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## **67. CAPITAL GAINS.**

### **67(1): Chargeability of capital gains on transfer of capital assets**

**Any profits or gains arising from the transfer of a capital asset effected in a tax year shall, save as otherwise provided in sections 82, 83, 84, 85, 86, 87, 88 and 89, be chargeable to**

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**income-tax under the head “Capital gains” and shall be deemed to be the income of the tax year in which the transfer took place.**

**67(2): Capital gains on insurance receipts for damaged or destroyed capital assets**

**Irrespective of anything contained in sub-section (1), if a person receives during any tax year any money or other assets under an insurance from an insurer on account of damage to, or destruction of, any capital asset, as a result of circumstances mentioned in sub-section (3), then,—**

**(a) any profits or gains arising from 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 tax year in which such money or other asset was received; and**

**(b) for the purposes of section 72, the value of any money or the fair market value of other assets on the date of such receipt shall be deemed to be the full value of the consideration received or accruing as a result of the transfer of such capital asset.**

**67(3): Circumstances treated as transfer for insurance-related capital gains**

**The following shall be the circumstances referred to in sub-section (2):—**

**(a) flood, typhoon, hurricane, cyclone, earthquake or any other convulsion of nature; or**

**(b) riot or civil disturbance; or**

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(c) accidental fire or explosion; or

(d) action by an enemy or action taken in combating an enemy (whether with or without a declaration of war).

**67(4): Meaning of “insurer” for insurance-related capital gains**

In sub-section (2), “insurer” shall have the same meaning as assigned to it in section 2(9) of the Insurance Act, 1938.

**67(5): Capital gains on receipts from non-exempt unit linked insurance policies**

Irrespective of anything contained in sub-section (1), if any profits or gains arises to a person from receipt of any amount, including a bonus, under a unit linked insurance policy to which the exemption specified at Schedule II (Table: Sl. No. 2) does not apply, then,—

(a) such profits and gains shall be chargeable to income-tax under the head “Capital gains” and shall be deemed to be the income of such person in the tax year in which such amount was received; and

(b) the income taxable shall be calculated in such manner, as may be prescribed.

**67(6): Capital gains on conversion of capital asset into stock-in-trade**

Irrespective of anything contained in sub-section (1), if the profits or gains arising from the transfer by way of conversion of a capital asset into, or its treatment by the owner as, stock-in-trade of a business carried on by him, then,—

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**(a) such profits and gains shall be chargeable to income-tax as his income in the tax year in which such stock-in-trade is sold or otherwise transferred by him; and**

**(b) for the purposes of section 72, the fair market value of the asset on the date of such conversion or treatment shall be deemed to be the full value of the consideration received or accruing as a result of the transfer of such capital asset.**

**67(7): Capital gains on transfer of beneficial interest in securities through a depository**

**If any person, at any time during the tax year, had any beneficial interest in any securities and any profits or gains arise from transfer made by the depository or participant of such beneficial interest in respect of securities, then,—**

**(a) such profits and gains shall be chargeable to income-tax as the income of the beneficial owner of the tax year in which such transfer took place;**

**(b) such profits and gains shall not be regarded as income of the depository who is deemed to be the registered owner of securities by virtue of section 10(1) of the Depositories Act, 1996; and**

**(c) for the purposes of section 72 and section 2(101)(b), the cost of acquisition and the period of holding of any securities shall be determined on the basis of the first-in-first-out method.**

**67(8): Definitions of beneficial owner, depository, and security**

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**In sub-section (7), “beneficial owner”, “depository” and “security” shall have the same meanings as respectively assigned to them in section 2(1)(a), (e) and (l) of the Depositories Act, 1996.**

**67(9): Capital gains on transfer of assets to a firm or association as capital contribution**

**If any profits or gains arise from the transfer of a capital asset by a person, to a firm or other association of persons or body of individuals (not being a company or co-operative society) in which he is or becomes a partner or member, by way of capital contribution or otherwise, then,—**

**(a) such profits and gains shall be chargeable to tax as his income of the tax year of such transfer; and**

**(b) for the purposes of section 72 the amount recorded in the books of account of the firm, association or body as the value of the capital asset shall be deemed to be the full value of the consideration received or accruing as a result of the transfer of such capital asset.**

**67(10): Capital gains on money or assets received by a specified person on reconstitution of a specified entity**

**Irrespective of anything contained in sub-section (1), if a specified person receives during the tax year, any money or capital asset, or both, from a specified entity in connection with the reconstitution of such specified entity, then,—**

**(a) any profits or gains arising from such receipt shall be deemed as income of the specified entity of the tax year of such receipt by the specified person and chargeable to income-tax under the head “Capital gains”; and**

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**(b) such profits or gains shall be determined irrespective of anything to the contrary contained in this Act as follows:—**

$$A = B + C - D,$$

where,

**A = income chargeable to income-tax under this sub-section as income of the specified entity under the head “Capital gains”;**

**B = value of any money received by the specified person from the specified entity on the date of such receipt;**

**C = amount of fair market value of the capital asset received by the specified person from the specified entity on the date of such receipt; and**

**D = amount of balance in the capital account (represented in any manner) of the specified person in the books of account of the specified entity at the time of its reconstitution;**

**(c) for the purposes of clause (b),—**

**(i) if the value of “A” as computed is negative, such value shall be deemed to be zero;**

**(ii) the balance in the capital account of the specified person in the books of account of the specified entity shall be calculated without considering any increase in the capital account of the specified person due to revaluation of any asset or due to self-generated goodwill or any other self-generated asset; and**

**(d) the provisions of this sub-section shall operate in addition to the provisions of section 8 and the taxation under the said section shall be worked out independently, when a capital**

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asset is received by a specified person from a specified entity  
in connection with the reconstitution of such specified entity.

**67(11): Definitions for reconstitution-related capital gains**

In sub-section (10),—

(a) “reconstitution of the specified entity”, “specified entity” and “specified person” shall have the meanings respectively assigned to them in section 8;

(b) “self-generated goodwill” and “self-generated asset” mean goodwill or asset, as the case may be, which has been acquired without incurring any cost for purchase or which has been generated during the course of the business or profession.

**67(12): Capital gains treatment for enhanced or reduced compensation in compulsory acquisition cases**

Irrespective of anything contained in sub-section (1), if the capital gain arises from the transfer of a capital asset by way of compulsory acquisition under any law, or a transfer the consideration for which was determined or approved by the Central Government or the Reserve Bank of India, and the compensation or the consideration for such transfer is enhanced or further enhanced by any court, tribunal or other authority, the capital gain shall be dealt with in the following manner:—

(a) the capital gains computed with reference to the compensation awarded in the first instance or as the case may be, consideration determined or approved by the

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**Central Government or the Reserve Bank of India in the first instance, shall be chargeable as income under the head “Capital gains” of the tax year in which such compensation or part thereof, or such consideration or part thereof, was first received;**

**(b) the amount by which the compensation or consideration is enhanced or further enhanced by the court, tribunal or other authority shall be deemed to be income chargeable under the head “Capital gains” of the tax year in which such amount is received;**

**(c) any compensation as referred to in clause (b) received in pursuance of an interim order of a court, tribunal or other authority shall be deemed as income chargeable under the head “Capital gains” of the tax year in which the final order of such court, tribunal or other authority is made; and**

**(d) the capital gain assessed for any tax year under clause (a) or (b) shall be recomputed where the compensation or consideration referred to in clauses (a) to (c) is reduced by any court, tribunal or other authority, and such reduced value shall be taken to be the full value of the consideration.**

**67(13): Cost rules and taxation of enhanced compensation in transferee’s hands**

**In relation to the amount referred to in sub-section (12)(b) and (c),—**

**(a) the cost of acquisition and the cost of improvement shall be taken as nil; and**

**(b) in a case, where the enhanced compensation or consideration is received by any other person due to the**

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death of the person who made the transfer, or for any other reason, such amount shall be deemed as the income chargeable to tax under the head “Capital gains” in the hands of such other person.

**67(14): Capital gains on land/building transferred under specified agreements**

Irrespective of anything contained in sub-section (1), if the capital gains arises to a person (being an individual or a Hindu undivided family), from the transfer of a capital asset, being land or building or both, under a specified agreement, then,—

(a) such capital gains shall be chargeable to income-tax for the tax year in which the certificate of completion for the whole or part of the project is issued by the competent authority; and

(b) for the purposes of section 72, the stamp duty value, on the date of issue of the said certificate, of the share of such person, being land or building or both, in the project, as increased by any consideration received in cash or by a cheque or draft or by any other mode shall be deemed to be the full value of the consideration received or accruing as a result of the transfer of such capital asset.

**67(15): Definitions for specified agreement and competent authority**

In sub-section (14),—

(a) “competent authority” means the authority empowered to approve the building plan under any law;

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**(b) “specified agreement” means a registered agreement in which a person owning land or building, or both, agrees to allow another person to develop a real estate project on such land or building, or both, in consideration of a share, being land or building or both, in such project, whether with or without payment of part of the consideration in cash.**

**67(16): Capital gains treatment when project share is transferred before completion certificate**

**The provisions of sub-section (14) shall not apply, if the person transfers his share in the project on or before the date of issue of the certificate of completion, and then,—**

**(a) the capital gains shall be deemed to be the income of the tax year of such transfer; and**

**(b) the provisions of this Act, other than sub-section (14), shall apply for the purpose of determination of full value of consideration.**

**67(17): Capital gains on repurchase or termination of 80CCB units**

**Irrespective of anything contained in sub-section (1), the difference between the repurchase price of the units referred to in section 80CCB(2) of the Income-tax Act, 1961 and the capital value of such units shall be deemed to be the capital gains arising to the assessee in the tax year in which—**

**(a) such repurchase takes place; or**

**(b) the plan referred to in that section is terminated.**

**67(18): Meaning of capital value of units for 80CCB-related gains**

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For the purposes of sub-section (17), “capital value of such units” means any amount invested by the assessee in the units referred to in section 80CCB (2) of the Income-tax Act, 1961.

## **68. CAPITAL GAINS ON DISTRIBUTION OF ASSETS BY COMPANIES IN LIQUIDATION.**

### **68(1): Distribution of Assets on Liquidation Not Treated as Transfer by Company**

Irrespective of anything contained in section 67, where the assets of a company are distributed to its shareholders on its liquidation, such distribution shall not be regarded as a transfer by the company for the purposes of the said section.

### **68(2): Capital Gains in Hands of Shareholders on Company Liquidation**

If a shareholder, on the liquidation of a company, receives any money or other assets from the company, then,—

(a) such shareholder shall be chargeable to income-tax under the head “Capital gains”, in respect of the money so received or the market value of the other assets on the date of distribution, as reduced by the amount assessed as dividend within the meaning of section 2(40)(c); and

(b) the sum so arrived at shall be deemed to be the full value of the consideration for the purposes of section 72.

## **69. CAPITAL GAINS ON PURCHASE BY COMPANY OF ITS OWN SHARES OR OTHER SPECIFIED SECURITIES.**

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**69(1): Capital Gains on Buy-Back of Shares or Specified Securities by a Company**

If a shareholder or a holder of other specified securities receives any consideration from any company for the purchase of its own shares or other specified securities held by such shareholder or holder of other specified securities, then, subject to the provisions of section 72, the difference between the cost of acquisition and the value of consideration so received shall be deemed to be the “Capital gains” arising to such shareholder or the holder of other specified securities, as the case may be, in the year in which the company purchases the shares or other specified securities.

**69(2): Consideration Deemed Nil for Dividend Component in Buy-Back**

If the shareholder receives any consideration of the nature referred to in section 2(40)(f), from any company in respect of buy-back of shares, then for the purposes of this section, the value of such consideration shall be deemed to be nil.

**69(3): Definition of “Specified Securities”**

For the purposes of this section, “specified securities” shall have the same meaning as assigned to it in Explanation 1 to section 68 of the Companies Act, 2013.

**70. TRANSACTIONS NOT REGARDED AS TRANSFER.**

**70(1): Transactions Not Regarded as Transfer**

The provisions of section 67 shall not apply to transfer—

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**(a) by way of distribution of capital assets on the total or partial partition of a Hindu undivided family;**

**(b) of a capital asset by an individual or a Hindu undivided family, under a will or a gift or an irrevocable trust;**

**(c) of a capital asset, not being stock-in-trade, by a company to its subsidiary company, if—**

**(i) the parent company or its nominees hold the whole of the share capital of the subsidiary company; and**

**(ii) the subsidiary company is an Indian company;**

**(d) of a capital asset, not being stock-in-trade, by a subsidiary company to the holding company, if—**

**(i) the whole of the share capital of the subsidiary company is held by the holding company; and**

**(ii) the holding company is an Indian company;**

**(e) in a scheme of amalgamation, of a capital asset by the amalgamating company to the amalgamated company, if the amalgamated company is an Indian company;**

**(f) by a shareholder, in a scheme of amalgamation, of a capital asset being a share or shares held by him in the amalgamating company, if—**

**(i) the transfer is made in consideration of allotment to him of any share or shares in the amalgamated company except when the shareholder himself is the amalgamated company; and**

**(ii) the amalgamated company is an Indian company;**

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**(g) in a scheme of amalgamation, to him of a capital asset being a share or shares held in an Indian company by the amalgamating foreign company to the amalgamated foreign company, if—**

**(i) at least 25% of the shareholders of the amalgamating foreign company continue to remain shareholders of the amalgamated foreign company; and**

**(ii) such transfer does not attract tax on capital gains in the country, in which the amalgamating company is incorporated;**

**(h) in a scheme of amalgamation, of a capital asset, being a share of a foreign company, referred to in section 9(10)(a), which derives directly or indirectly, its value substantially from the share or shares of an Indian company, held by the amalgamating foreign company to the amalgamated foreign company, if—**

**(i) at least 25% of the shareholders of the amalgamating foreign company continue to remain shareholders of the amalgamated foreign company; and**

**(ii) such transfer does not attract tax on capital gains in the country in which the amalgamating company is incorporated; (i) of a capital asset by a banking company to a banking institution under a scheme of amalgamation of a banking company with a banking institution sanctioned and brought into force by the Central Government under section 45(7) of the Banking Regulation Act, 1949;**

**(j) in a demerger, of a capital asset by the demerged company to the resulting company, if the resulting company is an Indian company;**

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**(k) of shares by the resulting company or issue of shares by such company, in a scheme of demerger to the shareholders of the demerged company, if the transfer or issue is made in consideration of demerger of the undertaking;**

**(l) of a capital asset in a demerger, being a share or shares held in an Indian company, by the demerged foreign company to the resulting foreign company, if—**

**(i) the shareholders holding not less than 75% in value of the shares of the demerged foreign company continue to remain shareholders of the resulting foreign company; and**

**(ii) such transfer does not attract tax on capital gains in the country, in which the demerged foreign company is incorporated, and in such a case the provisions of sections 230 to 232 of the Companies Act, 2013 shall not apply;**

**(m) of a capital asset in a demerger, being a share of a foreign company, referred to in section 9(10)(a), which derives directly or indirectly, its value substantially from the share or shares of an Indian company, held by the demerged foreign company to the resulting foreign company, if—**

**(i) the shareholders, holding not less than 75% in value of the shares of the demerged foreign company, continue to remain shareholders of the resulting foreign company; and**

**(ii) such transfer does not attract tax on capital gains in the country in which the demerged foreign company is incorporated, and in such a case the provisions of sections 230 to 232 of the Companies Act, 2013 shall not apply;**

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**(n) in a business reorganisation, of a capital asset by the predecessor co-operative bank to the successor co-operative bank or to the converted banking company;**

**(o) by a shareholder, in a business reorganisation, of capital asset being share or shares held by him in the predecessor co-operative bank, if the transfer is made in consideration of the allotment to him of any share or shares in the successor co-operative bank or the converted banking company;**

**(p) of a capital asset, being bonds or Global Depository Receipts as referred to in section 209(1), made outside India by a non-resident to another non-resident;**

**(q) made outside India, of a capital asset, being rupee denominated bond of an Indian company issued outside India, by a non-resident to another non-resident;**

**(r) of a capital asset made by a non-resident on a recognised stock exchange located in any International Financial Services Centre, where the consideration for such transaction is paid or payable in foreign currency, and such capital asset is—**

**(i) bond or Global Depository Receipt referred to in section 209(1); or**

**(ii) rupee denominated bond of an Indian company; or**

**(iii) derivative; or**

**(iv) such other securities as may be notified by the Central Government;**

**(s) of a capital asset, being a Government security carrying a periodic payment of interest, made outside India through an**

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**intermediary dealing in settlement of securities, by a non-resident to another non-resident;**

**(t) in a relocation, of a capital asset by the original fund to the resulting fund;**

**(u) by a shareholder or unit holder or interest holder, in a relocation, of a capital asset being share or unit or interest held by him in the original fund in consideration for the share or unit or interest in the resultant fund;**

**(v) of a capital asset by India Infrastructure Finance Company Limited to an institution established for financing the infrastructure and development, set up under an Act of Parliament and notified by the Central Government for the purposes of this clause;**

**(w) of a capital asset, under a plan approved by the Central Government, by a public sector company, to—**

**(i) another public sector company notified by the Central Government for the purposes of this clause; or**

**(ii) the Central Government; or**

**(iii) a State Government;**

**(x) of Sovereign Gold Bond issued by the Reserve Bank of India under the Sovereign Gold Bond Scheme, 2015, by way of redemption, by an individual;**

**(y) of a capital asset, being conversion of gold into Electronic Gold Receipt issued by a Vault Manager, or conversion of Electronic Gold Receipt into gold;**

**(z) by way of conversion of bonds or debentures, debenture-stock or deposit certificates in any form, of a company into**

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shares or debentures of that company; (za) by way of conversion of bonds referred to in section 209(1) (Table: Sl. No. 1) into shares or debentures of any company;

(zb) by way of conversion of preference shares of a company into equity shares of that company;

(zc) of a capital asset, being any work of art, archaeological, scientific or art collection, book, manuscript, drawing, painting, photograph or print, to—

(i) the Government; or

(ii) a University; or

(iii) the National Museum, National Art Gallery or National Archives; or

(iv) such other public museum or institution as may be notified by the Central Government to be of national importance or of renown throughout any State;

(zd) of a capital asset or intangible asset by a firm to a company as a result of succession of the firm by a company in the business carried on by the firm, if—

(i) all the assets and liabilities of the firm relating to the business immediately before the succession become the assets and liabilities of the company;

(ii) all the partners of the firm, immediately before the succession, become the shareholders of the company in the same proportion in which their capital accounts stood in the books of the firm on the date of the succession;

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**(iii) the partners of the firm do not receive any consideration or benefit, directly or indirectly, in any form or manner, other than by way of allotment of shares in the company; and**

**(iv) the aggregate of the shareholding of the partners in the company is not less than 50% of the total voting power and such shareholding continues to not less than 50% for five years from the date of succession;**

**(ze) of a capital asset or intangible asset by a private company or unlisted public company (herein referred to as the company) to a limited liability partnership or transfer of a share or shares held in the company by a shareholder as a result of conversion of the company into a limited liability partnership under the provisions of section 56 or 57 of the Limited Liability Partnership Act, 2008, if—**

**(i) all the assets and liabilities of the company, immediately before the conversion, become the assets and liabilities of the limited liability partnership;**

**(ii) all the shareholders of the company, immediately before the conversion, become the partners of the limited liability partnership and their capital contribution and profit sharing ratio in the limited liability partnership are in the same proportion as their shareholding in the company on the date of conversion;**

**(iii) the shareholders of the company do not receive any consideration or benefit, directly or indirectly, other than by way of share in profit and capital contribution in the limited liability partnership;**

**(iv) the aggregate of the profit sharing ratio of the shareholders of the company in the limited liability**

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**partnership shall not be less than 50% at any time during five years from the date of conversion;**

**(v) the total sales, turnover or gross receipts in the business of the company in any of the three tax years preceding the tax year in which the conversion takes place does not exceed sixty lakh rupees;**

**(vi) the total value of the assets, as appearing in the books of account of the company in any of the three tax years preceding the tax year in which the conversion takes place does not exceed five crore rupees; and**

**(vii) no amount is paid, either directly or indirectly, to any partner out of balance of accumulated profit standing in the accounts of the company on the date of conversion for three years from the date of conversion;**

**(zf) of a capital asset or intangible asset (by way of sale or otherwise) by a sole proprietorship concern to a company in case of succession of the sole proprietorship concern by the company in the business carried on by it, if—**

**(i) all the assets and liabilities related to the business of the sole proprietary concern, immediately before the succession, become the assets and liabilities of the company;**

**(ii) the shareholding of the sole proprietor in the company is not less than 50% of the total voting power and such shareholding continues to be not less then 50% for five years from the date of the succession; and**

**(iii) the sole proprietor does not receive any consideration or benefit, directly or indirectly, except through allotment of shares in the company;**

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**(zg) in a scheme for lending of any securities under an agreement or arrangement, entered into by the assessee with the borrower of such securities and which is subject to the guidelines issued by the Securities and Exchange Board of India or the Reserve Bank of India;**

**(zh) of a capital asset in a transaction of reverse mortgage under a scheme notified by the Central Government;**

**(zi) of a capital asset, being share or shares of a special purpose vehicle to a business trust in exchange of units allotted by that trust to the transferor;**

**(zj) of a capital asset by a unit holder, being a unit or units, held by him in the consolidating scheme of a mutual fund, in consideration of the allotment to the unit holder of a capital asset, being a unit or units, in the consolidated scheme of the mutual fund subject to the condition that the consolidation is of two or more schemes—**

**(i) of an equity-oriented fund; or**

**(ii) of a fund other than equity-oriented fund;**

**(zk) of a capital asset by a unit holder, being a unit or units, held by him in the consolidating plan of a mutual fund scheme, in consideration of the allotment to the unit holder of a capital asset, being a unit or units, in the consolidated plan of that scheme of the mutual fund;**

**(zl) of a capital asset, being an interest in a joint venture, held by a public sector company, in exchange for shares of a company incorporated outside India by the government of a foreign State, as per the laws of that foreign State.**

**70(2): Definitions Applicable to Sub-section (1)**

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**In sub-section (1), the definitions mentioned in column C of the Table below shall apply to the corresponding clauses of the said sub-section mentioned in column B of the said Table.**

**Table**

<b>Sl. No.</b>	<b>Clause</b>	<b>Definitions</b>
<b>A</b>	<b>B</b>	<b>C</b>
<b>1</b>	<b>(i)</b>	<p>The expressions,—</p> <p>(a) “banking company” shall have the same meaning as assigned to it in section 5(c) of the Banking Regulation Act, 1949 (10 of 1949);</p> <p>(b) “banking institution” shall have the same meaning as assigned to it in section 45(15) of the Banking Regulation Act, 1949 (10 of 1949).</p>
<b>2</b>	<b>(n) and (o)</b>	<p>“business reorganisation”, “converted banking company”, “predecessor co-operative bank” and “successor co-operative bank” shall have the meanings respectively assigned to them in section 65.</p>
<b>3</b>	<b>(r)</b>	<p>(a) “derivative” shall have the same meaning as assigned to it in section 2(ac) of the Securities Contracts (Regulation) Act, 1956 (42 of 1956);</p> <p>(b) “securities” shall have the same meaning as assigned to it in section 2(h) of the Securities</p>

		<b>Contracts (Regulation) Act, 1956 (42 of 1956).</b>
<b>4</b>	<b>(s)</b>	<b>“Government Security” shall have the same meaning as assigned to it in section 2(b) of the Securities Contracts (Regulation) Act, 1956 (42 of 1956).</b>
<b>5</b>	<b>(t) and (u)</b>	<p><b>(a) “original fund” means—</b></p> <p><b>(A) a fund established or incorporated or registered outside India, which collects funds from its members for investing it for their benefit and fulfils the following conditions:—</b></p> <p><b>(i) the fund is not a person resident in India;</b></p> <p><b>(ii) the fund is a resident of a country or a specified territory with which an agreement referred to in section 159(1) or (2) has been entered into; or is established or incorporated or registered in a country or a specified territory as may be notified by the Central Government;</b></p> <p><b>(iii) the fund and its activities are subject to applicable investor protection regulations in the country or specified territory where it is established or incorporated or is a resident; and</b></p> <p><b>(iv) fulfils other conditions as may</b></p>



		<p>be prescribed;</p> <p>(B) an investment vehicle, in which Abu Dhabi Investment Authority is the direct or indirect sole shareholder or unit holder or beneficiary or interest holder and such investment vehicle is wholly owned and controlled, directly or indirectly, by the Abu Dhabi Investment Authority or the Government of Abu Dhabi; or</p> <p>(C) a fund notified by the Central Government subject to conditions as specified; (b) “relocation” means transfer of assets of the original fund, or of its wholly owned special purpose vehicle, to a resultant fund on or before the 31st March, 2030, where consideration for such transfer is discharged in the form of share or unit or interest in the resulting fund to— (i) a shareholder or unit holder or interest holder of the original fund, in the same proportion in which the share or unit or interest was held by such shareholder or unit holder or interest holder in such original fund, in lieu of their shares or units or interests in the original fund; or (ii) the original fund, in the same proportion as referred to in sub-clause (i), in respect of which the share or unit or interest is not issued by</p>
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		<p>resultant fund to its shareholder or unit holder or interest holder;</p> <p>(c) “resultant fund” means a fund established or incorporated in India in the form of a trust or a company or a limited liability partnership, which is located in an International Financial Services Centre as referred to in section 147 and has been granted— (i) a certificate of registration as a Category I or Category II or Category III Alternative Investment Fund; or (ii) a certificate as a retail scheme or an Exchange Traded Fund as per Schedule VI (Note 1) and which fulfils the conditions specified in Schedule VI (Table: Sl. No. 1), and is regulated under the Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012 made under the Securities and Exchange Board of India Act, 1992 (15 of 1992) or regulated under the International Financial Services Centres Authority (Fund Management) Regulations, 2022 made under the International Financial Services Centres Authority Act, 2019 (50 of 2019).</p>
6	(y)	<p>“Electronic Gold Receipt” and “Vault Manager” shall have the same meanings as respectively assigned to them in regulation</p>



		<b>2(1)(h) and (l) of the Securities and Exchange Board of India (Vault Managers) Regulations, 2021 made under the Securities and Exchange Board of India Act, 1992 (15 of 1992).</b>
<b>7</b>	<b>(zc)</b>	<b>“University” means a University established or incorporated by or under a Central Act or State Act or Provincial Act and includes an institution declared under section 3 of the University Grants Commission Act, 1956 (3 of 1956), to be a University for the purposes of that Act.</b>
<b>8</b>	<b>(ze)</b>	<b>“private company” and “unlisted public company” shall have the same meanings as respectively assigned to them in the Limited Liability Partnership Act, 2008 (6 of 2009).</b>
<b>9</b>	<b>(zi)</b>	<b>“special purpose vehicle” shall have the meaning assigned to it in Schedule V (Note 2).</b>
<b>10</b>	<b>(zj)</b>	<b>(a) “consolidated scheme” means the scheme with which the consolidating scheme merges or which is formed as a result of such merger;</b>  <b>(b) “consolidating scheme” means the scheme of a mutual fund which merges under the process of consolidation of the schemes of mutual fund as per the Securities</b>

		<p>and Exchange Board of India (Mutual Funds) Regulations, 1996 made under the Securities and Exchange Board of India Act, 1992 (15 of 1992);</p> <p>(c) “equity oriented fund” means a fund—</p> <p>(i) where the investible funds are invested by way of equity shares in domestic companies to the extent of more than 65% of the total proceeds of such fund, for which the percentage of equity shareholding shall be computed with reference to the annual average of the monthly averages of the opening and closing figures; and</p> <p>(ii) which has been set up under a scheme of Mutual Fund specified in Schedule VII (Table: Sl. No. 20 or 21);</p> <p>(d) “mutual fund” means a mutual fund specified in Schedule VII (Table: Sl. No. 20 or 21).</p>
11	(zk)	<p>(a) “consolidating plan” means the plan within a scheme of a mutual fund which merges under the process of consolidation of the plans within a scheme of mutual fund as per the Securities and Exchange Board of India (Mutual Funds) Regulations, 1996 made under the Securities and Exchange</p>

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|    |      | Board of India Act, 1992 (15 of 1992); (b) “consolidated plan” means the plan with which the consolidating plan merges or which is formed as a result of such merger; (c) “mutual fund” means a mutual fund specified in Schedule VII (Table: Sl. No. 20 or 21). |
| 12 | (zl) | “joint venture” means a business entity, as may be notified by the Central Government.                                                                                                                                                                           |

## 71. WITHDRAWAL OF EXEMPTION IN CERTAIN CASES.

### **71(1): Withdrawal of exemption when conditions for tax-neutral transfer are violated**

The profits or gains arising from the transfer of capital asset not charged under section 67 by virtue of section 70(1)(c) and (d) shall, irrespective of anything contained in the said clauses, be deemed to be income chargeable under the head “Capital gains” of the tax year in which such transfer took place, if at any time before the expiry of eight years from the date of such transfer,—

(a) the transferee company converts the capital asset into, or treats it as, stock-in-trade of its business; or

(b) the parent company or its nominees or the holding company, ceases or cease to hold the whole of the share capital of the subsidiary company.

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### **71(2): Withdrawal of Exemption for Non-Compliance with Conditions**

If any of the conditions laid down in section 70(zd) or (zf) are not complied with, the profits or gains arising from the transfer of such capital asset or intangible asset not charged under section 67 by virtue of such conditions shall be deemed to be the profits and gains chargeable to tax under the head “Capital gains” of the successor company for the tax year in which such conditions are not complied with.

### **71(3): Withdrawal of Exemption for Non-Compliance in Case of Conversion to LLP**

If any of the conditions laid down in section 70(ze) are not complied with, the profits or gains arising from the transfer of such capital asset or intangible assets or share or shares not charged under section 67 by virtue of such conditions shall be deemed to be the profits and gains chargeable to tax under the head “Capital gains” of the successor limited liability partnership or the shareholder of the predecessor company, for the tax year in which such conditions are not complied with.

## **72. MODE OF COMPUTATION OF CAPITAL GAINS.**

### **72(1): Computation of Capital Gains**

Income chargeable under the head “Capital gains” shall be computed, by deducting from the full value of the consideration received or accruing as a result of the transfer of the capital asset, the following amounts:—

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- (a) expenditure incurred wholly and exclusively in connection with such transfer; and
- (b) the cost of acquisition of the asset and the cost of any improvement thereto.

**72(2): Use of Indexed Cost in Certain Cases**

For the purposes of item B of the formula in section 197(3), the provisions of sub-section (1) shall have effect as if for the words “cost of acquisition” and “cost of any improvement”, the words “indexed cost of acquisition” and “indexed cost of any improvement” had respectively been substituted.

**72(3): Deductions Not Permissible in Computing Capital Gains**

In computing the income chargeable under the head “Capital gains”, the following amounts shall not be allowed as a deduction:—

- (a) the interest claimed as deduction under section 22(1)(b) or under Chapter VIII;
- (b) any sum paid as securities transaction tax under Chapter VII of the Finance (No.2) Act, 2004.

**72(4): Adjustment of Cost of Acquisition for Amounts Received from Business Trusts**

If a unit holder receives any amount from a business trust with respect to a unit that is not in the nature of income under Schedule V (Table: Sl. No. 3 or 4) and is not chargeable to tax under section 92(2)(k) or 223(2), then,—

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(a) such amount shall be reduced from the cost of acquisition of such unit; and

(b) if the transaction of transfer of a unit is not considered as transfer under section 70 and cost of acquisition of such unit is determined under section 73, the amount received with respect to such unit before as well as after such transaction, shall be reduced from the cost of acquisition.

**72(5): Deduction for Specified Entity in Case of Reconstitution**

In case of value of any money or capital asset received by a specified person from a specified entity, as referred to in section 67(10), the specified entity, in addition to deductions under sub-section (1), shall also be entitled to a deduction calculated in such manner, as may be prescribed for computing the amount chargeable to income-tax in its hands under that sub-section which is attributable to the transfer of such capital asset.

**72(6): Computation of Capital Gains for Non-Residents on Shares or Debentures of Indian Companies**

In the case of an assessee, who is a non-resident, capital gains arising from the transfer of a capital asset being shares in, or debentures of, an Indian company (other than equity shares referred to in section 198) shall be computed—

(a) by converting the cost of acquisition, expenditure incurred wholly and exclusively in connection with such transfer and the full value of the consideration received or accruing as a result of the transfer of the capital asset into the

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same foreign currency as was initially utilised in the purchase of the shares or debentures; and

(b) the capital gains so computed in such foreign currency shall be reconverted into Indian currency, so, however, that the said manner of computation of capital gains shall be applicable in respect of capital gains accruing or arising from every reinvestment thereafter in, and sale of, shares in, or debentures of, an Indian company.

**72(7): Exclusion of Rupee Appreciation for Non-Residents on Redemption of Rupee-Denominated Bonds**

In the case of an assessee who is a non-resident, any gains arising on account of appreciation of rupee against a foreign currency at the time of redemption of rupee denominated bond of an Indian company held by the assessee, shall be ignored for computing the full value of consideration under this section.

**72(8): Definitions for Computation under Section 72**

For the purposes of this section,—

(a) “Cost Inflation Index”, in relation to a tax year, means such Index as the Central Government may, having regard to 75% of average rise in the Consumer Price Index (urban) for the immediately preceding tax year to such tax year, by notification, specify, in this behalf;

(b) “indexed cost of acquisition” means an 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 Inflation Index for the first year in which

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the asset was held by the assessee or for the year beginning on 1st April, 2001, whichever is later;

(c) “indexed cost of any 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; and

(d) the conversion of Indian currency into foreign currency and the reconversion of foreign currency into Indian currency shall be at such rate of exchange as may be prescribed in this behalf.

### 73. COST WITH REFERENCE TO CERTAIN MODES OF ACQUISITION.

#### 73(1): Cost with Reference to Certain Modes of Acquisition

In the case of a capital asset specified in column B of the Table below, the cost of acquisition of the asset shall be deemed to be the cost as mentioned in column C of the said Table.

Table

| Sl. No. | Description of the capital asset                                                                                            | Cost of acquisition                                                                                                        |
|---------|-----------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------|
| A       | B                                                                                                                           | C                                                                                                                          |
| 1       | If the capital asset became the property of the assessee—<br>(a) under a gift or will; or (b) by succession, inheritance or | The cost for which the previous owner of the property acquired it, as increased by the cost of any improvement incurred or |

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	<p>devolution; or</p> <p>c) on any distribution of assets on the liquidation of a company; or</p> <p>(d) under a transfer to a revocable or an irrevocable trust; or</p> <p>(e) being a Hindu undivided family, by the mode referred to in section 99(3) after the 31st December, 1969; or</p> <p>(f) under any such transfer as is referred to in section 70(1)(a), (c), (d), (e), (g), (h), (i), (j), (l), (m), (n), (o), (t), (u), (v), (w), (zd), (ze) or (zf).</p>	<p>borne by the previous owner or the assessee.</p>
2	<p>Capital asset, being a share or shares in an amalgamated company which is an Indian company that became the property of the assessee in consideration of a transfer referred to in section 70(1)(f).</p>	<p>The cost of acquisition to him of the share or the shares in the amalgamating company.</p>
3	<p>Capital asset being a share or debenture of a company, which became the property of the assessee in consideration of a transfer referred to in section 70(1)(z) or (za).</p>	<p>That part of the cost of debenture, debenture-stock, bond or deposit certificate in relation to which such asset is acquired by the assessee.</p>
4	<p>Capital asset, being specified security or sweat equity shares, referred to in</p>	<p>Fair market value taken into account for the purposes of</p>

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|          | <b>section 17(1)(d).</b>                                                                                                                                                                                                           | <b>the said clause.</b>                                                                                                                         |
|----------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>5</b> | <b>Capital asset, being rights of a partner referred to in section 42 of the Limited Liability Partnership Act, 2008 (6 of 2009), which became the property of the assessee on conversion as referred to in section 70(1)(ze).</b> | <b>The cost of acquisition to him of the share or shares in the company immediately before its conversion.</b>                                  |
| <b>6</b> | <b>Capital asset, being share or shares of a company acquired by a non-resident assessee on redemption of Global Depository Receipts referred to in section 209(1) (Table: Sl. No. 2) held by such assessee.</b>                   | <b>The price of the said share or shares prevailing on any recognised stock exchange on the date on which a request for redemption was made</b> |
| <b>7</b> | <b>Capital asset, being a unit of a business trust, which became the property of the assessee in consideration of a transfer as referred to in section 70(1)(zi).</b>                                                              | <b>The cost of acquisition to him of the share referred to in the said clause</b>                                                               |
| <b>8</b> | <b>Capital asset, being a unit or units in a consolidated scheme of a mutual fund, which became the property of the assessee in consideration of a transfer referred to in section 70(1)(zj).</b>                                  | <b>The cost of acquisition to him of the unit or units in the consolidating scheme of the mutual fund.</b>                                      |
| <b>9</b> | <b>Capital asset, being equity</b>                                                                                                                                                                                                 | <b>That part of the cost of the</b>                                                                                                             |

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	share of a company, which became the property of the assessee in consideration of a transfer referred to in section 70(1)(zb).	preference shares in relation to which such asset is acquired.
10	Capital asset, being a unit or units in a consolidated plan of a mutual fund scheme, which became the property of the assessee in consideration of a transfer referred to in section 70(1)(zk).	The cost of acquisition to him of the unit or units in the consolidating plan of the scheme of the mutual fund.
11	Capital asset being a unit or units in the segregated portfolio.	<p>Computed as per the following formula:—</p> $X = \frac{AXB}{C}$ <p>where,—</p> <p>X = cost of acquisition of the unit or units in segregated portfolio;</p> <p>A = cost of acquisition of unit or units in the total portfolio;</p> <p>B = Net Asset Value of the asset transferred to the segregated portfolio; and</p> <p>C = Net Asset Value of the total portfolio immediately before segregation of portfolios.</p>
12	Capital asset being original units held by the unit holder	The cost of acquisition of such original units as reduced by

	<b>in the main portfolio.</b>	<b>the amount as so arrived at under serial number 11.</b>
<b>13</b>	<b>Capital asset, being shares as referred to in section 70(1)(zl) which became the property of the assessee.</b>	<b>The cost of acquisition to it of the interest in the joint venture referred to in the said clause.</b>
<b>14</b>	<b>Shares in the resulting company as a result of demerger.</b>	<p><b>Computed as per the following formula:—</b></p> $X = \frac{AXB}{C}$ <p><b>where,—</b></p> <p><b>X = cost of acquisition of shares in the resulting company;</b></p> <p><b>A = cost of acquisition of shares in demerged company;</b></p> <p><b>B = net book value of assets transferred in demerger; and</b></p> <p><b>C = net worth of demerged company immediately before demerger.</b></p>
<b>15</b>	<b>Original shares held by the shareholder in the demerged company.</b>	<b>The cost of acquisition of such original shares as reduced by the amount so arrived at under serial number 14.</b>
<b>16</b>	<b>Capital asset deemed to be chargeable to tax according to the provisions of section 71(1).</b>	<b>Cost for which such asset was acquired by the transferee company.</b>
<b>17</b>	<b>Capital asset being property, where the capital gain arises</b>	<b>The value taken into account under section 92(2)(m).</b>

	from the transfer of such property the value of which has been subject to income-tax under section 92(2)(m).	
18	Capital asset declared under the Income Declaration Scheme, 2016, where the tax, surcharge and penalty have been paid as per the provisions of such Scheme on the fair market value as on the date of the commencement of that Scheme.	The fair market value of the asset taken into account for the purposes of the said Scheme.
19	Specified capital asset referred to in clause (c) of the Explanation to section 10(37A) of the Income-tax Act, 1961 (43 of 1961), which has been transferred after the expiry of two years from the end of the tax year in which the possession of such asset was handed over to the assessee.	The stamp duty value as on the last day of the second tax year after the end of the tax year in which the possession of the said specified capital asset was handed over to the assessee.
20	Capital asset, being share in the project, in the form of land or building, or both, under section 67(14), not being a capital asset referred to in section 67(16).	The amount deemed as full value of consideration under section 67(14).
21	Capital asset, being the asset held by a trust or an institution in respect of which	The fair market value of the asset considered for computation of accreted

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|    |                                                                                                                                                                                        |                                                                                  |
|----|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------|
|    | accreted income has been computed and tax paid thereon as per section 352.                                                                                                             | income as on specified date as per section 352(2).                               |
| 22 | Capital asset referred to in section 26(2)(j).                                                                                                                                         | The fair market value for section 26(2)(j).                                      |
| 23 | Capital asset, being an Electronic Gold Receipt issued by a Vault Manager, which became the property of the person as consideration of a transfer, as referred to in section 70(1)(y). | The cost of gold for the person in whose name Electronic Gold Receipt is issued. |
| 24 | Capital asset being gold released against an Electronic Gold Receipt, which became the property of the person as consideration for a transfer as referred to in section 70(1)(y).      | The cost of the Electronic Gold Receipt for such person.                         |

**73(2): Interpretative Provisions for Table in Sub-section (1)**

For the purposes of the Table in sub-section (1), in respect of the entries against—

(a) serial number 1, “previous owner of the property” for any capital asset owned by an assessee, means the last previous owner of the capital asset who acquired it by a mode of acquisition other than that referred to in column B thereof;

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(b) serial numbers 11 and 12, “main portfolio”, “segregated portfolio” and “total portfolio” shall have the same meanings as respectively assigned to them in the Circular No. SEBI/HO/IMD/DF2/CIR/P/2018/160, dated the 28th December, 2018, issued by the Securities and Exchange Board of India;

(c) serial numbers 14 and 15, “net worth” means the total of the paid-up share capital and general reserves as appearing in the books of account of the demerged company immediately before the demerger;

(d) serial numbers 2, 14 and 15, the provisions as contained therein, shall, as far as may be, also apply in relation to business reorganisation of a co-operative bank as referred to in section 64.

## **74. SPECIAL PROVISION FOR COMPUTATION OF CAPITAL GAINS IN CASE OF DEPRECIABLE ASSETS.**

### **74(1): Computation of Capital Gains on Depreciable Assets**

Irrespective of anything contained in section 2(101), for a capital asset forming part of a block of assets on which depreciation has been allowed under the Indian Income-tax Act, 1922 or under the Income-tax Act, 1961 or under this Act, the provisions of sections 72 and 73 shall be subject to the provisions of sub-sections (2) and (3).

### **74(2): Capital Gains Where Sale Consideration Exceeds Block Value**

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**If, during the tax year, the full value of consideration received or accruing for the transfer of one or more assets in a block of assets exceeds the total of the following:—**

- (a) expenditure incurred wholly and exclusively in connection with such transfer;**
- (b) the written down value of the block of assets at the start of the tax year; and**
- (c) the actual cost of any asset falling within the block of assets acquired during the tax year,**

**such excess shall be deemed to be capital gains arising from the transfer of short-term capital assets.**

**74(3): Treatment When a Block of Assets Ceases to Exist**

**If any block of assets ceases to exist for the reason that all the assets in that block are transferred during the tax year, then,—**

- (a) the cost of acquisition of the block of assets shall be the written down value of the block of assets at the beginning of the tax year, as increased by the actual cost of any asset falling within that block of assets, acquired by the assessee during the tax year; and**
- (b) the income received or accruing as a result of such transfer or transfers shall be deemed to be capital gains arising from the transfer of shortterm capital assets.**

**75. SPECIAL PROVISION FOR COST OF ACQUISITION IN CASE OF DEPRECIABLE ASSET.**

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## **75: Cost of Acquisition for Depreciable Assets**

If depreciation has been obtained under section 33(2) for a capital asset in any tax year, the provisions of sections 72 and 73 shall apply subject to the modification that the written down value, as defined in section 41, of the asset, as adjusted, shall be taken as the cost of acquisition of the asset.

## **76. SPECIAL PROVISION FOR COMPUTATION OF CAPITAL GAINS IN CASE OF MARKET LINKED DEBENTURE.**

### **76(1): Capital Gains on Market Linked Debentures to be Short-Term**

Irrespective of anything contained in section 2(101) or section 72, the gains on the transfer or redemption or maturity, of a capital asset as mentioned in sub-section (2) shall be treated as short-term capital gains and shall be computed as per sub-section (3).

### **76(2): Definition of Capital Assets Covered**

For the purposes of sub-section (1), the capital asset shall be—

(a) a unit of a Specified Mutual Fund acquired on or after the 1st April, 2023 or a Market Linked Debenture; or

(b) an unlisted bond or an unlisted debenture which is transferred or redeemed or matures on or after the 23rd July, 2024.

### **76(3): Formula for Computing Short-Term Capital Gains**

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**For the purposes of sub-section (1), the short-term capital gains shall be computed as per the following formula:—**

$$X = A - B - C,$$

where,—

**X = short-term capital gains;**

**A = full value of consideration received or accruing as a result of the transfer or redemption or maturity of the debenture or unit or bond;**

**B = the cost of acquisition of the debenture or unit or bond;  
and**

**C = the expenditure incurred wholly and exclusively in connection with such transfer or redemption or maturity.**

### **76(4): Disallowance of Securities Transaction Tax Deduction**

**In computing capital gains under sub-section (3), no deduction shall be allowed for any sum paid as securities transaction tax as per Chapter VII of the Finance (No. 2) Act, 2004.**

### **76(5): Definitions for Market Linked Debenture and Specified Mutual Fund**

**For the purposes of this section,—**

**(a) “Market Linked Debenture” means a security, by whatever name called, which has an underlying principal component in the form of a debt security and where the returns are linked to market returns on other underlying securities or indices, and include any security classified or**

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regulated as a market linked debenture by the Securities and Exchange Board of India;

(b) “Specified Mutual Fund” means a Mutual Fund, by whatever name called, which invests more than 65% of its total proceeds in debt and money market instruments or a fund which invests 65% or more of its total proceeds in units of such Mutual Fund, subject to the following:—

(i) the percentage of investment in debt and money market instruments or in units of a fund shall be computed with reference to the annual average of the daily closing figures;

(ii) “debt and money market instruments” shall include any securities, by whatever name called, classified or regulated as debt and money market instruments by the Securities and Exchange Board of India.

## **77. SPECIAL PROVISION FOR COMPUTATION OF CAPITAL GAINS IN CASE OF SLUMP SALE.**

### **77(1): Taxation of Capital Gains in Case of Slump Sale**

Any profits or gains arising from the slump sale effected in the tax year shall be chargeable to income-tax as long-term capital gains and shall be deemed to be the income of the tax year in which the transfer took place, subject to the provisions of sub-section (2).

### **77(2): Classification of Capital Gains in Short-Term Slump Sales**

The profits and gains arising from a slump sale involving the transfer of a capital asset, being one or more undertakings or

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divisions owned and held by an assessee for thirty-six months or less, immediately before the date of its transfer, shall be treated as short-term capital gains.

**77(3): Computation of Capital Gains in Slump Sale**

In relation to capital assets, being an undertaking or division transferred by way of slump sale,—

(a) the “net worth” of the undertaking or division shall be deemed to be the cost of acquisition and the cost of improvement for sections 72 and 73; and

(b) the fair market value of the capital assets on the date of transfer, calculated in such manner, as may be prescribed, shall be deemed to be the full value of the consideration received or accruing as a result of such transfer.

**77(4): Requirement of Accountant’s Report in Slump Sale**

Every assessee, in the case of a slump sale, shall furnish in the prescribed form a report of an accountant, before the specified date referred to in section 63, and the report shall—

(a) include the computation of the net worth of the undertaking or division; and

(b) certify that the net worth has been correctly arrived at as per the provisions of this section.

**77(5): Definition and Computation of Net Worth in Slump Sale**

For the purposes of this section,—

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(a) the “net worth” shall be the “aggregate value of total assets” of the undertaking or division, as reduced by the value of its liabilities as appearing in the books of account, and for computing net worth, any change in the value of assets due to revaluation shall be ignored;

(b) the “aggregate value of total assets” shall,—

(i) for depreciable assets, be the written down value of the block of assets determined under section 41(1)(c);

(ii) for capital asset being goodwill of a business or profession, which was not acquired by the assessee by purchase from a previous owner, be nil;

(iii) for capital assets for which the entire expenditure has been allowed or is allowable as a deduction under section 46, be nil; and

(iv) for other assets, be the book value.

## **78. SPECIAL PROVISION FOR FULL VALUE OF CONSIDERATION IN CERTAIN CASES.**

### **78(1): Full Value of Consideration Based on Stamp Duty Value**

If the consideration received or accruing from the transfer of a capital asset, being land or building or both, is less than the stamp duty value, then, for the purposes of section 72, the stamp duty value shall be deemed to be the full value of the consideration received or accruing as a result of such transfer, subject to the following:—

(a) the stamp duty value on the date of agreement may be taken as the full value of consideration, if—

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(i) the date of the agreement fixing the consideration and the date of registration for the transfer of the capital asset are not the same; and

(ii) part or full consideration is received on or before the date of the agreement in “specified banking or online mode” as defined in section 66(32);

(b) if the stamp duty value does not exceed 110% of the consideration received or accruing from such transfer, such consideration shall be deemed to be the full value of the consideration for section 72.

**78(2): Reference to Valuation Officer for Determining Fair Market Value**

Without prejudice to the provisions of sub-section (1), the Assessing Officer may refer the valuation of the capital asset to a Valuation Officer, and the provisions of section 269(3) to (8), shall, with necessary modifications, apply in relation to such reference, where—

(a) the assessee claims that the stamp duty value exceeds the fair market value of the property as on the date of transfer; and

(b) the stamp duty value has not been disputed in any appeal or revision or no reference has been made before any other authority, court or the High Court.

**78(3): Adoption of Stamp Duty Value Where Valuation Officer’s Value is Higher**

If the value determined by the Valuation Officer on a reference made under sub-section (2) exceeds the stamp duty

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value, such stamp duty value shall be taken as the full value of consideration.

## **79. SPECIAL PROVISION FOR FULL VALUE OF CONSIDERATION FOR TRANSFER OF SHARE OTHER THAN QUOTED SHARE.**

### **79(1): Fair Market Value to Be Deemed as Full Value of Consideration for Unquoted Shares**

If the consideration received or accruing from the transfer of a capital asset, being share of a company other than a quoted share, is less than the fair market value of such share determined in the manner as may be prescribed, the value so determined shall be deemed to be the full value of consideration received or accruing as a result of such transfer for the purposes of section 72.

### **79(2): Exemption from Deemed Valuation for Specified Transfers**

The provisions of sub-section (1) shall not apply to any consideration received or accruing as a result of transfer by such class of persons and subject to such conditions, as may be prescribed.

### **79(3): Definition of “Quoted Share”**

For the purposes of this section, the expression “quoted share” means the share quoted on any recognised stock exchange with regularity from time to time, where the quotation of such share is based on current transaction made in the ordinary course of business.

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## **80. FAIR MARKET VALUE DEEMED TO BE FULL VALUE OF CONSIDERATION IN CERTAIN CASES.**

### **80: Fair Market Value to Be Deemed as Consideration When Actual Value Not Ascertainable**

If the consideration received or accruing from the transfer of a capital asset is not ascertainable or cannot be determined, its fair market value on the date of transfer shall be deemed to be the full value of consideration received or accruing as a result of such transfer for the purposes of computing income under the head “Capital gains”.

## **81. ADVANCE MONEY RECEIVED.**

### **81: Treatment of Advance Money Received for Negotiated Transfer of Capital Asset**

Where any capital asset was, on any previous occasion, the subject of negotiations for its transfer, any advance or other money received and retained by the assessee in respect of such negotiations—

(a) shall be deducted from the cost for which the asset was acquired or the written down value or the fair market value, as the case may be, in computing the cost of acquisition;

(b) shall not be deducted from the said cost, where such advance or other money has been included in the total income of the assessee for any tax year as per the provisions of section 92(2)(h) of this Act or section 56(2)(ix) of the Income-tax Act, 1961.

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## **82. PROFIT ON SALE OF PROPERTY USED FOR RESIDENCE.**

### **82(1): Exemption for reinvestment of residential property capital gains**

Where an individual or Hindu undivided family—

(a) has long-term capital gains arising from the transfer of a capital asset, being buildings or lands appurtenant thereto, and being a residential house, the income of which is chargeable under the head “Income from house property” (original asset); and

(b) has within one year before or two years after the date of such transfer purchased, or has within three years after that date constructed, one residential house in India (new asset),

then, instead of the capital gain being charged to income-tax as income of the tax year in which the transfer took place, it shall be dealt with as follows:—

(i) if the capital gains exceeds the cost of the new asset, such excess shall be charged under section 67, and for computing capital gains arising from the transfer of the new asset within three years of its purchase or construction, the cost shall be nil; or

(ii) if the capital gains is equal to or less than the cost of the new asset, no capital gains shall be charged under section 67 and for computing capital gains from the transfer of the new asset within three years of its purchase or construction, the cost shall be reduced by the amount of the capital gains.

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**82(2): Deposit of unutilised capital gains in specified account for exemption**

If the capital gains referred to in sub-section (1) is not used by the assessee to purchase the new asset within one year before the date of transfer of the original asset, or is not utilised for the purchase or construction of the new asset before filing the return of income under section 263, then—

(a) the unutilised amount shall be deposited in a specified bank or institution and utilised as per the scheme notified by the Central Government;

(b) such deposit shall be made before the filing of the return and not later than the due date applicable in the case of the assessee for filing the return of income under section 263(1); and

(c) the proof of deposit shall be submitted along with such return.

**82(3): Deemed cost of new residential asset for exemption purposes**

For the purposes of sub-section (1), the amount, already utilised for purchasing or constructing the new asset, together with the deposited amount under sub-section (2) shall, subject to sub-section (7), be deemed to be the cost of the new asset.

**82(4): Taxation of unutilised deposited amount after three-year period**

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**If the amount deposited under sub-section (2) is not fully utilised for purchasing or constructing the new asset within the period specified in sub-section (1), then,—**

**(a) the unutilised amount shall be charged to tax under section 67 as the income of the tax year in which the period of three years from the date of the transfer of the original asset expires; and**

**(b) the assessee shall be entitled to withdraw such unutilised amount in accordance with the scheme referred to in sub-section (2).**

**82(5): Option to invest in two residential houses when capital gains do not exceed ₹2 crore**

**If the capital gains under sub-section (1) does not exceed two crore rupees, the assessee may, at his option, purchase or construct two residential houses in India, and where such option has been exercised,—**

**(a) for the purposes of sub-section (1)(b), “one residential house in India” shall be read as “two residential houses in India”; and**

**(b) for the purposes of sub-sections (1)(b) and (2), “new asset” shall mean two residential houses in India.**

**82(6): One-time option to invest in two houses not available again**

**If during any tax year, the assessee has exercised the option mentioned in sub-section (5), he shall not be entitled to exercise such option for the same tax year or any other tax year.**

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**82(7): Cap of ₹10 crore on cost considered for exemption**

If the cost of new asset exceeds ten crore rupees, the amount exceeding ten crore rupees shall not be taken into account for the purposes of sub-section (1).

**82(8): Cap of ₹10 crore on capital gains considered for deposit scheme**

If the capital gains on the transfer of original asset exceeds ten crore rupees, the amount exceeding ten crore rupees shall not be taken into account for the purposes of sub-section (2).

**83. CAPITAL GAINS ON TRANSFER OF LAND USED FOR AGRICULTURAL PURPOSES NOT TO BE CHARGED IN CERTAIN CASES.**

**83(1): Exemption for reinvestment of gains from sale of agricultural land**

Where an assessee, being an individual or a Hindu undivided family,—

(a) has capital gains arising from the transfer of a capital asset, being land, which was used by the assessee or his parent, or the Hindu undivided family for agricultural purposes (original asset), in two years immediately preceding the date of transfer; and

(b) has, within two years after that date, purchased any other land for being used for agricultural purposes (new asset), then, instead of the capital gains being charged to income-tax as income of the tax year in which the transfer took place, it shall be dealt with as follows:—

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(i) if the capital gains exceed the cost of the new asset, such excess shall be charged under section 67, and for computing any capital gains arising from the transfer of the new asset within three years of its purchase, the cost shall be nil; or

(ii) if the capital gains is equal to or less than the cost of the new asset, no capital gains shall be charged under section 67, and for computing any capital gains arising from the transfer of the new asset within three years of its purchase, the cost shall be reduced by the amount of the capital gains.

**83(2): Deposit of unutilised agricultural land gains in specified scheme**

If the capital gains referred to in sub-section (1) is not utilised by the assessee to purchase the new asset before filing the return of income under section 263, then—

(a) the unutilised amount shall be deposited in a specified bank or institution and utilised as per the scheme notified by the Central Government;

(b) such deposit shall be made before the filing of the return and not later than the due date applicable in the case of the assessee for filing the return of income under section 263(1); and

(c) the proof of deposit shall be submitted along with such return.

**83(3): Deemed cost of new agricultural land including utilised and deposited amounts**

For the purposes of sub-section (1), the amount already utilised for purchasing the new asset together with the

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deposited amount under sub-section (2), shall be deemed to be the cost of the new asset.

**83(4): Taxation of unutilised deposit after two-year period**

If the amount deposited under sub-section (2) is not fully utilised for purchase of the new asset within the period specified in sub-section (1), then,—

- (a) the unutilised amount shall be charged under section 67 as the income of the tax year in which two years from the date of the transfer of the original asset expires; and
- (b) the assessee shall be entitled to withdraw such unutilised amount in accordance with the scheme referred to in sub-section (2).

**84. CAPITAL GAINS ON COMPULSORY ACQUISITION OF LANDS AND BUILDINGS NOT TO BE CHARGED IN CERTAIN CASES.**

**84(1): Exemption on Compulsory Acquisition of Industrial Land or Building**

Where an assessee has—

- (a) capital gains arising from the transfer by way of compulsory acquisition under any law, of a capital asset being land or building or any right in land or building, forming part of an industrial undertaking belonging to him, which was being used by the assessee for the business of the said undertaking in the two years immediately preceding the date of transfer (original asset); and

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**(b) within three years after that date, purchased any other land or building or any right in any other land or building or constructed any other building for shifting or re-establishing the said undertaking or setting up another industrial undertaking (new asset), then, instead of the capital gain being charged to income-tax as income of the tax year in which the transfer took place, it shall be dealt with as follows:—**

**(i) if the capital gains exceeds the cost of new asset, such excess shall be charged under section 67, and for computing any capital gains arising from the transfer of the new asset within three years of its purchase or construction, the cost shall be nil; or**

**(ii) if the capital gains is equal to or less than the cost of new asset, no capital gains shall be charged under section 67 and for computing capital gains from the transfer of the new asset within three years of its purchase or construction, the cost shall be reduced by the amount of the capital gains.**

**84(2): Deposit of Unutilised Capital Gains for Exemption Eligibility**

**If the capital gains referred to in sub-section (1) is not utilised by the assessee to purchase the new asset before filing the return of income under section 263, then—**

**(a) the unutilised amount shall be deposited in a specified bank or institution and utilised as per the scheme notified by the Central Government;**

**(b) such deposit shall be made before the filing of the return not later than the due date applicable in the case of the**

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assessee for filing the return of income under the section 263(1); and (c) the proof of deposit shall be submitted along with such return.

**84(3): Treatment of Utilised and Deposited Amount as Cost of New Asset**

For the purposes of sub-section (1), the amount already utilised for purchasing or constructing the new asset together with the deposited amount under sub-section (2), shall be deemed to be the cost of the new asset.

**84(4): Taxation of Unutilised Deposit after Prescribed Period**

If the amount deposited under sub-section (2) is not fully utilised for the purchase or construction of the new asset within the period specified in sub-section (1), then,—

- (a) the unutilised amount shall be charged under section 67 as the income of the tax year in which three years from the date of the transfer of the original asset expires; and
- (b) the assessee shall be entitled to withdraw such unutilised amount in accordance with the scheme referred to in sub-section (2).

**85. CAPITAL GAINS NOT TO BE CHARGED ON INVESTMENT IN CERTAIN BONDS.**

**85(1): Exemption on Investment in Specified Bonds**

Where an assessee has—

- (a) long-term capital gains arising from the transfer of land or building, or both, (original asset); and

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**(b) within six months after the date of such transfer, invested whole or part of the capital gains in a long-term specified asset (new asset), then, the capital gains shall be dealt with as follows:—**

**(i) if the capital gains exceed the investment in the new asset, the amount of capital gains as exceeds such investment shall be charged under section 67; or**

**(ii) if the capital gains is equal to or less than the investment in the new asset, the whole of such capital gains shall not be charged under section 67.**

**85(2): Limit on Investment Eligible for Exemption**

**For the purposes of sub-section (1), investment made in the long-term specified asset from capital gain arising from transfer of one or more original asset shall not exceed fifty lakh rupees,—**

**(a) during any tax year; or**

**(b) in the year of transfer of the original asset or assets and in the subsequent tax year.**

**85(3): Withdrawal of Exemption on Early Transfer or Conversion of Bonds**

**If the new asset is transferred or converted (otherwise than by transfer) into money within five years of its acquisition, the capital gains not charged under section 67 as per sub-section (1), shall be deemed to be income chargeable as long-term capital gains in the tax year of its transfer or conversion.**

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**85(4): Loan or Advance Deemed as Conversion into Money**

Any loan or advance taken on the security of the new asset shall be deemed to have converted the new asset into money on the date of such loan or advance.

**85(5): No Double Deduction for Investment in Bonds**

Where the investment in the new asset has been taken into account for sub-section (1), no deduction under section 123 for any tax year shall be allowed for such investment.

**85(6): Definition of Long-term Specified Asset**

For the purposes of sub-section (1), “long-term specified asset” means any bond, redeemable after five years and issued on after the 1st April 2018, by the National Highways Authority of India constituted under section 3 of the National Highways Authority of India Act, 1988 or by the Rural Electrification Corporation Limited, a company formed and registered under the Companies Act, 2013 or any other bond as may be notified by the Central Government for the purposes of this section.

**86. CAPITAL GAINS ON TRANSFER OF CERTAIN CAPITAL ASSETS NOT TO BE CHARGED IN CASE OF INVESTMENT IN RESIDENTIAL HOUSE.**

**86(1): Exemption on Investment in Residential House**

If an individual or a Hindu undivided family has—

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**(a) capital gains arising from the transfer of any long-term capital asset, not being a residential house (original asset); and**

**(b) within one year before, or two years after, the date of such transfer, purchased, or has within three years after that date constructed, one residential house in India (new asset), then, the capital gains shall be dealt with as follows:—**

**(i) if the net consideration is more than the cost of the new asset, so much of the capital gains as bears to the whole of the capital gains, the same proportion as the cost of the new asset bears to the net consideration, shall not be charged under section 67; or**

**(ii) if the net consideration is equal to or less than the cost of the new asset, no capital gains shall be charged under section 67.**

**86(2): Deposit of Unutilised Consideration for Exemption**

**If the net consideration referred to in sub-section (1) is not utilised by the assessee to purchase the new asset within one year before the date of transfer of the original asset, or is not utilised for the purchase or construction of the new asset before filing the return of income under section 263, then,—**

**(a) the unutilised amount shall be deposited in a specified bank or institution and utilised as per the scheme notified by the Central Government;**

**(b) such deposit shall be made before the filing of the return and not later than the due date applicable in the case of the**

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assessee for filing the return of income under section 263;  
and

(c) the proof of deposit shall be submitted along with such return.

### **86(3): Determination of Cost of New Asset**

For the purposes of sub-section (1), the amount already utilised for purchasing or constructing the new asset together with the deposited amount under sub-section (2) shall, subject to sub-section (8), be deemed to be the cost of the new asset.

### **86(4): Taxability of Unutilised Deposit after 3 Years**

If the amount deposited under sub-section (2) is not wholly or partly utilised for purchasing or constructing the new asset within the period specified in sub-section (1), then,—

(a) the amount determined as per the following formula shall be charged under section 67 as income of the tax year in which three years from the date of the transfer of the original asset expires:—

$X - Y$ ,

where,—

**X** = the capital gains not charged under section 67 as per sub-section (1).

**Y** = the capital gains that would not have been charged under section 67, if the cost of the new asset had been taken to be the amount actually utilised for purchase or construction of the new asset;

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**(b) the assessee shall be entitled to withdraw such unutilised amount in accordance with the scheme referred to in sub-section (2).**

**86(5): Disqualification due to Ownership of Multiple Houses**

**The provisions of sub-section (1) shall not apply, if—**

**(a) the assessee—**

**(i) owns more than one residential house, other than the new asset, on the date of transfer of the original asset; or**

**(ii) purchases any residential house, other than the new asset, within one year of transfer of the original asset; or**

**(iii) constructs any residential house, other than the new asset, within three years of transfer of the original asset; and**

**(b) the income from such residential house, other than the one residential house owned on the date of transfer of the original asset, is chargeable under the head “Income from house property”.**

**86(6): Withdrawal on Subsequent Purchase or Construction of Another House**

**If the assessee purchases, within two years after the date of transfer of the original asset, or constructs, within three years after such date, any residential house, the income from which is chargeable under the head “Income from house property”, other than the new asset, the capital gains not charged under section 67 on the basis of cost of such new asset as per sub-section (1), shall be charged as long-term capital gains of the**

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tax year in which such residential house is purchased or constructed.

**86(7): Withdrawal on Transfer of New Asset within 3 Years**

If the new asset is transferred within three years from the date of purchase or its construction, the capital gains not charged under section 67 on the basis of cost of such new asset as per sub-section (1) shall be charged as long-term capital gains of the tax year in which such new asset is transferred.

**86(8): Limitation for High-Value Residential Investments**

If the cost of the new asset exceeds ten crore rupees, the amount exceeding ten crore rupees, shall not be taken into account for the purposes of sub-section (1).

**86(9): Limit on Eligible Net Consideration**

If the net consideration on the transfer of original asset exceeds ten crore rupees, the amount exceeding ten crore rupees, shall not be taken into account for the purposes of sub-section (2).

**86(10): Definition of Net Consideration**

For the purposes of this section, “net consideration” means the full value of the consideration received or accruing as a result of the transfer of the original asset as reduced by any expenditure incurred wholly and exclusively in connection with such transfer.

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## **87. EXEMPTION OF CAPITAL GAINS ON TRANSFER OF ASSETS IN CASES OF SHIFTING OF INDUSTRIAL UNDERTAKING FROM URBAN AREA.**

### **87(1): Exemption on Shifting of Industrial Undertaking from Urban to Non-Urban Area**

If the assessee has—

(a) capital gains arising from the transfer of capital asset, being machinery or plant or building or land or any rights in building or land used for the business of an industrial undertaking situated in an urban area, effected in the case of shifting of an industrial undertaking situated in an urban area (original asset) to any area other than an urban area (new area); and

(b) within one year before or three years after the date of such transfer,—

(i) purchased new machinery or plant for business of the industrial undertaking in the new area;

(ii) acquired building or land or constructed building for his business in the said area;

(iii) shifted the original asset and transferred the establishment of such undertaking to such area; and

(iv) incurred expenses on such other purpose as specified in a scheme notified by the Central Government for this section,

then, instead of the capital gains being charged to income-tax as income of the tax year in which the transfer took place, it shall be dealt with as follows:—

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**(A) if the cost and expenses incurred on all or any of the purposes mentioned in sub-clauses (i) to (iv) referred to as “new asset”,—**

**(I) is less than the capital gains, the difference shall be charged under section 67 as the income of the tax year; or**

**(II) is equal to or more than the capital gain, no capital gain shall be charged under section 67; and**

**(B) for computing any capital gain arising from transfer of the new asset within three years of its being purchased, acquired, constructed or transferred, the cost shall be nil in case of sub-clause(A)(II) or shall be reduced by the amount of the capital gain in case of sub-clause (A)(I).**

**87(2): Deposit of Unutilised Capital Gains for Shifting of Industrial Undertaking**

**If the capital gain is not used by the assessee for the new asset within one year before the date of transfer of the original asset, or before filing the return of income under section 263, then—**

**(a) the unutilised amount shall be deposited in a specified bank or institution and utilised as per the scheme notified by the Central Government;**

**(b) such deposit shall be made before the filing of the return and not later than the due date applicable in the case of the assessee for filing the return of income under section 263(1); and**

**(c) the proof of deposit shall be submitted along with such return.**

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### **87(3): Treatment of Utilised and Deposited Amount as Cost of New Asset**

For the purposes of sub-section (1), the amount already utilised for purchasing or constructing the new asset together with the deposited amount under sub-section (2) shall be deemed to be the cost of the new asset.

### **87(4): Taxability of Unutilised Deposit for Shifting of Industrial Undertaking**

If the amount deposited under sub-section (2) is not wholly or partly utilised for the new asset within the period specified in sub-section (1), then,—

(a) the unutilised amount shall be charged under section 67 as the income of the tax year in which the period of three years from the date of the transfer of the original asset expires; and

(b) the assessee shall be entitled to withdraw such unutilised amount in accordance with the scheme referred to in sub-section (2).

### **87(5): Meaning of “Urban Area” for Shifting of Industrial Undertakings**

For the purposes of this section, the expression “urban area” means any area within the limits of a municipal corporation or municipality, declared to be an urban area by the Central Government for the purposes of this section, having regard to—

(a) the population;

(b) concentration of industries; and

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(c) need for proper planning of the area and other relevant factors.

**88. EXEMPTION OF CAPITAL GAINS ON TRANSFER OF ASSETS IN CASES OF SHIFTING OF INDUSTRIAL UNDERTAKING FROM URBAN AREA TO ANY SPECIAL ECONOMIC ZONE.**

**88(1): Exemption of Capital Gains on Shifting of Industrial Undertaking to a Special Economic Zone**

Irrespective of anything contained in section 87, if the assessee has—

(a) capital gains arising from the transfer of a capital asset, being machinery or plant or building or land or any rights in building or land used for the business of an industrial undertaking situated in an urban area, effected in the course of or in consequence of shifting of such industrial undertaking (original asset) to any Special Economic Zone in any urban or any other area; and

(b) has within one year before or three years after the date of such transfer,—

(i) purchased machinery or plant for the business of the industrial undertaking in such Special Economic Zone;

(ii) acquired building or land or constructed building for his business in such Special Economic Zone;

(iii) shifted the original asset and transferred the establishment of such undertaking to such Special Economic Zone; and

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(iv) incurred expenses on such other purposes specified by a scheme notified by the Central Government in this behalf, then, instead of capital gain being charged to income-tax as income of the tax year in which the transfer took place, it shall be dealt with as follows:—

(A) if the cost and expenses incurred in on all or any of the purposes mentioned sub-clauses (i) to (iv) referred to as “new asset”,—

(I) is less than the capital gains, the difference shall be charged under section 67 as the income of the tax year; or  
(II) is equal to or more than the capital gains, no capital gain shall be charged under section 67;

(B) for computing any capital gain arising from transfer of the new asset within three years of its being purchased, acquired, constructed or transferred, the cost shall be nil in case of sub-clause (A)(II), or shall be reduced by the amount of the capital gain in case of sub-clause (A)(I).

**88(2): Deposit of Unutilised Capital Gains for Shifting to Special Economic Zone**

If the capital gain referred to in sub-section (1) is not utilised by the assessee for the new asset within one year before the transfer of the original asset, or before filing the return of income under section 263, then,—

(a) the unutilised amount shall be deposited in a specified bank or institution and utilised as per the scheme notified by the Central Government;

(b) such deposit shall be made before the filing of the return and not later than the due date applicable in the case of the

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assessee for filing the return of income under section 263(1);  
and

(c) the proof of deposit shall be submitted along with such return.

### **88(3): Deemed Cost of New Asset in Case of Shifting to Special Economic Zone**

For the purposes of sub-section (1), the amount already utilised for purchasing or constructing the new asset together with the deposited amount under sub-section (2) shall be deemed to be the cost of the new asset.

### **88(4): Taxability of Unutilised Deposits for Shifting to Special Economic Zone**

If the amount deposited under sub-section (2) is not wholly or partly utilised for the new asset within the period specified in sub-section (1), then,—

(a) the unutilised amount shall be charged under section 67 as the income of the tax year in which the period of three years from the date of the transfer of the original asset expires; and

(b) the assessee shall be entitled to withdraw such unutilised amount in accordance with the scheme referred to in sub-section (2).

### **88(5): Definition of “Urban Area” for SEZ Shifting Exemption**

For the purpose of this section, the expression “urban area” shall have the meaning assigned to it in section 87.

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**89. EXTENSION OF TIME FOR ACQUIRING  
NEW ASSET OR DEPOSITING OR INVESTING  
AMOUNT OF CAPITAL GAINS.**

**89: Extension of Time for Acquiring New Asset or  
Depositing Capital Gains**

Irrespective of anything contained in sections 82, 83, 84, 85  
and 86,—

(a) if the transfer of the original asset mentioned in those  
sections is by way of compulsory acquisition under any law;  
and

(b) if the compensation awarded for such acquisition is not  
received by the assessee on the date of transfer, then, the  
period available to him under those sections for acquisition  
of the new asset or investment or deposit of capital gain in  
specified bank or institution shall be reckoned from the date  
of receipt of compensation.

**90. MEANING OF “ADJUSTED”, “COST OF  
IMPROVEMENT” AND “COST OF  
ACQUISITION”.**

**90(1): Definition of “Cost of Improvement” for  
Capital Gains Computation**

For the purposes of sections 72 and 73, “cost of  
improvement”,—

(a) in relation to a capital asset being goodwill or any  
intangible asset of a business, or a right to manufacture,  
produce or process any article or thing, or right to carry on

any business or profession, or any other right, shall be taken to be nil; and

(b) in relation to any other capital asset,—

(i) if the capital asset became the property of the previous owner or the assessee before the 1st April, 2001, means all expenditure of a capital nature incurred on or after the said date in making any additions or alterations to the capital asset by the previous owner or the assessee; and

(ii) in any other case, means all expenditure of a capital nature incurred in making any additions or alterations to the capital asset by the assessee after it became his property, and, where the capital asset became the property of the assessee by any of the modes specified in section 73 (Table: Sl. No. 1), by the previous owner.

### **90(2): Exclusion from “Cost of Improvement”**

For the purposes of sub-section (1)(b), the cost of improvement does not include any expenditure which is deductible in computing the income chargeable under the head “Income from house property”, “Profits and gains of business or profession” or “Income from other sources”.

### **90(3): Meaning of “Cost of Acquisition” for Intangible and Certain Capital Assets**

For the purposes of sections 72 and 73, “cost of acquisition” of a capital asset (being goodwill of a business or profession, or a trade mark or brand name associated with a business or profession, or any other intangible asset, or a right to manufacture, produce or process any article or thing, or a right to carry on any business or profession, or tenancy

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rights, or stage carriage permits, or loom hours, or any other right) means—

(a) the purchase price, if acquisition of such asset by the assessee is by purchase from the previous owner; and

(b) the purchase price for the previous owner, in the case covered in section 73 (Table: Sl. No. 1), where such asset was acquired by purchase by the previous owner as defined in sub-section (2) of the said section; and

(c) nil, in any other case.

**90(4): Adjustment of Purchase Price for Depreciation on Goodwill**

For the purposes of sub-section (3)(a) or (b), if—

(a) the capital asset is goodwill of a business or profession; and

(b) the assessee has obtained a deduction on account of depreciation under section 32(1) of the Income-tax Act, 1961 in a tax year preceding the tax year commencing on the 1st April, 2020, then the total amount of depreciation obtained before the tax year commencing on the 1st April, 2020 shall be reduced from the amount of purchase price.

**90(5): Cost of Acquisition in Case of Entitlement or Allotment of Additional Financial Assets**

For the purposes of sections 72 and 73, and subject to the provisions of sub-sections (9)(a) and (b), “cost of acquisition” shall be as per sub-section (6), in a case where, by virtue of holding a capital asset, being a share or any other security, within the meaning of section 2(h) of the Securities Contracts

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**(Regulation) Act, 1956 (herein referred to as the financial asset), the assessee—**

**(a) becomes entitled to subscribe to any additional financial asset; or**

**(b) is allotted any additional financial asset without any payment.**

**90(6): Determination of Cost of Acquisition for Financial Assets Arising from Entitlement or Allotment**

**In a case referred to in sub-section (5), “cost of acquisition”, in relation to—**

**(a) the original financial asset, on the basis of which the assessee becomes entitled to any additional financial asset, means the amount actually paid for acquiring the original financial asset;**

**(b) any right to renounce the said entitlement to subscribe to the financial asset, when such right is renounced by the assessee in favour of any person, shall be taken to be nil in the case of such assessee;**

**(c) the financial asset, to which the assessee has subscribed on the basis of the said entitlement, means the amount actually paid by him for acquiring such asset;**

**(d) the financial asset allotted to the assessee without any payment and on the basis of holding of any other financial asset, shall be taken to be nil; and**

**(e) any financial asset purchased by any person in whose favour the right to subscribe to such asset has been**

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renounced, means the total amount of the purchase price paid by him to the person renouncing such right and the amount paid by him to the company or institution, for acquiring such financial asset.

**90(7): Cost of Acquisition for Certain Long-Term Capital Assets Acquired Before 1 February 2018**

For the purposes of sections 72 and 73, “cost of acquisition”, subject to sub-sections (9) (a) and (b), in relation to a 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 referred to in section 198, acquired before the 1st February, 2018, shall be higher of—

- (a) the cost of acquisition of such asset; and
- (b) lower of—
  - (i) the fair market value of such asset; and
  - (ii) the full value of consideration received or accruing as a result of the transfer of the capital asset.

**90(8): Determination of Fair Market Value and Related Definitions for Sub-section (7)**

For the purposes of sub-section (7),—

- (a) “Cost Inflation Index”, shall have the meaning assigned to it in section 72(8)(a);
- (b) “fair market value” means,—
  - (i) in a case where the capital asset is listed on any recognised stock exchange as on the 31st January, 2018, the highest price of the capital asset quoted on such exchange on that date;

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**(ii) in a case where there is no trading in such asset on such exchange on the 31st January, 2018, as mentioned in sub-clause (i) the highest price of such asset on such exchange on a date immediately preceding the 31st January, 2018 when such asset was traded on such exchange shall be the fair market value;**

**(iii) if the capital asset is a unit which is not listed on a recognised stock exchange as on the 31st January, 2018, the net asset value of such unit as on that date;**

**(iv) if the capital asset is an equity share in a company which is—**

**(A) not listed on a recognised stock exchange as on the 31st January, 2018 but listed on such exchange on the date of transfer;**

**(B) not listed on a recognised stock exchange as on the 31st January, 2018, or which became the property of the assessee in consideration of share which is not listed on such exchange as on the 31st January, 2018 by way of transaction not regarded as transfer mentioned in section 70, but listed on such exchange subsequent to the date of transfer (where such transfer is in respect of sale of unlisted equity shares under an offer for sale to the public included in an initial public offer);**

**(C) listed on a recognised stock exchange on the date of transfer and which became the property of the assessee in consideration of share which is not listed on such exchange as on the 31st January, 2018 by way of transaction not regarded as transfer mentioned in section 70, an amount which bears to the cost of acquisition the same proportion as Cost**

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**Inflation Index for the tax year 2017-18 bears to the Cost Inflation Index for the first year in which the asset was held by the assessee or for the year beginning on the 1st April, 2001, whichever is later.**

### **90(9): Determination of Cost of Acquisition for Capital Assets in Various Circumstances**

**For the purposes of sections 72 and 73, cost of acquisition in relation to any other capital asset,—**

**(a) if the capital asset became the property of the assessee before the 1st April, 2001, subject to sub-section (10), shall be the cost of acquisition of the asset to the assessee or its fair market value on the 1st April, 2001, at the option of the assessee;**

**(b) if the capital asset became the property of the assessee by any of the modes specified in section 73 (Table: Sl. No. 1), and the capital asset became the property of the previous owner before the 1st April, 2001, subject to sub-section (10), shall be the cost of the capital asset to the previous owner or its fair market value on the 1st April, 2001, at the option of the assessee;**

**(c) if the capital asset became the property of the assessee on the distribution of the capital assets of a company on its liquidation and the assessee has been assessed to income-tax under the head “Capital gains” in respect of that asset under section 68, means the fair market value of the asset on the date of distribution;**

**(d) if the capital asset, being a share or a stock of a company, became the property of the assessee on—**

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**(i) the consolidation and division of all or any of the share capital of the company into shares of larger amount than its existing shares; or**

**(ii) the conversion of any shares of the company into stock; or**

**(iii) the re-conversion of any stock of the company into shares; or (iv) the sub-division of any of the shares of the company into shares of smaller amount; or**

**(v) the conversion of one kind of shares of the company into another kind, means the cost of acquisition of the asset calculated with reference to the cost of acquisition of the shares or stock from which such asset is derived.**

**90(10): Limitation on Fair Market Value for Land or Building Acquired Before 1 April 2001**

**In case of a capital asset referred to in sub-section (9)(a) and (b), being land or building, or both, the fair market value of such asset on the 1st April, 2001 for the said sub-section 9(a) and (b) shall not exceed the stamp duty value, wherever available, of such asset as on the 1st April, 2001.**

**90(11): Cost of Acquisition When Previous Owner's Cost Is Unascertainable**

**If the cost for which the previous owner acquired the property cannot be ascertained, the cost of acquisition to the previous owner shall be the fair market value on the date on which the capital asset became the property of the previous owner.**

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**90(12): Cost of Acquisition in Cases of Demutualisation or Corporatisation of Stock Exchanges**

For the purposes of sections 72 and 73, cost of acquisition in relation to a capital asset—

(a) being equity share or shares allotted to a shareholder of a recognised stock exchange in India under a scheme for demutualisation or corporatisation approved by the Securities and Exchange Board of India established under section 3 of the Securities and Exchange Board of India Act, 1992, shall be the cost of acquisition of his original membership of the exchange:

(b) bring trading or clearing rights of the recognised stock exchange acquired by a shareholder who has been allotted equity share or shares under such scheme of demutualisation or corporatisation, shall be deemed to be nil.

**91. REFERENCE TO VALUATION OFFICER.**

**91(1): Reference to Valuation Officer for Determining Fair Market Value**

For ascertaining the fair market value of a capital asset for this Chapter, the Assessing Officer may refer the valuation of the capital asset to a Valuation Officer,—

(a) if the value of the asset claimed by the assessee is as per the estimate by a registered valuer, but the Assessing Officer is of the opinion that the value so claimed is at variance with its fair market value;

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**(b) in any other case, if the Assessing Officer is of the opinion that—**

**(i) the fair market value of the asset exceeds the value claimed by the assessee by more than the percentage of value of such asset or amount, as may be prescribed; or**

**(ii) having regard to the nature of the asset and other relevant circumstances, it is necessary so to do.**

**91(2): Application of Valuation Procedure under Section 269**

**The provisions of section 269(3) to (8) shall, with necessary modifications, apply in relation to such reference made under sub-section (1).**

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