

## CHAPTER 7

## INCOME UNDER THE HEAD "CAPITAL GAINS"

Essential conditions for taxing income under the head capital gains :

1. There must be a capital asset.
2. The capital asset must have been transferred.
3. There must be profits or gains on such transfer, which will be known as capital gain.
4. Such capital gain should not be exempt.

Capital assets includes :

1. Property of any kind
2. Any securities held by a foreign Institutional Investor.
3. Jewellery
4. Drawings
5. Paintings
6. Sculptures
7. Any work of art
8. Archaeological collections

Capital assets doesn't include :

1. Any stock-in-trade (other than the securities referred in point no. 2 above), consumable stores or raw materials held for the purposes of an assessee's business or profession.
2. Movable property held for personal use.
3. Rural agricultural land.

## TYPES OF CAPITAL ASSETS

### Short-term capital asset

1. Asset held for not more than 36 months immediately preceding the date of its transfer.
2. Following assets held for not more than 12 months immediately preceding the date of its transfer:
  - (a) a security including shares listed in recognised stock exchange in India.
  - (b) a unit of an equity oriented fund.
  - (c) a zero coupon bond.
3. Unlisted shares of a company and an immovable property shall be treated as short-term capital asset, if they held for not more than 24 months immediately preceding the date of its transfer.

### Long-term capital asset

Asset held for more than 36 months or 12 months or 24 months, as the case may be.

## COMPUTATION OF SHORT-TERM CAPITAL GAINS

Particulars	Amount	Amount
Full value of consideration		xxx
Less: (a) Expenses incurred on transfer	xxx	
(b) cost of acquisition	xxx	
(c) cost of improvement	xxx	(xxx)
Gross short-term capital gains		xxx
Less: Exemption, if available		(xxx)
Taxable short-term capital gains		xxx

## COMPUTATION OF LONG-TERM CAPITAL GAINS

Particulars	Amount	Amount
Full value of consideration		xxx
Less: (a) Expenses incurred on transfer	xxx	
(b) Indexed cost of acquisition	xxx	
(c) Indexed cost of improvement	xxx	(xxx)
Gross long-term capital gains		xxx
Less: Exemption, if available		(xxx)
Taxable long-term capital gains		xxx

→ **Full value of consideration** : Amount received on account of capital asset transferred.

**Note** : Even if the full value of consideration is received in instalments, the entire value of consideration has to be taken into account.

**Note** : In case of exchange, the full value of consideration shall be the market value of the property granted in exchange.

→ **Expenses on transfer** : Any expenditure incurred, whether directly or indirectly, for the purpose of transfer like advertisement expenses, brokerage, stamp duty, legal expenses etc

→ **Cost of acquisition** : Price paid or the amount incurred for the purchase of asset. Expenses incurred for completing the title are part of the cost of acquisition. For example, Interest on loan taken for acquiring a capital asset (other than house property).

**Deemed cost of acquisition** : Cost to the previous owner [Section 49(1)] → In the following cases, the cost of acquisition of the asset shall be deemed to be cost for which the previous owner of the property acquired it :

- (a) on the distribution of the assets on total/partial partition of HUF
- (b) On conversion of self acquired property of a member of a HUF to the joint family property.
- (c) Under a gift or will (d) by succession, inheritance or devolution

Cost of acquisition of assets acquired before 1.4.2001  
(either directly or from previous owner)

1. Actual cost of acquisition / cost to the previous owner
2. Fair market value of asset as on 1.4.2001  
(whichever is more)

→ Cost of acquisition of goodwill of a business or a trade mark or brand name associated with business or right to manufacture, produce or process any article or things or right to carry on any business or profession, tenancy rights, stage carriage permits or loom hours :

CASE I (A): In case the asset is acquired from previous owner (if the previous owner paid for it)  
Cost of acquisition = Cost to the previous owner

(B) Where it was self generated by the previous owner  
Cost of acquisition = NIL

CASE II (A): In case the asset is purchased by the assessee.

Cost of acquisition = Amount of purchase price.

(B) where it is self generated by the assessee.  
Cost of acquisition = NIL