Capital gains on shares or securities

Bonus shares

Allotted before 1.4.2001	COA = FMV as on 1.4.2001
Allotted on or after 1.4.2001	Nil

Right shares

Nature of asset	Cost of acquisition
Original shares	Actual amount paid for the shares
Offer of right	Nil
Right shares acquired	Actual amount paid for acquiring right shares
Right shares acquired by transferee	Amount paid to the company + amount for purchasing the right

Section 112A Tax rate in case of long-term shares etc.

Special tax rate @ 12.5%

10% pre-budget

- Equity shares of a company
- Equity oriented units
- Units of a business trust

Transaction is on RSE where STT is paid

- In case of IFSC transactions, no requirement of STT
- Indexation benefit is not available but ₹1.25 lacs is exempt.

- Chapter VI A is not available from 112A
- Adjustment of un-exhausted basic exemption limit for resident individual or
- HUF is available from 111A
- Rebate of 87A is not allowed from 112A

Assets acquired on or before 31.1.2018

- Actual cost
- FMV as on 31.1.2018

whichever is higher

If FMV as on 31.1.2018 is higher than the selling price, then cost of acquisition will be higher of the following

- Actual cost
- Selling price

Assets acquired on or after 1.2.2018

Actual cost

Section 111A Tax rate in case of short-term shares etc.

Special tax rate @ 20%

15% pre-budget

- Equity shares of a company
- Equity oriented units
- Units of a business trust

- Transaction is on RSE where STT is paid
- In case of IFSC transactions, no requirement of STT
- Chapter VI A is not available from 111A
- Adjustment of un-exhausted basic exemption limit for resident individual or
- HUF is available from 111A
- Rebate of 87A is allowed from 111A

Section 45(5) Compulsory acquisition of capital asset

- Capital gains will be taxable in the year when the compensation is first received
- Full value of consideration will be the amount of compensation

Enhanced compensation

- In case of enhanced compensation capital gains will again arise in the year when such enhanced compensation is received
- Full value of consideration will be the amount of enhanced compensation received
- Cost of acquisition will be nil
- Expenses on transfer can be taken as any legal expenses

- Interest on delayed compensation is taxable under IFOS after 50% flat deduction
- If the actual compensation is reduced then the original capital gain shall be re-computed
- Capital gains will be exempt in case of compulsory acquisition of agricultural land (urban) by the government

Section 46 distribution of assets by company on liquidation

- Capital gains will arise in the hands of shareholder as his shares are getting transferred
- Full value of consideration will be the market value of assets received plus any money received as reduced by the amount of deemed dividend 2(22)(c)
- Such deemed dividend will also be taxable in the hands of shareholder under IFOS

Please note: Now there is no concept of CDT

Section 46A Buyback of Shares or Specified Securities

Buyback of specified securities

Capital gain will arise in the hands of securities holder

Buy back of shares (listed or unlisted)

- Capital gain will be taxable in the hands of company at the rate of 20% plus surcharge 12% plus cess 4% under section 115QA.
- Therefore such capital gains will be exempt in the hands of shareholder under section 10(34A)

w.e.f. 1st oct 2024
Now taxable in the hands of shareholders, however, full value of consideration shall be taken as nil and deemed dividend u/s 2(22)(f)

Section 47 Transaction is not regarded as transfer

- Distribution of capital assets on total or partial partition of HUF
- Transfer of capital asset under a gift/will/irrevocable trust
- Transfer of capital asset by holding company to its 100% Indian subsidiary company or by a subsidiary company to its 100% Indian holding company
- Transfer by issue of shares by the resulting company in the scheme of demerger
- Transfer of assets in the scheme of amalgamation.
- Transfer of shares of amalgamated company to the existing shareholders of old amalgamating company.
- Conversion of debentures/bonds into shares.
- Transfer of rupee denominated bonds outside India by a non-resident to another non-resident.
- Redemption of sovereign gold bonds by RBI - only for individual assessee.
- Transfer of paintings/drawings/ sculptures or archaeological collection to national museum/ universities/government.
- Conversion of Physical gold into EGRs or vice-versa
- Transfer in the scheme of reverse mortgage.

Section 50 capital gain in case of Depreciable assets

- Compute in the same manner as depreciation format under section 32.
- Indexation benefit is not available.
- Such gain or loss shall always be short-term.

Section 50B Slump sale

Full value of consideration will be the selling price or FMV,higher

Cost of acquisition and cost of improvement will be taken as the net worth of the entity.

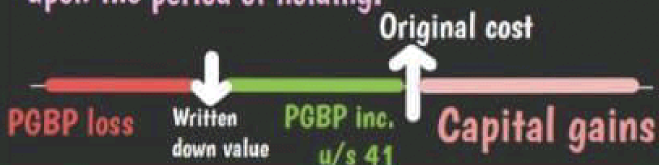
- Net worth is equal to the assets minus outside liabilities.
- While calculating net worth any revaluation of assets must be ignored.

Such capital gain could be long-term or short-term depending upon the period of the undertaking.

- There is no benefit of indexation.

Section 50A transfer of individual assets

Capital gain can be short-term or long-term depending upon the period of holding.



Sec 50C Real estate transactions

- Sale consideration should not be less than stamp value
- Actual sale price admissible it stamp value does not exceed 110% of selling price

> In case of prior date agreement, then take stamp value of such prior date provided some consideration is received earlier by **banking mode (not in cash)**

- Assessee can also request the valuation by the valuation officer and if such valuation officer refers a value less than the stamp value then such valuation officer value can be taken as full value of consideration.

Section 50CA Consideration of unlisted shares

Actual selling price should not be less than the fair market value.

Section 50D full value of consideration - unascertainable

In such case the FMV as on the date of transfer shall be considered as full value of consideration.

Section 51 advance money forfeited

Advance received before 1.4.2014

Advance forfeited will be deducted from the cost of acquisition when capital gain arises in the hands of the transferor who has forfeited the amount.

Advance received on or after 1.4.2014

Such advance money forfeited will be taxable under IFOS in the year of forfeiture.

Section 54 exemptions
Refer page 18 &19

Capital gains in case of self generated assets

Assets	COA	COI
• Goodwill of a business or profession • Right to manufacture, produce or process any article • Right to carry on any business or profession • Any other intangible assets	Actual purchase price	Always nil
• Tenancy rights • Trademark or brand name associated with business • Route permits • Loom hours	Actual purchase price	Actual improvement cost

In case the above assets are self generated before 1.4.2001 then the fair market value as on 1.4.2001 should not be taken and will be taken as NIL

Section 55A Reference to valuation officer

- Where the value claimed by the assessee is as per the registered valuer

AO is of the opinion that value so claimed is different from FMV

- Other cases

AO is of the opinion that the FMV of the said asset exceeds the value claimed by more than
- 15% of the claimed value
- Rs.25,000

Whichever is lower
- The nature of the asset is such that it requires valuation

Capital gains

45(1)	Charging section of capital gains
45(1A)	Insurance claim
45(2)	Conversion of CA into SIT
45(5)	Compulsory acquisition
46	Liquidation of companies
46A	Buy back of shares
47	Transactions not transfer
48	Computation of capital gains
49	Cost of acquisition
50	Depreciable assets
50A	Sale of individual asset
50B	Slump sale
50C	Real estate transactions
50CA	Consideration for unlisted shares
50D	Consideration not determinable
51	Forfeiture of amount
54	Exemption in case of residential property
54B	Exemption agriculture land
54D	Compulsory acquisition of L&B industrial units
54EC	NHAI or RECL
54F	LTCG other than residential property
55(1)	Cost of improvement
55(2)	Cost of acquisition
55A	Reference of valuation officer
	Other sections
2(14)	Capital asset
2(47)	Transfer
10(37)	Compulsory acquisition of agricultural land
112	Computation of long-term capital gain
111A	Short-term capital gains on shares
112A	Long-term capital gains on shares

Sec 45(1) Charging section

Any profits or gains + Transfer + Capital assets + Taxable in the hands of transferor

Section 2(14) Capital assets

All assets are capital assets

Except the following
- Stock in trade
- Personal movable assets
- Rural agriculture land
- Gold deposit bond

Please note securities held by FII are also capital assets

Some personal movable assets are capital assets
- Jewellery/precious and semiprecious stones
- Paintings/drawings/sketches
- Sculptures
- Archaeological collections/any work of art
- Securities and Virtual digital assets

Period of holding

- It starts from the date of acquisition to 1 day before the date of transfer
- If it is more than 2 years then long-term capital gain otherwise short-term
- In some cases the period will be taken as 1 year.

1 **One year**
- Listed securities
- Equity oriented units of mutual fund
- Units of UTI
- Zero coupon bonds

Unlisted debentures, Market linked debentures & Specified mutual fund units - Always short term

Note- Pre budget, the general period of holding was 3years.

Section 48 computation of capital gain

Full value of consideration	XX
Less:	
Cost of acquisition	X
Cost of improvement	X
Expenses on transfer	X
Short-term	XX

In case of long-term capital asset the COA and COI will be indexed

Notes:
- CII of PY2024–2025 = 36
- Asset acquired before 1 April 2001 then take CII as 100 and cost of acquisition can also be taken as FMV as on 1 April 2001 if it is higher.
- In case of land or building FMV as on 1 April 2001 should not exceed stamp value as on 1 April 2001
- Any improvement before 1 April 2001 is to be ignored
- No indexation allowed, if transfer is post budget (exception in case of Ind/ HUF for immovable property, only for calculating taxes)
- No indexation in case of bonds or debentures (except capital index bonds & SGBs)
- COA/COI shall not include, deduction of interest claimed u/s 24(b) or chapter VI-A

$$\text{Indexed cost of acquisition} = \frac{\text{CII of the year of transfer}}{\text{CII of the year in which the asset was first held by assessee}} \times \text{Cost of acquisition}$$

Also refer Manjula J. Shah case

Section 45(1A) Insurance claims

- Capital gains will be taxable in the year when the claim is received
- Full value of consideration will be the amount of claim (if asset is in kind then take FMV)

Section 45(2) conversion of capital assets into stock in trade

- Capital gains will arise in the year of actual sale of stock
- In the year of actual sale there will be two types of gains one PGBP and other capital gains
- Full value of consideration will be the FMV as on the date of conversion
- Indexation will be done only up to the date of conversion.

Section	54 Exemption in case of residential property	54B Exemption agriculture land	54EC NHAI or RECL	54F LTCG other than residential property
• Eligible assessee	Individual or HUF	Individual or HUF	Any assessee	Individual or HUF who does not have more than one residential house.
• Asset transferred	Residential house property	Agriculture land used for agriculture purpose for last 2 years	Long-term land/building/both	Any long-term capital asset (not residential house)
• Type of capital asset	Long-term	Long-term	Long-term	Long-term
• Amount to be invested	In residential house property	In agriculture land (urban or rural)	NHAI or RECL bonds (5 years)	In residential house property
• Time limit	• Purchase – 1 year before or 2 years after the date of transfer • Construction within 3 years from the date of transfer	Purchase – within 2 years after the date of transfer	Within 6 months from the date of transfer	• Purchase – 1 year before or 2 years after the date of transfer • Construction within 3 years from the date of transfer
• CG scheme	Applicable	Applicable	Not applicable	Applicable
• Amount of exemption	• Amount invested • Gross LTCG • ₹ 10 crore whichever is lower	• Amount invested • Gross LTCG whichever is lower	• Amount invested Gross LTCG • ₹ 50 lakhs Whichever is lower	$\frac{\text{Amount invested}}{\text{Net consideration}} \times$ Gross capital gain Amount invested should not be more than ₹10 crores
• Withdrawal of exemption	• If the new house is transferred within 3 years. • If the amount of CG scheme is not utilised.	• If the new agriculture land (urban) is transferred within 3 years from the date of purchase • If amount of CG scheme is not utilised	• If such bonds are transferred before expiry of 5 years, Or • any loan is taken against such bonds	• If the new house is transferred within 3 years. • If any other new house is purchased with 3 years. • If the amount of CG scheme is not utilised.
• Remarks, if any	If the amount of capital gain is not more than Rs.2 cr. then 2 houses can also be purchased			

Section	54D Compulsory acquisition of land and building	54G CMA & CS only Shifting of industrial units from urban area to rural area	54GA CMA & CS only Shifting of industrial units from urban area to SEZ	54GB CMA & CS only Investment in SME
• Eligible assessee	Any assessee	Any assessee	Any assessee	Individual or HUF
• Asset transferred	Land or building which is being used by the assessee for industrial purpose for last 2 years	Land/building/ P&M in urban area	Land/building/ P&M in urban area	Any residential property (house or plot)
• Type of capital asset	STCG/LTCG	STCG/LTCG	STCG/LTCG	LTCG
• Amount to be invested	Land or building for industrial purpose	Land/building/P&M in rural area	Land/building/P&M in SEZ	Equity shares of eligible company
• Time limit	Within 3 years from the date of transfer	1 year before or 3 years after the date of transfer	1 year before or 3 years after the date of transfer	Company should purchase new was it within one year from the date of subscription of equity shares
• CG scheme	Applicable	Applicable	Applicable	Applicable
• Amount of exemption	• Amount invested • Gross CG whichever is lower	• Amount invested • Gross CG whichever is lower Amount invested = Cost of assets purchased + shifting expenses + other notified expenses	• Amount invested • Gross CG whichever is lower Amount invested = Cost of assets purchased + shifting expenses + other notified expenses	$\frac{\text{Amount invested}}{\text{Net consideration}} \times$ Gross capital gain
• Withdrawal of exemption	If new land or building purchased is transferred within 3 years or CG scheme amount is not utilised	If new asset is transferred within three years from the date of purchase.	If new asset is transferred within three years from the date of purchase.	If new asset purchased is transferred by the company with a 5 years/3 years in the case of computers. • If the equity shares are sold within 5 years from the date of acquisition • If CG scheme amount is not utilised