

Computation of Capital GAIN or Loss

INCOME TAX ACT,1961

- **Capital gain implies a gain on transfer or relinquishment or extinguishment of capital asset as defined U/s 2(14) of the Act (Sections 45 to 55)**
- **Capital gains tax** in India is the tax levied on profits earned from the sale of capital assets such as property, stocks, or mutual funds. The gain is considered income and is taxable in the year when the asset is being transferred or deemed to be transferred. Gain arising on transfer of capital asset is charged to tax under the head “**Capital Gains**”. Income from capital gains is classified as
- “**Short Term Capital Gains**” and “**Long Term Capital Gains**”
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- **Short-Term Capital Gains (STCG):** For assets held for less than 12 months in case of equity shares, units of equity-oriented mutual funds, and units of business trust. In case of other assets, the holding period is 24 months.
- **Long-Term Capital Gains (LTCG):** For assets held over 12 months in case of equity shares, units of equity-oriented mutual funds, and units of business trust. In case of other assets, the holding period is 24 months.
- **Assets where consideration of holding period is only for 12 months**
- Equity shares in a company listed on a recognized stock exchange in India
- Securities (like debentures, bonds, govt securities etc.) listed on a recognized stock exchange in India
- Units of UTI
- Units of equity oriented mutual fund

- **Capital gains** from the sale of units of a specified mutual fund acquired on or after April 1, 2023, and market-linked debentures will always be treated as short-term capital gains U/s [50AA](#), where the period of holding is absolutely immaterial.

- **Meaning of Capital Asset**

- **Capital asset** is defined to include:
 - a) Property of any kind, held by an assessee, whether or not connected with his business or profession;
 - b) Any securities held by a FII which has invested in such securities in accordance with the SEBI Regulations;
 - c) Any securities held by a Category I or Category II AIF which has invested in such securities in accordance with the SEBI or IFSC Regulations;
 - d) Any unit linked insurance policy to which exemption under Section 10(10D) does not apply. However, the following items are excluded from the definition of “capital asset”:
 - (i) any stock-in-trade (other than securities referred to in (b) above), consumable stores or raw materials held for the purposes of his business or profession ;
 - (ii) personal effects, that is, movable property (including wearing apparel and furniture) held for personal use by the taxpayer or any member of his family dependent on him, but excludes—

- (a) jewellery;
- (b) archaeological collections;
- (c) drawings;
- (d) paintings;
- (e) sculptures; or
- (f) any work of art.
- **Jewellery" includes**— a. ornaments made of gold, silver, platinum or any other precious metal or any alloy containing one or more of such precious metals, whether or not containing any precious or semi-precious stones, and 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;
- (iii) Agricultural Land in India, not being a land situated:
 - a. Within jurisdiction of municipality, notified area committee, town area committee, cantonment board and which has a population of not less than 10,000;

- b. Within range of following distance measured aerially from the local limits of any municipality or cantonment board: i. not being more than 2 KMs, if population of such area is more than 10,000 but not exceeding 1 lakh; ii. not being more than 6 KMs , if population of such area is more than 1 lakh but not exceeding 10 lakhs; or iii. not being more than 8 KMs , if population of such area is more than 10 lakhs. Population is to be considered according to the figures of last preceding census of which relevant figures have been published before the first day of the year.
- (iv) 6 1/2 per cent Gold Bonds, 1977 or 7 per cent Gold Bonds, 1980 or National Defence Gold Bonds, 1980 issued by the Central Government;
- (v) Special Bearer Bonds, 1991;
- (vi) Gold Deposit Bonds issued under the Gold Deposit Scheme, 1999 or deposit certificates issued under the Gold Monetisation Scheme, 2016.
- The property being capital asset may or may not be connected with the business or profession of the taxpayer. E.g. Bus used to carry passenger by a person engaged in the business of passenger transport will be his capital asset. Any securities held by a Foreign Institutional Investor which has invested in such securities in accordance with the regulations made under the Securities and Exchange Board of India Act, 1992 will always be treated as capital asset, hence, such securities cannot be treated as stock-in-trade.

- In case an asset is acquired by gift, will, succession or inheritance, the period for which the asset was held by the previous owner is also included in determining whether it's a short term or a long-term capital asset.
- In the case of bonus shares or rights shares, the period of holding starts from the date of allotment of bonus shares or rights shares respectively.

Funds	Acquired on or before 1 April 2023		Acquired after 1 April 2023	
	Short-Term Capital Asset	Long-Term Capital Asset	Short-Term Capital Asset	Long-Term Capital Asset
Debt Funds	At tax slab rates of the individual	20% with indexation	At tax slab rates of the individual**	At tax slab rates of the individual**
Equity Funds	<p>15%</p> <p>10% tax without indexation with an exemption limit of Rs.1,25,000 - is applicable when transfer happens on or before 23/07/2024. The Tax of Rs. 12.5% without indexation is applicable for transfers happened after 23/07/2024.</p>	10% over and above Rs 1.25 lakh without indexation*	15%	10% over and above Rs 1.25 lakh without indexation*

- **: Irrespective of the holding period, with effect from 01/04/2023, the capital gains on sale of Debt Mutual Funds, market linked debentures and Unlisted Bonds or Debentures are always considered **short-term**. They are taxed at normal slab rates.

- Notes: 1) The period of holding shall be considered as 36 months instead of 24 months in case transfer of capital asset takes place before 23-07-2024.
- 2) For capital assets being unlisted shares of a company or immovable property such as land or buildings, the holding period shall be 24 months to determine whether the asset is classified as short-term or long-term, regardless of whether the transfer occurs before or after 23-07-2024.
- In this case, the capital gain will be computed only as per the amended provisions introduced by the Finance (No.2) Act, 2024. Although the capital asset being sold is a piece of land which was acquired before July 23, 2024, grandfathering provisions are not be applicable as same are applicable only to a resident individuals or HUF.
- **Illustration:**
- Mr. L Kumar, resident in India, purchased a piece of land in **October, 2006** for Rs. **60,200** and sold the same, in December, 2024 for **Rs. 3,00,000**. What will be the tax liability?
- Since the capital asset, being a land, is sold after 23-07-2024, the amended provisions by the Finance (No.2) Act, 2024 will be applicable to Mr. L. Kumar.
- Accordingly, indexation benefit will not be available to Mr. L. Kumar on such capital asset and tax at the rate of 12.5% will be applicable on the computed capital gains.
- The computation of the long term capital gains will be as follows.

• Full value of consideration		3,00,000
• Less: Cost of acquisition		60,200
• Less: Cost of improvement		Nil
• Long term capital gain		2,39,800
• Tax @ 12.5% on Rs.2,39,800 is		29,975
• Add: Health & education cess @ 4%		1,199
• Net tax payable		31,174
• Alternative option		
• Full value of consideration		3,00,000
• Less: Indexed Cost	$60,200/122 \times 376$	1,85,534
• Long term capital gain		1,14,466
• LTCG tax	@ 20%	22,893

- **1 Basis of Charge**
- **2 Important rules regarding assessment of CG**
- **3 Computation of Capital Gain or Loss**
- **4 Deductions expressly allowed**
- **5 Exemptions expressly allowed**

- **Transaction as considered as business transactions depends upon**
 - 1. Nature of the transaction (Whether incidental to a transfer or not)
 - 2. Objects of the transaction
 - 3. Nature of transaction
 - 4. Consideration of Market Value
 - 5. Duration of transaction on costs thereon for that particular transaction
 - 6. Efforts applied in transaction.

• Sl. No. Financial Year Cost Inflation Index

(1)	(2)	(3)
• 1	2001-02	100
• 2	2002-03	105
• 3	2003-04	109
• 4	2004-05	113
• 5	2005-06	117
• 6	2006-07	122
• 7	2007-08	129
• 8	2008-09	137
• 9	2009-10	148
• 10	2010-11	167
• 11	2011-12	184
• 12	2012-13	200

Sl. No. Financial Year Cost Inflation Index

(1)	(2)	(3)
13	2013-14	220
14	2014-15	240
15	2015-16	254
16	2016-17	264
17	2017-18	272
18	2018-19	280
19	2019-20	289
20	2020-21	301
21	2021-22	317
22	2022-23	331
23	2023-24	348
24	2024-25	363
25	2025-26	376

Tax Type	Condition	Applicable Tax
Long-Term Capital Gains Tax (LTCG)	Sale of: - Listed Equity shares (If STT has been paid on purchase and sale of such shares) - units of equity oriented mutual fund (If STT has been paid on sale of such units)	12.5% over and above Rs 1.25 lakh
Land or Building or Both		Two options are available to individual and HUF taxpayers: <ul style="list-style-type: none"> • 12.5% without indexation • 20% with indexation Other persons: <ul style="list-style-type: none"> • 12.5 % without indexation
Short-Term Capital Gains Tax (STCG)	When Securities Transaction Tax (STT) is not applicable	Normal slab rates
	When STT is applicable	20%.

- **Exemptions**

- The exemptions are provided under sections 54 to 54F of the Act.
- **Section 54: Exemption on Sale of House Property on Purchase of Another House Property**
- Taxpayers can get an exemption from long-term capital gain from the sale of house property by investing in up to two house properties under [section 54](#).
- If they invest in two house properties, the capital gain on the sale of house property must not exceed Rs 2 crores.
- Unlike the previous point, the sale value is not limited to Rs. 2 crores if the capital gains are invested in only one house property.
- The Long Term Capital Gain can be reinvested into **buying or constructing** two other house properties.
- The exemption on two house properties will be allowed once in the lifetime of a taxpayer, provided the capital gains do not exceed Rs. 2 crores.
- The taxpayer has to **invest the amount of capital gains and not the entire sale proceeds**. If the purchase price of the new property is higher than the amount of capital gains, the exemption shall be limited to the total capital gain on sale.

- **Conditions**

- 1. The new property can be purchased either 1 year before of the sale or 2 years after the sale of the property
- 2. The gains can also be invested in the construction of a property, but construction must be completed within 3 years from the date of sale.
- 3. Please note that this exemption can be taken back if this new property is sold within 3 years of its purchase/completion of construction.
- 4. The capital gains tax exemption limit under Section 54 and 54F is restricted to Rs.10 crore. Earlier, there was no threshold.

- **Exemptions of Capital Gain exceeding Rs.2 crore**
- If the amount of capital gain exceeds Rs. 2 Crore then **One residential house property** should be purchased within 1 year before the date of sale of house property or 2 years after the date of sale of house property; **(OR)** Construct a house property within 3 years after the date of sale of house property.

- **Section 54F: Exemption on Capital Gains on Sale of any Asset other than a House Property**
- must invest the entire sale consideration and not only capital gain to buy a new residential house property to claim this exemption.
- Purchase the new property either 1 year before the sale or 2 years after the sale of the property.
- Usage of the sale consideration to invest in the construction of a property. However, the construction must be completed within 3 years from the date of sale.

- Only 1 house property can be purchased or constructed from the sale consideration to claim this exemption.
- This exemption can be taken back, if this new property is sold within 3 years of its purchase. If the entire sale proceeds are invested towards the new house, the entire capital gain will be exempt from taxes if you meet the above-said conditions.
- For partial Investment from Sale Proceeds:
- **LTCG exemption = Capital gains x Cost of new house / Net consideration**

- **Section 54EC: Exemption on Sale of House Property on Reinvesting in Specific Bonds**
- If the assessee are not keen to reinvest the profit from the sale of the first property into another one, then the assessee can invest them in bonds for up to **Rs. 50 lakhs** issued by National Highway Authority of India (NHAI), Rural Electrification Corporation (REC), Power Finance Corporation (PFC) or Indian Railway Finance Corporation (IRFC).
- The money invested can be redeemed after 5 years, but they cannot be sold before the lapse **of 5 years** from the date of sale.
- The owner has six month's time to invest the profit in these bonds. But to be able to claim this exemption, you will have to invest before the tax filing deadline.
- Investments under this section can also be made in addition to investments in other sections of 54 series.

- **Section 54B: Exemption on Capital Gains From Transfer of Land Used for Agricultural Purpose**

- When the assessee make short-term or long-term capital gains from transfer of land situated in urban area used for agricultural purposes – by an individual or the individual's parents or [Hindu Undivided Family](#) (HUF) – for 2 years before the sale, exemption is available under Section 54B.
- The exempted amount is the investment in a new asset or capital gain, whichever is lower. You must reinvest into a new agricultural land (in urban or rural area) within 2 years from the date of transfer.
- The new agricultural land, which is purchased to claim capital gains exemption, should not be sold within a period of 3 years from the date of its purchase.

- In case the assessee are not able to purchase agricultural land before the date of furnishing of your income tax return, the amount of capital gains must be deposited before the date of filing of return in the deposit account in any branch (except rural branch) of a public sector bank or IDBI Bank according to the Capital Gains Account Scheme, 1988.
- Exemption can be claimed for the amount which is deposited. If the amount which was deposited as per Capital Gains Account Scheme was not used for the purchase of agricultural land, it shall be treated as capital gains of the year in which the period of 2 years from the date of sale of land expires.
- If you wish to know more about investment choices with good capital gains potential, please invest with [Clear Tax](#) Invest. Our handpicked plans can help you build a portfolio that is best suited to your financial goals and risk profile.

- **Section 54D: Capital Gains on Transfer of Land and Building which is used for Industrial Undertaking**
- There must be compulsory purchase of land and building which is used for an industrial undertaking.
- The land and building should have been used by the assessee for purposes of the business of the industrial undertaking in the 2 years before the date of transfer.
- The assessee must purchase any other land or building or construct any building (for shifting or re-establishing the existing undertaking or setting up a new industrial undertaking) within 3 years from the date of transfer.
- **If such investment is not made before the date of filing of return of income, then the capital gain has to be deposited under the CGAS.**

- **Amount of Exemption**

- If the cost of a new asset is more than or equal to the sale consideration, then the entire capital gain will be exempted.
- If the cost of a new asset is lesser than Capital gains, capital gains to the extent of the cost of a new asset is exempt. i.e. the cost of a new asset will be exempted.

- **Capital Gain Account Scheme**

- Finding a suitable seller, arranging the requisite funds and getting the paperwork in place for a new property is one time-consuming process. Fortunately, the Income Tax Department agrees with these limitations.

- If capital gains have not been invested until the due date of filing of return (15th September for FY 2024-25) of the financial year in which the property is sold, the gains can be deposited in a PSU bank or other banks as per the [Capital Gains Account Scheme](#), 1988.
- This deposit can then be claimed as an exemption from capital gains, and no tax has to be paid on it.
- However, if the money is not invested, the deposit shall be treated as a Short-Term Capital Gain in the year in which the specified period lapses.
- **Transaction on or before 23.07.2024**
- If the transfer happened on or before 23/07/2024, tax at @ 10% will be levied only on LTCG on shares/units of equity oriented fund exceeding Rs 1.25 lakh in one financial year without the benefit of indexation.
- If the transfer happened after 23/07/2024, tax rate is 12.5%. Exemption of Rs. 1.25 Lakh available.

- Agricultural land in a rural area in India is not considered a capital asset and therefore any gains from its sale are not chargeable to tax. For details on what defines an agricultural land in a rural area, see above.
- b. Do you hold agricultural land as stock-in-trade? If you are into buying and selling land regularly or in the course of your business, in such a case, any gains from its sale are taxable under the head Business and Profession.
- c. Capital gains on compensation received for compulsory acquisition of urban agricultural land are tax exempt under Section 10(37) of the Income Tax Act.
- If your agricultural land wasn't sold in any of the above cases, you can seek exemption under [Section 54B](#).
- In Clear Tax, you can import all the capital gain transactions directly from the broker, and file ITR in a hassle-free manner.
- **What is Capital Gains Tax In India: Types, Tax Rates, Calculation, Exemptions & Tax Saving**
- Most of the valuable assets you hold could be classified as capital assets, sale of which attract capital gains tax. They are classified as short-term or long-term based on the holding period, and taxed differently. [Long-Term Capital Gains](#) tax rate is 12.5% and [Short-Term Capital Gains](#) tax rate is 20% or at slab rates as updated in [Budget 2024](#).

QA Sessions