**INCOME UNDER THE HEAD CAPITAL GAIN**

Assessable under section 45 of income tax act 1962

**GAIN CAPITAL**

Any gain or profit arising from transfer of a capital asset effected in the previous year should be chargeable to income tax under this head i.e…..Capital Gain

**BASIS OF CHARGE**

* Capital asset –Assesse should have capital asset
* Transfer of capital asset - capital asset held by the assesse should have been transferred
* Transfer during year - capital asset should have been transferred during the financial year
* Profits or gain on transfer - the assets transfer should have resulted in gain or profit
* Exemption under specified sections - such capital gain arising not exempted under section 54,54b,54d,54ec,54f and 54ga

**MEANING OF CAPITAL ASSET**

Capital asset is defined to include property of any kind ,whether fixed or circulating ,movable or immovable ,tangible or intangible except a few specified items ,all other properties and capital asset

**Section [14] defined capital asset include the following**

* Any rights [or] in relation to an indian company ,including rights of management or control or any other rights
* Property of any kind
* Security held by a foreign institutional investors invested in accordance with rules of SEBI act

**EXEMPTED ASSET**

* Stock in trade held for business or profession
* Assets held for personal user
* Rural agricultural land
* Goal deposit bond

**NEW CAPITAL ASSETS ASSESSED**

Jewellery, archeological collections Drawings, Painting, Sculptures or any work of art will not be taken as personal effects, consequently on transfer of these assets, capital gain will be chargeable to tax.

**EXEMPTED CAPITAL GAIN**

Compulsory acquisition of urban agricultural land –if the land is owned by in individual or Hindu undivided family is acquired by the government ,the gain arising from such acquisition is exempt from tax

**KINDS OF CAPITAL ASSET**

Capital asset classified as follows

* Short –term capital asset
* Long-term capital asset

Tax on gains is depends upon whether the gain is short – term or long term Short –term capital gains are taxable at higher rate and long – term capital gain are taxable lower rate

For this purpose asset again classified into types

* Financial assets
* Non- financial assets

**FINANCIAL ASSET**

Assets arising from financing activities such as shares debentures and bonds

**NON-FINANCIAL ASSET**

Non- financial assets are those assets which are movable or immovable circulation assets and comes under the category

Example ; Land,Building,Goodwill

**SHORT-TERM CAPITAL GAIN**

**Financial Assets**

The assesse held and sold a Financial asset within 12 months is called short –term capital assets, the gain arising from such sales is called short-term capital gain

**Non Financial Assets**

A non-financial assets held by an assesse for not more than 36 months immediately preceding the date of transfer is a short-term capital asset i,e the assesse held and sold a non-financial asset with 36 months. Gain arising from such transfer is called short –term capital gain

**LONG-TERM CAPITAL GAIN**

**Financial Assets**

The assesse held a financial assets more than 12 months and sold it. That asset can be considered as long-term financial asset. Gain arising from such sale is called long-term capital gain

**Non-Financial Asset**

The assesse held and sold a non-financial asset for more than 36 months ,can be treated as long-term financial asset. Gain arising from such sales is called long-term capital gain.

**PROCEDURE FOR COMPUTING CAPITAL GAINS**

Procedure [or] method of computing capital gain depends upon the type of capital asset transferred viz., short-term capital asset or long capital asset they any as follows.

**Computation of Short-Term Capital Gain**

**Particulars Rs. Rs.**

Full sale consideration XXX

**Less:** expenses incidental to transfer XXX

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Net sale consideration XXX

**Less:** cost of acquisition XXX

Cost of improvement XXX XXX

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Short- term capital Gain XXX

**Less:** exemptions under sections 54B,54D , 54G and 54GA XXX

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**Net short term capital gain XXX**

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**Computation of Long-Term Capital Gain**

**Particulars Rs. Rs.**

Full sale consideration XXX

**Less:** Expenses incidental to transfer XXX

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Net sale consideration XXX

**Less:** Indexed cost of acquisition XXX

Indexed Cost of improvement XXX XXX

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Long - term capital Gain XXX

**Less:** exemptions under sections

54,54B, 54D,54EC,54EE,54F,54G ,54GA and 54GB XXX

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**Net long- term capital gain**  XXX

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**Meaning of full sale consideration**

The world ‘full’ has been used in this section in contrast to a part of the price. The expression full value means whole price without any deduction whatsoever and it does not refer to adequacy or inadequacy of price bargained for it also does not refer to market value of the asset being transferred.

Consideration for the asset transferred refers to the amount received by the transferor in lieu-of the asset he gives up.

**Expenses on transfer**

Incurred wholly and exclusively in connection with transfer of capital asset is deductible from full value of consideration. Examples are

* Expenses for security purchases
* Expenses in connection with registration
* Travelling expenses
* Litigation expenses for claiming enhanced compensation.

**Cost of acquisition**

Cost of acquisition of an asset is the amount paid by the assesse to acquire it. All capital

Expenses paid for acquiring the title to the property are termed as the cost of acquisition.

**Cost of the previous owner**

The cost of the previous owner is deemed to be the cost of acquisition to the assesse in cases where capital asset became the property of assesse under any of the following modes of transfer described under section 49 (1)

1. Assets distributed by Hindu undivided family
2. Acquisition of assets under will or as gift
3. Acquisition of property

* By succession, inheritance or devolution or
* Distribution of assets on the dissolution of Firm, Body of individuals, association of persons where dissolution had taken place at any time before the 1st day of April 1987 or
* Distribution of assets on dissolution of company or
* Under transfer to a revocable or irrevocable trust or
* Transfer by wholly owned indian subsidiary company to its holding company or
* On any scheme of amalgamation

1. Acquisition of property by Hindu undivided family.

**Cost of improvement**

Cost of improvement includes all expenditure of capital nature incurred in making any addition / alteration to the capital asset by the assesse or the previous owner specified in section 49(1)

Cost of improvement includes any expenditure incurred to protect or complete the title to the capital assets or to cure such title.

In other words any expenditure incurred to increase the value of capital asset is treated as cost of improvement.

**Indexed cost of acquisition : section 48**

Indexed cost of acquisition means the amount which bears to the cost of acquisition the same proportion as cost inflation index for the year in which the asset is transferred bears to the cost of inflation index for the first year in which the asset was held by the assesse or for the beginning on the 1st day of April 2001 whichever is later.

**Indexed cost of improvement**

Indexed cost of improvement means an amount which bears to the cost of improvement the same proportion as cost inflation index for the year in which the asset is transferred bears to the cost inflation index for the year in which the improvement to the asset took place.

**Cost inflation index**

Cost inflation index in relation to a previous year means such index as the central government having regard to 75 % of average rise in the consumer price index for the immediately preceding previous year to such previous year (notified by central government)

**EXEMPTED CAPITAL GAIN` :**

* **Income from compulsory acquisition of urban agricultural land**

Capital gain on compulsory acquisition of self cultivate urban agriculture land is

exempted

* **sale of residential house property -section 54**

Capital gain arising from the sale transfer of long term residential house is exempted if it is invest as under

1. purchase of another house within one year before or two years after the sale
2. Construction of another house within three years after the sale.
3. Deposit the money in a capital gain account scheme and withdraw it within three Years after sale to invest in a residential house.

* **Sale of self-cultivated urban agricultural land – sec 54B**

Short term or long term capital gain on sale of urban agricultural land is exempted if the gain is invested in purchase of another piece of agricultural land within two years of the sale.

* **Compulsory acquisition of capital asset – 54D**

Capital gain arising from compulsory acquisition of land and building by the

Government is exempted if the gain is invested in purchase of another land or building within three years of the sale.

* **Sale of any long term capital asset and investment in specified bonds – 54EC**

Investment of long term capital in bonds of national highway authority of India or rural electrification corporation of India or bonds of railway finance corporation.

* **54EE: long term capital gain to be invested in a specified asset**
* **Sale of long term capital asset and investment in a resident house- 54F**

Long term capital gain on sale of land or building or both lone term capital asset is exempted gain if invested in residential house as under

1. purchase of a house within one year before or two years after the sale
2. construction of another house within three years after the sale.
3. Deposit the money in a capital gain account scheme and withdraw it within three Years after sale to invest in a house.

* **Transfer of asset due to shifting of factory from urban to non-urban area- 54G**

Capital gain on transfer of assets due to shifting of an industrial undertaking from urban area to rural area is exempted if the gains are invested in new machinery land and building within two years after sale or one year before sale.