

CHAPTER 3D: INCOME UNDER THE HEAD CAPITAL GAINS

Chargeability of capital Gains [Section 45(1)]

Any profits or gains arising from the transfer of a capital asset effected in the previous year shall be deemed to be the income of the previous year in which the transfer took place.

Ex: Land is transferred on 31/03/2024 i.e. during PY 2023-24 but consideration is received on 01/04/2024 i.e. during the PY 2024-25, then in such case Capital Gain implication shall arise in PY 2023-24.

Capital assets Section 2(14)

“Capital asset” includes all assets Except

- i) any stock-in-trade
- ii) Personal movable assets. However, following personal movable assets shall be capital asset—
 - (a) jewellery;
 - (b) archaeological collections;
 - (c) drawings;
 - (d) paintings;
 - (e) sculptures; or
 - (f) any work of art.
- iii) Rural Agriculture Land.
Meaning of Urban Area
 - a) Any area (municipality, cantonment board etc.) which has a population of 10,000 or more.
 - b) Following area within the distance measured aerially

Population according to latest census	Shortest Distance
More than 10,000 but upto 1,00,000	Up to 2 Km
More than 1,00,000 but upto 10,00,000	Up to 6 Km
More than 10,00,000	Up to 8 Km
- iv) Gold Deposit Bonds, 1999 or deposit certificate issued under the gold monetization scheme, 2015.

Types Of Capital Assets (On or after 23/07/2024)

1. Short Term Capital Asset

Particulars	Upto 22/7/2024	W.E.F 23/7/2024
Listed Securities	12 Month	12 Month
Units Of Equity Oriented MF	12 Month	12 Month

Zero Coupon Bond	12 Month	12 Month
Unlisted Shares	24 Month	24 Month
Land & Building	24 Month	24 Month
Unlisted Debentures	36 Month	24 Month
Other Capital Assets	36 Month	24 Month

2. Long Term Capital Asset → Other than Short Term Capital Asset

Computation of Short term Capital Gains & Long Term Capital Gains [Section 48]

A. Upto 23/7/2024

Short Term Capital Gain	Amount	Long Term Capital Gain	Amount
Full Value Of Consideration	-	Full Value Of Consideration	-
Less: Transfer Expenses	-	Less: Transfer Expenses	-
Net Consideration	-	Net Consideration	-
Less: Cost Of Acquisition (COA)	-	Less: Indexed COA	-
Less: Cost of Improvement (COI)	-	Less: Indexed COI	-
Gain Before Exemption	-	Gain Before Exemption	-
Less Exemption Claimed	-	Less Exemption Claimed	-
STCG Taxable	-	LTCG Taxable	-

- Expenditure incurred on transfer of asset is allowed as deduction. For example Brokerage on transfer of asset etc. However STT paid at the time of purchase as well as at the time of transfer of share shall be ignored.
- Land & Building are separate assets under capital gain. If land is purchased before 2 years and building has been constructed within 2 years then while calculating capital gain, we have to calculate separate capital gain for both assets. Being land is held for more than 24 months there shall be LTCG, whereas building is held for upto 24 months there shall be STCG.

B. On or After 23/7/2024

Short Term Capital Gain	Amount	Long Term Capital Gain	Amount
Full Value of Consideration (FVC)	-	FVC	-
Less: Transfer Expenses	-	Less: Transfer Expenses	-
Net Consideration	-	Net Consideration	-
Less: Cost Of Acquisition (COA)	-	Less: COA	-
Less: Cost of Improvement (COI)	-	Less: COI	-
Gain Before Exemption	-	Gain Before Exemption	-
Less Exemption Claimed	-	Less Exemption Claimed	-
STCG Taxable	-	LTCG Taxable	-

Notes:

- a) If Long term capital asset transferred on or after 23/07/2024, then Indexation facility shall not be available
- b) However, if Long term capital asset is Land or building or both, then option for the indexation facility is given only for the purpose of "Calculation of Tax" to resident individual or HUF to opt lower of the following:
 1. Tax on LTCG of land or building without Indexation @12.5%
 2. Tax on LTCG of land or building after Indexation @20%
- c) Above option is only for the purpose of tax calculation i.e. income under the head Capital Gain shall be calculated without indexation in respect of Land or Building transfer on or after 23/07/2024.

Asset purchased before 01.04.2001

If any capital asset has been purchased or constructed before 01.04.2001, in that case cost of acquisition shall be:

- A. In case of capital asset other than Land & Building, COA shall be higher of:
 - a) Actual Cost of Acquisition.
 - b) FMV as on 1/4/2001.
- B. In case of capital asset being Land & Building, COA shall be higher of:
 - a) Actual Cost of Acquisition.
 - b) Lower of:
 - (i) FMV as on 1/4/2001.
 - (ii) SDV as on 1/4/2001

- COI Shall be Considered only if incurred on/after 1/4/2001
- COI by Previous Owner shall also be Considered If incurred after 1/4/2001

Indexation Factor

Year	C.I.I	Year	C.I.I	Year	C.I.I
2001-02	100	2009-10	148	2017-18	272
2002-03	105	2010-11	167	2018-19	280
2003-04	109	2011-12	184	2019-20	289
2004-05	113	2012-13	200	2020-21	301
2005-06	117	2013-14	220	2021-22	317
2006-07	122	2014-15	240	2022-23	331
2007-08	129	2015-16	254	2023-24	348
2008-09	137	2016-17	264	2024-25	363

Section 2(47) Meaning of Transfer

1. The sale, exchange or relinquishment of the asset.
2. The extinguishment of any rights therein. Extinguishment covers destruction of the assets. E.g. Termination of a lease; redemption of preference shares/debentures.
3. The compulsory acquisition of the asset by the govt.
4. Conversion of asset into stock-in-trade.
5. Possession of any immovable property in part performance of a contract.
6. Any transaction which has the effect of transferring, or enabling the enjoyment of, any immovable property. [it is by becoming a member in a co-operative society, company or other association of persons]
7. Maturity or redemption of zero coupon bond.

Section 47 (What is not transfer)

- (i) Gift, will or inheritance of property
- (ii) Distribution of capital assets on the partition of a Hindu Undivided Family.
- (iii) Conversion of bonds/debentures into shares of that company. Notes:
 - a) COA of shares shall be COA of that part of debentures which is so converted.
 - b) POH of shares shall include POH of debentures.
- (iv) Conversion of preference shares into equity shares of that company. Notes:
 - a) COA of equity shares shall be COA of that part of preference shares which is so converted.
 - b) POH of equity shares shall include POH of preference shares.
- (v) Transfer of capital asset in a transaction of reverse mortgage.
Note: any amount received by senior citizen under this scheme is fully exempt.

Reverse Mortgage

- It is the facility where senior citizen mortgage House property to Bank and receive loan amount either in Lump sum or installments.
- Senior citizen is not under the obligation to repay this loan.
- Bank will recover principal amount and Interest on such loan by selling House property after the death of senior citizen.
- Bank will also give option to legal heir to repay loan amount and take over the mortgaged property.

Section 49(1). Deemed cost of acquisition

In case the asset is acquired through a mode given in section 47 (Gift to relative or will) then cost of acquisition is cost to the previous owner. Previous owner is the person who acquires the asset by paying the price. Period of holding shall be computed from the date

the previous owner acquires the asset.

Note 1: Cost of improvement incurred by previous owner shall also be taken if such improvement is done on or after 01/04/2001.

Note 2: However, if amount of GIFT is taxable in the hands of recipient, then such amount of GIFT shall be included in the COA and POH shall be determined from the date of receiving the GIFT.

Conversion of Asset into Stock-in-trade [Section 45(2)]

1. Conversion of capital asset into stock shall be deemed to be transfer and capital gain shall be arise in the year of such conversion.
2. For this purpose FMV on date of conversion shall be considered as full value of consideration.
3. Capital gain shall be taxable in the year in which such SIT is sold.

Capital Gain	Amount	PGBP	Amount
FMV on conversion Date	-	Sale Value	-
Less: COA / ICOA	-	FMV on conversion date	-
Less: COI/ICOI	-		
STCG/LTCG	-	PGBP	-

Treatment of Insurance claim received

If any capital asset is destroyed due to fire, flood, earthquake, riot, civil disturbance etc. and insurance claim is received, then capital gain is applicable and shall be calculated as follows

Particulars	Destruction of CA [Section 45(1A)]
Sale Consideration	Insurance Compensation
Deemed Transfer	In The PY of Destruction
Taxability	PY of Receipt of Money

Note: If claim is received in Kind, then FMV of such kind claim shall become Full Value of consideration.

Treatment Of Advance Money Forfeited

Forfeited Before 1.4.2014	Reduced from Original COA before Indexation
Forfeited on/after 1.4.2014	Taxable u/h IFOS u/s 56(2)(ix)

Transfer of capital asset to Firm

If any partner transfers capital asset to the firm as a capital contribution or otherwise, then capital gain shall be arisen in the hands of such partner and shall be dealt as follows:

Particulars	Capital Contribution By Partner [Section 45(3)]
Sale Consideration	Value of CA recorded in Firm books.
Deemed Transfer	Year of contribution
Taxability	PY in which CA is given to firm

Compulsory Acquisition of Capital Asset [Section 45(5)]

Full value Of Consideration	Compensation Fixed
Taxability	Year in which initial compensation is received. If compensation is received in installments, then also Entire Capital Gain on Total Compensation is taxable in PY of receipt of 1st Instalment
Transfer	Year In which asset is compulsorily acquired.
Indexation	Shall be done up to the year of transfer
Enhanced compensation	Taxable in the year of receipt after deducting litigation expenses.

FVC In Case Of Transfer Of Land or building or Both [Section 50C / 43CA]

In case of land or building or both, If SDV exceeds 110% of sales consideration then SDV shall be considered as FVC.

If SDV exceeds 110% Of Sales Consideration	
Yes	NO
FVC = SDV	FVC = Actual Sales Consideration

Example 13

Calculate Full Value of consideration (FVC) as per Section 50C

1. Sale value = ₹95,00,000 and SDV = ₹1,05,00,000
2. Sale value = ₹74,00,000 and SDV = ₹80,00,000
3. Sale value = ₹82,00,000 and SDV = ₹90,20,000

If the Date of agreement and date of registration is different and advance has been received by specified mode at the time of agreement

Yes	NO
SDV as on the 'agreement date' shall be considered	SDV as on the 'registration date' shall be Considered

Where assessee claims that SDV is more than the FMV of immovable property and such SDV is not disputed in any appeal then A.O may refer the case to valuation officer and FVC shall be determined as follows:

Value adopted by Valuation officer	FVC
Exceeds SDV	SDV i.e. Valuation Officer value is ignored.
Doesn't exceed SDV But Exceed Actual Sale Value	Value adopted by Valuation officer
Is less than Actual Sale Value	Actual Sales Consideration

COA Of Self-Generated Assets

	COA	COI
Brand name & Trademark associated with the business or profession	Nil	NA
Tenancy rights	Nil	NA
Goodwill of a business or profession	Nil	Nil
Right to manufacture, produce or process any article or thing, for a consideration (Patent)	Nil	Nil
Right to carry on any business or profession	Nil	Nil

Note:

- i. If the asset is purchased then purchase price is the COA.
- ii. In case of goodwill of a business or profession on which depreciation is claimed upto PY 2019-20, the COA of such goodwill would be purchase price as reduced by the total amount of depreciation (up to P.Y.19-20)
- iii. FMV as on 1-4-2001 is ignored.

Capital Gain In Case Of Slump Sale [Section 50B]

When whole unit is sold at lumpsum without valuing each asset individually is termed as slump Sale.

FVC	Higher of: Sales Consideration Received OR FMV of capital Asset transferred
COA	Net worth of unit. However, if any asset has been revalued, then such revaluation shall be ignored

Notes:

1. Net Worth = Total Assets – outside Liabilities
2. If any upward revaluation of asset has been done, then such revaluation shall be ignored.
3. If Net worth is negative then consider it as zero.
4. If stock is transferred in slump sale, then PGBP income shall be arise.
5. If unit is sold after holding for more than 24 months, then capital gain shall be long term capital gain otherwise short-term capital gain. However, no indexation benefit shall be available even in the case of long-term capital gain.
6. Assets for which 100% deduction is allowed under PGBP → Book value Shall be NIL.

Capital Gain In Case Of Depreciable Asset

1. All the assets of the block are transferred:
In case all the assets in any block are transferred during the previous year then the block shall cease to exist and no depreciation will be allowed. It can happen in the following two cases:
 - STCG u/s 50 When Sale price > Block Value
 - STCL u/s 50 When Sale price < Block Value
2. Part of block is sold and the sale consideration of assets exceeds block Value
STCG u/s 50 When Sale price > Block Value

Capital Gain In Case Of Sale Of Share

- A. In case of **original shares**, cost of acquisition shall be the actual cost but if it was purchased before 1/4/2001, cost of acquisition shall be the actual cost or FMV as on 01.04.2001, whichever is higher.
- B. In case of **bonus shares**, cost of acquisition shall be nil but if bonus shares are issued before 01.04.2001, COA = FMV on 1/4/2001
- C. In case of **right shares**, cost of acquisition shall be the amount for which such shares have been purchased.
- D. If right to purchase right shares has been **renounced**, amount received shall be considered to be short term capital gains.
- E. **Cost of acquisition for the right renouncee** shall be the amount paid to the person renouncing the right and amount paid to the company.

Transfer of Equity Shares or Equity oriented units or units of business trust

LTCCG u/s 112A

1. LTCCG on transfer of equity shares or equity oriented units or units of business trust, in excess of ₹ 1,25,000 shall be taxable at the rates specified below if following conditions are satisfied:
 - a) STT is paid at the time of acquisition and transfer of equity shares
 - b) STT is paid at the time of transfer of equity oriented units or units of business trust.

Transfer date	Rate
Upto 22/7/2024	10%
W.e.f 23/7/2024	12.5%

2. Cost of Acquisition in case of Capital Gains u/s 112A

As per section 55(2) (ac), In case of equity shares or units of equity oriented mutual funds or units of business trust which have been sold w.e.f. 01.04.2018 onwards, cost of acquisition shall be higher of:

- a. Cost of acquisition

- b. Lower of
 - i. Fair market value of such asset on 31.01.2018 (Highest Quoted Price)
 - ii. Actual sale value.
3. Deduction u/s 80C to 80U and Rebate u/s 87A shall not be allowed in respect of CG u/s 112A.

STCG u/s 111A

1. STCG on transfer of equity shares or equity oriented units or units of business trust shall be taxable at the rates specified below if STT is paid at the time of transfer of such assets:

Transfer date	Rate
Up to 22/7/2024	15%
W.e.f. 23/7/2024	20%

2. Deduction u/s 80C to 80U and Rebate u/s 87A shall not be allowed in respect of CG u/s 112A.

Conversion of Debentures

If debenture is converted into equity shares then such conversion shall not be considered as transfer and hence no capital gain shall be arise. However, when such equity share received at the time of conversion is transferred then capital gain shall arise. For this purpose, COA of equity share shall be taken as cost of debenture and also period of holding of debenture shall be considered in period of holding of Equity shares.

Capital Gain on Redemption of Zero Coupon Bonds

- Redemption of zero-coupon bond shall be treated as transfer.
- Amount received at the time of redemption shall be considered as FVC.
- No indexation benefit is available even if ZCB transferred are Long term.

No Indexation In Following Cases

1. Zero Coupon Bonds
2. Debentures/ Bonds
3. Slump Sale [Section 50B]
4. Depreciable Assets
5. Long term capital assets specified u/s 112A. [AY 2019-20].

Exemptions

	S. 54	S.54B	S.54D
Asset Transferred	LT – Residential House Property	Agriculture land (Urban)	L/B – Industrial Undertaking Compulsory Acquired
Assessee	Individual / HUF	Individual / HUF	Any Assessee
Investment	New Residential House Property (Note 1)	New Agriculture Land (Urban/Rural)	New Land /Building for Industrial Undertaking
Time Limit for Invest.	Purchase – within 1 yr before or within 2 years from transfer date Construct – within 3 years from Transfer Date	Within 2 years from Transfer Date	Within 3 years from Date of Receipt of compensation
Quantum Of Exemption	Lower of: Amount Invested Capital Gain Rs. 10 Crore	Lower of Amount Invested Capital Gain	Lower of Amount Invested Capital Gain
Lock in period of new asset	3 Years. Otherwise, LTCG exempted earlier shall be reduced from COA of New Asset	Same as Sec. 54	Same as Sec. 54
CGAS	Available	Available	Available

Note: Exemption u/s 54B shall be allowed only if Urban Agricultural land is used for agricultural purpose for at least 2 years before the date of transfer.

Other Exemptions

	S.54 EC	S.54F
Asset Transferred	LT – Land/Building	Any LT Capital Asset Except Residential House Property
Assessee	Any Assessee	Individual / HUF
Investment	Specified Bonds	New RHP
Time Limit for Invest.	Within 6 months from the transfer date	Same as S.54
Quantum Of Exemption	Lower of: <ul style="list-style-type: none"> Amount Invested Capital Gain Subject to Max = 50 Lacs 	Lower of: <ul style="list-style-type: none"> $\frac{LTCG \times \text{Amount Invested (Max 10 Crore)}}{\text{Net Consideration}}$ LTCG



Additional Condition	Not Applicable	1. Assessee should not own more than one RHP on the date of Transfer Of LTCA
		2. Should not purchase any other house within 2 years or construct within 3 years after date of transfer of original Asset.
Lock in period of new asset	5 Years. Otherwise, LTCG exempted earlier shall be Taxable in the year in which the asset is sold or converted into money	3 Years. Otherwise, LTCG exempted earlier shall be Taxable in the year in which the asset is sold
CGAS	Not Available	Available

Note: If LTCG is up to 2 crore, then assessee can claim exemption u/s 54 for 2 house property. In other cases he can only purchase one house for claiming exemption under this section.

Note: No Capital Gain shall arise on transfer of Urban agricultural land if following conditions are satisfied:-

- a) Assessee is individual or HUF
- b) Urban agricultural land is compulsorily acquired by Government.

CAPITAL GAINS A/C SCHEME (CGAS):

- If Investment is not made before Due Date of filing of ROI, then to claim exemption assessee can deposit the amount in CGAS if not invested for the specified purpose.
- Such deposit in CGAS should be made before filing ROI or before Due Date of filing ROI, whichever is earlier.
- If amount deposited is not utilized for specified purpose within stipulated period, then unutilized amount shall be taxed as capital gain of PY in which specified period expires.
- If Individual dies before stipulated period, unutilized amount is not taxable in the hands of legal heirs of deceased individual