

## CAPITAL GAINS

### Section 45. Charging Provision

(1) Any profits or gains arising from the **transfer** of a **capital asset** effected in the previous year shall, **except** as otherwise provided in sections 54, 54B, 54D, 54E, 54EA, 54EB, 54F, 54G and 54H, be chargeable to income-tax under the head "Capital gains", and shall be **deemed** to be the income of the previous **year in which the transfer took place**.

**Section 2 (47)** "transfer", in relation to a capital asset, includes,—

- (i) the **sale**, exchange or relinquishment of the asset; or
- (ii) the **extinguishment** of any rights therein; or
- (iii) the compulsory **acquisition** thereof under any law; or
- (iv) **conversion** of asset into stock-in-trade of a business; or
- (iva) the **maturity** or redemption of a zero-coupon bond; or
- (v) transaction involving the **possession** of any immovable property as per section 53A of the TPA, 1882; or
- (vi) any transaction (whether as a member or **shareholder**, a co-op society, company or other AOP or by way of any arrangement or in any other manner whatsoever) which has the effect of enabling the enjoyment of, any immovable property.

#### **Remember**

Transfer includes creating right or interest in asset flowing from transfer of share or shares of a foreign company. Explanation 2.

**Section (14)** "capital asset" means—

(a) **property** of any kind held by an assessee, whether or not connected with his business or profession;

(b) any securities held by a **FII** which has invested in such securities but does **not include**—

(i) any **stock-in-trade** [other than the securities of FII];

(ii) **personal effects** being movable property (including wearing apparel and furniture) held for personal use by the assessee or any of his family member, but **excludes**—

(a) jewellery;

(b) archaeological collections;

(c) drawings;

(d) paintings;

(e) sculptures; or

(f) any work of art.

(iii) Rural agricultural **land** in India;

(iv) Gold Bonds of 1977 or 1980 issued by the Central Government;

(v) Special Bearer Bonds, 1991, issued by the Central Government

(vi) **Gold Deposit Bonds** under the Gold Monetisation Scheme, 2015.

**Remember**

"Property" includes any rights in relation to an Indian company, including rights of management or control or any other rights whatsoever.

**Section 2(14)(iii)**

Land is either assessed to land revenue in India or is not situated in **urban area**

| Population*         | Distance     |
|---------------------|--------------|
| 10,001 to 1 Lakh    | Within 2 Kms |
| > 1 Lakh to 10 Lakh | Within 6 Kms |
| > 10 Lakhs          | Within 8 Kms |

\*As per last preceding published census

a. Area within the jurisdiction of municipality with population of 10,000 or more. or

b. In any area within the distance, measured **aerially** from the local limits of any municipality.

## Section 48: Mode of computation.

The income chargeable under the head "Capital gains" shall be computed, by deducting the following amounts from the **full value of the consideration** received or accruing from the transfer of the capital asset:

- (i) expenditure incurred wholly and exclusively in connection with **transfer**;
- (ii) the cost of **acquisition** of the asset and the cost of any **improvement** thereto

→ **Indexed COA/COI** if LTCG arises on transfer of a LTCA – 2<sup>nd</sup> proviso

→ **Indexation not available**

→ to **NR** on transfer of shares and debentures – 1<sup>st</sup> & 2<sup>nd</sup> proviso.

→ to LT equity shares or units of equity-oriented fund or of business trust covered by Section **112A** – 3<sup>rd</sup> Proviso.

→ to LT bonds or debentures **other than** capital indexed bonds or gold bonds issued by government or RBI. – 4<sup>th</sup> Proviso.

### Explanation (iii)

→ **Cost of Acquisition**  $\times$   $\frac{\text{CII in which Capital Asset is transferred}}{\text{CII of the year in which CA was first held or of 2001-02 whichever is later}}$

$\frac{\text{CII in which Capital Asset is Transferred}}{\text{CII of the year in which improvement took place}} \times \text{Cost of Improvement}$

### Remember

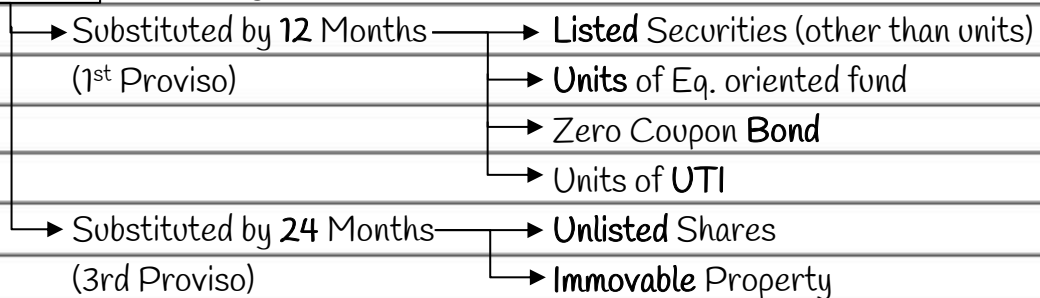
1. Full value of consideration for the securities transferred by an employer to an employee under **ESOP** shall be the MV as on the date of transfer – 6<sup>th</sup> Proviso.
2. **STT** paid shall not be allowed as deduction – 7<sup>th</sup> Proviso.

## Long Term Capital Asset (LTCA)

Section (29A) "long-term capital asset" means a capital asset which is **not** a short-term capital asset.

## Then what is Short Term Capital Asset (STCA)?

(42A) "short-term capital asset" means a capital **asset held** by an assessee for not more than **36 months** immediately preceding the date of its transfer.



## Why do we need to classify into Short Term and Long Term?

STCG exemption – Section 54B, 54D, 54G and 54GA

LTCG exemptions – Section 54, 54B, 54D, 54EC, 54EE, 54F, 54G, 54GA and 54GB

STCG Special Rate – Section 111A

LTCG Special Rate – Section 112 and 112A

|   |  |            |
|---|--|------------|
| 1 | Listed Equity or Preference                          | >12 Months |
| 2 | Debenture, Bonds, G-Sec, Derivatives etc., if listed |            |
| 3 | Units of UTI (listed or unlisted)                    |            |
| 4 | Units of Equity Oriented Fund                        |            |
| 5 | Unlisted Equity or Preference                        | >24 Months |
| 6 | Immovable Property (Land or Building or Both)        | >24 Months |
| 7 | Units of Debt fund or Other funds & Others           | >36 Months |

## EXCEPTIONS TO THE GENERAL RULE – SPECIAL CHARGE

### Insurance Compensation

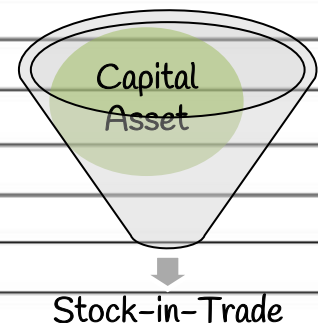
45(1A) **Notwithstanding** anything contained in sub-section (1),

- where any person **receives** during any previous year any money or other assets
- under an insurance from an insurer for damage to, or destruction of, any capital asset, as a result of—
  - (i) flood, typhoon, hurricane, cyclone, earthquake or other convulsion of nature; or
  - (ii) riot or civil disturbance; or
  - (iii) accidental fire or explosion; or
  - (iv) action by an enemy or action taken in combating an enemy,
- then, it shall be chargeable under the head "Capital gains" **and**
- shall be deemed to be the income of the previous year in which such money or other asset was received **and**
- for the purposes of section 48, full value of the consideration = value of any **money** or the **fair market value** of other assets as on the date of such receipt.

### Conversion of Capital Asset to Stock-in-Trade

(2) **Notwithstanding** anything contained in sub-section (1),

- the profits or gains arising from the transfer by way of **conversion** of a capital asset into stock-in-trade of a business
- shall be chargeable as income of the previous year in which such **stock-in-trade** is sold or otherwise transferred **and**,
- for the purposes of section 48, full value of the consideration = the **fair market value** of the capital asset as on the date of such conversion.



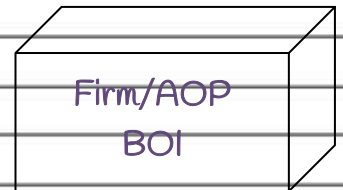
### Transaction in Securities by a Depository

(2A) Where any person has any beneficial interest in any securities, then

- the Profits or gains arising from transfer made by the depository, the deemed owner of securities under section 10 of the Depositories Act, 1996
- shall be chargeable as the income of the beneficial owner **and**
- **and** for the purposes of section 48; **and** proviso to clause (42A) of section 2,
- the cost of acquisition **and** the period of holding of any securities shall be determined on the basis of the **first-in-first-out (FIFO) method**.

### Contribution by Member or Partner

- (3) The profits or gains arising from the transfer of a capital asset by a person
- to a firm or a AOP or a BOI (not a company or a co-operative society)
  - in which **he is or becomes** a partner or member,
  - by way of capital **contribution** or otherwise,
  - shall be his income of the year in which such **transfer** takes place **and**,
  - for the purposes of section 48, **full value of the consideration** = the amount recorded in the books of account of the firm, AOP or BOI as the value of the capital asset



### Distribution by Firm or AOP

- (4) The profits or gains arising from the distribution of a capital asset
- on the dissolution or otherwise of a firm or AOP or BOI (not a company or a co-operative society),
  - shall be chargeable to tax as the **income of the firm**, AOP or BOI,
  - of the previous year in which the said transfer takes place **and**,
  - for the purposes of section 48, **full value of the consideration** = the FMV of the asset on the date of such distribution.

### Compulsory Acquisition

- (5) **Notwithstanding** anything contained in sub-section (1), where the gain arises from
- a transfer by way of compulsory acquisition under a **law**, or
  - a transfer the consideration of which is **determined** by the CG or the RBI, **and**
  - the compensation for such transfer is **enhanced** by any court, Tribunal etc.,
  - the capital gain shall be dealt with in the following manner, namely:—
    - (a) the compensation awarded in the **first instance** shall be chargeable as income under the head "Capital gains" of the previous year in which such compensation or part thereof was **first received**; **and**
    - (b) the amount by which the compensation is **enhanced** by the court etc. shall be deemed to be income of the year in which such amount is **received**
    - (c) where the compensation in (a) or (b) is **reduced** by any court etc., such assessed capital gain of that year shall be **recomputed** by taking the compensation as so reduced to be the full value of the consideration.

## Remember

1. Compensation under an interim order of a court etc. shall be chargeable only in the year of final order. Proviso to 45(5)(b).
2. For enhance compensation, the COA and the COI shall be nil; Expl (i)
3. Enhanced compensation received by heirs of the deceased, shall be deemed to be the income under the head "Capital gains", of such heir. Expl (iii)

## Development Agreement by Individual or HUF

(5A) Notwithstanding anything contained in sub-section (1),

- where an **individual** or a **HUF**, transfers land or building or both,
- under a **registered** agreement allowing another person to develop a real estate project on such land or building or both (Expl. ii)
- in consideration of a **share**, in such project, with or without **cash**;
- the capital gains shall be chargeable as income of the previous year in which the **certificate of completion** for the whole or part of the project is issued by the competent authority; **and**
- for the purposes of section 48, the **full value of the consideration** = the **stamp duty value** of his share as on the date of issue of the completion certificate, as increased by the consideration received in cash, if any.

## Remember

1. The concession of paying **tax in the year of completion** is applicable only if the Individual/HUF transfers his share of property after completion of the project. [Proviso to 45(5A)]
2. If any sale of share is made by Indv/HUF **prior to completion** it would be taxed in the year in which actual transfer takes place as per normal provisions.
3. As per S. 49(7) the **stamp duty value** as on the date of completion shall become also become the **cost of acquisition** of the share of asset in the hands of the said individual/HUF



## SPECIAL EVENTS

Capital gains on purchase by company of its own shares or other specified securities.

46A. Where a shareholder or a holder of shares or other specified securities

- receives any **consideration** from any company for purchase of its own securities,
- then, capital gains have to be computed as per provisions of section 48, in the year of buy-back.

But isn't the income arising on Buy-Back of shares exempt in the hands of shareholder?

10(34A) any income arising to a shareholder, on account of buy back of shares by the company as referred to in **section 115QA** is not included in total income.

What? The great Indian buy-back tax!

- 115QA. A **domestic** company is charged to tax for buy-back of its own shares
- The amount paid by company in excess of what it had received at the time of issue (R.40BB), is treated as distribution of income.
- It pays additional income-tax at the rate of 20% on the distributed income:
- Until 05.07.2019 listed shares were not covered by 115QA

Special provision for computation of capital gains in case of depreciable assets

50. Notwithstanding anything contained in clause (42A) of section 2,

- where the capital asset is an asset forming part of a **depreciable block of assets**
- provisions of sections 48 and 49 shall be subject to the following **modifications**:-

(1) where the **full value of the consideration** as a result of the transfer of one or all assets of the block, **exceeds** the aggregate of the following:

- expenditure in respect of such transfers;
- the opening WDV of the block of assets; and
- the actual cost of any asset falling within the block of assets **acquired** during the previous year,

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

(2) where all assets in the block are transferred and the block ceases,

- the COA of the block shall be the opening WDV,
- as increased by the actual cost of any asset falling within that block, **acquired** by the assessee during the previous year and

→ the income accruing as a result of such transfer shall be **deemed** to be the capital gains arising from the transfer of STCA.



## Section 50B - Special provision for computation of capital gains in case of slump sale.

(1) Any profits or gains arising from the **slump sale**

shall be chargeable as capital gains arising from transfer of **LTCA** and shall be **deemed as income** of the year in which the transfer took place:

--> If the undertaking is held for not more than **36 Months**

--> The gain on transfer shall be deemed to arise on **STCA**

(2) The **"net worth"** of the undertaking or the division **transferred** in slump sale,

→ shall be deemed to be the COA and the COI and

→ 2<sup>nd</sup> proviso to section 48 is **not available**.

Assets  
Liabilities

(3) Every assessee, in the case of slump sale,

→ shall furnish in the form 3CEA a report of a CA

Net Worth

→ before the specified date referred to in section 44AB

→ indicating the computation of the net worth of the undertaking or division, and certifying the correctness of such **net worth**.

|  |   |                       |
|--|---|-----------------------|
| Value of total assets (excl Revaluation)       | → | WDV of Block of Asset |
| Value of liabilities as appearing in its books | → | Nil for 35AD assets   |
| <b>Net Worth of Undertaking or Division</b>    | ← | Book value of others  |

## Section 50C - Special provision for full value of consideration in certain cases.

(1) Where the consideration for transfer of **land or building or both**,

→ is **less than the value adopted** by a "stamp valuation authority"

→ for the purpose of payment of **stamp duty** in respect of such transfer,

the **value so adopted** shall, for the purposes of section 48,

be **deemed** to be the full value of the consideration for such transfer

### Carve outs

a. **1<sup>st</sup> Proviso:** If Date of Agreement  $\neq$  Date of registration

→ then stamp duty value assessable as on the date of agreement

→ may be adopted as FVC of such transfer

b. **2<sup>nd</sup> Proviso:** 1<sup>st</sup> proviso shall apply only if at least part of the consideration

→ is received by **a/c payee** chq/draft or ECS or electronic mode

→ **on or before** the date of agreement for transfer.

c. **3<sup>rd</sup> Proviso:** Value adopted by SVA shall not be adopted as FVC if:

- such value does **not exceed** 110% of actual consideration **and**
- the consideration **actually received** or accruing, for the purposes of section 48, be deemed to be the full value of the consideration.

(2) Without prejudice to the provisions of sub-section (1), where—

(a) the assessee **claims** before any assessing officer (AO)

that the **value adopted** by the SVA under sub-section (1)

**exceeds** the FMV as on the date of transfer; **and**

(b) the value so adopted by the SVA under sub-section (1)

has **not** been disputed in any appeal or revision before any authority or Court

→ the AO **may refer** the valuation of the capital asset to a **Valuation Officer**

→ where any such reference is made,

→ the provisions of section 16A(2), (3), (4), (5) and (6), ]

Sec. 23A(1)(i), (6) and (7), 24(5), 34AA, 35 and 37 ]

Wealth-Tax

Act, 1957

→ shall, with necessary modifications, apply in relation to such reference

(3) Subject to the provisions contained in sub-section (2), where

→ If value ascertained by the VO **exceeds** the value adopted by the SVA,

→ the value so **assessed by SVA**

→ shall be taken as the full value of the consideration

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**Section 50CA:** Special provision for full value of consideration for transfer of share other than quoted share

→ If the consideration accruing from transfer of **unquoted shares** of a company,

→ is **less than** the FMV of such share determined as per R. 11UAA,

→ the **value so determined** shall, for the purposes of section 48,

→ be **deemed** to be the full value of consideration:

**Remember**

"quoted share" means → 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.

### Section 50D: Fair market value deemed to be full value of consideration in certain cases.

- If the **consideration** received or accruing for the transfer of a capital asset
- is **not** ascertainable or cannot be determined, then,
- for the purpose of **computing income** chargeable to tax as capital gains,
- the **fair market value** of the said asset on the date of transfer
- shall be **deemed** to be the full value of the consideration received or accruing as a result of such transfer.

### Section 51: Advance money received.

- Where any capital asset was on any previous occasion the **subject of negotiations** for its transfer,
  - any advance or other money **received and**
  - **retained** by the assessee in respect of such negotiations
- shall be **deducted from the cost** for which the asset was acquired or the WDV or the FMV, as the case may be,
  - in computing the **cost of acquisition**.

### But isn't the amount already taxable under Section 56(2)(ix) from the year 2014-15?

Hence, a proviso is added to Section 51, which provides that if such advance etc. has already been **included** in the total income of the assessee for any previous year in accordance with the provisions of section 56(2)(ix), then, such sum shall **not** be deducted from the cost or the WDV or the FMV, as the case may be, in computing the **cost of acquisition**.

The following are the exemption in respect of capital gains under section 10:

- (i) Exemption of capital gain on transfer of a unit of Unit Scheme, 1964 (US 64) [Section 10(33)]
- (ii) Exemption of capital gains on compulsory acquisition of agricultural land situated within specified urban limits [Section 10(37)]

## Section 55A: Reference to Valuation Officer

With a view to ascertaining the FMV of a capital asset for the purposes of this Chapter, the Assessing Officer **may refer** the valuation of capital asset to a Valuation Officer—

- (a) in a case where the **value of the asset** as claimed by the assessee is in accordance with the estimate made by a **registered valuer**, if the Assessing Officer is of **opinion** that the value so claimed is at **variance** with its fair market value;
- (b) in any **other case**, if the Assessing Officer is of opinion—
  - i. that the FMV of the asset **exceeds** the value of the asset as claimed by the assessee by **more than such percentage** of the value of the asset as so claimed **or** by more than such **amount** as may be prescribed in this behalf; **or**
  - ii. that having regard to the nature of the asset and other relevant circumstances, **it is necessary** so to do,and where any such **reference is made**, the provisions of the Wealth-tax Act, 1957, shall with the necessary modifications.

## SPECIAL RATES

### Section 111A: Tax on short-term capital gains in certain cases.

- (1) Where the total income of an **assessee** includes "Capital gains",
  - arising from **STCA**, being an **equity** share in a company **or**
  - a unit of an **equity-oriented** fund or a unit of a business trust **and**—
    - (a) the transaction of sale eligible asset is done after 01.10.2004; **and**
    - (b) such transaction is chargeable to **STT** as per FA (no.2) of 2004,
  - the **tax payable** by the assessee on the total income shall be the aggregate of—
    - (i) the income-tax @ **15%** on such short-term capital gains; **and**
    - (ii) the income-tax payable on the **balance amount** of the total income

If the balance amount is less than the basic exemption limit

- for a resident individual & resident HUF
- the unutilized basic exemption shall be **deducted** from the amount of STCG

1<sup>st</sup> Proviso

- (2) The **deduction** under Chapter VI-A shall be allowed only from gross total income as reduced by capital gains taxable under this section.

## Section 112: Tax on long-term capital gains.

(1) Where the total income of an assessee includes any capital gains, arising from the transfer of a long-term capital asset, the tax payable by the assessee on the total income shall be the aggregate of,—

(a) in the case of a **resident** individual or a HUF,—

- (i) the income-tax payable on the total income as reduced by LTCG; **and**
- (ii) the income-tax @**20%** on such long-term capital gains:

If the balance amount is **less than** the basic exemption limit

- for a resident individual & resident HUF **Proviso to 112(1)(a)**
- the unutilized basic exemption shall be **deducted** from the amount of LTCG
- balance of LTCG shall be subjected to tax @**20%**

(b) / (d) in the case of a domestic company / **other resident** assessee,—

- (i) the income-tax payable on the total income as reduced by LTCG; **and**
- (ii) the income-tax @**20%** on such long-term capital gains:

(c) in the case of a **non-resident** or a foreign company, —

- (i) the income-tax payable on the total income as reduced by LTCG; **and**
- (ii) the income-tax @**20%** on such LTCG (except as LTCG arising on unlisted securities); **and**
- (iii) the income-tax @**10%** on LTCG without benefit of indexation or currency fluctuation **and** arising from transfer of **unlisted** securities or shares of co. in which public is not substantially interested.

**1<sup>st</sup> Proviso to Section 112:** In case of listed securities (other than units) or ZCB

- If the LTCG tax payable on such assets, **exceeds**
- **10%** of the amount of capital gains **without** benefit of indexation,
- such excess shall be **ignored** for computing the tax payable by the assessee

(2) The **deduction** under Chapter VI-A shall be allowed only from gross total income as reduced by capital gains taxable under this section.

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## Section 112A: Tax on long-term capital gains in certain cases.

(1) Notwithstanding anything contained in section 112, the tax payable by an assessee on his total income shall be determined in accordance with the provisions of sub-section (2), if—

- (i) the total income includes "Capital gains";
- (ii) the capital gains arise from the transfer of a LTCA being
  - an equity shares in a company or
  - a unit of an equity-oriented fund (EOF) or
  - a unit of a business trust;

(iii) STT has been paid

- (a) on acquisition **and** transfer of long-term equity share in a company; or
- (b) on **transfer** of units of an EOF or a unit of a business trust.

(2) The tax payable on the income referred to in sub-section (1) shall be **aggregate** of

- (i) the amount of tax @10% on such LTCCG exceeding Rs. 1 lakh; **and**
- (ii) the amount of tax payable on the **balance** total income

If the balance amount is **less than** the basic exemption limit

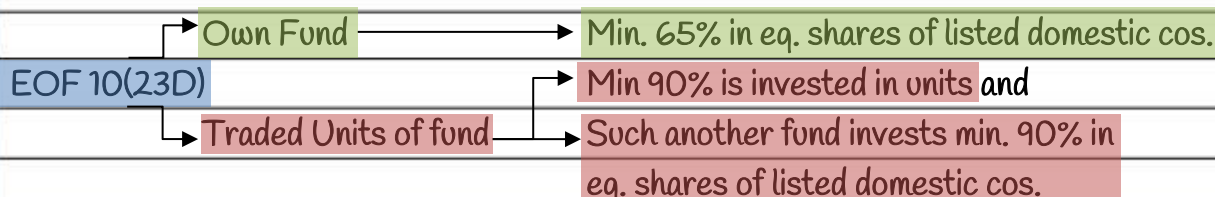
- (iii) for a **resident** individual & resident HUF Proviso to 112A(2)
- (iv) the unutilized basic exemption shall be **deducted** from the amount of LTCCG
- (v) balance of LTCCG shall be subjected to tax @10%

(3) Condition of payment of STT shall **not apply** to transaction in RSE located in any **International Financial Services Centre** if consideration for transfer is received or receivable in foreign currency.

(4) Power to Central Government to exempt **STT payment condition** on shares.

(5) The **deduction** under Chapter VI-A shall be allowed only from gross total income **as reduced** by capital gains taxable under this section.

(6) The **rebate** under **section 87A**, if applicable, shall be allowed only from the income-tax on the total income **as reduced** by tax payable on capital gains under this section.





**Section 55(2) – Cost of Acquisition of assets covered by Section 112A**

(ac) subject to the provisions of

clause (b) (i) -> deals with COA of property acquired by assessee before 01.04.2001 and

clause (b) (ii) -> deals with COA of property received by gift, will, inheritance etc. 49(1), which was acquired by the previous owner prior to 01.04.01 if equity share in a company or a unit of an EOF or a unit of a business trust referred to in section 112A,

is acquired before the 01.02.2018, COA shall be **higher** of–

(i) the actual cost of acquisition of such asset; **and**

(ii) lower of–

(A) the FMV of such asset; and

(B) the full value of consideration received or accruing as a result of the transfer of the capital asset.

**Explanation**

(a) "fair market value" means,–

(i) in a case equity or units are **listed** as on 31.01.2018,

↳ the **highest quoted price** as on 31.01.2018 or

↳ if no trading on 31.01, then highest price as on a date immediately preceding 31.01 on which trading happened.

(ii) in a case an **unlisted** unit as on 31.01.2018,

↳ the **net asset value** of such unit as on the said date;

(iii) in a case of an equity share in a company which is–

(A) **not listed** on a RSE as on the 31.01.2018 but listed on the date of transfer;

(B) **not listed** on a RSE as on the 31.01.2018 but have been converted into a listed security due to amalgamation/demerger etc. on the date of transfer.

↳ **Indexed COA** for 2017–18 from year first held or 2001

**Example**

|                         |     |     |     |      |     |
|-------------------------|-----|-----|-----|------|-----|
| Actual COA              | 410 | 710 | 900 | 800  | 30  |
| FMV 31.01.18 (GF Value) | 730 | 780 | 300 | 1000 | 100 |
| FVC                     | 760 | 650 | 910 | 825  | 400 |
| Adopted Value           | 730 | 710 | 900 | 825  | 100 |
| LTCG/(CL)               | 30  | -60 | 10  | 0    | 300 |

## Exemptions of Capital Gains under section 54/ 54B/ 54D/ 54EC/ 54EE/ 54F

### Section 54: Profit on sale of property used for residence.

(1) Subject to the provisions of sub-section (2),

→ where, in the case of an individual or a HUF,

→ the capital gain arises from the transfer of a LTCA,

→ being buildings or lands appurtenant thereto, and

→ being a **residential** house,

→ the income of which is chargeable under the head "IFHP", and

→ the assessee has

→ **Purchased** within a period of 1 year before or 2 years after, or

→ **Constructed** within a period of 3 years after the date of transfer,

→ **One\*** residential house in India, (new asset)

→ then, **instead of the capital gain** being charged as income, it shall be dealt with in accordance with the following provisions –

(i) if the capital gain is **greater** than the cost of new asset,

→ **Chargeable Gains = Capital gain Less Cost of the new asset; and**

→ If the new asset is transferred within a **period of 3 years** of its purchase or construction, the cost of acquisition of such new asset shall be **nil**;

or

(ii) if the capital gain is **equal to or less than** the cost of the new asset,

→ **the capital gain shall not be charged under section 45; and**

→ If the new asset is transferred within a **period of 3 years** of its purchase or construction, the cost of acquisition of such new asset shall be **reduced** by the amount of exemption claimed under Section 54.

#### \*Remember

**1<sup>st</sup> Proviso:** If the capital gain **does not exceed Rs. 2 crore**, option is provided to, purchase or construct two residential houses in India

**2<sup>nd</sup> Proviso:** The option in 1<sup>st</sup> proviso is once in life-time opportunity.

(2) If the capital gain is **not appropriated** by the assessee

→ towards the **purchase** of the new asset made within 1 year before or

→ for the purchase or construction of the new asset **before the date of furnishing the return** of income under section 139,

→ the capital gain shall be **deposited** by him before the due date under **section 139(1)** in an account opened under the Capital Gains Accounts Scheme, 1988

→ Such amount deposited in CGAS is **deemed to be cost of new asset** for s.s.1

### Remember – Proviso to Section 54(2)

If the amount deposited in CGAS is not utilised wholly or partly for the purchase or construction of the new asset within the period specified in sub-section (1), then—

- (i) the amount **not so utilised** shall be charged under section 45 as the income of the previous year in which the period of **three years from the date of the transfer** of the original asset **expires**; and
- (ii) the assessee shall be entitled to **withdraw** such amount in accordance with the scheme aforesaid.

### Section 54B. Capital gain on transfer of land used for agricultural purposes not to be charged

(1) Subject to the provisions of sub-section (2),

- where the capital gain arises from the **transfer of land**
- used for **agricultural purposes** by an individual or his parent, or a HUF
- in the two years immediately **preceding** the date of transfer, and

the assessee has

- within a period of **two years** from the date of transfer,
- **purchased** any other land for being used for agricultural purposes, then,

instead of the capital gain being charged as income, it shall be dealt with in accordance with the following provisions —

(i) if the capital gain is **greater** than the cost of new land,

- **Chargeable Gains = Capital gain Less Cost of new land; and**
- If the new asset is transferred within a **period of 3 years** of its purchase or construction, the cost of acquisition of such new asset shall be **nil**;

or

(ii) if the capital gain is **equal to or less than** the cost of the new asset,

- **the capital gain shall not be charged under section 45; and**
- If the new asset is transferred within a **period of 3 years** of its purchase or construction, the cost of acquisition of such new asset shall be **reduced** by the amount of exemption claimed under Section 54B.

(2) Provision enabling Capital Gains Accounts Scheme, 1988

Proviso: Unutilized amount of deposit in Capital Gain Account Scheme.

**Section 54D: Capital gain on compulsory acquisition of lands and buildings not to be charged in certain cases.**

(1) Subject to the provisions of sub-section (2),

- where the gain arises from the transfer of **land or building** or right therein
- of an **industrial** undertaking
- by way of **compulsory acquisition** under any law which,
- in the 2 years preceding the date of transfer, was being **used by the assessee** for the purposes of the business, and

the assessee has

- within a period of **3 years** after the date of transfer
  - **purchased** any other land or building or any right or
  - **constructed** any other building
- for the purposes of shifting or re-establishing the said undertaking or setting up another industrial undertaking, then,

instead of the capital gain being charged as income, it shall be dealt with in accordance with the following provisions –

(i) if the capital gain is **greater** than the cost of new land,

- **Chargeable Gains = Capital gain Less Cost of new land; and**
- If the new asset is transferred within a **period of 3 years** of its purchase or construction, the cost of acquisition of such new asset shall be **nil**;

or

(ii) if the capital gain is **equal to or less than** the cost of the new asset,

- **the capital gain shall not be charged under section 45; and**
- If the new asset is transferred within a **period of 3 years** of its purchase or construction, the cost of acquisition of such new asset shall be **reduced by** the amount of exemption claimed under Section 54D.

(2) Provision enabling Capital Gains Accounts Scheme, 1988

Proviso: Unutilized amount of deposit in Capital Gain Account Scheme.

## Section 54EC: Capital gain not to be charged on investment in certain bonds.

(1) Where the capital gain arises from the transfer of a LTCA,

↳ being land or building or both **and**

the assessee has,

↳ within a period of **6 months** after the date of such transfer,

↳ invested the whole or any part of gains in the long-term **specified asset**,

the capital gain shall be dealt with in accordance with the following provisions –

(a) if the cost of specified asset is **equal to or greater** than the capital gain,

**the whole of such capital gain shall not be charged under section 45;**

(b) if the cost of the specified asset is **less** than the capital gain,

**Chargeable Gains = Capital gain Less Cost of specified asset**

### Remember

**1<sup>st</sup> Proviso:** The investment in the LTSA during any FY does **not exceed** Rs. 50 lakhs

**2<sup>nd</sup> Proviso:** The investment made LTSA, during the FY in which the assets are transferred **and** in the subsequent financial year does not exceed Rs. 50 lakhs.

(2) Where the LTSA is transferred or converted\* into money

↳ at any time within a period of **3/5 years** from the date of its acquisition,

↳ the amount of capital gains **claimed as exempt**,

↳ shall be **deemed** to be the income chargeable under the head "Capital gains"

as LTCG in the year of transfer of such LTSA

### **\*Remember**

Any loan against security of LTSA, shall be deemed to be conversion of such specified asset into money on the date on which such loan is taken.

Explanation (ba) "long-term specified asset" for making any investment

on or after the 01.04.18, means **any bond**, redeemable after **five years**

↳ by the National Highways Authority of India (NHAI) or

↳ by the Rural Electrification Corporation Limited (REC) or

↳ any other bond **notified** in the Official Gazette

↳ Power Finance Corporation Ltd (PFC)

↳ Indian Railways Finance Corporation Limited (IRFC)

## Section 54EE: Capital gain not to be charged on investment in units of a specified fund.

(1) Where the capital gain arises from the transfer of a LTCA and the assessee has,

at any time within a period of six months after transfer, invested the whole or any part of gains in the LTSA, the capital gain shall be dealt as under:—

- (a) if the cost of specified asset is **equal to or greater** than the capital gain, the whole of such capital gain shall not be charged under section 45;
- (b) if the cost of the specified asset is **less** than the capital gain,

**Chargeable Gains = Capital gain Less Cost of specified asset**

### Remember

1<sup>st</sup> Proviso: The investment in the LTSA during any FY does **not exceed** Rs. 50 lakhs

2<sup>nd</sup> Proviso: The investment made LTSA, during the FY in which the assets are transferred **and** in the subsequent financial year does not exceed Rs. 50 lakhs.

(2) Where the LTSA is transferred into money

- at any time within a period of **3 years** from the date of its acquisition,
- the amount of capital gains **claimed as exempt**,
- shall be **deemed** to be the income chargeable under the head "Capital gains" as LTCG in the year of transfer of such LTSA

### \*Remember

Expl 1: Any loan against security of LTSA, shall be deemed transfer of such specified asset on the date on which such loan is taken.

Expl 2(b): Long-term specified asset means units, issued before the 01.04.19, of notified fund.



**Section 54F: Capital gain on transfer of certain capital assets not to be charged in case of investment in residential house.**

(1) Subject to the provisions of sub-section (4),

- where, in the case of an **individual** or a **HUF**,
- gain arises from the transfer of any **LTCA**, **not** being a residential house

and the assessee has,

- **Purchased** within a period of 1 year before or 2 years after, **or**
- **Constructed** within a period of 3 years after the date of transfer,
- **One\*** residential house in **India**, (new asset)

the capital gain shall be dealt with in accordance with the following provisions—

- (a) if the new asset cost is **not less** than the net consideration of transfer,  
**the capital gain shall not be charged under section 45 ;**
- (b) if the cost of the new asset is **less than** the net consideration,

$$\text{Exempt Gains} = \text{Capital gain on transfer} \times \frac{\text{Cost of the New Asset}}{\text{Net consideration on Transfer}}$$

Proviso to Section 54(1)

Exemption is **not available** if the assessee, excluding than the new asset,

- |  |  |
|--|--|
| <ul style="list-style-type: none"> <li>(i) owns <b>more than 1</b> residential house on the date of transfer; <b>or</b></li> <li>(ii) purchases any residential house within a period of 1 year <b>after</b> the date of transfer of the original asset; <b>or</b></li> <li>(iii) constructs any residential house within a period of 3 years <b>after</b> the date of transfer of the original asset; <b>and</b> →</li> </ul> | } The income of such house owned on the date of transfer is taxable under IFHP |
|--|--|

(2) Where the assessee

- > **Purchases**, within the period of 2 years, **or**
  - > **Constructs**, within the period of 3 years
- after the date of the transfer of the original asset
- > any residential house, the income of which is chargeable under IFHP,
  - > the amount of capital gain from the transfer of the original asset
  - > exempted on the basis of the cost of such new asset
  - > shall be deemed to be income chargeable under the head "Capital gains" relating to long-term capital assets of the previous year in which such residential house is purchased or constructed.

(3) Where the **new asset** is transferred within a period of 3 years

- > from the date of its purchase or its construction,
- > the amount of capital gain claimed exempt on the basis of the cost of such new
- > shall be deemed to be income chargeable under the head "Capital gains" relating to long-term capital assets of the previous year in which such new asset is transferred.

(4) If the capital gain is **not appropriated** by the assessee

- towards the **purchase** of the new asset made within 1 year before or
- for the purchase or construction of the new asset **before the date of furnishing the return** of income under section 139,

→ the capital gain shall be **deposited** by him before the due date under **section 139(1)** in an account opened under the Capital Gains Accounts Scheme, 1988

→ Such amount deposited in CGAS is **deemed to be cost of new asset** for s.s.1

Provided that if the amount deposited under this sub-section is not utilised wholly or partly for the purchase or construction of the new asset within the period specified in sub-section (1), then,—

(i) the amount by which—

(a) the amount of capital gain arising from the transfer of the original asset not charged under section 45 on the basis of the cost of the new asset as provided in clause (a) or, as the case may be, clause (b) of sub-section (1), exceeds

(b) the amount that would not have been so charged had the amount actually utilised by the assessee for the purchase or construction of the new asset within the period specified in sub-section (1) been the cost of the new asset,

shall be charged under section 45 as income of the previous year in which the period of three years from the date of the transfer of the original asset expires; and

(ii) the assessee shall be entitled to withdraw the unutilised amount in accordance with the scheme aforesaid.