07

Capital Gains

Section A – MCQs

1. Zinc Ltd. owns the following assets on 01.04.2021:

Assets	Rate of Depreciation	WDV on 01.04.2021
Plant A	15%	4,05,000
Plant B	15%	1,95,000

On 10.06.2021, the company acquires Plant C for ₹ 20,000 (rate of depreciation is 15%). The company sells the following assets during the PY 2021-22:

Assets	Sale consideration	Expenses on transfer
Plant A	2,00,000	12,000
Plant B	3,72,000	-
Plant C	85,000	200

Determine the amount of depreciation and capital gains for the AY 2022-23 in the hands of Zinc Ltd. Further, is it possible for Zinc Ltd. to avoid tax on capital gains?

A) Depreciation: Nil and Short term capital gain: ₹ 24,800. Further, it is not possible for Zinc Ltd. to avoid tax on capital gains.
B) Depreciation: ₹ 93,000 and Short term capital gain: ₹ 1,17,800. Further, it is not possible for Zinc Ltd. to avoid tax on capital gains.
C) Depreciation: Nil and Short term capital gain: ₹ 24,800. Further, Zinc Ltd. can avoid tax on capital gains if it purchases another plant (eligible for depreciation @15%) during the PY 2021-22 of ₹ 24,800 or more.
D) Depreciation: ₹ 93,000 and Short term capital gain: ₹ 1,17,800. Further, Zinc Ltd. can avoid tax on capital gains if it purchases another plant (eligible for depreciation @ 15%) during the PY 2021-22 of ₹ 1,17,800 or more.

2. In which of the following transfers, the benefit of indexation is available in case the asset is a long-term capital asset?
A) Transfer of securities by a foreign institutional investor u/s 115AD.
B) Transfer of undertaking or division in a slump sale u/s 50B.
C) Transfer of shares in an Indian Company purchased in foreign currency by a non-resident assessee
D) None of the above

3. Kamal is employed by ABC Ltd. On 15.07.2012, ABC Ltd. has given an option to each employee to get 1,000 shares in company at pre-determined price of 15 per share under notified ESOP. Consequently, Kamal has been allotted 1,000 shares @ 15 per share on 25.07.2012. On 15.11.2021, Kamal gifts his ESOP shares to a friend (market value 210 per share). On 15.12.2021, he gifts a house property to another friend.
Tax implications in the hands of Kamal?

A) Capital gains arise on gift of ESOP shares. No capital gain will arise on gift of house property.
B) Capital gains not arise on gift of ESOP shares. However, capital gain arose on gift of house property.
C) No tax implication shall arise in the hands of Kamal.
D) Capital gains arise on gift of ESOP shares as well as gift of house property.

4. Mr. Ashok, aged 81 years, is a renowned painter who has been involved in creating and developing various paintings from his childhood. At present, he is the owner of 150 paintings. As Mr. Ashok is in his old age and is worried about the fate of his paintings after his death, he has decided to gift all his paintings to a public charitable trust namely, 'Helping Hand Trust'. Helping Hand Trust has been established in the month of October, 2021 and is registered u/s 12AB. Mr. Ashok has approached you for drafting a gift deed and enlighten him regarding the tax implications that can arise in the hands of Mr. Ashok and Helping Hand Trust on account of the said transaction. Comment upon the said income tax implications.

A) Mr. Ashok liable to tax under the head "Capital Gains" on transfer of capital asset & Helping Hand Trust shall be liable to tax under head "IFOS" on the FMV of paintings.

B) No tax implication shall arise in the hands of Mr. Ashok but Helping Hand Trust shall be liable to tax under the head "IFOS" on the Fair Market Value of paintings.

C) No tax implications shall arise in the hands of Mr. Ashok and Helping Hand Trust

D) Mr. Ashok shall be liable to tax under the head "Capital Gains" on account of transfer of capital asset but no tax implication shall arise in the hands of Helping Hand Trust.

(Hint: Gifts not taxable under Capital Gains. Also Sec 12AB trusts exempted u/s 56(2)(x))

5. During the PY 2021-22, Mr. Akash has ₹ 80 lakhs of short-term capital gains taxable u/s 111A, ₹ 70 lakhs of long-term capital gains taxable u/s 112A and business income of ₹ 90 lakhs. Which of the following statements is correct?

A) Surcharge @ 25% is levied on income-tax computed on total income of ₹ 2.40 crore, since the total income exceeds ₹ 2 crore

B) Surcharge @ 15% is levied on income-tax computed on total income of ₹ 2.40 crore

C) Surcharge @ 15% is levied on income-tax on capital gains of ₹ 1.50 crore, since such income exceeds ₹ 1 crore but is less than ₹ 2 crore; in respect of business income of ₹ 90 lakhs, surcharge is levied @ 25% on income-tax, since the total income exceeds ₹ 2 crore.

D) Surcharge @ 15% is levied in respect of income-tax computed on capital gains of ₹ 1.50 crore, since such income exceeds ₹ 1 crore but is less than ₹ 2 crore; in respect of business income of ₹ 90 lakhs, surcharge is leviable @ 10% on income-tax, since such income exceeds ₹ 50 lakhs but is less than ₹ 1 crore.

6. Mr. Vishal and Mr. Guha sold their residential house property in Pune for ₹ 3 crore and ₹ 4 crore, respectively, in January, 2022. The house property was purchased by them 25 months back. The indexed cost of acquisition is ₹ 1 crore and ₹ 1.75 crore, respectively. Mr. Vishal purchased two residential flats, one in Delhi and one in Agra for ₹ 70 lakhs and ₹ 80 lakhs, respectively, in April, 2022. On the same date, Mr. Guha also purchased two residential flats, one in Mumbai and the other in Pune, for ₹ 80 lakhs and ₹ 75 lakhs, respectively. Both of them invested ₹ 30 lakhs in bonds of NHAI in March, 2022 and ₹ 30 lakhs in bonds of RECL in April, 2022. What is the income taxable under the head "Capital Gains" for AY 2022-23 in the hands of Mr. Vishal and Mr. Guha? Assume both Mr. Vishal and Mr. Guha have never claimed exemption u/s 54 on purchase of two house properties together.

A) ₹ 70 lakhs and ₹ 95 lakhs, respectively

B) ₹ 60 lakhs and ₹ 85 lakhs, respectively

C) Nil and ₹ 95 lakhs, respectively

D) Nil and ₹ 20 lakhs, respectively

7. Mr. Rajan purchased 300 shares in Vaigai Ltd. on 12.1.2017 at a cost of ₹ 2,500 per share. The Fair Market Value (FMV) of the share as on 31.1.2018 is ₹ 1 ,800. Mr. Rajan sold all the shares of Vaigai Ltd. on 15.7.2021 for ₹ 3,200. Mr. Rajan's brother Mr. Ravi purchased 600 shares in Tapti Ltd. on 25.1.2017 at a cost of ₹ 1,900 per share. The FMV of the share as on 31.1.2018 is ₹ 2,400. Mr. Ravi sold all the shares of Tapti Ltd. on 31.1.2022 for ₹ 1,700 per share. What is the chargeable capital gains on sale of shares of Vaigai Ltd. and Tapti Ltd. in the hands of Mr. Rajan and Mr. Ravi, respectively, for AY 2022-23, assuming that STT was paid at the time of acquisition and sale?

A) Long-term capital gains of Mr. Rajan ₹ 2,10,000; Long-term capital loss of Mr. Ravi ₹ 4,20,000
B) Long-term capital gains of Mr. Rajan ₹ 4,20,000; Long-term capital loss of Mr. Ravi ₹ 4,20,000
C) Long-term capital gains of Mr. Rajan ₹ 4,20,000; Long-term capital loss of Mr. Ravi ₹ 1,20,000.
D) Long-term capital gains of Mr. Rajan ₹ 2,10,000; Long-term capital loss of Mr. Ravi ₹ 1,20,000.

8. **<u>Case Study Question</u>**

Mallika purchased a land in Pune at a cost of ₹ 50 lakhs in December 2009 and held the same as her capital asset till 30th September, 2020. She started her real estate business on 1st October, 2020 and converted the said land into stock-in-trade of her business on the said date, when the fair market value of the land was ₹ 300 lakhs.

She constructed 20 apartments of equal size, quality and dimension and the construction was completed in December, 2021. Cost of construction of each apartment is ₹ 15 lakhs. She sold 14 apartments at ₹ 40 lakhs per apartment during the period from January, 2022 - February, 2022. The remaining 6 apartments were held in stock as on 31st March, 2022. All the six apartments were sold in April, 2022 at ₹ 40 lakhs per apartment. She also holds a penthouse in Nagpur, construction of which was completed in March, 2021, as stock-in-trade. She let out the penthouse to Mr. Harish, a salaried individual, for ₹ 60,000 per month from April, 2021 to March, 2023, who has furnished his PAN to her. He paid municipal taxes of ₹ 7,200 each for the years 2021-22 and 2022-23 in March, 2022 and March, 2023, respectively. The said penthouse was, thereafter, sold in April, 2023 for ₹ 70 lakhs.

She invested ₹ 20 lakhs in bonds issued by National Highway Authority of India on 31st March, 2022; ₹ 20 lakhs in bonds of Rural Electrification Corporation Ltd. on 30th June, 2022, ₹ 10 lakhs in bonds of Rural Electrification Corporation Ltd. on 30th September, 2022 and ₹ 10 lakhs in bonds of National Highway Authority of India on 31st December, 2022. Mallika is subject to tax audit for the PY 2021-22.

Cost Inflation Indices:

FY 2009-10: 148; FY 2019-20: 289; FY 2020-21: 301; FY 2021-22: 317

From the information given above, choose the most appropriate answer to the following questions-

a) What is the amount of capital gains chargeable to tax in the hands of Mallika for AY 2022-23?

A) ₹ 88,81,757 C) ₹ 50,00,000
B) ₹ 98,81,757 D) ₹ 78,81,757

(Hint: Indexation only available upto FY 2020-21. Sec 54EC eligible only if made upto Aug 2022)

b) What is the amount of income chargeable to tax in the hands of Mallika under the head "Profits and gains of business or profession" for the AY 2022-23?

A) ₹ 350 lakhs C) ₹ 100 lakhs
B) ₹ 50 lakhs D) ₹ 140 lakhs

c) What is the amount of income chargeable to tax under the head "Capital gains" and "Profits and gains of business or profession" in the hands of Mallika for the AY 2023-24?

A) Nil and Nil, respectively
B) ₹ 49,49,324 and ₹ 60,00,000, respectively
C) ₹ 39,49,324 and ₹ 60,00,000, respectively
D) ₹ 59,49,324 and ₹ 60,00,000, respectively

(Hint: ₹ 10 lakhs of investment made in Sept 2022 can be claimed as exemption u/s 54EC)

d) Is the annual value of penthouse held as stock-in-trade taxable? If so, under which head and what is the amount taxable for AY 2022-23?

A) No, since annual value of property held as stock-in-trade is exempt for a period of two years from the end of the financial year of completion of construction
B) Yes, ₹ 5,04,000 under the head "Income from house property"
C) Yes, ₹ 4,98,960 under the head "Income from house property"
D) The rental income of ₹ 7,20,000 is chargeable under the head "Profits and gains of business or profession", since property is held as stock in trade

e) Is Mr. Harish liable to deduct tax at source on rent paid to Mallika in the FY 2021-22? If so, what is the amount of tax to be deducted and when?

A) No, since Mr. Harish, being a salaried employee, is not subject to tax audit; hence, there is no obligation to deduct tax at source
B) Yes, he has to deduct tax at source of ₹ 6,000 from rent payable every month
C) Yes, he has to deduct tax at source of ₹ 3,000 from rent payable every month
D) Yes, he has to deduct tax of ₹ 36,000 from the rent payable for March, 2022

Answers

S.No	Ans	S.No	Ans	S.No	Ans	S.No	Ans	S.No	Ans
1	(C)	2	(D)	3	(A)	4	(C)	5	(B)
6	(C)	7	(D)	8(a)	(B)	8(b)	(D)	8(c)	(B)
8(d)	(B)	8(e)	(D)						

Section B – Practice Questions

Transactions not regarded as transfer – Sec 47

Qn. 1 In which of the following situations capital gains tax liability does not arise?

(i) Mr. A purchased gold in 1970 for ₹ 25,000. In the PY 2021-22, he gifted it to his son at the time of marriage. Fair market value (FMV) of the gold on the day the gift was made was ₹ 1,00,000.
(ii) A house property is purchased by a Hindu undivided family in 1945 for ₹ 20,000. It is given to one of the family members in the PY 2021-22 at the time of partition of the family. FMV on the day of partition was ₹ 12,00,000.
(iii) Mr. B purchased 50 convertible debentures for ₹ 40,000 in 1995 which are converted in to 500 shares worth ₹ 85,000 in November 2021 by the company.

Ans. We know that capital gains arise only when we transfer a capital asset. The liability of capital gains tax in the situations given above is discussed as follows:

(i) As per the provisions of sec 47(iii), transfer of a capital asset under a gift is not regarded as transfer for the purpose of capital gains. Therefore, capital gains tax liability does not arise in the given situation.

(ii) As per the provisions of sec 47(i), transfer of a capital asset (being in kind) on the total or partial partition of Hindu undivided family is not regarded as transfer for the purpose of capital gains. Therefore, capital gains tax liability does not arise in the given situation.

(iii) As per the provisions of sec 47(x), 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 is not regarded as transfer for the purpose of capital gains. Therefore, capital gains tax liability does not arise in the given situation.

Qn. 2 Mr. Abhishek a senior citizen, mortgaged his residential house with a bank, under a notified reverse mortgage scheme. He was getting loan from bank in monthly instalments. Mr. Abhishek did not repay the loan on maturity and hence gave possession of the house to the bank, to discharge his loan. How will the treatment of long-term capital gain be on such reverse mortgage transaction?

Ans. Sec 47(xvi) provides that any transfer of a capital asset in a transaction of reverse mortgage under a scheme made and notified by the Central Government shall not be considered as a transfer for the purpose of capital gain.

Accordingly, the mortgaging of residential house with bank by Mr. Abhishek will not be regarded as a transfer. Therefore, no capital gain will be charged on such transaction.

Further, sec 10(43) provides that the amount received by the senior citizen as a loan, either in lump sum or in instalment, in a transaction of reverse mortgage would be exempt from income tax. Therefore, the monthly instalment amounts received by Mr. Abhishek would not be taxable.

However, capital gains tax liability would be attracted at the stage of alienation of the mortgaged property by the bank for the purposes of recovering the loan.

Mode of computation of capital gains

Qn. 3 X & sons, HUF, purchased a land for ₹ 1,20,000 in the PY 2002-03. In the PY 2006-07, a partition takes place when Mr. A, a coparcener, is allotted this plot valued at ₹ 1,50,000. In PY 2007-08, he had incurred expenses of ₹ 2,35,000 towards fencing of the plot. Mr. A sells this plot of land for ₹ 15,00,000 in PY 2021-22 after incurring expenses to the extent of ₹ 20,000. You are required to compute the capital gain for the AY 2022-23.

FY	Cost Inflation Index
2002-03	105
2006-07	122
2007-08	129
2021-22	317

Ans. Computation of taxable capital gains for the AY 2022-23

Particulars	₹	₹
Sale consideration		15,00,000
Less: Expenses incurred for transfer		(20,000)
		14,80,000
Less: (i) Indexed cost of acquisition (₹ 1,20,000 × 317/122)	3,11,803	
(ii) Indexed cost of improvement (₹ 2,35,000 × 317/129)	5,77,481	(8,89,284)
Long term capital gains		**5,90,716**

	Note - As per the view expressed by Bombay High Court in *CIT v. Manjula J. Shah 16 Taxman 42*, in case the cost of acquisition of the capital asset in the hands of the assessee is taken to be cost of such asset in the hands of the previous owner, the indexation benefit would be available from the year in which the capital asset is acquired by the previous owner. If this view is considered, the indexed cost of acquisition would have to be calculated by considering the Cost Inflation Index of FY 2002-03.

Qn. 4 Mr. C purchases a house property for ₹ 1,06,000 on May 15, 1975. The following expenses are incurred by him for making addition/alternation to the house property:

	Particulars	₹
a.	Cost of construction of first floor in 1982-83	3,10,000
b.	Cost of construction of the second floor in 2002-03	7,35,000
c.	Reconstruction of the property in 2012-13	5,50,000

Fair market value of the property on April 1, 2001 is ₹ 8,50,000 and stamp duty value on the said date was ₹ 8,10,000. The house property is sold by Mr. C on August 10, 2021 for ₹ 68,00,000 (expenses incurred on transfer: ₹ 50,000). Compute the capital gain for the AY 2022-23.

CII: FY 2001-02: 100, FY 2002-03: 105, FY 2012-13: 200, FY 2020-21: 317

Ans. Computation of capital gain of Mr. C for the AY 2022-23

Particulars	₹	₹
Gross sale consideration		68,00,000
Less: Expenses on transfer		(50,000)
Net sale consideration		67,50,000
Less: Indexed cost of acquisition (Note 1)	25,67,700	
Less: Indexed cost of improvement (Note 2)	30,90,750	(56,58,450)
Long-term capital gain		**10,91,550**

Notes:

1. Indexed cost of acquisition: ₹ 8,10,000 × 317/100 = ₹ 25,67,700
2. Fair market value on April 1, 2001 (actual cost of acquisition is ignored as it is lower than market value on April 1, 2001) however, it should not exceed ₹ 8,10,000, being the stamp duty value on 1.4.2001
3. Indexed cost of improvement is determined as under:

Particulars	₹
Construction of first floor in 1982-83 (expenses incurred prior to April 1, 2001 are not considered)	-
Construction of second floor in 2002-03 (i.e., ₹ 7,35,000 × 317/105)	22,19,000
Alternation/reconstruction in 2012-13 (i.e., ₹ 5,50,000 × 317/200)	8,71,750
Indexed cost of improvement	**30,90,750**

Qn. 5 Xavier had taken a loan under registered mortgage deed against the house, which was purchased by him on 26.05.2002 for ₹ 5 lakhs. The said property was inherited by his son Abraham in FY 2009-10 as per Will.

For obtaining a clear title thereof, Abraham paid the outstanding amount of loan on 12.02.2010 of ₹ 15 lakhs. The said house property was sold by Abraham on 16.03.2022 for ₹ 50 lacs. Examine with reasons the amount chargeable to capital gains for AY 2022-23

(Cost Inflation Index 2002-03: 105, 2009-10: 148 and 2021-22: 317).

Ans. The cost of inherited property to Mr. Abraham shall be the cost to the previous owner as per provisions of sec 49(1)(iiia) and therefore, ₹ 5 lacs, being the cost to his father (amount paid by his father on 26.5.2002 for acquiring the property) shall be the cost to Mr. Abraham, who is the new owner. Payment of outstanding loan of the predecessor by the successor for obtaining a clear title of the property by release of Mortgage Deed shall be the cost of acquisition of the successor u/s 48 r.w.s 55(2) of the Act as held by the Apex Court in case of *RM. Arunachalam v. CIT [1997] 227 ITR 222.*

Computation of Taxable Capital Gain for the AY 2022-23

Particulars	₹	₹
Sale consideration of house property		50,00,000
Less: Indexed cost of acquisition (Note)		
(i) Cost to previous owner (₹ 5,00,000 × 317/148)	10,70,946	
(ii) Loan amount paid by Mr. Abraham	32,12,838	
(Benefit of CII is available since the loan amount was paid in the FY 2009-10) (₹ 15,00,000 × 317/148)		(42,83,784)
Capital gains		**7,16,216**

Note: Since the property was acquired by Mr. Abraham through inheritance, the cost of acquisition will be cost to the previous owner.

As per the definition of indexation cost of acquisition under clause (iii) of Explanation below sec 48, indexation benefit will be available only from the PY in which Abraham first held the asset i.e. PY 2009-10.

However, as per the view expressed by Bombay High Court, in the case of *CIT v. Manjula J. Shah (2013) 355 ITR 474*, in case the cost of acquisition of the capital asset in the hands of the assessee is taken to be cost of such asset in the hands of the previous owner, the indexation benefit would be available from the year in which the capital asset is acquired by the previous owner. If this view is considered, the indexed cost of acquisition would be ₹ 47,22,362 (₹ 15,09,524 + ₹ 32,12,838) and long term capital gain would be ₹ 2,77,638.

Exceptions to the year of taxability

Qn. 6 The assessee was a company carrying on business of manufacture and sale of art-silk cloth. It purchased machinery worth ₹ 4 lakhs on 1.5.2018 and insured it with United India Assurance Ltd against fire, flood, earthquake etc., The written down value of the asset as on 01.04.2021 was ₹ 1,87,850. The insurance policy contained a reinstatement clause requiring the insurance company to pay the value of the machinery, as on the date of fire etc., in case of destruction of loss. A fire broke out in August, 2021 causing extensive damage to the machinery of the assessee rendering them totally useless. The assessee company received a sum of ₹ 4 lakhs from the insurance company on 15th March, 2022. Discuss the issues arising on account on the transactions and their tax treatment.

(Cost inflation index for FY 2018-09 and 2021-22 are 280 and 317 respectively)

Ans. As per sec 45(1A), where any person receives any money or other assets under an insurance from an insurer on account of damage to or destruction of capital asset as a result of, *inter alia*, accidental fire then, any profits and gains arising from the receipt of such money or other assets, shall be chargeable to income tax under the head "Capital Gains" and shall be deemed to be the income of such person of the PY in which such money or asset was received.

For the purpose of sec 48, the money received or the market value of the asset shall be deemed to be the full value of the consideration accruing as a result of the transfer of such capital asset. Since the asset was destroyed and the money from the insurance company was received in the PY, there will be a liability to capital gains in respect of the insurance moneys received by the assessee.

U/s 45(1A) any profits and gains arising from receipt of insurance moneys is chargeable under the head "Capital gains". For the purpose of sec 48, the moneys received shall be deemed to be the full value of the consideration accruing or arising. U/s 50 the capital gains in respect of depreciable assets had to be computed in the following manner (assuming it was the only asset in the block).

The computation of capital gain and tax implication is given below:

Full value of the consideration	₹ 4,00,000
Less: Written down value as on April 1, 2020	₹ 1,87,850
Short term capital gains	₹ 2,21,150

Qn. 7 X converts his capital asset (acquired on June 10, 2003 for ₹ 60,000) into stock-in-trade on March 10, 2021. The fair market value on the date of the above conversion was ₹ 5,50,000. He subsequently sells the stock-in-trade so converted for ₹ 6,00,000 on June 10, 2021. Examine the tax implication.
Cost Inflation Index - FY 2003-04: 109; FY 2020-21: 301; FY 2021-22: 317.

Ans. Since the capital asset is converted into stock-in-trade during the PY relevant to the AY 2021-22, it will be a transfer u/s 2(47) during the PY 2020-21. However, the profits or gains arising from the above conversion will be chargeable to tax during the AY 2022-23, since the stock-in-trade has been sold only on June 10, 2021. For this purpose, the fair market value on the date of such conversion (i.e., 10th March, 2021) will be the full value of consideration.

The capital gains will be computed after deducting the indexed cost of acquisition from the full value of consideration. The cost inflation index for 2003-04 i.e., the year of acquisition is 109 and the index for the year of transfer i.e., 2020-21 is 301. The indexed cost of acquisition is 60,000 × 301/109 = ₹ 1,65,688. Hence, ₹ 3,84,312 (i.e., ₹ 5,50,000 – ₹ 1,65,688) will be treated as long-term capital gains chargeable to tax during the AY 2022-23. During the same AY, ₹ 50,000 (₹ 6,00,000 - ₹ 5,50,000) will be chargeable to tax as business profits.

Qn. 8 ABC Ltd. converts its capital asset acquired for an amount of ₹ 50,000 in June, 2003 into stock-in-trade in the month of November, 2019. The fair market value of the asset on the date of conversion is ₹ 4,50,000. The stock-in-trade was sold for an amount of ₹ 6,50,000 in the month of September, 2021. What will be the tax treatment?

FY	Cost Inflation Index
2003-04	109
2019-20	289
2021-22	317

Ans. The capital gains on the sale of the capital asset converted to stock-in-trade is taxable in the given case. It arises in the year of conversion (i.e. PY 2019-20) but will be taxable only in the year in which the stock-in-trade is sold (i.e. PY 2021-22). Profits from business will also be taxable in the year of sale of the stock-in-trade (PY 2021-22).

The long-term capital gains and business income for the AY 2022-23 are calculated as under:

Particulars	₹	₹
Profits and Gains from Business or Profession		
Sale proceeds of the stock-in-trade	6,50,000	
Less: Cost of the stock-in-trade (FMV on the date of conversion)	(4,50,000)	**2,00,000**
Long Term Capital Gains		
Full value of the consideration (FMV on the date of the conversion)	4,50,000	
Less: Indexed cost of acquisition (₹ 50,000 x 289/109)	(1,32,569)	**3,17,431**

Note: For the purpose of indexation, the cost inflation index of the year in which the asset is converted into stock-in-trade should be considered.

Qn. 9 Mr. Kumar has an agricultural land costing ₹ 6 lakh in Lucknow on 1.4.2003 and has been using it for agricultural purposes till 1.8.2012 when the Government took over compulsory acquisition of this land. A compensation of ₹ 12 lakh was settled. The compensation was received by Mr. Kumar on 1.7.2021. Compute the amount of capital gains taxable in the hands of Mr. Kumar.

Cost Inflation Index: 2003-04: 109, 2012-13: 200, 2021-22: 317

Ans. In the given problem, compulsory acquisition of an urban agricultural land has taken place and the compensation is received after 1.4.2004. This land had also been used for at least 2 years by the assessee himself for agricultural purposes. Thus, as per sec 10(37), entire capital gains arising on such compulsory acquisition will be fully exempt and nothing is taxable in the hands of Mr. Kumar in the year of receipt of compensation i.e. AY 2022-23.

Qn. 10 Will your answer be any different if Mr. Kumar had by his own will sold this land to his friend Mr. Sharma? Examine.

Ans. As per sec 10(37), exemption is available if compulsory acquisition of urban agricultural land takes place. Since the sale is out of own will and desire, the provisions of this sec are not attracted and the capital gains arising on such sale will be taxable in the hands of Mr. Kumar.

Qn. 11 Will your answer be different if Mr. Kumar had not used this land for agricultural activities? Examine and compute the amount of capital gains taxable in the hands of Mr. Kumar, if any.

Ans. As per sec 10(37), exemption is available only when such land has been used for agricultural purposes during the preceding two years by such individual or a parent of his or by such HUF. Since the assessee has not used it for agricultural activities, the provisions of this sec are not attracted and the capital gains arising on such compulsory acquisition will be taxable in the hands of Mr. Kumar in the year of receipt of compensation i.e., AY 2022-23.

Computation of capital gains

Particulars	Amount (₹)
Sales consideration	12,00,000
Less: Cost of acquisition (₹ 6,00,000 x 200/109)	(11,00,917)
Long term capital Gains	**99,083**

Qn. 12 Will your answer be different if the land belonged to ABC Ltd. and not Mr. Kumar and compensation on compulsory acquisition was received by the company? Examine.

Ans. Sec 10(37) exempts capital gains arising to an individual or a HUF from transfer of agricultural land by way of compulsory acquisition. If the land belongs to ABC Ltd., a company, the provisions of this sec are not attracted and the capital gains arising on such compulsory acquisition will be taxable in the hands of ABC Ltd.

Computation of capital gains in special scenarios

Qn. 13 Ms. Usha purchases 1,000 equity shares in X Ltd., an unlisted company, at a cost of ₹ 30 per share (brokerage 1%) in January 1996. She gets 100 bonus shares in August 2000. She again gets 1,100 bonus shares by virtue of her holding on February 2006. Fair market value of the shares of X Ltd. on April 1, 2001 is ₹ 80.

On 1st January 2022, she transfers all her shares @ ₹ 200 per share (brokerage 2%).

Compute the capital gains taxable in the hands of Ms. Usha for the AY 2022-23

Cost Inflation Index for FY 2001-02: 100, FY 2005-06: 117 & FY 2021-22: 317.

Ans. Computation of capital gains for the AY 2022-23

Particulars	₹
a) 1,000 Original shares	
Sale proceeds (1000 × ₹ 200)	2,00,000
Less : Brokerage paid (2% of ₹ 2,00,000)	(4,000)
Net sale consideration	1,96,000
Less : Indexed cost of acquisition [₹ 80 × 1,000 × 317/100]	(2,53,600)
Long term capital loss (A)	**(57,600)**
b) 100 Bonus shares	
Sale proceeds (100 × ₹ 200)	20,000
Less : Brokerage paid (2% of ₹ 20,000)	(400)
Net sale consideration	19,600
Less : Indexed cost of acquisition [₹ 80 × 100 × 317/100] [Note]	(25,360)
Long term capital loss (B)	**(5,760)**
c) 1,100 Bonus shares	
Sale proceeds (1100 × ₹ 200)	2,20,000
Less: Brokerage paid (2% of ₹ 2,20,000)	(4,400)
Net sale consideration	2,15,600
Less: Cost of acquisition	-
Long term capital gain (C)	**2,15,600**
Long term capital gain (A+B+C)	**1,52,240**

Note: Cost of acquisition of bonus shares acquired before 1.4.2001 is the FMV as on 1.4.2001 (being the higher of the cost or the FMV as on 1.4.2001).

Qn. 14 Mr. R holds 1,000 shares in Star Minus Ltd., an unlisted company, acquired in the year 2001-02 at a cost of ₹ 75,000. He has been offered right shares by the company in the month of August, 2021 at ₹ 160 per share, in the ratio of 2 for every 5 held. He retains 50% of the rights and renounces the balance right shares in favour of Mr. Q for ₹ 30 per share in September 2021. All the shares are sold by Mr. R for ₹ 300 per share in January 2022 and Mr. Q sells his shares in December 2021 at ₹ 280 per share. What are the capital gains taxable in the hands of Mr. R and Mr. Q?

Cost Inflation Index for FY 2001-02: 100, & FY 2021-22: 317.

Ans. Computation of capital gains in the hands of Mr. R for the AY 2022-23

Particulars	₹
a) 1,000 Original shares	
Sale proceeds (1,000 × ₹300)	3,00,000
Less : Indexed cost of acquisition [₹ 75,000 × 317/100]	(2,37,750)
Long-term capital gain (A)	62,250
b) 200 Right shares	
Sale proceeds (200 × ₹300)	60,000
Less : Cost of acquisition [₹ 160 × 200] [Note 1]	(32,000)
Short-term capital gain (B)	28,000
c) Sale of Right Entitlement	
Sale proceeds (200 × ₹ 30)	6,000
Less : Cost of acquisition [Note 2]	-
Short-term capital gain (C)	6,000
Capital Gains (A+B+C)	96,250

Notes:

1. Since the holding period of these shares is less than 24 months, they are short term capital assets and hence cost of acquisition will not be indexed.
2. The cost of the rights renounced in favour of another person for a consideration is taken to be nil. The consideration so received is taxed as short-term capital gains in full. The period of holding is taken from the date of the rights offer to the date of the renouncement.

Computation of capital gains in the hands of Mr. Q for the AY 2022-23

Particulars	₹
Sale proceeds (200 shares × ₹ 280)	56,000
Less: Cost of acquisition [200 shares × (₹ 30 + ₹ 160)] [Note]	(38,000)
Short-term capital gain	18,000

Note: The cost of the rights is the amount paid to Mr. R as well as the amount paid to the company. Since the holding period of these shares is less than 24 months, they are short term capital assets.

Qn. 15 Rajawat & Co., a sole proprietorship owns six machines, put in use for business in March, 2020. The depreciation on these machines is charged @ 15%. The written down value of these machines after providing depreciation for PY 2020-21 was ₹ 8,50,000. Three of the old machines were sold on 10th June, 2021 for ₹ 11,00,000. A second hand plant was bought for ₹ 8,50,000 on 30th November, 2021.

You are required to:

(i) determine the claim of depreciation for AY 2022-23.

(ii) compute the capital gains liable to tax for AY 2022-23.

(iii) If Rajawat & Co. had sold the three machines in June, 2021 for ₹ 21,00,000, will there be any difference in your above workings? Examine.

Ans. (i) Computation of depreciation for AY 2022-23

Particulars	₹
Opening balance of the block as on 1.4.2021	8,50,000
Add: Purchase of second hand plant during the year	8,50,000
	17,00,000
Less: Sale consideration of old machinery during the year	(11,00,000)
W.D.V of the block as on 31.03.2022	**6,00,000**

Since the value of the block as on 31.3.2022 comprises of a new asset which has been put to use for less than 180 days, depreciation is restricted to 50% of the prescribed percentage of 15% i.e. depreciation is restricted to 7½%. Therefore, the depreciation allowable for the year is ₹ 45,000, being 7½% of ₹ 6,00,000.

(ii) The provisions u/s 50 for computation of capital gains in the case of depreciable assets can be invoked only under the following circumstances:

(a) When one or some of the assets in the block are sold for consideration more than the value of the block.

(b) When all the assets are transferred for a consideration more than value of the block.

(c) When all the assets are transferred for a consideration less than value of the block.

Since in the first two cases, the sale consideration is more than the written down value of the block, the computation would result in short term capital gains.

In the third case, since the written down value exceeds the sale consideration, the resultant figure would be a short-term capital loss.

In the given case, capital gains will not arise as the block of asset continues to exist, and some of the assets are sold for a price which is lesser than the W.D.V of the block.

(iii) If the three machines are sold in June, 2021 for ₹ 21,00,000, then short term capital gains would arise, since the sale consideration is more than the aggregate of written down value of the block at the beginning of the year and additions made during the year.

Particulars	₹	₹
Sale consideration		21,00,000
Less: Opening balance of the block as on 1.4.2021	8,50,000	
Purchase of second hand plant during the year	8,50,000	(17,00,000)
Short term capital gains		**4,00,000**

Qn. 16 Mr. Kay purchases a house property on April 10, 1992 for ₹ 65,000. The fair market value of the house property on April 1, 2001 was ₹ 2,70,000 and Stamp duty value was ₹ 2,20,000. On August 31, 2004, Mr. Kay enters into an agreement with Mr. Jay for sale of such property for ₹ 3,70,000 and received an amount of ₹ 60,000 as advance. However, as Mr. Jay did not pay the balance amount, Mr. Kay forfeited the advance. In May 2008, Mr. Kay constructed the first floor by incurring a cost of ₹ 2,35,000. Subsequently, in January 2009, Mr. Kay gifted the house to his friend Mr. Dee. On February 10, 2022, Mr. Dee sold the house for ₹ 12,00,000.

CII for FY 2001-02: 100; 2004-05: 113; 2008-09: 137; 2021-22: 317.

Compute the capital gains in the hands of Mr. Dee for AY 2022-23.

Ans.

Computation of taxable capital gains of Mr. Dee for AY 2022-23

Particulars	₹	₹
Sale consideration		12,00,000
Less: Indexed cost of acquisition (Note)	5,09,051	
Indexed cost of improvement (Note)	5,43,759	(10,52,810)
Long-term capital gain		**1,47,190**

Note: For the purpose of capital gains, holding period is considered from the date on which the house was purchased by Mr. Kay, till the date of sale. However, indexation of cost of acquisition is considered from the date on which the house was gifted by Mr. Kay to Mr. Dee, till the date of sale. i.e. from January 2009 (PY 2008-09) to February, 2022 (PY 2021-22). Since house property was acquired before 1st April, 2001, higher of fair market value on 1.4.2001 or actual cost of acquisition can be considered as cost of acquisition. However, fair market value cannot exceed stamp duty value on 1.4.2001.

Indexed cost of acquisition = (₹ 2,20,000 × 317/137) = ₹ 5,09,051

Indexed cost of improvement = (₹ 2,35,000 × 317/137) = ₹ 5,43,759

Amount forfeited by previous owner, Mr. Kay, shall not be deducted from cost of acquisition.

Alternative view - As per the view expressed by Bombay High Court in *CIT v. Manjula J. Shah 16 Taxman 42*, in case the cost of acquisition of the capital asset in the hands of the assessee is taken to be cost of such asset in the hands of the previous owner, the indexation benefit would be available from the year in which the capital asset is acquired by the previous owner. If this view is considered, the indexed cost of acquisition would have to be calculated by taking the CII of FY 2001-02, since the Fair Market Value as on 1.4.2001 has been taken as the cost of acquisition.

Qn. 17 Mr. X purchases a house property in December 1993 for ₹ 5,25,000 and an amount of ₹ 1,75,000 was spent on the improvement and repairs of the property in March, 1997. The property was proposed to be sold to Mr. Z in the month of May, 2007 and an advance of ₹ 40,000 was taken from him. As the entire money was not paid in time, Mr. X forfeited the advance and subsequently sold the property to Mr. Y in the month of March, 2022 for ₹ 52,00,000. The fair value of the property on April 1, 2001 was ₹ 11,90,000 and Stamp duty value on the said date was ₹ 10,20,000. What is the capital gain chargeable in the hands of Mr. X for the AY 2022-23?

FY	Cost Inflation Index
2001-02	100
2007-08	129
2021-22	317

Ans. Capital gains in the hands of Mr. X for the AY 2022-23 is computed as under

Particulars	₹
Sale proceeds	52,00,000
Less : Indexed cost of acquisition [Note 1]	(31,06,600)
Indexed cost of improvement [Note 2]	-
Long term capital gains	**20,93,400**

Notes:

1. Computation of indexed cost of acquisition

Cost of acquisition (higher of fair market value as on April 1, 2001 and the actual cost of acquisition. FMV however should not exceed ₹ 10,20,000, being the stamp duty value as on 1.4.2001)	10,20,000
Less : Advance taken and forfeited before 1.4.2014	(40,000)
Cost for the purposes of indexation	9,80,000
Indexed cost of acquisition (₹ 9,80,000 x 317/100)	31,06,600

2. Any improvement cost incurred prior to 1.4.2001 is to be ignored.

Exemptions

Qn. 18 Mr. Cee purchased a residential house on July 20, 2019 for ₹ 10,00,000 and made some additions to the house incurring ₹ 2,00,000 in August 2019. He sold the house property in April 2021 for ₹ 20,00,000. Out of the sale proceeds, he spent ₹ 5,00,000 to purchase another house property in September 2021.

What is the amount of capital gains taxable in the hands of Mr. Cee for the AY 2022-23?

Ans. The house is sold before 24 months from the date of purchase. Hence, the house is a short- term capital asset and no benefit of indexation would be available.

Particulars	₹
Sale consideration	20,00,000
Less: Cost of acquisition	(10,00,000)
Cost of improvement	(2,00,000)
Short-term capital gains	**8,00,000**

Note: The exemption of capital gains u/s 54 is available only in case of long-term capital asset. As the house is short-term capital asset, Mr. Cee cannot claim exemption u/s 54. Thus, the amount of taxable short-term capital gains is ₹ 8,00,000

Qn. 19 Mr. Ganesh sold his residential house in Mumbai and earned long term capital gain of ₹ 2.5 crores. He purchased two residential flats adjacent to each other on the same day vide two separate registered sale deeds from two different persons. The builder had certified that he had effected necessary modification to make it one residential apartment. Mr. Ganesh sought exemption u/s 54 in respect of the investment made in purchase of the two residential flats. The Assessing Officer, however, gave exemption u/s 54 to the extent of purchase of one residential flat only contending that since the long term capital gain exceeds ₹ 2 crore, 54(1) clearly restricts the benefit of exemption to purchase one residential house only and the two flats cannot be treated as one residential unit since:

(i) the flats were purchased through different sale deeds; and

(ii) it was found by the Inspector that, before its sale to the assessee, the residential flats were in occupation of two different tenants.

Examine the correctness of the contention of the Assessing Officer.

Ans. This issue came up before the Karnataka High Court in *CIT v. D. Ananda Basappa (2009) 309 ITR 329*. The Court observed that the assessee had shown that the flats were situated side by side and the builder had also certified that he had effected modification of the flats to make them one unit by opening the door between the apartments. Therefore, it was immaterial that the flats were occupied by two different tenants prior to sale or that it was purchased through different sale deeds. The Court observed that these were not the grounds to hold that the assessee did not have the intention to purchase the two flats as one unit. The Court held that the assessee was entitled to exemption u/s 54 in respect of purchase of both the flats to form one residential house.

Applying the ratio of the above decision to the case on hand, Mr. Ganesh is entitled to exemption u/s 54 in respect of purchase of two flats to form one residential house. Therefore, the contention of the Assessing Officer is not correct.

Qn. 20 Vijay, an individual, owned three residential houses which were let out. Besides, he and his four brothers co-owned a residential house in equal shares. He sold one residential house owned by him during the PY relevant to the AY 2022-23. Within a month from the date of such sale, the four brothers executed a release deed in respect of their shares in the co-owned residential house in favour of Vijay for a monetary consideration.

Vijay utilised the entire long-term capital gain arising out of the sale of the residential house for payment of the said consideration to his four brothers. Vijay is not using the house, in respect of which his brothers executed a release deed, for his own residential purposes, but has let it out to another person, who is using it for his residential purposes.

Is Vijay eligible for exemption u/s 54 of the Income-tax Act, 1961 for the AY 2022-23 in respect of the long-term capital gain arising from the sale of his residential house, which he utilised for acquiring the shares of his brothers in the co-owned residential house? Will the non-use of the new house for his own residential purposes disentitle him to exemption?

Ans. The long-term capital gain arising on sale of residential house would be exempt u/s 54 if it is utilized, inter alia, for purchase of one residential house situated in India within one year before or two years after the date of transfer. Release by the other co-owners of their share in co-owned property in favour of Vijay would amount to "purchase" by Vijay for the purpose of claiming exemption u/s 54 [*CIT v. T.N. Arvinda Reddy (1979) 120 ITR 46 (SC)*]. Since such purchase is within the stipulated time of two years from the date of transfer of asset, Vijay is eligible for exemption u/s 54. As Vijay has utilised the entire long-term capital gain arising out of the sale of the residential house for payment of consideration to the other co-owners who have released their share in his favour, he can claim full exemption u/s 54.

There is no requirement in sec 54 that the new house should be used by the assessee for his own residence. The condition stipulated is that the new house should be utilised for residential purposes and its income is chargeable under the head "Income from house property". This requirement would be satisfied even when the new house is let out for residential purposes.

Qn. 21 PQR Ltd., purchased a land for industrial undertaking in May 2004, at a cost of ₹ 3,50,000. The above property was compulsorily acquired by the State Government at a compensation of ₹ 12,00,000 in the month of January, 2022. The compensation was received in February, 2022. The company purchased another land for its industrial undertaking at a cost of ₹ 2,00,000 in the month of March, 2022. What is the amount of the capital gains chargeable to tax in the hands of the company for the AY 2022-23?

Cost Inflation Index for FY 2004-05: 113; FY 2021-22: 317

Ans. Computation of capital gains in the hands of PQR Ltd. for the AY 2022-23

Particulars	₹
Sale proceeds (Compensation received)	12,00,000
Less : Indexed cost of acquisition [₹ 3,50,000 × 317/113]	(9,81,858)
	2,18,142
Less: Exemption u/s 54D (Cost of acquisition of land for its undertaking)	(2,00,000)
Taxable long term capital gain	**18,142**

Qn. 22 Long term capital gain of ₹ 75 lakh arising from transfer of building on 1.5.2021 will be fully exempt from tax if such capital gain is invested in the bonds redeemable after five years, issued by NHAI u/s 54EC. Examine with reasons whether the given statement is true or false having regard to the provisions of the Income-tax Act, 1961.

Ans. **False**: The exemption u/s 54EC has been restricted, by limiting the maximum investment in long term specified assets (i.e. bonds of NHAI or RECL or any other bond notified by Central Government in this behalf, redeemable after 5 years) to ₹ 50 lakh, whether such investment is made during the relevant PY or the subsequent PY, or both. Therefore, in this case, the exemption u/s 54EC can be availed only to the extent of ₹ 50 lakh, provided the investment is made before 1.11.2021 (i.e., within six months from the date of transfer).

Qn. 23 From the following particulars, compute the taxable capital gains of Mr. D for AY 2022-23

Particulars	Amount (₹)
Cost of jewellery [Purchased in FY 2005-06]	4,52,000
Sale price of jewellery sold in January 2022	12,50,000
Expenses on transfer	7,000
Residential house purchased in March 2022	5,00,000

CII for FY 2005-06: 117; FY 2021-22: 317

Ans. Computation of taxable capital gains for AY 2022-23

Particulars	₹
Gross consideration	12,50,000
Less: Expenses on transfer	(7,000)
Net consideration	12,43,000
Less: Indexed cost of acquisition (₹ 4,52,000 × 317/117)	(12,24,650)
	18,350
Less: Exemption u/s 54F (₹ 18,350 × ₹ 5,00,000/ ₹ 12,43,000)	(7,381)
Taxable capital gains	**10,969**

Consequences if the new house of transfer within 3 years from the date of its purchase

- If the new asset is transferred before 3 years from the date of its acquisition, then the Capital gains would arise on transfer of the new house and capital gain exempted earlier u/s 54F would be taxable as long-term capital gains.
- In the given illustration, if the new residential house is sold for ₹ 6,00,000 after say, 1 year, then:
  - ❖ ₹ 1,00,000 [i.e., ₹ 6,00,000 (-) 5,00,000] would be chargeable as short-term capital gain of that year in which the new house is sold.

Note — In case the new residential house is sold after 2 years, the capital gains would be long-term capital gains and indexation benefit would be available.

❖ ₹ 7,381, being the capital gains exempt earlier, would be taxable as long-term capital gains of the year in which the new house is sold.

Qn. 24 Gama Ltd, located within the corporation limits decided in December, 2021 to shift its industrial undertaking to non-urban area. The company sold some of the assets and acquired new assets in the process of shifting. The relevant details are as follows:

	Particulars	Land	Building	Plant & Machinery	Furniture
		(₹ in lakhs)			
(i)	Sale proceeds (sale effected in March, 2022)	8	18	16	3
(ii)	Indexed cost of acquisition	4	10	12	2
(iii)	WDV in terms of sec 50	-	4	5	2
(iv)	Cost of new assets purchased in July, 2022 for the purpose of business in the new place	4	7	17	2

Compute the capital gains of Gama Ltd for the AY 2022-23.

Ans. Sec 54G deals with deduction in respect of any capital gain that may arise from the transfer of an industrial undertaking situated in an urban area in the course of or in consequence of shifting to a non-urban area.

If the assessee purchases new machinery or plant or acquires a building or land or constructs a new building or shifts the original asset and transfers the establishment to the new area, within 1 year before or 3 years after the date on which the transfer takes place, then, instead of the capital gain being charged to tax, it shall be dealt with as under:

1. If the capital gain is greater than the cost of the new asset, the difference between the capital gain and the cost of the new asset shall be chargeable as income 'u/s 45'.
2. If the capital gain is equal to or less than the cost of the new asset, sec 45 is not to be applied.

The capital assets referred to in sec 54G are machinery or plant or land or building or any rights in building or land. Capital gain arising on transfer of furniture does not qualify for exemption u/s 54G. No exemption is therefore available u/s 54G in respect of ₹ 2 lakhs invested in acquiring furniture.
The first step therefore is to determine the capital gain arising out of the transfer and thereafter apply the provisions of sec 54G.

	Particulars	₹
(a)	Land – Sale proceeds (Non-depreciable asset)	8,00,000
	Less: Indexed cost of acquisition	(4,00,000)
	Long term capital gain	4,00,000
	Less: Cost of new assets purchased within three year after the date of transfer (u/s 54G) (Note)	(3,00,000)
	Taxable Long term capital gain	**1,00,000**
(b)	Building – sale proceeds (depreciable assets)	18,00,000
	Less: W.D.V. is deemed as cost of acquisition u/s 50	(4,00,000)
	Short term capital gain	**14,00,000**

(c)	Plant & machinery- sale proceeds (depreciable asset)	16,00,000
	Less: WDV is deemed cost u/s 50	(5,00,000)
	Short term capital gain	**11,00,000**
(d)	Furniture - sale proceeds (depreciable asset)	3,00,000
	Less: WDV is deemed cost u/s 50	(2,00,000)
	Short term capital gain (A)	**1,00,000**

Summary	**₹**
Short term capital gain: Building	14,00,000
Short term capital gain: Plant & machinery	11,00,000
	25,00,000
Less: Sec 54G [New assets purchased] (See Note below)	(25,00,000)
Net short term capital gain (B)	**-**
Total short term capital gain (A)+(B) = ₹ 1 lac	

Note – Total exemption available u/s 54G is ₹ 28 lakhs (₹ 4 lakhs + ₹ 7 lakhs + ₹ 17 lakhs). The exemption should first be exhausted against short term capital gain as the incidence of tax in case of short-term capital gain is more than in case of long term capital gain. Therefore, ₹ 25 lakhs is exhausted against short term capital gain and the balance of ₹ 3 lakhs against long term capital gain. The taxable capital gains would be:

Long term capital gains	₹ 1,00,000 (taxable @20% u/s 112)
Short term capital gains (furniture)	₹ 1,00,000 (taxable @30%/25%, as the case may be)
	₹ 2,00,000

Qn. 25 Mr. Akash sold his residential property on 2nd February, 2022 for ₹ 90 lakh and paid brokerage @ 1% of sale price. He had purchased the said property in May 2002 for ₹ 24,36,000. In June, 2022, he invested ₹ 75 lakh in equity of A(P) Ltd., an eligible start-up company, which constituted 27% of share capital of the said company. A(P) Ltd. utilized the said sum for the following purposes:

(a) Purchase of new plant and machinery during July 2022 – ₹ 65 lakh

(b) Included in (a) above is ₹ 8 lakh for purchase of cars.

(c) Air-conditioners purchased for ₹ 1 lakh, included in the (a) above, were installed at the residence of Mr. Akash.

(d) Amount deposited in specified bank on 28.9.2022 – ₹ 10 lakh

Compute the chargeable capital gain for the AY 2022-23. Assume that Mr. Akash is liable to file his return of income on or before 31st October 2022 and he files his return on 29.09.2022.

[Cost Inflation Index: 2002-03: 105, 2021-22: 317]

Ans. <u>Computation of taxable capital gains for AY 2022-23</u>

Particulars	**₹**
Gross consideration	90,00,000
Less: Expenses on transfer (1% of the gross consideration)	(90,000)
Net consideration	89,10,000
Less: Indexed cost of acquisition (₹ 24,36,000 × 317/105)	(73,54,400)
	15,55,600
Less: Exemption u/s 54GB (₹ 19,26,800 × ₹ 66,00,000/ ₹ 89,10,000)	(11,52,296)

Taxable capital gains	**4,03,304**

Deemed cost of new plant and machinery for exemption u/s 54GB

Particulars	₹	₹
Purchase cost of new plant and machinery acquired in July, 2022		65,00,000
Less: Cost of vehicles, i.e., cars	8,00,000	
Cost of air-conditioners installed at the residence of Mr. Akash	1,00,000	(9,00,000)
		56,00,000
Amount deposited in the specified bank before the due date of filing of return		10,00,000
Deemed cost of new plant and machinery for exemption u/s 54GB		**66,00,000**

Special Rates of tax for Capital Gains

Qn. 26 Calculate the income-tax liability for the AY 2022-23 in the following cases:

	Mr. Arun (age 52)	**Mrs. Binu (age 67)**	**Mr. Charan (age 83)**	**Mr. Dharam (age 82)**
Status	Resident	Non-resident	Resident	Non-resident
Total income other than long-term capital gain	2,40,000	2,80,000	5,90,000	4,80,000
Long-term capital gain	15,000 from sale of vacant site	10,000 from sale of listed equity shares (STT paid on sale and purchase of shares)	60,000 from sale of agricultural land in rural area	Nil

Ans. Computation of income-tax liability for the AY 2021-22

Particulars	**Mr. Arun (age 52)**	**Mrs. Binu (age 67)**	**Mr. Charan (age 83)**	**Mr. Dharam (age 82)**
Residential Status	Resident	Non-resident	Resident	Non-resident
Applicable basic exemption limit	₹ 2,50,000	₹ 2,50,000	₹ 5,00,000	₹ 2,50,000
Asset sold	Vacant site	Listed equity shares (STT paid on both sale and purchase of shares)	Rural agricultural land	-
Long-term capital gain (on sale of above asset)	₹ 15,000 [Taxable @ 20% u/s 112]	₹ 10,000 [Exempt u/s 112A since it is less than ₹ 1,00,000]	₹ 60,000 (Exempt – not a capital asset)	-
Other income	₹ 2,40,000	₹ 2,80,000	₹ 5,90,000	₹ 4,80,000
Tax liability				
On LTCG (after adjusting unexhausted basic limit of ₹ 10,000) i.e., 20% x ₹ 5,000	₹ 1,000	-	-	-

On Other income	-	₹ 1,500	₹ 18,000	₹ 11,500
	₹ 1,000	₹ 1,500	₹ 18,000	₹ 11,500
Less: Rebate u/s 87A	₹ (1,000)	-	-	-
	-	₹ 1,500	₹ 18,000	₹ 11,500
Add: Health and education cess @ 4%	-	₹ 60	₹ 720	₹ 460
Total tax liability	-	**₹ 1,560**	**₹ 18,720**	**₹ 11,960**

Notes:

1. Since Mrs. Binu and Mr. Dharam are non-residents, they cannot avail the higher basic exemption limit of ₹ 3,00,000 and ₹ 5,00,000 for persons over the age of 60 years and 80 years, respectively.
2. Since Mr. Arun is a resident whose total income does not exceed ₹ 5 lakhs, he is eligible for rebate of ₹ 12,500 or the actual tax payable, whichever is lower, u/s 87A
3. Mr. Charan would not opt for sec 115BAC since he would not get benefit of higher basic exemption limit of ₹ 5 lakhs and his tax liability would be ₹ 22,360, which is higher than the tax liability of ₹ 18,720 under the regular provisions of the Act.
4. There would be no difference in the case of tax liability of Mrs. Binu and Mr. Dharam if they opt for sec 115BAC.

Qn. 27 Determine the capital gains/loss on transfer of listed equity shares (STT paid both at the time of acquisition and transfer of shares) and units of equity oriented mutual fund (STT paid at the time of transfer of units) for the AY 2022-23 and tax, if any, payable thereon, in the following cases, assuming that these are the only transactions covered u/s 112A during the PY 2021-22 in respect of these assessees:

(i) Mr. Prasun purchased 300 shares in A Ltd. on 20.5.2017 at a cost of ₹ 400 per share. He sold all the shares of A Ltd. on 31.5.2021 for ₹ 1200. The price at which these shares were traded in National Stock Exchange on 31.1.2018 is as follows –

Particulars	Amount in ₹
Highest Trading Price	700
Average Trading Price	680
Lowest Trading Price	660

(ii) Mr. Raj purchased 200 units each of equity oriented funds, Fund A and Fund B on 1.2.2017 at a cost of ₹ 550 per unit. The units were not listed at the time of purchase. Subsequently, units of Fund A were listed on 1.1.2018 and units of Fund B were listed on 1.2.2018 on the National Stock Exchange. Mr. Raj sold all the units on 3.4.2021 for ₹ 900 each. The details relating to quoted price on National Stock Exchange and net asset value of the units are given hereunder:

Particulars	**Fund A**	**Fund B**
	Amount in ₹	**Amount in ₹**
Highest Trading Price	750 (on 31.1.2018)	800 (on 1.2.2018)
Average Trading Price	700 (on 31.1.2018)	750 (on 1.2.2018)
Lowest Trading Price	650 (on 31.1.2018)	700 (on 1.2.2018)
Net Asset Value on 31.1.2018	800	950

[RTP – May 20]

Ans. (i) For the purpose of computation of long-term capital gains chargeable to tax u/s 112A, the cost of acquisition in relation to the long-term capital asset, being an equity share in a company or a unit of an equity oriented fund or a unit of a business trust acquired before 1st February, 2018 shall be the higher of

(i) cost of acquisition of such asset, i.e., actual cost; and

(ii) lower of:

(a) the fair market value of such asset as on 31.1.2018; and

(b) the FVOC received or accruing as a result of the transfer of the capital asset.

The fair market value of listed equity shares as on 31.1.2018 is the highest price quoted on the recognized stock exchange as on that date.

Accordingly, long-term capital gain on transfer of STT paid listed equity shares by Mr. Prasun would be determined as follows:

The FMV of shares of A Ltd. would be ₹ 700, being the highest price quoted on National Stock Exchange on 31.1.2018. The cost of acquisition of each equity share in A Ltd. would be ₹ 700, being higher of actual cost i.e., ₹ 400 and ₹ 700 [being the lower of FMV of ₹ 700 as on 31.1.2018 (i.e., the highest trading price) and actual sale consideration of ₹ 1,200]. Thus, the long-term capital gain would be ₹ 1,50,000 i.e., (₹ 1,200 – ₹ 700) x 300 shares. The long-term capital gain of ₹ 50,000 (i.e., the amount in excess of ₹ 1,00,000) would be subject to tax @ 10% u/s 112A, without benefit of indexation. The tax on capital gain @ 10.4% would be ₹ 5,200 (₹ 50,000 x 10.4%)

(ii) In the case of units listed on recognised stock exchange on the date of transfer, the FMV as on 31.1.2018 would be the highest trading price on recognised stock exchange as on 31.1.2018 (if shares are listed on that date), else, it would be the net asset value as on 31.1.2018 (where shares are unlisted on that date).

Accordingly, the FMV of units of Fund A as on 31.1.2018 would be ₹ 750 (being the highest trading price on 31.1.2018, since the units of Fund A are listed on that date) and the FMV of units of Fund B as on 31.1.2018 would be ₹ 950 (being the net asset value as on 31.1.2018, since the units of Fund B are unlisted on that date).

The cost of acquisition of a unit of Fund A would be ₹ 750, being higher of actual cost i.e., ₹ 550 and ₹ 750 (being the lower of FMV of ₹ 750 as on 31.1.2018 and actual sale consideration of ₹ 900). Thus, the long-term capital gains on sale of units of Fund A would be ₹ 30,000 (₹ 900 – ₹ 750) x 200 units.

The cost of acquisition of a unit of Fund B would be ₹ 900, being higher of actual cost i.e., ₹ 550 and ₹ 900 (being the lower of FMV of ₹ 950 as on 31.1.2018 (net asset value) and actual sale consideration of ₹ 900). Thus, the long-term capital gains on sale of units of Fund B would be Nil (₹ 900 – ₹ 900) x 200 units.

Since the long-term capital gains on sale of units is ₹ 30,000, which is less than ₹ 1,00,000, the said sum is not chargeable to tax u/s 112A

Comprehensive Questions

Qn. 28 Hari has acquired a residential house property in Delhi on 15th April, 2002 for ₹ 9,00,000 and decided to sell the same on 3rd May, 2005 to Ms. Pari and an advance of ₹ 25,000 was taken from her. The balance money was not paid by Ms. Pari and Hari has forfeited the entire advance sum. On 3rd June, 2021, he has sold this house to Mr. Suri for ₹ 40,00,000. On 4th April, 2021, he had purchased a residential house in Delhi for ₹ 8,00,000, where he was staying with his family on rent for the last 5

years and paid the full amount as per the purchase agreement. However, Hari does not possess any legal title till 31st March, 2022, as such transfer was not registered with the registration authority.
Hari has purchased another old house in Chennai on 14th October, 2021 from Mr. X, an Indian resident, by paying ₹ 5,00,000 and the purchase was registered with the appropriate authority.
Determine the taxable capital gain arising from above transactions in the hands of Hari for AY 2022-23.
[Cost inflation Index - 2002-03: 105; 2005-06: 117; 2021-22: 317]

Ans. Computation of taxable capital gain of Mr. Hari for the AY 2022-23

Particulars	₹
Sale proceeds	40,00,000
Less: Indexed cost of acquisition (Note 1)	(26,41,667)
Long Term Capital Gain	13,58,333
Less: Exemption u/s 54 in respect of investment in house at Delhi (Note 2)	(8,00,000)
Exemption u/s 54 in respect of investment in house at Chennai (Note 3)	(5,00,000)
Taxable long-term capital gain	**58,333**

Notes:

1. Computation of indexed cost of acquisition

Particulars	₹
Cost of acquisition	9,00,000
Less: Advance taken and forfeited	(25,000)
Cost for the purpose of Indexation	8,75,000
Indexed cost of acquisition (₹ 8,75,000 x 317/105)	26,41,667

Note: Advance received and forfeited on or after 01.04.2014 is taxable u/s 56(2)(ix). Such amount would not be reduced to compute indexed cost of acquisition while determining capital gains on sale of such property.

However, in this case, since the advance was received and forfeited in the year 2005, such advance has to be reduced for calculating indexed cost of acquisition for the purpose of arriving at capital gains.

2. In order to avail exemption of capital gains u/s 54, residential house should be purchased within 1 year before or 2 years after the date of transfer or constructed within a period of 3 years after the date of transfer. In this case, Hari has purchased the residential house in Delhi within one year before the date of transfer and paid the full amount as per the purchase agreement, though he does not possess any legal title till 31.3.2021 since the transfer was not registered with the registration authority. However, for the purpose of claiming exemption u/s 54, holding of legal title is not necessary. If the taxpayer pays the full consideration in terms of the purchase agreement within the stipulated period, the exemption u/s 54 would be available. It was so held in *Balraj v. CIT(2002) 254 ITR 22 (Del.)* & *CIT v. Shahzada Begum (1988) 173 ITR 397 (A.P.).*

3. As per sec 54, since the amount of capital gain does not exceeds ₹ 2 crore, Mr. Hari can claim exemption thereunder in respect of investment made in two residential houses situated in India. However, if Mr. Hari exercises the option to claim exemption in respect of two residential houses in Delhi and Chennai in PY 2021-22, he shall not be subsequently entitled to exercise the option for the same or any other AY.