is taxable under section 67.

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EXAMPLE 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)	(2)	(3)	(4)	(5)
(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

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

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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.



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***



CIT v. Syed Ali Adil (2013) 352 ITR 0418 (A.P.)

CIT v. Ananda Basappa (2009) 309 ITR 329

CIT v. K.G. Rukminiamma (2011) 331 ITR 211

Issue: Would an assessee be entitled to deduction under section 82 in respect of purchase of two flats, adjacent to each other and having a common meeting point?

Decision: The assessee is entitled to investment in both the flats purchased by him, since they were adjacent to each other and had a common meeting point, thus, making it a single residential unit.

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ILLUSTRATION 19

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 of 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.*

(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.

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- 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 (viii) and (ix) 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 ≤ 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.

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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, 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**



CIT v. Gurnam Singh (2010) 327 ITR 278 (P&H)

Issue: Can deduction u/s 83 be denied solely on the ground that the new agricultural land purchased is not wholly owned by the assessee, as the assessee's son is a co-owner as per the sale deed?

Analysis & Decision: The agricultural land sold belonged to the assessee and the sale proceeds were also used for purchasing agricultural land. The possession of the said land was also taken by the assessee. **Merely because the assessee's son was shown in the sale deed as co-owner, deduction u/s 83 cannot be denied.** Therefore, the assessee was entitled to deduction u/s 83.

(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.

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- 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 any right in 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 (viii) and (ix) 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 ≤ 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.

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- 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 purchase or construction, then cost of the asset will be reduced by capital gains allowed as deduction earlier for computing capital gains.

ILLUSTRATION 20

PQR Ltd. purchased a land for industrial undertaking in May 2004, at a cost of ₹ 3,50,000. The above property was compulsorily acquired by the State Government at a compensation of ₹ 13,00,000 in the month of January, 2027. The compensation was received in February, 2027. The company purchased another land for its industrial undertaking at a cost of ₹ 2,00,000 in the month of March, 2027. What is the amount of the capital gains chargeable to tax in the hands of the company for the T.Y. 2026-27?

SOLUTION

Computation of capital gains in the hands of PQR Ltd.
for the T.Y.2026-27

Particulars	₹
Sale proceeds (Compensation received)	13,00,000
Less: Cost of acquisition	3,50,000
	9,50,000
Less: Deduction under section 84 (Cost of acquisition of land for its undertaking)	2,00,000
Taxable long-term capital gain	**7,50,000**

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

Eligible assessee – Any assessee

Conditions to be fulfilled

- Assessee must have LTCG 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.

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- 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.



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.

Ceiling limit for investment in long-term specified asset

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.

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Hindustan Unilever Ltd. v. DCIT (2010) 325 ITR 102 (Bom.)

Issue: Can deduction u/s 85 be denied on account of the bonds being issued after six months of the date of transfer even though the payment for the bonds was made by the assessee within the six-month period?

Analysis & Decision: In order to avail the deduction u/s 85, the capital gains have to be invested in a long-term specified asset within a period of six months from the date of transfer. **Where the assessee has made the payment within the six month period, and the same is reflected in the bank account and a receipt has been issued as on that date, the deduction u/s 85 cannot be denied** merely because the bond was issued after the expiry of the six month period or the date of allotment specified therein was after the expiry of the six month period.

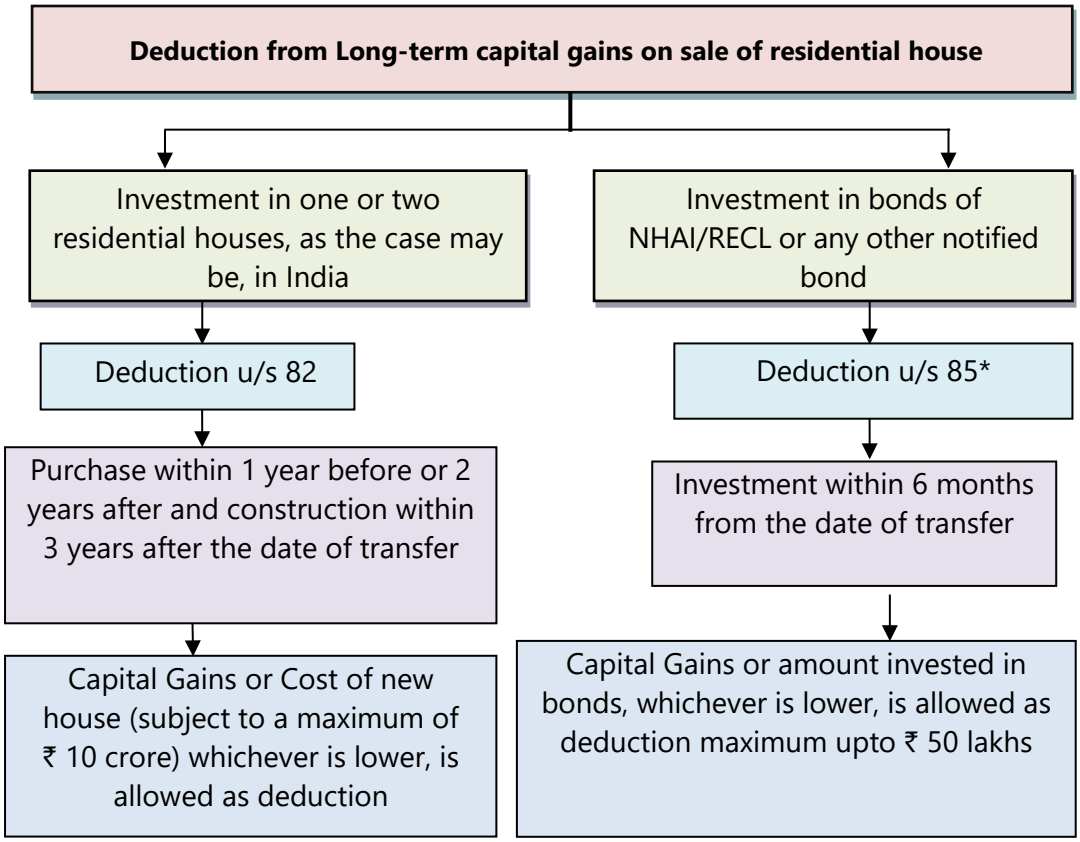
ILLUSTRATION 21

Long-term capital gain of ₹ 75 lakhs arising from transfer of building on 1.5.2026 will be fully exempt from tax 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 lakh. Therefore, in this case, the deduction under section 85 can be availed only to the extent of ₹ 50 lakh, provided the investment is made before 1.11.2026 (i.e., within six months from the date of transfer).

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**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 cases of investment in residential house [Section 86]

Eligible assessees: 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.

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- 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 (viii) and (ix) 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 utilised 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 86.
- 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 2 years or
  - ➢ construct any other residential house within 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 ≤ 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.

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Example

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



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/₹ 15crore].

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ILLUSTRATION 22

From the following particulars, compute the taxable capital gains of Mr. D for T.Y.2026-27 -

Particulars	*Amount (₹)*
Cost of jewellery [Purchased in F.Y.2005-06]	*4,52,000*
Sale price of jewellery sold in June 2026	*14,50,000*
Expenses on transfer	*7,000*
Residential house purchased in March 2027	*5,00,000*

SOLUTION

Computation of taxable capital gains for T.Y.2026-27

Particulars	₹
Gross consideration	14,50,000
Less: Expenses on transfer	7,000
Net consideration	14,43,000
Less: Cost of acquisition	4,52,000
	9,91,000
Less: Deduction under section 86 (₹ 9,91,000 × ₹ 5,00,000/ ₹ 14,43,000)	3,43,382
Taxable long-term capital gains	**6,47,618**

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 allowed as deduction, 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.

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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

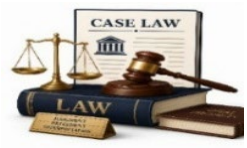
- The capital gain allowed as deduction earlier under section 86 would be deemed to be long-term capital gains and chargeable to tax in the tax year in which such residential house is purchased or constructed.

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

- If the new asset is transferred within 3 years from the date of its purchase or construction, then capital gains arises 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.



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

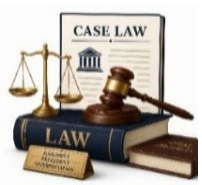


CIT v. Kamal Wahal (2013) 351 ITR 4 (Delhi)

Issue: Can deduction u/s 86 be denied solely on the ground that the new residential house is purchased by the assessee exclusively in the name of his wife?

Analysis & Decision: For the purpose of section 86, a new residential house need not necessarily be purchased by the assessee in his own name nor is it necessary that it should be purchased exclusively in his name.

Having regard to the rule of purposive construction and the object of enactment of section 86, **the assessee is entitled to claim deduction u/s 86 in respect of utilization of sale proceeds of capital asset for investment in residential house property in the name of his wife.**



CIT v. Ravinder Kumar Arora (2012) 342 ITR 38 (Delhi)

Issue: In case of a house property registered in joint names, can deduction u/s 86 be allowed fully to the co-owner who has paid whole of the purchase consideration of the house property or will it be restricted to his share in the house property?

Analysis & Decision: The inclusion of his wife's name in the sale deed was just to avoid any litigation after his death. All the funds invested in the

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said house were provided by the assessee, including the stamp duty and corporation tax paid at the time of the registration of the sale deed of the said house. This fact was also clearly evident from the bank statement of the assessee.

Section 86 mandates that the house should be purchased by the assessee but it does not stipulate that the house should be purchased only in the name of the assessee. In this case, the house was purchased by the assessee in his name and his wife's name was also included additionally. Therefore, the conditions stipulated in 86 stand fulfilled and the entire deduction claimed in respect of the purchase price of the house property shall be allowed to the assessee.



CIT v. Sambandam Udaykumar (2012) 345 ITR 389 (Kar.)

Issue: Can deduction u/s 86 be denied to an assessee in respect of investment made in construction of a residential house, on the ground that the construction was not completed within 3 years after the date on which transfer took place, on account of pendency of certain finishing work like flooring, electrical fittings, fittings of door shutter etc.?

Analysis & Decision: The condition precedent for claiming the benefit u/s 86 is that capital gains realized from sale of capital asset should have been invested either in purchasing a residential house or in constructing a residential house within the stipulated period. If the assessee has invested the money in the construction of a residential house, merely because the construction was not completed in all respects and possession could not be taken within the stipulated period, would not disentitle him from claiming deduction u/s 86. In fact, in this case, **the assessee has taken possession of the residential building and is living in the said premises despite the pendency of flooring work, electricity work, fitting of door and window shutters**. Therefore, **the assessee is entitled to deduction u/s 86** in respect of the amount invested in construction within the prescribed period.



Gouli Mahadevappa v. ITO (2013) 356 ITR 90 (Kar.)

Issue: Where the stamp duty value under section 78 has been adopted as the full value of consideration, can the reinvestment made in acquiring a residential property, which is in excess of the actual net sale consideration, be considered for the purpose of computation of deduction under section 86, even if such reinvestment is from any source other than from net consideration of original asset?

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Analysis & Decision: When capital gain is assessed on notional basis as per the provisions of section 78, and the higher value i.e., the stamp duty value under section 78 has been adopted as the full value of consideration, the entire amount reinvested in the residential house within the prescribed period should be considered for the purpose of deduction under 86, even if such reinvestment is from any source other than from net consideration of original asset.

For eg: if stamp duty value = ₹ 50 lakhs, actual consideration = ₹ 40 lakhs, capital gains = ₹ 12 lakhs, if ₹ 47 lakhs is re-invested in residential house, then deduction u/s 86 = ₹ 12 lakhs x ₹ 47 lakhs/ ₹ 50 lakhs = ₹ 11.28 lakhs (assuming gross and net consideration are same), irrespective of the source of balance ₹ 7 lakhs (₹ 47 lakhs - ₹ 40 lakhs) over and above actual consideration.

(vi) Deduction of capital gains for shifting of industrial undertaking from urban area [Section 87]

Eligible assessees: Any assessee

Conditions to be fulfilled

- There should be a shifting of the industrial undertaking from an urban area to any other area other than an urban area.
- There should be a transfer of machinery, plant, building or land or any right in building or land used for the business of an industrial undertaking situated in an urban area.
- The capital gain (short-term or long-term) should be utilised for any of the following purposes within 1 year before or 3 years after the date of transfer–
  - purchase of new plant and machinery for business of the industrial undertaking in the area to which the said undertaking is shifted;
  - acquisition of building or land or construction of building for business in the said area;
  - shifted the original asset and transferred the establishment of such industrial undertaking from the urban area to the other area;
  - incurred expenses on such other purpose as may be specified in a scheme framed by the Central Government.

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- 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 (viii) of this sub-heading (2)]*
- Amount utilised by the assessee for purchase or construction of new asset and expenses of shifting and the amount so deposited shall be deemed to be the cost of new asset.

Quantum of deduction

- If cost of new assets plus expenses incurred for the specified purpose < Capital gains, capital gains (short-term or long-term) to the extent of such cost and expenses is allowed as deduction and the difference shall be charged under section 67.
- If cost of new assets plus expenses incurred for the specified purpose ≥ Capital gains, entire capital gains (short-term or long-term) is allowed as deduction and no capital gain shall be charged under section 67.

If the amount deposited in CGAS is not fully utilized

- If the amount deposited in CGAS is not wholly or partly utilised for 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 if the new asset is transferred within a period of 3 years

If the new asset is transferred within a period of 3 years of its purchase or construction, then the capital gain, which was allowed as deduction earlier under section 87 would be deducted from the cost of acquisition of the new asset for the purpose of computation of capital gains in respect of the transfer of the new asset.

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Fibre Boards (P) Ltd v. CIT (2015) 376 ITR 596 (SC)

Issue: Can advance given for purchase of land, building, plant and machinery tantamount to utilization of capital gain for purchase and acquisition of new machinery or plant and building or land, for claim of deduction u/s 87?

Analysis: For the purpose of availing deduction, all that was required for the assessee is to "utilise" the amount of capital gain for purchase and acquisition of new machinery or plant and building or land. **Since the entire amount of capital gain, in this case, was utilized by the assessee by way of advance for acquisition of land, building, plant and machinery, the assessee is entitled to avail deduction u/s 87.**

(vii) Deduction of capital gains on transfer of certain capital assets in case of shifting of an industrial undertaking from an urban area to any SEZ [Section 88]

Eligible assesses – Any assessee

Conditions to be fulfilled

- There must be transfer of capital assets
- The capital asset should be either machinery or plant or building or land or any rights in building or land used for the business of an industrial undertaking situated in an urban area.
- Such transfer must be effected in the course of, or in consequence of the shifting of an industrial undertaking to any SEZ, whether developed in an urban area or not.
- The assessee should, within a period of 1 year before or 3 years after the date of transfer,
  - ➢ purchase machinery or plant for the business of the industrial undertaking in the SEZ;
  - ➢ acquire building or land or construct building for his business in the SEZ;
  - ➢ shifted the original asset and transferred the establishment of such industrial undertaking from the urban area to the SEZ; and

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- incurred expenses for such other purposes as may be specified in a scheme framed by the Central Government.

- 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 (viii) of this sub-heading (2)]*
- Amount utilised by the assessee for purchase or construction of new asset and expenses of shifting and the amount so deposited shall be deemed to be the cost of new asset.

Quantum of deduction

- If cost of new assets plus expenses incurred for shifting < Capital gains, capital gains (short-term or long-term) to the extent of such cost and expenses is allowed as deduction and the difference shall be charged under section 67.
- If cost of new assets plus expenses incurred for shifting ≥ Capital gains, entire capital gains (short-term or long-term) is allowed as deduction and no capital gain shall be charged under section 67.

If the amount deposited in CGAS is not fully utilized

- If the amount deposited in CGAS is not wholly or partly utilised for 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 if the new asset is transferred within a period of 3 years

- If the new asset is transferred within a period of 3 years of its purchase or construction, then the capital gain, which was allowed as deduction earlier under section 88 would be deducted from the cost of acquisition of the new asset for the purpose of computation of capital gains in respect of the transfer of the new asset.

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(viii) Capital Gains Account Scheme (CGAS)

Under sections 82, 83, 84, 86, 87 and 88, 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.

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(ix) 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.

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.

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As per rule 55 of Income-tax Rules 2026, the following is the prescribed percentage and amount -

(a) the percentage of the value of the asset shall be 15%; and

(b) the amount shall be ₹ 10 lakhs.

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

(1) Applicability of concessional rate of tax: This section provides for a concessional rate of tax on the short-term capital gains on transfer of -

(i) an equity share in a company or

(ii) a unit of an equity oriented fund or

(iii) a unit of a business trust.

(2) 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%.



(3) Condition: The transaction of sale of such equity share or unit should be chargeable to securities transaction tax under Chapter VII of the Finance (No. 2) Act, 2004

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.

(4) 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 short-term capital gain will be reduced by the unexhausted basic exemption limit and only the balance

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would be taxed at 20%. However, the benefit of availing the basic exemption limit is not available in the case of non-residents.

(5) **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 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]

(1) **Concessional rate of tax:** Long term capital gains on transfer of all long-term capital assets (other than referred to in 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 LTCG 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 Chapter VIII deduction against LTCG**: The provisions of section 197 make it clear that the deductions under Chapter VIII cannot be

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availed in respect of the long-term capital gains included in the total income of the assessee.

(2) 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%.

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

(1) 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 an equity oriented fund or

(c) a unit of a business trust.

(2) 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.

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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.

Accordingly, the Central Government has, vide notification No. 60/2018, dated 1st October, 2018, notified that the condition of chargeability of STT shall not apply to the acquisition of equity shares entered into

- before 1st October, 2004 or
- on or after 1st October, 2004 which are not chargeable to STT, other than the following transactions.

In effect, only in respect of the following transactions mentioned in column (2), the requirement of paying STT at the time of acquisition for availing the benefit of section 198 would apply. In may be noted that the exceptions are listed in column (3) against the transaction. The requirement of payment of STT at the time of acquisition for availing benefit of section 198 will not apply to acquisition transactions mentioned in column (3).

<table>
<tr><th>(1)</th><th>(2)</th><th colspan="2">(3)</th></tr>
<tr><th></th><th>Transaction</th><th colspan="2">Non-applicability of condition of chargeability of STT</th></tr>
<tr><td rowspan="4">(a)</td><td rowspan="4">Where acquisition of existing listed equity share in a company whose equity shares are not frequently traded in a recognised stock exchange of India is made through a preferential issue</td><td colspan="2">Where acquisition of listed equity share in a company</td></tr>
<tr><td>(i)</td><td>has been approved by the Supreme Court, High Court, National Company Law Tribunal, Securities and Exchange Board of India or Reserve Bank of India in this behalf;</td></tr>
<tr><td>(ii)</td><td>is by any non-resident in accordance with foreign direct investment guidelines issued by the Government of India;</td></tr>
<tr><td>(iii)</td><td>is by an investment fund referred to in</td></tr>
</table>

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			section 224(10)(a) or a venture capital fund referred to in clause (b) of Note 4 to schedule V or a Qualified Institutional Buyer;
		(iv)	is through preferential issue to which the provisions of chapter VII of the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009 does not apply.
(b)	Where transaction for acquisition of existing listed equity share in a company is not entered through a recognised stock exchange in India	Following acquisitions of listed equity share in a company made in accordance with the provisions of the Securities Contracts (Regulation) Act, 1956:	
		(i)	acquisition through an issue of share by a company other than through preferential issue referred to in (a);
		(ii)	acquisition by scheduled banks, reconstruction or securitisation companies or public financial institutions during their ordinary course of business;
		(iii)	acquisition approved by the Supreme Court, High Courts, National Company Law Tribunal, Securities and Exchange Board of India or Reserve Bank of India in this behalf;
		(iv)	acquisition under employee stock option scheme or employee stock purchase scheme framed under the Securities and Exchange Board of India (Employee Stock Option Scheme and Employee Stock Purchase Scheme) Guidelines,1999;
		(v)	acquisition by any non-resident in accordance with foreign direct investment guidelines of the Government of India;
		(vi)	acquisition in accordance with Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulation, 2011;

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		(vii)	acquisition from the Government;
		(viii)	acquisition by an investment fund referred to in section 224(10)(a) or a venture capital fund referred to in clause (b) of Note 4 to schedule V or a Qualified Institutional Buyer;
		(ix)	acquisition by mode of transfer referred to in section 70 (e.g., transfer of capital asset under a gift, an irrevocable trust, transfer of capital asset between holding company and its subsidiary, transfer pursuant to amalgamation, demerger, etc.) or section 77 (slump sale) or section 67(9) (Introduction of capital asset as capital contribution in firm/ AOPs/ BOIs) or section 67(10) (Tax implications on receipt of money or capital assets or both on reconstitution of firm/AOP or BOI) of the Income-tax Act, if the previous owner or the transferor, as the case may be, of such shares has not acquired them by any mode referred to in (a), (b) or (c) listed in column (2) [other than the exceptions listed in column (3)]
(c)	acquisition of equity share of a company during the period beginning from the date on which the company is delisted from a recognised stock exchange and ending on the date immediately preceding the date on which the company is again listed on a recognised stock exchange in accordance with the Securities Contracts (Regulation) Act, 1956 read with SEBI Act, 1992 and the rules made thereunder.		

(3) 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%.

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However, the benefit of adjustment of unexhausted basic exemption limit is not available in the case of non-residents. It is also not available in case of resident AOPs and BOIs.

(4) 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 fund or unit of a business trust included in the total income of the assessee.

(5) 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 23

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***
Total income other than long-term capital gain	*2,40,000*	*4,10,000*	*5,90,000*	*4,80,000*
Long-term capital gain	*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 of the Act.

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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.

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(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**

Note: 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.

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4.25 SURPLUS ON SALE OF SHARES AND SECURITIES - WHETHER TAXABLE AS CAPITAL GAINS OR BUSINESS INCOME? [CIRCULAR NO. 06/2016, DATED 29-2-2016]

Section 2(22) defines the term "capital asset" to include property of any kind held by an assessee, whether or not connected with his business or profession, but does not include any stock-in-trade or personal assets subject to certain exceptions. As regards shares and other securities, the same can be held either as capital assets or stock-in-trade/trading assets or both.

Determination of the character of a particular investment in shares or other securities, whether the same is in the nature of a capital asset or stock-in-trade, is essentially a fact-specific determination and has led to a lot of uncertainty and litigation in the past.

Parameters laid down by CBDT and Courts to distinguish shares held as investments and shares held as stock in trade: Over the years, the courts have laid down different parameters to distinguish the shares held as investments from the shares held as stock-in-trade. The CBDT has also, through Instruction No. 1827, dated August 31, 1989 and Circular No. 4 of 2007 dated June 15, 2007, summarized the said principles for guidance of the field formations.

Principles to determine whether gains on sale of listed shares and other securities would constitute capital gains or business income: Disputes, however, continue to exist on the application of these principles to the facts of an individual case since the taxpayers find it difficult to prove the intention in acquiring such shares/securities. In this background, while recognizing that no universal principle in absolute terms can be laid down to decide the character of income from sale of shares and securities (i.e. whether the same is in the nature of capital gain or business income), CBDT realizing that major part of shares/securities transactions takes place in respect of the listed ones and with a view to reduce litigation and uncertainty in the matter, in partial modification to the aforesaid Circulars, further instructs the Assessing Officers to take into account the following while deciding whether the surplus generated from sale of listed shares or other securities would be treated as Capital Gain or Business Income—

(a) **Where assessee opts to treat such shares and securities as stock-in-trade**: Where the assessee itself, irrespective of the period of holding the

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listed shares and securities, opts to treat them as stock-in-trade, the income arising from transfer of such shares/securities would be treated as its business income,

(b) **Listed shares and securities held for a period of more than 12 months**: In respect of listed shares and securities held for a period of more than 12 months immediately preceding the date of its transfer, if the assessee desires to treat the income arising from the transfer thereof as Capital Gain, the same shall not be put to dispute by the Assessing Officer. However, this stand, once taken by the assessee in a particular Tax Year, shall remain applicable in subsequent Tax Years also and the taxpayers shall not be allowed to adopt a different/contrary stand in this regard in subsequent years;

(c) **Other cases:** In all other cases, the nature of transaction (i.e. whether the same is in the nature of capital gain or business income) shall continue to be decided keeping in view the aforesaid Circulars issued by the CBDT.

Principles listed above not to apply in case of sham transactions: It is, however, clarified that the above shall not apply in respect of such transactions in shares/securities where the genuineness of the transaction itself is questionable, such as bogus claims of Long-term Capital Gain/Short Term Capital Loss or any other sham transactions.

Objective of formulation of principles: Reducing litigation and ensuring consistency: It is reiterated that the above principles have been formulated with the sole objective of reducing litigation and maintaining consistency in approach on the issue of treatment of income derived from transfer of shares and securities. All the relevant provisions of the Act shall continue to apply on the transactions involving transfer of shares and securities.

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TEST YOUR KNOWLEDGE

Questions

1. *Hari has acquired a residential house property in Delhi on 15th April, 2002 for ₹ 9,00,000 and decided to sell the same on 3rd May, 2005 to Ms. Pari and an advance of ₹ 25,000 was taken from her. The balance money was not paid by Ms. Pari and Hari has forfeited the entire advance sum. On 3rd June, 2026, he has sold this house to Mr. Suri for ₹ 43,00,000. On 4th April, 2026, he had purchased a residential house in Delhi for ₹ 7,00,000, where he was staying with his family on rent for the last 5 years and paid the full amount as per the purchase agreement. However, Hari does not possess any legal title till 31st March, 2027, as such transfer was not registered with the registration authority.*

   Hari has purchased another old house in Chennai on 14th October, 2026 from Mr. X, an Indian resident, by paying ₹ 5,00,000 and the purchase was registered with the appropriate authority.

   Determine the taxable capital gain arising from above transactions in the hands of Hari for Tax year 2026-27.

2. *Mr. Ganesh sold his residential house in Mumbai and earned long term capital gain of ₹ 2.5 crores. He purchased two residential flats adjacent to each other on the same day vide two separate registered sale deeds from two different persons. The builder had certified that he had effected necessary modification to make it one residential apartment. Mr. Ganesh sought deduction under section 82 in respect of the investment made in purchase of the two residential flats. The Assessing Officer, however, gave deduction under section 82 to the extent of purchase of one residential flat only contending that since the long-term capital gain exceeds ₹ 2 crore, section 82 clearly restricts the benefit of deduction to purchase one residential house only and the two flats cannot be treated as one residential unit since –*

   (i) the flats were purchased through different sale deeds; and

   (ii) it was found by the Inspector that, before its sale to the assessee, the residential flats were in occupation of two different tenants.

   Examine the correctness of the contention of the Assessing Officer.

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3. *Vijay, an individual, owned three residential houses which were let out. Besides, he and his four brothers co-owned a residential house in equal shares. He sold one residential house owned by him during the tax year 2026-27. Within a month from the date of such sale, the four brothers executed a release deed in respect of their shares in the co-owned residential house in favour of Vijay for a monetary consideration.*

   Vijay utilised the entire long-term capital gain arising out of the sale of the residential house for payment of the said consideration to his four brothers. Vijay is not using the house, in respect of which his brothers executed a release deed, for his own residential purposes, but has let it out to another person, who is using it for his residential purposes.

   Is Vijay eligible for deduction under section 82 of the Income-tax Act, 2025 for the Tax year 2026-27 in respect of the long-term capital gain arising from the sale of his residential house, which he utilised for acquiring the shares of his brothers in the co-owned residential house? Will the non-use of the new house for his own residential purposes disentitle him to deduction?

4. *Aries Tubes Private Ltd. went into liquidation on 1.6.2026. The company possessed of the following funds prior to the distribution of assets to the shareholders:*

	₹
Share Capital (issued on 1.4.2013)	*5,00,000*
Reserves prior to 1.6.2026	*3,00,000*
Excess realization in the course of liquidation	*5,00,000*
Total	***13,00,000***

   There are 5 shareholders, each of whom received ₹ 2,60,000 from the liquidator in full settlement. The shareholders desire to invest the resultant element of capital gain in long term specified assets as defined in section 85. You are required to examine the various issues and advice the shareholders about their liability to income tax.

5. *Xavier had taken a loan under registered mortgage deed against the house, which was purchased by him on 26.5.2002 for ₹ 5 lakhs. The said property was inherited by his son Abraham in financial year 2009-10 as per Will.*

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For obtaining a clear title thereof, Abraham paid the outstanding amount of loan on 12.2.2010 of ₹ 15 lakhs. The said house property was sold by Abraham on 16.4.2026 for ₹ 55 lakhs. Examine with reasons the amount chargeable to capital gains for T.Y. 2026-27

6. *Gama Ltd, located within the corporation limits, decided in December, 2026 to shift its industrial undertaking to non-urban area. The company sold some of the assets and acquired new assets in the process of shifting. The relevant details are as follows:*

					(₹ in lakhs)
	Particulars	**Land**	**Building**	**Plant & Machinery**	**Furniture**
(i)	Sale proceeds (sale effected in March, 2027)	8	18	16	3
(ii)	Cost of acquisition	4	10	12	2
(iii)	WDV in terms of section 74	--	4	5	2
(iv)	Cost of new assets purchased in July, 2027 for the purpose of business in the new place	4	7	17	2

Compute the capital gains of Gama Ltd for the Tax year 2026-27.

7. *The assessee was a company carrying on business of manufacture and sale of art-silk cloth. It purchased machinery worth ₹ 4 lakhs on 1.5.2020 and insured it with United India Assurance Ltd against fire, flood, earthquake etc., The written down value of the asset as on 01.04.2026 was ₹ 1,87,850. The insurance policy contained a reinstatement clause requiring the insurance company to pay the value of the machinery, as on the date of fire etc., in case of destruction of loss. A fire broke out in August, 2026 causing extensive damage to the machinery of the assessee rendering them totally useless. The assessee company received a sum of ₹ 4 lakhs from the insurance company on 15th March, 2027. Examine the issues arising on account on the transactions and their tax treatment.*

8. *Tani purchased a land at a cost of ₹ 35 lakhs in the financial year 2004-05 and held the same as her capital asset till 31st May, 2025. Tani started her*

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real estate business on 1st June, 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 January, 2027. She sold 10 flats at ₹ 30 lakhs per flat between January, 2027 and March, 2027. The remaining 5 flats were held in stock as on 31st March, 2027.

She invested ₹ 50 lakhs in bonds issued by National Highway 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 Tani arising from the above transactions for Tax year 2026-27 indicating clearly the reasons for treatment of each item.

9. *Following are the details of income provided by Mr. Singh, the assessee for the financial year ended 31st March, 2027:*

   (i) Rental income from property at Bangalore - ₹ 3 lakhs, Standard Rent - ₹ 2,50,000, Fair Rent - ₹ 2,80,000.

   (ii) Municipal and water tax paid during 2026-27: Current year ₹ 35,000, Arrears - ₹ 1,50,000.

   (iii) Interest on loan borrowed towards major repairs to the property: ₹ 1,50,000.

   (iv) Arrears of rent of ₹ 30,000 received during the year, which was not charged to tax in earlier years.

   Further, the assessee furnished following additional information regarding sale of property at Chennai:

   (i) Mr. Singh's father acquired a residential house in April 2006 for ₹ 1,25,000 and thereafter gifted this property to the assessee, Mr. Singh on 1st March, 2007.

   (ii) The property, so gifted, was sold by Mr. Singh on 10th August 2026. The consideration received was ₹ 25,00,000.

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(iii) *Stamp duty charges paid by the purchaser at the time of registration @ 13% (as per statutory guidelines) was ₹ 3,90,000.*

(iv) *Out of the sale consideration received:*

(a) *On 02/01/2027, the assessee had purchased two adjacent flats, in the same building, and made suitable modification to make it as one unit. The investment was made by separate sale deeds, amount being ₹ 8,00,000 and ₹ 7,00,000, respectively.*

(b) *On 10/l0/2026, ₹ 10 lakhs were invested in bonds issued by National Highways Authority of India, but the allotment of the bonds was made on 1.2.2027.*

Compute Mr. Singh's taxable income for Tax year 2026-27 assuming he has exercised the option to shift out of the default tax regime.

10. *SS(P) Ltd., an Indian company having two undertakings engaged in manufacture of cement and steel, decided to hive off cement division to RV(P) Ltd., an Indian company, by way of demerger. The net worth of SS(P) Ltd. immediately before demerger was ₹ 40 crores. The net book value of assets transferred to RV(P) Ltd. was ₹ 10 crores. The demerger was made in January 2027. In the scheme of demerger, it was fixed that for each equity share of ₹ 10 each (fully paid up) of SS(P) Ltd., two equity shares of ₹ 10 each (fully paid up) were to be issued.*

One Mr. N.K. held 25,000 equity shares in SS(P) Ltd. which were acquired in the financial year 2004-05 for ₹ 6,00,000. Mr. N.K. received 50,000 equity shares from RV(P) Ltd. consequent to demerger in January 2027. He sold all the shares of RV(P) Ltd. for ₹ 8,00,000 in March, 2027. In this background you are requested to answer the following:

(i) *Does the transaction of demerger attract any income tax liability in the hands of SS(P) Ltd. and RV(P) Ltd.?*

(ii) *Compute the capital gain that could arise in the hands of Mr. N.K. on receipt of shares of RV(P) Ltd.*

(iii) *Compute the capital gain that could arise in the hands of Mr. N.K. on sale of shares of RV(P) Ltd.*

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(iv) *Will the sale of shares by Mr. N.K. affect the tax benefits availed by SS(P) Ltd. and/or RV(P) Ltd.?*

(v) *Is Mr. N.K. eligible to avail any tax exemption under any of the provisions of the Income-tax Act, 2025 on the sale of shares of RV(P) Ltd.? If so, mention in brief.*

11. *PQR Limited has two units - one engaged in manufacture of computer hardware and the other involved in developing software. As a restructuring drive, the company has decided to sell its software unit as a going concern by way of slump sale for ₹ 385 lakhs to a new company called S Limited, in which it holds 74% equity shares.*

The balance sheet of PQR limited as on 31st March 2027, being the date on which software unit has been transferred, is given hereunder –

Balance Sheet as on 31.3.2027

Liabilities	₹ (in lakhs)	Assets	₹ (in lakhs)
Paid up Share Capital	300	Fixed Assets	
General Reserve	150	Hardware unit	170
Share Premium	50	Software unit	200
Revaluation Reserve	120	Debtors	
Current Liabilities		Hardware unit	140
(Ascertained liabilities)		Software unit	110
Hardware unit	40	Inventories	
Software unit	90	Hardware unit	95
		Software unit	35
	750		**750**

Following additional information are furnished by the management:

(i) *The Software unit is in existence since May, 2015.*

(ii) *Fixed assets of Software unit includes land which was purchased at ₹ 40 lakhs in the year 2016 and revalued at ₹ 60 lakhs as on March 31, 2027. The stamp duty value on 31.3.2027 is ₹ 55 lakhs.*

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(iii) *Fixed assets of Software unit mirrored at ₹ 140 lakhs (₹ 200 lakhs minus land value ₹ 60 lakhs) is written down value of depreciable assets (Furniture and Plant & machinery) as per books of account. However, the written down value of these assets under section 41(1) of the Income-tax Act, 2025 is ₹ 90 lakhs.*

(a) *Ascertain the tax liability, which would arise from slump sale to PQR Limited, assuming it does not opt for section 200.*

(b) *What would be your advice as a tax-consultant to make the restructuring plan of the company more tax-savvy, without changing the amount of sale consideration?*

12. *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 assessees:*

(i) *Mr. Prasun 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 each of equity oriented funds, Fund A and Fund B 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 and units of Fund B were listed on 1.2.2018 on the National Stock Exchange. Mr. Raj sold all the units on 3.8.2026 for ₹ 900 each. The details relating to quoted price on National Stock Exchange and net asset value of the units are given hereunder:*

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Particulars	Fund A	Fund B
	Amount in ₹	Amount in ₹
Highest Trading Price	750 (on 31.1.2018)	800 (on 1.2.2018)
Average Trading Price	700 (on 31.1.2018)	750 (on 1.2.2018)
Lowest Trading Price	650 (on 31.1.2018)	700 (on 1.2.2018)
Net Asset Value on 31.1.2018	800	950

13. *Mr. Shyam purchased a house property on February 15, 1989 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. Shyam 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. Shyam 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. Shyam forfeited the advance. In August, 2015, Mr. Shyam constructed the first floor by incurring a cost of ₹ 3,90,000.

On November 15, 2026, Mr. Shyam 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. Shyam transferred the house to Mr. Manish on February 20, 2027. Mr. Shyam 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 Valuation as per Stamp duty Authority 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. Shyam for T.Y.2026-27.

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Answers

1. Computation of taxable capital gain of Mr. Hari for the T.Y.2026-27

Particulars	₹
Sale proceeds	43,00,000
Less: Cost of acquisition **[See Note (i)]**	8,75,000
Long Term Capital Gain	34,25,000
Less: Deduction under section 82 in respect of investment in house at Delhi **[See Note (ii)]**	7,00,000
Deduction under section 82 in respect of investment in house at Chennai **[See Note (iii)]**	5,00,000
Taxable long-term capital gain	**22,25,000**

Notes:

(i) Cost of acquisition

Particulars	₹
Cost of acquisition	9,00,000
Less: Advance taken and forfeited	25,000
	8,75,000

Advance received and forfeited on or after 01.04.2014 is taxable under section 56(2)(ix) of the Income-tax Act, 1961/ section 92(2)(h) of the Income-tax Act, 2025. Such amount would not be reduced to compute cost of acquisition while determining capital gains on sale of such property.

However, in this case, since the advance was received and forfeited in the year 2005, such advance has to be reduced for calculating cost of acquisition for the purpose of arriving at capital gains.

(ii) In order to avail deduction of capital gains under section 82, residential house should be 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. In this case, Hari has purchased the residential house in Delhi within one year before the date of transfer

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and paid the full amount as per the purchase agreement, though he does not possess any legal title till 31.3.2027 since the transfer was not registered with the registration authority. However, for the purpose of claiming deduction under section 82, holding of legal title is not necessary. If the taxpayer pays the full consideration in terms of the purchase agreement within the stipulated period, the deduction under section 82 would be available. It was so held in *Balraj v. CIT(2002) 254 ITR 22 (Del.) and CIT v. Shahzada Begum (1988) 173 ITR 397 (A.P.).*

(iii) As per section 82, since the amount of capital gain does not exceed ₹ 2 crore, Mr. Hari can claim deduction thereunder in respect of investment made in two residential houses situated in India.

However, if Mr. Hari exercises the option to claim deduction in respect of two residential houses in Delhi and Chennai in T.Y. 2026-27, he shall not be subsequently entitled to exercise the option for the same or any other tax year.

2. This issue came up before the Karnataka High Court in *CIT v. D. Ananda Basappa (2009) 309 ITR 329*. The Court observed that the assessee had shown that the flats were situated side by side and the builder had also certified that he had effected modification of the flats to make them one unit by opening the door between the apartments. Therefore, it was immaterial that the flats were occupied by two different tenants prior to sale or that it was purchased through different sale deeds. The Court observed that these were not the grounds to hold that the assessee did not have the intention to purchase the two flats as one unit. The Court held that the assessee was entitled to deduction under section 82 in respect of purchase of both the flats to form one residential house.

Applying the ratio of the above decision to the case on hand, Mr. Ganesh is entitled to deduction under section 82 in respect of purchase of two flats to form **one residential house**. Therefore, the contention of the Assessing Officer is not correct.

3. The long-term capital gain arising on sale of residential house would be allowed as deduction under section 82 if it is utilized, *inter alia*, for purchase of one residential house situated in India within one year before or two years after the date of transfer. Release by the other co-owners of their share in co-owned property in favour of Vijay would amount to "purchase"

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by Vijay for the purpose of claiming deduction under section 82 *[CIT v. T.N. Arvinda Reddy (1979) 120 ITR 46 (SC)]*. Since such purchase is within the stipulated time of two years from the date of transfer of asset, Vijay is eligible for deduction under section 82. As Vijay has utilised the entire long-term capital gain arising out of the sale of the residential house for payment of consideration to the other co-owners who have released their share in his favour, he can claim full deduction under section 82.

There is no requirement in section 82 that the new house should be used by the assessee for his own residence. The condition stipulated is that the new house should be utilised for residential purposes and its income is chargeable under the head "Income from house property". This requirement would be satisfied even when the new house is let out for residential purposes.

4. Under section 68(1), where the assets of a company are distributed to its shareholders on its liquidation, such distribution shall not be regarded as transfer in the hands of the company for the purpose of section 67.

However, under section 68(2), where the shareholder, on liquidation of a company, receives any money or other assets from the company, he shall be chargeable to income-tax under the head "capital gains", in respect of the money so received or the market value of the other assets on the date of distribution as reduced by the amount of dividend deemed under section 2(40)(c) [chargeable to tax in the hands of shareholders under the head "Income from other sources"] and the sum so arrived at shall be deemed to be the full value of the consideration for the purposes of section 72.

As per section 2(40)(c), dividend includes any distribution made to the shareholders of a company on its liquidation, to the extent to which the distribution is attributable to the accumulated profits of the company immediately before its liquidation, whether capitalized or not.

In this case, the accumulated profits immediately before liquidation is ₹ 3,00,000. The share of each shareholder is ₹ 60,000 (being one-fifth of ₹ 3,00,000). An amount of ₹ 60,000 is the deemed dividend under section 2(40)(c). The same is taxable in the hands of the shareholder under the head "Income from other sources".

Therefore, ₹ 2,00,000 [i.e. ₹ 2,60,000 minus ₹ 60,000, being the deemed dividend under section 2(40)(c)] is the full value of consideration in the hands of each shareholder as per section 68(2). Against this, the investment of ₹ 1,00,000 by each shareholder is to be deducted to arrive at the capital

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gains of ₹ 1,00,000 of each shareholder. Since the equity shares are not listed, it would not be liable for securities transaction tax and hence, the capital gain (long term) would be taxable under section 197. Such long-term capital gain would be taxable @12.5%.

Deduction under section 85 is available only where there is an actual transfer of capital assets and not in the case of deemed capital gain as per the decision rendered in the case of *CIT v. Ruby Trading Co (P) Ltd (2003) 259 ITR 82 (Raj)*. Therefore, deduction under section 85 will not be available in this case since it is deemed transfer and not actual transfer. Furthermore, deduction under section 85 is available only on transfer of long-term capital asset, being land or building or both.

5. The cost of inherited property to Mr. Abraham shall be the cost to the previous owner as per provisions of section 73(1) Table: S. No. 1 and therefore, ₹ 5 lakhs, being the cost to his father (amount paid by his father on 26.5.2002 for acquiring the property) shall be the cost to Mr. Abraham, who is the new owner. Payment of outstanding loan of the predecessor by the successor for obtaining a clear title of the property by release of Mortgage Deed shall be the cost of acquisition of the successor under section 72 read with section 90 of the Act as held by the Apex Court in case of *RM. Arunachalam v. CIT [1997] 227 ITR 222*.

Computation of Taxable Capital Gain for the T.Y. 2026-27

Particulars		₹
Sale consideration of house property		55,00,000
*Less:***Cost of acquisition (See Note below)**		
(i) Cost to previous owner	5,00,000	
(ii) Loan amount paid by Mr. Abraham	15,00,000	20,00,000
Capital gains		**35,00,000**

Note: Since the property was acquired by Mr. Abraham through inheritance, the cost of acquisition will be cost to the previous owner.

6. Section 87 deals with deduction in respect of any capital gain that may arise from the transfer of an industrial undertaking situated in an urban area in the course of or in consequence of shifting to a non-urban area.

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If the assessee purchases new machinery or plant or acquires a building or land or constructs a new building or shifts the original asset and transfers the establishment to the new area, within 1 year before or 3 years after the date on which the transfer takes place, then, instead of the capital gain being charged to tax, it shall be dealt with as under:

1. If the capital gain is greater than the cost of the new asset, the difference between the capital gain and the cost of the new asset shall be chargeable as income 'under section 67'.

2. If the capital gain is equal to or less than the cost of the new asset, section 67 is not to be applied.

The capital assets referred to in section 87 are machinery or plant or land or building or any rights in building or land. Capital gain arising on transfer of furniture does not qualify for deduction under section 87. No deduction is therefore available under section 87 in respect of investment of ₹ 2 lakhs in acquiring furniture.

The first step therefore is to determine the capital gain arising out of the transfer and thereafter apply the provisions of section 87.

	Particulars	₹
(a)	**Land** – Sale proceeds (Non-depreciable asset)	8,00,000
	Less: Cost of acquisition	4,00,000
	Long term capital gain	4,00,000
	Less: Cost of new assets purchased within three year after the date of transfer (under section 87) **(See Note below)**	3,00,000
	Taxable Long-term capital gain	**1,00,000**
(b)	**Building** – sale proceeds (depreciable assets)	18,00,000
	Less: W.D.V. is deemed as cost of acquisition under section 74	4,00,000
	Short-term capital gain	**14,00,000**
(c)	**Plant & machinery-** sale proceeds (depreciable asset)	16,00,000
	Less: WDV is deemed cost under section 74	5,00,000
	Short-term capital gain	**11,00,000**

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(d)	**Furniture -** sale proceeds (depreciable asset)	3,00,000
	Less: WDV is deemed cost under section 74	2,00,000
	Short-term capital gain (A)	**1,00,000**

Summary	₹
Short term capital gain : Building	14,00,000
Short term capital gain : Plant & machinery	11,00,000
	25,00,000
Less: Section 87 [New assets purchased] **(See Note below)**	25,00,000
Net short term capital gain **(B)**	**Nil**
Total short-term capital gain (A)+(B) = ₹ 1 lakh	

Note – Total deduction available under section 87 is ₹ 28 lakhs (₹ 4 lakhs + ₹ 7 lakhs + ₹ 17 lakhs). The deduction should first be exhausted against short term capital gain as the incidence of tax in case of short-term capital gain is more than in case of long-term capital gain. Therefore, ₹ 25 lakhs is exhausted against short term capital gain and the balance of ₹ 3 lakhs against long term capital gain.

The taxable capital gains would be:

Long-term capital gains ₹ 1,00,000 (taxable @12.5% under section 197)

Short-term capital gains (furniture) ₹ 1,00,000 (taxable at applicable tax rates)

₹ 2,00,000

7. As per section 67(2), where any person receives any money or other assets under an insurance from an insurer on account of damage to or destruction of capital asset as a result of, *inter alia*, accidental fire then, any profits and gains arising from the 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 of the tax year in which such money or asset was received.

For the purpose of section 72, the money received or the market value of the asset shall be deemed to be the full value of the consideration accruing as a result of the transfer of such capital asset. Since the asset was

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destroyed and the money from the insurance company was received in the tax year, there will be a liability to compute capital gains in respect of the insurance moneys received by the assessee.

Under section 67(2) any profits and gains arising from receipt of insurance moneys is chargeable under the head "Capital gains". For the purpose of section 72, the moneys received shall be deemed to be the full value of the consideration accruing or arising. Under section 74 the capital gains in respect of depreciable assets had to be computed in the following manner **(assuming it was the only asset in the block).**

The computation of capital gain and tax implication is given below:

Full value of the consideration	₹ 4,00,000
Less: Written down value as on April 1st, 2026	₹ 1,87,850
Short term capital gains	₹ 2,12,150

8. Computation of capital gains and business income of Tani for T.Y. 2026-27

Particulars	₹
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 × 2/3]	1,16,66,666
Less: Deduction under section 85	50,00,000
Capital gains chargeable to tax for T.Y.2026-27	**66,66,666**
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**

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Notes:

(i) 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.

(ii) However, 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.

(iii) 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 in the T.Y.2026-27.

(iv) On sale of such stock-in-trade, business income would arise. The business income chargeable to tax would be computed after deducting the fair market value on the date of conversion of the capital asset into stock-in-trade and cost of construction of flats from the price at which the stock-in-trade is sold.

(v) 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 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 tax year or next tax year or partly in the same tax year and partly in the next tax 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.

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9. Computation of taxable income of Mr. Singh for T.Y.2026-27

Particulars	₹	₹
Income from house property		
Gross Annual Value [Higher of Expected Rent & Actual Rent]		3,00,000
Expected Rent [lower of Fair Rent and Standard Rent]	2,50,000	
Actual Rent	3,00,000	
Less: Municipal taxes paid by Mr. Singh during the year (including arrears) [₹ 35,000 + ₹ 1,50,000]		1,85,000
Net Annual Value (NAV)		1,15,000
Less: Deductions under section 22		
(a) 30% of NAV	34,500	
(b) Interest on loan borrowed for major repairs	1,50,000	1,84,500
		(69,500)
Arrears of rent taxable under section 23	30,000	
Less: Deduction@30%	9,000	21,000
		(48,500)
Capital Gains		
Full value of consideration		30,00,000
As per section 78, the full value of consideration would be the higher of -		
Actual Consideration	25,00,000	
Stamp Duty Value [₹ 3,90,000/13%]	30,00,000	
Since stamp duty value > 110% of actual consideration		
Less: **Cost of acquisition**		
As per section 73(1) (Table: Sl. No. 1), cost of acquisition of the residential house gifted by Mr. Singh's father to Mr. Singh would be the		

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cost for which Mr. Singh's father acquired the asset		1,25,000
		28,75,000
Less: Deduction under section 82 (₹ 8,00,000 + ₹ 7,00,000)		
Purchase of residential house within the stipulated time (within one year before or two years after the date of sale) [Where the flats are situated side by side and the builder had effected the necessary modification to make it as one house, the assessee would be entitled to deduction under section 82 in respect of investment in both the flats, despite the fact that they were purchased by separate sale deeds] *[CIT v. Ananda Basappa (2009) 309 ITR 329 (Kar.)]*	15,00,000	
Note: *Since two adjacent flats are treated as one residential house, Mr. Singh can defer availing deduction under section 82 in respect of two residential houses (where capital gains do not exceed ₹ 2 crores) to a later tax year.*		
Deduction under section 85		
Investment in bonds of NHAI within six months from the date of transfer. Where the payment for bonds has been made within the six months period, deduction under section 85 would be available even if the allotment of bonds was made after the expiry of the six months *[Hindustan Unilever Ltd. v. DCIT (2010) 325 ITR 102 (Bom.)]*	10,00,000	25,00,000
Long-term capital gains		3,75,000
Total Income		**3,26,500**

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10. (i) No, the transaction of demerger would not attract any income-tax liability in the hands of SS(P) Ltd. or RV(P) Ltd.

As per section 70(j), any transfer in a demerger, of a capital asset, by the demerged company to the resulting company would not be regarded as "transfer" for levy of capital gains tax if the resulting company is an Indian company.

Hence, capital gains tax liability would not be attracted in the hands of SS(P) Ltd., the demerged company, in this case, since RV(P) Ltd. is an Indian company.

(ii) There would be no capital gains tax liability in the hands of Mr. N.K. on receipt of shares of RV (P) Ltd., since as per section 70(k), any issue of shares by the resulting company in a scheme of demerger to the shareholders of the demerged company will not be regarded as "transfer" for levy of capital gains tax, if the issue is made in consideration of demerger of the undertaking.

(iii) Yes, capital gains would arise in the hands of Mr. N.K. on sale of shares of RV (P) Ltd.

Sale consideration	8,00,000

Less: Cost of acquisition of shares of RV (P) Ltd.

Cost of acquisition of shares of RV(P) Ltd.
as per section 73(1) Table S. No. 14:

Cost of acquisition of shares of SS(P) Ltd.

$$\text{x} \frac{\text{Net book Value of assets transferred in a demerger}}{\text{Net worth of the demerged company immidiately before demerger}}$$

$$₹\ 6,00,000 \times \frac{10\ \text{crore}}{40\ \text{crore}} = ₹\ 1,50,000$$

Cost of acquisition of shares of RV (P) Ltd.	₹ 1,50,000
Long-term capital gain (since period of holding of shares in demerged company is also to be considered)	**₹ 6,50,000**

(iv) No, sale of shares by Mr. N.K. would not affect the tax benefits availed by SS(P) Ltd. or RV (P) Ltd.

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One of the conditions to be satisfied is that the shareholders holding not less than three-fourths in value of the shares in the demerged company become shareholders of the resulting company by virtue of the demerger. It is presumed that the condition is satisfied in this case.

There is no stipulation that they continue to remain shareholders for any period of time thereafter.

(v) Since the resultant capital gain on sale of shares of RV(P) Ltd. is a long-term capital gain [on account of the period of holding of shares in demerged company being considered by virtue of section 2(101)(c)(B)(III)], Mr. N.K. can avail deduction under section 86 by investing the entire net consideration in purchase (within one year before and two years after the date of transfer) or construction (within three years after the date of transfer) of one residential house in India. If part of the net consideration is invested, only proportionate deduction would be available.

11. (a) As per section 77, any profits and gains arising from the 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.

If the assessee owned and held the undertaking transferred under slump sale for more than 36 months before slump sale, the capital gain shall be deemed to be long-term capital gain.

Ascertainment of tax liability of PQR Limited from slump sale of Software unit

Particulars	₹ (in lakhs)
Full value of consideration for slump sale of Software Unit	385
Less: Cost of acquisition, being the net worth of Software Unit	185
Long term capital gains arising on slump sale	**200**
(The capital gains is long-term as the Software Unit is held for more than 36 months)	

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Tax liability on LTCG	
Under section 197 @ 12.5% on ₹ 200 lakhs	25.00
Add: Surcharge@ 7%	1.75
	26.75
Add: Health and Education cess@4%	1.07
	27.82

Working Note:

Computation of Full value of consideration

			₹ (in lakhs)
Fair market value of the capital assets transferred by way of slump sale			
Land, being an immovable property [Stamp duty value on 31.3.2027, being the date of slump sale] **[A]**			55
Other Fixed assets (Furniture and Plant & machinery) [Book value as appearing in the books of accounts] [₹ 200 lakhs - ₹ 60 lakhs] **[B]**			140
Debtors [Book value as appearing in the books of accounts] **[C]**			110
Inventories [Book value as appearing in the books of accounts] **[D]**			35
			340
Less: Liabilities of Software Unit [₹ 750 - ₹ 40] **[L]**		710	
Excluding			
(i) Paid up share capital	300		
(ii) General Reserve	150		
(ii) Share Premium	50		
(iii) Revaluation reserve	120	620	90
Fair market value of the capital assets transferred by way of slump sale [A+B+C+D- L] **[FMV1]**			250

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Fair market value of the consideration received or accruing as a result of transfer by way of slump sale [value of the monetary consideration received] **[FMV2]**	385
Full value of consideration [Higher of FMV1 or FMV2]	**385**

Computation of net worth of Software Unit

	₹ (in lakhs)
(1) Book value of non-depreciable assets	
(i) Land (Revaluation not to be considered)	40
(ii) Debtors	110
(iii) Inventories	35
(2) Written down value of depreciable assets under section 41(1) ***(See Note below)***	90
Aggregate value of total assets	275
Less: Current liabilities of Software unit	90
Net worth of software unit	**185**

Note: *For computing net worth, the aggregate value of total assets in the case of depreciable assets shall be the written down value of the block of assets as per section 41(1).*

(b) Tax advice

(i) Transfer of any capital asset by a holding company to its 100% Indian subsidiary company is exempt from capital gains under section 70(1)(c). Hence, PQR Limited should try to acquire the remaining 26% equity shares in S Limited then make the slump sale in the above said manner, in which case the slump sale shall be exempt from tax. For this exemption, PQR Limited will have to keep such 100% holding in S Limited for a period of 8 years from the date of slump sale, otherwise the amount exempt would be deemed to be income chargeable under the head "Capital Gains" of the Tax year in which such transfer took place.

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(ii) Alternatively, if acquisition of 26% share is not feasible, PQR Limited may think about demerger plan of Software Unit to get benefit of section 70(1)(j) of the Income-tax Act, 2025.

12. (i) 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.

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. Prasun 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) x 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%). The tax on capital gain @13% would be ₹ 3,250 (₹ 25,000 x 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).

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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) and the FMV of units of Fund B as on 31.1.2018 would be ₹ 950 (being the net asset value as on 31.1.2018, since the units of Fund B are unlisted 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) x 200 units.

The cost of acquisition of a unit of Fund B would be ₹ 900, being higher of actual cost i.e., ₹ 550 and ₹ 900 (being the lower of FMV of ₹ 950 as on 31.1.2018 (net asset value) and actual sale consideration of ₹ 900). Thus, the long-term capital gains on sale of units of Fund B would be Nil (₹ 900 – ₹ 900) x 200 units.

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

13. Computation of Capital gains in the hands of Mr. Shyam for T.Y. 2026-27

Particulars	Amount (₹)	Amount (₹)
Actual sale consideration	30,50,000	
Valuation as per Stamp duty Authority 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.		

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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,		10,70,000
Being the higher of		
(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**

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(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 2014-15 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. Shyam in T.Y.2015-16.

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