

K.T.S.P.Mandal's

**SAHEBRAOJI BUTTEPATIL
MAHAVIDYALAYA**

Rajgurunagar, Tal-Khed, Dist-Pune, 410505

Department of Commerce

T.Y.B.COM

SEM-VI

**Subject
Income Tax**

**Chapter 2
Computation of Taxable income under the
different heads of Income
(Income from Capital Gains)**

Chapter 2

Computation of Taxable income under the different heads of Income (Income from Capital Gains)

Meaning of Capital Assets [Sec. 2 (10)]

Capital assets are defined to include property of any kind, whether fixed or circulating, movable or immovable, tangible or intangible. However, the following are excluded from the definition of capital assets:

- a) Any stock in trade, consumable stores or raw material held for the purpose of business or profession.
- b) Personal effect of the assessee, that is to say, movable property including wearing apparel and furniture held for his personal use or for the use of any member of his family dependent upon him (other than jewelry which will be treated as a capital asset.)
- c) Agricultural land in India provided it is not situated –
 - 1) In any area within the jurisdiction of a municipality or a cantonment board having a population of 10,000 or more or
 - 2) In any notified area.

Types of Capital assets:

There are two types of capital assets for the purposes of income tax:

- a) Long term capital asset and
- b) Short term capital asset

Long term capital asset is defined as an asset other than short term capital asset. 'Short term capital asset' means a capital asset held by assessee for not more than 36 months (3Years) immediately prior to the date of transfer. However, in the following cases, an asset held for not more than 12 months is treated as short term capital asset –

- Equity or preference shares in a company (whether shares are quoted or not)
- Securities (like debentures, Government securities) listed in a recognized stock exchange in India.
- Units of UTI (whether quoted or not)
- Units of mutual funds specified under section 10 (23D) (whether quoted or not)

Transfer of capital assets u/s 2(47)

Transfer includes sale of assets, exchange of assets, and relinquishment of assets (meaning surrender of assets) extinguishment of any right on assets (meaning reducing any right on assets) or compulsory acquisition of assets.

In order words, transfer can take place only of these few ways. If there is any other way where an asset is given to other such as by way on gift, inheritance etc. it will not be termed as transfer of a capital assets.

However, certain transaction is not recorded as transfer:

- 1) Distribution of assets by HUF to its family member.
- 2) Distribution of assets by company to its shareholder liquidation.
- 3) Transfer under a will or an irrevocable trust or a gift or deemed gift etc.
- 4) Transfer of assets by holding company to subsidiary company or vice-versa.
- 5) Any transfer, in a scheme of amalgamation of capital assets by the amalgamation co.

Types of Capital gains: -

Capital gain arising on transfer of a short-term capital asset is short term capital gain, whereas transfer of a long-term capital asset generates long term capital gain. The tax incidence is higher in the case of short-term capital gains as compared to long term capital gains.

Therefore, Short Term Capital Gain means the capital gain arising on transfer of a short-term capital asset.

Long Term Capital Gain means the capital gain arising on transfer of a long-term capital asset.

Full value of consideration

Full value of consideration includes the whole or complete sale price or exchange value or compensation including enhanced compensation received in respect of capital assets in transfer. The following points are important to note in relation to full value of consideration.

- 1) The consideration may be in cash or kind.
- 2) The consideration received in kind value at its fair market value.
- 3) It may be received or receivable.
- 4) The consideration must be actual irrespective of its adequacy.

Exemption on capital gain U/S 54

The total amount of exemption cannot exceed the total amount of capital gain.

1. U/S 54: long term capital gain or transfer of the residential house property:

If an assessee (individual or HUF) has purchased a house property 1 year before the year transfer date or within 2 years or transfer or construction a new house within 3 years of transfer then. Amount exempt = amount of reinvestment or capital or capital gain whichever is less

2. U/S 54B: Short Term Capital Asset has purchased agriculture land within due to transfer of agricultural land:

If an individual has purchased agriculture land within 2 year of transfer then the amount reinvested or the capital gain whichever is less shall be exempt from tax.

3. U/S 54 D: short term/ long term capital gain due to compulsory acquisition of individual building or land.

If an assessee purchased land / building for the individual purpose within 3 year of transfer, then the amount reinvestment of the capital gain or the capital gain whichever is less shall be exempt from tax.

4. U/S 54 E: long term capital gain due to transfer of any capital asset after 1.4.2000:

If investment is made in rural electrification corporation NHAI capital gain bond with 3 Year locking period within 6 months of transfer such gain will be exempted subject to limit up to sum of Rs 50,00,000 only.

5. U/S 54F: long term capital gain due to transfer of any property other than residential housing property:

If any house property is purchased 1 year before the transfer or within 2 years of transfer or within year of transfer or a house has been constructed within 3 years and selling cost of transferred property equal to less than the amount spent for purchased or the construction of new house then total capital is exempted but it is more than the tax-free amount shall be,

6. U/S 54 EC:

Deduction under section 54EC is available in respect of capital gain, arising from the transfer of a long-term capital asset such as Land & Building invested in the long-term specified asset at any time within a period of six months after the date of such transfer.

Tax Rates on capital gain:

1) Tax on S. T. C. G. (Section 111A):

Short Term Capital Gain is taxable like any other income. But short-term capital gain arising from the equity shares in company or units of an equity oriented or units of business trust where transaction is chargeable to security transaction tax the income tax payable on such **STCG is 15%** (w.e.f. 2009-10)

2) Tax on L.T.C.G. (Section 112):

If income under other heads is taxable, the **L.T.C.G. is taxable at a flat rate of 20%** (plus surcharge if applicable) L.T.C.G. without indexing is taxable at 15% (+ surcharge w.e.f. 2009-10) In case of individual, HUF & specified assessee (w.e.f. 1-4-2018) where taxable income (other than LTCG is below the basic exemption limit, the LTTCG will be reduced to the extent of the shortfall and only the balance LTTCG will be subject to income tax at 20%.)

3) LTTCG on Equity Shares (Section 112A) w.e.f. A.Y.2019-20:

LTTCG on sale or transfer of listed equity shares/ units being listed securities chargeable to securities transaction tax was exempted from tax up to A.Y. 2018-19. But w.e.f. A.Y. 2019-20 LTTCG on sale of equity shares/ units of an equity oriented mutual funds / units of business trust is taxable at 10% more amount of Rs. 1,00,000.

In case of LTTCG from the transfer of unlisted securities or shares of Pvt ltd. company is taxable at 10% (w.e.f.2018-19)

MCQ for Study

1. Generally, long-term capital gain is charged to tax_____
 - (a) 10%
 - (b) 20%**
 - (c) 25%
 - (d) 50%

2. Short-term capital gain other than covered under section 111A is charged to tax at _____
 - (a) 10%
 - (b) 15%
 - (c) 20%
 - (d) Normal slab rate**

3. NHAI stands for _____
 - (a) National Highway Authority of India**
 - (b) Notional Highway Authority of India
 - (c) National Highschool Authority of India
 - (d) National Highway Audit of India

4. Out of the following personal effects, which one is a capital asset?
 - (a) Paintings
 - (b) Drawings
 - (c) Jewellery
 - (d) All of the above**

5. Which asset is a specified asset for the purpose of section 54 EC ?
 - (a) NHAI Bonds**
 - (b) NHB Bonds
 - (c) SIDBI Bonds
 - (d) NABARD Bonds

6. Surplus arising on maturity of Zero-Coupon Bonds shall be taxed under the head _____
 - (a) Capital gain**
 - (b) Income from Other sources
 - (c) Salary
 - (d) None of the above

7. Listed securities held for not more than _____ months, is treated as short-term capital asset.
 - (a) 24
 - (b) 36
 - (c) 36
 - (d) 12**

8. Exemption u/s 54 is available to_____.

- (a) Company Assessee
- (b) Individuals only
- (c) Individual or HUF**
- (d) HUF

9. Unlisted securities (not being shares) held for not more than _____ months, is treated as short- term capital asset.

- (a) 36
- (b) 48
- (c) 24**
- (d) 42

10. Exemption u/s 54EC shall be available to.

- (a) Any assessee**
- (b) HUF only
- (c) Company assessee only
- (d) Individual only

11. Units of UTI (Listed) held for not more than months, is treated as short-term capital asset.

- (a) 24
- (b) 12**
- (c) 36
- (d) 100

12. Which of the following is not a capital asset?

- (a) Personal House
- (b) Personal Jewellery
- (c) Business stock in Trade**
- (d) Personal Car

13. Capital Asset is defined u/s_____

- (a) 3(14)
- (b) 2(37)
- (c) 2(14)**
- (d) 2(27)

References:-

- 1) Income Tax by Meera Govindraj, Nirali Prakashan, 2022
- 2) Income Tax by Prof.L.P.Wakale, Gayatri Prakashan, 2020
- 3) Income Tax by Dr. Dinesh D. Bhakkad, Dr. Gautam M. More, Prashant Publications, 2020
- 4) Income Tax by Prof.Dr.Sudhir Borate and Others, Kshitija Publication, 2021