7 CAPITAL GAINS [S. 45, 48 - 50, 54]

THEORY AND ILLUSTRATIONS

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1. BASIS OF CHARGE [S. 45(1)]

Normally, only revenue receipts are taxed. As an exception to this normal rule, gains arising from sale of capital assets are subjected to tax. Capital gains mean any profits or gains arising from the transfer of a capital asset. Such gains are taxed under the head 'Capital Gains' in the previous year in which the transfer of the capital asset takes place. Thus, income is charged under the head 'Capital Gains', if the following conditions are satisfied:

(1) There should be a *'capital asset'*.

(2) There should be a *'transfer'* of such capital asset.

(3) Such transfer should take place in the *'previous year'* .

(4) There should be *profits or gains.*

These conditions are explained in detail below.

2. THERE MUST BE A CAPITAL ASSET [S. 2(14)]

2.1 INCLUDES ANY PROPERTY

"Capital asset" is defined to mean (a) property of any kind, held by the assessee, whether or not connected with his business or profession; (b) any securities held by Foreign Institutional Investor (FII), which is invested in such securities in accordance with the regulations made under the SEBI Act, 1992; (c) any unit linked insurance policy (ULIP) to which exemption u/s 10(10D) does not apply because of the 4th and 5th proviso thereto **(as amended w.e.f. 1-4-2021** - see Chapter 4, Para 5.11). 'Property' may be tangible or intangible. Land, buildings, vehicles, goodwill, tenancy rights, leasehold rights, licences, patents, trademarks etc. are some examples of capital assets.

"Property" includes and shall be deemed to have always included any rights in or in relation to an Indian company, including rights of management or control or any other rights whatsoever.

2.2 EXCLUDES SPECIFIED ASSETS

The following assets are, however, excluded from the definition of "capital assets":

(1) any *stock-in-trade*, consumable stores or raw material held for the purpose of business or profession (whose sale is taxed as profits from business).

(2) *personal effects* of the assessee, i.e.

(a) movable property, including wearing apparel and furniture,

(b) held for his personal use or for the use of any member of his family dependent upon him;

(c) excluding jewellery; ornaments of gold, silver, platinum or any precious metal (even if worked or sewed into any wearing apparel); precious or semi-precious stones (even if set in any furniture, utensil or wearing apparel); archaeological collections; drawings; paintings; sculptures or any work of arts.

(3) *agricultural land in India, which is not situated in an urban area i.e.*

(a) in any area within the jurisdiction of a municipality or a cantonment board having a population of 10,000 or more; or

(b) It should *not* be situated in any area within such distance, *measured aerially*, in relation to the range of population according to the last preceding census as shown hereunder :

	Shortest aerial distance from the local limits of a municipality or cantonment board referred to in item (a)	Population according to the last preceding census of which the relevant figures have been published before the first day of the previous year
(i)	2 kilometers	more than 10,000 upto 1,00,000
(ii)	6 kilometers	more than 1,00,000 upto 10,00,000
(iii)	8 kilometers	more than 10,00,000

(4) 6½ per cent *Gold Bonds*, 1977 or 7 per cent Gold Bonds, 1980 or National Defence Gold Bonds, 1980 issued by the Central Government.

(5) *Special Bearer Bonds*, 1991.

(6) *Gold Deposit Bonds* issued under the Gold Deposit Scheme, 1999 or *Deposit Certificates* issued under the Gold Monetisation Scheme, 2015.

The above discussion is summed up in Exhibit No. 1 (see next page).

Illustration 1 : (Answer in brief)

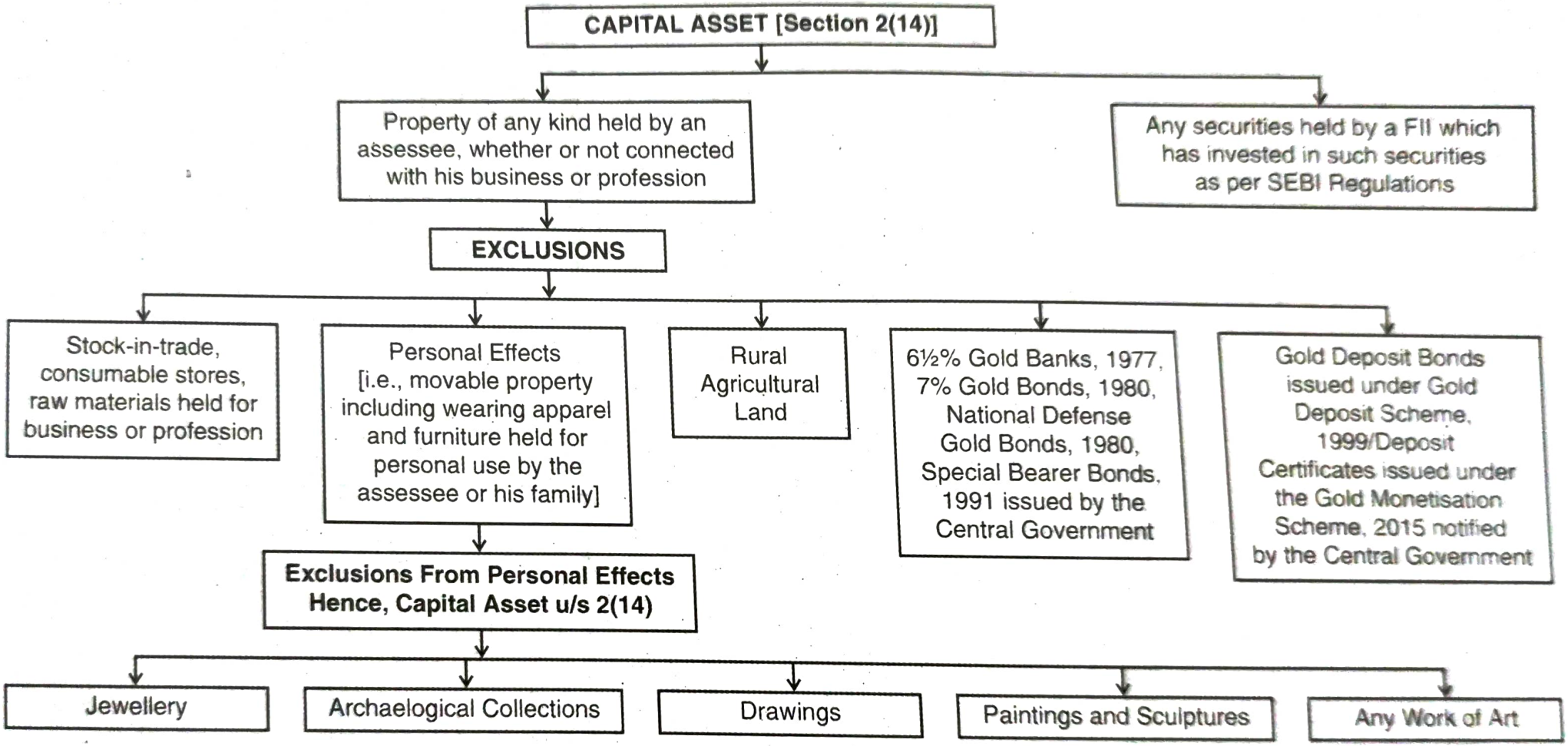
State whether following are capital assets; giving reasons:

(1) Refrigerator used in house.

(2) Gold coins used for Puja of Goddess *Laxmi*, in Puja Room in the house.

(3) Silver utensils used in the kitchen or dining room.

EXHIBIT 1 : CAPITAL ASSET



(4) House occupied for personal use.
(5) Agricultural land situated in Afganistan.

Solution :

(1) No, as Refrigerator used in house is a 'personal effect'.
(2) Yes, as Gold coins used for Puja cannot be called a 'personal' effect (not connected with the 'person' of the assessee).
(3) No, as these are utensils for personal use and not ornaments though made of silver.
(4) Yes, as the house is not a 'movable' property and hence not a personal effect.
(5) Yes, as the agricultural land is situated outside India.

Illustration 2 : (Answer in brief)

Whether the following are Capital Assets within the definition of sec. 2(14) :

(1) Goodwill of a business
(2) A house for personal use
(3) Personal scooter
(4) Utensils
(5) Vacant Land
(6) Jewellery
(7) Shares of AB Ltd.
(8) Debentures of XY Ltd.

(T.Y.B.Com., March 05, adapted)

Solution :

(1) Yes (includes intangible) (2) Yes (immovable) (3) No (movable) (4) No (personal) (5) Yes (6) Yes (vide definition) (7) Yes (8) Yes.

Illustration 3 : (Capital Asset)

A, director of a public limited company receiving remuneration, had a personal car which he had bought for ₹ 70,000 in 1990. He sold it in May 2021 for ₹ 65,000 and claimed the difference as loss from his total income. Discuss the liability to capital gains in this case.

Solution :

According to s. 2(14), personal car is not a capital asset. Hence no capital gain or loss arises on sale of a personal motor car.

3. CAPITAL ASSET MUST BE TRANSFERRED [S. 2(47)]

3.1 DEFINITION OF TRANSFER

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

(1) the *sale, exchange or relinquishment* of the asset;

(2) the *extinguishment* of any rights therein;

(3) the *compulsory acquisition* thereof under any law;

(4) the *conversion* of a capital asset by the owner thereof into stock-in-trade of a business carried on by him;

(5) any transaction involving the allowing of the *possession of any immovable property* to be taken or retained in part performance of a contract of the nature referred to in section 53A of the Transfer of Property Act, 1882;

(6) any transaction which has the effect of transferring or enabling the *enjoyment of any immovable property* (by becoming a member of, or acquiring shares in a co-operative society, company or other association of persons or by way of agreement or any arrangement or in any other manner whatsoever).

(7) maturity or redemption of a Zero Coupon Bond.

"Transfer" includes and shall be deemed to have always included disposing of or parting with an asset or any interest therein, or creating any interest in any asset in any manner whatsoever, directly or indirectly, absolutely or conditionally, voluntarily or involuntarily, by way of an agreement (whether entered into in India or outside India) or otherwise, notwithstanding that such transfer of rights has been characterised as being effected or dependent upon or flowing from the transfer of a share or shares of a company registered or incorporated outside India.

3.2 TRANSACTIONS TREATED AS TRANSFER

(1) Sale/Exchange/Relinquishment: ***Sale*** means transfer of ownership in exchange for a price (paid or promised or part paid and part promised). ***Exchange*** is a transfer in kind; i.e. a mutual transfer of ownership of one asset for the ownership of another by two persons. Examples are transfer of a Building by Mr. A to Mr. B who in turn transfers his machinery to Mr. A; or conversion of debentures into preference shares. Though there may be only one transfer by way of exchange, capital gains may arise to both the parties. ***Relinquishment*** means giving up, abandoning or surrender. Examples are surrender of tenancy rights; surrender of share by a co-owner; renouncement of entitlement to rights shares etc.

(2) Extinguishment: Extinguishment means termination, extinction; thus amount received on maturity of fixed deposits with bank; amount paid by company to shareholder on reduction of share capital or redemption of preference shares are examples of such extinguishment.

(3) Compulsory Acquisition: Normally, the transfer of assets is voluntary. However, as an exception, compulsory acquisition under a law is treated as a transfer. Acquisition of immovable property under Land Acquisition Act; nationalisation of industrial undertaking; are some examples [see Para 12.5].

(4) Conversion into Stock: Normally, transfer involves two parties; a person cannot be taxed for transferring his own property to himself. However, as an exception, conversion of capital asset into stock-in-trade is treated as a transfer. Thus, if an investor in shares starts a business of dealing in shares and treats his existing share investments as the stock-in-trade of the new business, such conversion is treated as a transfer [see Para 12.2].

(5) Part Performance of Contract: Normally, transfer of an immovable property is complete only on registration of the conveyance deed. Giving possession to the purchaser of the immovable property against full payment of purchase price is only a part performance of the contract. Still under the extended meaning of transfer, such part performance is treated as full-fledged transfer and the gains are brought to tax.

(6) Flats in Co-operative Societies: Flats in a group housing scheme are owned by a co-operative society and allotted to individual members for occupation. On sale of any flat, the ownership remains with the society; what is transferred is only the right of occupation. The expanded meaning of transfer covers even such transfers.

(7) Zero Coupon Bonds : According to S. 2(48), a zero coupon bond means a bond issued by any infrastructure capital company or infrastructure capital fund or public sector company on or after 1-6-2005 and notified by the Central Govt. No payment or benefit is receivable on such bonds before maturity or redemption. Maturity or redemption of such bonds is treated as 'transfer'.

[In the opinion of the authors, tax on virtual digital assets (crypto or NFT) introduced w.e.f. 1-4-2022 is beyond the scope of the syllabus.]

4. DATE OF TRANSFER WITHIN PREVIOUS YEAR

4.1 IMPORTANCE

The date on which the asset is transferred is important, because (a) it determines the previous year in which the gains are taxed as income; and (b) it determines whether the gains are short term or long term.

4.2 DATE OF TRANSFER DETERMINES THE PREVIOUS YEAR

Normally, capital gains are taxed in the year in which the transfer takes place. The year in which the consideration is received is not important. The year of transfer is the previous year in which the gains from such transfer are taxed under the head 'capital gains'. [For exceptions to this rule - see Para 12].

4.3 SHORT TERM CAPITAL ASSET

Capital assets are divided into two types - short term assets and long term assets. Normally, "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, an asset, held for not more than 12 months, is treated as short-term capital asset -

(1) Equity or preference shares in a company

(2) Securities (like debentures, Government securities) listed in a recognised stock exchange in India

(3) Units of Unit Trust of India (whether quoted or not).

(4) Units of mutual funds specified under section 10(23D) (whether quoted or not).

(5) Zero Coupon Bond.

However, **a share of a company** (not being a share listed in a recognised stock exchange in India) would be treated as a short-term capital asset if it was held by an assessee for not more than 24 months immediately preceding the date of its transfer.

An immovable property, being land or building or both, would be treated as a short-term capital asset if it was held by an assessee for not more than 24 months immediately preceding the date of its transfer.

The following exhibit sums up the above discussion.

EXHIBIT 2 : SHORT TERM CAPITA ASSET (STCA)

STCA if held for 12 months	Security listed in a recognised stock exchange
	Unit of equity oriented fund / Unit of UTI
	Zero Coupon bond
STCA if held for 24 months	Unlisted shares
	Land or building or both
STCA if held for 36 months	Unit of debt oriented fund
	Other capital asset

'Month' for this purpose should be ascertained on date-to-date basis e.g. March 26 - April 25, etc. Gains from transfer of short term capital assets give rise to short term capital gains (computed as explained in Para 5.1).

4.4 LONG TERM CAPITAL ASSET

An asset other than a short-term capital asset is regarded as a long-term capital asset [S. 2(29AA) **as amended w.e.f. 1-4-2021**]. Thus, shares/securities/units held for more than 12 months or unlisted shares held for more than 24 months or any other asset held for more than 36 months are long term assets. Gains from transfer of long term capital assets give rise to long term capital gains (computed as explained in Para 5.2).

An *unlisted security* and *unit of a debt-oriented mutual fund* would qualify as a "long-term capital asset" and be eligible for the benefit of indexation and concessional rate of tax @ 20% only if it is held for "more than 36 months".

4.5 COMPUTING PERIOD OF HOLDING

In determining the period for which any capital asset is held by the assessee:

(a) in the case of a *share held in a company in liquidation*, the period subsequent to the date on which the company goes into liquidation should be excluded;

(b) in the case of a capital asset which becomes the property of the assessee in the circumstances mentioned in section 49(1) [e.g. gift, will, inheritance etc., see Para 9.1], the period for which the *asset was held by the previous owner* should be included;

(c) in the case of a share in an Indian company which becomes the property of the assessee in a scheme of amalgamation, the period for which the *share in the amalgamating company* was held by the assessee should be included; and

(d) in the case of demerger, the period of holding of *shares in the demerged company* shall be included in the total period of holding of shares in the resulting company by the assessee.

(e) in the case of a capital asset, being (i) trading or clearing rights of recognised stock exchange in India acquired or (ii) equity share or shares in a company allotted by a person pursuant to demutualisation or corporatisation of the recognised stock exchange in India [as referred to in section 47(xiii)] there shall be included while calculating the period for holding of trading or clearing rights, the period for which the person was a member of the recognised stock exchange in India immediately prior to such demutualisation or corporatisation. This provision makes the process of demutualisation and corporatisation of stock exchanges tax neutral.

(f) in the case of a capital asset, being any specified security or sweat equity shares, allotted or transferred directly or indirectly, by the employer free of cost or at concessional rate to his employees (including former employees), the period shall be counted from the date of allotment or transfer of such specified security or sweat equity shares.

(g) An asset held for exactly 36 or 12 months is a short-term capital asset.

Illustration 4 : (Answer in brief)

Classify the gains arising from the following, into short term capital gains and long term capital gains:

(1) Mr. A purchases a building on 1-1-2006 and sells it on 1-1-2022.

(2) Mr. A purchases a building on 1-2-2021 and sells it on 1-1-2022.

(3) Mr. A acquires listed shares on 1-5-2021 and sells them on 1-3-2022.

(4) Mr. A acquires Units of an equity-oriented Mutual Fund on 1-5-2017 and sells them on 1-4-2021.

Solution :

(1) Long Term Capital Gains; as the building is held for more than 24 months.

(2) Short Term Capital Gains; as the building is held for less than 24 months.

(3) Short Term Capital Gains; as the shares were held for less than 12 months.

(4) Long Term Capital Gains; as the units were held for more than 12 months.

Illustration 5 : (Answer in brief)

An assessee acquired a house property on 27-11-2019, and sold it on 25-11-2021. Ascertain whether the asset will be treated as a long term or short term capital asset.

Solution :

The period of holding of the house property will be :

27-11-2019 to 26-10-2021	23 months
27-10-2021 to 24-11-2021	29 days
Total period of holding	23 months 29 days

Since the period is less than 24 months, the house property will be treated as a short-term capital asset.

Illustration 6 : (Answer in brief)

An assessee purchased listed shares on 27-2-2021 and sold them on 4-3-2022. Ascertain whether the asset will be treated as a long term or short term capital asset.

Solution :

The period of holding will be :

27-2-2021 to 26-2-2022	12 months
27-2-2022 to 3-3-2022	6 days
Total period of holding	12 months 6 days

Since the period of holding is more than 12 months, the shares will be treated as long term capital asset.

Illustration 7 : (Answer in brief)

An assessee received a house property as gift on 14-2-2022. The donor had originally acquired the property on 11-1-2019, and the assessee decides to sell the property on 18-2-2022. Ascertain whether the asset will be treated as a long term or short term capital asset.

Solution :

The period for which the assessee 'held' the asset will be worked out as follows :

Period for which previous owner held the asset (11-1-2019 to 13-2-2022) : 37 months and 3 days

Period for which assessee held the asset (14-2-2022 to 17-2-2022) : 4 days

Total period of holding : 37 months 7 days

Hence, the asset will be treated as a long-term capital asset for capital gains purposes.

5. HOW CAPITAL GAINS ARE COMPUTED [S. 48]

5.1 COMPUTING SHORT TERM CAPITAL GAINS

Method of computation of capital gain on transfer of short term capital asset is as follows :

(1) Compute full value of consideration (para 6);

(2) Deduct expenditure in connection with such transfer (para 7);

(3) Deduct cost of acquisition (para 8 & 9);

(4) Deduct cost of improvement to such asset (para 10);

(5) Compute Taxable short term capital gains [1 - 2 - 3 - 4].

This is summed up in the following Worksheet:

WORKSHEET 1 : COMPUTATION OF SHORT TERM CAPITAL GAINS

STEP	WHAT IS TO BE COMPUTED	HOW IT IS TO BE COMPUTED	PARA
1.	**Full Value of Consideration**	Gross consideration received/receivable	6
2.	**Less : Transfer expenses**	Brokerage etc.	7
3.	**Less : Cost of Acquisition**	Actual or Notional Cost of Acquisition	8, 9
4.	**Less : Cost of Improvement**	Addition / Alteration	10
5.	**Short Term Capital Gains**	[1 - 2 - 3 - 4]	

5.2 COMPUTING LONG TERM CAPITAL GAINS

Method of computation of capital gain on transfer of long term capital asset is as follows :

(1) Compute full value of consideration (para 6);

(2) Deduct expenditure in connection with such transfer (para 7);

(3) Deduct indexed cost of acquisition (para 8, 9 and 11);

(4) Deduct indexed cost of improvement to such asset (para 10 and 11);

(5) Deduct exemptions u/s 54 (para 13);

(6) Compute Taxable long term capital gains [1 - 2 - 3 - 4 - 5].

The tax is lower on long term capital gains because of indexed costs as well as lower rate (of 20% as against normal maximum rate of 30% in case of short term gains).

ITR - 2

The Income-tax Return Format requires the computation of LTCG in the following format.

a.	Full value of Consideration	a
b.	Deduction under Section 48	
	(i) Cost of acquisition after indexation	bi
	(ii) Cost of improvement after indexation	bii
	(iii) Expenditure on transfer	biii
	(iv) Total (bi + bii + biii)	**biv**
c.	**Balance (a - biv)**	**c**
d.	Exemption under Sections 54/54B/54D/54EC/54F	d
e.	**Net Balance (c - d)**	**d**

Each step involved in computation is explained in detail, below.

6. FULL VALUE OF CONSIDERATION [S. 48]

6.1 CONSIDERATION RECEIVED/RECEIVABLE

"Consideration" means the value received for the transfer. The value received may be money or money's worth. Consideration may be received immediately; or may be payable after some time; or even in instalments over many years. The entire consideration, received or receivable, is taken into account for computing capital gains in the year of transfer itself. Thus, capital gains are taxed on accrual basis and not cash basis, irrespective of the assessee's method of accounting.

6.2 FULL VALUE

"Full Value" means the "whole, entire or complete value". It may not be the adequate price or market price. It shows, without any deductions, the gross consideration for the transfer of the capital asset i.e. what the transferor receives in lieu of the asset he gives up.

6.3 EMPLOYEES' STOCK OPTION PLAN [ESOP]

Where shares, debentures or warrants are allotted by a company, directly or indirectly, to its employees under Employees' Stock Option Plan or Scheme, and such shares are transferred by the employee by way of gift, the market value on the date of such transfer shall be deemed to be the full value of the consideration received or accruing as a result of transfer (Prov. to S.48).

7. EXPENDITURE ON TRANSFER [S. 48]

(1) Expenditure incurred (by the transferor) wholly and exclusively in connection with the transfer of a capital asset can be deducted from full value of consideration.

(2) The words "expenditure incurred wholly and exclusively in connection with such transfer" mean expenditure which is necessary to effect the transfer, e.g. brokerage or commission paid for securing a purchaser; cost of stamp, registration fees borne by the vendor; travelling expenses incurred in connection with transfer etc.

(3) However, expenditure already claimed as deduction under other heads, is not deductible.

8. ACTUAL COST OF ACQUISITION

Cost of acquisition of an asset is the value for which the asset was acquired by the assessee. Expenses of capital nature for completing or acquiring the title to the property are part of the cost of acquisition.

Following are *treated as cost* of acquisition:

(1) *Interest* on moneys borrowed to purchase asset is part of actual cost of asset.

(2) *Litigation expenses* incurred for compelling the company to register the shares in the name of the assessee would be of capital nature, forming a part of the cost of acquisition of the shares.

Following are *not treated as cost* of acquisition -

(1) *Ground rent* cannot be said to be expenditure incurred by the assessee for the acquisition of the capital asset.

(2) *Estate duty* paid in respect of inherited property can neither be treated as a part of the cost of acquisition of property nor as cost of improvement.

9. DEEMED COST OF ACQUISITIONS

In the cases given below (Para 9.1 to 9.7), the cost of acquisition is taken at notional (deemed) figure (and not the actual cost).

9.1 COST TO PREVIOUS OWNER [S. 49(1)]

In some cases, the assessee might not have 'acquired' the property himself but might have 'become' 'owner' of the property under certain circumstances.

(1) Special rules apply when a capital asset becomes the property of the assessee

1. on distribution of assets on the total or partial *partition of a Hindu undivided family*;
2. under *gift or will*;
3. by *succession*, inheritance or devolution;
4. on distribution of assets on the *liquidation of a company*;
5. under a transfer to a revocable or an irrevocable trust;
6. *being a wholly-owned Indian subsidiary* company under a transfer from its holding company;
7. *being an Indian holding company* under a transfer from its wholly-owned subsidiary company;
8. in a scheme of amalgamation, demerger, business re-organisation *by the amalgamated company* from the amalgamating company which comes under section 47(*vi-vicc*);
9. *being a Hindu undivided family* where one of its members has *converted his self-acquired property* into joint family property after 31-12-1969.

(2) In the above cases, *cost to the previous owner* would be taken as cost of acquisition of the assessee. [Normally, the cost of the transferor would be 'Nil'].

(3) Where the previous owner has also acquired the property in the above manner, the previous owner of the property means the *last previous owner who acquired the property by means other than those discussed above.*

(4) *Cost of any improvement of the asset incurred by the previous owner*, or the assessee, will be added to such cost.

(5) In case the cost to the previous owner cannot be ascertained, the *fair market value of the asset as on the date it became the property of the previous owner* is taken to be the cost of acquisition to the previous owner.

9.2 COST OF SHARES ACQUIRED BY CONVERSION OF DEBENTURES [S. 49(2A)]

On the sale of shares received on conversion of debentures of a company into shares of that company, the cost of acquisition of such shares is to be taken as that part of the cost of debentures which has been appropriated towards the shares. For example, M has subscribed to 100 partly convertible debentures of Reliable Petro Limited for ₹ 10 each in 1999. He received 20 shares of ₹ 10 each in 2000. The value of debentures after conversion is ₹ 5 each. The cost of 20 shares is, therefore, ₹ 500 (Value of debentures appropriated towards shares = Original value of debentures ₹ 1,000 Less Value of debentures after conversion ₹ 500 = ₹ 500).

9.3 COST OF ESOP / SWEAT EQUITY SHARES [S . 49(2AA)]

Where the capital gain arises from the transfer of specified security on sweat equity shares, u/s 17(2)(vi) the cost of acquisition of such security on shares shall be the fair market value which has been taken into account for the purpose of that clause.

9.4 COST OF SHARES ALLOTTED IN A SCHEME OF DEMERGER [S. 49(2C)]

'Demerger', broadly speaking, means transfer of a part (unit, division or undertaking) by Company A (known as demerged company) to Company B (known as resulting company). The cost of acquisition of the shares in the resulting company shall be the amount which bears to the cost of acquisition of shares held by the assessee in the demerged company the same proportion as the net book value of the assets transferred in a demerger bears to the net worth of the demerged company immediately before such demerger. For this purpose "net worth" shall mean the aggregate of the paid-up share capital and general reserves as appearing in the books of account of the demerged company immediately before the demerger. Thus, the cost of acquisition of the shares in Company B (in the above example) will be equal to

$$\text{Cost of acquisition of shares in A} \times \frac{\text{Net book value of assets of A tfd. in demerger}}{\text{Net worth of A before demerger}}$$

It should be noted that -

(1) The period of holding of the shares in the resulting company shall be counted from the date of acquisition of shares in the demerged company, in order to find out whether or not they are long-term capital asset.

(2) The indexing will start from the date of allotment of shares in the resulting company.

9.5 COST OF ORIGINAL SHARES HELD IN DEMERGED COMPANY [S. 49(2D)]

The cost of acquisition of the original shares held by the shareholder in the demerged company (in the above example, Company A) are deemed to have been reduced by the amount as so arrived under S. 49 (2C) (as explained above).

9.6 COST FOR DONEE [S. 49(4)]

Where the capital gain arises from the transfer of property, subjected to tax u/s 56(2)(vii) or 56(2)(viia) or 56(2)(x) [see chapter 8, Para 2.2.9], the cost of acquisition of such property or shares shall be the fair market value under that clause.

9.7 COST ON CONVERSION OF STOCK INTO CAPITAL ASSET [S. 49(9)]

- Section 49(9) provides that if stock in trade is converted in to capital asset, cost of such capital asset shall be deemed to be the fair market value which has been taken into account for the purpose of section 28(via) [i.e., fair market value on the date of conversion of stock-in-trade into capital asset].
- Further, section 2(42A) has been amended to provide that in case of conversion of stock-in-trade into capital asset, for determining the nature of converted asset, the period of holding shall be reckoned from the date of conversion.

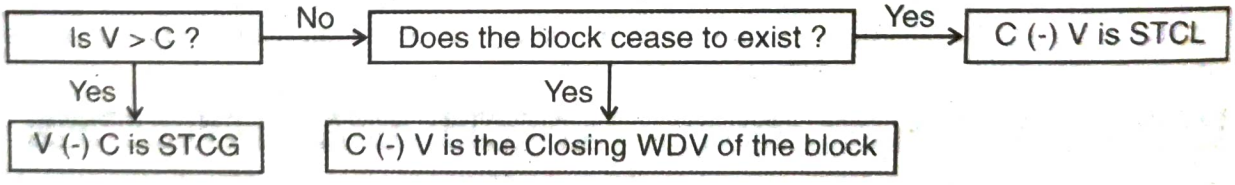
[**Tutorial Note :** S. 49(2B) is deleted. Other sub-sections of S. 49 are not discussed since their provisions are to be read with S. 47A, which is not covered by the syllabus].

9.8 DEPRECIABLE ASSETS [S. 50]

(1) Applicable to Depreciable Assets: These special rules are applicable only to capital assets belonging to any block of depreciable assets (plant, machinery, building etc.- see Chapter 6). There are two cases in which capital gains arise - (A) when, out of a block of assets, only some assets are transferred or (B) when all assets are transferred.

The following exhibit sums up how capital gains are taxed on the transfer of Depreciable Assets.

EXHIBIT 3 : CAPITAL GAINS ON DEPRECIABLE ASSETS



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

(2) Case A - Transfer of Some Assets in a Block [S. 50(1)]

1. **Transfer of Some Assets:** In this case assets belonging to a block are transferred, [but the block of assets does not cease to exist as in the case B].
2. **Computation of Capital Gains:** Capital gains are computed as follows:

WORKSHEET 2 : CAPITAL GAINS ON TRANSFER OF SOME DEPRECIABLE ASSETS

STEP	WHAT IS TO BE COMPUTED	HOW IT IS TO BE COMPUTED
1.	**Full Value of Consideration**	Gross Consideration received/receivable
2.	**Less : Transfer expenses**	Brokerage etc.
3.	**Less : Opening WDV of Block**	WDV at beginning of Previous Year
4.	**Less : Cost of Additions to Block**	Additions to Block during Previous Year
5.	**Short Term Capital Gains**	[1 - 2 - 3 - 4]

3. **Short Term Capital Gains:** The excess [as worked out in step 5], if any, is taxed as capital gains. Such gains are deemed to be short-term capital gains.

(3) Case B - Transfer of All Assets in a Block [S. 50(2)]

1. **Transfer of All Assets:** In this case a block of assets ceases to exist because all assets in that block are transferred during the previous year.
2. **Computing Cost of Acquisition:** The cost of acquisition in such a case is the total of the following:
   (a) written down value of block of assets at the beginning of the previous year; and
   (b) actual cost of any asset in that block of assets acquired during the previous year.
3. **Short Term Capital Loss:** If the consideration received is less than the cost of acquisition (as computed *above*) and expenditure on such transfer, the shortfall will be short-term capital loss.
4. **Short Term Capital Gains:** On the other hand, if consideration so received exceeds the cost of acquisition and expenditure on the transfer, the excess will be chargeable to tax as short-term capital gain.

(4) Case C - Transfer of Goodwill in a Block

In a case where goodwill of a business or profession forms part of a block of asset for the assessment year beginning on the 1st day of April, 2020 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 **[amendment w.e.f. 1-4-2021]**.

WORKSHEET 3 : CAPITAL GAINS ON TRANSFER OF DEPRECIABLE ASSETS [EMPTY BLOCK]

STEP	WHAT IS TO BE COMPUTED	HOW IT IS TO BE COMPUTED
1.	**Full Value of Consideration**	Gross consideration received/receivable
2.	**Less : Transfer expenses**	Brokerage etc.
3.	**Less : Opening Written Down Value**	WDV at beginning of Previous Year
4.	**Less : Cost of Additions**	Additions to Block during Previous Year
5.	**Short Term Capital Gains/Loss**	[1 - 2 - 3 - 4]

Illustration 8 :

M owns two machines (A) and (B) eligible for depreciation at 25%. The WDV of these machines on 1-4-2021 was ₹ 25,000 and ₹ 40,000 respectively. Find out the capital gains, if any, in the following alternative cases:

(1) Another machine (C) costing ₹ 1,30,000 was added during the year 2021-22. Machine (A) was sold for ₹ 4,75,000.

(2) In case (1), assume that Machine (A) was sold for ₹ 1,90,000.

(3) There were no additions during the year. Both the machines (A) and (B) were sold for ₹ 75,000.

(4) In case (3), assume that both the machines were sold for ₹ 60,000.

Solution :

(1) Part of Block Sold & Consideration exceeds Cost of Block

Particulars	₹	₹
Sale Consideration	... ...	4,75,000
Less :		
Opening WDV (25,000 + 40,000)	... ...	65,000
Additions during year	... ...	1,30,000
Short Term Capital Gains	... ...	1,95,000
		2,80,000

Note : The block continues to exist, but at Nil value for the purpose of calculating depreciation.

(2) Part of Block Sold, But Consideration Less than Cost of Block

Particulars	₹	₹
Sale Consideration	... ...	1,90,000
Less :		
Opening WDV (25,000 + 40,000)	... ...	65,000
Additions during the year	... ...	1,30,000
Capital Gains	... ...	1,95,000
		N.A.

Note : No Capital gain or loss arises because (1) block continues to exist and (2) consideration is less than the cost of the block. Depreciation will be charged on WDV of ₹ 5,000 (1,95,000 - 1,90,000).

(3) Entire Block Sold, Consideration Exceeds Cost of Block

Particulars	₹
Sale Consideration	75,000
Less : Opening WDV (25,000 + 40,000)	65,000
Short Term Capital Gains	10,000

(4) Entire Block Sold, Consideration Less Than Cost of Block

Particulars	₹
Sale Consideration	60,000
Less : Opening WDV (25,000 + 40,000)	65,000
Short Term Capital Loss	(5,000)

Explanatory Notes : Thus,

(1) Short term capital gains arise when consideration exceeds cost of block, whether part or entire block is sold.

(2) Short term capital loss arises only when consideration is less than the cost of block, *and* the entire block is sold.

(3) No short term capital loss arises even when consideration is less than the cost of block, if only part of block is sold.

9.9 FAIR MARKET VALUE ON 1.4.2001

(1) Option: In the following cases, the assessee may take at his option, either the actual cost or the fair market value of the asset (other than a depreciable asset), as on April 1, 2001 as cost of acquisition :

(a) where the capital asset became the property of the assessee before April 1, 2001; or

(b) where the capital asset became the property of the assessee by any mode referred to in section 49(1) [*see* para 9.1] and the capital asset became the property of the previous owner before April 1, 2001.

(2) Option Not Available : This option is not available on -

(a) depreciable assets; or

(b) intangible assets (e.g. goodwill of a business, tenancy rights etc.)

(3) **Meaning:** Fair Market Value means [u/s 2 (22B)] -

(a) the price which the asset would ordinarily fetch on sale in the open market on the relevant date; or

(b) where such price cannot be ascertained; the price as determined under the Income-tax Rules.

(4) **Example :** Suppose, Mr. M purchases a house property on April 10, 1995 at ₹ 4,00,000. He sells the house property for ₹ 20,00,000 in the current year. He has the option to take the fair value (FV) of the house property as on April 1, 2001 as his cost of acquisition. If such FV is ₹ 10,00,000, he should exercise the option so as to pay less tax on capital gains. If the FV of the house property, on the other hand, on April 1, 2001 is only ₹ 1,00,000, he can opt to treat his actual cost (₹ 4,00,000) as the cost of acquisition.

10. COST OF IMPROVEMENT

10.1 MEANING

Cost of improvement is defined as follows:

(1) Cost of improvement in relation to *goodwill* of a business or profession; or a right to manufacture, produce or process any article or thing is taken to be *nil*.

(2) Cost of improvement in relation to any other capital asset means all expenses of capital nature incurred in making any *addition/alteration* to the capital asset by the assessee [or the previous owner in cases specified in section 49(1)].

10.2 EXCLUDES

Cost of improvement does not, however, include the following :

(1) any expenditure which is *deductible* in computing the income chargeable under any other heads; and

(2) expenditure incurred *prior to April 1, 2001* [where the capital asset became the property of the assessee or the previous owner before April 1, 2001 irrespective of whether the assessee opts for treating the fair market value as on 1-4-2001 as his cost of acquisition or not].

10.3 EXAMPLES

(1) Cost of improvement includes any expenditure incurred to *protect, cure or complete the title* to the capital assets. In other words, any expenditure incurred to increase the value of the capital asset is treated as cost of improvement.

(2) Expenditure incurred in legal proceedings in a civil court for *enhancement of compensation* in the case of compulsory acquisition is taken as cost of improvement.

11. INDEXED COST

11.1 MEANING

Indexed cost is relevant only for computing long term capital gains. Indexed cost means original cost as adjusted for inflation shown by a Price Index. Thus, suppose the original cost of an asset was ₹ 100 in March 2001. The price index shows that ₹ 100 in March 2001 is equivalent to ₹ 317 in March 2022. If this asset is sold in March 2022 for ₹ 417, the indexed cost of this asset will be taken as ₹ 317; the capital gain will be taken as ₹ 100 (₹ 417 less Indexed cost ₹ 317). This helps to tax only the real gains earned by the assessee on sale of an asset.

11.2 COST INFLATION INDEX

The indexed cost is computed with the help of Cost Inflation Index [CII]. Indexing is applied to both the cost of acquisition as well as the cost of improvement. "Cost inflation index" for any year means

such index as the Central Government may, having regard to seventy-five per cent of the average rise in the consumer price index for urban non-manual employees for the immediately preceding previous year to such previous year, by notification in the Official Gazette, specify in this behalf. The base previous year for the CII is 2001-02. The Index for various previous years is as shown below:

EXHIBIT 4 : COST INFLATION INDEX (CII)

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

11.3 INDEXED COST OF ACQUISITION [S. 48-EXPLN. (III)]

"Indexed cost of acquisition" is the amount which bears to the cost of acquisition the same proportion as the cost inflation index [CII] for the year in which the asset is transferred bears to the cost inflation index for the first year in which the asset was held by the assessee or for the year beginning on April 1, 2001, whichever is later. Thus,

$$\text{Indexed Cost of Acquisition} = \text{Cost of Acquisition} \times \frac{\text{CII for the year of transfer}}{\text{CII for the year of acquisition}}$$

It should be noted that -

(1) For post - April 2001 assets, indexation starts with the year from which asset is held (irrespective of the year in which cost is paid.) For pre - April 2001 assets, CII for year of acquisition is taken as 100 (CII for 2001-02).

(2) Indexation ends with the year in which assets is transferred (irrespective of the year in which sale price is received).

(3) Same index applies for all the 12 months of a particular financial year. No pro-rata adjustment is done, depending upon the month in which asset is acquired/transferred.

11.4 INDEXED COST OF IMPROVEMENT

Indexed cost of improvement is defined as an amount which bears to the cost of improvement, the same proportion as the cost inflation index for the year in which the asset is transferred bears to the cost inflation index for the year in which the improvement to the asset took place. Thus,

$$\text{Indexed Cost of Improvement} = \text{Cost of Improvement} \times \frac{\text{CII for the year of transfer}}{\text{CII for year of improvement}}$$

11.5 INDEXATION NOT APPLICABLE

Indexation is not applicable in the following cases:

(1) Short term assets;

(2) transfer of shares in or debentures of an Indian company by a non-resident assessee [s. 48 - 2nd proviso];

(3) transfer of a bond or a debenture (other than capital index bonds issued by the Government or Sovereign Gold Bonds issued by RBI) [s. 48 - 3rd proviso].

(4) Transfer of the following assets referred to in section 112A -

(i) equity share in a company on which Security Transaction Tax (STT) is paid both at the time of acquisition and transfer

(iv) unit of equity oriented fund or unit of business trust on which STT is paid at the time of transfer.

11.6 COMPUTATION OF INDEXED COST OF ACQUISITION / IMPROVEMENT

Computation of Indexed cost of acquisition/improvement depends on the following factors.

(1) *how* the capital asset is acquired by the assessee (whether directly or in a mode mentioned in section 49(1) explained in para 9.1),

(2) *when* the capital asset is acquired by the assessee or the previous owner (whether before or after April 1, 2001),

The various situations arising out of the different combinations of the above factors are explained below.

11.6.1 Asset Directly Acquired by Assessee After 1-4-2001

This situation covers the case where a capital asset is *directly* acquired by the assessee *after* April 1, 2001. When such asset is transferred in the current previous year 2021-22 (whose CII is 317), its cost will be determined as shown below :

(1) Indexed cost acquisition

$$= \text{Cost of acquisition} \times \frac{317}{\text{CII for year of acquisition}}$$

(2) Indexed cost of improvement

$$= \text{Cost of improvement} \times \frac{317}{\text{CII for year of improvement}}$$

11.6.2 Asset Directly Acquired by Assessee Before 1-4-2001

This situation covers the case where a capital asset is *directly* acquired by the assessee *before* April 1, 2001. When such asset is transferred in the current previous year 2021-22 (whose CII is 317), its cost will be determined as shown below :

(1) Indexed cost of acquisition

$$= \text{Higher of Cost of acquisition or FMV on 1-4-2001} \times \frac{317}{100}$$

Note that 100 is the CII for 2001-02.

(2) Indexed cost of improvement

$$= \text{Cost of improvement after 1-4-2001} \times \frac{317}{\text{CII for year of improvement}}$$

Note that the cost of improvement before 1-4-2001 is to be ignored.

11.6.3 Asset Acquired by Assessee U/S 49 (1) Before 1-4-2001

This situation covers the case where a capital asset is acquired by the assessee in a mode mentioned in section 49(1) (see Para 9.1) before April 1, 2001. When such asset is transferred in the current previous year 2021-22 (whose CII is 317), the cost will be determined as shown below.

(1) Indexed cost of acquisition

$$= \text{Higher of Cost of acquisition to previous owner or FMV on 1-4-2001} \times \frac{317}{100}$$

Note that 100 is CII for 2001-02.

(2) Indexed cost of improvement

$$= \text{Cost of improvement after 1-4-2001} \times \frac{317}{\text{CII for year of improvement}}$$

Note that (i) cost of improvement may be incurred either by the previous owner or by the assessee, after 1-4-2001, and (ii) the cost of improvement before 1-4-2001 is to be ignored.

11.6.4 Asset Acquired by Assessee U/S 49(1) after 1-4-2001, but Acquired By Previous Owner before 1-4-2001

This situation covers the case where a capital asset is acquired by the assessee in a mode mentioned in section 49(1) on or after 1st April 2001, but it was originally acquired by the previous owner before 1-4-2001. When such asset is transferred in the current previous year 2021-22 (whose CII is 317), its cost will be determined as shown below :

(1) Indexed cost of acquisition

$$= \text{Higher of Cost of previous owner or FMV on 1-4-2001} \times \frac{317}{\text{CII for year of acquisition by assessee}}$$

Note that while cost or FMV is on 1-4-2001, the CII in the denominator is for the year when the asset was acquired/first held by the assessee .

(2) Indexed cost of improvement

$$= \text{Cost of improvement after 1-4-2001} \times \frac{317}{\text{CII for year of improvement}}$$

Note that - (i) cost of improvement may be incurred either by the previous owner or by the assessee, after 1-4-2001, and (ii) the cost of improvement before 1-4-2001 is to be ignored.

11.6.5 Asset Acquired by Assessee U/S 49(1) after 1-4-2001, Acquired by Previous Owner also after 1-4-2001

This situation covers the case where a capital asset is acquired by the assessee in a mode mentioned in section 49(1), after April 1, 2001, and it was originally acquired by the previous owner also after 1-4-2001. When such asset is transferred in the current previous year 2021-22 (whose CII is 317), its cost will be determined as shown below :

(1) Indexed cost of acquisition

$$= \text{Cost of acquisition of previous owner} \times \frac{317}{\text{CII for year of acquisition by assessee}}$$

(2) Indexed cost of improvement

$$= \text{Cost of improvement} \times \frac{317}{\text{CII for year of improvement}}$$

Note that cost of improvement may be incurred either by the previous owner or by the assessee.

11.7 ILLUSTRATIONS

Illustration 9 :

Mr. Gavaskar purchased a residential house on 01-06-1999 for ₹ 2,00,000. He incurred expenses of ₹ 1,50,000 towards cost of improvement on 02-07-2003. The fair market value of the house on 01-04-2001 was ₹ 5,50,000. He sold the house on 10-10-2021 for ₹ 30 lakhs. The cost inflation index for F. Y. 2001-02 is 100, for F.Y. 2003-04 is 109 and for F. Y. 2021-22 is 317.

You are required to compute his Capital Gain for Assessment year 2022-23.

Solution : ***(T.Y.B.Com., Oct. 04, adapted)***

NAME OF ASSESSEE : MR. GAVASKAR **STATUS : INDIVIDUAL**

PREVIOUS YEAR : 2021-22 **ASSESSMENT YEAR : 2022-23**

Particulars		₹	₹
Full value of Sale Consideration	... ...		30,00,000
Less : Cost			
(i) Indexed cost of Purchase Price			
Purchase Price 01-06-1999	... ...	2,00,000	
Fair Market Value 01-01-2001	... ...	5,50,000	
Indexed cost of FMV 5,50,000 x 317 ÷ 100		17,43,500	
(ii) Indexed cost of Improvement in 2003-04			
1,50,000 x 317 ÷ 109	... ...	4,36,239	21,79,739
Long Term Capital Gains	... ...		8,20,261

Illustration 10 : (Gifted HP)

Mr. A purchased a house in December, 1995 for ₹ 50,000. This property was gifted to his friend Mr B in July, 2005. The following expenses were incurred by Mr. A and Mr. B on additions to the house

Particulars	₹
(1) Addition of one room by Mr. A in 1998-99	45,000
(2) Addition of two rooms by Mr. A in 2002-03	3,00,000
(3) Addition of three rooms by Mr. B in 2010-11	7,00,000

Fair Market value of the house on 1st April, 2001 was 4,00,000. The property was sold for ₹ 40,00,000 in November, 2021.

Compute the taxable Capital Gains in the hands of Mr. B for the Assessment year 2022-23.

Cost Inflation Index is as follows :

Financial Year 2021-22 - 317, Financial Year 2002-03 - 105, Financial Year 2005-06 - 117, Financial Year 2010-11 - 167. ***(T.Y.B.Com., Oct. 2005, CA Inter, May 2011, adapted)***

Solution :

NAME OF ASSESSEE : Mr. A

PREVIOUS YEAR : 2021-22 **ASSESSMENT YEAR : 2022-23**

Particulars	₹	₹
Sale Consideration		40,00,000
Less : Indexed Cost of Acquisition (4,00,000 x 317 ÷ 117)	10,83,761	
Indexed Cost of Improvement :		
- During 2002-03 by previous owner (indexed cost of improvement : ₹ 3,00,000 x 317 ÷ 105)	9,05,714	
- During 2010-11 by assessee (indexed cost of improvement : ₹ 7,00,000 x 317 ÷ 167)	13,28,743	33,18,217
Long-term Capital Gain		6,81,783

Note : Expenditure before April 1, 2001 ₹ 45,000 is to be ignored. The indexed cost computed as explained in Para 11.6.4.

Illustration 11 :

Mr. Kamlesh purchased a house property for ₹ 1,00,000 on 27 August, 1998. He made the following additions/ alterations to the house property.

Cost of construction of 1st floor in Financial Year 2003-04 ₹ 13,00,000

Cost of construction of 2nd floor in Financial Year 2010-11 ₹ 14,00,000

Fair Market Value of the property on 01-04-2001 was ₹ 15,00,000. He sold the property on 20th October, 2021 for ₹ 1,95,00,000. He paid the brokerage of ₹ 55,000 for the sale transaction. The Cost Inflation Index for Financial year 2001-02 is 100, for Financial Year 2003-04 is 109, for Financial Year 2010-11 is 167 and for Financial year 2021-22 is 317.

Compute the Capital gain of Mr. Kamlesh chargeable to tax for the Assessment Year 2022-23.

(T.Y.B.Com., Mar. 06, Oct. 09, adapted)

Solution :

NAME OF ASSESSEE : Mr. Kamlesh **STATUS : INDIVIDUAL**

PREVIOUS YEAR : 2021-22 **ASSESSMENT YEAR : 2022-23**

Particulars		₹
Full value of Consideration		1,95,00,000
Less : Indexed Cost of Acquisition of FMV ₹ 15,00,000 on 1-4-2001 15,00,000 x 317 ÷ 100	47,55,000	
Less : Indexed Cost of Improvement		
13,00,000 x 317 ÷ 109 for F.Y. 2003-04	37,80,734	
14,00,000 x 317 ÷ 167 for F.Y. 2010-11	26,57,485	
Less : Expenses of Transfer (Brokerage)	55,000	1,12,48,219
Long Term Capital Gains		82,51,781

Illustration 12 :

Mr. Parag Purchased a residential flat on 02-05-2016 for ₹ 10,00,000. He paid on the same day the stamp duty and registration charges of ₹ 48,750 on purchase of flat. He sold the said flat on 17-03-2022

for ₹ 12,00,000. The cost inflation Index for F.Y. 2013-14 is 220 and for F.Y. 2021-22 is 317. Compute his Capital Gain Chargeable to tax for assessment year 2022-23.

Solution : *(T.Y.B.Com., Oct. 06, adapted)*

NAME OF ASSESSEE : MR. PARAG **STATUS : INDIVIDUAL**

PREVIOUS YEAR : 2021-22 **ASSESSMENT YEAR : 2022-23**

RESIDENTIAL STATUS : R & OR

Particulars		₹	₹
INCOME FROM CAPITAL GAINS			
Full Value of Flat Sold	... ...		12,00,000
Less : Purchase Price of Flat	... ...	10,00,000	
Stamp Duty & Registration	... ...	48,750	10,48,750
SHORT TERM CAPITAL GAINS	... ...		1,51,250

Note : Since the capital asset is held for less than 24 months, it is **Short Term Capital Asset** hence cost inflation index is not applicable.

Illustration 13 :

Mr. Dinesh Kamble purchased a house property for ₹ 1,25,000 on 16th August 1991. He made the following addition to the house property. Cost of construction of 1st floor in financial year 2005-06 ₹ 12,25,000.

The fair market value of the property on 1-4-2001 was ₹ 13,50,000. He sold the property on 15th September 2021 for ₹ 85,00,000. He paid brokerage of ₹ 25,000 for the sale transaction.

The cost inflation index for Financial Year 2001-02 is 100, for Financial year 2005-06 is 117 and Financial Year 2021-22 is 317.

Compute the capital gains of Mr. Dinesh Kamble chargeable to tax for Assessment Year 2022-23.

Solution : ***(T.Y.B.Com., Oct. 2010, adapted)***

NAME : MR. DINESH KAMBLE **STATUS : INDIVIDUAL**

PREVIOUS YEAR : 2021-22 **ASSESSMENT YEAR : 2022-23**

Particulars			₹
Gross Consideration	... ...		85,00,000
Less : Indexed Cost of Acquisition of FMV ₹ 13,50,000 on 1-4-2001			
13,50,000 x 317 ÷ 100	... ...	42,79,500	
Less : Indexed Cost of Improvement ₹ 12,25,000			
12,25,000 x 317 ÷ 117	... ...	33,19,017	
Less : Transfer Expenses	... ...	25,000	76,23,517
Long Term Capital Gains	... ...		8,76,483

12. CAPITAL GAIN IN CERTAIN SPECIAL CASES

In the following cases capital gains are determined/computed in a different manner.

12.1 RECEIPT OF INSURANCE CLAIM [S. 45(1A)]

Normally, insurance claim received on account of destruction of asset is not chargeable to tax as "destruction" does not amount to transfer. However, s. 45(1A) lays down an exception to this rule, by taxing certain types of insurance compensation as capital gains.

12.1.1 When Taxable As Capital Gains

Insurance claims are taxed if the following two conditions are satisfied -

(1) Compensation is received because of 'damage to' or 'destruction of' any capital asset.

(2) Such damage or destruction is due to -

(a) flood, typhoon, hurricane, cyclone, earthquake or other natural disasters

(b) riot or civil disturbance; or

(c) accidental fire explosion; or

(d) action by an enemy or action taken in combating an enemy (whether with or without a declaration of war).

12.1.2 How Taxable

(1) Above gains arising from receipt of money or other assets under any insurance from an insurer shall be chargeable to income-tax under the head "Capital gains".

(2) Gains shall be deemed to be the income of such person for the previous year in which such money or other asset is received.

(3) For this purpose, the value of any money or the fair market value of other asset (on the date of receipt) shall be deemed to be the full value of the consideration received or accruing as a result of transfer of such asset.

(4) Other rules (cost of acquisition) etc. are the same as explained earlier.

12.1.3 When Not Taxable As Capital Gains

(1) If the two conditions mentioned in para 12.1.1 are not satisfied, then section 45(1A) is not applicable and, consequently, insurance compensation (if it is a capital receipt) will not be chargeable to tax. For example, insurance compensation received for loss of machinery involved in road accident while being transported, will not be taxed, being a capital receipt, since the reason for destruction is not covered in one of the conditions mentioned above.

(2) However, if the insurance compensation is a revenue receipt (e.g. for loss of stock-in-trade), then it may be taxed, not as capital gains, but as Income from business.

12.2 CONVERSION OF CAPITAL ASSET INTO STOCK-IN-TRADE [S. 45(2)]

(1) Conversion of investment into stock-in-trade will be treated as transfer under section 2(47). It will be treated as transfer in the year in which capital asset is converted into stock-in-trade. [Normally, such conversion would not be treated as transfer, as transfer arises only between two different persons].

(2) The notional capital gain arising from transfer by way of conversion of a capital asset into stock-in-trade will be chargeable to tax in the year in which the stock-in-trade is sold. [Normally, capital gain would have been taxed in the year of transfer i.e. such conversion].

(3) For the purpose of computing the capital gain in such cases, the fair market value of the capital asset on the date on which it was converted or treated as stock-in-trade shall be deemed to be the full value of the consideration received or accruing as a result of the transfer of the capital asset. [Normally, consideration would be Nil, as no consideration is received/receivable].

(4) Period of holding of the asset runs from the date of acquisition of the asset to the date of such conversion.

(5) In case of a short term asset, cost is computed as explained in Para 5.1.

(6) In case of long term asset, indexed cost is computed as explained in Para 5.2. For the purpose of indexation, year of conversion is taken as the year of transfer.

(7) Business income from such converted stock-in-trade arises in the year such stock is sold. Business income is equal to Sale value of stock Less Fair market value of the asset on the date of conversion.

12.3 TRANSFER OF SECURITY BY DEPOSITORY [S. 45(2A)]

(1) Where any person has had at any time during previous year any beneficial interest in any securities, then any profits or gains arising from transfer made by the depository or participant of such beneficial interest in respect of securities shall be chargeable to income-tax as the income of the beneficial owner of the previous year in which such transfer took place. [Normally, since the depository is deemed to be the registered owner of securities under the Depositories Act, 1996, gains would be taxed in its hands.]

(2) The cost of acquisition and the period of holding of any such (de-mat) securities shall be determined on the basis of the first-in-first-out (FIFO) method.

[illegible]

(3) For this purpose, *beneficial owner* means a person whose name is recorded as such with a depository. *Depository* means a company registered under the Companies Act and which has been granted a certificate of registration under the Securities and Exchange Board of India [SEBI] Act.

12.4 TRANSFER OF ASSETS BETWEEN FIRM & PARTNER [S. 45(3), (4) & (4A)]

(1) On transfer of a capital asset by a partner to a firm as capital contribution -

(a) capital gain accrues to the partner who transfers the asset;

(b) such gains are taxed as his income in the year of such transfer;

(c) the full value of the consideration for transfer is taken to be the amount recorded in the books of account of the firm as the value of the capital asset.

(2) In the case of transfer by way of distribution of capital assets by a firm, on dissolution-

(a) capital gains are taxed in the hands of such firm;

(b) gains are taxed in the previous year when such transfer takes place;

(c) the fair market value of the asset as on the date of transfer is deemed to be the full value of the consideration.

(3) The above rules also apply to transfer of assets between an association of persons and its members; or between a body of individuals and its members.

(4) Except above, other normal rules of computation are applicable as explained earlier.

(5) The above special rules do not apply to transfer of assets between a company or a co-operative society and its members.

(6) **Section 45(4A), inserted w.e.f. Assessment Year 2022-23** brings the (i) revalued assets or (ii) self generated assets, under the ambit of Capital Gain taxation. Receipt of such capital asset by the partners or members shall be chargeable to income tax as income of the specified entity (partnership firm or AOP/BOI) under the head capital gains and shall be deemed to be the income of such specified entity (partnership firm or AOP/BOI) of the PY in which the capital asset was received by the partner or member (as the case may be).

12.5 COMPENSATION ON COMPULSORY ACQUISITION OF AN ASSET [S. 45(5)]

12.5.1 When Applicable

These provisions apply to a capital asset transferred-

(1) by way of compulsory acquisition under any law; or

(2) for a consideration which is approved or determined by the Central Government or the Reserve Bank of India.

12.5.2 Initial Compensation Taxed When Received

(1) The capital gain is taxed in the previous year in which such compensation (or part thereof) is first received. [Normally, capital gain would be taxed in the year in which the capital asset is transferred].

(2) In such cases, capital gain is computed by taking the initial compensation as the full value of consideration.

(3) Holding period of the asset, in such cases, runs upto the date of compulsory acquisition [and not the date of receipt of consideration].

(4) For indexation, the year of transfer [and not the year of receipt] is taken to be the year of compulsory acquisition.

12.5.3 Enhanced Compensation Taxed When Received

If any such compensation is enhanced by a court, Tribunal or any authority, then it will be taxable as follows -

(1) It shall be deemed to be the income chargeable *of* the previous year in which enhanced compensation is received.

(2) Such compensation shall be deemed to be the income chargeable under the head 'Capital gains' in the previous year in which the final order of such court, Tribunal or other authority is made.

(3) It is taxed in the hands of the assessee or his successor.

(4) Cost of acquisition and the cost of improvement shall be taken as *nil* (as these costs were already deducted from the initial compensation).

(5) Litigation expenses for getting the compensation enhanced are deductible as expenses on transfer.

(6) Such capital gain will be short term or long term depending upon whether the original capital gain was short term or long term.

12.5.4 Reduction in Compensation

Where such amount of the compensation or consideration is subsequently reduced by any court, Tribunal or other authority, the capital gain of that year, in which the compensation received was taxed, shall be recomputed accordingly.

12.5.5 Exemption of capital gain on compensation received on compulsory acquisition of urban agriculture land [Sec.10(37)]

Capital gain (whether short-term or long-term) will be exempt from tax if the following conditions u/s 10(37) are satisfied :-

(1) The assessee is an individual or a Hindu undivided family.

(2) He or it owns an agricultural land situated in urban area mentioned in section 2(14)(iii)(a)(b).

(3) There is transfer of the agriculture land by way of compulsory acquisition or the consideration for transfer is approved or determined by the Central Government or RBI.

(4) The agriculture land was used by the assessee (and/or his parents if the land was owned by an individual) for agricultural purposes during 2 years immediately prior to the date of transfer.

(5) The asset may be long-term capital asset or short-term capital asset.

(6) Capital gain arises from compensation (and / or additional compensation) or consideration which is received by the assessee after March 31, 2005.

12.6 SPECIFIED AGREEMENT [S. 45(5A)]

The definition of 'transfer', inter alia, includes any arrangement or transaction where any rights are handed over in execution of part performance of contract, even though the legal title has not been transferred. Applying the definition of transfer, under certain development agreements, the transfer took place in the year in which the owner of the immovable property, being land and building or both, handed over the immovable property to the developer.

Consequently, the capital gains tax liability in the hands of the owner would arise in the year in which the possession of immovable property is handed over to the developer for development of a project, in spite of the fact that the consideration thereof (i.e. the actual constructed property) will be received only after a couple of years. Postponement of taxability of capital gains : With a view to minimise the genuine hardship which the owner of land may face in paying capital gains tax in the year of transfer, a new sub-section (5A) in section 45 has been inserted to provide that -

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

12.7 REPURCHASE OF UNITS UNDER ELSS [S. 45(6)]

(1) These provisions apply to units referred to in S. 80CCB(2), i.e. units issued under Equity Linked Savings Scheme (ELSS) by a Fund or a Trust.

(2) Capital gains arise to the assessee when such units are repurchased by the Fund or Trust.

(3) Capital gains are taxed in the year such units are repurchased or the plan is terminated.

(4) Capital gains are equal to Repurchase price of units Less Capital value of such units i.e. amount invested by the assessee in such units.

12.8 NON-RESIDENT [S. 48 - 1st Proviso]

12.8.1 When Applicable

To avail the benefit of this provision, the following conditions should be satisfied -

(1) The taxpayer is a non-resident (but not covered by sections 115AC and 115AD);

(2) He transfers shares in (or debentures of) an Indian company;

(3) Such assets were acquired by him by utilising foreign currency.

12.8.2 Rules of Computation

If the above conditions are satisfied, the capital gains are computed in the following manner-

(1) Computation in FC: Capital gain shall be first computed in the same foreign currency (FC) which was initially used in acquiring shares or debentures.

(2) Converting Consideration, Transfer Expenses & Cost in FC: Thus, the full value of consideration, the transfer expenses and the cost of acquisition, expressed in Rupees, are converted in the foreign currency, originally used to acquire the assets, in the following manner-

(a) Consideration is converted using the average exchange rate on the date of transfer.

(b) Transfer expenses are converted using the average exchange rate on the date of transfer (not the date of incurring the expenditure).

(c) Cost of acquisition is converted using the average exchange rate on the date of acquisition.

(3) Gains in terms of FC: Capital gain is then calculated in terms of foreign currency (Consideration Less Transfer expenses Less Cost of acquisition].

(4) Converting FC Gains in ₹: Capital gain so calculated in the foreign currency is then converted into Indian currency by using the buying exchange rate on the date of transfer.

(5) FC Rates: Conversion between rupee and foreign currency shall be made by using the Telegraphic Transfer [TT] buying and selling rates adopted by the State Bank of India, on the relevant dates. Average Exchange Rate means the average of the buying and selling rate.

(6) No Indexation: The benefit of indexation shall not be available.

(7) Gains from Re-investment: Capital gain accruing or arising from every re-investment thereafter in (and sale of) shares in (or debentures of) an Indian company, shall also be computed as above.

12.9 US 64 UNITS [S. 10(33)]

S. 10(33) provides that any income arising from the transfer of a capital asset being a unit of US 64 (a scheme of the Unit Trust of India) shall be exempt from tax. The exemption will apply whether the capital asset (US 64) is long-term capital asset or short-term capital asset.

[**Note:** When capital gains from US 64 are exempt; capital loss from US 64 cannot be set-off against other capital gains].

12.10 COMPULSORY ACQUISITION OF URBAN AGRICULTURAL LAND [S. 10(37)]

With a view to mitigate the hardship faced by the farmers whose agricultural land situated in specified urban limits has been compulsorily acquired, clause 37 exempts the capital gains arising to an individual or a HUF from transfer of agricultural land by way of compulsory acquisition. Such exemption is available where the compensation or the enhanced compensation or consideration, as the case may be, is received on or after 1-4-2004. The exemption is available only when such land has been used for agricultural purposes during the preceding two years by such individual or a parent of his or by such HUF.

12.11 SECURITIES SUBJECT TO S.T.T. [S. 10 (38)]

Exemption u/s 10(38) for long-term capital gain on sale of equity shares or units in Equity Mutual Fund is no longer applicable w.e.f. 1-4-2020.

13. CAPITAL GAINS ON SALE OF RESIDENTIAL HOUSE [S. 54]

(1) Conditions: Income by way of capital gains arising to an individual and a Hindu undivided family from the transfer of a capital asset would be exempt subject, however, to the following conditions:

1. The capital asset must be a building or buildings or lands appurtenant thereto and be used as a residential house.
2. It must be in the nature of a long-term capital asset.
3. The income (actual or deemed) derived from the property must be chargeable to tax as "income from house property" under section 23.
4. Where the amount of capital gain exceeds ₹ 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.
5. Where the amount of capital gains does not exceed ₹ 2 crore, the assessee i.e., individual or HUF, may at his 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.

   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 gains of ₹ 1.50 crores arising from transfer of residential house at Bombay in the P.Y. 2021-22 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 ₹ 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 ₹ 2 crore.

(2) Amount of Exemption: If all the above conditions are satisfied, then the capital gains will not be charged to tax as the income of the previous year in which the transfer took place; instead the capital gains shall be dealt with as under:

1. *If the amount of the capital gains is greater than the cost of the new asset,* the difference between the amount of the capital gains and the cost of the new asset shall be charged as the income of the previous year. Thus, if the amount of capital gain exceeds the amount reinvested only the difference would be chargeable to tax as capital gains. But, if the house property so purchased or constructed is sold within three years from the date of its purchase or completion of construction, as the case may be, the actual cost of the asset to the assessee shall be taken as *nil* and consequently the whole amount received on the second transfer shall be taxable as capital gains.
2. *If, on the other hand, the capital gain is equal to or less than the cost of the new asset,* no capital gain would arise to the assessee; but the cost of the property, if sold within the period of three years, shall be the actual cost less the amount of capital gain which was not taxed previously.

(3) Examples :

- ***Example 1 :*** If the capital gains is ₹ 5 lakhs and the cost of the new house is ₹ 7 lakhs, then the entire capital gains of ₹ 5 lakhs is exempt.
- ***Example 2 :*** If capital gains is ₹ 5 lakhs and cost of new house is ₹ 3 lakhs, then capital gains is exempt only upto ₹ 3 lakhs. Balance ₹ 2 lakhs is taxable @ 20%.
- ***Example 3 :*** Continuing example 1, if the new house was sold after 21 months for ₹ 8 lakhs, then short term capital gain chargeable to tax would be :

Particulars	₹
Net Consideration	8,00,000
Less : Cost of acquisition minus capital gains exempt earlier (₹ 7,00,000 - ₹ 5,00,000)	2,00,000
Short Term Capital Gains Chargeable to Tax	6,00,000

(4) Deposit in Capital Gains Accounts Scheme: The amount of capital gain which is not appropriated by the assessee towards the purchase or construction of new asset before the date of furnishing the return of income under section 139 shall be deposited by him, before furnishing such return, in an account in any such bank in accordance with the Capital Gains Account Scheme, 1988 and such return shall be accompanied by proof of such deposit. The amount already utilised by the assessee for the purchase or construction of the new asset together with the amount so deposited shall be deemed to be the cost of the new asset.

If the amount so deposited is not utilised wholly or partly for the purchase or construction of the new asset, the amount not so utilised shall be charged as capital gain under section 45 in the previous year in which the period of three years from the date of the transfer of the original asset expires. The assessee shall be entitled to withdraw such amount in accordance with the scheme.

Illustration 14 :

Shri Ram Narain owns a residential house which he purchased on 25-6-1998 for ₹ 1,50,000. He incurred expenses of ₹ 1,50,000 towards Cost of Improvement on 20-8-2003 on this residential house.

The fair market value of the house on 1-4-2001 was ₹ 8,00,000.

He sold this house on 12-12-2021 for ₹ 95,00,000.

He purchased a new residential house for ₹ 25,00,000 on 20-3-2022.

The Cost Inflation Index for financial year 2001-02 is 100, for financial year 2003-04 is 109 and for financial year 2021-22 is 317.

You are required to compute the Taxable Capital Gains for the Assessment Year 2022-23.

(T.Y.B.Com., Apr. 2011, adapted)

Solution :

NAME : SHRI RAM NARAYAN **STATUS : INDIVIDUAL - R & OR**

PREVIOUS YEAR : 2021-22 **ASSESSMENT YEAR : 2022-23**

Particulars	₹	₹
Long Term Capital Gains on House Sold		
Gross Consideration		95,00,000
Less : Indexed Cost of Acquisition (8,00,000 x 317 ÷ 100)	25,36,000	
Less : Indexed Cost of Improvement (1,50,000 x 317 ÷ 109)	4,36,239	29,72,239
Long Term Capital Gains		65,27,761
Less : Exemption u/s 54 for Purchase of New Residential House		25,00,000
Long Term Capital Gains		40,27,761

Illustration 15 :

Mr. Shantibushan owns a house property which he acquired in April 1986 for ₹ 2,50,000. The cost of improvement incurred for this property in August 2006 was ₹ 3,80,000.

He sold this property in October 2021 for ₹ 99,00,000.

He acquired a new house property during January 2022 for ₹ 3,00,000.

Compute the taxable Capital Gains for the Assessment Year 2022-23 on the assumption that the fair market value of the property as on 1-4-2001 was ₹ 27,00,000.

The cost inflation index for financial year 2001-02 is 100 for financial year 2006-07 is 122 and financial year 2021-22 is 317.

(T.Y.B.Com., Oct. 2011, adapted)

(3) Examples :

- ***Example 1 :*** If the capital gains is ₹ 5 lakhs and the cost of the new house is ₹ 7 lakhs, then the entire capital gains of ₹ 5 lakhs is exempt.
- ***Example 2 :*** If capital gains is ₹ 5 lakhs and cost of new house is ₹ 3 lakhs, then capital gains is exempt only upto ₹ 3 lakhs. Balance ₹ 2 lakhs is taxable @ 20%.
- ***Example 3 :*** Continuing example 1, if the new house was sold after 21 months for ₹ 8 lakhs, then short term capital gain chargeable to tax would be :

Particulars	₹
Net Consideration	8,00,000
Less : Cost of acquisition minus capital gains exempt earlier (₹ 7,00,000 - ₹ 5,00,000)	2,00,000
Short Term Capital Gains Chargeable to Tax	6,00,000

(4) Deposit in Capital Gains Accounts Scheme: The amount of capital gain which is not appropriated by the assessee towards the purchase or construction of new asset before the date of furnishing the return of income under section 139 shall be deposited by him, before furnishing such return, in an account in any such bank in accordance with the Capital Gains Account Scheme, 1988 and such return shall be accompanied by proof of such deposit. The amount already utilised by the assessee for the purchase or construction of the new asset together with the amount so deposited shall be deemed to be the cost of the new asset.

If the amount so deposited is not utilised wholly or partly for the purchase or construction of the new asset, the amount not so utilised shall be charged as capital gain under section 45 in the previous year in which the period of three years from the date of the transfer of the original asset expires. The assessee shall be entitled to withdraw such amount in accordance with the scheme.

Illustration 14 :

Shri Ram Narain owns a residential house which he purchased on 25-6-1998 for ₹ 1,50,000. He incurred expenses of ₹ 1,50,000 towards Cost of Improvement on 20-8-2003 on this residential house.

The fair market value of the house on 1-4-2001 was ₹ 8,00,000.

He sold this house on 12-12-2021 for ₹ 95,00,000.

He purchased a new residential house for ₹ 25,00,000 on 20-3-2022.

The Cost Inflation Index for financial year 2001-02 is 100, for financial year 2003-04 is 109 and for financial year 2021-22 is 317.

You are required to compute the Taxable Capital Gains for the Assessment Year 2022-23.

(T.Y.B.Com., Apr. 2011, adapted)

Solution :

NAME : SHRI RAM NARAYAN **STATUS : INDIVIDUAL - R & OR**

PREVIOUS YEAR : 2021-22 **ASSESSMENT YEAR : 2022-23**

Particulars	₹	₹
Long Term Capital Gains on House Sold		
Gross Consideration		95,00,000
Less : Indexed Cost of Acquisition (8,00,000 x 317 ÷ 100)	25,36,000	
Less : Indexed Cost of Improvement (1,50,000 x 317 ÷ 109)	4,36,239	29,72,239
Long Term Capital Gains		65,27,761
Less : Exemption u/s 54 for Purchase of New Residential House		25,00,000
Long Term Capital Gains		40,27,761

Illustration 15 :

Mr. Shantibushan owns a house property which he acquired in April 1986 for ₹ 2,50,000. The cost of improvement incurred for this property in August 2006 was ₹ 3,80,000.

He sold this property in October 2021 for ₹ 99,00,000.

He acquired a new house property during January 2022 for ₹ 3,00,000.

Compute the taxable Capital Gains for the Assessment Year 2022-23 on the assumption that the fair market value of the property as on 1-4-2001 was ₹ 27,00,000.

The cost inflation index for financial year 2001-02 is 100 for financial year 2006-07 is 122 and financial year 2021-22 is 317.

(T.Y.B.Com., Oct. 2011, adapted)

Solution :

NAME : MR. SHANTIBHUSHAN **STATUS : INDIVIDUAL - R & OR**

PREVIOUS YEAR : 2021-22 **ASSESSMENT YEAR : 2022-23**

Particulars	₹	₹	₹
Gross Consideration			99,00,000
Less : Cost of Acquisition			
FMV on 1-4-2001	27,00,000		
Indexed Cost of FMV (27,00,000 x 317 ÷ 100)		85,59,000	
Less : Cost of Improvement	3,80,000		
Indexed Cost of Improvement (3,80,000 x 317 ÷ 122)		9,87,377	(95,46,377)
			3,53,623
Less : Exemption u/s 54 for Purchase of new House			3,00,000
Long Term Capital Gains			53,623

Illustration 16 :

Mr. Prakash Shetye purchased a house property for ₹ 15,00,000 on 5th October, 1992. He constructed a first floor during the financial year 2006-07 for ₹ 5,50,000. He made further improvement in the financial year 2012-13 for ₹ 8,00,000. He constructed 2nd floor during the financial year 2013-14 for ₹ 12,00,000. He sold the property on 1-2-2022 for ₹ 150 lakhs. He paid brokerage of ₹ 50,000 for the sale transaction. Fair market value of property as on 1-4-2001 was 16,00,000. Investment in new house property was ₹ 25 lakhs on 10-3-2022.

Compute his Capital Gain for the Assessment year 2022-23.

Relevant cost inflation indices are as follows :

Financial Year	Cost Inflation Index
2001-02	100
2006-07	122
2012-13	200
2013-14	220
2021-22	317

(SYBAF, March 2018, T.Y.B.Com., Oct. 2013, adapted)

Solution :

NAME : MR. PRAKASH SHETYE **STATUS : INDIVIDUAL, R & OR**

PREVIOUS YEAR : 2021-22 **ASSESSMENT YEAR : 2022-23**

Particulars	₹	₹
Full value of consideration		1,50,00,000
Less : Indexed Cost of Acquisition		
Cost of purchase on 5-10-92 = ₹ 15,00,000		
Fair market value as on 1-4-2001 = ₹ 16,00,000		
Indexed Cost (₹ 16,00,000 x 317 ÷ 100)	50,72,000	
Less : Indexed Cost of Improvement		
F.Y. 2006-07 (₹ 5,50,000 x 317 ÷ 122)	14,29,098	
F.Y. 2012-13 (₹ 8,00,000 x 317 ÷ 200)	12,68,000	
F.Y. 2013-14 (₹ 12,00,000 x 317 ÷ 220)	17,29,091	
Less : Brokerage on Sale Value	50,000	(95,48,189)
Long Term Capital Gains		54,51,811
Less : Exemption u/s 54		
Investment in Residential House Property		(25,00,000)
Net Taxable Long Term Capital Gains		29,51,811

Illustration 17 : (Basic)

Ms. Vimla sold a residential building at Jodhpur for ₹ 35,00,000 on 01-07-2021.

The building was acquired for ₹ 3,50,000 on 01-06-2006.

She paid brokerage ₹ 30,000 at the time of sale of the building. She invested ₹ 7 lakhs in purchase of a residential building in December 2021.

Compute her taxable capital gain.

Cost Inflation Index : 2006-07 - 122, 2021-22 - 317. ***(CA-PCC, Nov. 03, adapted)***

Solution :

Computation of Taxable Capital Gain of Ms. Vimla for A.Y. 2022-23

Particulars	₹	₹
Sale Price of Residential Building		35,00,000
Less : Indexed Cost of Acquisition		
3,50,000 x 317 ÷ 122	9,09,426	
Less : Brokerage	30,000	9,39,426
		25,60,574
Less : Deduction u/s. 54 for purchase of new residential house within 1 year		7,00,000
Taxable Long Term Capital Gain		18,60,574

Illustration 18 : (Inherited House)

Mr. Sunder furnishes the following particulars for the previous year ending 31-3-2022 and requests you to compute the taxable capital gain :

(i) He had a residential house, inherited from father in March 2010, the fair market value of which as on 1-4-2001 is ₹ 5 lakhs. It was acquired by his father in 1990.

(ii) In the year 2012-13, further construction and improvements cost ₹ 6 lakhs.

(iii) On 10-5-2021 the house was sold for ₹ 50 lakhs. Expenditure in connection with transfer ₹ 50,000.

(iv) On 20-12-2021, he purchased a residential house for ₹ 15 lakhs.

Cost inflation index

2001-02	100
2009-10	148
2012-13	200
2021-22	317

(CA-PCC, May 02, adapted)

Solution :

Computation of Taxable Capital Gains of Mr. Sunder for A.Y. 2022-23

Particulars		₹	₹
Sale Consideration			50,00,000
Less : Indexed cost of acquisition	(5,00,000 x 317 ÷ 148)	10,70,946	
Indexed cost of improvement	(6,00,000 x 317 ÷ 200)	9,51,000	
Less : Expenses on sale		50,000	20,71,946
Long term capital gain			29,28,054
Less : Exemption u/s 54 (Cost of purchase of new residential house)			15,00,000
Taxable Long Term Capital Gain			14,28,054

Note : Indexed cost is computed as explained in Para 11.6.4.

Illustration 19 :

Mr. Vinod Mohite purchased a Residential house on 1-6-1999 for ₹ 1,00,000. He incurred expenses of ₹ 50,000 towards cost of improvement on 2-7-2003 on this house. The fair market value of the house on 1-4-2001 was ₹ 1,50,000. He sold the house on 10-10-2021 for ₹ 40,00,000. He purchased a new Residential house for ₹ 20,00,000 on 15-3-2022.

The cost inflation index for financial year 2001-02 is 100, for financial year 2003-04 is 109 and for financial year 2021-22 is 317.

You are required to compute his income from Capital gain for the Assessment year 2022-23.

Solution : ***(T.Y.B.Com., April 2009 & 2010, adapted)***

Computation of Taxable Capital Gains of Mr. Vinod Mohite for A.Y. 2022-23

Particulars		₹	₹
Sale Consideration			40,00,000
Less : Indexed Cost of Acquisition	(1,50,000 x 317 ÷ 100)	4,75,500	
Indexed Cost of Improvement	(50,000 x 317 ÷ 109)	1,45,413	6,20,913

Long Term Capital Gain		33,79,087
Less : Exemption u/s 54 (Cost of purchase of new residential house)		20,00,000
Taxable Long Term Capital Gain		13,79,087

Illustration 20 :

Mr. Selvan, acquired a residential house in January, 2003 for ₹ 10,00,000 and made some improvements by way of additional construction to the house, incurring expenditure of ₹ 2,00,000 in October, 2004. He sold the house property in October, 2020 for ₹ 80,00,000. He acquired a residential house in January, 2021 for ₹ 25,00,000. Compute the capital gain chargeable to tax for the assessment year 2022-23.

Cost Inflation Index : F.Y. 2002-03 = 105; F.Y. 2004-05 = 113; F.Y. 2010-11 = 167; F.Y. 2021-22 = 317.

(SYBAF, March 2018, CA-IPCC, Nov. 2011, adapted)

Solution :

Computation of Taxable Capital Gains of Mr. Selvan for A.Y. 2022-23

Particulars	₹	₹
Full value of consideration		80,00,000
Less : Indexed Cost of Acquisition (10,00,000 ÷ Index of 2002-03 x Index of 2021-22) (10,00,000 ÷ 105 x 317)	30,19,048	
Less : Indexed Cost of Improvement (2,00,000 ÷ Index of 2004-05 x Index of 2021-22) (2,00,000 ÷ 113 x 317)	5,61,062	35,80,110
Long Term Capital Gain		44,19,890
Less : Exempted u/s 54 Purchase of New house		25,00,000
Taxable Long Term Capital Gains		19,19,890

Illustration 21 :

Mr. Karnik sold on 10-06-2021 his residential house in Nashik for ₹ 75,00,000. It was purchased on 07-07-2003 for ₹ 7,00,000. Expenses on transfer amounted to ₹ 1,20,000.

Mr. Karnik incurred expenses on improvement on old house in financial year 2005-06 of ₹ 1,40,000.

He invested ₹ 25,00,000 for purchase of new residential house on 31-10-2021.

You are required to compute Net Capital Gain for the assessment year 2022-23.

Relevant Cost Inflation Indices are as under :

Financial Year	CII
2003-04	109
2005-06	117
2021-22	317

(T.Y.B.Com., Oct. 2015, adapted)

Solution :

NAME : MR. KARNIK **STATUS : INDIVIDUAL**

PREVIOUS YEAR : 2021-22 **ASSESSMENT YEAR : 2022-23**

Computation of Total Income	₹	₹
Gross Consideration		75,00,000
Less : Indexed Cost of Acquisition (7,00,000 x 317 ÷ 109)	20,35,780	
Less : Indexed Cost of Improvement (1,40,000 x 317 ÷ 117)	3,79,316	
Less : Expenses on Transfer	1,20,000	25,35,096
Long Term Capital Gain		49,64,904
Less : Exemption u/s 54		(25,00,000)
Net Taxable Long Term-Capital Gain		24,64,904