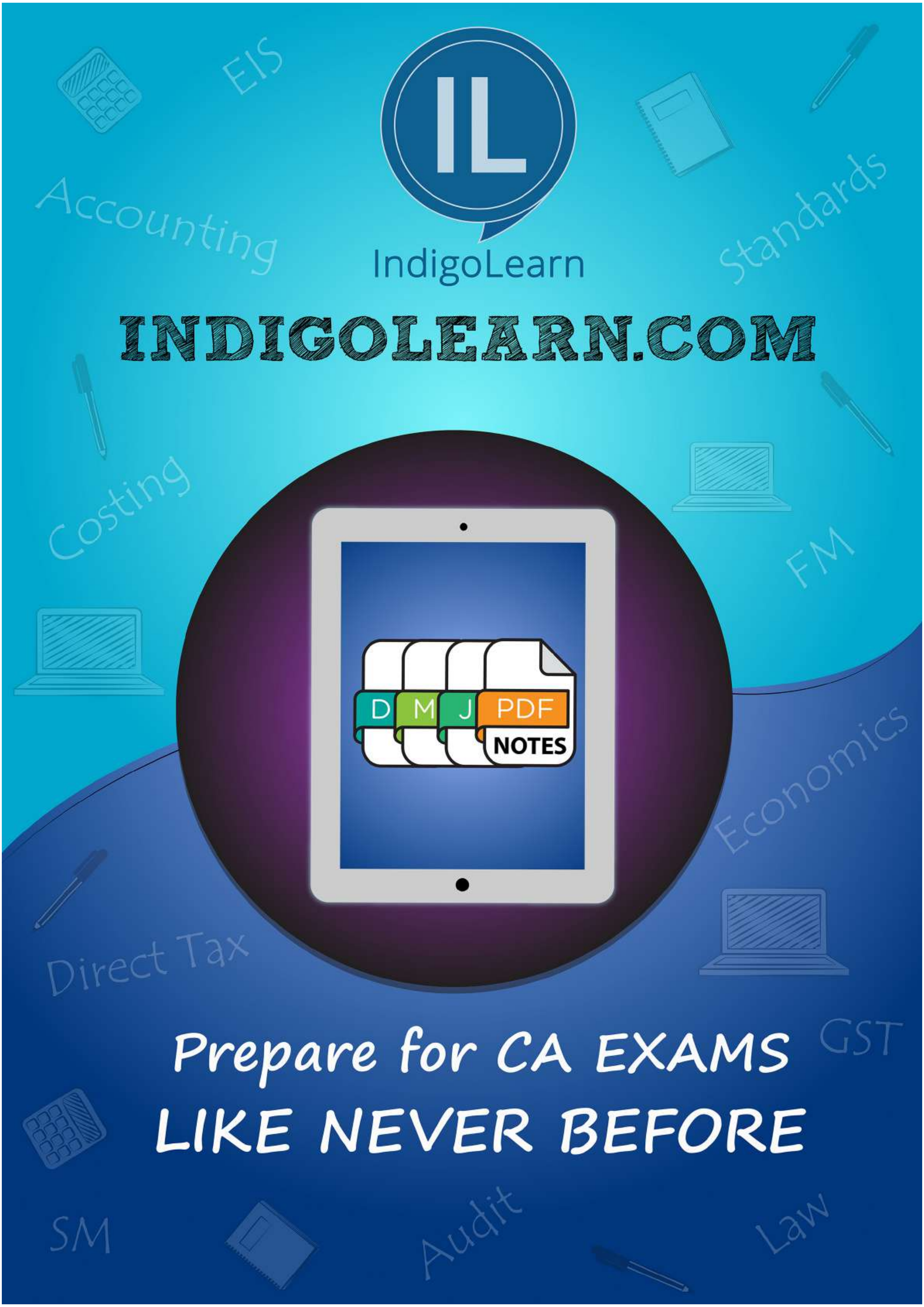
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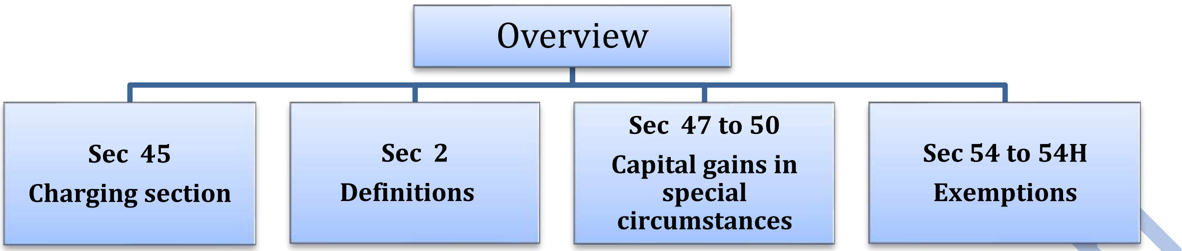
# Direct Taxes

Paper-4A

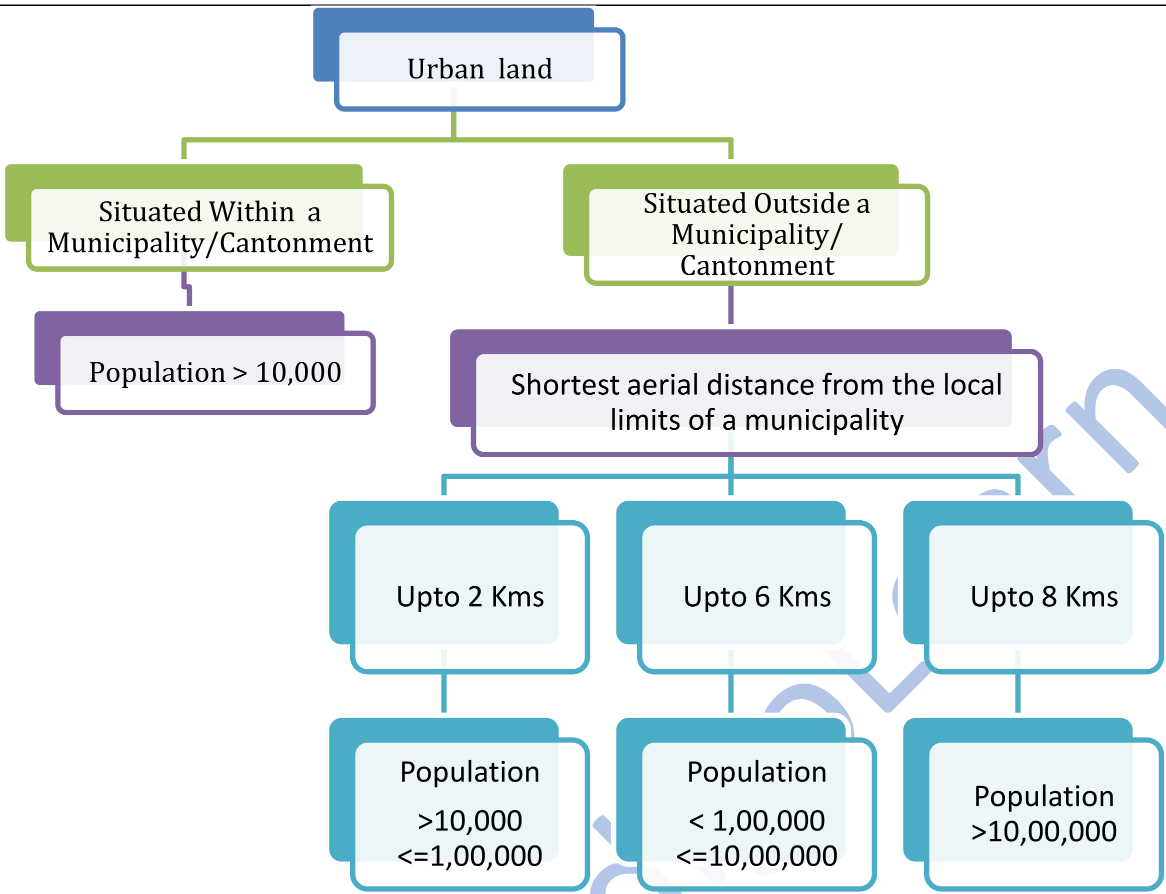
## Capital Gains




| **Sec.45 (1) – Chargeability** |
|---|
| Profits or gains arising on transfer of a capital asset in the previous year shall be chargeable under the head "Capital Gains". |

| **Sec 2(14) – Capital asset** | |
|---|---|
| Includes | Excludes |
| Any Immovable asset | Stock-in-trade (other than securities held by FII per SEBI regulations) |
| **Movable items** – including following personal effects<br>Jewellery –includes utensils and even sewn in wearing apparel, Archaeological collections<br>Drawings and paintings, Sculptures and<br>Any work of art | Personal effects. Example: Wearing apparel, furniture, vehicles etc. |
| Securities held by a FII - invested per SEBI Act 1992 | |
| Urban agriculture land [exempt u/s10(37 – in case of compulsory acquisition)] | Agricultural land in Rural area |
| Financial assets | 6½ per cent Gold Bonds, 1977,<br>7% gold bonds 1980<br>& national defence gold bonds<br>issued by government |
| Intangible asset - eg. License, goodwill etc. | Special Bearer Bonds 1991 issued by government |
| Any rights in or in relation to an Indian company, including rights of management or control or any other rights whatsoever | Gold Deposit Bonds issued under gold deposit scheme. |

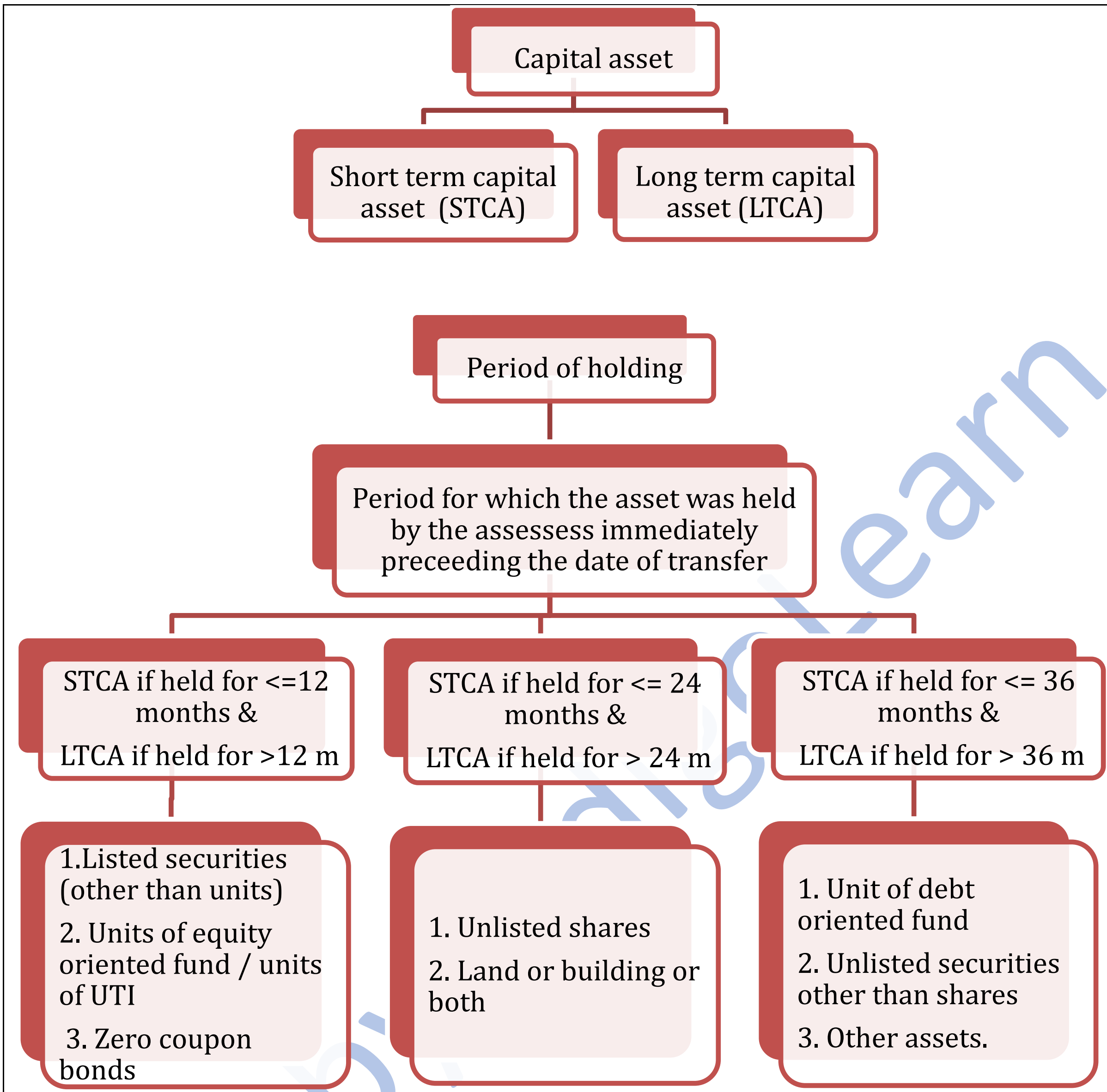
| **Urban agriculture land** |
|---|
| |




- Population, according to the last preceding census of which the relevant figures have been published before the first day of the previous year, shall be considered.
- If such land is not agricultural land, it will be treated as capital asset irrespective of its location.
- If agricultural land is located outside India, it will be treated as capital asset



**Sec 2(42A) – Period of holding**

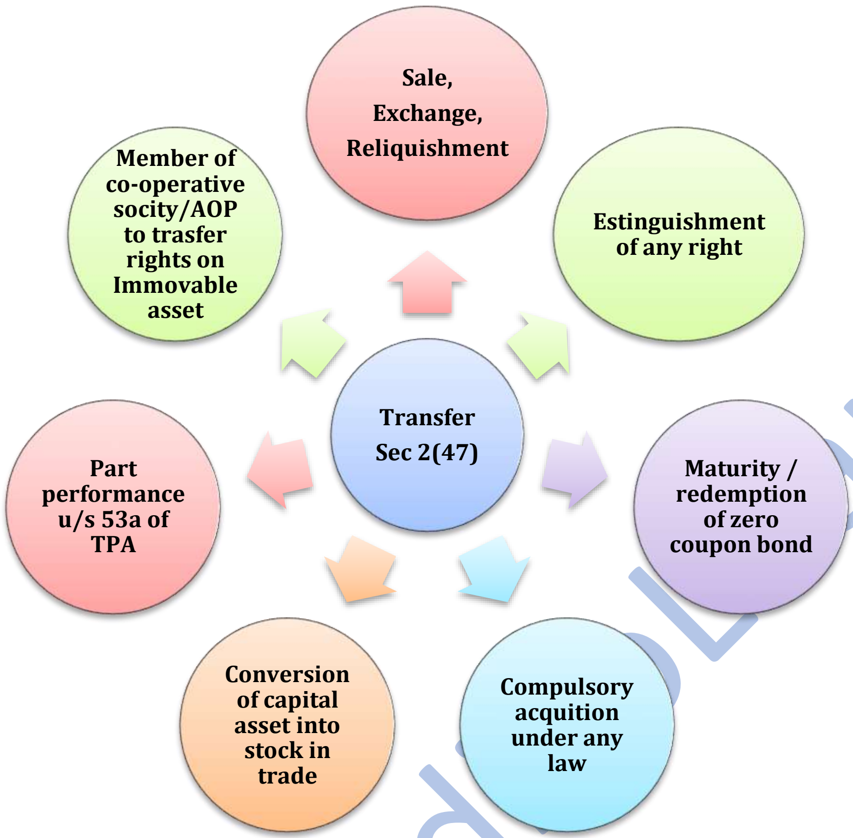



| Sn. | **Instances** | **Period of holding** |
|---|---|---|
| 1. | Transfer | The date on which the asset is transferred is to be excluded. |
| 2. | Liquidation | The period after the date of commencement of liquidation is to be excluded. |
| 3. | Right shares, Bonus shares and ESOPs | starts from date of allotment |
| 4. | When right to subscribe any share is renounced in favour of another person | Period from the date of offer of such right by the company or institution is considered. |

| | | | |
|---|---|---|---|
| | 5. | Conversion of preference shares into equity shares | Includes the period for which the preference shares were held. |
| | 6. | In case of amalgamation and demerger | The Period for which shares were held in the amalgamating Co. /demerged company should also be included. |
| | 7. | When asset becomes the property of the assessee by virtue of sec 49(1) | Period of holding of previous owner should be included. |
| | 8. | When stock in trade is converted into Capital asset | Period from the date of conversion should be taken. |
| | 9. | Where a transfer enables the enjoyment of any immovable property whether by way of becoming a member of, or acquiring shares in a co-operative society, company or other AOP | Starts from the date of allotment of shares or date on which such right is obtained |
| | 10 | Where any specified securities or sweat equity shares are allotted/transferred by employer to employee (incl. former) | starts from date of allotment/ transfer |

- Transfer by way of conversion of bonds or debentures, debenture-stock or deposit certificates in any form of a company into shares or debentures of that company is **not** regarded as transfer for levy of CG tax.

## Sec 2(47) – Transfer




- In case of exchange though there is only one transaction the tax liability arises on both the parties. The sale consideration shall be taken as the fair market value of assets received.
- Cancellations of license, forfeiture of shares are examples of extinguishment of right.

## Sec 47- Transactions not regarded as transfer

1) Any distribution of capital assets on the total or partial partition of an HUF.
2) Any transfer of a capital asset under a gift or will or an irrevocable trust.
   (Exception: Gift of shares acquired through Employees Stock Option Plan (ESOP) shall be treated as transfer)
3) Any transfer of a capital asset by a 100% holding company to its Indian subsidiary company.
4) Any transfer of a capital asset by a 100% subsidiary company to its Indian holding company

5) Any transfer, in a scheme of amalgamation, of a capital asset by the amalgamating company to the amalgamated company if the amalgamated company is an Indian company.
6) Any transfer in a scheme of demerger, of capital asset by the demerged company to the resulting company, if the resulting company is an Indian company.
7) Any transfer or issue in a scheme of demerger, of shares by the resulting company to the shareholders of demerged company as a consideration.
8) Any transfer in a scheme of amalgamation, of shares held by a shareholder in the amalgamating company in consideration of shared in amalgamated company being Indian company.
9) Any transfer made outside India, of a capital asset being rupee denominated bond of an Indian company issued outside India, by a non-resident to another non-resident.
   (Any gains arising on account of appreciation of rupee against a foreign currency at the time of redemption of rupee denominated bond of an Indian company held by him, shall be ignored for the purposes of computation of full value of consideration)
10) Any transfer made outside India, of a capital asset being Government securities carrying periodic payment of interest, through intermediary dealing by a non-resident to another non-resident.
11) Any transfer of Sovereign Gold Bond issued by the RBI under the Sovereign Gold Bond Scheme, 2015, by way of redemption, by an assessee being an individual
12) Any transfer of a capital asset being a work of art, archaeological, scientific or art collection, book, manuscript, drawing, painting, photograph or print, to the Government or a University or the National Museum, National Art Gallery,
13) Any transfer by way of conversion of bonds or debentures, debenture-stock or deposit certificates in any form of a company into shares or debentures of that company.
14) Any transfer by way of conversion of preference shares of a company into equity shares of that company.
15) Any transfer of a capital asset in a transaction of reverse mortgage under a scheme made and notified by the Central Government.

| **Mode of disbursement of Loan to Reverse Mortgagor** | **Max period of loan** |
|---|---|
| Directly | 20 years from the date of signing agreement by Reverse Mortgagor and approved lending institutions. |
| In part/ full to annuity sourcing institution for periodic payment by way of annuity | Residual lifetime of borrower |

- Any Amount under reverse mortgage scheme, received by senior citizen as a loan, either in lump sum OR instalments would be exempt.

**<u>Sec 48 – Mode of computation of capital gains</u>**

| Short term capital gain/loss | | Long term capital gain/loss | |
|---|---|---|---|
| Full value consideration: | xxx | Full value consideration: | xxx |
| (-) Exp wholly or exclusively in connection with such transfer | (xx) | (-) Exp wholly or exclusively in connection with such transfer | (xx) |
| Net Sale consideration | xxx | Net Sale consideration | xxx |
| (-) Cost of Acquisition | (xx) | (-) Indexed Cost of Acquisition | (xx) |
| (-) Cost of Improvements | (xx) | (-) Indexed cost of Improvements | (xx) |
| Capital Gains (STCG) | xxx | Capital Gains (STCG) | xxx |
| (-) Exemption u/s 54B /54D /54G | (xx) | (-) Exemption u/s 54/ 54B/ 54D/ 54EC/ 54EE /54G | (xx) |

- **<u>Indexed cost of acquisition</u>**

$$= \frac{\text{COA X} \quad \text{CII for the PY in which the asset was transferred}}{\text{CII for the year in which the asset was first held by the assessee}}$$

Or CII for PY 2001-02, whichever is later

- CII = Cost inflation Index
- CII for PY 2001-02 = 100 and for 2021-22 is 317

- In case asset is acquired by the owner/previous owner on or before 1.4.2001 then

COA = FMV on 1.4.2001 or actual cost whichever is higher.

- **Indexed cost of improvement**

$$= \frac{\text{COI X} \quad \text{CII for the PY in which the asset was transferred}}{\text{CII for the year in which improvement was made}}$$

- Any improvement made before 1.4.2001 is not considered.
- **No deduction of STT as an expense.**
- **No indexation in following cases** -
- case of Bonds & Debentures except
  - Capital indexed bonds issued by GOI &
  - Sovereign gold bond issued by RBI
- Slump Sale
- Equity shares and equity-oriented fund referred to in sec. 112A
- Transactions by a non-resident - u/s 115AB, 115AC, etc.
- Transfer of Global Depository Receipt.
- Depreciable asset

★ **Sec 48 - Special provision for non-residents** –

- In case of transfer of shares & debentures of an Indian company
- which were purchased in foreign currency
- Cost of Acquisition, Expenses wholly or exclusively in connection with such transfer and Full value consideration should be converted into same foreign currency with which shares were acquired.
- Resultant capital gain reconverted into Indian currency.
- No indexation benefit in this case.

★ **Special provision in case of Rupee denominated bonds** -

- Any gains arising due to appreciation of rupee against a foreign currency at the time of redemption of rupee denominated bond of an Indian company, shall be ignored for the purposes of computation of full value of consideration.
- No benefit of indexation or currency conversion.

★ Non-residents and foreign companies in which public are not substantially interested => tax at concessional rate @10% on LTCG from transfer of unlisted securities/ shares

★ No Indexation benefit in case of LTCG arising from transfer of;
(i)equity shares on which STT is paid at the time of acquisition and transfer
(ii)unit of equity-oriented funds or unit of business trust on which STT is paid at the time of transfer.
(iii) STT was introduced in 2004

★ **Redemption or maturity or sale of Zero-coupon bonds**

➢ Full value consideration = Redemption price, Maturity value or sale proceeds as the case may be.

**Sec 49(1) – Circumstances in which the assessee became the owner of the capital asset otherwise than by acquisition.**

(i) on any distribution of assets on the total or partition of a HUF.
(ii) under a gift or will.
(iii) by succession, inheritance or devolution.
(iv) on any distribution of assets on the liquidation of a company.
(v) under a transfer to revocable or an irrevocable trust.
(vi) under any transfer of capital asset by a holding company to its wholly owned subsidiary Indian company or by a subsidiary company to its 100% holding Indian company, referred to in section 47(iv) and 47(v) respectively.
(vii) under any transfer referred to in section 47(vi) of a capital asset by amalgamating company to the amalgamated Indian company, in a scheme of amalgamation.
(viii) under any transfer referred to in section 47(vib), of a capital asset by the demerged company to the resulting Indian company, in a scheme of demerger.
(ix) by conversion by an individual of his separate property into a HUF property, by the mode referred to in section 64(2).

**Cost of acquisition**

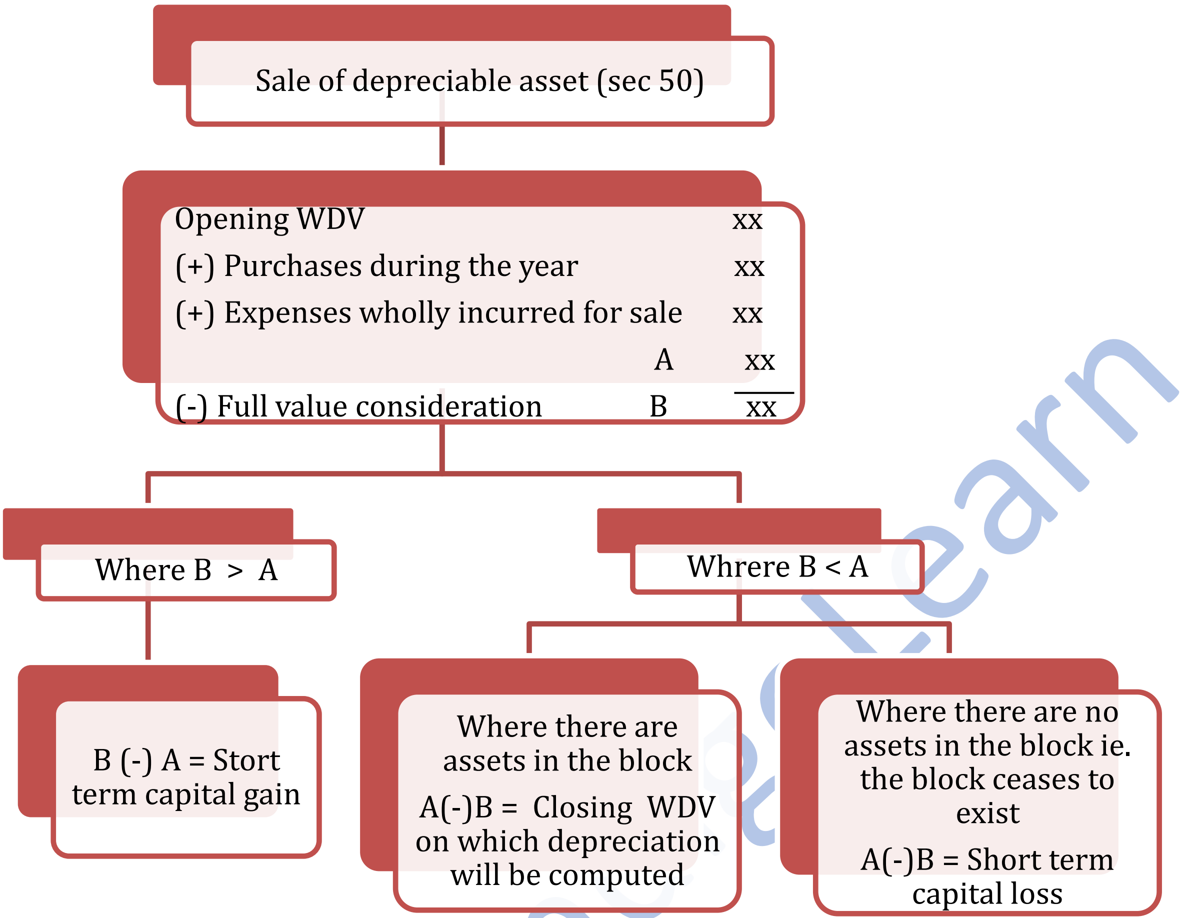
| **Case** | **COA** |
|---|---|
| Where the capital asset became the property of the assessee through any mode mentioned u/s 49(1) | If ascertainable, Cost of previous owner shall be deemed to be the COA.<br>If not ascertainable, then FMV of the asset on the date on which the previous owner acquired it. |

| | |
|---|---|
| | Indexation benefit will be available from the year in which it was first held by the assessee. |
| Shares of amalgamated Indian company received as consideration in a scheme of amalgamation. | Cost of acquisition of the shares in the amalgamating company. |
| Shares received by way of conversion of bonds or debentures, debenture-stock or deposit certificates | That part of the cost of debentures, debenture stock, bond or deposit certificate in relation to which such asset is acquired by the assessee.<br>Benefit of indexation shall be available from the date of allotment of the new asset i.e.. converted shares. |
| Shares acquired through ESOPs or sweat equity shares | FMV taken into account while computing the value of perquisite u/s 17(2)(vi). |
| Equity Shares received at the time of conversion of preference shares. | Part of cost of preference share in relation to which the shares are converted. |
| Units acquired under consolidated scheme of mutual fund or under a consolidated plan of mutual fund scheme | Cost of units in the consolidating plan of the scheme of the mutual fund shall be deemed to be the cost of units in a consolidated plan of a mutual fund scheme. |
| Shares received in a resulting company in a scheme of demerger. | COA = A x B/C<br>A = Cost of acquisition of shares held in the demerged company<br>B = Net book value of the assets transferred in a demerger<br>C = Net worth of the demerged company |
| Property subject to tax u/s 56(2)(x) | the value taken into account for the purposes of section 56(2)(x) |
| Capital asset which was used by the assessee as an inventory | FMV of the inventory as on the date on such conversion determined in the prescribed manner. |
| Goodwill of business, right to manufacture, produce or process any article or thing, right to carry on business or profession | If purchased, COA = Purchase price.<br>Any other case, COA = Nil<br>COI = Nil |
| Goodwill of profession, trademark, brand name, tenancy rights, stage carriage permits/loom hours | If purchased, COA = Purchase price.<br>Any other case, COA = Nil<br>COI = Expense incurred by assessee / previous owner after 1.4.2001 |
| However, in case of capital asset, being goodwill of a business or profession, in respect of which a deduction on account of depreciation u/s 32(1) has been obtained in any P.Y. (up to P.Y. 2019-20)<br><br>Cost of Acquisition = Purchase price – depreciation obtained by the assessee u/s 32(1) | |

| | |
|---|---|
| Original shares (which form the basis of entitlement of rights shares) | Amount actually paid for acquiring the original shares. |
| Rights entitlement (which is renounced by the assessee in favour of a person) | COA = Nil |
| Rights shares acquired by the assessee | Amount actually paid for acquiring the rights shares |
| Rights shares which are purchased by the person in whose favour the assessee has renounced the rights entitlement | Purchase price paid to the renouncer **+** amount paid to the company which has allotted the rights shares. |
| Bonus shares | If allotted before 1.4.2001,<br>COA = FMV as on 1.4.2001 (at the option of the assessee)<br>If allotted after 1.4.2001 –<br>COA = Nil |
| Long term capital assets being,<br>• equity shares in a company on which STT is paid both at the time of purchase and transfer or<br>• unit of equity-oriented fund or unit of business trust on which STT is paid at the time of transfer, acquired before 1st February, 2018 | Cost of acquisition shall be the higher of<br>***(i)*** COA of such asset; and<br>***(ii)*** Lower of<br>• the fair market value of such asset; and<br>• the full value of consideration received or accruing as a result of the transfer of the capital asset. |
| Capital asset which becomes property of assessee | (i) <u>Generally</u><br>Before 1-4-2001 = COA to assessee or FMV on 1-4-2001 (at the option of the assessee)<br>(ii)<u>By modes specified in Sec 49(1)</u><br>COA to Previous owner<br>Before 1-4-2001 = FMV as on 1.4.2001 (at the option of the assessee)<br>(iii)<u>On distribution on liquidation</u><br>If Assessed under Sec 46, COA is FMV on the date of distribution |
| ★ If a Capital asset which becomes property of assessee (discussed in i & ii above) is land/ building/ both, the FMV of such asset on 1.04.2001 shall not exceed the Stamp Duty Value as on 1.04.2001 (wherever available).<br>★ <u>**Meaning of FMV for the above purpose**</u> –<br>➢ <u>**In a case where the capital asset is listed on any recognized stock exchange as on 31.01.2018**</u> | |

| **Case** | **Value** |
|---|---|
| If there is trading in such asset on such exchange on 31.01.2018 | The highest price of the capital asset quoted on such exchange on the said date |
| If there is no trading in such asset on such exchange on 31.01.2018 | The highest price of such asset on such exchange on a date immediately preceding 31.01.2018 when such asset was traded on such exchange. |

- **In a case where the capital asset is a unit which is not listed on any recognized stock exchange as on 31.01.2018**
  - The net asset value of such unit as on the said date
  - In a case where the capital asset is an equity share in a company which is
  - not listed on a recognized stock exchange as on 31.01.2018 but listed on such exchange on the date of transfer
  - listed on a recognized stock exchange on the date of transfer and which became the property of the assessee in consideration of share which is not listed on such exchange as on 31.01.2018 by way of transaction not regarded as transfer u/s 47
  - An amount which bears to the cost of acquisition the same proportion as CII for the financial year 2017-18 bears to the CII for the first year in which the asset was held by the assessee or on 01.04.2001, whichever is later.




Where goodwill of a business or profession forms part of a block of asset for A.Y 2020-21 and depreciation thereon has been obtained by the assessee under the Act, the written down value of that block of asset and short-term capital gain, if any, shall be determined in such manner as may be prescribed.

For Example:

| Block of Intangible Assets | |
|---|---|
| Opening WDV | XXX |
| Less: Closing WDV of Goodwill for P.Y. 2019-20 | XXX |
| Adjusted WDV of the block | XXX |

Cost of acquisition and capital gain in case of depreciable assets of electricity companies [sec 50A]

Same formula as given above in Sec 50

IF B < A

B (-) A = Terminal depreciation which is written off in the year of sale

If B > A

Balancing charge = [Lower of actual cost / sale consideration] (–) WDV

(PGBP income u/s 41 (2)

Capital gain = sale consideration (–) actual cost.

**Sec 50B - special provisions in case of slump sale**

| | |
|---|---|
| Sale Consideration | xx |
| Less : Expenses exclusively for sale | (xx) |
| Less : Net worth of the undertaking | (xx) |
| Capital gain | xx |

- LTCG if the undertaking is held for more than 36 months otherwise STCG
- No indexation benefit
- Sale consideration is higher of actual sale consideration or FMV.

Net worth of the undertaking = Total assets - outside liabilities

Value of total assets =>

In case of depreciable assets = WDV as per Sec 43(6)

In case of assets wholly allowed as deduction u/s 35AD = Nil

Self generated goodwill of business or profession = Nil

In case of other assets = Book value

Value of Liabilities = Book value

★ Slump sale means transfer of one or more undertakings, by any means, for a lump sum consideration without values being assigned to the individual assets and liabilities in such sale.

★ Every assessee shall furnish a prescribed form on or before the specified date referred under Sec 44AB a certified report of Chartered Accountant.

## Sec. 50C - Valuation of consideration in case of land or building or both

★ **Conditions**

- Capital asset being land or building or both is transferred.
- Value adopted or assessed or assessable by the stamp valuation authority
  - exceeds 110% of actual consideration.
  - If does not exceed 110% of actual consideration => Consideration so received shall be full value of consideration

★ **Tax treatment**

- Full value of consideration = value adopted or assessed (i.e. Stamp duty Value)

★ **Reference to Valuation Officer**

- The Assessing Officer can refer the case to the Valuation Officer if following conditions are satisfied:
- Assessee claims that the value adopted or assessed by Stamp Valuation authority exceeds the FMV of the property as on the date of transfer; &
- The value so adopted or assessed or has not been disputed in any appeal or revision or no reference has been made before any other authority, court or the High Court.

★ **Consequences where the value is determined by the Valuation Officer**

- sale consideration of the asset shall be taken as minimum of the following –
- Value adopted or assessed or assessable for the purpose of stamp duty;
- Value determined by the Valuation Officer.

★ **Date of stamp duty value**:

- Where the date of the agreement and the date of registration are not the same Full value consideration **=** Stamp duty value on the date of agreement if following conditions are satisfied:
- Whole or part of consideration is paid
- By any mode other than cash
- On or before the date of agreement.

★ **Revision of value of such asset:**

If the value adopted for stamp duty purposes is revised in any appeal, revision or reference, the assessment earlier made shall be amended to re-compute the capital gains by taking the revised value as sale consideration [Sec. 155]

**Sec 50CA - Special provision for full value of consideration for transfer of unlisted shares**

★ **Applicable to** - Transfer of unquoted shares (prescribed persons may be exempted from this section if prescribed conditions are satisfied)

★ **Condition** - consideration < FMV

★ **Tax treatment** - In such case Full Value consideration = FMV

★ **How to compute FMV for the purpose of 50CA**

- Option 1 – Obtain valuation certificate from Merchant banker / CA
- Option 2 – Compute Net asset value as per Rule 11UA

| Net asset value = | |
|---|---|
| Book value of all the assets of the company<br>Asset excludes - Jewellery, artistic work, securities and immovable property.<br>Ignore – Fictitious assets like Income tax refund, miscellaneous expenditure, deferred tax etc | xx |
| (+) Fair market value of Jewellery and artistic work | xx |
| (+) Fair value of securities | xx |
| (+) Stamp duty value of immovable property | xx |
| Total assets | xx |
| (-) Book value of outside liabilities | (xx) |
| Net asset value | xx |
| $\text{Net asset value} \times \dfrac{\text{Paid up value of each share}}{\text{Paid up value of the company}}$ | |

**Sec 50D - 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**

★ **Applicable -**

- Where the consideration received or accruing as a result of the transfer of a capital asset is not ascertainable or cannot be determined.

★ **Consequence –**

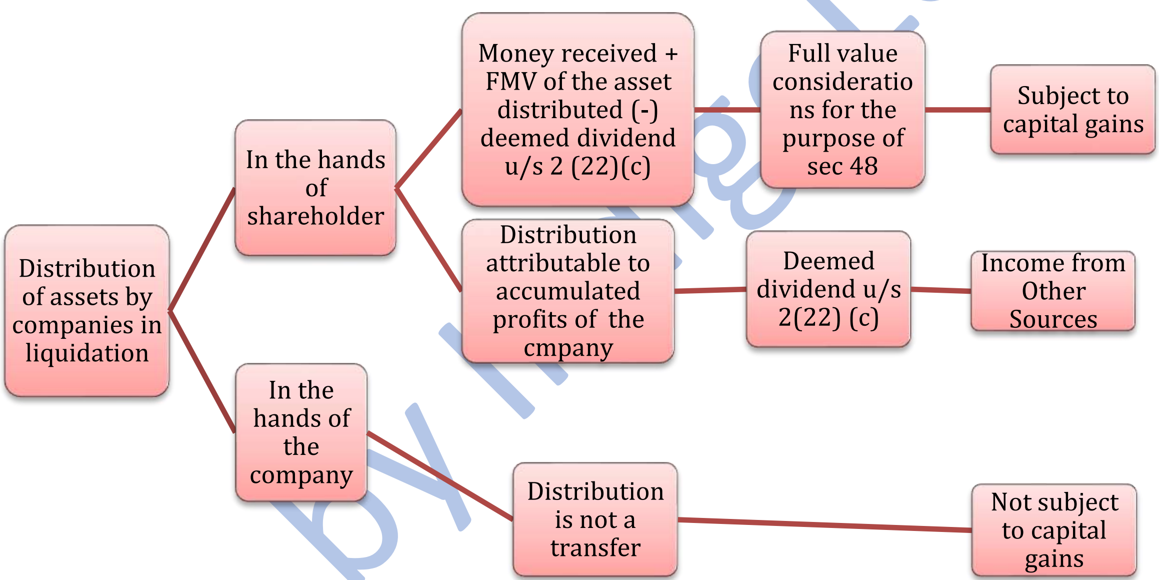
- Full value of the consideration = FMV of the said asset on the date of transfer

| Sec 45 - Scope and year of chargeability | | | | |
|---|---|---|---|---|
| **Sec** | **Transaction** | **Full value consideration** | **Year of chargeability** | **Additional condition** |
| 45(1) | Transfer of a capital asset | Agreed consideration | PY in which transfer takes place | |
| 45(1A) | Damage of capital asset due to<br>1.Natural calamities,<br>2.civil disturbance/riot<br>3 Accidental fire<br>4. Action by an enemy or combating an enemy. | Insurance compensation (money) + FMV (on the date of receipt) of any asset | PY in which money/ asset is received from insurance company | 1. Indexation benefit available (if any) till year of destruction<br>2. Damage due to any other reason is not considered as transfer |
| 45(2) | Conversion of capital asset into stock in trade | FMV as on the date of conversion | PY in which stock in trade is sold/ transferred | Indexation benefit available (if any) till year of Conversion. |
| | Capital gain = FMV on the date of conversion (–) Cost / Indexed cost of acquisition (-) cost of improvement<br>PGBP income = Sale price of stock in trade (-) FMV on the date of conversion. | | | |
| 45(2A) | Transfer of beneficial interest in securities (transfer made through depository) | Agreed consideration | PY in which transfer takes place.<br>Date of contract of sale will be treated as date of transfer. | FMV as on the date of transfer |
| 45(3) | Capital contribution by partner / member to firm/AOP/BOI | Amount at which such asset is recorded in books of the firm/AOP/BOI | PY in which transfer takes place. | |

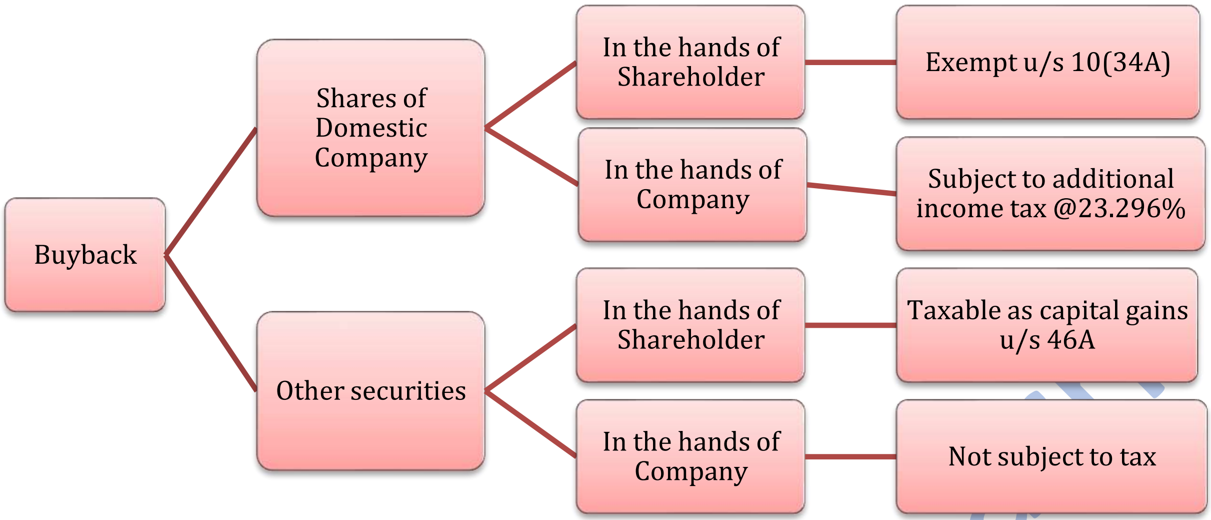
<table>
<tr><td>45(5)</td><td>Compulsory acquisition or any transfer where consideration is determined by CG/RBI</td><td>Compensation awarded</td><td>PY in which compensation is first received.</td><td>Indexation benefit available till the year of compulsory acquisition.</td></tr>
<tr><td></td><td colspan="4">➢ <u>Additional points:</u><br>➢ In case of compensation is enhanced, the additional amount is taxed. Cost of acquisition & Cost of improvement is taken as nil.<br>➢ In case compensation is reduced capital gain is recomputed.<br>➢ Compensation received by interim order is taxed in the year in which final order is received.<br>➢ If transferor dies before receiving the compensation, it is taxed in the hands of the recipient.</td></tr>
<tr><td>45(5A)</td><td>Joint development agreement with regard to immovable property</td><td>Stamp duty value on the date of issue of completion certificate of his share being land/building/ both in the project + cash consideration</td><td>In the year in which completion certificate for the whole or part of the project is issued by the competent authority.</td><td>Benefit of indexation is available upto the year in which completion certificate is issued.</td></tr>
<tr><td></td><td colspan="4"><u>Additional points:</u><br>➢ The assessee is an individual or a HUF.<br>➢ Such assessee transfer capital asset being land or building or both under a specified agreement to another person<br>➢ Specified agreement means a registered agreement in which a person owning land or building or both, agrees to allow another person to develop a real estate project on such land or building or both, in consideration of a share, being land or building or both in such project, whether with or without payment of part of the consideration in cash.<br>➢ Cost of acquisition for the assessee on subsequent transfer of such share - Proportionate cost of the asset transferred ie. the proportion of full value consideration (mentioned above) attributable to the proportionate sale.</td></tr>
</table>

| | |
|---|---|
| | ➢ Where the assessee transfers his share in the project **on or before the** date of completion certificate, in that case, aforesaid provision is not applicable, and the capital gains shall be taxable in the previous year in which such transfer takes place. Further, capital gain shall be computed as per other provisions. |
| Sec 48 | Full value consideration for shares, debentures or warrants issued under ESOP to an employee which is transferred under a gift or irrevocable trust **=** FMV on the date of transfer |

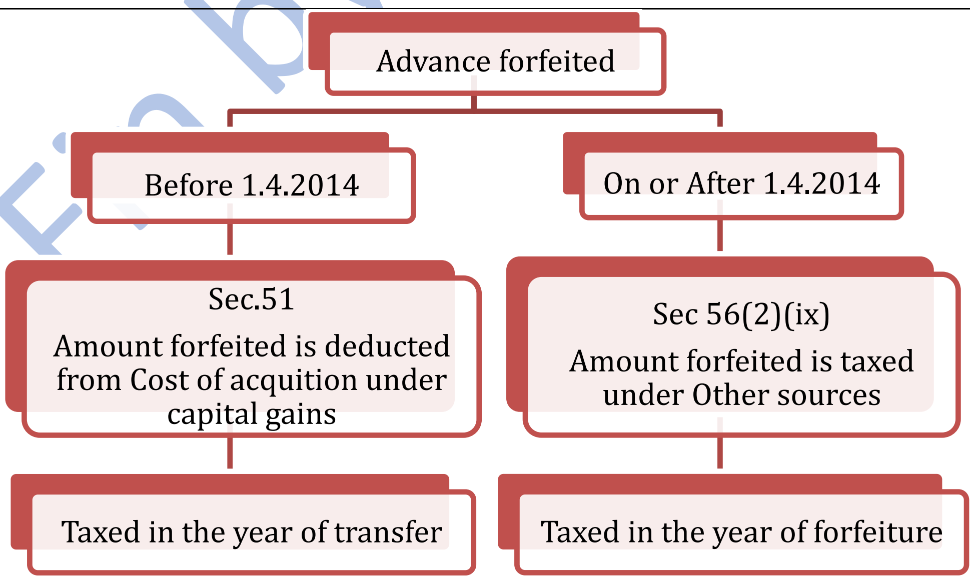
**Sec 46 - Capital gain on distribution of assets by companies in its liquidation**




**Sec 46A - Buyback of shares or other securities**




**Advance money forfeited**




**Tax rates under capital gains**

**Sec 111A - Tax on STCG on transfer of certain assets on which Security transaction tax (STT) has been charged**

★ **Applicable to** - All assessee

★ **Conditions to be satisfied**

- A short-term capital asset, being an equity share in a company or a unit of an equity-oriented fund or a unit of a business trust.
- Such transaction is chargeable to STT
- Concessional rate shall be applicable on short term capital gain arises from a transaction undertaken in a foreign currency on a recognised stock exchange located in any International Financial Services Centre even though STT is not applicable on such transaction

★ **Tax rate** - 15% + surcharge (if applicable) + Health and Education Cess.

★ **Sec 112 - Tax on long term capital gains – Generally 20%**

| Persons | Tax rate | Particulars |
|---|---|---|
| Resident individuals and HUF | 20% | In case of transfer of listed securities (other than units) and zero coupon bonds LTCG would be taxable at the lower of<br>1. 10% without indexation benefit<br>2. 20% with indexation benefit |
| Resident AOPs and BOIs | 20% | |
| Resident Firms & LLPs | 20% | |
| Domestic companies | 20% | |
| Non-corporate, non resident and foreign companies | 20% | |
| Non-corporate, non resident and foreign companies – **In case of unlisted securities or shares of a private limited company** | 10% without benefit of Indexation/ currency fluctuation | |

★ **Sec 112A – Tax on long term capital gain in certain cases**

- Applicable to: All assessee

★ **Conditions:**

- The capital gains arise from the transfer of a long-term capital asset being an equity share in a company or a unit of an equity-oriented fund or a unit of a business trust.
- Securities Transaction Tax (STT) has been levied:
- The condition of payment of STT in either case is not applicable in case where transfer has been undertaken on a recognised stock exchange located in any International Financial Services Centre provided the consideration for such transfer is received or receivable in foreign currency.

★ **Tax rate:**

| Case | Rate of taxation |
|---|---|
| Where such long-term capital gain does not exceed Rs. 1,00,000 | Nil |
| Where such long-term capital gain exceeds Rs. 1,00,000 | 10% on income exceeding Rs. 1,00,000 |

- In case of a resident individual or a Hindu Undivided Family (HUF), the long-term capital gain taxable u/s 112 or 112A or short-term capital gain taxable u/s 111A shall be reduced by the unexhausted basic exemption limit and the balance shall be subject to tax.
- Equity oriented fund means a fund set up under a scheme of a mutual fund specified under 10(23D) and
    i. Invests directly ≥ 65% of total proceeds of the fund is invested in equity shares of domestic companies listed in recognised stock exchange
    ii. Invests into another Fund ≥ 90% of total proceeds and such other Fund also invests ≥ 90% of total proceeds in equity shares of domestic companies listed in recognised stock exchange.
- No deduction under Chapter VI-A can be claimed in respect of such long-term capital gain chargeable to tax u/s 112 or u/s 112A or short-term capital gain chargeable to tax u/s 111A.
- Rebate u/s 87A is not available in respect of tax payable @10% on Long-term Capital Gains u/s 112A.
- Enhanced surcharge of 25% and 37% would not be levied on dividend income, STCG

| |
|---|
| and LTCG respectively.<br>➢ Indexation benefit is not available u/s 112A |

| **Exemptions u/s 10** | |
|---|---|
| 10(10D) | Any sum received under a life insurance policy, including the sum allocated by way of bonus on such policy, other than<br>(a) any sum received under Section 80DD(3) or 80DDA(3)<br>(b) any sum received under a Keyman insurance policy<br>(c) any sum received under insurance policy issued between 01-04-2003 to 31-03-2012 of which premium payable for any of the years during the policy term is > 20% of actual capital sum assured. (Not applicable in case of death)<br>(d) any sum received under insurance policy issued on or after 01-04-2012, of which premium payable for any of the years during the policy term is > 10% of actual capital sum assured. (Not applicable in case of death)<br>(e) Policy issued on or after the 1st day of April, 2013, is for insurance on life of any person, who is a person to whom Section 80U applies or suffering from disease specified in Section 80DDB, of which premium payable for any of the years during the policy term is > 15% of actual capital sum assured. (Not applicable in case of death) |
| 10(33) | Income from transfer of units of UTI of unit scheme of 1964 of UTI |
| 10(37) | Income by way of compensation for compulsory acquisition of urban agriculture land.<br>**Conditions**<br>• The Land was used for agriculture either by the assessee or his parents for at least 2 years prior to the date of transfer.<br>• The compensation is received on or after 1.4.2004 |
| 10(43) | The amount received by a senior citizen as a loan either in lumpsum or in instalments in a transaction of reverse mortgage. |

| **Exemptions** | | | | | | | |
|---|---|---|---|---|---|---|---|
| Sec. | Eligible assessee | Old asset | New asset | Time limit for investment | Conditions to be fulfilled | Quantum of exemption | Does CG deposit scheme apply |
| 54 | Individual /HUF | Long-term residential house | One new residential house or at the option of assessee 2 residential house if CG <= 2 crores | For purchase - 1 year before, or 2 yrs after, the date of transfer & For construction - Within 3 years after the date of transfer | 1. Two residential house should be in India.<br><br>2. Capital asset must be long term | Investment in new asset OR capital gain whichever is less. | Yes. |
| 54B | Individual /HUF | Urban Agricul -ture land (long term or short term) | New land for agricul-tural purpose. The new land may be in urban area or rural area. | Within 2 years after the date of transfer. | 1. Old asset must have been used by the individual or his parents or by such HUF for agricultural purposes for at least 2 years, prior to its transfer. | Investment in new asset OR capital gain whichever is less. | Yes. |
| 54D | All asses ses | Any land or building or any right therein , forming part of an | purchase any land or building or construct a building, for the shifting or re-establishing the said under- | Within 3 years after the date of receipt of compensation or any part thereof. | 1.Old asset is compulsorily acquired under any law for the time being in force.<br>2. It was used for industrial | Investment in new asset OR capital gain whichever is less. | Yes |

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| | | industrial under-taking. | taking or setting up another industrial under-taking | | purpose for at least 2 years prior to its transfer. | | |
| 54EC | All assesses | Long-term capital asset being land or building or both. | Long-term specified asset means any bond redeemable after 5 years, issued by a) NHAI , b) RECI c) PFCL d) IRFC e) any other bond being notified by the Central Govern. | Within 6 months after the date of transfer | The investment made during the financial year in which the original asset or assets are transferred and in the subsequent financial year cannot exceed Rs.50 lakhs. Earlier benefit shall be revoked if such bond is transferred or converted into money within 5 years of its acquisition or a loan is taken on security of the new asset within the said period. | Investment in new asset OR capital gain whichever is less. | No |
| 54F | Individual or HUF | Long-term capital asset other than a residential house | One residential house | For purchase - 1 year before, or 2 yrs after, the date of transfer & For constructio | 1.New house should be situated in India. 2. Assessee does not own more than one | Investment X Capital gain / Net sale consideration Or | Yes |

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| | | property. | | n - Within 3 years after the date of transfer | residential house property, on the date of transfer. 3. Also does not purchase (within2 yrs) or construct (within 3 yrs) any other house property. Otherwise, the exempt income will be deemed to be long term capital gain. | Capital gain Whichever is less | |

**<u>Common Points to remember</u>**

- If the new asset is not acquired till the due date of submission of return of income, then the taxpayer will have to deposit the money in 'Capital Gains Deposit Account' with a nationalized bank. The proof of deposit should be submitted along with the return of income.
- **If the amount held in Capital Gains Deposit Account Scheme (1988) is unutilized,** then such amount shall be taxable as long-term capital gain in the previous year in which the period of 3 years from the date of transfer expires.
- In case of 54F, proportionate amount will be taxable.
- In case of compulsory acquisition, time limit for new investment starts from the date of receipt of compensation.
- **<u>Consequences of violation - U/s 54, 54B , 54D</u>**
  If the new asset is transferred within 3 years from the date of its acquisition then the benefit availed earlier shall be reduced from cost of acquisition of new asset.
- **<u>Consequences of violation - U/s 54EC, 54F</u>**
  Such revoked income shall be treated as long-term capital gain in the year of transfer of new asset.
- An assessee can claim exemption under more than one section (from sec. 54 to 54GB) if conditions of the respective sections are fulfilled.
- **<u>Sec 54H</u>**
  - Where the transfer of the original asset is by way of compulsory acquisition under any law; and
  - Amount of compensation awarded is not received on the date of such transfer.
  - The period for acquiring the new asset or the period available to the assessee for depositing the amount of capital gain in relation to such compensation (sec. 54, 54B, 54D, 54EC and 54F) shall be reckoned from the date of receipt of such compensation.
  - In case of enhanced compensation, the period for acquiring the new asset shall commence from the date of receipt of such enhanced compensation.

**Sec 55A – Reference to Valuation officer**

- With a view to ascertaining the fair market value of a capital asset for the purposes of this chapter [e.g. sec. 45(1A),45(2), 45(4), 46(2), 55 and 2(47)] the Assessing Officer may refer the valuation of capital asset to a Valuation Officer.
- Cases where reference to Valuation Officer can be made

| Case | Condition |
|---|---|
| Where the value of the asset as claimed by the assessee is in accordance with the estimate made by a registered valuer. | If the Assessing Officer is of opinion that the value so claimed is at variance with its FMV |
| In any other case | If the Assessing Officer is of the opinion—<br>1. That the fair market value of the asset exceeds the value of the asset as claimed by the assessee by more than<br>● 15% of the value of the asset as so claimed; or<br>● by more than Rs. 25,000 whichever is less.<br>2. That having regard to the nature of the asset and other relevant circumstances, it is necessary to do so. |

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