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Capital
Gain

Capital Gains

Capital Gains

- (A) Capital Asset
- (B) Transfer of Capital Asset
- (C) Computation of Capital Gain

The capital gain is the fourth head of income. The basis of charge is the profits or gains arising from the transfer of a capital asset in the previous year. It is taxable under the head ***Capital Gains'***.

Thus, the essential elements of capital gains are:

(A) Capital Asset,

(B) Transfer of Capital Asset,

(C) Computation of Capital Gain.

CAPITAL ASSET [Sec 2 (14)]

According to Section 2 (14), capital asset means property of any kind, whether fixed or circulating, movable or immovable, tangible or intangible. Besides, it includes the following:

(a) Any rights in or in relation to an Indian company, including rights of management or control or any other rights whatsoever;

(b) Property of any kind held by the assessee, whether or not in connection with business or profession;

(c) Any securities held by a Foreign Institutional Investor who has invested in such securities in accordance with the regulations made under the Securities and Exchange Board of India Act, 1992.

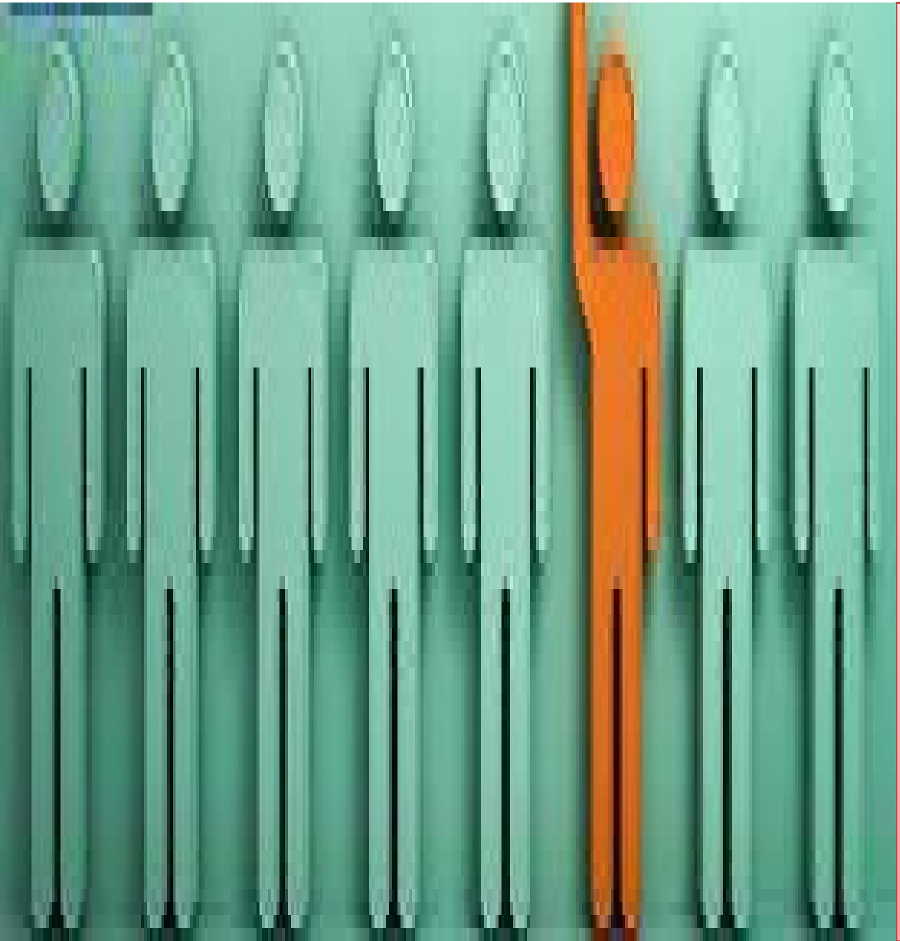
Exception

The term capital asset does not include the following:

(i) **Commercial goods.** Any stock-in-trade (other than the securities mentioned in (c)], consumable stores or raw materials held for the purposes of his business or profession.

(ii) **Movable assets for personal use.** Movable assets (including wearing clothes and furniture) held for personal use by the assessee or any member of his family dependent on him. Thus, a car or any other vehicle, refrigerator, television or laptop or other electrical appliances are included in this.

Exceptions



The following assets will not be treated as personal effect and liable to tax :

(a) archaeological collections, (b) drawings, (c) paintings, (d) sculptures, (e) any work of art, (f) jewellery for personal use.

Jewellery includes:

(A) Ornaments made of gold, silver, platinum or any other precious metal, whether or not worked or sewn into any wearing apparel.

(B) Precious or semi-precious stones, whether or not set in any furniture, utensil or other article or worked or sewn into any wearing apparel.

Agricultural land

Agricultural land in India provided it is not situated:

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

(b) Within the area measured aerially specified below,

(i) not being more than two Kilometres from the local limits and which has population of more than ten thousand but not exceeding one lakh: or

(ii) Not being more than six kilometres from the local limits and which of more than one lakh but not exceeding ten lakh; or

(iii) Not being more than eight kilometres from the local limits and which has population of more than ten Lakh.

(iv) Gold Bonds: 61/2% Gold Bonds. 1977 or 7% Gold Bonds, 1980 or National Defence gold Bonds, 1980 issued by the Central Government.

(v) Special Bearer Bonds, 1991.

(vi) Gold Deposit Bonds. Gold Deposit Bonds issued under the Gold Deposit Scheme, 1999 or deposit certificate issued under the Gold Monetisation Scheme, 2015 notified by the Central Government.

Types of Capital assets

- **(i) Short-term Capital Asset**
- **(ii) Long-term Capital Asset.**

Short-term Capital Asset [Sec. 2 (42A)]

Short-term Capital Asset means a capital asset held by an assessee for not more than 36 months immediately preceding the date of its transfer.

Capital gains arising from the transfer of short-term capital asset is called Short-term Capital Gain.

Exceptions

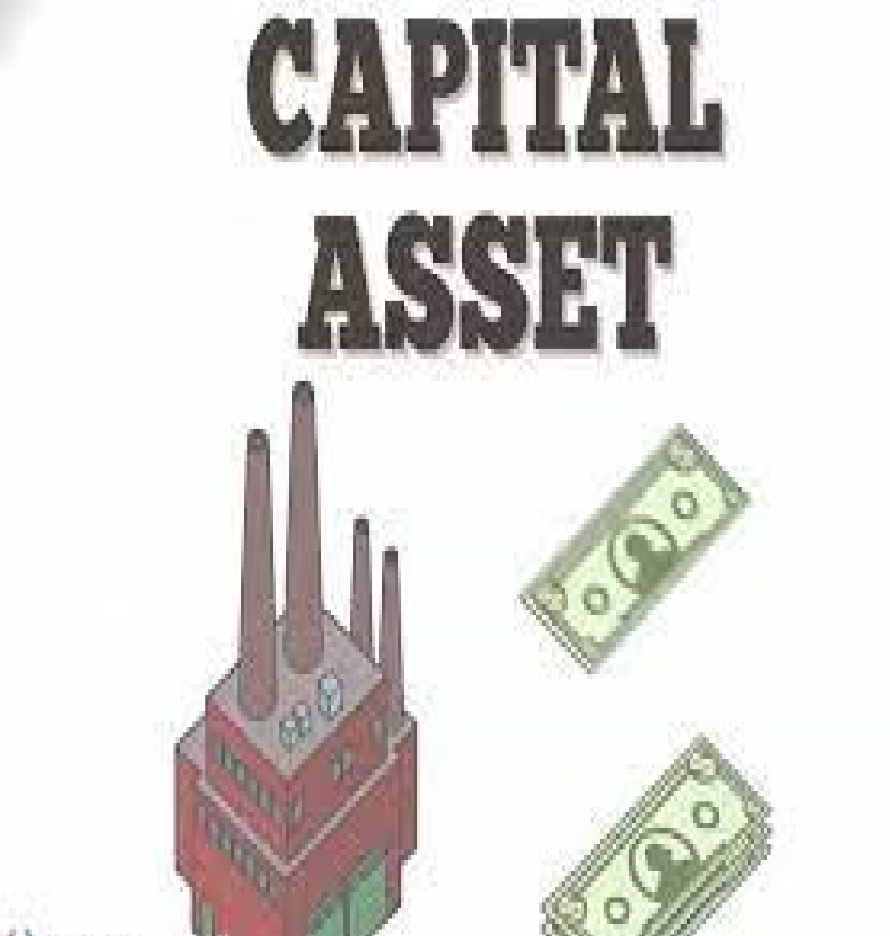
(1) In the case of a financial asset being (a) a security (other than a unit) listed in a recognised stock exchange in India, or (b) a unit of the Unit Trust of India, or (c) a unit of an equity oriented fund, or (d) zero coupon bond, short-term capital asset will mean a security or unit or zero coupon bond held by the assessee for not more than 12 months instead of 36 months as in case of other assets.

In the case of a financial asset, as aforesaid, which is allotted without any payment (Like bonus shares) on the basis of holding of any other financial asset, the period of its holding shall be reckoned from the date of the allotment of such financial asset.

(2) If unlisted share (not listed in a recognised stock exchange in India) of a company or land or building or both, is held by the assessee for not more than twenty-four months, immediately preceding the date of its transfer, it will be treated as Short-Term Capital Asset.

(3) Assets used for business or profession, on which depreciation is allowed on the basis of WDV method are treated always as short-term capital assets.

Long-term Capital Asset: [Sec. 2 (29A)]



Long-term Capital Asset means a capital asset by an assessee for more than 36 months immediately preceding the date of transfer.

Capital gain arising from the transfer of long-term capital asset is called Long-term Capital Gain.

Exceptions:

(1) In the case of listed securities or units of U.T.I. or units of equity oriented fund coupon bond held by the assessee, long-term capital asset will mean such assets held by assessee for more than 12 months,

(2) If unlisted shares of a company or land or building or both are held by the as long-term capital asset will mean such asset held by the assessee for more than 24 months.

The following table summarises the determination of the 'type' or 'nature' of capital asset.

Type of Asset	Held for	Nature of Asset
Shares (equity or preference) and securities listed on a recognised stock exchange of India, units of UTI, units of an equity-oriented mutual fund, zero-coupon bonds. (For ease of reference, these assets can be termed as 'financial assets)	Less than or equal to 12 months (i.e. ≤ 1 year)	Short term
	More than 12 months (i.e. > 1 year)	Long term
Unlisted shares (equity or preference) transferred on or after 1 April 2016 and Immovable Property transferred on or after 1 April 2017 (for ease of reference, these assets can be termed as 'special category of assets)	Less than or equal to 24 months (i.e. ≤ 2 years)	Short term
	More than 24 months (i.e. > 2 years)	Long term
Depreciable assets This category includes assets which fulfill the conditions specified u/s 32	-	Always short term
Other assets (i.e. assets not covered under the above Short term categories) Note: Unlisted securities and units of debt-oriented fund are covered under this category.	Less than or equal to 36 months (i.e. < 3 years)	
	More than 36 months (i.e. > 3 Years)	Long term

COMPUTATION OF CAPITAL GAINS (Sec. 48)

The income chargeable under the head 'Capital Gains' shall be computed as under:

(a) **Computation of short-term capital gains.** Deduct from the full value of the consideration received or accruing as a result of the transfer of the capital asset the following amounts:

(i) The cost of acquisition of the capital asset;

(ii) The cost of any improvement thereto; and

(iii) expenditure incurred wholly and exclusively in connection with such transfer.

This may be explained in the form of equation as under: Capital Gain = Full value of consideration - (Cost of acquisition + Cost of improvement + Selling expenses).

However the amount paid as securities transaction tax shall not be allowed as a deduction.

Set-off of short-term capital loss. If there is short-term capital loss on transfer of a short-term capital asset, such loss can be set-off against any other short-term capital gain or long-term capital gain.

FORMATS FOR COMPUTING TAXABLE CAPITAL GAINS

Computation of Taxable Short-Term Capital Gain

Particulars	Details	Amount Rs
Sale consideration		11111
Less: transfer expenses		11111
Net sale consideration		11111
Less:		
Cost of acquisition	11111	
Cost of improvement	11111	11111
Gross short-term capital gains		11111
Less: Exemption under Sections 54B or 54D or 54G or 54GA		11111
Taxable short-term capital gains		11111

(b) **Computation of long-term capital gains.** Deduct from the full value of consideration:

(i) indexed cost of acquisition of the asset;

(ii) Indexed cost of any improvement of the asset; and

(iii) Expenditure incurred in connection with transfer of the asset.

However, the amount paid as securities transaction tax shall not be allowed as a deduction.

Exception:

The provisions relating to indexed cost of acquisition and indexed cost of improvement will not apply to the long-term capital gains arising from the transfer of long-term capital asset being bonds or debentures. However, the benefit of indexation will be available on (i) indexed bonds Issued by the Government (ii) Sovereign Gold Bond.

Set-off of long-term capital loss. If there is long-term capital loss on transfer of capital asset, such loss can be set-off only against any other long-term capital gain

Explanation:

(1) Indexed cost of acquisition shall be computed as under:

Cost of acquisition × Cost inflation index for the year in which the asset is sold/Cost inflation index for the first year in which the asset was held or cost inflation index on 1.4.2001, whichever is later

(2) Indexed cost of improvement shall be computed as under:

Cost of improvement × Cost inflation index for the year in which the asset is sold / Cost inflation index for the year in which the improvement to asset took place

If expenditure is incurred for improvement prior to 1.4.2001, it shall not be deducted

(3) 'Cost inflation index' in relation to Previous Year means the index as the Central Government may, having regard to 75% of the average rise in the consumer price index (urban) for the immediate preceding Previous Year, notify in this behalf.

FORMATS FOR COMPUTING TAXABLE CAPITAL GAINS

Computation of Taxable Long-Term Capital Gain

Particulars	Details	Amount Rs
Sale consideration		11111
Less: transfer expenses		11111
Net sale consideration		11111
Less:		
Indexed cost of acquisition	11111	
Indexed cost of improvement	11111	11111
		11111
Gross Long-term capital gains		
Less: Exemption under Sections 54 or 54B or 54D or 54EC or 54EE or 54F or 54G or 54GA or 54GB		11111
Taxable Long-term capital gains		11111

TRANSFER [section 2 (47)]

According to Section 2(47), Transfer includes:

a) Sale, exchange or relinquishment of the asset, or

b) Extinguishment of any rights therein, or

c) Compulsory acquisition thereof under any law, or

d) Conversion of capital asset into stock-in-trade, or

e) Redemption of zero-coupon bond, or

f) Any transaction involving the possession of any immovable property in part performance of a contract, or

TRANSFER [section 2 (47)]

g) Any transaction which has the effect of transferring or enabling the enjoyment of any immovable property.

- Sale refers to transfer of ownership in exchange for a price paid and/or promised.
- Exchange: According to Transfer of Property Act, 1882, when two persons mutually transfer the ownership of one thing for the ownership of another, neither thing or both things being money only, the transaction is called exchange. In short, exchange refers to transfer of ownership in exchange for a price in money's worth.
- Relinquishment means withdrawn from, abandoning or giving up anything. In case of relinquishment, the owner withdraws himself from the property and abandons his rights thereto. The property, however, continues to exist and will become the property of someone else.
- Extinguishment of any right means destruction or extinction of rights in the capital asset.
- Compulsory acquisition refers to acquisition of capital asset under any law.
- Conversion of capital asset into stock-in-trade refers to making available a capital asset as stock-in-trade for the business carried on by the assessee.
- Zero coupon bonds refer to the bonds which are issued at discount and redeemed at par. They don't carry any coupon rate. However, the difference between the issue price and redemption price is the return on such bonds. Redemption of zero-coupon bonds amounts to transfer. Transfer of zero-coupon bonds issued by any infrastructure capital company or infrastructure capital fund or public sector company or scheduled bank is covered u/s 2(47)

COST OF ACQUISITION

Cost of acquisition of an asset is the value for which it is acquired by the assessee. It means that whatever cost is incurred for getting an asset plus all expenses incurred to acquire it is the cost of acquisition. Interest paid on money borrowed for the purchase of a capital asset would constitute part I the cost of acquisition, provided such interest has not been deducted under any other provision.

Cost of Improvement

The cost of improvement means capital expenditure incurred in making additions and alterations in a capital asset.

Cost of any improvement:

(i) In relation to a capital asset being goodwill of a business or a right to manufacture, produce or process any article or thing, right to carry on any business or profession shall be taken to be nil; and

(ii) in relation to any other capital asset :

(a) Such expenditure incurred prior to 1st April, 2001 shall not be considered as cost of improvement and will be ignored.

(b) The capital cost incurred on additions and alterations on or after 1st April, 2001 shall be treated as cost of improvement and shall be deducted in computing capital gains.

The following are the situations and the formulae for calculating 'indexed cost' under such situations.

1. Where the asset transferred by the assessee was acquired by the assessee himself before 1 April 2001

Indexed cost of acquisition = [actual cost of acquisition or fair market value of the asset on 1 April 2001, at the option of the assessee/100] × index for the year of transfer

Indexed cost of improvement = [actual cost of improvement incurred on or after 1 April 2001/index for the year of improvement] × index for the year of transfer

2. Where the asset transferred by the assessee was acquired by the assessee himself, on or after 1 April 2001

Indexed cost of acquisition = [actual cost of acquisition/index for the year of acquisition] × index for the year of transfer

Indexed cost of improvement = (actual cost of improvement incurred/index for the year of improvement] × index for the year of transfer

3. Where the asset transferred by the assessee was acquired by the assessee under any mode prescribed under Section 49(1) and such asset was acquired by the previous owner before 1 April 2001

Indexed cost of acquisition = [actual cost of acquisition to previous owner or fair market value of the asset on 1 April 2001, at the option of the assessee/100] × index for the year of transfer

Indexed cost of improvement = (actual cost of improvement incurred on or after 1 April 2001/index for the year of improvement] × index for the year of transfer

4. Where the asset transferred by the assessee was acquired by the assessee under any mode prescribed under section 49(1) and such asset was acquired by the previous owner on or after 1 April 2001

Indexed cost of acquisition = (actual cost of acquisition to previous owner/index for the year of acquisition by the previous owner] × index for the year of transfer
Indexed cost of improvement = [actual cost of improvement incurred/index for the year of improvement] × index for the year of transfer

The benefit of indexation is not available in the following cases, even though the asset transferred is long term in nature.

(a) Bonds and debentures (other than Capital Indexation Bonds issued by Central Government). (b) Transactions covered under Section 112A (i.e. transactions liable for payment of STT) - from assessment year 2019–20.

(c) Shares or debentures acquired by a non-resident in foreign currency in an Indian company. (d) Slump sale. (See 'Special Provisions' - Section 50B, for meaning and tax provisions regarding slump sale)

(e) Units of UTI or any notified mutual fund acquired by offshore funds.

(f) Global depository receipts or bonds of an Indian company or share or bonds of Public Sector Company sold by the government and purchased in foreign currency by a non-resident.

(g) Global Depository Receipts purchased in foreign currency by an individual resident in India and employee of an Indian company.

(h) In case of transfer of securities by Foreign Institutional Investors.

(i) In case of transfer of foreign exchange asset by a non-resident Indian.

(j) Depreciable assets.

Transactions not regarded as Transfer

According to Section 47, the following transactions are not regarded as transfer

i. Distribution of asset in kind by a company to its shareholders at the time of liquidation:

ii. Distribution of capital asset on total or partial partition of Hindu undivided family.

iii. Transfer of capital asset under a gift or will or an irrevocable trust.

iv. Transfer of a capital asset by a company to its 100% subsidiary company.

v. Transfer of a capital asset by a 100% subsidiary company to its holding company.

vi. Transfer of capital assets by an amalgamating company to an amalgamated company, where the amalgamated company is an Indian company. vii. Transfer of shares in Indian company held by a foreign company to another foreign company under a scheme of amalgamation of the two foreign companies.

viii. Transfer of capital assets in a scheme of amalgamation of a banking company with a banking institution.

ix. Transfer in a demerger of a capital asset by the demerged company to resulting company, where the resulting company is an Indian company.

x. Transfer of shares held in an Indian company by a demerged foreign company to the resulting foreign company. xi. Any transfer of capital asset, being share of a foreign company, deriving its value substantially from the shares in an Indian company, in a scheme of amalgamation or demerger, where the amalgamating/demerged and amalgamated/resulting companies are foreign companies.

xii. Any transfer in a business reorganisation, of a capital asset by the predecessor co-operative bank to the successor co-operative bank.

xiii. Any transfer by a shareholder, in business reorganisation, of a capital asset being a share or shares held by him in the predecessor co-operative bank if the transfer is made in consideration of the allotment to him of any share or shares in the successor co-operative bank.

xiv. Transfer or issue of shares by the resulting company, in a scheme of demerger, to the shareholders of the demerged company.

xv. Allotment of shares in amalgamated company in lieu of shares held in amalgamating company.

xvi. Any transfer by a unit holder of a capital asset, being 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, provided, only if, consolidation takes place of two or more schemes of equity-oriented fund or two or more schemes of a fund other than equity-oriented fund.

xvii. Transfer of capital asset (being Foreign Currency Convertible Bonds or GDR) by a non resident to another non-resident.

xviii. Transfer of a capital asset (being a Government Security carrying periodic payment of interest) made outside India through an intermediary dealing in settlement of securities by a non-resident to another non-resident.

xix. Transfer of Sovereign Bold Bond issued by Reserve Bank of India under the Sovereign

Gold Bond Scheme, 2015 by way of redemption by an assessee, being an individual.

xx. Transfer of agricultural land in India before 1 March 1970.

Transactions not regarded as Transfer

Transactions not regarded as Transfer

xxi. Transfer of a capital asset (being work of art, manuscript, painting, etc.) to government/ university/national museum.

xxii. Transfer by way of conversion of bonds, debentures or deposit-certificates into shares.

xxiii. Transfer by way of conversion of preference shares of a company into equity shares that company.

xxiv. Transfer by way of conversion of Foreign Currency Convertible Bonds and For Currency Exchangeable Bonds into shares or debentures of that company.

xxv. Transfer by way of exchange of a capital asset being membership of a recognised Stock exchange for shares of a company.

xxvi. Transfer of land by a sick industrial company, which is managed by its workers co-operative.

xxvii. Transfer of a capital asset or intangible asset by a firm to a company in case of conversion of firm into a company.

xxviii. Transfer of capital asset to a company in the course of demutualisation or corporatisation of a recognised stock exchange in India as a result of which association or body of person or body of individuals is succeeded by such company.

xxix. Transfer of a capital asset, being a membership right held by a member of a recognised stock exchange in India. Xxx. Transfer of capital asset or intangible asset by a Private Limited Company or a non-listed company to Limited Liability Partnership shall not be regarded as a transfer.

Transactions not regarded as Transfer

xxxi. Transfer of a capital asset to a company in case of conversion of proprietary concern into a company. xxxii. Transfer involving in a scheme of lending of securities.

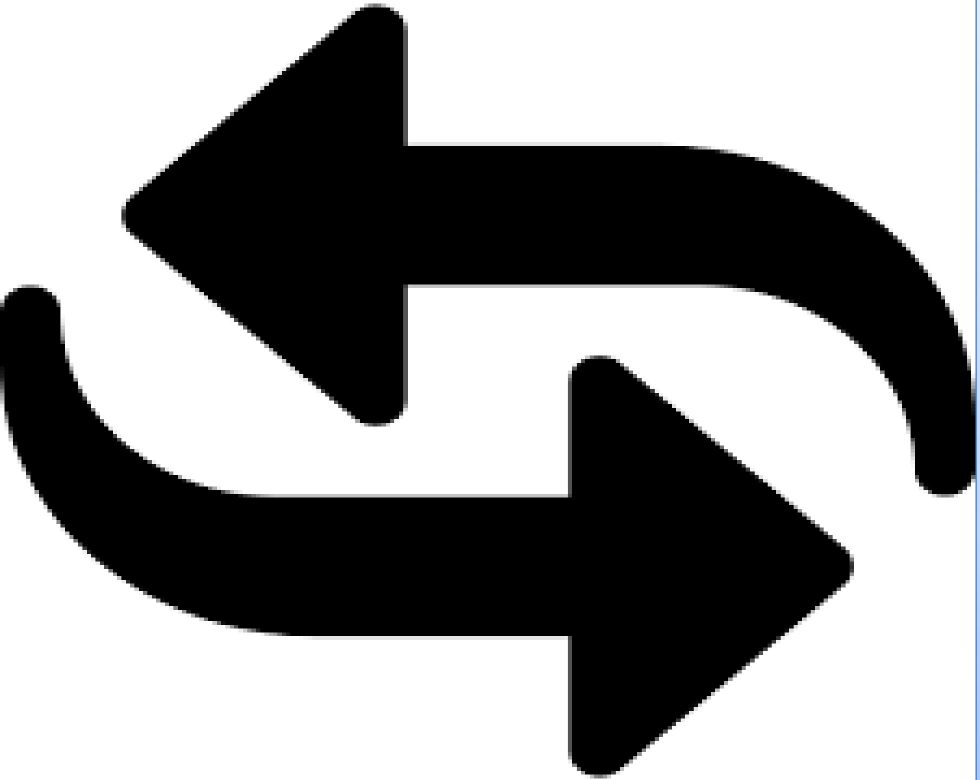
xxxii. Transfer of a capital asset in a transaction of reverse mortgage made under a scheme notified by the government.

xxxiv. Transfer of a capital asset (being share of a special purpose vehicle) to a business trust in exchange of units allotted by that trust to the transferor.

xxxv. 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.

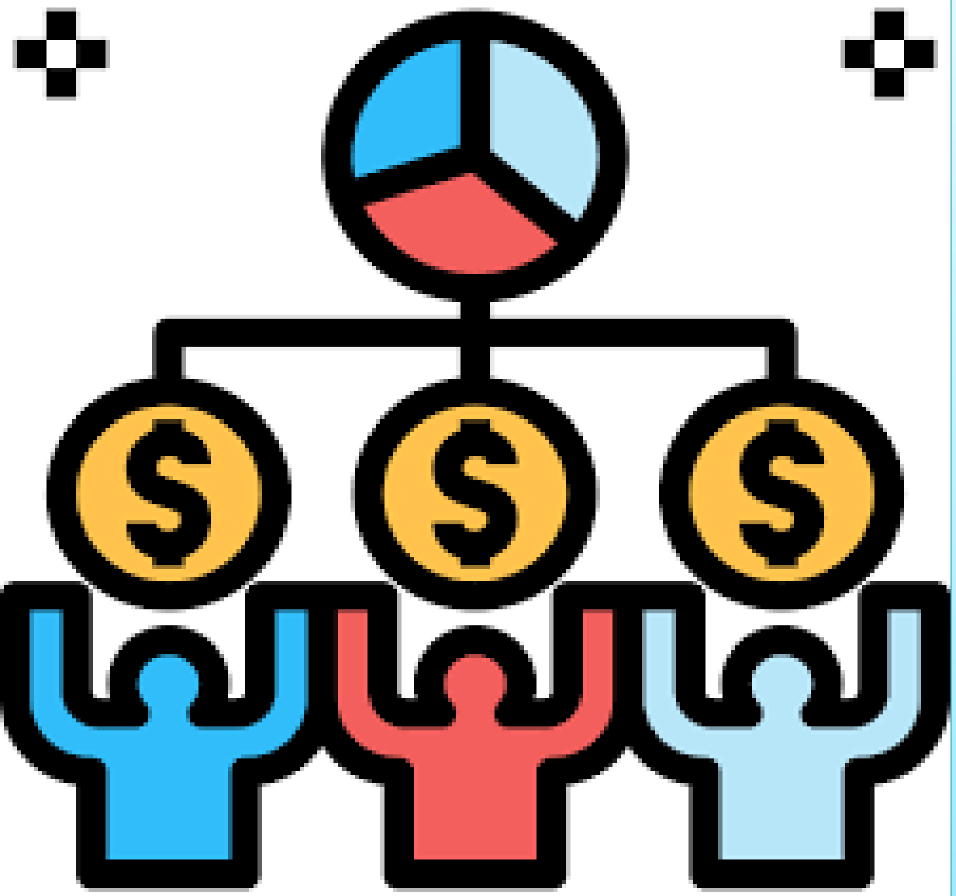
CAPITAL GAINS EXEMPT FROM TAX

Capital Gain on Transfer of Units of Unit Scheme 1964[US 64] [Section 10(33)]



Any income arising from the transfer of a capital asset (short term or long term) being a unit or US 64 is not chargeable to tax where the transfer of such asset takes place on or after 1 April 2002.

Capital Gain to a Shareholder in Respect of Buy-Back of Unlisted Shares by a Company [Section 10(34A)]



Income arising to a shareholder in respect of buy-back of unlisted shares by the company will be exempt from tax under Section 10(34A). This exemption is available only in those cases where additional income tax is payable under Section 115QA on distributed income by the company opting for buy-back of unlisted shares.

Capital Gain on Compulsory Acquisition of Agricultural Land of an Individual or Hindu Undivided Family (Section 10(37)]

An agricultural land which is not situated in rural area and which belongs to an individual or a Hindu undivided family, when compulsorily acquired under any law on or after 1 April 2004, the capital gain on such transaction is exempt u/s 10(37), provided the land was used for agricultural purposes by the assessee (or parents of the assessee, in case of individuals) for at least 2 years immediately preceding the date of compulsory acquisition.

Capital Gain on Transfer under Land Pooling Scheme [Section 10(37A)]

Capital gain on the following is exempt under Section 10(37A):

(a) Transfer of land or building or both, under land pooling scheme,

(b) Transfer of Land Pooling Ownership Certificate (LPOC) which is received in lieu of land transferred under the scheme, and

(c) Transfer of reconstituted plot or land by the assessee within 2 years from the end of financial year in which the possession of such plot or land was handed over to him.

Capital Gain on Transfer under Land Pooling Scheme [Section 10(37A)]

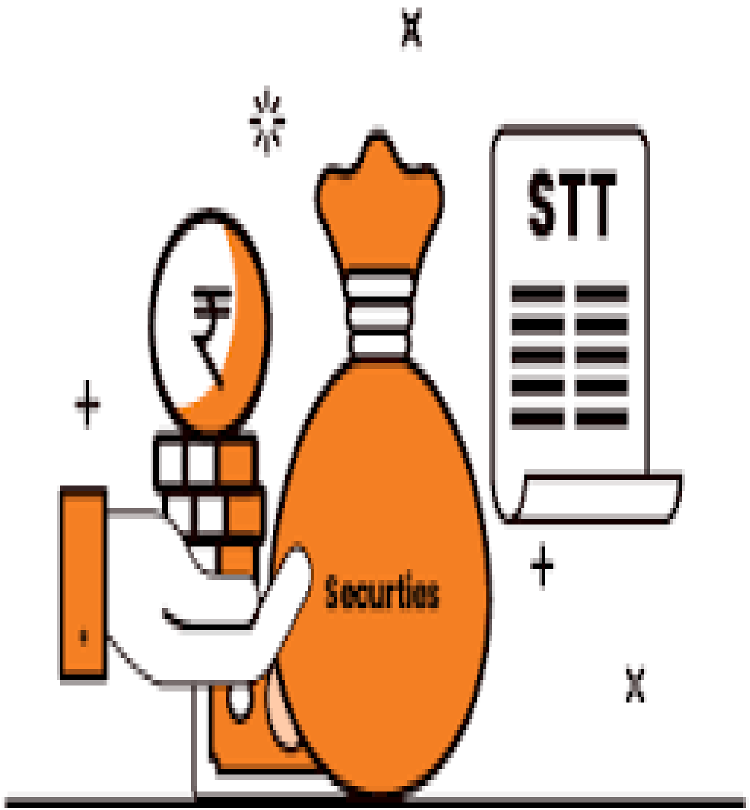
The exemption will be available if the following conditions are fulfilled:

(i) The assessee, being land owner, is an individual or HUF,

(ii) he owns land or building or both on 2 June 2014 and

(iii) Such land is transferred under the land pooling scheme covered under the Andhra Pradesh Capital City Land Pooling Scheme (Formulation and Implementation) Rules 2015 made under the provisions of the Andhra Pradesh Capital Region Development Authority Act, 2014 and the rules, regulations and schemes made under the Act.

Long-Term Capital Gain on a Transaction Liable for Securities Transaction Tax [Section 10(38)]



Where the assessee has made a long-term capital gain on sale of equity shares in a company or units of equity-oriented mutual fund through recognised stock exchange, or

Sale of units of equity-oriented mutual fund to the mutual fund company, or

sale of equity shares or units of equity-oriented mutual fund on a recognised stock exchange located in any International Financial Services Centre, and the consideration for such sale is paid or payable in foreign currency, such capital gain is exempt u/s 10(38).

Note

From assessment year 2019-20, exemption under Section 10(38) is withdrawn. Hence. term capital gain on a transaction liable to securities transaction tax is taxable, subject to pr of Section 112A.

So, under the head 'capital gains, following are the process for identifying chargeability -

1. Ascertain whether the transaction carried out by the assessee is 'transfer' (i.e. ., whether the transaction carried out by the assessee is within the meaning of Section 2(47) and outside the purview of Section 47).

2. If yes, ascertain whether the transfer is of a 'capital asset' (i.e. an asset as defined under Section 2(14), but does not fall under 'exceptions').

3. If yes, the outcome of the transaction is 'capital gain'.

4. Verify whether the capital gain is exempt u/s 10.

5. If no, then there is an income chargeable under the head capital gains.

Indexed Cost of Acquisition and Indexed Cost of Improvement

- Indexed cost refers to the present value of the cost incurred in the past. It is the sum of 'actual cost' incurred in the past and the 'opportunity cost' of funds held in the asset.
- For the purpose of computing taxable long-term capital gains, indexed cost of acquisition and indexed cost of improvement must be deducted.
- For calculating the indexed cost, Central Government has notified a 'cost inflation index": which is calculated on the basis of 75% of Average Rise in Consumer Price Index (urban) for the immediately preceding previous year to such previous year. The following is the index:

Cost Inflation Index

Financial Year	Index	Financial Year	Index
2001-2002	100	2012-2013	200
2002-2003	105	2013-2014	220
2003-2004	109	2014-2015	240
2004-2005	113	2015-2016	254
2005-2006	117	2016-2017	264
2006-2007	122	2017-2018	272
2007-2008	129	2018-2019	280
2008-2009	137	2019-2020	289
2009-2010	148	2020-2021	301
2010-2011	167	2021-2022	317
2011-2012	184	2022-2023	331

(ii) Capital receipt

The income tax does not define the terms capital receipts. It has not laid down the criterion for the capital receipts. Yet , it has exempted certain capita receipts from taxation while certain capital receipts have been taken into ambit of capita receipts chargeable as capital gains e.g., w.e.f 1.4.2000 a new sub- section 45 (1A) has been inserted in section 45 which provides that notwithstanding anything contained in sub- section (1) (to section 45), where any person received at any time during any previous year any money or other assets under an insurance from an insurer on account of damage to , or destruction of , any capital assets as a result of :

(ii) Capital receipt

(i) Flood , typhoon, hurricane , cyclone, earth quake or other convulsion of nature; or
(ii) Riots or civil disturbance; or
(iii) Accident fire or explosion ; or
(iv) Action by an enemy ,or action taken in combating an enemy (whether with or without a declaration of war)

The followings are some important examples of capital receipts decided by courts

i) Salami or Nazrana received for grant of permanent lease
ii) Compensation received for loss of right to future remuneration
iii) Compensation received from the employer for loss of employment due to premature termination of service
iv) Price received of sale of know-how
v) Damages received by an employee who is wrongly dismissed or a payment received by an employee in lieu of notice.
vi) Amount received by the assessee for digging and removing earth from his land for brick –making.
vii) Contribution received by electric supply company from consumers for installation of service lines (excess of amount over cost of installation).

(iii) Capital expenditure

Capital expenditure is that expenditure which is incurred

For acquiring or bringing into existence an assets or advantage of an enduring benefits as land, buildings ,plant and machinery, furniture and fixture, office equipment , copyright, tec. Capital expenditure includes not only the purchase price of the fixed asset but also various other expenses incurred in connection with their acquisition . so brokerage or commission paid in connection with the acquisition of an asset, freight and cartage paid for transportation , installation expenses and registration charges incurred in connection with the purchase of land and buildings are also treated as capital expenditure.
For extending or improving a fixed asset or
For substantial replacement of an existing fixed asset. The benefit on such expenditure is going to accrue for more than one year.

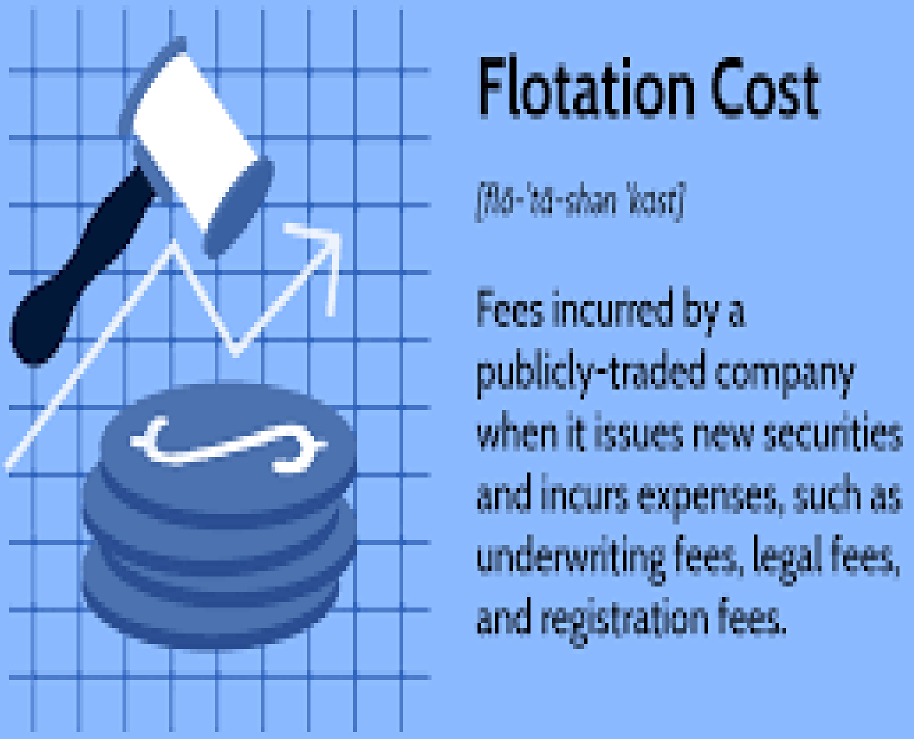
The examples of capital expenditure includes cost of land and building, plant and machinery , furniture and fixtures etc. such expenditure normally yields benefits which extends beyond current accounting period.

In the following cases the cost of acquisition is taken as a notional figure

(1) Cost to the Previous owner deemed to be the cost of acquisition.

If the asset is acquired by an assessee in the following circumstances the cost of acquisition of the asset shall be deemed to be the cost for which the previous owner of the property acquired it. It will be increase cost of any improvement of the assets incurred by the previous owner or the assessee. [Sec. 49(1)]

(2) Cost of Share or Security



(i) Where share or security was acquired before 1st April, 2001, the cost of acquisition will be taken the actual cost or fair market value on 1st April, 2001, whichever is beneficial to the assessee.

(ii) If it is acquired after 31st March, 2001, the actual cost will be the cost of acquisition.

(3) Cost of Bonus Shares

The cost of bonus shares or security which is received by the assessee without any payment on the basis of his holding any financial asset will be as under:

(i) Where bonus share or security was received prior to 1st April, 2001, the fair market value on 1st April, 2001;

(ii) In any other case-Nil.

(4) Cost of acquisition of Goodwill, etc

The cost of acquisition in relation to (a) goodwill of business, a trademark or brand name associated with a business; (b) a right to manufacture, produce or process any article or thing, right to carry on any business or profession; (c) tenancy rights; (d) stage carriage permits; or (e) loom hours shall be determined as under:

(i) If the asset is purchased from a previous owner—the amount of purchase price;

(ii) In any other case-Nil. However this will not cover the cases specified in section 49(1),

(iii) Case covered under section 49(1). Cost to the previous owner. [Sec. 55(2)(a)]

(5) Cost of acquisition of Right Issue

In the case where an assessee by holding a share or any other security becomes entitled to subscribe additional shares or security (known as financial asset) on the basis of right issue, the cost of acquisition shall be :

(i) On the basis of entitlement if the assessee subscribed to right issue-Amount actually paid to acquire it.

(ii) If the assessee renounced the right in favour of any other person-Nil.

(iii) If the assessee has purchased the right to subscribe for the additional shares/security (financial asset)—Purchase price paid to purchase the right plus the amount paid to the company for acquiring the rights shares/security. [Sec. 55(2)(aa)]

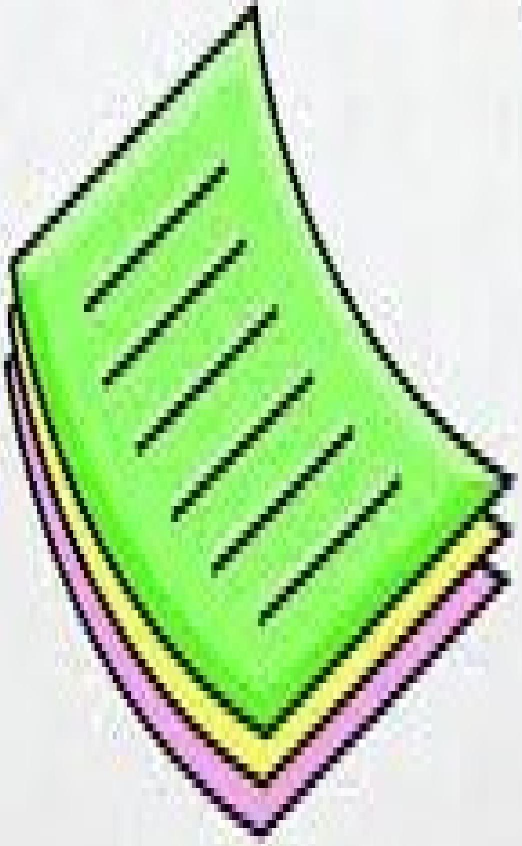
(6) Cost of acquisition of a Capital asset acquired before 1-4-2001.

Where the capital asset became the property of the assessee before 1st April, 2001, the cost of acquisition of the asset may, at the option of the assessee, be taken to be any one of the following:

(i) the cost of the asset to the assessee; or

(ii) the fair market value of the asset on 1st April, 2001. [Sec. 55(2)(b)(i)]

(7) Cost of acquisition of an asset acquired by the previous owner before 1st April, 2001 by any mode u/s 49(1).



If the capital asset (other than asset on which depreciation has been allowed became the property of the assessee by any of the modes specified in section 49(1) and the capita asset became the property of the previous owner before 1st April, 2001, the cost of acquisition of the asset may, at the option of the assessee, be taken to be any one of the following:

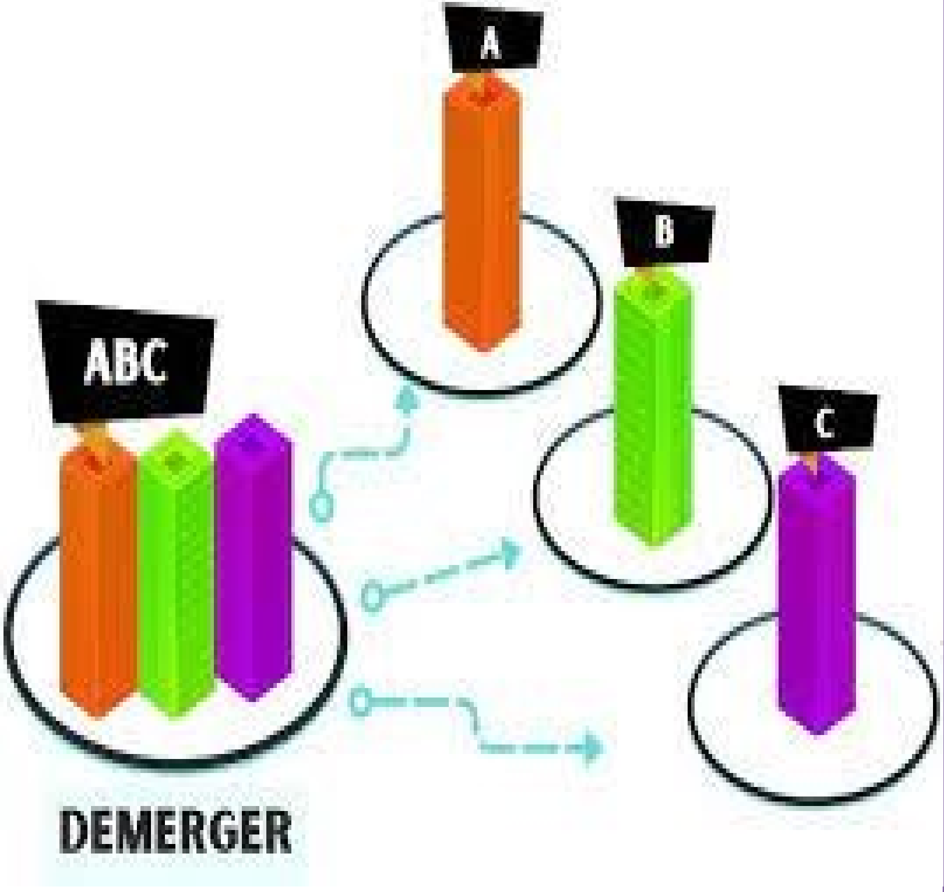
(i) The cost of acquisition of the asset to the previous owner; or

(ii) The fair market value of the asset on 1st April, 2001.

(8) Cost of acquisition of shares in an amalgamated Company

If an assessee is given shares of the amalgamated company which is an Indian Company in lieu of his shares in the amalgamating company, the cost of acquisition of such shares shall be his cost of shares in the amalgamating company. (Sec. 49(2)]

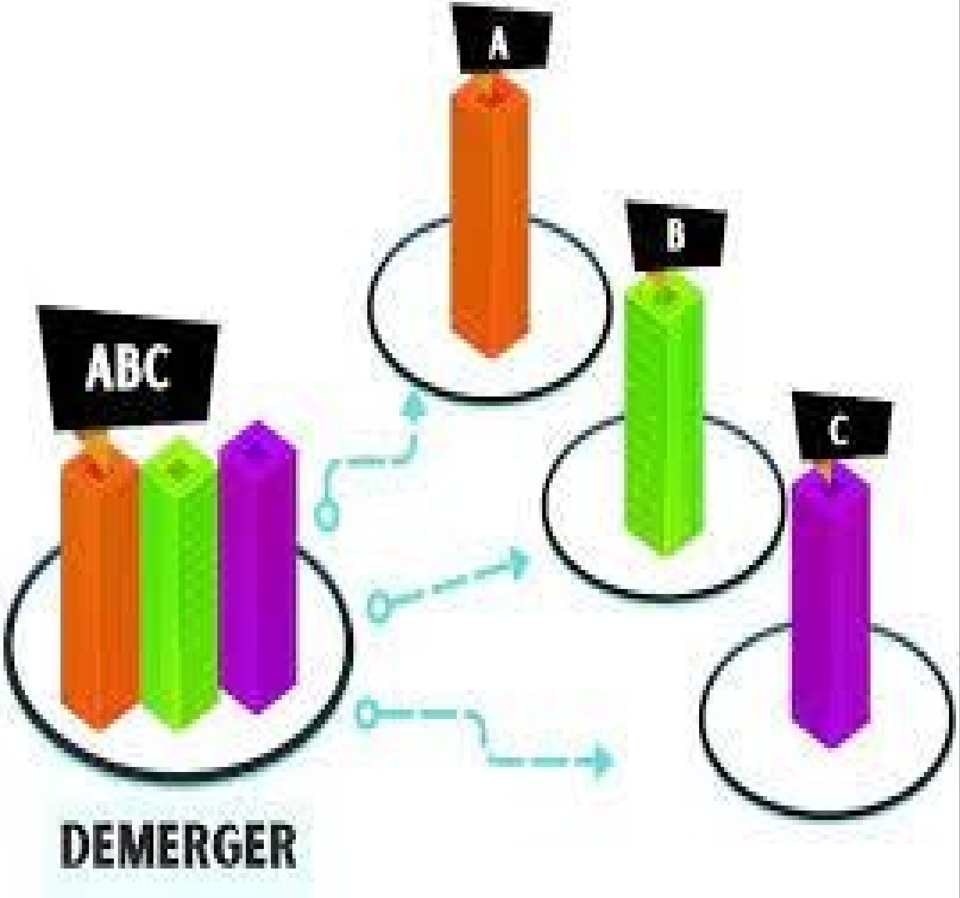
(9) Cost of Shares in Resulting Company



The cost of acquisition of 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. [Sec. 49(20)]

Explanation: Net worth' means the aggregate of the paid up share capital and general reserves as appearing in the books of account of the demerged company immediately before demerger.

(10) Cost of Shares in Demerged Company



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 at under (9). (Sec. 49(2D)]

(11) Cost of equity share or shares allotted to a shareholder

The cost of equity share or shares allotted to a shareholder of a recognised stock exchange in India under a scheme for corporatisation or demutualisation approved by the SEBI shall be the cost of acquisition of his original membership of the exchange. (Sec. 55(2)(ab)]

(12) Cost of stock options to employees

Where capital gain arises from the transfer of specified security or sweat equity shares, the cost of acquisition of it shall be the fair market value which has been taken into account while computing the value of perquisite u/s 17(2). [Sec. 49(2AA)]

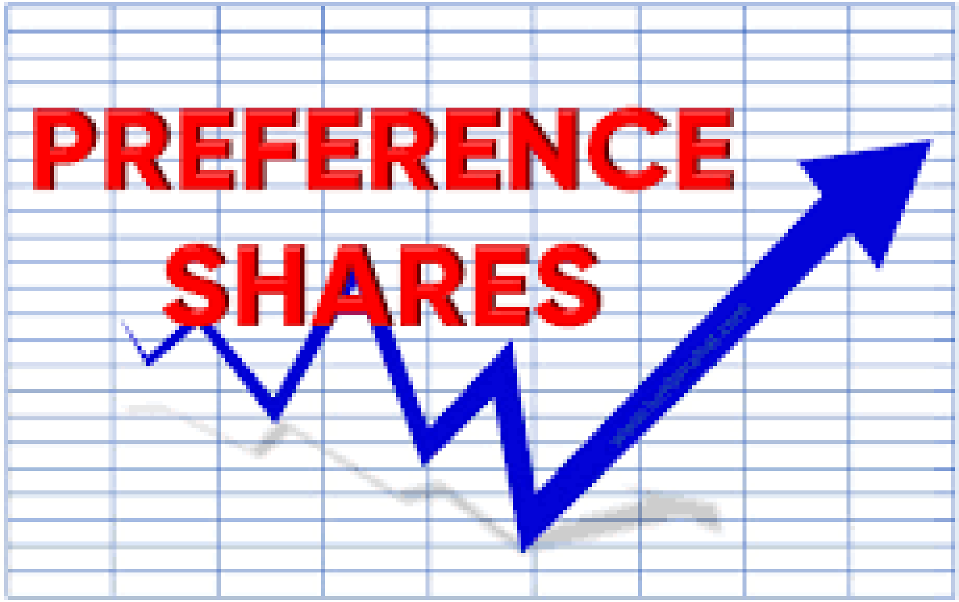
(13) Cost of acquisition of capital asset being rights of a partner in the Limited Liability partnership.[Sec. 49(2AAA)]

Where a private company or unlisted public company is converted into a limited liability partnership, the cost of acquisition of above mentioned capital asset to the partner shall be deemed to be the cost of acquisition of shares in the company immediately before its conversion.

(14) Cost of acquisition of capital asset being a unit of a business trust. [Sec. 49(2AC)]

Where the aforesaid asset became the property of the assessee in consideration of a transfer of share of a special purpose vehicle, the cost of acquisition of the unit shall be deemed to be cost of share.

(15) Cost of Equity Share in lieu of preference share. [Sec. 49(2AE)



Where equity shares of a company are issued in lieu of preference shares of that company, the cost of equity shares shall be the cost of preference shares in relation to which such asset is acquired.

(16) Cost of acquisition of capital asset being a unit or units in consolidated plan of mutual fund scheme. (Sec. 49(2AF)]

The cost of new unit or units shall be deemed to be acquisition to him the cost of original unit or units.

(17) Cost of acquisition in case of advance money received as a result of previous negotiation for transfer with someone else. (Section 51)

where any capital asset was on any previous occasion the subject of negotiation for its transfer, any advance or other money received and retained by the assessee in respect of such negotiation shall be deducted from the cost for which the was acquired or the written-down value, or the fair market value, as the case may computing the cost of acquisition.

However, where such advance is received and forfeited on or after 1.4.2014 it shall be deemed to be the income of the assessee and chargeable under the head Income from Of Sources'. It shall not be deducted from the cost etc. of the asset.

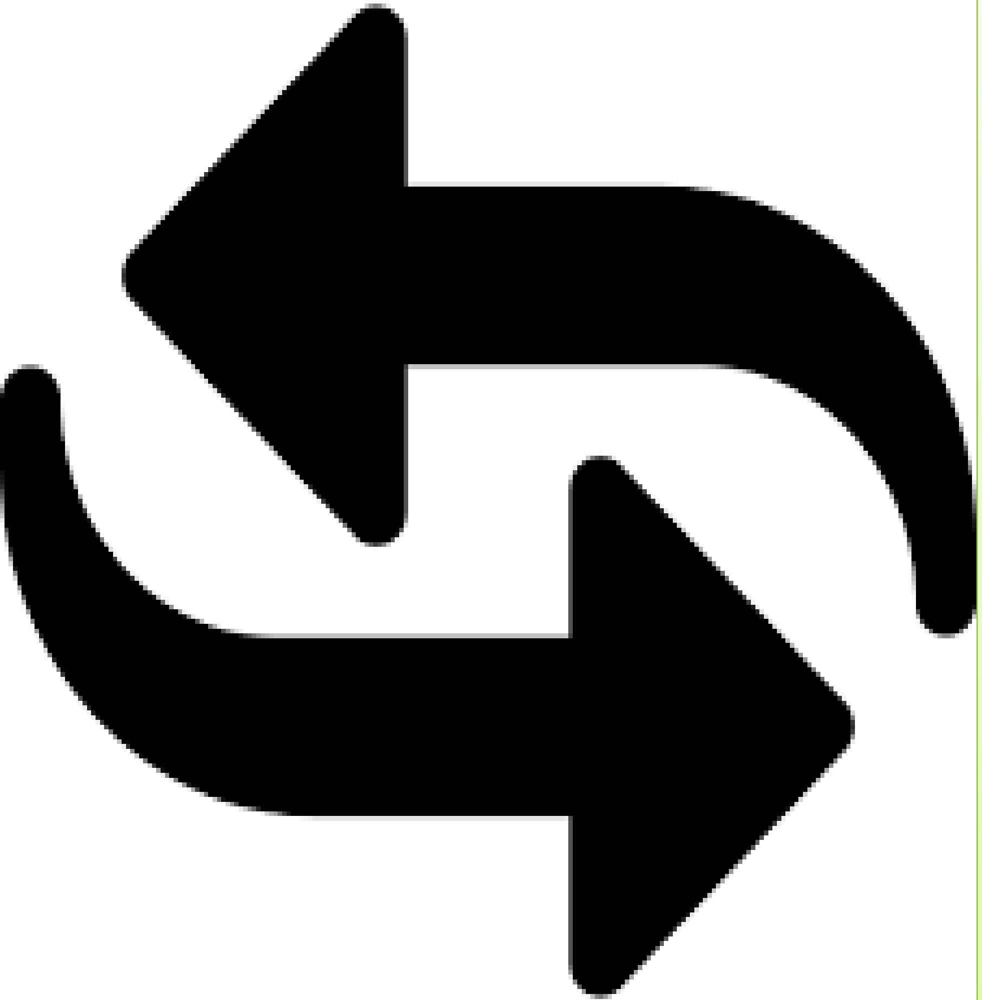
(18) Property received without consideration or for inadequate consideration: [Sec. 49(4)]

(i) The cost of acquisition of immovable property shall be the stamp duty value or value determined u/s 50C.

(ii) The cost of acquisition of property other than immovable property shall be the fair market value determined for income tax purposes u/s 56. (See chapter 'Income from Other Sources').

(19) Cost of an asset declared and assessed under the Income Declaration Scheme, 2016.

The cost of acquisition of the aforesaid asset shall be deemed to be the fair market value of the asset which has been taken into account for the purposes of the said scheme. (Sec. 49(5)



(20) Where the capital gain arises from the transfer of a capital [asset converted from inventory u/s 28 (via)] the cost of acquisition shall be deemed to be the fair market value which has been taken into account for purposes of Sec. 28 (via). (w.e.f. A.Y. 2019-20)] (Sec. 49(9)