**CHAPTER:- CAPITAL GAIN**

* **Sec. 45(1):- Charging Section:-**

1. There should be CAPITAL ASSET
2. There should be TRANSFER of Capital Asset during the previous year
3. Profit or GAIN should arise as a result of such transfer

If all the above conditions are satisfied, then income is taxable under the head Capital Gain.

* **What is Capital Asset?**

Capital asset means-

a) Property of any kind held by assessee, whether or not connected with business or profession, but does not include-

- **Stock in trade**

**- Rural Agriculture Land**

**- Specified Gold Bonds**

**- Personal Effects**

Personal Effects cover **movable properties** used by the assessee or his family member for their **personal use** but does not cover **Jewellery, Paintings, Drawings, Sculptures, Archaeological Collections or any work of art**;

b) Securities held by Foreign Portfolio Investors(FIIs) whether as stock in trade or otherwise.

* **What is Transfer?**

Transfer includes-

1. sale, exchange, relinquishment or extinguishment of right over capital asset;
2. conversion of capital asset into stock in trade;
3. compulsory acquisition of capital asset;
4. transfer of capital asset under part-performance of contract under the Transfer of Property Act,1882;
5. transfer of capital asset by member of Co-operative Society, Company or Association of Persons;
6. maturity of zero coupon bonds.

There is the detailed list of transactions which are not regard as transfer. Following are the few of them:-

1. Transfer of capital asset under gift, will or irrevocable trust;
2. Distribution of capital asset under total or partial partition of HUF;
3. Transfer of capital asset at the time of amalgamation/merger/demerger when transferee company is Indian Company;
4. Transfer of capital asset on conversion of proprietary business into partnership firm;
5. Transfer of capital asset on conversion of partnership firm into company;
6. Transfer of capital asset under the notified reverse mortgage scheme;
7. Distribution of capital asset on liquidation of company to shareholders.

* **Types of Capital Asset:-**

There are two types of capital assets based on period of holding;

i) Short Term Capital Asset;

ii) Long Term Capital Asset.

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| **Financial Assets (Shares/MFs/ZCB)** |  |
| * Listed Equity Shares/ Units of Equity oriented Funds | HP> 12 months = LTCA  HP < 12 months = STCA |
| * Unlisted Shares | HP> 24 months = LTCA  HP < 24 months = STCA |
| * Debt Oriented Funds | HP> 36 months = LTCA  HP < 36 months = STCA |
| **Non -Financial Assets (Building/Jewellery/Paintings etc.)** |  |
| * Land/Building | HP> 24 months = LTCA  HP < 24 months = STCA |
| * Other assets (Jewellery etc.) | HP> 36 months = LTCA  HP < 36 months = STCA |







Question 1:-

Mr X purchased building for Rs 10,00,000/- on 10/04/21. Following expenses incurred at the time of purchase:

Stampduty – 20,000

Brokerage – 20,000

Legal Fees – 10,000

Building was sold on 15/01/23 for Rs.70,00,000

Following Expenses incurred at the time of sale:-

Brokerage – 1%

Legal Fees – Rs. 30,000/-

Compute Capital Gain.

SOLUTION:

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| **PARTICULARS** | **RS** |
| SALES PRICE | 70,00,000 |
| Less: Exp on Transfer (70000+30000) | (1,00,000) |
| Net Consideration | 69,00,000 |
| Less: Cost of Acquisition | (10,50,000) |
| STCG | 58,50,000 |

Question:- 2

Mr X purchased building for Rs 10,00,000/- on 10/04/11. Following expenses incurred at the time of purchase:

Stampduty – 20,000

Brokerage – 20,000

Legal Fees – 10,000

Building was sold on 15/02/23 for Rs.70,00,000

Following Expenses incurred at the time of sale:-

Brokerage – 1%

Legal Fees – Rs. 30,000/-

Compute Capital Gain.

CII- 22-23 : 331 ; 11-12: 184

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| **PARTICULARS** | **RS** |
| SALES PRICE | 70,00,000 |
| Less: Exp on Transfer | (1,00,000) |
| Net Consideration | 69,00,000 |
| Less: Indexed Cost of Acquisition  = COA (X) INDEX NO. SALE YEAR/INDEX NO. PURCHASE YR  = 10,50,000 (X) 331/184 | (18,88,860) |
| LTCG | 50,11,140 |

Question: 3-

Mr Y purchased building for Rs 12,00,000/- on 10/04/09. Following expenses incurred at the time of purchase:

Stampduty – 20,000

Brokerage – 10,000

Legal Fees – 5,000

Building was sold on 15/02/23 for Rs.90,00,000. Following Expenses incurred at the time of sale:-

Brokerage – 1%

Legal Fees – Rs. 30,000/-

Compute Capital Gain.

CII- 22-23: 331 ; 09-10: 148

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| --- | --- |
| **PARTICULARS** | **RS** |
| SALES PRICE | 90,00,000 |
| Less: Exp on Transfer | (1,20,000) |
| Net Consideration | 88,80,000 |
| Less: Indexed Cost of Acquisition  = COA (X) INDEX NO. SALE YEAR/INDEX NO. PURCHASE YR  = 12,35,000 (X) 331/148 | (27,62,060) |
| LTCG | 61,17,940 |

Question:-

Mr Y purchased building for Rs 12,00,000/- on 10/04/09. Following expenses incurred at the time of purchase:

Stampduty – 20,000

Brokerage – 10,000

Legal Fees – 5,000

During Previous Year 12-13 expenditure on improvement of Rs. 3,00,000 was incurred by Mr Y.

Building was sold on 15/02/23 for Rs.90,00,000. Following Expenses incurred at the time of sale:-

Brokerage – 1%

Legal Fees – Rs. 30,000/-

Compute Capital Gain.

CII- 22-23: 331 ; 09-10: 148 12-13: 200

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| **PARTICULARS** | **RS** |
| SALES PRICE | 90,00,000 |
| Less: Exp on Transfer | (1,20,000) |
| Net Consideration | 88,80,000 |
| Less: Indexed Cost of Acquisition  = COA (X) INDEX NO. SALE YEAR/INDEX NO. PURCHASE YR  = 12,35,000 (X) 331/148 | (27,62,060) |
| Less: Indexed Cost of Improvement  = COI (X) INDEX NO. SALE YEAR/INDEX NO. IMPROVEMENT YR  =3,00,000 (X) 331/200 | (4,96,500) |
| LTCG | 56,21,440 |

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| **EXEMPTION** | **SEC 54** | **SEC 54F** | **54EC** |
| Available | Individual | Individual | All Assessee |
| Asset Sold | Residential H.P. (LTCA) | Any LTCA other than Residential H.P. | Any LTCA |
| New Asset Purchased | Maximum two residential H.P. in India | Maximum two residential H.P. in India | Infrastructure bonds of NHAI/RECL (redeemable on or after 5 years) |
| Time Limit: |  |  |  |
| * Purchase | 2 year from the date of transfer | 2 year from the date of transfer | 6 months from the date of transfer |
|  | 1 year before the date of transfer | 1 year before the date of transfer |  |
| * Construction | Within 3 years from the date of transfer | Within 3 years from the date of transfer |  |
| Amount of Exemption | LTCG or Amount of Investment in New House  w.e. is less | Net Consideration or Amount of Investment in New House  w.e. is less | LTCG or Amount of Investment in bonds of NHAI/RECL  w.e. is less (maximum exemption is Rs. 50,00,000 per annum) |
| Capital Gain Deposit Account Scheme | Available | Available | Not Applicable |