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FINAL CA

MAY '19
REVISION NOTES

DIRECT TAX

Part - 3

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INCOME FROM CAPITAL GAINS

Any profits or gains arising from the transfer of a capital asset effected in the previous year (P.Y.) will be chargeable to tax under the head 'Capital Gains' and shall be deemed to be the income of the P.Y. in which the transfer took place [Section 45(1)]

According to section 2(14), a capital asset means –

- (a) property of any kind held by an assessee, whether or not connected with his business or profession;
- (b) any securities held by a Foreign Institutional Investor.

However, it does not include—

Any stock-in-trade [other than securities referred to in (b) above]

Personal effects - movable property held for personal use.

Exclusions - drawings, jewellery, paintings, archaeological collections, any work of art, sculptures

Rural agricultural land in India

Special Bearer Bonds, Gold Bonds

deposit certificates issued under the Gold Monetisation Scheme

TRANSFER – SECTION 2(47)

The Act contains an inclusive definition of the term 'transfer'. Accordingly, transfer in relation to a capital asset includes the following types of transactions:—

- (i) the sale,
- (ii) exchange or
- (iii) relinquishment of the asset; or
- (iv) the extinguishment of any rights therein; or
- (v) the compulsory acquisition thereof under any law; or
- (vi) Conversion of Capital Asset into Stock in Trade.
- (vii) the maturity or redemption of a zero coupon bond; or
- (viii) Section 53A of the Transfer of Property Act, 1882.
- (ix) Transactions which have the effect of transferring or enabling the enjoyment of an immovable property.

Section 48 – Computation of capital Gains

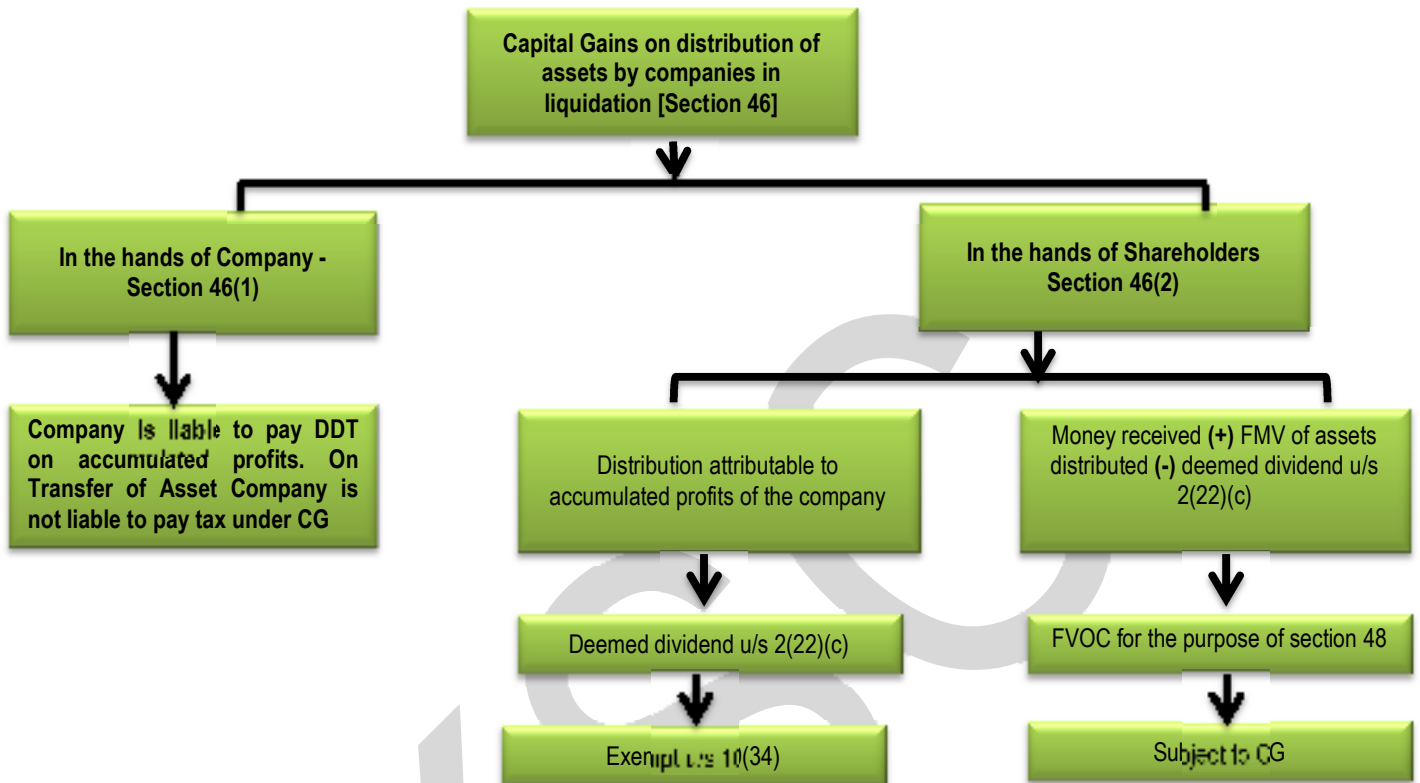
Short Term Capital Assets		Long Term Capital Assets	
Full value of consideration	XX	Full value of consideration	XX
Less: Expenditure incurred wholly and exclusively in connection with such transfer	(XX)	Less: Expenditure incurred wholly and exclusively in connection with such transfer	(XX)
Less: Cost of acquisition of asset	(XX)	Less: Indexed Cost of acquisition	(XX)
Less: Cost of improvement	(XX)	Less: Indexed Cost of Improvement	(XX)
Short term Capital gain/Loss	XX	Long term Capital gain/Loss	XX

Proviso to Section 48

1 st Proviso ✓ Applies to NR or Foreign Company ✓ Asset = shares/debentures/bonds ✓ purchased in the foreign currency or it should be a case of reinvestment.	a) The sale consideration shall be converted at the average of TTBR and TTSR as on the date of transfer of shares/debentures. b) The expenditure in connection with the transfer shall be converted at the average of TTBR and TTSR as on the date of transfer of shares/debentures. c) The cost of acquisition shall be converted at the average of the telegraphic transfer buying rate (TTBR) and the telegraphic transfer selling rate (TTSR) as on the date of acquisition of shares/debentures. d) The Capital Gains computed in the foreign currency shall be converted into Indian Currency by applying TTBR as on the date of transfer of shares/debentures.
2 nd Proviso (not applicable in case where 1 st proviso applies)	Indexed Cost of Acquisition = [(Cost of Acquisition) × (CII for the year of transfer)] / (CII for the year of acquisition or for the Financial Year 2001-02, whichever is later) <u>Indexed Cost of Improvement = [(Cost of Improvement) × (CII for the year of transfer)] / CII for the year of Improvement</u>
3 rd Proviso	<u>Benefit of indexation is not available in case Long-term capital gains arising from transfer of an equity share, or a unit of an equity oriented fund or a unit of a business trust as referred to in Section 112A.</u>
4 th Proviso	Benefit of indexation is not available in case Bonds or debentures. Exception - Capital indexed bonds (issued by the Government) Sovereign Gold Bond (issued by the RBI under the Sovereign Gold Bond Scheme, 2015)
5 th Proviso (Applicable to NR)	Any gains arising on account of appreciation of rupee between the date of purchase and the date of redemption of rupee denominated bond of an Indian company held by him against foreign currency in which investment is made shall not be included in computation of full value of consideration.
6 th Proviso	Shares, debentures or warrants referred to in the section 47(iii) are transferred under a gift or an irrevocable trust, the market value on the date of such transfer shall be deemed to be the FVOC
7 th Proviso	STT is not allowed as deduction

Section	Profits or gains arising from the following transactions chargeable as income	P.Y. in which income is chargeable to tax	Deemed (FVC) for computation of CG u/s 48
45(1A)	Money or other asset received under an insurance on account of damage / destruction of any capital asset, as a result of, flood, hurricane, cyclone, etc.	The P.Y. in which such money or other asset is received.	The value of money or the FMV of other asset on the date of receipt.
45(2)	Transfer by way of conversion by the owner of a capital asset into stock-in-trade (SIT) of a business carried on by him	The P.Y. in which such SIT is sold or otherwise transferred.	The P.Y. in which such SIT is sold or otherwise transferred.
45(3)	Transfer of a capital asset by a person to a firm or other AOPs or BOIs in which he is or becomes a partner or member, by way of capital contribution or otherwise.	The P.Y. in which such transfer takes place.	The amount recorded in the books of account of the firm, AOPs or BOIs as the value of the capital asset.
45(4)	Transfer of a capital asset by way of distribution of capital assets on the dissolution of a firm or other AOPs or BOIs or otherwise, is chargeable to tax as the income of the firm, AOPs or BOIs.	The P.Y. in which the said transfer takes place.	The FMV of the capital asset on the date of such transfer.
45(5)	Transfer of capital asset by way of compulsory acquisition under any law, or a transfer, the consideration for which was determined or approved by the Central Government or RBI. If the compensation or consideration is further enhanced by any court, Tribunal or other authority, the enhanced amount deemed to be the income. However, compensation received in pursuance of an interim order of a court/Tribunal deemed to be income of the P.Y. in which the final order is made.	The P.Y. in which the consideration or part thereof is first received. The P.Y. in which the amount was received by the assessee.	Compensation or Consideration Determined or approved in the first instance by the Central Govt or RBI. Amount by which the compensation/ consideration is enhanced or further enhanced. For this purpose, cost of acquisition and cost of improvement shall be taken as 'Nil'.
45(5A)	Transfer of a capital asset, being land or building or both, by an individual or HUF, who enters into a specified agreement for development of a project , provided he does not transfer his share in Project on or before the date of issuance of completion certificate.	The P.Y. in which the certificate of completion for the whole or part of the project is issued by the competent authority.	The stamp duty value of his share in the project, being L or B or both, on the date of issue of completion certificate (+) Consideration received in cash, if any

Liquidation of Companies [46(1) + 46(2) + 55 + 2(22)(c) + 2(42A)]



Non – Taxable Transfer		Cost of acquisition	Holding Period	If Asset is Long Term – Indexation
Any distribution of capital assets on the partition of a HUF	Taxable to members at the time of transfer	Cost to previous Owner – Section 49(1)	From the Date of acquisition by previous owner	From the date of acquisition by Previous owner – Manjula J Shah
Gift or will or an irrevocable trust	Taxable to transferee at the time of transfer	Cost to previous Owner – Section 49(1)	From the Date of acquisition by previous owner	From the date of acquisition by Previous owner – Manjula J Shah

Exception – in case Sweat Equity Shares are transferred by Employee by a way of gift or irrevocable trust.

Where the capital gain arises from the transfer of specified security or sweat equity shares referred to in section 17(2)(vi), the cost of acquisition of such security or shares shall be the fair market value which has been taken into account for requisite valuation [Section 49(2AA)].

<p>Transfer of capital asset by holding company to its subsidiary company: Conditions – (i) The parent company or its nominee must hold the whole of the shares of the subsidiary company; (ii) The subsidiary company must be an Indian company.</p>	<p>Transfer of capital asset by a subsidiary company to its holding company Conditions – (i) The whole of shares of the subsidiary company must be held by the holding company; (ii) The holding company must be an Indian company.</p>
<p>Section 47A provides that the above exemption will be withdrawn if at any time before the expiry of 8 years from the date of transfer of a capital asset referred to above (1) such capital asset is converted by the transferee company or is treated by it as stock-in-trade of its business; or (2) The parent company or its nominee ceases to hold the whole of the share capital of the subsidiary company. In the above two cases, the amount of capital gains exempt from tax by virtue of the provisions contained in section 47 will be deemed to be the income of the transferor company chargeable under the head ‘capital gains’ of the year in which such transfer took place.</p>	
<p>If section 47A gets attracted, then, In such case, the cost of acquisition of such asset to the transferee-company shall be the cost for which such asset was acquired by it Section 49(3)</p>	
<p>The exemption mentioned above will not apply if a capital asset is transferred as stock-in-trade.</p>	
<p>Other points In case of non-applicability of section 47A, Cost of transferee company is cost to previous owner section 49(1)</p>	
<p>If Capital asset is transferred as capital asset and section 47A is not attracted: - Not taxable to transferor - Taxable to transferee at the time of transfer - Cost to previous owner - Holding period = Date of acquisition from previous owner - Indexation = Date of acquisition from previous owner (Manjula J Shah)</p>	<p>If Capital asset is transferred as capital asset and section 47A is attracted: - Not taxable to transferor at time of transfer - Taxable in the year of violation - Cost for transferor is actual cost - Taxable to transferee at the time of transfer - Cost = Amount paid by transferee company - Holding period = Date of acquisition by transferee company</p>
<p>If Capital Asset is transferred as Stock in trade - Taxability arises at the time of transfer</p>	

Amalgamation and demerger

Transfer of capital asset by amalgamating company to amalgamated company, in a scheme of amalgamation: Any transfer, in a scheme of amalgamation, of a capital asset by the amalgamating company to the amalgamated company if the amalgamated company is an Indian company [Section 47(vi)].

Transfer of capital asset by the demerged company to the resulting company, in a scheme of demerger: Any transfer in a demerger, of a capital asset by the demerged company to the resulting company, if the resulting company is an Indian company [Section 47(vib)].

Cost of acquisition and holding period

Cost to previous owner – section 49(1).

Holding period of previous owner is to be included.

Transfer or issue of shares by the resulting company to the shareholder of demerged company in a scheme of demerger: Any transfer or issue of shares by the resulting company, in a scheme of demerger to the shareholders of the demerged company, if the transfer or issue is made in consideration of demerger of the undertaking [Section 47(vid)].

Transfer of share(s) held in the amalgamating company by a shareholder, in a scheme of amalgamation: Any transfer by a shareholder, in a scheme of amalgamation, of shares held by him in the amalgamating company [Section 47(vii)].

Conditions –

- (i) The transfer is made in consideration of the allotment to him of any share in the amalgamated company, except where the shareholder itself is the amalgamated company;
- (ii) The amalgamated company is an Indian company.

Cost of acquisition and holding period

Where shares in an amalgamated company which is an Indian company become the property of the assessee in consideration of the transfer of shares referred to in section 47(vii) held by him in the amalgamating company under a scheme of amalgamation, the cost of acquisition to him of the shares in the amalgamated company shall be taken as the cost of acquisition of the shares in the amalgamating company [Section 49(2)].

Where **share/s in the Indian company (amalgamated company)**, becomes the property of an assessee in lieu of share(s) held by him in the amalgamating company at the time of transfer referred under section 47(vii). -

The period for which the share(s) was held by the assessee in the amalgamating company shall be included.

Cost of acquisition of shares received in the resulting company in the scheme of demerger: In the case of a demerger, 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 [Section 49(2C)].

Cost of acquisition of the shares held in the demerged company: Further, the cost of acquisition of the original shares held by the shareholder in the demerged company shall be deemed to have been reduced by the amount as so arrived under the sub-section (2C) [Section 49(2D)].

Where **share(s) in the Indian company** being a resulting company becomes the property of an assessee in consideration of **demerger** - The period for which the share/s were held by the assessee in demerged company shall be included.

<p>Any transfer, in a scheme of amalgamation, of shares held in an Indian company by the amalgamating foreign company to the amalgamated foreign company [Section 47(via)].</p> <p>Conditions –</p> <p>(i) At least 25 percent of the shareholders of the amalgamating foreign company must continue to remain shareholders of the amalgamated foreign company;</p> <p>(ii) Such transfer should not attract capital gains in the country in which the amalgamating company is incorporated.</p>	<p>Any transfer, in a scheme of amalgamation, of a capital asset, being a share of a foreign company referred to in <i>Explanation 5</i> to section 9(1)(i), which derives, directly or indirectly, its value substantially from the share or shares of an Indian company, held by the amalgamating foreign company to the amalgamated foreign company [Section 47(viab)]</p> <p>Conditions –</p> <p>(i) At least 25 percent of the shareholders of the amalgamating foreign company must continue to remain shareholders of the amalgamated foreign company;</p> <p>(ii) Such transfer should not attract capital gains in the country in which the amalgamating company is incorporated.</p>
<p>Any transfer in a demerger, of a capital asset, being a share or shares held in an Indian company, by the demerger foreign company to the resulting foreign company [Section 47(vic)].</p> <p>Conditions –</p> <p>(i) The shareholders holding at least three-fourths in value of the shares of the demerged foreign company continue to remain shareholders of the resulting foreign company;</p> <p>(ii) Such transfer does not attract tax on capital gains in the country, in which the demerged foreign company is incorporated.</p>	<p>Any transfer, in a scheme of demerger, of a capital asset, being a share of a foreign company referred to in <i>Explanation 5</i> to section 9(1)(i), which derives, directly or indirectly, its value substantially from the share or shares of an Indian company, held by the demerged foreign company to the resulting foreign company [Section 47(vicc)].</p> <p>Conditions –</p> <p>(i) The shareholders holding at least three-fourths in value of the shares of the demerged foreign company continue to remain shareholders of the resulting foreign company;</p> <p>(ii) Such transfer does not attract tax on capital gains in the country, in which the demerged foreign company is incorporated.</p>
<p>Certain transactions not regarded as transfer in the hands of non resident</p>	
<p>Any transfer of bonds or Global Depository Receipts referred to in section 115AC(1), by a non-resident to another non-resident outside India [Section 47(viia)].</p> <p>The cost of acquisition of the capital asset, being share or shares of a company acquired by a non-resident assessee, consequent to redemption of GDRs [referred to in section 115AC(1)(b)] held by him would be the price of such share or shares prevailing on any recognized stock exchange on the date on which a request for such redemption was made [Section 49(2ABB)].</p>	
<p>Any transfer of a capital asset, -</p> <p>(i) being a Government Security carrying a periodic payment of interest,</p> <p>(ii) made outside India through an intermediary dealing in settlement of securities,</p> <p>(iii) by a non-resident to another non-resident [Section 47(viib)]</p>	
<p>Any transfer, made outside India, of a capital asset being rupee denominated bond of an Indian company issued outside India, by a non-resident to another non-resident [Section 47(viiaa)].</p>	

transfer of the following capital assets by a non-resident on a recognised stock exchange located in any International Financial Services Centre (IFSC) shall not be regarded as transfer, where the consideration for such transaction is paid or payable in foreign currency:

- bond or GDR referred to in section 115AC(1); or
- rupee denominated bond of an Indian company; or
- Derivative. [Section 47(viiab)]

Certain transaction non regarded as transfer

Any transfer by a unit holder of a capital asset, being a unit or units, held by him in the consolidating scheme of a mutual fund, made in consideration of the allotment to him of a capital asset, being a unit or units, in the consolidated scheme of the mutual fund [Section 47(xviii)].	The cost of acquisition of the units acquired by the assessee in consolidated scheme of mutual fund in consideration of transfer referred in section 47(xviii) shall be deemed to be the cost of acquisition to him of the units in the consolidating scheme of mutual fund [Section 49(2AD)]
Any transfer by a unit holder of a capital asset, being a unit or units, held by him in the consolidating plan of a mutual fund scheme, made in consideration of the allotment to him of a capital asset, being a unit or units, in the consolidated plan of that scheme of the mutual fund [Section 47(xix)].	Cost of acquisition of the unit or units in the consolidated plan of the scheme of the mutual fund in consideration of a transfer referred to in section 47(xix) shall be deemed to be the cost of acquisition to him of the unit or units in consolidating plan of the scheme of the mutual fund [Section 49(2AF)].
Any transfer by way of conversion of bonds or debentures, debenture-stock or deposit certificates in any form, of a company into shares or debentures of that company [Section 47(x)].	the cost of acquisition of such shares or debentures to the person shall be deemed to be that part of the cost of debentures, debenture stock, bond or deposit certificate in relation to which such asset is acquired by that person [Section 49(2A)].
Any transfer by way of conversion of Foreign Currency Exchangeable Bonds referred to in clause (a) of section 115AC(1) into shares or debentures of a company [Section 47(xa)].	the cost of acquisition of such shares or debentures to the person shall be deemed to be that part of the cost of debentures, debenture stock, bond or deposit certificate in relation to which such asset is acquired by that person [Section 49(2A)].
Any transfer by way of conversion of preference shares of a company into equity shares of that company [Section 47(xb)].	Cost of acquisition of the equity share of a company, which became the property of the assessee in consideration of transfer by way of conversion of preference shares referred to in section 47(xb), shall be deemed to be that part of the cost of the preference share in relation to which such asset is acquired by the assessee [Section 49(2AE)].

Business Reorganisation

1. Where a sole proprietary concern is succeeded by a company in the business carried out by it, as a result of which the sole proprietary concern transfers or sells any capital asset or intangible asset to such company [Section 47(xiv)].

Conditions –

- (i) All assets and liabilities of the sole proprietary concern relating to the business immediately before the succession become the assets and liabilities of the company;
- (ii) The sole proprietor holds not less than 50% of the total voting power in the company, and his shareholding continues in such manner for a period of 5 years from the date of succession;
- (iii) The sole proprietor does not receive any consideration or benefit in any form, directly or indirectly, other than by way of allotment of shares in the company.

2. Any transfer of a capital asset or intangible asset (in the case of a firm) by a firm to a company where such firm is succeeded by that company or

- (i) All assets and liabilities of the firm or AOP or BOI relating to the business immediately before the succession become the assets and liabilities of the company;
- (ii) All the partners of the firm immediately before the succession become the shareholders of the company and the proportion in which their capital accounts stood in the books of the firm on the date of succession remains the same;
- (iii) The partners of the firm do not receive any consideration or benefit in any form, directly or indirectly, other than by way of allotment of shares in the company.
- (iv) The partners of the firm together hold not less than 50% of the total voting power in the company, and their shareholding continues in such manner for a period of 5 years from the date of succession.

Transfer of capital asset or intangible asset on succession of firm/ sole proprietary concern by a company [Section 47(xiii) or 47(xiv)]: Where any of the conditions laid down in section 47(xiii) or (xvi), as the case may be, for succession of a firm or sole proprietary concern by a company are not complied with, the amount of profits or gains arising from the transfer of such capital asset or intangible asset shall be deemed to be the profits and gains **chargeable to tax of the successor company** for the previous year in which the conditions are not complied with.

3. Any transfer of a capital asset or intangible asset by a private company or unlisted public company to a LLP

Conditions –

- (i) All assets and liabilities of the company immediately before the conversion become the assets and liabilities of the LLP;
- (ii) The shareholders of the company immediately before the conversion become partners of the LLP in the same proportion as their shareholding in the company on the date of conversion;
- (iii) No consideration other than share in profit and capital contribution in the LLP arises to the shareholders;
- (iv) The erstwhile shareholders of the company continue to be entitled to receive at least 50% of the profits of the LLP for a period of 5 years from the date of conversion;
- (v) The total sales, turnover or gross receipts in business of the company should not exceed ` 60 lakh in any of the three preceding previous years;
- (vi) The total value of assets as appearing in the books of account of the company in any of the three previous years preceding the previous year in which the conversion takes place, should not exceed ` 5 crore; and
- (vii) No amount is paid, either directly or indirectly, to any partner out of the accumulated profit of the company for a period of 3 years from the date of conversion.

Transfer of capital asset or intangible asset by private company or unlisted company [Section 47(xiiib)]: If subsequent to the conversion of a company into an LLP, any of the conditions laid down in section 47(xiiib) are not complied with, the capital gains not charged under section 45 would be deemed to be chargeable to tax in the previous year in which the conditions are not complied with, in the hands of the LLP.

Other Non-Taxable Transfer

1. Redemption of Sovereign Gold Bonds by an Individual: Redemption by an individual of Sovereign Gold Bond issued by RBI under the Sovereign Gold Bond Scheme, 2015 [Section 47(viic)]

2. Transfer of capital asset under Reverse Mortgage: Any transfer of a capital asset in a transaction of reverse mortgage under a scheme made and notified by the Central Government [Section 47(xvi)].

3. Any transfer of a membership right by a member of recognised stock exchange in India
 - for acquisition of shares and
 - trading or clearing rights
 acquired by such member in that recognised stock exchange in accordance with a scheme for demutualization or corporatisation approved by SEBI [Section 47(xiiia)].

SPECIAL PROVISION FOR FULL VALUE OF CONSIDERATION IN CERTAIN CASES [SECTION 50C]

(1) Stamp Duty Value would be the Full value of consideration: Where the consideration received or accruing as a result of transfer of a capital asset, being land or building or both, is less than the value adopted or assessed or assessable by any authority of a State Government (Stamp Valuation Authority) for the purpose of payment of stamp duty in respect of such asset, such value adopted or assessed or assessable shall be deemed to be the full value of the consideration received or accruing as a result of such transfer [Sub-section (1)].

Full value of consideration where the date of agreement and date of registration are not the same:

In order to ensure parity in tax treatment vis-a-vis section 43CA, it has been provided that where the date of the agreement fixing the amount of consideration for the transfer of immovable property and the date of registration are not the same, the stamp duty value on the date of the agreement may be taken for the purposes of computing the full value of consideration.

Condition for taking Stamp duty value of the date of agreement:

However, the stamp duty value on the date of agreement can be adopted only in a case where the amount of consideration, or a part thereof, has been paid by way of an account payee cheque or account payee bank draft or use of electronic clearing system through a bank account, on or before the date of the agreement for the transfer of such immovable property.

However, where the stamp duty value does not exceed 105% of the sale consideration received or accruing as a result of the transfer, the consideration so received or accruing shall be deemed to be the full value of the consideration.

(2) Reference to Valuation Officer: The Assessing Officer may refer the valuation of the asset to a valuation officer as defined in section 2(r) of the Wealth-tax Act, 1957 in the following cases -

(i) Where the assessee claims before any Assessing Officer that the value adopted or assessed or assessable by the authority for payment of stamp duty exceeds the fair market value of the property as on the date of transfer and

(ii) the value so adopted or assessed or assessable by such authority has not been disputed in any appeal or revision or no reference has been made before any other authority, court or High Court.

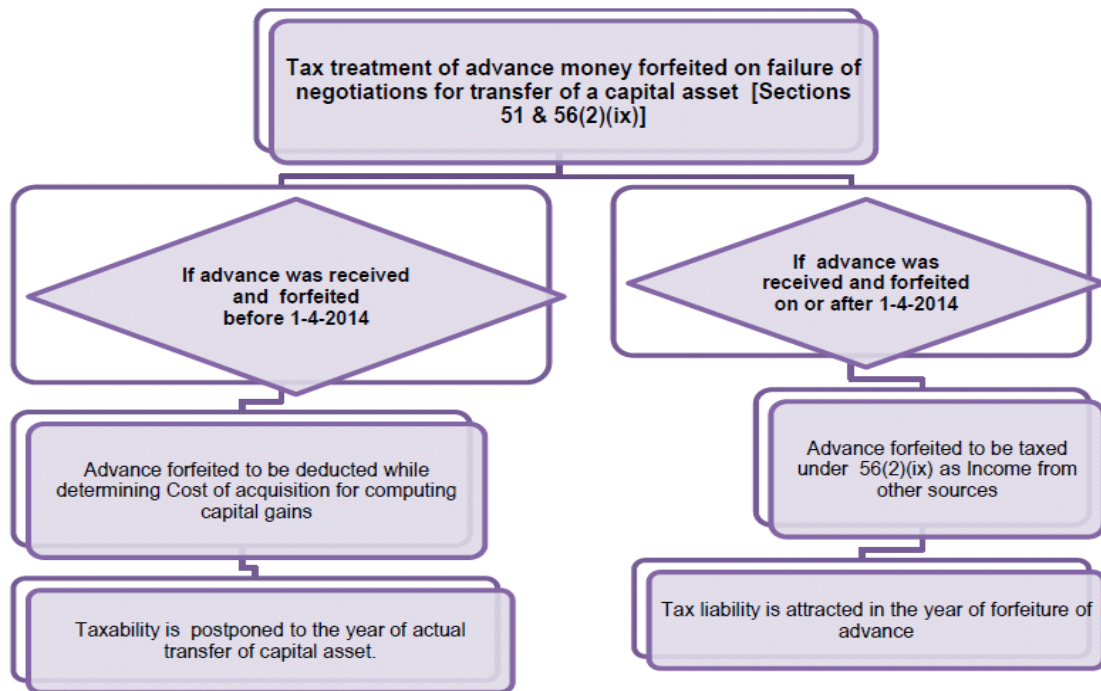
(3) Where the value ascertained by such valuation officer exceeds the value adopted or assessed or assessable by the Stamp authority the value adopted or assessed or assessable shall be taken as the full value of the consideration received or accruing as a result of the transfer [Sub-section (3)].

SPECIAL PROVISION FOR FULL VALUE OF CONSIDERATION FOR TRANSFER OF UNLISTED

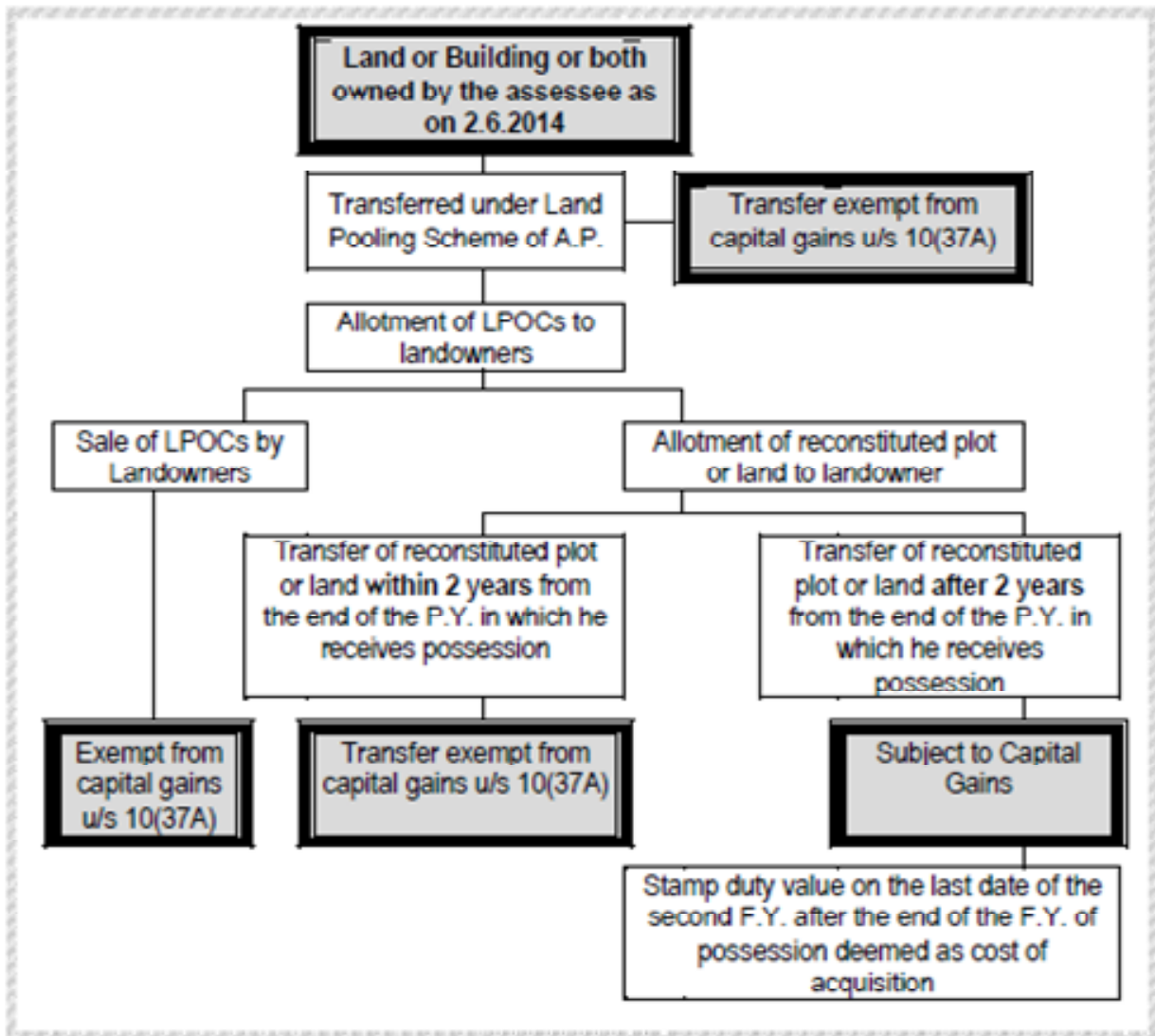
SHARES [SECTION 50CA]

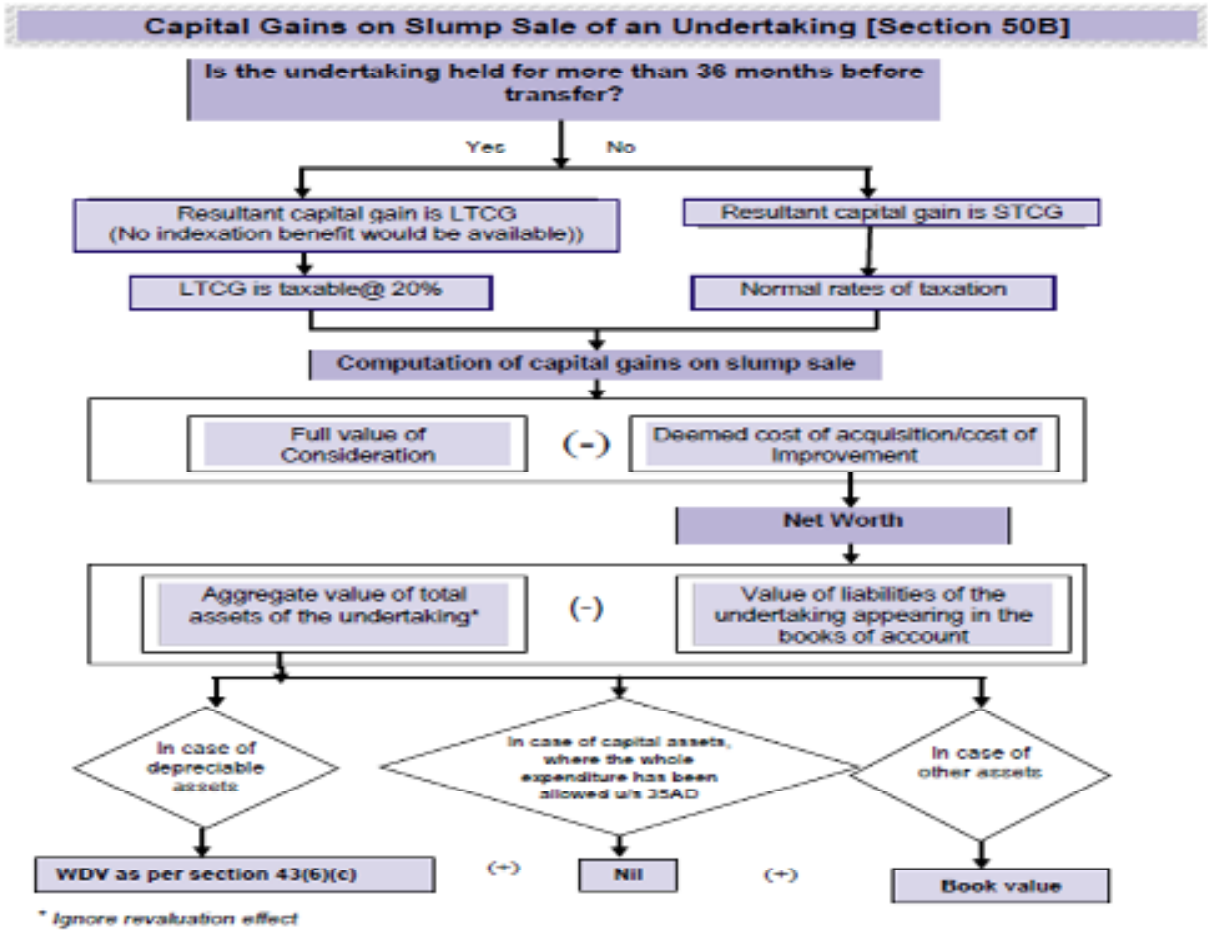
In order to ensure the full consideration is not understated in case of transfer of unlisted shares, a new section 50CA has been inserted to provide that where the consideration received or accruing as a result of transfer of a capital asset, being share of a company other than a quoted share, is less than the fair market value of such share determined in such manner as may be prescribed, such fair market value shall be deemed to be the full value of consideration received or accruing as a result of such transfer.

ADVANCE MONEY



Taxability/ Exemption of Capital Gains arising on transfer of Specified Capital Assets





TAX ON SHORT TERM CAPITAL GAINS IN RESPECT OF EQUITY SHARES/ UNITS OF AN EQUITY ORIENTED FUND/ UNITS OF A BUSINESS TRUST [SECTION 111A]

(1) Concessional rate of tax in respect of STCG on transfer of certain assets: This section provides for a concessional rate of tax (i.e. 15%) on the short-term capital gains on transfer of -
 (i) an equity share in a company or
 (ii) a unit of an equity oriented fund or
 (iii) a unit of a business trust.

(2) Conditions: The conditions for availing the benefit of this concessional rate are –
 (i) the transaction of sale of such equity share or unit should be entered into on or after 1.10.2004, being the date on which Chapter VII of the Finance (No. 2) Act, 2004 came into force; and
 (ii) such transaction should be chargeable to securities transaction tax under the said Chapter.

However, short-term capital gains arising from transactions undertaken in foreign currency on a recognized stock exchange located in an International Financial Services Centre (IFSC) would be taxable at a concessional rate of 15% even though STT is not leviable in respect of such transaction.

(3) Adjustment of Unexhausted Basic Exemption Limit: In the case of resident individuals or HUF, if the basic exemption is not fully exhausted by any other income, then the short-term capital gain will be reduced by the unexhausted basic exemption limit and only the balance would be taxed at 15%. However, the benefit of availing the basic exemption limit is not available in the case of non-residents.

(4) No deduction under Chapter VI-A against STCG taxable under section 111A: Deductions under Chapter VI-A cannot be availed in respect of such short-term capital gains on equity shares of a company or units of an equity oriented mutual fund included in the total income of the assessee.

TAX ON LONG TERM CAPITAL GAINS [SECTION 112]

(1) Concessional rate of tax: Where the total income of an assessee includes long-term capital gains, tax is payable by the assessee @20% on such long-term capital gains. The treatment of long-term capital gains in the hands of different types of assesseees are as follows -

(i) Resident individual or Hindu undivided family: Income-tax payable at normal rates on total income as reduced by long-term capital gains plus 20% on such long-term capital gains.

However, where the total income as reduced by such long-term capital gains is below the maximum amount which is not chargeable to income-tax then such long-term capital gains shall be reduced by the amount by which the total income as so reduced falls short of the maximum amount which is not chargeable to income-tax and the tax on the balance of such long-term capital gains will be calculated @20%.

(ii) Domestic Company: Long-term capital gains will be charged @ 20%.

(iii) Non-corporate non-resident or foreign company:

(i) Long-term capital gains arising from the transfer of a capital asset, being unlisted securities or shares of a company not being a company in which public are substantially interested, would be calculated at the rate of 10% on the capital gains in respect of such asset without giving effect to the indexation provision under second proviso to section 48 and currency fluctuation under first proviso to section 48.

(ii) In respect of other long-term capital gains, the applicable rate of tax would be 20%.

(iv) Residents (other than those included in (i) above): Long-term capital gains will be charged @20%.

(2) Lower rate of tax for transfer of listed securities and zero coupon bonds: Where the tax payable in respect of any income arising from the transfer of a listed security (other than a unit) or a zero coupon bond, being a long-term capital asset, exceeds 10% of the amount of capital gains before indexation, then such excess shall be ignored while computing the tax payable by the assessee.

Consequently, long term capital gains on transfer of units and unlisted securities are not eligible for concessional rate of tax@10% (without indexation benefit). Therefore, the long-term capital gains, in such cases, are taxable @20% (with indexation benefit).

However, in case of non-corporate non-residents and foreign companies, long term capital gains arising from transfer of a capital asset, being unlisted securities or shares in a company in which public are not substantially interested are eligible for a concessional rate of tax @10% (without indexation benefit).

(3) No deduction under Chapter VI-A against LTCG: The provisions of section 112 make it clear that the deductions under Chapter VIA cannot be availed in respect of the long-term capital gains included in the total income of the assessee.

TAX ON LONG TERM CAPITAL GAINS ON CERTAIN ASSETS [SECTION 112A]

(1) Concessional rate of tax in respect of LTCG on transfer of certain assets: In order to minimize economic distortions and curb erosion of tax base, new section 112A has been inserted. This section provides that notwithstanding anything contained in section 112, a concessional rate of tax @10% will be leviable on the long-term capital gains exceeding ` 1,00,000 on transfer of –

- (a) an equity share in a company or
- (b) a unit of an equity oriented fund or
- (c) a unit of a business trust.

(2) Conditions: The conditions for availing the benefit of this concessional rate are–

- (a) In case of equity share in a company, STT has been paid on acquisition and transfer of such capital asset
- (b) In case of unit of an equity oriented fund or unit of business trust, STT has been paid on transfer of such capital asset.

However, the Central Government may, by notification in the Official Gazette, specify the nature of acquisition of equity share in a company on which the condition of payment of STT on acquisition would not be applicable.

Further, long-term capital gains arising from transaction undertaken on a recognized stock exchange located in an International Financial Service Centre (IFSC) would be taxable at a concessional rate of 10%, where

the consideration for transfer is received or receivable in foreign currency, even though STT is not leviable in respect of such transaction.

(3) Adjustment of Unexhausted Basic Exemption Limit: In the case of resident individuals or HUF, if the basic exemption is not fully exhausted by any other income, then such long-term capital gain exceeding ` 1 lakh will be reduced by the unexhausted basic exemption limit and only the balance would be taxed at 10%. However, the benefit of adjustment of unexhausted basic exemption limit is not available in the case of non-residents.

(4) No deduction under Chapter VI-A against LTCG taxable under section 112A: Deductions under Chapter VI-A cannot be availed in respect of such long-term capital gains on equity shares of a company or units of an equity oriented mutual fund or unit of a business trust included in the total income of the assessee.

(5) No benefit of rebate under section 87A against LTCG taxable under section 112A: Rebate under section 87A is not available in respect of tax payable @10% on LTCG under section 112A.

Sr no	Nature of Asset	Cost of acquisition
1	Goodwill of business, trademark, brand name etc., - - Self generated - Acquired from previous owner	Nil Purchase price
2	Rights Shares: Original shares (which form the basis of entitlement of rights shares)	Amount actually paid for acquiring the original shares
	Rights entitlement (which is renounced by the assessee in favour of a person)	Nil
	Rights shares acquired by the assessee	Amount actually paid for acquiring the rights shares
	Rights shares which are purchased by the person in whose favour the assessee has renounced the rights entitlement	Purchase price paid to the enouncer of rights entitlement as well as the amount paid to the company which has allotted the rights shares.
3	Long-term capital assets referred to in section 112A The cost of acquisition in relation to the long-term capital assets being, equity shares in a company on which STT is paid both at the time of purchase and transfer or unit of equity oriented fund or unit of business trust on which STT is paid at the time of transfer. acquired before 1st February, 2018	Cost of acquisition shall be the higher of (i) cost of acquisition of such asset; and (ii) lower of (a) the fair market value of such asset; and (b) the full value of consideration received or accruing as a result of the transfer of the capital asset.
4	Any other capital asset Where such capital asset became the property of the assessee before 1.4.2001	Cost of the asset to the assessee, or FMV as on 1.4.2001, at the option of the assessee.
	Where capital assets became the property of the assessee by way of distribution of assets on total or partial partition of HUF, under a gift or will, by succession, inheritance, distribution of assets on liquidation of a company, etc.	Cost to the previous owner. Where such cost cannot be ascertained, FMV on the date on which the capital asset became the property of the previous owner.
	Where the capital asset became the property of the previous owner before 1.4.2001	Cost to the previous owner or FMV as on 1.4.2001, at the option of the assessee.

Section 54	
Eligible Assessee	Individual / HUF
Asset transferred	Residential House (LTCA)
Qualifying asset i.e., asset in which capital gains has to be invested	One Residential House situated in India.
Time limit for purchase/construction	Purchase within 1 year before or 2 years after the date of transfer (or) construct within 3 years after the date of transfer.
Amount of Exemption	Cost of new Residential House or CG, whichever is lower, is exempt.
Consequences of transfer of new asset before 3 years	If the new asset is transferred before 3 years from the date of its acquisition or construction, then cost of the asset will be reduced by capital gains exempted earlier for computing capital gains.

Section 54B	
Eligible Assessee	Individual / HUF
Asset transferred	Urban Agricultural Land
Other Conditions	Land has been used for agricultural purposes by assessee or his parents or HUF for 2 years immediately preceding the date of transfer.
Qualifying asset i.e., asset in which capital gains has to be invested	Land for being used for agricultural purposes.
Time limit for purchase/construction	Purchase within a period of 2 years after the date of transfer.
Amount of Exemption	Cost of new Agricultural Land or CG, whichever is lower, is exempt.
Consequences of transfer of new agricultural land before 3 years	If the new agricultural land is transferred before 3 years from the date of its acquisition, then cost of the land will be reduced by capital gains exempted earlier for computing capital gains of new agricultural land. However, if the new agricultural land is a rural agricultural land, there would be no capital gains on transfer of such land.

Section 54D	
Eligible Assessee	Any assessee
Asset transferred	Land & building forming part of an industrial undertaking
Other Conditions	L & B have been used for business of undertaking for at least 2 years immediately preceding the date of transfer - the transfer should be by way of compulsory acquisition of the industrial undertaking.
Qualifying asset i.e., asset in which capital gains has to be invested	Land or Building or right in land or building.

Time limit for purchase/ construction	Purchase/ construct within 3 years after the date of transfer, for shifting or reestablishing the existing undertaking or setting up a new industrial undertaking.
Amount of Exemption	Cost of new asset or CG, whichever is lower.
Consequences of transfer of new asset before 3 years	If the new asset is transferred before 3 years from the date of its acquisition, then cost of the asset will be reduced by capital gains exempted earlier for computing capital gains.

Section 54EC

Eligible Assessee	Any assessee
Asset transferred	There should be transfer of a long-term capital asset being land or building or both.
Qualifying asset i.e., asset in which capital gains has to be invested	Bonds of NHAI or RECL or any other bond notified by Central Govt (Redeemable after 3 years) namely, PFCL and IRFC bonds.
Time limit for purchase/ construction	Purchase within a period of 6 months after the date of transfer.
Amount of Exemption	CG or amount invested in specified bonds, whichever is lower. Maximum permissible investment out of CG arising in any FY is Rs 50 lakhs, whether such investment is made in the current FY or next FY or both.
Consequences	In case of transfer or conversion of such bonds or availing loan or advance on security of such bonds before the expiry of 5 years, the capital gain exempted earlier shall be taxed as long-term capital gain in the year of violation of condition.

Particulars	Section 54F
Eligible Assessee	Individual / HUF
Asset transferred	Any LTCA other than Residential House
Other Conditions	1. Assessee should not own more than one residential house on the date of transfer 2.He should not purchase within 2 years or construct within 3 years after the date of transfer, another residential house.
Qualifying asset i.e., asset in which capital gains has to be invested	One Residential House situated in India.
Time limit for purchase/ construction	Purchase within 1 year before or 2 years after the date of transfer or Construct within 3 years after the date of transfer.
Amount of Exemption	Cost of new Residential House \geq Net sale consideration of original asset, entire CG is exempt. Cost of new Residential House $<$ Net sale consideration of original asset, proportionate CG is exempt.
Consequences of transfer of new asset within 3 years from the date of transfer	If the new asset is transferred before 3 years from the date of its acquisition, then the capital gain exempted earlier under section 54F would be taxable as long-term capital gains.

Particulars	Section 54G
Eligible Assessee	Any assessee
Asset transferred	There should be a transfer of machinery, plant, building or land or any right in building or land used for the business of an industrial undertaking situated in an urban area.
Other Conditions	There should be a shifting of the industrial undertaking from an urban area to any other area other than an urban area.
Qualifying asset i.e., asset in which capital gains has to be invested	<ul style="list-style-type: none"> ◆ purchase of new plant and machinery for the purposes of business of the industrial undertaking in the area to which the said undertaking is shifted; ◆ acquisition of building or land or construction of building for the purposes of his business in the said area; ◆ expenses on shifting of the industrial undertaking from the urban area to the other area; ◆ such other expenditure as the Central Government may specify in a scheme framed by the Central Government.
Time limit for purchase/ construction	The capital gain (short-term or long-term) should be utilized for any of the following purposes within 1 year before or 3 years after the date of transfer –
Amount of Exemption	<p>If cost of new assets plus expenses incurred for the specified purpose \geq Capital gains entire capital gains (short-term or long-term) is exempt.</p> <p>If cost of new assets plus expenses incurred for the specified purpose $<$ Capital gains, capital gains (short-term or long-term) to the extent of such cost and expenses is exempt.</p>
Consequences if the new asset is transferred within a period of 3 years	If the new asset is transferred within a period of 3 years of its purchase or construction, then the capital gain, which was exempt earlier under section 54G would be deducted from the cost of acquisition of the new asset for the purpose of computation of capital gains in respect of the transfer of the new asset.
Exemption of capital gains on transfer of certain capital assets in case of shifting of an industrial undertaking from an urban area to any SEZ [Section 54GA] – Same as 54G	
<p>Exemption of long-term capital gains on transfer of residential property if the net sale consideration is used for subscription in equity shares of an eligible start-up company to be used for purchase of new plant and machinery [Section 54GB]</p> <ul style="list-style-type: none"> • Section 54GB exempts long-term capital gains on sale of a residential property (house or plot of land) owned by an individual or a HUF in case of re-investment of net sale consideration in the equity shares of an eligible company being an eligible start-up, which is utilized by the company for the purchase of new plant and machinery. • In order to qualify as an “eligible company” under section 54GB the company should be – <p>(i) incorporated in the financial year in which the capital gain arises or in the following year on or before the due date of filing return of income by the individual or HUF;</p> <p>(ii) engaged in an eligible business;</p> <p>(iii) a company in which the individual or HUF holds more than 50% of the share capital or 50% of the voting rights, after the subscription in shares by the individual or HUF; and</p> <p>(iv) a company which is an eligible start-up.</p> <p>Conditions to be fulfilled</p> <p>(i) The amount of net consideration should be used by the individual or HUF before the due date of furnishing of return of income under section 139(1), for subscription in equity shares of the eligible company.</p>	

(ii) The amount of subscription as share capital is to be utilized by the eligible company for the purchase of new plant and machinery within a period of one year from the date of subscription in the equity shares.

(iii) If the amount of net consideration subscribed as equity shares in the eligible company is not utilized by the company for the purchase of plant and machinery before the due date of filing of return by the individual or HUF, the unutilized amount shall be deposited in an account with any specified bank or institution before such due date of filing return of income. The return of income furnished by the assessee, should be accompanied by the proof of such deposit.

(iv) The said amount is to be utilized in accordance with any scheme which may be notified by the Central Government in the Official Gazette.

The amount of net consideration utilized by the company for purchase of new plant and machinery and the amount deposited as mentioned in (iv) above, will be deemed to be the cost of new plant and machinery for the purpose of computation of capital gains in the hands of individual or HUF.

New plant and machinery does not include -

(i) any machinery or plant which, before its installation by the assessee, was used either within or outside India by any other person;

(ii) any machinery or plant installed in any office premises or any residential accommodation, including accommodation in the nature of a guest house;

(iii) any office appliances including computer and computer software;

(iv) any vehicle; or

(v) any machinery or plant, the whole of the actual cost of which is allowed as a deduction, whether by way of depreciation or otherwise, in computing the income chargeable under the head "Profits and gains of business or profession" of any previous year.

In case of an eligible start-up, being a technology driven start-up so certified by the notified Inter-Ministerial Board of Certification (IMBC), the company can also utilize the amount invested in shares to purchase computers or computer software. This is because computers or computer software form the core asset base of such technology driven start-ups.

• Quantum of exemption under section 54GB

◆ If cost of new plant and machinery \geq Net consideration of residential house, entire capital gains is exempt.

◆ If cost of new plant and machinery $<$ Net consideration of residential house, only proportionate capital gains is exempt i.e.

LTCG * Amount invested in new plant and machinery/ Net consideration

• The exemption under this section would not be available in respect of transfer of residential property made after 31st March, 2019.

• If the amount deposited by the company in specified banks/ institutions, is not utilized wholly or partly for the purchase of new plant and machinery within the period specified, then, the amount of capital gains not charged to tax under section 45 on account of such deposit by the company shall be charged to tax under section 45 as income of the assessee for the previous year in which the period of 1 year from the date of subscription in the equity shares by the assessee expires.

• If the equity shares of the company acquired by the individual or HUF or the new plant and machinery acquired by the company are sold or transferred within a period of five years from the date of acquisition, the amount of capital gains earlier exempt under section 54GB shall be deemed to be the income of the individual or HUF chargeable under the head "Capital Gains" of the previous year in which such equity shares or such new plant and machinery are sold or otherwise transferred. This would be in addition to the capital gains arising on transfer of shares by the individual or HUF or capital gains arising on transfer of new plant and machinery by the company, as the case may be. These are safeguards to restrict the transfer of the shares of the company and of the plant and machinery for a period of 5 years to prevent diversion of these funds.