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GOVERNMENT COLLEGE FOR GIRLS LUDHIANA

DIRECT TAX P.Y. 2022-23 A.Y. 2023-24 Dec 2023

Chapter-10

CAPITAL GAINS (Section 45 to 55A)

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Basis of charge u/s 45(1)

Any profits or gains arising from the **transfer**of a **capital asset,**shall be chargeable to income tax under the head 'capital gains andshall be deemed to be the income of **P/Y in which transfer took placeunless** such capital gain is **exempt** u/s 54,54B, 54D etc.

Capital Asset u/s 2(14)

It means property of **ANY KIND,** held by assessee, whether or not connected with his business or profession. It means all types of asset included in the meanings of Capital assets whether such asset is fixed or tangible or intangible or current of circulating. Besides, it includes the following-

1. **Any rights in** or in relation to an Indian company, including rights of management or control or any other rights whatsoever.
2. Property of any kind held by an assessee (whether or not connected with his business or profession)

3. Any securities held by a Foreign Institutional Investor (FII) which has invested in such securities in accordance with the regulations made under the SEBI Act,1992

However, it **does not include:-**

i) **Stock-in-trade**

ii) **Personal effects**

- **MOVABLE** property
- held for personal use
- by assessee or any member of his family dependent on him

But personal effect **EXCLUDES**thefollowing:-

a) **Jewellery**
b) **Archaeological collections**
c) Drawings
d) **Paintings**
e) Sculpture
f) Any work of art

iii) **Rural Agricultural land** in India

iv)**Gold Deposit Bonds** issued under **Gold Deposit Scheme 1999**.

v) Special Bearer Bonds, 1991,

vi) **6.5% Gold Bonds 1977, 7% Gold Bonds 1980**& National Defence Gold Bonds, 1980

Rural area here means any area which is **outside the jurisdiction** of a municipality or Cantonment Board having population of **10,000 or more and also** which does not fall **within distance** (to be measured aerially) given below—

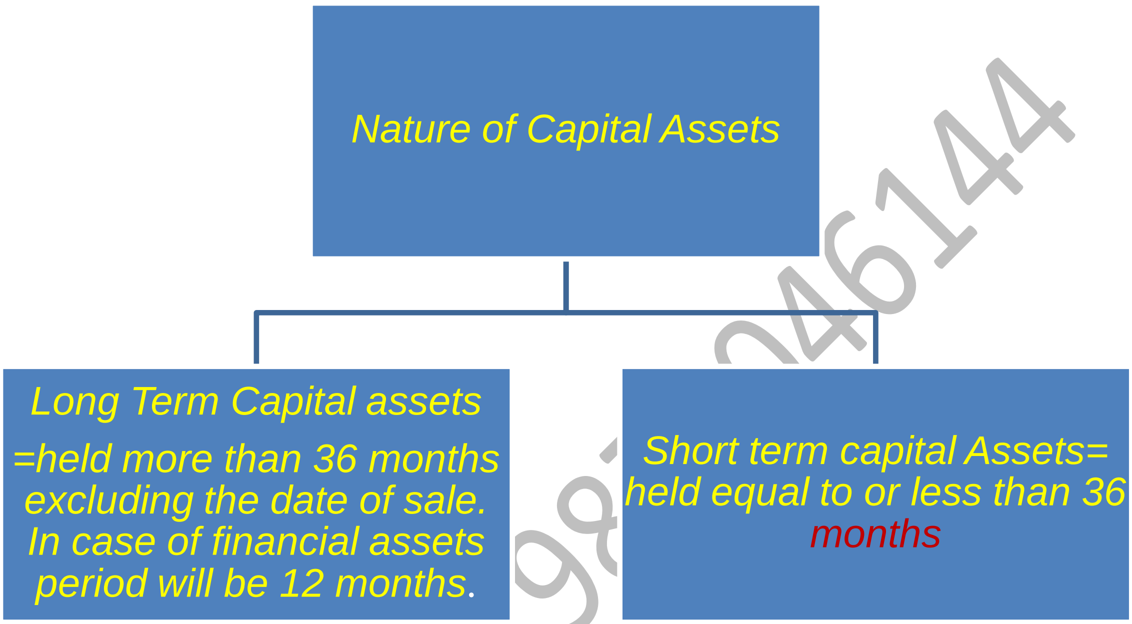
2 km from the local limits of municipality/ cantonment board	If the population of the municipality/cantonment board is more than 10000 but not more than 1 lakh
6 km from the local limits of municipality/ cantonment board	If the population of the municipality/cantonment board is more than 1 lakh but not more than 10 lakh
8 km from the local limits of municipality/ cantonment board	If the population of the municipality/cantonment board is more than 10 lakh

Rural Agricultural land examples-

1. X, a farmer, transfers a piece of agricultural land situated in a village (population: 6000) in Madhya Pradesh. Since this agricultural land is situated in a rural area, any surplus on its transfer cannot be taxed under the head "Capital Gains". Nor can it be taxed under any other head of income. It will be a tax-free income.

2. The above rule is equally applicable if X is not a farmer, but the land which is transferred is used for agricultural purposes either by X or by any other person authorized by X.
3. If agricultural land is situated in a village which comes within a municipality, then population of the municipality shall be considered (**and not of village**). In such a case if population of the municipality **exceeds 10,000**, then agricultural land is a capital asset, even if population of the village is less than 10,000.

Types of Capital Asset



Short Term Capital Asset u/s 2(42A)

Short term capital asset means a capital asset held by an assessee for **not more than 36 months** immediately prior to its date of transfer.

However in the **following cases** if the period of holding is **not more than 12 or 24 months** immediately preceding the date of transfer, then it shall be treated as short term capital asset.

	Period of holding 12 months or less
1)	Equity or preference shares in a company (listed in a recognized stock exchange in India)
2)	Securities (like debentures, bonds, Govt. Securities, derivates, etc.) listed in a recognized stock exchange in India.
3)	Units of UTI (whether quoted or not)
4)	Units of an equity oriented mutual fund (whether quoted or not)

5)	Zero coupon bonds (whether quoted or not)
	Period of holding more than 24 months--
1)	Equity or preference shares in a company (unlisted)
2)	**Immovable property (Being land or building or both)**
	Period of holding more than 36 months
1)	Units of debt oriented fund
2)	Unlisted securities other than shares
3)	Other Capital assets

Zero coupon bonds means notified bond issued by any infrastructure capital company or public sector company, in respect of which **no benefit** is receivable **before maturity.**

Depreciable Assets—In the case of transfer of a depreciable asset (other than an asset used by a power generating unit eligible for depreciation on straight line basis), capital gain (if any) is taken as short term capital gain, irrespective of period of holding. In other words, gain on the sale of depreciable assets is always treated as STCG.

Long Term Capital Asset

Long term capital asset means a capital asset held by an assessee for more than 36 months immediately prior to the its date of transfer..

Transfer u/s 2(47)

"Transfer", in relation to a capital asset, **includes,--**

Sec 2(47)	**Nature of Transaction**
(i)	**Sale, exchange** or relinquishment (To give up, surrender) of the asset; or
(ii)	**Extinguishment (to bring to an end**) of any rights therein; or
(iii)	**Compulsory acquisition**thereof under any law; or
(iv)	**Conversion of Capital Asset** into Stock-in-Trade or
(v)	allowing the possession of any immovable property in **part performance** of a contract referred in section 53A of the Transfer of Property Act,1882; or **Allotment or lease under a house building** scheme of society, company or other association.

(iva)	**Maturity** / Redemption of a **Zero Coupon Bond**

Transactions not regarded as transfer Section 47

No capital Gainarise on the following transactions because these are not treated as transfer-

1.	Transfer under **gift, will**.
2.	Distribution of assets on **partition of HUF**
3.	**Transfer by holding co. to subsidiary co. or subsidiary to holding** if (a) holding company holds the **entire share capital** of subsidiary co. and] (b) Transfereeco.(purchasing co.) is an Indian Co. In the hands of amalgamating co:-
4	Transfer under amalgamation if amalgamated company is an Indian Co. In the hands of shareholders of amalgamating co.:- Transfer of shares held by a shareholder under amalgamation if (a) **amalgamated co. is an Indian Co.** (b) only shares are received in consideration. **COA** of shares in amalgamated co. (Purchasing co.) shall be cost of the shares of the amalgamating co.(Means vendor co.) While computing **POH** (period of Holding), the period for which the shares were held in the **amalgamating co. shall also be included.**
5	Transfer of capital asset on **conversion of a firm in company** if (a) all assets/liabilities of firm become the assets/liabilities of company and (b) **all partners of firm become shareholder** in the **ratio of their capital** account and (c) partners receive only shares as consideration and (d) partners have **at least 50% voting power** for at least 5 years.
6	Transfer of capital asset on **conversion of a sole proprietary concern in a company** if (a), (c) and (d) in 7 above are satisfied.
7	**Conversion of debentures, bonds, deposit certificates**etc. into shares or debentures of that company. COA of shares or debentures so received in conversion shall be cost of that part of the debenture, bond etc. so converted. No provision has been made for computing POH in such case. Therefore, **POH of the converted shares or debentures shall be taken from the date when the converted shares were allotted and not from the date when the original debentures were purchased.**
8	**Transfer outside India by a non-resident** of bonds/shares purchased in foreign

	currency.
9	**Transfer of artistic, scientific work,** painting, drawings, photo etc. to govt., university, museum, **national art gallery etc.**
10.	Any transfer of a capital asset in a **reverse mortgage**.

Chargeability of Capital Gain u/s 45(1)—

1. **Nature of Income**—Profits/Gains arising from transfer of a capital asset.
2. **Year of Taxability**—Capital Gains is taxable as income of previous year in which transfer takes place.
3. **Exceptions:**--Generally, capital gain is taxable in the previous year in which transfer of the Asset takes place. The exceptions are—

Section	Nature of Transfer
45 (1A)	Insurance compensation received on destruction or damage to capital asset
45(2)	Conversion of Capital Asset into stock in trade
45(5)	Compulsory Acquisition of any Capital Asset

Method of computation of Capital Gains section 48

Computation of Short Term Capital Gain		**Computation of Long Term Capital Gain**	
Consideration Received	xxxx	Consideration Received	xxxx
Less: Expenses of Transfer	(xxx)	Less: Expenses of Transfer	(xxx)
Net Consideration	**xxxx**	**Net Consideration**	**xxxx**
Less: Cost of Acquisition	(xxx)	Less: Indexed Cost of Acquisition	(xxxx)
Less: Cost of Improvement	(xxx)	Less: Indexed Cost of Improvement	(xxxx)
Short Term Capital Gain	xxxx	**Long Term Capital Gain**	xxxxx
Less: Exemption u/s 54B,54D, 54G,54GA	(xxx)	Less: Exemption u/s 54 to 54GA	(xxxx)
Taxable STCG	**xxxx**	**Taxable LTCG**	**xxxx**

No deduction shall be allowed in respect of any sum paid on account **of securities transaction tax.**

Cost of Acquisition

1	It means the amount which the assessee has paid or incurred.

2	In relation to **goodwill of a business, tenancy rights, route permits, loom hours, right to carry on business, patents , copyright or trademark,** it means:- a) **the amount of purchase price**—if such asset is purchased by assessee from its owner **b)** in any other case—**NIL (self-generated)** **Cost of Improvement for goodwill** of a business, right to carry on business or manufacture any article—**NIL** **In relation to other assets** actual expenditure incurred on **improvement shall be taken** as COI.
3	Where the **capital asset became the property under will, gift or amalgamation, conversion of a company into an LLP**, then COA shall be deemed to be the cost for which the previous owner acquired it.

Indexed cost of acquisition/improvement (u/s 55)

1	**Computation of Long Term Capital Gains** If the capital gain arises from the transfer of a long term capital asset, then for the purposes of computing capital gains: a) 'Indexed Cost of Acquisition' is taken instead of 'Cost of Acquisition' and b) 'Indexed Cost of Improvement' is taken instead of 'Cost of Improvement'
	Indexed COA means== COA x CII for the year in which asset is transferred CII for the **first year in which asset was held** by Assessee or for the year beginning on 1.4.2001 whichever is later
	Indexed COI means== COI x CII for the year in which asset is transferred CII for the year in which the **improvement took place**

Note—

1	In such case, for **computing period of holding, the period for** which the asset was held by the **previous owner shall also be considered.**
2	COI is always indexed in case of long term capital asset irrespective of year in which such improvement was incurred.
3	**Improvement cost incurred before 1.4.2001 must be ignored.**
4	**Improvement cost incurred by previous owner** i.e. in case of **gift or will** etc. must be considered for indexation.
5.	**Mortgage—**Created by Previous year—If mortgage was created by previous owner and not discharged, then amount paid by the assessee to clear off the mortgage debt is the cost of acquisition u/s 48 and deductible. **Created by assessee**—If mortgage created by assessee himself does not form part of cost of acquisition/ improvement and not deductible.
6.	Benefit of indexation will, however, not be available in respect of long-term capital

	gains from transfer of bonds or debentures (other than capital indexed bonds issued by the Government and sovereign gold bonds issued by RBI) and in respect of long-term capital gains chargeable to tax u/s 112A

Situations when indexation is not available:-- For the following transfers, the benefit of indexation is not available—

	Nature of LTCA Transferred	Assessee eligible
1)	**Bonds/Debentures** except capital indexed bonds issued by Govt.	All assessee
2)	Share/Debentures of Indian Company acquired by using convertible forex (First proviso to sec 48)	Non-residents
3)	**Depreciable assets**	All assesses
4)	**Slump Sale**	All assesses

COST INFLATION INDEX (CII)

PY	CII	PY	CII	PY	CII	PY	CII
2001-02	100	2007-08	129	2013-14	220	2019-20	289
2002-03	105	2008-09	137	2014-15	240	**2020-21**	**301**
2003-04	109	2009-10	148	2015-16	254	2021-22	317
2004-05	113	2010-11	167	2016-17	264	**2022-23**	**331**
2005-06	117	2011-12	184	2017-18	272		
2006-07	122	2012-13	200	2018-19	280		

Cost of acquisition of assets acquired **before 1.4.2001**

- If an asset has been acquired by the assesse**himself or by previous owner (in case gift, partition of HUF etc.) before 1.4.2001**then cost of acquisition in this case will be **higher**of the **following two.**

a)	**Actual cost** of acquisition to him/previous owner
b)	**Fair market value of the asset as on 1.4.2001**

Note—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.

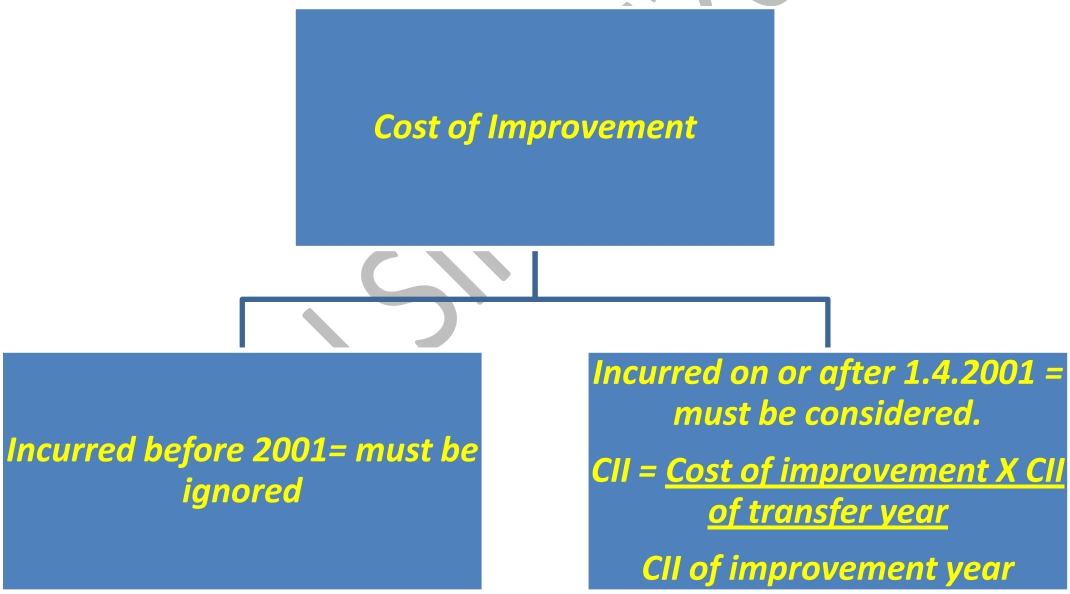
Example--A house property was purchased by Mr A on 1.1.1992 for Rs 30,000 and the fair market value of the same was Rs 1,40,000 as on 1.4.2001. Cost of acquisition of the said property would **be Rs 1,40,000.**

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

Cost of improvement u/s 55

All expenditure of capital nature incurred on **improvement of asset by Previous Owner and the assessee on or after 1-4-2001** shall be treated as cost of improvement.

---**Cost of improvement** incurred **before 1.4.2001** shall be **ignored** in all cases.



Q1 (K) Cost of acquisition in 2002-03 Rs 1,20,000. Find out the indexed cost if sold in 2022-23.
Answer—378286

Q 2 (K) Find out the indexed cost of following long term capital assets if they are sold during the **previous year 2022-23**:

S. No.	Asset	Year of Purchase	Cost	FMV on 1.4.2001
1.	Jewellery	2004-05	80,000	
2.	**Bonds**	2006-07	2,00,000	
3.	House	2010-11	4,00,000	

4.	Plot inherited in 1999-00	Acquired by father in 1998-99	1,00,000	2,00,000

Answer—JewelleryRs 234336 Bonds = No indexing; House = 792814 and Plot = 662000

Q 3 (M14)—Mr. C purchases a house property for Rs 1,06,000 on **May 15, 1975.**The following expenses are incurred by him for making addition/alteration to the house property:

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

FMV of the property on 1.4.2001 is Rs 8,50,000. The stamp duty value as on 1.4.2001 is Rs 8,60,000. The house property is sold by Mr. C on August 10, 2022 for Rs 68,00,000 (expenses incurred on transfer: Rs 50,000). Compute the capital gain for the assessment year **2023-24**.

Financial Year	**CII**
2001-02	100
2002-03	105
2012-13	200
2022-23	331

Answer— COMPUTATION OF CAPITAL GAIN OF MR C FOR THE AY 2023-24

Sales Consideration		68,00,000
Less: Selling Expenses		(50,000)
Net Consideration		67,50,000
Less: Indexed Cost of Acquisition (8,50,000 X331/100)		(2813500)
Less: Indexed Cost of Improvement		
Construction in **first floor in 82-83**	NIL	
Construction of second floor in 2002-03(735000X331/105)	2317000	
Alternation in 2012-13 (550,000X331/200)	910250	(3227250)
LTCG		709250

Q 4(ILL 12)– Mr. X & sons, HUF, purchased a land for Rs 1,20,000 in **2002-03**. In 2006-07, a partition takes place when Mr. A, a coparcener, is allowed this plot valued at Rs150,000. In **2007-08**, he had incurred expenses of Rs**2,35,000** towards fencing of the plot. Mr. A sells this plot of land for Rs 15,00,000 in **2019-20** after incurring expenses to the extent of Rs 20,000. You are required to compute the capital gain for the AY **2023-24.**

Financial Year	**CII**

2002-03	105
2006-07	122
2007-08	129
2023-24	331

Answer—

COMPUTATION OF CAPITAL GAIN OF MR A FOR THE AY 2023-24

Sales Consideration **Less:** Selling Expenses	15,00,000 (20,000)
Net Consideration **Less:** Indexed Cost of Acquisition (120,000 X 331/122) **Less:** Indexed Cost of Improvement (235000X331/129)	14,80,000 (325574) (602984)
LTCG	551442

Note—As per view expressed by Bombay High Court in CIT V. Manjula J. Shah 16 Taxman 42, in case the cost of acquisition of the capital asset in the hands of assessee is taken to be cost of such asset in the hands of the previous owner, in indexation benefit would be available from the year in which the capital asset is acquired by the previous owner. If this view is considered, the indexed cost of acquisition would have to be calculated by considering the Cost Inflation Index of PY 2002-03.

Q 5 (100 P1) X purchases a house property for Rs 76,000 on June 30,1977. The following expenses are incurred by him for making addition/alteration to the house property:

- **a.** Cost of construction of first floor in 1985-86 1,10,000
- **b.** Cost of construction of the second floor in 2003-04 3,40,000
- **c.** Alteration/reconstruction of the property in 2012-13 2,90,000

FMV of the property as on 1st April, 2001 is Rs 4,50,000. The property is sold by X on June 15,2022 for Rs 99,50,000 (expenses incurred on transfer: Rs 10,000). Calculate capital gain.

Answer—

Sales Consideration Less: Selling Expenses		99,50,000 (10,000)
 Less: Indexed Cost of acquisition (450000x331/100) Less: Indexed Cost of improvement (3,40,000 x 331/109) Less: Indexed Cost of improvement (2,90,000x 331/200)	 14,89,500 10,32,477 4,79,950	99,40,000 30,01,927
Long-term capital Gain		69,38,073

Q 6 (100 E1) X purchases a house property on **September 1, 1979** for Rs 2,16,000. FMV of the property on April 1, 2001 is Rs 1,70,000. He incurs the following expenses:

a. Construction of a room on the ground floor during 2000-01 40,000

b. Renewals/reconstruction in 2003-04 92,000

The property is transferred on **March 31, 2023 for Rs 29,45,000**. Find out the amount of LTCG for the assessment year 2023-24.

Answer—

Sales Consideration		29,45,000
Less: Selling Expenses		nil
		29,45,000
Less: Indexed Cost of acquisition (216000x331/100)	7,14,960	
Less: Indexed Cost of improvement (92,000 x 331/109)	2,79,376	9,94,336
Long-term capital Gain		19,50,664

Q 7(100 P2) X sells the following assets during the previous year 2022-23:

	Non-listed Shares	**House Property**
Sale Consideration	24,00,000	6,80,000
Year of acquisition	2002-03	2005-06
Cost of acquisition	2,90,000	18,000
Cost of improvement incurred in 2016-17		70,000

Answer—

	Non-listed Shares	**House Property**
Sales Consideration	24,00,000	6,80,000
Less: Selling Expenses	**nil**	nil
	24,00,000	6,80,000
Less: Indexed Cost of acquisition(290000x331/105)	9,14,190	
Less: Indexed Cost of acquisition (18000x331/117)		50,923
Less: Indexed Cost of Improvement (70000x331/264)		87,765
Long-term capital Gain	14,85,810	5,41,312

Q 8 (100 E2) A Co. (a partnership firm) sells a commercial building on May 10, 2022 for Rs 20,47,500. From the data given below, find out the income under the head "Capital Gains" for the assessment year 2023-24

Cost of plot of land (acquired in 2004-05)	50,000
Cost of construction (incurred in 2005-06)	1,70,000
Cost of additional construction (incurred in 2009-10)	20,000
Expenditure on transfer	2,500

Answer—

Sales Consideration		20,47,500

Less: Selling Expenses		(2,500)
		20,45,000
Less: Indexed Cost of land (50,000x331/113)	1,46,460	
Less: Indexed Cost of Construction (1,70,000 x 331/117)	4,80,940	
Less: Indexed Cost of improvement (20,000x 331/148)	44,730	6,72,130
Long-term capital Gain		13,72,870

Q 9 (100 P3) X purchases a house property for Rs 26,000 on May 10, 1982. He gets the first floor of the house constructed in 1987-88 by spending Rs 40,000. He dies on September 12,1998. The property is transferred to Mrs X by his will. Mrs X spends Rs 30,000 and Rs 26,700 during 1999-00 and 2005-06 respectively for renewals/reconstruction of the property. Mrs X sells the house property for Rs 21,50,000 on March 15, 2023(brokerage paid by Mrs X is Rs 11,500). The fair market value of the house on 1.4.2001 is Rs 1,60,000.

Answer—

Sales Consideration		21,50,000
Less: Selling Expenses		(11,500)
		21,38,500
Less: Indexed Cost of Acquisition (1,60,000x 331/100)	5,29,600	
Less: Indexed Cost of Improvement (26700x 331/117)	75,536	(6,05,136)
Long-term capital Gain		15,33,364

COMPUTATIONS OF CAPITAL GAINS UNDER DIFFERENT SITUATIONS

Insurance Claim on destruction U/S 45(1A)

- If any person receives any money or other assets under an insurance from an insurer.
- on account of destruction of **any capital asset due to Flood, Typhoon, Cyclone**,Earthquake or Riot or Civil Disturbance or Accidental Fire or Explosion
- then any profit from receipt of such money shall be chargeable under this head and
- shall be deemed to be the income of such person of the previous year in which such money or asset was **received**and
- money received or FMV of the asset received, shall be deemed to be full consideration.

COMPUTATION OF CAPITAL GAIN OF

For the Assessment Year 2023-24

Particulars	Amount

Sales Consideration (**As amount of insurance claim received from the insurance company**)	Xxx
Less: Indexed Cost of Asset	
(Cost or FMV X CII of **Destruction year** CII of asset first held by the assessee	(xxx)
Less: Indexed Cost of Improvement	
Cost of Improvement X CII of Destruction Year CII of Improvement year	(xxx)
Long Term Capital Gain	Xxxx

Capital gain will be **taxable in the year of receipt of compensation**. But the **base of calculation of capital gain will be the year in which the loss has been occurred.**

Benefit of Indexation: Indexation will be given upto the year of Destruction or Damage.

Note: For Depreciable Assets—

- Compensation received shall be reduced from the WDV of the Block, and any surplus shall be chargeable as STCG and loss shall be treated as STCL.
- If some asset still exists in the Block and no surplus is available, then depreciation may be claimed on the balance.

Important Note—Compensation received from Insurance Company for loss of Stock-in-Tradeor Raw Material is**taxable under Profits and Gains of Business or Profession.**

Conversion of Capital Asset U/S 45(2)

- **Up to assessment year 1984-85**, conversion of capital asset by the assessee into stock into trade of his business was **not treated as a transfer** and no capital gain was taxable. In this case, **business profit will be the difference between the sale price and FMV on the date of conversion.**
- **Year of Chargeability**—Capital gains from conversion of capital asset into Stock-in-trade shall be charged to tax in the previous year in which **stock-in-trade is sold by assessee.**
- **Computation**—In the year of sale or transfer of stock, the income shall be computed in the following manner—

a) **Capital Gain==**FMV of Stock on the date of Conversion **Less** Cost/Indexed Cost of Acquisition

b) **Business Income==**Consideration received on sale **Less** FMV of Capital Asset on date of conversion.

- **Benefit of Indexation—**Indexation shall apply on the basis of the year in which conversion takes place.

Computation of Total Income of ……………………

For the Assessment Year 2023-24

Particulars		**Amount**
Business Income		
Sale Consideration	xxxx	
Less: **Cost as FMV on the date of Conversion** of Capital asset into stock in trade	(xxx)	Xxxx
Capital Gain		
Sale Consideration as FMV on the date of conversion of capital asset into stock in trade	xxxxx	
Less: Indexed Cost of Asset		xxxxx
Actual Cost of Asset X**CII of Conversion year**	(xxx)	
CII of asset first held by the assessee (i.e. Present owner)		
Gross Total Income		Xxxx
Less: Deduction U/s 80C		xxxxx
Total Income		**Xxxx**

Q 10 (P) —Ankit converts his plot of land purchased in June 10,2002 for Rs 70,000 into **Stock-in-Trade on May10, 2007**.. The Fair Market Value as on 10-05-2007 was Rs4,80,000. The Stock in Trade so converted was sold for Rs18,00,000 in the month **of January 2023**. Find out the taxable income if any.

Answer— **COMPUTATION OF TOTAL INCOME OF MR ANKIT**

For the Assessment year 2023-24

Particulars		**Amount**
Business Income		
Actual Sales Price	18,00,000	
Less: FMV on the date of conversion	(4,80,000)	13,20,000
Capital Gains		
Sales Consideration as **FMV on the date of conversion** =	4,80,000	
Less: Indexed Cost of Acquisition (70,000 X129/105)	(86,000)	

LTCG	3,94,000	3,94,000
Gross Total Income **Less**: Deduction u/s 80 CCC to 80 U		17,14,000 NIL
Total Income		17,14,0000

Q11X acquires a capital asset on 1.4.2006 for Rs 40,000. He converts the capital asset into stock in trade on 1.4.2011 (fair market value on the day of conversion: Rs 1,62,000). The stock in trade is sold by X on 10.3.2023 for Rs 5,86,000. Determine the amount of profit indicating separately business income and capital gains.
Answer—424000; 101672

Q12– A is the owner of a car. **On 1.4.2020**, he starts a business of purchase and sale of motor cars. He treats the above car as part of the stock in trade of his new business. He sells the same on **31.3.2023** and gets a profit of Rs 1 lakh. Discuss the tax implication.

Answer—Since car is a personal asset, conversion or treatment of the same as the stock-in-trade of his business will not be trapped by the provisions of section 45(2). Hence A is not liable to capital gains tax.

Q 13 —X converts his capital asset (**acquired on June 10, 2002 for Rs 60,000**) into stock-in-trade in **March 10, 2017**. The FMV on the date of the above conversion was Rs 5,50,000. He subsequently sells the stock-in-trade so converted for Rs 6,00,000**on June 10, 2022**. Discuss the tax implication.
Answer—

COMPUTATION OF TOTAL INCOME OF MR X
For the Assessment year 2023-24

Particulars		**Amount**
Business Income		
Actual Sales Price	6,00,000	
Less: FMV on the date of conversion	(5,50,000)	50,000
Capital Gains		
Sales Consideration as **FMV on the date of conversion** =	5,50,000	
Less: Indexed Cost of Acquisition		
(60,000 X 264/105)	(150857)	
LTCG	399143	399143
Gross Total Income		449143
Less: Deduction u/s 80 CCC to 80 U		NIL
Total Income		449143

Q 14 (M8)A converts his capital asset acquired for an amount of Rs 50,000 in June, 2003 into stock in trade in the month of November, 2016. The fair market value of the asset on the date of conversion is Rs 4,50,000. The stock in trade was sold for an amount of Rs 6,50,000 in the month of December, 2022. What will be the tax treatment?

Financial Year	CII
2003-04	109
2016-17	264
2022-23	331

Answer—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. PY 2016-17) but will be taxable only in the year in which the stock in trade is sold (i.e. PY 2022-23). Profits from business will also be taxable in the year of sale of the stock in trade (PY 2022-23).

The long term capital gains and business income for the AY 2023-24 are calculated as under:

Particular		Amount
Profit and gains from Business or Profession		
Sale Proceeds of the stock in trade	6,50,000	
Less: Cost of Stock in trade (FMV on the date of conversion)	4,50,000	2,00,000
Capital Gains		
Full value of Consideration (FMV on the date of conversion)	4,50,000	
Less: Indexed cost of acquisition (50,000 X264/109)	(1,21,101)	3,28,899

Note—For the purpose of indexation, the cost inflation index of the year in which the asset is converted into stock –in-trade should be considered.

Dematerialization Section 45(2A)

- Where any person had, at any time during previous year, any beneficial interest in any security.
- then any profits arising from transfer made by depository shall be chargeable to tax as income of beneficial owner of the previous year in which such transfer took place
- and COA and **period of holding shall be determined on the FIFO basis**.

Transfer of a Capital Asset by a Partner to firm Section 45(3)

- The capital gain from the **transfer of a capital asset** by a partner to firm, by way of capital contribution
- shall be chargeable to tax in the previous year in which such transfer takes place.
- The **amount recorded in the books of firm as value of capital asset**, shall be deemed to be sale consideration.

Particulars	Amount
Sales Consideration (As the **amount recorded** in the books of firm as capital contribution and not the FMV on the date of transfer)	xxxxxx
Less: Indexed Cost of Asset **Actual Cost of Asset X CII of Transfer year** **CII of Asset first held by the assessee**	(xxxxx)
LTCG	Xxxxx

Q 15—A is the **owner of a foreign car.** He starts a firm in which, he and his **two sons are partners**. As his capital contribution, he transfers the above car to the firm. The car had cost him Rs 2,00,000. The same is being introduced in the firm at a recorded value of **Rs 3,50,000**. Discuss.

Answer—Car is not capital asset because it is a personal effect. **Section 45(3),** as explained above, covers only cases of transfer of capital asset as contribution and **not personal effects**. Hence, the above transaction will **not be subject to capital gain tax**.

Q 16 (101.6P1)-X,Y, and Z form a partnership firm. Soon after formation of the firm. X brings a house property as his capital contribution on August 20,2022. On the date of transfer fair market value of the house is Rs 20,00,000. However, the amount recorded in the books of firm is Rs 18,00,000. The house was purchased by X in 2005-06 for Rs 2,50,000. Find out the amount of capital gain.

Answer—

Computation of Capital Gain of X
For the Assessment Year 2023-24

Particulars	Amount
Sales Consideration (As the **amount recorded** in the books of firm as capital contribution and not the FMV on the date of transfer)	18,00,000
Less: Indexed Cost of Asset (250000x331/117)	(7,07,265)
LTCG	10,92,735

Q 17(101.6E1) X and Y are two partners of a firm: A Co. On January 1, 2021, B joins the firm and brings shares in a company as his capital contribution. FMV of these shares on January 1, 2023 is Rs 86000, whereas amount credited in B's account in the firm is Rs 4,90,000. Assuming that cost of acquisition in 2003-04 of these shares is Rs 45,000, Find out the amount of chargeable capital gain for the **assessment year 2023-24**

Answer-

Computation of Capital Gain of B

For the Assessment Year 2023-24

Particulars	Amount
Sales Consideration (As the **amount recorded** in the books of firm as capital contribution and not the FMV on the date of transfer)	4,90,000
Less: Indexed Cost of Asset (45000x331/109)	(1,36,651)
LTCG	3,53,349

Dissolution of Firm Section 9B and 45(4)

Section 9B has been inserted and section 45(4) has been substituted by the Finance Act, 2021 to cover when money/capital asset/stock-in-trade are given by a firm to a partner at the time of dissolution or reconstitution of the firm.

In order to understand sections 9B and 45(4), a few definitions are relevant (which are given below)—

- **Specified entity**—For the purpose of sections 9B and 45(4), specified entity means a firm or other association of person or body of individuals (not being a company or a co-operative society).
- **Specified person**—Specified person means a person who is partner of a firm or member of other association of persons or body of individuals (not being a company or a co-operative society) in any previous year.
- **Reconstitution of specified entity**—"Reconstitution of specified entity" means, where—
  - ➢ One or more of its partners (or members) of such specified entity ceases to be partners (or members): or
  - ➢ 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
  - ➢ 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.

Income on receipt of capital asset or stock in trade by partner from firm u/s 9B—The provisions of section 9B are as follows—

- **Condition to invoke section 9B**—In connection with dissolution or reconstitution of specified entity, the specified entity gives capital asset/stock-in-trade to specified person (i.e. partner/member). In such a case, specified entity shall be deemed to have transferred such capital asset or stock-in-trade (or both) to the specified person.
- **Have and when income is taxable**—Such deemed income will be taxable in the previous year in which the capital asset/stock-in-trade are received by the specified person. It will

be taxable in the hands of specified entity as business income u/s 28(in the case of stock-in-trade) and as capital gains u/s 45(1)(in the case of capital asset). The fair market value of the capital asset/stock-in-trade on the date of 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.

Receipt of money or capital asset by partner from firm at the time of reconstitution of firm u/s 45(4)—Section 45(4) is applicable if a specified person (i.e. partner/member) receives during the previous year any money or capital asset for a specified entity (i.e. firm/AOP/BOI) in connection with the reconstitution of such specified entity. In such a case, any profits or gains arising from receipt of such money by the specified person shall be chargeable to income-tax in the hands of specified entity u/s 45(4) under the head "Capital Gains". It shall be deemed to be the income of such specified entity of the previous year in which such money or capital asset was received by the specified person.

- **Mode of computation of capital gain**—Capital gain u/s 45(4) shall be calculated as follows—

  $\boxed{A = B + C - D}$

  Where,

  A = income chargeable u/s 45(4) in the hands of 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 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 of the specified person in the books of account of the specified entity at the time of its reconstitution.

- **Important points—**
  1. If the value of "A" in the above formula is negative, its value shall be deemed to be zero.
  2. Balance in the capital account of the specified person in the books of account of the specified entity is to be calculated without taking into account the increase in the capital account of the specified person due to revaluation of any asset or due to self –generated goodwill or any other self-generated asset.
  3. "Reconstitution of specified entity" shall have the meaning given in section 9B.
  4. Consequential amendment is also made in section 48 to provide that in case of specified entity, the amount included in the total income of such specified entity u/s 45(4) which is attributable to the capital asset being transferred, shall be reduced from the full value of the consideration to compute income charged under the head "Capital Gains"
  5. For the purpose of this section, "self-generated goodwill" and "self-generated asset" mean goodwill/asset, which has been acquired without incurring any cost for

purchase or which has been generated during the course of the business or profession.

6. 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 section 45(4) shall operate in addition to the provisions of section 9B and tax liability under these provisions shall be worked out independently.

Compulsorily acquisition Section 45(5)

Chargeability	It is a transfer u/s 2(47) chargeable to tax under the head Capital Gains.
Nature of Transfer	a) **Compulsory Acquisition** under any law (or) b) Sale Consideration on transfer is determined or approved by Central Government or RBI
Taxability of Receipts	**A. Normal /Original Compensation u/s 45(5) (a)** • **Normal or Original Compensation** is taxable in the previous year in which it is <u>first received.</u> • **Whole of the compensation is taxable** even if a portion of the amount is received. • **Capital Gain**== Whole of the Normal Compensation **Less** Cost of Indexed cost of Acquisition. **Note:** **<u>Indexation shall be applied for the year in which the asset is compulsorily acquired.</u>** **B. Enhanced Compensation u/s 45(5) (b)** • Enhanced Compensation shall be **taxable** in the previous year in which it is **actually received**. • **Cost of Acquisition and Cost of improvement** shall be taken as NIL • **Capital Gain**==Enhanced Compensation received **Less** Expenses on Receipt of Enhanced Compensation.
Compensation received by Legal Heirs	**<u>Compensation received subsequent to the death of assessee</u>** is **taxable** in the hands of his legal heirs, under the head "Capital Gains'.
Reduction of Compensation	Where normal compensation/ enhanced compensation is **reduced** by Court or Tribunal, then the Capital Gain assessed in the year of receipt shall be re-computed accordingly **and rectification of assessment shall be made u/s 155.**

Note—Interest on Enhanced Compensation on account of compulsory acquisition, is taxable under the head **"Income from Other Sources".**

Q 19(101.8-E1) The Government of Kerla acquires a commercial building owned by X Ltd. on March **10, 2010.** Compensation is fixed by the Central Government. The Government awards Rs 14,00,000 as compensation in the first instance (out of which Rs 10,000 is received on **April 1, 2020** and the balance Rs 13,90,000 is received **on April 10, 2021**) (cost of acquisition on **May 5,2005;** Rs 6,70,000). On appeal of X Ltd. the Kerala High Court increased the compensation to Rs 16,25,000 (expenditure on court's preceding Rs 5000). The additional compensation of Rs 2,25,000 is received by X Ltd. on **May 6, 2022**. Find out the capital gains chargeable to tax for the assessment years 2010-11, 2021-22 and 2023-24.

Answer—

1) No capital gains had been charged to tax in the **previous year 2009-10.** When the asset is compulsory acquired by the Govt., then capital gain will be taxable in the year of 1st receipt of sale consideration and not in the year of purchase by the Govt. In the present case, 1st receipt has been received by the assessee in the **previous year 2019-20** and so it will be taxable in the **previous year 2020-21.**

2) **Computation of capital gain in the Assessment Year 2021-22**

Particulars	**Amount**
Sales Consideration	14,00,000
Less: Indexed Cost of Asset	
Actual Cost of Asset X CII of Transfer year / **CII of Asset first held by the assessee**	
(670000 X 148/117)	(847521)
LTCG	5,52,479

3) **Computation of capital gain in the Assessment Year 2023-24**

Particulars	**Amount**
Additional Compensation received	225000
Less: Legal Expenses	(5000)
LTCG	2,20,000

Q 20 (101.8-P1) The Central Govt. acquires a house property owned by X on October 17, 2015. This property was purchased on April 10, 2007 for Rs 3,00,000. The Central Govt. awards Rs 16,00,000 as compensation out of which Rs 1,00,000 is received on May 4, 2022 and Rs 15,00,000 is received on April 1, 2023. Expenditure incurred by X for getting compensation fixed: Rs 2000. Being aggrieved against the award, X files an appeal. The Bombay Court, as per order dated August 1, 2024, enhanced the compensation from Rs 16,00,000 to Rs 28,00,000 (legal expenditure incurred in Court's proceeding: Rs 10,000). X receives the additional compensation of Rs 12,00,000 on April 15, 2025. Compute the income under the head "Capital Gains". Does it make any difference if the additional is received by X's sons after the death of X?

Answer—

1) **Computation of capital gain in the Assessment Year 2024-25**

Particulars	**Amount**
Sales Consideration	16,00,000
Less: Expenses	(2000)
Net Consideration	15,98,000
Less: Indexed Cost of Asset	
Actual Cost of Asset X CII of Transfer year	
CII of Asset first held by the assessee	
(3,00,000 X 254/129)	(590,698)
LTCG	10,07,302

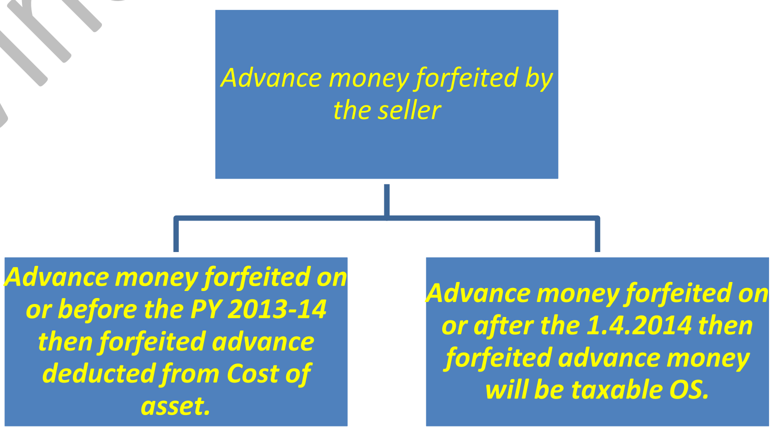
Computation of capital gain in the Assessment Year 2026-27

Particulars	**Amount**
Additional Compensation received	12,00,000
Less: Legal Expenses	(10,000)
LTCG	11,90,000

Note:-- If the additional compensation is received by X's son, it will be taxable in the hands of son.

Advance Money Forfeited u/s 51

Under the contract of immovable property, the seller has right to forfeit the advance money if the buyer fails to pay amount of sale consideration within a particular time period. The tax treatment on such forfeited advance money can be understood with the help of following flow chart.



1) **Advance money forfeited on or before the PY 2013-14**—If the seller forfeited the advance money during the previous year 2013-14 or in the earlier previous years then such forfeited amount of advance money will not taxable in the hands of such seller or

recipient. When such capital asset is transferred then forfeited amount will be deducted from the cost of asset or FMV or WDV for computing cost of acquisition. If such capital asset is not transferred then such forfeited amount will not be taxable in the hands of the seller. If advance money forfeited is more than the cost of acquisition, then such excess shall not be taxable. If such an **advance** was received and retained by **any previous owner**, then the same **shall not be deducted** from the cost of the asset.

2) **Advance money forfeited on or after the PY 2014-15**—If the seller forfeited the advance money on or after 1.4.2014 then such forfeited advance money will be taxable in the hands of such seller under the head Income from Other Sources. In that case, such forfeited advance money will not be deducted from the cost of capital assets at the time of sale of such capital asset.

> **If the forfeited advance money was received by the <u>assessee before 1-4-2001</u> and the assessee has assumed the FMV of the asset as on 1-4-2001 as the cost of acquisition, then such forfeited advance money shall also be deducted from the FMV**

Note—

1. Advance money **forfeited by previous owner must be ignored** but advance money received by **present owner must be considered** even such advance money has been forfeited by **him before 1.4.2001**.
2. **If the seller commits a default** and the purchaser **receives some compensation** besides the refund of the earnest money paid by him, then such compensation shall be **subject to capital gains** as it will amount to **relinquishment of a right** by the purchaser.

COMPUTATION OF CAPITAL GAIN OF
For the Assessment Year 2023-24

Particulars	**Amount**
Sales Consideration	Xxx
Less: Selling Expenses	<u>(xxx)</u>
Net consideration	xxxx
<u>Less: Indexed Cost of Asset</u>	
<u>(Cost or FMV ---**Advance money**) X CII of Transfer yr</u>	(xxx)
CII of asset **first held** by the assessee	
<u>Less: Indexed Cost of Improvement</u>	
<u>Cost of Improvement X CII of Transfer Year</u>	(xxx)
CII of Improvement year	
Long Term Capital Gain	Xxxx

Q21 (PM 19) (Advance money)—X Purchased a house property on **Dec 1993 for Rs 5,25,000** and an amount of Rs 1,75,000 was spent on improvement and repairs of the property in March, 1997. The property was proposed to be sold to Mr. Z in the month of May, 2006 and an advance of Rs 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, 2023 for Rs 52,00,000. The fair value of the property on 1.4.2001 was Rs 11,90,000. What is the capital gain chargeable in the hands of Mr X for the AY 2023-24?

Financial Year	Cost Inflation Index
2001-02	100
2006-07	122
2022-23	331

Answer— **COMPUTATION OF CAPITAL GAIN OF MR. A**

For the Assessment Year 2023-24

Particulars	Amount
Sales Consideration	52,00,000
Less: Indexed Cost of Acquisition (11,50,000 x 331/100)	(38,06,500)
Long Term Capital gains	13,93,500

Working Note—

1. **Computation of Indexed cost of acquisition**

Cost of acquisition (higher of fair market value as on 1.4.2001 and the cost of acquisition) **Less**: Advance taken and forfeited	11,90,000 (40,000)
Cost for the purpose of indexation	11,50,000
Indexed cost of acquisition (1150000 X 331/100)	38,06,500

2. **Any Improvement** cost incurred prior to 1.4.2001 is to be ignored.

Q22 (P) (sec 51) A house was purchased on 1.5.2004 for Rs 2 lakhs and was used as a residence by the owner. The owner had contracted to sell this property in June 2009 for Rs 8 lakhs and had received an advance of Rs 50,000 towards sale. The intending purchaser did not proceed with the transaction and the advance was forfeited by the owner. The property was sold in July 2022 for Rs 10,00,000. Compute the taxable capital gain.

Answer—Taxable LTCG Rs5,03,500 (2,00,000—50,000= 150000 X 331/100= 4,96,500)

Q23 (K)—Mr. S. Krishna received a **gift of a house in Nov. 2007 f**rom Mr. K Hegde who had **purchased it in Nov. 1997** for Rs 6,30,000. Mr. K. Hegde renovated the house in March 1998 at a cost of Rs 2,70,000. Its **FMV on 1.4.2001 was Rs10,00,000**. In 1989-90 Mr. K. Hegde had agreed to sell the house and had **received Rs 1,00,000 as advance money**. The sale could not materialize and advance money was forfeited. The house was further **renovated in 2010-11 at a cost of Rs 2,00,000.** Mr. Krishna sold the house in December 2022 for Rs35,60,000 and paid Rs 60,000 as brokerage. Compute his taxable capital gain.

Answer—

COMPUTATION OF CAPITAL GAIN OF MR. A

For the Assessment Year 2023-24

Particulars	Amount
Sales Consideration	52,00,000
Less: Indexed Cost of Acquisition (11,50,000 x 331/100)	(38,06,500)
Long Term Capital gains	13,93,500

Note—Advance forfeited by previous owner (means the person who makes the gift) must be fully ignored. **Improvement cost before 1.4.2001 must be ignored.**

Q 24(M18) Mr. K purchases a house property on April 10,1992 for Rs65000. The FMV of the house property on April 1, 2001 was Rs2,70,000. On August 31, 2003, Mr K enters into an agreement with Mr. J for sale of such property for Rs3,70,000 and received an amount of Rs 60,000 as advance. However, as Mr. J did not pay the balance amount, Mr K forfeited the advance. In May 2008, Mr K constructed the first floor by incurring a cost of Rs 235,000. Subsequently, in September 2009, Mr. K gifted the house to his friend Mr D. On February 10,2023, Mr D sold the house for Rs12,00,000. CII for FY 2003-04 109;2008-09: 137; 2009-10 148, 2021-22 331.

You are required to compute the capital gains taxable in the hands of Mr D for the assessment year 2023-24.

Answer—LTCG

Sales Consideration	12,00,000
Less: Indexed Cost (270000x331/148)	(6,03,851)
Less: Indexed Cost of improvement(235000x331/137)	(5,67,774)
LTCG	28,375

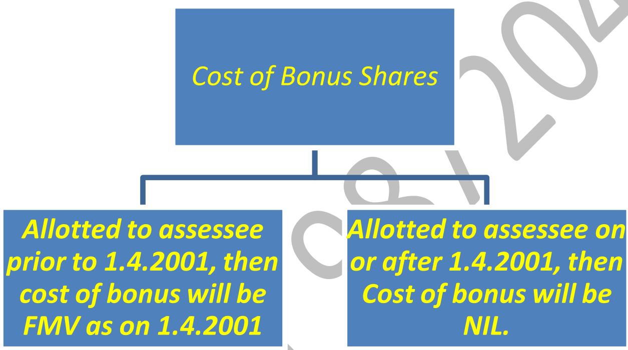
Note—Amount forfeited by previous owner, Mr K will not be considered.

COST OF ACQUISITION OF DIFFERENT TYPES OF SHARES

	Type of Share	Actual Cost of acquisition	POH
1.	**Original Shares**	Actual Payment	From Allotment/pur.
2.	**Bonus Shares**	**NIL**	**From Allotment**
3.	Right Shares purchased by the	Price paid to the company	From allotment

	original shareholder		
4.	Right offer sold	NIL	From offer
5.	Person purchasing such offer from original shareholder	Price paid to Seller+ price paid to company	From allotment
6.	**Securities under ESOP**	FMV on the date of allotment	From allotment
7.	Shares in resulting company	COA of shares in demerged company X Book Value of assets transferred in demerger /networth of demerged company (Net worth means paid up capital+reserves)	From allotment /purchase in demerged company
8.	Shares in demerged company	Original cost shall be reduced by the above amount	From allotment / purchase

Note—If **Bonus shares** are allotted to the **Assessee prior to 1.4.2001,** then **Fair Market Value as on 1.4.2001 will be treated as cost of acquisition for the Bonus shares.**



Q 25 (K)—Mr. Ashish is the investor in shares and held 1,000 shares of Rs 10 each in a company. **On 31st March, 2002 he** was **allotted 1,000 bonus shares** of the face value of Rs 10 each. The cost of acquisition of original shares was Rs 12 each. During the previous year ending **31st March, 2023** Mr. Ashish sold 500 shares out his bonus shares @ Rs 14 per share. Compute the capital gain for the assessment **year 2023-24**

Answer—

COMPUTATION OF CAPITAL GAIN
FOR THE ASSESSMENT YEAR 2023-24

Sales Consideration of Bonus shares (500X14)	7000
Less: Cost of Bonus Issue	NIL
Long Term Capital Gain	7000

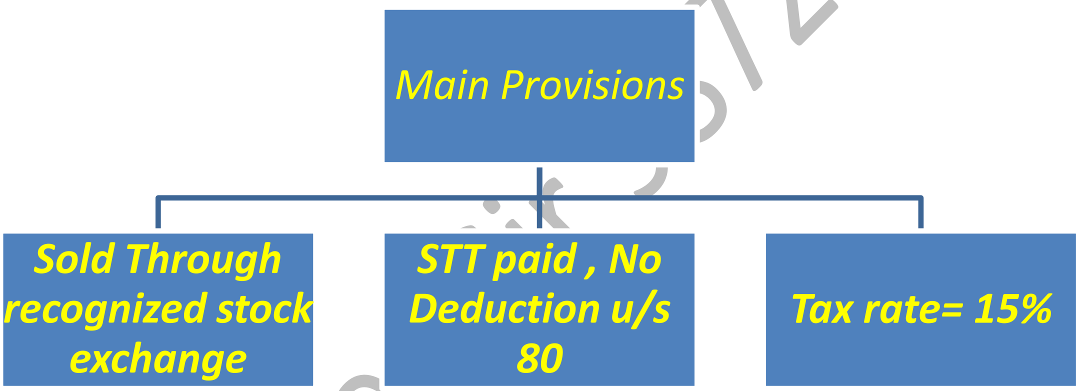
Buy Back of Shares u/s 46A

Question—What is the tax treatment / consequence for re-purchase or Buy Back of Shares or Specified Securities by a Company.

Answer—

- **Transfer—**Where a Shareholder receives any consideration from the Company for purchase of its own shares or other specified securities, it s transfer chargeable under the head Capital Gains.
- **Year of Taxability—**Such capital gain is chargeable to tax in the previous year in which the Shares or securities are purchased by the Company
- **Capital Gains==**Value of consideration Received **Less** Cost of Acquisition or Indexed Cost of Acquisition.
- **No Deemed Dividend—**In case of buyback of Shares, there is **no question of deemed dividend** u/s 2(22)(d)

Tax on STCG from listed equity shares Section 111A



Short Term Capital Gain from transfer of equity shares or units of equity-oriented mutual fund shall be taxable @ **15%** if:-

- They are sold **through recognized stock exchange**
- Security transaction tax is chargeable on such transactions

No deduction under chapter VI-A or deduction u/s 80 shall be allowed from such income. In other words, deduction u/s 80 will not be availed on such STCG.

Computation of capital gains in slump sale section 50B

- **Meaning--**Slump sale means **transfer of one or more undertaking** as a result of sale for a lump sum consideration **without determining the values of the individual assets and liabilities**

- **Short Term or Long Term**--Any profits from slump sale shall be chargeable as LTCG in the year of transfer, if undertaking is owned by the assessee for **more than 36 months** immediately preceding the date of transfer. However, **benefit of indexation is not available** in this case.Otherwise, it shall be STCG.

- **No Benefit of Indexation**—Benefit of Indexed Cost of Acquisition/Improvement is not available in computing LTCG.

- **Cost of Acquisition**—Shall be NIL, if whole of the expenditure has been allowed as deduction or it is allowable as deduction u/s **35AD (section of specified business)**.

- **Computation of Capital Gain—**

Step 1.	**Total Value of the Assets**==Depreciable Assets at WDV + Other Assets at Book Value (Any change on account of revaluation of assets shall not be consideration)
Step 2	**Net Worth**== Total Value of the Assets (Step 1) Less Liability taken over
Step 3	**Capital Gain**== Net Consideration **Less** Net Worth (Step 2)

- **Stamp Duty Value**—Determination of Value for Stamp Duty, Registration Fees, etc. shall not be regarded as assigning values to individual assets or liabilities.

- **Auditor's Report**--A report of Chartered Accountant in **Form 3CEA** is required to be furnished certifying that net worth has been computed correctly.

Q 26(IPCC N10 (Slump sale))—A is a proprietor of A Enterprises **having 2** units. He transfers on **April 1, 2020 Unit I** by way of slump sale for a **total consideration of Rs 25 lakh.** Unit 1 was started in the year 2004-05. The expenses incurred for this transfer are **Rs 28,000**. His balance sheet as on **March 31,2023** is as under---

Liabilities	**Amount**	**Assets**	**Unit 1**	**Unit 2**	**Total**
Own Capital	15,00,000	Building	12,00,000	2,00,000	14,00,000
Revaluation Reserve (**for building of Unit 1)**	3,00,000	Machinery	3,00,000	1,00,000	4,00,000
		Debtors	1,00,000	40,000	1,40,000
Bank Loan (**70% for Unit 1)**	2,00,000	Other assets	1,50,000	60,000	2,10,000
Trade Creditors (**25% for Unit 1)**	1,50,000				
	21,50,000		17,50,000	4,00,000	21,50,000

Other information---

a) Revaluation reserve is created by revising upward the value of the building of Unit 1.

b) **No individual value of any asset** is considered in the transfer deed.

c) Other assets of Unit 1 include **patents** acquired on **July 1,2020** for Rs 50,000 on which **no depreciation has been charged.**

Compute the capital gain chargeable to tax for the **assessment year 2023-24.**

Answer— **COMPUTATION OF CAPITAL GAIN OF MR A**

For the Assessment Year 2023-24

Particulars	Amount
Sales Consideration	25,00,000
Less: Selling expenses	(28,000)
Net Consideration	24,72,000
Less: **Net worth** of Unit 1	(12,50,625)
LTCG	12,21,375

Working Note—

1. **Computation of Net worth of Unit 1**

Building (12,00,000—3,00,000)	9,00,000
Machinery	3,00,000
Debtors	1,00,000
Other Assets (**excluding patents**)	1,00,000
Patents **(W note 2)**	28,125
Total	14,28,125
Less: Bank Loan (70% of Rs 2,00,000)	(1,40,000)
Less: Trade Creditors (25% of Rs 1,50,000)	(37,500)
Net Worth	12,50,625

2. **Calculation of w.d.v. of Patents**

Cost of Patent	=	50,000
Less: Depreciation @ 25%for the year **2020-21**	=	(12,500)
		37,500
Less: Depreciation @ 25% for the year **2021-22**		(9375)
W.D.V as on 1.4.2022		28,125

3. **Since** the unit is held for more than 36 months, capital gain arising would be long term capital gain. However, Indexation benefit is not available in case of slump sale.

Exemption on Compulsory acquisition of urban agricultural land Section 10 (37)

In the case of **individual or HUF**, any income from the **transfer of urban agricultural land**shall be **exempt if**—

1. Such land, was being used for agricultural purposes by such HUF or **individual or his parents**, during **two years immediately preceding the date of transfer** and

2. transfer is by way of **compulsory acquisition under any law.**

Q27(PE II, M06)—X is in possession of **agricultural land situated within urban limits**, which is **used** for **agricultural** purposes during the **preceding 3 years** by **his father**. On April 4, 2020 this land is **compulsorily acquired by the Government of India** on a compensation fixed and paid by it for Rs 10 lakh. **Advise X as to the tax consequences,** assuming that the entire amount is invested in purchase of shares.

Answer—LTCG on Urban Agricultural Land of X compulsorily acquired by Govt. of India is **fully exempted u/s 10(37)**. As per section 10(37), **LTCG or STCG** on compulsorily acquisition of urban agricultural land by govt. under any law is eligible for exemption provided such land must be used by the assessee for agricultural purposes **at-least two years** immediately preceding the date of transfer.

Liquidation of a Company Section 46

(1) **In the hands of 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.

(2) **In the hands of shareholders, capital gain of shares:-**Where a shareholder on the liquidation of a company receives any money or other assets from the company, he shall be chargeable to income tax under this head for such receipt and
Sale consideration of shares shall be FMV of assets on the date of distribution **less** deemed dividend u/s 2(22)(c).
While computing the **period of holding** of such shares the period **after the date of liquidation** shall not be taken

COMPUTATION OF CAPITAL GAIN

Particulars	Amount
Total Value Received (FMV of asset received on date of liquidation and amount received in cash) **Less: Deemed Dividend** u/s 2(22) (c) (i.e. shareholder's interest in accumulated profits on the date of liquidation)	Xxxxxx (xxxx)
Net consideration **Less:** Cost of Acquisition (**indexed cost, if any)**	Xxxxxx (xxx)
Capital Gain	Xxxxx

Capital gain on sale of asset received in liquidation:-

- The COA
- of the asset received in liquidation

- shall be its FMV on the date of distribution
- without deducting deemed dividend.

Computation of Capital Gain of <u>share/debentures</u> transfer by NRI Proviso 1 to section 48 and rule 115A

Where a **nonresident** transfers shares or debentures **(short term or long term)** of an Indian Company **(may be public Ltd or Private Ltd.)** then capital gain in this case will be calculated in the following manner: -

a) **Cost of acquisition** shall be **converted** into the **foreign currency,** which was initially utilized in the purchase of such shares/ debentures. For the **purpose of such a conversion,** average rate of telegraphic transfer buying and telegraphic transfer selling on the date of acquisition of such shares/ debentures shall be taken.

b) **Expenses of transfer** will also be converted into same foreign currency. For the purpose of conversion average rate of TT buying and selling, on the date of transfer, shall be taken.

c) **Full value of consideration shall also be converted** into same foreign currency. For the purpose of conversion, **average rate of TT buying and selling** on the date of transfer shall be taken.

d) Calculate Capital gain in the foreign currency

Particular	Amount
Sales Consideration (Total amount in Rs. / Average TT rate on the date of transfer	Xxxxx
Less: Selling Expenses (Total selling expenses in Indian Rs / Average TT rate on the date of transfer	(xxx)
Net Consideration	Xxxx
Less: Cost of Acquisition (Total cost in Indian Rupees / Average TT rate on the date of acquisition	(xxx)
LTCG or STCG in Convertible foreign exchange	Xxxx
LTCG in Indian Currency (LTCG in CFE X Buying rate at the time of sale)	**Xxx**

Average rate on the date of transfer = $\frac{\text{Buying rate on date of sale + S. rate on the date of sale}}{2}$

Note

1. **No indexation** of cost will be required in this case.
2. **Transferor** should be a **non- resident at the time of transfer**. Nonresident includes a foreign company also
3. This provision is **not applicable to the units of UTI**and mutual funds.
4. **Telegraphic transfer buying/selling rates** in relation to a foreign currency is the rate of exchange **adopted by SBI for** purchasing or selling such currency, where such currency is made available by that bank through telegraphic transfer.
5. The shares/debentures and bonds of Indian companies only are converted under this provision. Indian company include govt. company also. However, bonds of central/ state govt. and RBI are not covered for this purpose.
6. **If the shares and debentures are acquired by the non-resident in Indian currency,** then second proviso to **section 48 relating to indexation** will apply. (**Very important**)

Q 28 (K) Mr. S Sethi a **non-resident** sent $ 25,000 to India on **20th May 2009.** On **July 7, 2009** a part of this money was utilized to purchase 20000 shares of XY Ltd. an Indian company @ Rs 10 per share. On **1.11.2022** these shares were **sold @ Rs 40 per share**. Compute the capital gain if telegraphic transfer rates are as follows:--

	20-5-09 (for US $)	**7-7-09(for US $)**	**1-11-2022(for US $)**
Buying Rate	45	45.50	63.75
Selling Rate	46	46.60	64.75

Answer—

Calculate average exchange rate as on

	7-7-09	**1-11-22**
Buying Rate Selling Rate	45.50 46.60	63.75 64.75
TOTAL	92.10	128.50
Average Exchange Rate	92.10/2= 46.05	128.50/2= 64.25

Step 1 First calculate capital in the same foreign currency **in which such shares have purchased.**

Particulars	**$ Amount**
Sale price in the dollars by applying average exchange rate (20000 X 40/ 64.25) Less: Cost of acquisition in the dollars (20000 X 10 / 46.05)	12451.36 (4343.10)
LTCG in dollars	8,108.26

LTCG in Rupees = 8108.26 X 63.75 = 516902

Q29(K) Mr. Gaurav a non-resident sent $ 1,80,000 to India on **1.7.01. On 1.11.01 a** part of this money was utilized to purchase 15000 shares of A Ltd. an Indian Company @ Rs 400 per share. **On 15.3.2023** these shares were sold @ Rs810 per share. Compute the capital gain if telegraphic transfer rates are as follows:--

	1.7.01 (for US $)	**1.11.01(for US $)**	**15.3.2023(for US $)**
Buying Rate	36.40	36.80	61.80
Selling Rate	37.20	37.60	64.20

Answer—LTCG Rs1950830

Q 30 (101.9-E1) X, a non-resident, remits US $ 40,000 to India on April 4, 2007. This amount is partly utilized in purchasing the following assets on April 10,2007.

Assets	**Quantity**	**Amount**
Silver	10 k.g.	30,000
Shares in an Indian Company (non-listed)	2,000	24,000

X transfers these assets on June 10, 2022 for total consideration of Rs 8,70,000 (silver Rs 90,000; shares Rs 7,80,000). Find out the amount of capital gains chargeable to tax for the **assessment year 2023-24**, on the assumption that telegraphic transfer buying/selling rate of US dollar adopted by SBI is as follows: -

	Buying (1US $)	**Selling (1US $)**
April 10, 2007	57.50	58.10
June 10, 2022	68.30	69.10

Answer—

	Buying Rate	**Selling rate**	**Average Rate**
April 10, 2007	57.50	58.10	57.50+58.10/2=57.80
June 10, 2022	68.30	69.10	68.30+69.10=68.70

Computation of Capital Gain of X
For the Assessment Year 2023-24

Silver		
Sales Consideration	90,000	
Less: Indexed Cost of acquisition (30,000 X331/129)	(76,977)	
LTCG		13,023
Shares		
Sales Consideration (780000/68.70)	11353.71	
Less: Cost of acquisition (24000/57.80)	(415.22)	
LTCG in $	10938.49	
LTCG in Rupees (10938.49 X 68.30)	7,47,099	7,47,099
LTCG		7,67,099

Note-

1 The benefit of indexation is not available on the shares sold by Non-resident.

2 It is assumed that shares have not been sold through recognized stock exchange and STT has not be paid.

3 The benefit of indexation is not available on such shares.

Capital gain on conversion of debentures into shares Section 49 (2A)

When the company **converts its debentures into shares** of that company then the transactions is not considered as a transfer and therefore **no capital gain** is chargeable. However, when these **shares are actually transferred** then capital gain will arise and taxable in the previous year in which the shares are transferred. The **cost of acquisition of shares** will be equal to the **cost of debenture converted**. The date of acquisition of the shares shall be the date on which such debentures are allotted to the assessee. The benefit of indexation is available from the date of allotment of debentures.

Key Points

1	Cost of acquisition of debentures/bonds will become cost of acquisition of shares.
2	To find out whether shares are short-term or long term capital asset, the period of holding shall be counted from the date of allotment of debentures.
3	The benefit of indexation is available from the date of allotment of debentures.

Q 31(M13)—Mr. B purchased convertible debentures for Rs 4,00,000 during August 2002. The **debentures were converted into shares in September 2012**. These shares were sold for Rs 15,00,000 in August, 2022 The brokerage expenses is Rs 50,000. You are required to compute the capital gains in case of Mr. B for the assessment year **2023-24.**

Financial Year	Cost Inflation Index
2002-03	105
2012-13	200
2022-23	331

Answer—

Sales Consideration Less: Expenses on transfer i.e. brokerage paid	15,00,000 (50,000)
Net Consideration Less: Indexed cost of acquisition (4,00,000 X 331/105)	14,50,000 (12,60,952)
LTCG	1,89,048

Note—For determining the period of holding of a capital asset, being a share of a company, which becomes the property of the assessee by way of conversion of debentures of that company, the period for which the debenture was held by the assessee before conversion shall also be considered.

Capital Gain on conversion of preference shares into equity shares

When the company **converts its preference shares into equity shares** then it will be regarded as transfer and there will be **capital gain** to the shareholder on the date of allotment of equity shares. **Fair market value of equity shares on the date of allotment** will be considered as full consideration of such conversion for calculating capital gain.

Capital Gain on transfer of depreciable assets Section 50

1) **All the assets in the block are <u>not transferred</u> u/s 50(1) or when part of the assets of the block are sold.**

   Taxable only as Short-Term Capital Gain or depreciation may be claimed u/s 32.

   STCG shall be computed as under—

Particulars	Rupees
Consideration for Transfer	Xxx
Less: a) Expenses of transfer	Xxx
b) Opening WDV	Xxx
c) Actual cost of assets acquired during the previous year	Xxxx
Difference	**Xxxx**

   If the **difference is a profit**, it is taxable as **STCG,**Otherwise depreciation u/s 32 can be claimed on the balance.

2) **All Assets in the block are transferred u/s 50(2)**
   a) Same Procedure as above is adopted in computation.
   b) The **surplus/deficit is taxable as STCG/L** respectively.

Sale of Fully Depreciated Books: Books sold by the assessee on which he claimed 100% depreciation, then the whole amount realized shall **be treated as STCG.**

Q 32 (101.3 P1) X Ltd. owns two plants- A and B (depreciation rate: 15%, depreciated value of the block on April 1, 2022: Rs 8,16,000). On June 1, 2022, it purchases Plant C (old) (depreciation rate: 15%) for Rs 1,00,000. On November 5, 2022 it transfers Plant A for Rs 1,30,000 (expense on transfer: Rs 500). Plant A was purchased for Rs 45,000 in 2017. Find out the amount of depreciation and capital gain for the **assessment year 2023-24**.

Answer—

WDV of the block consisting Plant A and B on April 1, 2022	8,16,000
Add: Actual cost of Plant C (old) purchased during the previous year 2022-23	1,00,000

Less: Sale proceeds of Plant A transferred during the previous year 2022-23	9,16,000 (1,30,000)
WDV on 31.3.2023 **Less**: Depreciation (15% of Rs 7,86,000)	7,86,000 (1,17,900)
WDV as on 1.4.2023	6,68,100

Capital Gain on the transfer of Plant A—Capital gain in case of depreciated asset will arise only in that case, when sale price is more than the value of block of asset. In the given case, sale price is not more than value of block of asset; therefore there is no capital gain.

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

1. **Nature of Asset:** The assessee transfers **Land, or Building, or both.**
2. **Applicability—**Sale Consideration is **<u>less than the value adopted</u>** or assessed or assessable by the State Government Authority (**referred to as "Stamp Valuation Authority'**) for the purpose of payment of Stamp Duty.

<u>Note—</u>The word "**Assessable"** means the price which the Stamp Valuation Authority would have adopted or assessed, if it were referred to such authority for the purpose of the payments of Stamp Duty.

3. **Consideration adopted for Capital Gains—**

Cases	Value of Consideration for computing Capital Gain
(i)	**Stamp Duty Value would be the Full value of consideration**—Where the consideration received or accruing as a result of transfer of a capital asset, being land or building or both, is less than SDV, then such SDV will be considered as full value of consideration for such transfer. **Full value of consideration where the date of agreement and date of registration are not same**—If SDV is different at the time of agreement and date of registration, then SDV at the time of agreement will be considered as full value of consideration for such transfer. **Condition for taking Stamp Duty Value of date of agreement**—However, the SDV on the date of agreement can be adopted only in case where the amount of consideration, or part thereof, has been paid by way of an account payee or account payee draft or use of electronic clearing system through a bank account, on or before the date of agreement for the transfer of such immovable property. However, where the **SDV does not exceed 110% of the sale consideration received**, and then consideration so received shall be deemed to be the full value of

	consideration.
(ii)	**Reference to Valuation officer: Where** • The assessee claims before an assessing officer that the value so adopted or assessed or assessable by the authority for payment of stamp duty exceeds the fair market value of the property as on the date of transfer and • the value so adopted or assessed or assessable by such authority has not been disputed in any appeal or revision or no reference has been made before any other authority, court or High Court • the AO may refer the valuation of the capital asset to Valuation Officer
(iii)	**Where the value ascertained by such Valuation Officer exceeds the value adopted or assessed or assessable by the Stamp Authority**—The value adopted or assessed or assessable shall be taken as the full value of consideration received or accruing as a result of transfer. In other words, Stamp Duty Value will be considered as full value o consideration for calculating capital gain.

Q33 (SM 17) Mr Dinesh received a vacant site as gift from his friend in November 2005. The site was acquired by his friend for Rs 7,00,000 in April 2002. Dinesh constructed a residential building during the year 2010-11 in the said site for Rs 15,00,000. He carried out some further extension of construction in the year 2012-13 for Rs 5,00,000.

Dinesh sold the residential building for Rs 55,00,000 in January 2021 but the State stamp valuation authority adopted Rs 65,00,000 as value for the purpose of stamp duty.

Compute his long-term capital gain, for the assessment year 2023-24 based on the above information. The cost inflation indices are as follows:-

Financial Year	Cost inflation index
2002-03	105
2005-06	117
2010-11	167
2012-13	200
2022-23	331

Answer—

Particulars	Details	Amount
Full value of consideration		65,00,000
Less: Indexed cost of acquisition –Land (7,00,000 X 331/117)	19,80,342	
Less: Indexed cost of acquisition-Building (15,00,000 x 331/167)	29,73,054	
Less: Indexed cost of improvement –building (5,00,000 x 331/200)	8,27,500	(57,80,896)
LTCG		7,19,104

Note—U/s 50C, where the consideration received or accruing as a result of transfer of a capital asset, being land or building or both, is less than the value adopted by the Stamp Valuation Authority, such value adopted by the Stamp Valuation Authority shall be deemed to be the full value of consideration received or accruing as a result of transfer. Accordingly, full value of consideration will be Rs 65 lakhs in this case since the **stamp duty value exceeds 110%** of the sales consideration.

Q34(**101.18-P3**)– X owns a piece of land situated in Noida (date of acquisition: March 1, 2004, **cost of acquisition; Rs68,263,** value adopted by the **Stamp duty authority at the time of purchase: Rs 85,000)**. On **March 30, 2023** the piece of land is **transferred for Rs 4 lakh.**

Find out the capital gains chargeable to tax in the **following situations:**

1. The value adopted by Stamp duty authority is Rs 5.5 lakh. X **does not dispute** it.

2. The value adopted by the Stamp duty authority is Rs 5.75 lakh. X **files an appeal** under the Stamp Act and Stamp duty valuation has been **reduced to Rs 4.90 lakh by the Allahabad High Court.**

3. The value adopted by the Stamp duty authority is Rs 5.60 lakh. X does **not challenge** it under the Stamp Act. However, he **claims before the AO** that Rs 5.60 lakh is more than the FMV of the land. The AO refers it to the **valuation officer who determines Rs 5.25 lakhs** as FMV.

4. In situation (3), Suppose the **value adopted by the valuation officer** is Rs 6.10 lakh.

Answer—

COMPUTATION OF CAPITAL GAIN OF MR. X

For the Assessment Year 2023-24

Particulars	**(1)**	**(2)**	**(3)**	**(4)**
Sales Consideration **Less:** Indexed Cost of Acquisition (73382 x331/109)	5,50,000 (2,22,839)	4,90,000 (2,22,839)	5,25,000 (2,22,839)	5,60,000 (2,22,839)
LTCG	3,27,161	2,67,161	3,02,161	3,37,161

Note—Value adopted by the Stamp duty authority at the time of purchase cannot be taken as cost of acquisition.

SPECIAL PROVISON FOR FULL VALUE OF CONSIDERATION FOR TRANSFER OF UNLISTED SHARES U/S 50CA

If consideration received on the transfer of unlisted shares is less than the fair market value of such unlisted shares, then **fair market value of such unlisted shares** will be considered as full value of consideration u/s 50CA.

FAIR MARKET VALUE OF THE CAPITAL ASSET ON THE DATE OF TRANSFER TO BE TAKEN AS SALE CONSIDERATION, IN CASES WHERE THE CONSIDERATION IS NOT DETERMINABLE U/S 50D

Where consideration received on the transfer of any capital assets other than stated u/s 50C and 50CA is not ascertainable, then fair value of such capital asset on the date of transfer will be taken as full value of consideration.

SUMMARY OF SECTION 50C, 50CA AND 50D

	Capital Asset	Section	Circumstances		Deemed Full value of consideration
1.	Land or Building or both	50C	(1)	If consideration received or accruing as result of transfer <Stamp duty value	Stamp Duty Value
				(a) If date of agreement is different from the date of transfer and whole or part of the consideration is received by way of account payee cheque or bank draft or ECS on or before the date of agreement.	SDV on the date of agreement
				(b) If date of agreement is different from the date of transfer but the whole or part of the consideration has not been received by way of account payee cheque or bank draft or ECS on or before the date of agreement	SDV on the date of transfer
				However, if the SDV does not exceed 105% of the sale consideration received.	Consideration so received.
				(c) If SDV has been adopted as full value of consideration, and subsequently the value is revised in any appeal	Value so revised in such appeal or revision

				or revision	
2.	**Unquoted Shares**	50CA		If consideration received or accruing as a result of transfer <FMV of such share determined in the prescribed manner.	FMV of such share determined in the prescribed manner
3	**Any Capital asset**	50D		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.

Reference to valuation officer Section 55A

Under the following circumstances the **AO may refer the valuation of the Capital Asset to the Valuation Officer,** with a View to ascertaining the FMV of such Capital Asset, and his valuation report shall be binding on the AO-

1. Where the value of asset is estimated by the Registered Valuer but the AO is of the opinion that the **value so determined is less than its FMV.**
2. In any other case, the AO is of the opinion that—
   a) The FMV of the asset exceeds the value of the assets declared by the assessee either by **more than 15% or by Rs 25000 (Rule 111AA) or**
   b) The nature of the asset and other relevant circumstances are such that, it is necessary to do so.

Capital gain on sale of goodwill of a business/trademark or brand name/tenancy rights/stage carriage permits or loom hours, right to manufacture or right to carry on any business

Capital gain arises on the transfer of above assets is to be computed in the following manner;-

a) **<u>When these assets are purchased from a previous owner</u>** then cost of acquisition shall be the price paid for acquiring these assets. **Capital gain = Sale Price – Cost of acquisition. E.g.** If a purchases a stage carriage permit from B for Rs 2 lacs, that will be the cost of acquisition for A.

b) **When these assets have self-generated by the assessee** then cost of acquisition of such asset will take as nil. Therefore, **full sale price of theses asset will be treated as capital gain**.

c) **When these assets are acquired by the assessee on account of gift, will** etc. then cost of acquisition shall be taken as nil. Therefore, full sale price of these asset will be treated as taxable capital gain. If the previous owner had purchased the asset from someone then cost of acquisition will be the cost to the previous owner.

Cost of improvement in case of goodwill etc.

a) **Cost of improvement in case of goodwill** of a business (whether self-generated or purchased) and right to manufacture, produce or process any article or thing, shall always be taken as **nil.**

b) **Cost of improvement for other four assets** shall be taken as actual expenditure incurred. It is immaterial whether such asset has self-generated or purchased.

- **Goodwill of profession is not to be included** in the coverage of capital gain.
- **Option to take F.M.V. as on 1.4.2001 is not available regarding goodwill, trade mark** or brand name, right to manufacture, produce, tenancy rights, right to carry on any business, route permits, loom hours **whether such assets are purchased or self-generated.**

Q 35 (12M)—On **January 31, 2023**, Mr. A has transferred self-generated **goodwill of his profession** for a **sale consideration of Rs 70,000** and incurred expenses of Rs 5,000 for such transfer. You are required to compute the capital gains chargeable to tax in the hands of Mr. A for the A.Y. **2023-24**

Answer—The transfer of self-generated goodwill of profession is **not chargeable** to tax. Hence, there are no taxable capital gains.

Q36(101.10 E1) X Ltd. sells the following assets **on March 31, 2023:**

	Sale Consideration	Cost	FMV on April,01
Brand name of business (acquired in **2003-04**)	185,000	10,000	----
Tenancy rights	1,05,000	Nil (Self Acquired)	64,000

Determine the amount of capital gain chargeable to tax.

Answer—

Computation of Capital Gain of X Ltd.
For the Assessment year 2023-24

	Brand Name	Tenancy Right	Total

Sale Consideration	1,85,000	105000	290000
Less: Indexed Cost	(30,367) (10000X331/109)	NIL	30,367
LTCG	1,54,633	105000	2,59,633

Note—

1. **In Case of Self-generated assets, Cost of acquisition is to be taken as NIL.**

Q 37(101.10-P1) X transfers the following assets on May 15, 2022:

	Cost	FMV on 1.4.2001	Sales Consideration
Land (acquired in 1968)	20,000	45,000	6,85,000
Goodwill of a business (self-generated)	--	10,000	1,75,000
Tenancy rights (self-generated)	--	30,000	2,00,000

Determine the amount of capital gains chargeable to tax for the **assessment year 2023-24**. Does it make any difference if the goodwill of a profession?

Answer—

	Land	Goodwill	Tenancy Right
Sales Consideration Less: Indexed Cost (45,000x331/100)	6,85,000 (1,48,950)	1,75,000 NIL	2,00,000 NIL
LTCG	5,36,050	1,75,000	2,00,000

Note—The benefit of FMV are not available for goodwill and Tenancy Right.

EXEMTPTION FROM CAPITAL GAINS

1. **Profit on sale of Residential House Property U/S 54**

Applicability	**Individual /HUF**
Asset Transferred	**Residential House Property**
Nature of the Asset	**Long Term** Capital Asset
New Asset to be acquired or constructed	**Only one Residential House Property in India**
Amount to be invested in New Asset	Long Term Capital Gain on Transfer
Amount of Exemption	**Least of** : a) Amount invested in New Residential House, or b) Long term Capital Gain
Time Limit for investment	• **For Purchase** –Within **one year before** or **two years after** the date of transfer • **For Construction**—within **three years** after the date of

	transfer. • **In case of compulsory acquisition**—time limits shall be determined from the date of receipt of compensation
Unutilized Amount	• If the amount is **not utilized** before within the time limit u/s 139(**i.e. on or before the filing of due date of return**), then the amount shall be kept in Capital Gain Account Scheme of a Nationalized Bank or IDBI within the time limit u/s 139(1) i.e. on or before the due date **of filing return of income i.e. 31stjuly or 30thsept**. • The amount should be utilized within the prescribed period. • Amount **not utilized** within the prescribed period shall be treated as LTCG of the previous year in which prescribed period expires.
Holding Period of New Asset	**Three Years** from the date of acquisition or construction.
Sale of New Asset within holding period	If the new asset is transferred within 3 years of its acquisition, exemption will be taken back. For calculating capital gain on transfer of new asset, cost of acquisition will be calculated as (original cost of acquisition—exemption availed u/s 54)
Special Provision	**Where the amount of capital gain exceeds Rs 2 Crore**— Where the amount of capital gain exceeds Rs 2 Crore, one residential house in India 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. **Where the amount of capital gain does not exceed Rs 2 Crore—** Where the amount of capital gain does not exceed Rs 2 Crore, the assesse, the assesse i.e. individual or HUF, may at the option, • Purchase **two residential houses** in India within 1 year before or 2 years after the date of transfer (or) • Construct two residential houses in India within a period of 3 years after the date of transfer. However, this concession is available only once in lifetime.
	Where during any assessment 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 or any other assessment year. This implies that if an assessee has availed the option of claiming benefit of section 54 in respect of purchase of two residential houses in Jaipur and Jodhpur, say, in respect of capital gain of Rs

	1.50 crores arising from transfer of residential house at Bombay in the PY 2022-23 then, he will not be entitled to avail the benefit of section 54 again in respect of purchase of two residential houses in, say, Pune and Baroda, in respect of capital gains of Rs 1.20 crores arising from transfer of residential house in Jaipur in the P.Y. 2025-26, even though the capital gains arising on transfer of the residential house at Jaipur does not exceed Rs 2 crore.

Note—

1) Assessee may sell two house properties and he may purchase one house property for the purpose of availing the exemption.
2) Construction of the residential house should be completed within 3 years from the date of transfer. Date of commencement of construction is irrelevant. Construction may be commenced even before the transfer of house.
3) Investment in residential house would not only include cost of purchase of house but also cost incurred for making house habitable.
4) **Purchase of tenancy right in a building, does not amount to purchase of a house property and exemption u/s 54 is not available.**
5) Holding of legal title is not necessary. If the taxpayer pays full consideration or substantial portion of it (in terms of the purchase agreement) within the period given above, the exemption u/s 54 is available. This rule is applicable even if possession is handed over after the stipulated period or the sale deed is registered later on.

Provision illustrated:--

Quantum of exemption u/s 54 –

- If cost of new residential house equal to or more than the capital gains, then the entire capital gain will be exempted.
- If cost of new residential house is less than the capital gains, capital gains to the extent of cost of new residential house will be exempted.

Example—1 If the capital gain is Rs 5 lakhs and the cost of the new house is Rs 7 lakhs, then the entire capital gains of Rs 5 Lakhs is exempt.

Example—2 If the capital gain is Rs 5 Lakhs and the cost of new house is Rs 3 lakhs, the capital gains is exempt only uptoRs 3 lakhs. Balance Rs 2 lakhs is taxable @ 20%.

Consequences of transfer of new asset before 3 years

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

Continuing example 1, if the new house was sold after 21 months for Rs 8 lakhs, then short term capital gain chargeable to tax would be –

Net consideration	8,00,000
Less: Cost of acquisition –capital gains exempt earlier (700000—500000)	2,00,000

Short term capital gains	6,00,000

Q 38 (ILL 24) Mr. Cee purchased a residential house on July 20,2018 for Rs 10,00,000 and made some additions to the house incurring Rs 2,00,000 in August,2018. He sold the house property in April 2022 for Rs 20,00,000. Out of the sale proceeds, he spent Rs 5,00,000 to purchase another house property in September 2022.

What is the amount of capital gains taxable in the hands of Mr. Cee for the AY 2023-24.

Answer—

The house is sold before 24 months from the date of purchase. Hence, the house is a short term capital asset and no benefit of indexation would be available.

Sale consideration Less: Cost of acquisition Less: cost of improvement	20,00,000 (10,00,000) (2,00,000)
Short term capital gain	8,00,000

Note—The exemption of capital gains u/s 54 is available only in case of long-term capital asset. As the house is short term capital asset, Mr. Cee cannot claim exemption u/s 54. Thus, the amount of taxable short-term capital gains is Rs 8,00,000.

Q 39 (15PM) (Advance money forfeited and exemption 54) —Compute the net taxable capital gains of Mrs. X on the basis of the following information:

A house was purchased on **1.5.2007** for Rs 4,50,000 and was used as a residence by the owner. The owner had contracted to sell this property in **1.6.2011** for Rs 10 lakh and had received advance **money of Rs 70,000 towards sale.** The Intending purchaser did not proceed with the transaction and advance **was forfeited** by the owner. The property was sold in **April** 2022 for Rs 16,00,000. The owner, from out of sale proceeds, invested Rs 3 Lakh in a new residential house in **January 2023**.

Cost Inflation Index: FY. 2007-08—129; FY 2022-23– 331

Answer—

Sales Consideration Less: Selling Expenses	16,00,000 (------)
Net Consideration **Less:** Indexed Cost of Acquisition (4,50,000—70000=380000 X 331/129)	16,00,000 (9,75,038)
LTCG **Less: Exemption u/s 54**	6,24,962 3,00,000
NET LTCG	3,24,962

Note—

1. Advance money forfeited by owner **must be deducted** from cost of acquisition of the asset. Therefore, Rs 7000 forfeited by Mrs. X has been

deducted from the cost of Rs 4,50,000, then after deducting advance Rs 3,80,000 has been indexed.

2. As per section 54, the assessee can avail the exemption by investing LTCG in the new residential house property.

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2. Long term capital gain on transfer of any capital asset other than residential house property not to be charged in case of investment in Residential house property U/S 54F

Applicability	**Individual /HUF**
Asset Transferred	Any LTCA **other than Residential House Property**
Nature of the Asset	**Long Term** Capital Asset
Condition	On the date of transfer of the LTCA, the Assessee should **not ownmore than one Residential House Property**
New Asset to be acquired	**Only one Residential** House Property situated in India
Amount to be invested in New Asset	**Net Consideration** on earlier asset transferred
Amount of Exemption	**LTCG X Amount invested in RHP** **Net Consideration**
Time Limit for investment	• **For Purchase** –Within **one year before** or **two years** after the date of transfer or • **For Construction**—Within **three years** after the date of transfer.
Unutilized Amount	• If the amount is **not utilized before within the** time limit u/s **139,** then the amount shall be kept in Capital Gain Account Scheme of a Nationalized Bank within the time limit u/s 139(1) • The amount should be utilized within the prescribed period. **Taxable LTCG on Non-Utilization of Deposit==** **LTCG X Amount not utilized** **Net Consideration**
Holding Period of New Asset	**Three Years** from the date of acquisition or construction.
Sale of New Asset within holding period	• STCG on New Asset shall be taxed separately. • **LTCG exempted u/s 54F** shall be chargeable to tax as LTCG

	in the year of transfer.
Not to purchase any other residential house	The assessee **should not—** • **Purchase any other residential house** within a period of **two year or** • **construct any other residential house** within **3 years** from the date of transfer of the original asset. **Consequences where the assesses purchases, within a period of two years of the transfer of the original asset or constructs, within a period of 3 years of transfer of original asset,** a residential house other than the new house—then **capital gain exempt earlier u/s 54F shall be treated as LTCG** of the previous year in which the **second house is bought/constructed**.

Note—Transfer of plot of land is also eligible for exemption.

Q 40 (M26) From the following particulars, compute the taxable capital gains of Mr. D for the **AY 2023-24.**

Cost of Jewellery (Purchased in FY 2004-05)	4,52,000
Sale Price of Jewellery sold in January 2023	14,50,000
Expenses on transfer	7,000
Residential house purchased in March 2023	5,00,000

Answer- **Computation of Capital Gain For the AY 2023-24**

Particulars	**Amount**
Sales Consideration Less: Selling Expenses	14,50,000 (7000)
Net Consideration Less: Indexed Cost of acquisition (452000X331/113)	14,43,000 (13,24,000)
 Less: Exemption u/s 54F (119000X5,00,000/1443000)	1,19,000 (41,233)
Taxable Long Term Capital Gains	77,767

Q 41 (K11) (54F)Mr. Harshit submits the following particulars about sale of assets during **the year 2022-23.**

	Jewellery Rs	**Plot Rs**	**Gold Rs**
Sale price	5,00,000	25,74,000	2,50,000
Expenses on sale	NIL	24,000	NIL
Cost of acquisition	150,000	7,00,000	80,000
Year of acquisition	2007-08	2004-05	2009-10
C.I.I	129	113	148

He has purchased a house for Rs 12,00,000 on 1.3.2023. Calculate the amount of taxable capital gain.

Answer—

Particulars	Jewellery	Plot	Gold
Sale Consideration Less: Expenses on Transfer	5,00,000 NIL	25,74,000 (24000)	2,50,000 NIL
Net consideration **Less: Indexed Cost of acquisition** **Jewellery (150,000 X 331/129)** **Plot (7,00,000 X 331/113)** **Gold (80,000 X 331/148)**	5,00,000 (3,84,884)	22,50,000 (20,50,442)	2,50,000 (1,78,919)
LTCG (A)	1,15,116	1,99,558	71,081
(LTCG/ Net Consideration) X 100	23.023%	8.87%	28.43%
Rank of claiming exemption u/s 54F	2	3	1
Amount of investment in house out of Net consideration	5,00,000	4,50,000	2,50,000
Less: Exemption u/s 54F (Amt Invested X LTCG / Net Consideration) (B)	1,15,116	39,916	71,081
Taxable LTCG (A—B)	**NIL**	**1,59,642**	**NIL**

3. Capital Gain on Transfer of Land used for Agricultural purposes u/s 54B

Applicability	**Individual and HUF**
Asset Transferred	**Urban Agricultural Land** used for agriculture **by him or by his parents** for two years immediately prior to the date of transfer
Nature of the Asset	**Long** Term or **Short** Term Capital Asset
New Asset to be acquired	Agricultural Land (may be in rural area or urban area)
Amount to be invested in New Asset	Capital Gain on Transfer
Amount of Exemption	**Least of:** • Amount invested in New Agricultural Land, or • Capital Gain
Time Limit for investment	Within **Two Years** from the date of transfer

Unutilized Amount	a) If the amount is not utilized before within the time limit u/s 139, then the amount shall be kept in Capital Gain Account Scheme of a nationalized bank within the time limit u/s 139(1) b) The amount should be utilized within the prescribed period. c) Amount not utilized within the prescribed period shall be treated as ST or LTCG, of the previous year in which prescribed period expires.
Holding Period of New Asset	**Three Years** from the date of acquisition
Sale of New Asset within holding period	If the new asset is transferred within 3 years of its acquisition, exemption will be taken back. For calculating capital gain on transfer of new asset, cost of acquisition will be calculated as (original cost of acquisition—exemption availed u/s 54B)

Q 42 (103.2P1) X sells agricultural land situated within the municipal limits of Calcutta for Rs 50,00,000 (stamp duty value as per circle rate : Rs 3875000) on July 4,2022 which was purchased by him on March 1, 2007 for Rs14,12,093. On July 15, 2023, he purchases agricultural land in rural area for Rs 4,30,000 and deposits Rs 10,80,000 in a deposit account for availing exemption u/s 54B. He purchases another agricultural land (situated within the limits of Delhi Municipal Corporation) on June 30, 2024 for Rs 847000 by withdrawing from the deposit account. Amount left in deposit account is withdrawn on July 10, 2024. The agricultural land in rural area is transferred on April 1, 2025 for Rs 4,90,000 and the land in Delhi is transferred on July 17, 2025 for Rs 8,70,000. Determine the amount of capital gains.

Answer—

COMPUTATION OF TOTAL INCOME OF X

For the Assessment Year 2023-24

Capital Gain Sales consideration Less: **Indexed Cost** of acquisition (14,12,093 x 331/122)	55,00,000 (38,31,170)
LTCG Less: Exemption u/s **54B** **Cost of agricultural land purchased in Rural area** **Amt deposited in the deposit scheme**	16,68,830 (4,30,000) (10,80,000)
Taxable LTCG for AY 2023-24	158830

Computation of Taxable LTCG of X for the AY 2024-25

Capital Gain Amount deposited in the deposit account Less: Amt utilized in purchasing agricultural land upto July	 10,80,000 (8,47,000)

3,2022	
Taxable LTCG for AY 2024-25	2,33,000

(Capital gain in the year of sale of new agricultural land)

Computation of Taxable CG of X for the AY 2025-26

	Agricultural land in **rural** area	Agricultural land in **urban** area
Sale proceeds of New Agricultural Land Less: Cost of acquisition after deduction of the amount of exemption u/s 54B	4,90,000 NIL	8,70,000 NIL
STCG	Not taxable	8,70,000

4. Capital Gain on Compulsory Acquisition of Land & Building u/s 54D

Applicability	**Any taxpayer**
Asset Transferred	Land and Building used by an Industrial undertaking which is compulsory acquired and such land and building were used for business purpose during the **two years** before the date of transfer.
Nature of the Asset	**Long** Term or **Short-Term** Capital Asset
New Asset to be acquired	Land and Building for Industrial Purpose.
Amount to be invested in New Asset	Capital Gain on Transfer
Amount of Exemption	**Least of** : • Amount invested in New Land and Building, or • Capital Gain
Time Limit for investment	Within **Three Years** from the date of receipt of compensation
Unutilized Amount	a) If the amount is **not utilized before within** the time limit u/s **139,** then the amount shall be kept in Capital Gain Account Scheme of a nationalized bank within the **time limit u/s 139(1)** b) The amount should be **utilized within the prescribed period**. c) **Amount not utilized** within the prescribed period shall be treated as **CG** of the previous year in which **prescribed period expires.**
Holding Period of New Asset	**Three Years** from the date of acquisition or construction
Sale of New Asset within	If the new asset is transferred within 3 years of its

holding period	acquisition, exemption will be taken back. For calculating capital gain on transfer of new asset, cost of acquisition will be calculated as (original cost of acquisition—exemption availed u/s 54D)

Q43(M17)—PQR Ltd., purchased a building for industrial undertaking **in May 2003,** at a cost of Rs 4,00,000. The above property was **compulsorily acquired by the State Govt**. at a compensation of Rs 15,00,000 in the month **of January, 2019**. The compensation was received **in March, 2023**. The company purchased another building for its industrial undertaking at a cost of Rs 2,00,000 in the month **of March, 2023**. What is the amount of the capital gains chargeable to tax in the hands of the company for the **AY 2023-24?**

Financial Year	CII
2003-04	109
2018-19	280
2022-23	331

Answer—

COMPUTATION OF CAPITAL GAIN OF MR PQR LTD FOR THE AY 2023-24

Sales Consideration (Compensation received) **Less:** Selling Expenses	15,00,000 (NIL)
Net Consideration **Less:** Indexed Cost of Acquisition (4,00,000 X 280/109)	15,00,000 (10,27,523)
Less: Exemption u/s 54D (cost of acquisition of new undertaking)	4,72,477 (2,00,000)
Taxable long-term capital gain	2,72,477

5. Capital Gain on the transfer of Long-term capital asset i.e Land or building or both not to be charged on investment in certain Bonds u/s 54EC

Applicability	**All Assessees**
Asset Transferred	Long Term Capital Asset (**being land or building or both**) (may be residential or commercial, may be situated in India or outside India)
New Asset to be acquired	Bonds **redeemable after 5 years** issued by National Highway Authority of India (NHAI) or Rural Electrification Corporation Limited (RECL) or notified bonds.
Amount to be invested in New Asset	LTG on Transfer. **Maximum amount** that **can be invested** by the assessee during any Financial Year is **Rs 50 Lakhs.** **Note—**Investment u/s 54EC in the year of transfer or subsequent

	financial year cannot exceed Rs 50 Lakhs.
Amount of Exemption	Least of : • Amount invested in Bonds, or • Long Term Capital Gain
Time Limit for investment	Within **Six Months** from the date of transfer
Holding Period of New Asset	**Five Years** from the date of acquisition. The assessee should not transfer or **convert or avail loan or advance** on the security of such bonds during the Holding period.
Sale of New Asset within holding Period	Long term capital gain already exempted u/s 54EC shall be charged as LTCG of the assessee in the year of sale or creation of charge on the New Asset.

Q44 (KQ 7) Mr. Avtar Singh purchased a plot in **2002-03** for Rs 4,00,000. It was sold on **15.1.2023** for Rs 19,80,000 and he paid Rs 20,000 as brokerage charges. He invested Rs 2,00,000 in Bonds of National Highway Authority of India on **31.3.2023** and Rs 3,10,000 in bonds issued by Rural Electrification Corporation Ltd. on **1.6.2023.**

Compute the taxable amount of capital gain if CII for 2002-03 was 105 and 2022-23 is 331.

Answer—

COMPUTATION OF CAPITAL GAIN OF AVTAR SINGH FOR THE AY 2023-24

Sales Consideration **Less:** Selling Expenses		19,80,000 (20,000)
Net Consideration **Less:** Indexed Cost of Acquisition (4,00,000 X 331/105)		19,60,000 (12,60,952)
LTCG **Less: Exemption u/s 54EC** Amt invested in NHAI Amt invested in Rural Electrification	 2,00,000 3,10,000	6,99,048 (5,10,000)
Taxable long-term capital gain		1,89,048

Q 45 (M 11) (P) (section 54EC)— Mr. Chand transferred a vacant **site on 28.10.2022** for Rs 100 lakhs. The site was acquired for Rs 9,99,300 on **30.6.2001**. He deposited Rs 50 lakhs in eligible bonds issued **by REC** on **20.3.2023.** Again, he deposited Rs 20 Lakhs in eligible Bonds issued by NHAI on **16.4.2023.** Compute the chargeable capital gain in the hands of Chand for the **A. Y. 2023-24**

Answer – **COMPUTATION OF CAPITAL GAIN**

Particulars	**Amount**
Sales Consideration **Less:** Selling expenses	100,00,000 NIL
Net Consideration **Less:** Indexed Cost of acquisition (9,99,300 X 331/100)	100,00,000 (33,07,683)
LTCG **Less: Exemption u/s 54 EC**	66,92,317 (50,00,000)

Net LTCG	16,92,317

Note—Mr Chand has invested Rs 50,00,000 in REC and Rs 20,00,000 in NHAI with 6 months from the date of sale of eligible asset. But the exemption cannot be exceed Rs 50,00,000 in total.

6. Exemption of Long-Term Capital gains on investment in notified units of a specified fund u/s 54EE—

Applicability	**All Assesse**
Asset Transferred	Any Long-Term Capital Asset
New Asset to be acquired	Units of a specified fund issued on or after 01.4.2016
Amount to be invested in units of a specified Fund	LTG on Transfer. **Maximum amount** that **can be invested** by the assessee during any Financial Year is **Rs 50 Lakhs.**
Amount of Exemption	Least of : • Amount invested in Bonds, or • Long Term Capital Gain
Time Limit for investment	Within **Six Months** from the date of transfer
Holding Period of New Asset	**Three Years** from the date of acquisition. The assessee should not transfer or **convert or avail loan or advance** on the security of such bonds during the Holding period.
Sale of New Asset within holding Period	Long term capital gain already exempted u/s 54EE shall be charged as LTCG of the assessee in the year of sale or creation of charge on the such specified assets.

7.Exemption of capital gains on transfer of asset of shifting of Industrial undertaking from urban area to any other area (non-urban area) u/s 54G

Applicability	**All Assessees**
Asset Transferred	Land and Building, Plant and Machinery used by Industrial undertaking and shifting of such undertaking from Urban Area to non-urban area.
Nature of the Asset	Short term or Long-term Capital Asset.
New Asset to be acquired	Land, Building, Plant and Machinery for Industrial Undertaking in Non-urban area or to meet the expenses of shifting
Amount to be invested	Capital Gain on Transfer.
Amount of Exemption	**Least of –** a) Amt invested in L & B or P & M, or b) Capital Gain.

Time Limit for investment	Within **one year prior** to the date of transfer or **within three years after** the date of transfer.
Unutilized Amount	a) If the amount **not utilized before the due date of filing return** shall be kept in **Capital Gain Account Scheme** of a Nationalized Bank. **b)** The amount should be **utilized within the prescribed period.** c) **Amount not utilized** within the prescribed period shall be treated as **LTCG or STCG** (It will be depended upon the capital gain on the original transfer) of the previous year in which the prescribed **period expires**
Holding period of New Asset	**Three years** from the date of acquisition.
Sale of New Asset within holding period	Short-Term Capital Gain computed as follows- Sale consideration of New Asset xxx **Less:** Cost of Acquisition **less** Capital gain exempted U/s 54G (xx) xxx

Note—Investment in Furniture does not qualify for exemption u/s 54G.

8. Exemption of capital gain on transfer of assets of shifting of industrial undertaking from urban area to any Special Economic Zone u/s 54GA

Applicability	**All Assessees**
Asset Transferred	• Land and Building, Plant and Machinery or any right in Land or Building used by Industrial undertaking • Transfer as a result of shifting of such undertaking from Urban Area to Special Economic Zone (which may be situated in Urban or Any other area)
Nature of the Asset	**Short term or Long-term Capital Asset.**
New Asset to be acquired	1) Plant and Machinery for use in the undertaking in the SEZ 2) Acquired Land and Acquired/Constructed Building for purpose of business in SEZ. 3) Shifted the undertaking to the SEZ. 4) Expenses incurred for such purposes as specified by under the Scheme by the Central Govt. is also eligible for claiming exemption.
Amount to be invested	Capital Gain on Transfer.
Amount of Exemption	**Least of –** • Amt invested in **L & B or any P & M** and expenses incurred in relation to transfer; or • Capital Gain.

Time Limit for investment	Within **One year prior to the date** of transfer or **within three years after** the date of transfer.
Unutilized Amount	• If the amount **not utilized before the due date** of filing return shall be kept in **Capital Gain Account Scheme** of a Nationalized Bank. • The amount should be **utilized within the prescribed period**. • The amount **not utilized within** the prescribed period shall be treated as **Short term or LTCG of the previous year** in which the prescribed **period expires.**
Holding Period of New Asset	**Three years from the date of acquisition**
Sale of New Asset within holding period	Short Term Capital Gain computed as follows: Sale Consideration of New Asset xxxxx **Less**: (Cost of Acquisition Less Capital Gains exempted u/s 54GA) (xxx)

9.Exemption of LTCG on transfer of residential property if the sale consideration is used for subscription in equity of a new start-up manufacturing Small and Medium Enterprises (SME) company to be used for purchase of new plant and machinery u/s 54GB---The National Manufacturing Policy (NMP) was announced by the **Govt. in 2011** to encourage investment in the **SME segment** (Small and Medium Enterprises) in the manufacturing sector**.**

Applicability	Individual and HUF only
Asset Transferred	Long Term Residential Property (house or plot of land) if transfer takes place during 1-4-2012 and March 31,2017
Nature of the Asset	Long Term only
Amount to be invested	Net sale consideration in the equity shares of an eligible company being a newly incorporated SME company. Such company must be utilized such money for the purchase of Plant and Machinery.
Amount of Exemption	$\frac{\text{LTCG X Amt invested in new P \& M or deposit in specified bank}}{\text{Net Consideration}}$
Time Limit for investment	**Net consideration should be invested** before the due date of furnishing of return of income u/s 139(1) for subscription in equity shares of the eligible company.

	Such eligible company must to be used such amount in purchase of **P & M within one year from the date of subscription** in the equity shares. If the amount **is not utilized for the purchase of P&M** before the due date of filing the return by individual or HUF, then such unutilized amount shall be deposited in an account with any specified bank or institution before such due date of filing return of income. The return of income should be accompanied by the proof of such deposit.
Use of deposited amount	The said amount is to be utilized in accordance with any scheme which may be notified by the CG in the official gazette. Such deposited must be utilized within **one year from the date of subscription in the equity shares**. If amount is not utilized within one year then it will be the taxable capital gain u/s 45.
Uses of amount of share capital by the company	The amount of net consideration utilized by the company for purchase of new plant and machinery and the amount deposited in the bank will be deemed to be the cost of new plant and machinery for the purpose of computation of CG in the hands of individual or HUF.
Lock in Period	• Eligible company must **not sell the new plant and machinery** within **a period of five years** from the date of acquisition. • Similarly, individual/HUF must not sell the equity shares within a period of five year from the date of acquisition of new P&M. • If any of the above sold or transferred new P&M or shares, then earlier exempted capital gains will be taxable. • These are safeguards to restrict the transfer of the shares of the company and the P & M for a period of 5 years to prevent diversion of these funds.

Note

1	New Plant and machinery do not include— a) **Old machinery** which was used either within or outside India by any other person. b) Any machinery **installed in any office premises** or any residential accommodation c) Any office appliances including **computers or computer** software. **d) Any Vehicles or** e) Any machinery, the whole of the actual cost of which is allowed as a deduction,

	whether by way of depreciation or otherwise, in computing the income chargeable under the head "Business Income" of any previous year.
2	**Eligible company u/s 54GB the company should be—** 1. **incorporated in the financial year in which the capital gain arises** or in the following year on or before the due date of filing return of income by the individual or HUF. 2. engaged in the business of **manufacture** of an article or thing; 3. a company in which the individual or HUF **holds more than 50% of the shares** capital or 50% of the voting rights, after the subscription in shares by the individual or HUF; and 4. a company which qualifies to be a Small or Medium Enterprise (SME) under the Micro, Small and Medium Enterprises Development Act, 2006 i.e. investment in the **equipment is more than Rs 25 lakhs but less than Rs 10 crore**.

10.Extension of time limit for acquiring new asset or depositing or investing amount of capital gain, in case of compulsory acquisition u/s 54H

- **Initial Compensation—**If initial compensation is **received in parts**, then the **entire initial compensation is taxable** in the **year** in which **a part is first received.** Time Limit for acquiring the **new asset** u/s 54, 54B, 54D, 54EC and 54F shall be determined on the basis of **dates of receipt of different parts** of initial compensation.
- **Enhanced Compensation---**If any **enhanced compensation is received**, it is taxable in the **year in which such compensation is received** and for acquiring the new asset u/s 54, 54B, 54D, 54EC and 54F, the time limit shall be determined from the date of receipt of additional (enhanced) compensation.

Important points—

1. The **unutilized deposit amount** in the Capital gains account scheme, 1988 **in the case of an individual who dies before the expiry** of the two/three years stipulated period u/s 54,54B,54D, 54F and 54G **cannot be taxed** in the hands of the **deceased**. This amount is **not taxable in the hands of legal heirs** also.

2.Under all the above sections, if the **amount deposited in Capital gains accounts Scheme is not utilized** within the prescribed time **it will be taxed in the previous year in which the prescribed period expires** as capital gains. And nature of capital gains shall be same as the nature of original capital gain.

TAX ON SHORT-TERM CAPITAL GAINS ON TRANSFER OF EQUITY SHARES IN A COMPANY

OR UNITS OF AN EQUITY ORIENTED FUND U/S 111A

Where the total income of an assessee**includes the short-term capital gains arising from the transfer of equity shares** in a company or units of an equity-oriented fund, then tax on **STCG** will be **charged @ 15%+ surcharge+ Health &Education cess @4%** if the following **conditions** are satisfied.

a) The equity shares or units of an equity-oriented fund are **short-term capital asset**.
b) The transaction of sale of such asset is entered **into on or after 1-10-2004.**
c) Such transaction is chargeable to **Securities Transaction Tax.**
d) Such equity shares are **transferred through a recognized stock exchange** or such units are transferred through a recognized stock exchange or sold to the mutual fund.

Other provisions

a) **Total income excluding STCG u/s 111A is below basic exemption:** In case of a **resident assessee**who is an **individual or HUF**, if the **total income** before considering the short term capital gains is **less than the basic exemptions**, then the tax on short-term capital gain shall be computed as follows:

Tax on STCG u/s 111A = 15% of (Total income including STCG -- Basic exemption)

b) **No deduction u/s 80C to 80U** will be allowed in respect of aforesaid **STCG u/s 111A**.

OR

SHORT TERM CAPITAL GAIN TAX IN RESPECT OF EQUITY SHARES/UNITS OF AN EQUITY ORIENTED MUTUAL FUND U/S 111A

1) **Concessional rate of tax in respect of STCG on transfer of certain assets**—This section provides for a concessional rate of tax i.e 15% on the Short-Term Capital Gains on the transfer of
   - An equity shares in a company or
   - A unit of an equity oriented mutual fund
2) **Conditions**—Such transactions should be chargeable to securities transaction tax (STT) under the said chapter.
   However, short term capital gains arising from transactions undertaken in foreign currency on a recognized stock exchange located in a International Financial Service Centre (IFSC) would be taxable at a concessional rate of 15% even though STT is not leviable in respect of such transaction.
3) **Adjustment of unexhausted Basic Exemption Limit**—In case of resident individuals or HUF, if the basic exemption is not fully exhausted by any other income, then the Short term Capital Gain will be reduced by unexhausted basic exemption limit and only the

balance would be taxed @ 15%. However, the benefit of availing the basic exemption limit is not available in case of non-residents.

4) **No deduction under Chapter VI-A against STCG taxable u/s 111A**—Deductions under Chapter VI-A cannot be availed in respect of such STCG on equity shares of a company or units of equity oriented mutual fund included in the total income of the assessee.

TAXON LONG TERM CAPITAL GAINS FROM LISTED SECURITIES

W.e.f. assessment year 2000-01, the tax payable by the assessee on **LTCG from securities listed on any recognized stock exchange in India or units of UTI or mutual funds u/s 10(23D)** shall be minimum of the following two amounts.

1. **Tax @ 20% on long-term capital gains computed after indexation** of cost of such shares, securities or units

2. **Tax @ 10% on long-term capital gains computed without indexation** of cost

Listed Securities here means shares, bonds, debentures, other marketable securities.

TAX ON LONG TERM CAPITAL GAINS ON CERTAIN ASSETS U/S 112A

1) **Concessional rate of tax in respect of LTCG on transfer of certain assets**—Rate of tax @ 10% on LTCG exceeding Rs 1,00,000 on transfer of –
   - an equity shares in a company
   - a unit of an equity-oriented fund or
   - a unit of a business trust.
2) **Conditions**: The conditions for availing the benefit of this concessional rate 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.
3) **Adjustment of unexhausted Basic Exemption Limit**—In case of resident individuals or HUF, if the basic exemption is not fully exhausted by any other income, then such long-term capital gain exceeding Rs 1 lakh will be reduced by the unexhausted basic exemption limit and only the balance would be taxed at 10%.
4) **No deduction u/s 80 against LTCG taxable u/s 112A**:--Deduction u/s 80 cannot be availed in respect of such long term capital gain on equity shares of a company or units of an equity oriented mutual fund or unit of business trust included in the total income of the assessee.

5) **No benefit of rebate u/s 87A against LTCG taxable u/s 112A**—Rebate u/s 87A is not available in respect of tax payable @ 10% on LTCG u/s 112A.

COST OF ACQISITION FOR ASSETS ACQUIRED ON OR BEFORE 31.1.2018—

Cost of acquisition of Listed equity shares or units of equity oriented mutual fund or a unit of business trust covered u/s 112A

Higher of Step 1 & 2	
Step-1	Cost of acquisition
Step-2	Lower of a) FMV as on 31.1.2018 xx b) Sales Value i.e. Full value of consideration xx

Example—From following information compute capital gain

Case	**1**	**2**	**3**	**4**	**5**
Cost of acquisition 16.9.2017	410	710	900	800	30
FMV on 31.1.2018	730	780	300	1000	100
Selling price on 10.12.2018	760	650	910	825	400
COMPUTATION OF CAPITAL GAIN					
FVOC	760	650	910	825	400
Less: Selling Expenses	--	--	--	--	--
Net Consideration	760	650	910	825	400
Less: COA	730	710	900	825	100
LTCG u/s 112A	30	(60)	10	--	300

Examples

Case 1 – An equity share is acquired on 1st of January, 2017 at Rs 100, its fair market value is Rs 200 on 31st of January, 2018 and it is sold on 1st of April, 2020 at Rs 250. As the actual cost of acquisition is less than the fair market value as on 31st January, 2018, the fair market value of Rs 200 will be taken as the cost of acquisition and the long-term capital gain will be Rs 50 (Rs 250-Rs 200).

Case 2—An equity share is acquired on 1st of January, 2017 at Rs 100, its fair market value is Rs 200 on 31st of January, 2018 and it is sold on 1st of April, 2020 at Rs 150. In this case, the actual cost of acquisition is less than the fair market value as on 31st January, 2018. However, the sale value is also less than the fair market value as on 31st January, 2018. Accordingly, the sale value of Rs 150 will be taken as cost of acquisition and the long-term capital gain will be NIL (Rs 150—Rs 150).

Case 3—An equity share is acquired on 1st of January, 2017 at Rs 100, its fair market value is Rs 50 on 31.1.2018 and it is sold on 1.4.2020 at Rs 150. In this case, the fair market value as on 31.1.2018 is less than the actual cost of acquisition, and therefore, the actual cost of Rs 100 will be taken as actual cost of acquisition and the long-term capital gain will be Rs 50 (Rs 150-Rs 100).

Case 4—An equity share is acquired on 1st of January, 2017 at Rs 100, its fair market value is Rs 200 on 31.1.2018 and it is sold on 1.4.2020 at Rs 50. In this case, the actual cost of acquisition is less than fair market value as on 31.1.2018. The sale value is less than the fair market value as on 31.1.2018 and also the actual cost of acquisition. Therefore, the actual cost of Rs 100 will be taken as the cost of acquisition in this case. Hence, the long term capital loss will be Rs 50 (Rs 50—Rs 100) in this case.

Q Whether the cost of acquisition will be inflation indexed?

Answer—The benefit of inflation indexation of the cost of acquisition would not be available for computing long-term capital gains under the new tax regime.

Q What will be the tax treatment of transfer made on or after 1.4.2018?

Answer—The long-term capital gains exceeding Rs 1 lakh arising from transfer of these assets made on after 1.4.2018 will be taxed at 10%.

Q What is the date from which the holding period will be counted?

Answer—The holding period will be counted from the date of acquisition.

Q What will be the cost of acquisition in the case of bonus shares acquired before 1st February 2018?

Answer—Fair market value of the bonus shares as on 31.1.2018 will be taken as cost of acquisition.

Q What will be the cost of acquisition in the case of right share acquired before 1.2.2018?

Answer—Fair market value of the right share as on 31.1.2018 will be taken as cost of acquisition.

Golden Rules

- **Deductions** U/S 80C to 80U is **not allowed** from **long-term capital gain and STCG** covered u/s **111A and LTCG covered u/s 112A.**
- Where the **total income of the resident individual and resident HUF**, as reduced by LTCG, is **below the maximum amount** which is not chargeable to tax, then such **long-term capital gains shall be reduced by the amount by which such total income (exclusive of long term capital gains) falls short of the exemption limit** and tax on the balance capital gain shall be computed @ 20%. **E.g.** the income of X for the **previous year 2022-23**, without long-term capital gains is Rs185,000 and long-term capital gains are Rs 70,000. In this case, the total income (**excluding long-term capital gain)** is Rs185,000 whereas the maximum exemption limit on which no tax is payable is Rs2,50,000 (and Rs300000 in case of a senior citizen) for **assessment year 2023-24.** Therefore, Rs 65,000 will be reduced from the long-term capital gain of Rs 70,000, to claim the full exemption of Rs 250,000. The tax at the rate of **20% shall** be payable on balance long-term capital gain i.e. Rs 5,000 (Rs 70,000-Rs 65,000)

- For computing tax on long term capital gain, non-resident individual/HUFarenot **eligible** for the **benefit of slab of Rs.250000** as is available for resident individual/HUF as per note given above. **E.g.** If in case of a non-resident, the long-term capital gain during the year is Rs 80000 and income from all other sources is Rs210000, then entireRs 80000 i.e. long-term capital gain, shall be charged to tax @ 20% + surcharge **if applicable** and the tax on balance income shall be nil as it is less than Rs 250000.

If consideration of asset transferred is to be received in installments in different years then entire value of consideration has to be taken into account for computing the capital gains in the year of transfer.

Practice Questions

Q 46 (104.1-E1) On April 1, 2018, X (**63 years**), a resident individual, owns **two house** properties at Agra apart from investment in gold. During the previous year **2022-23** X sells the following assets:

	Gold	Residential house property at Agra
Date of sale	July 10, 2020	June 15, 2020
Date of purchase	June 9, 2004	May 17, 2008
Sale consideration Cost of acquisition	12,40,000 3,30,000	36,00,000 14,00,000

Income of X from other sources (including property income) is Rs17,56,000.

Assuming that X makes the following investments during the previous year **2022-23**, find out the Capital Gain of X for the assessment year **2023-24:**

a) Purchase of a residential house property Rs 6,22,000
b) Deposit in the public provident fund account Rs 1,50,000

Answer— **Computation of Capital Gain of Mr X**

For the assessment Year 2023-24

	Gold	Residential house property at Agra
Sales Consideration Less: Indexed cost of acquisition	12,40,000 (9,66,637) (330000 X 331/113)	36,00,000 (3382482) (14,00,000X331/137)
LTCG **Less:** Exemption u/s 54 Less: Exemption u/s 54 F	2,73,363 NA 89,170	2,17,518 2,17,518 NA

(273363X404482/1240000)		
Taxable LTCG	184193	NIL

COMPUTATION OF TOTAL INCOME OF X FOR THE AY 2023-24

Capital Gain (LTCG) Income from Other sources (including property income)	184193 17,56,000
GTI Less: Deduction u/s 80C (PPF)	1940193 1,50,000
Total Income	1790193

Computation of Tax Liability

Tax on LTCG (184193 X 20%)		36983
Tax on income other than LTCG (1606000)		
Upto 3,00,000	NIL	
3,00,000 to 5,00,000 @ 5%	10,000	
5,00,000 to 10,00,000 @ 20%	1,00,000	
10,00,000 to 16,06,000 @ 30%	1,81,800	2,91,800
		328783
Add: Cess @ 4% (328783X 4%)		13151
Total Tax		341930

Q 47 (101.5-P1)X converts his capital asset (acquired on June 10, 2002 for Rs 70,000) into stock in trade on May 10, 2007 (fair market value: Rs 4,80,000) and subsequently sells the stock-in-trade so converted for Rs 18,00,000 on July 20, 2022. Determine the amount of business income and capital gain.

Answer—

Business Income (1800000-480000) (Sale value—FMV on the date of conversion)		13,20,000
Capital Gain Sales Value(FMV on the date of conversion) Less: Indexed cost (70000x129/105)	 4,80,000 (86,000)	 3,94,000

Q 48 (101.5 E1)X acquires a capital asset on April 1, 2006 for Rs 40,000. He converts the capital asset into stock-in-trade on April 1, 2011 (fair market value on the day of conversion: Rs 1,62,000). The stock in trade is sold by X on March 10, 2023 for Rs 5,86,000. Determine the amount of chargeable profit indicating separately business income and capital gains.

Answer—Business Income 424000 and **Capital gain**101672

Business Income (5,86,000-162000) (Sale value—FMV on the date of conversion)		4,24,000
Capital Gain Sales Value(FMV on the date of conversion) Less: Indexed cost (40000x184/122)	 1,62,000 (60,328)	 1,01,672

Q 49(101.6-P1) X, Y and Z form a partnership firm. Soon after formation of the firm, X brings a house property as his capital contribution on August 20, 2022. On the date of transfer fair market value of the house is Rs 20,00,000. However, the amount recorded in the books of firm is Rs 18,00,000. The house was purchased by X in 2005-06 for Rs 2,50,000. Find out the amount of capital gain.

Answer—

Sales Consideration (Amount credited in his capital a/c)	18,00,000

Less: Indexed Cost of acquisition (250000x331/117)	(7,07,265)
LTCG	10,92,735

Q 50 (101.6-E1) X and Y are two partners of a firm: A Co. On January 1, 2023, B Joins the firm and brings shares in a company as his capital contribution. Fair market value of these shares on January 1, 2023 is Rs 86,000 whereas amount credited in B's account in the firm is Rs 4,90,000. Assuming that cost of acquisition in 2003-04 of these shares is Rs 45,000, Find out the amount of chargeable capital gain for the assessment year 2023-24.
Answer –

Sales Consideration **Less: Indexed Cost (45000x331/109)**	**4,90,000** **(1,36,651)**
LTCG	**3.53.349**

Q 51 (103.5 P5) During the previous year 2022-23, X sells the following assets—

	Commercial Property	**Gold**	**Non-listed shares**	**Diamonds**
Date of sale	January 3, 2023	December 17, 2022	March 3, 2023	March 15, 2023
Year of acquisition	2002-03	2003-04	2007-08	2001-02
Sales Consideration	7,00,000	4,00,000	8,90,000	7,80,000
Indexed Cost of acquisition	3,05,000	1,05,172	6,97,534	1,68,593

X owns one residential house property. On April 3, 2023 he invests in the following assets—
1. Residential house property: Rs 2,15,000
2. Bonds of National Highways Authority of India (maturity period : 4 years) : Rs 3,70,000
3. Bonds of Rural electrification corpn. (redeemable after 7 years) : Rs 7,80,000.

Find out the income chargeable to tax under the head "capital gains" after giving maximum permissible exemption under different sections.
Answer—LTCG 395000; 294828; 192466; 611407; Taxable LTCG 930172(54EC= 3,95,000; nil; nil; nil) (54F NIL,NIL, NIL, 168529) Taxable LTCG 930172

	Commercial Property	**Gold**	**Non-listed Shares**	**Diamonds**
Sales Consideration Less: Indexed Cost of acquisition	7,00,000 (3,05,000)	4,00,000 (1,05,172)	8,90,000 (6,97,534)	7,80,000 (1,68,593)
LTCG	3,95,000	2,94,828	1,92,466	6,11,407
% of LTCG on net consideration	56.43%	72.80%	21.62%	78.38%
Exemption u/s 54EC	3,95,000	--	--	--
Exemption u/s 54F	-	-	-	1,68,529
Taxable LTCG	-	2,94,828	1,92,466	4,42,878

Note—54EC is available only for LTCG from immovable property.

Q 52 (105-P10) During the previous year 2022-23, X (40 years) transfers unlisted debentures for Rs 14,00,000 and residential house property for Rs 8,00,000. These two assets were purchased in 2008-09 and indexed cost of acquisition is Rs 9,07,427 (debentures) and Rs 4,72,913 (house property). These figures have been calculated by X using cost inflation index of 2008-09 (i.e. 137) and 2022-23 (i.e. 331). Apart from these two assets, X owns 3 residential flats in Mumbai. To avail the benefit of exemption X purchases a residential flats in Chennai on March 1, 2023 for Rs 10,00,000. Calculate capital gain.

Answer- In the case of debentures, indexation benefit is not available, even if the asset is long-term capital asset. From the indexed cost of acquisition given in the problem, one will have to find out cost of acquisition by reverse calculation. It will come to Rs 3,75,582 (i.e., Rs 9,07,427 x 137/331). X owns more than one residential properties and, consequently, he is not eligible for any exemption u/s 54F. However, he can claim exemption u/s 54.

	Debentures	House
Full value of consideration Less: Indexed cost of acquisition	14,00,000	8,00,000 (4,72,913)

Less: Cost of acquisition	(3,75,582)	
Long term Capital Gain Less: Exemption u/s 54	10,24,418	3,27,087 3,27,087
Long-term capital gain chargeable to tax	10,24,418	NIL

HE WHO HAS A PURE MIND SEES EVERY THING PURE

IF YOU FEEL YOU HAVE NO FAULTS, THAT MAKES ANOTHER ONE

THOUGHT OF THE DAY

A TECHICIAN WAS CALLED TO REPAIR A COMPUTER

HE JUST TIGHTNED ONE SCREW & IT STARTED WORKING.

HE SENT A BILL OF RS 500/-

CUSTOMER ASKED FOR BREAK-UP.

THE BREAK-UP WAS RS 100/- FOR CONVEYANCE, RS 10/- FOR TIGHTENING THE SCREW AND RS 390/- TO CHECK WHICH SCREW TO BE TIGHTNED.

MORAL---RESPECT SKILLED PEOPLE.