Introduction

Gain arising on transfer of capital asset is charged to tax under the head “Capital Gains”. Income from capital gains is classified as “Short Term Capital Gains” and “Long Term Capital Gains”. In this part you can gain knowledge about the provisions relating to tax on Long Term Capital Gains.

Meaning of Capital Gains

Profits or gains arising from transfer of a capital asset are called “Capital Gains” and are charged to tax under the head “Capital Gains”.

Meaning of Capital Asset

Capital asset is defined to include:
(a) Any kind of property held by an assessee, whether or not connected with business or profession of the assessee.
(b) Any securities held by a FI which has invested in such securities in accordance with the regulations made under the SEBI Act, 1992.

However, the following items are excluded from the definition of “capital asset”:
(i) any stock-in-trade (other than securities referred to in (b) above), consumable stores or raw materials held for the purposes of his business or profession;
(ii) personal effects, that is, movable property (including wearing apparel and furniture) held for personal use by the taxpayer or any member of his family dependent on him, but excludes—

(a) jewellery;
(b) archaeological collections;
(c) drawings;
(d) paintings;
(e) sculptures; or
(f) any work of art.

“Jewellery" includes—

a. ornaments made of gold, silver, platinum or any other precious metal or any alloy containing one or more of such precious metals, whether or not containing any precious or semi-precious stones, and whether or not worked or sewn into any wearing apparel;
b. precious or semi-precious stones, whether or not set in any furniture, utensil or other article or worked or sewn into any wearing apparel;
(iii)Agricultural Land in India, not being a land situated:
a. Within jurisdiction of municipality, notified area committee, town area committee, cantonment board and which has a population of not less than 10,000;
b. Within range of following distance measured aerially from the local limits of any municipality or cantonment board:
   i. not being more than 2 KMs, if population of such area is more than 10,000 but not exceeding 1 lakh;
   ii. not being more than 6 KMs, if population of such area is more than 1 lakh but not exceeding 10 lakhs; or
   iii. not being more than 8 KMs, if population of such area is more than 10 lakhs.

Population is to be considered according to the figures of last preceding census of which relevant figures have been published before the first day of the year.

(iv) 61/2 per cent Gold Bonds, 1977 or 7 per cent Gold Bonds, 1980 or National Defence Gold Bonds, 1980 issued by the Central Government;
(v) Special Bearer Bonds, 1991;
(vi) Gold Deposit Bonds issued under the Gold Deposit Scheme, 1999 or deposit certificates issued under the Gold Monetisation Scheme, 2015.

Following points should be kept in mind:

- The property being capital asset may or may not be connected with the business or profession of the taxpayer. E.g. Bus used to carry passenger by a person engaged in the business of passenger transport will be his capital asset.

- Any securities held by a Foreign Institutional Investor which has invested in such securities in accordance with the regulations made under the Securities and Exchange Board of India Act, 1992 will always be treated as capital asset, hence, such securities cannot be treated as stock-in-trade.

Illustration

Mr. Kumar purchased a residential house in January, 2015 for Rs. 84,00,000. He sold the house in April, 2016 for Rs. 90,00,000. In this case residential house is a capital asset of Mr. Kumar and, hence, the gain of Rs. 6,00,000 arising on account of sale of residential house will be charged to tax under the head “Capital Gains”.

Illustration

Mr. Kapoor is a property dealer. He purchased a flat for resale. The flat was purchased in January, 2015 for Rs. 84,00,000 and sold in April, 2016 for Rs. 90,00,000. In this case Mr. Kapoor is dealing in properties in his normal business. Hence, flat purchased by him would form part of stock-in-trade of the business. In other words, for Mr. Kapoor flat is not a capital asset and, hence, gain of Rs. 6,00,000 arising on account of sale of flat will be charged to tax as business income and not as capital gain.

Meaning of long-term capital asset and short-term capital asset

For the purpose of taxation, capital assets are classified into two categories as given below:

<table>
<thead>
<tr>
<th>Short-Term Capital Asset</th>
<th>Long-Term Capital Asset</th>
</tr>
</thead>
<tbody>
<tr>
<td>Any capital asset held by the taxpayer for a period of not more than 36 months</td>
<td>Any capital asset held by the taxpayer for a period of more than 36 months</td>
</tr>
</tbody>
</table>
immediately preceding the date of its transfer will be treated as short-term capital asset.
However, in respect of certain assets like shares (equity or preference) which are listed in a recognised stock exchange in India (listing of shares is not mandatory if transfer of such shares took place on or before July 10, 2014), units of equity oriented mutual funds, listed securities like debentures and Government securities, Units of UTI and Zero Coupon Bonds, the period of holding to be considered is 12 months instead of 36 months

**Note:**
With effect from Assessment Year 2017-18, period of holding to be considered as 24 months instead of 36 months in case of unlisted shares of a company.

**Illustration**
Mr. Kumar is a salaried employee. In the month of April, 2010 he purchased a piece of land and sold the same in December, 2015. In this case, land is a capital asset for Mr. Kumar. He purchased land in April, 2010 and sold in December, 2015 i.e. after holding it for a period of more than 36 months. Hence, land will be treated as long-term capital asset.

**Illustration**
Mr. Raj is a salaried employee. In the month of April, 2014, he purchased a piece of land and sold the same in December, 2015. In this case land is a capital asset for Mr. Raj. He purchased land in April, 2015 and sold it in December, 2015, i.e., after holding it for a period of less than 36 months. Hence, land will be treated as short-term capital asset.

**Illustration**
Mr. Raj is a salaried employee. In the month of April, 2013 he purchased equity shares of SBI Ltd. (listed in BSE) and sold the same in December, 2015. In this case shares are capital assets for Mr. Raj. He purchased shares in April, 2013 and sold them in December, 2015, i.e., after holding them for a period of more than 12 months. Hence, shares will be treated as long-term capital assets.

**Illustration**

[As amended by Finance Act, 2016]
Mr. Kumar is a salaried employee. In the month of April, 2015 he purchased equity shares of SBI Ltd. (listed in BSE) and sold the same in January, 2016. In this case shares are capital assets for Mr. Kumar. He purchased shares in April, 2015 and sold them in January, 2016, i.e., after holding them for a period of less than 12 months. Hence, shares will be treated as short-term capital assets.

Illustration

Mr. Kumar is a salaried employee. In the month of April, 2015 he purchased un-listed shares of XYZ Ltd. and sold the same in January, 2016. In this case shares are capital assets for Mr. Raj and to determine nature of capital gain, period of holding would be considered as 36 month as shares are unlisted. He purchased shares in April, 2015 and sold them in January, 2016, i.e., after holding them for a period of less than 36 months. Hence, shares will be treated as Short Term Capital Assets.

Illustration

Mr. Raj is a salaried employee. In the month of April, 2011 he purchased un-listed shares of XYZ Ltd. and sold the same in December, 2015. In this case shares are capital assets for Mr. Raj and to determine nature of capital gain, period of holding would be considered as 36 month as shares are unlisted. He purchased shares in April, 2011 and sold them in December 2015, i.e., after holding them for a period of more than 36 months. Hence, shares will be treated as Long Term Capital Assets.

Illustration

Mr. Vikas is a salaried employee. In the month September, 2013 he purchased unlisted shares of ABC ltd. and sold the same in May 2016. In this case, shares are sold in assessment year 2017-18. Hence, period of holding for unlisted shares to be considered as 24 months instead of 36 months.

Mr. Vikas purchased shares in September 2013 and sold them May 2016, i.e. after holding them for a period of 24 months or more. Hence, shares will be treated as Long Term Capital Assets.

Meaning of short-term capital gain and long-term capital gain

Gain arising on transfer of short-term capital asset is termed as short-term capital gain and gain arising on transfer of long-term capital asset is termed as long-term capital gain. However, there are few exceptions to this rule like gain on depreciable asset is always taxed as short-term capital gain.

Illustration

In April, 2016 Mr. Raja sold his residential house property which was purchased in May, 2001. Capital gain on such sale amounted to Rs. 8,40,000. In this case the house property is a long-term capital asset and, hence, gain of Rs. 8,40,000 will be charged to tax as long-term capital gain.

Illustration
In April, 2016 Mr. Rahul sold his residential house property which was purchased in May, 2014. Capital gain on such sale amounted to Rs. 8,40,000. In this case the house property is a short-term capital asset and, hence, gain of Rs. 8,40,000 will be charged to tax as short-term capital gain.

Reason for bifurcation of capital gains into long-term and short-term gains :-

The taxability of capital gains depends on the nature of gain, i.e., whether short-term or long-term. Hence, to determine the taxability capital gains are classified into short-term capital gain and long-term capital gain. In other words, the tax rates for long-term capital gain and short-term capital gain are different.

Computation of long-term capital gains

Long-term capital gain arising on account of transfer of long-term capital asset will be computed as follows:

<table>
<thead>
<tr>
<th>Particulars</th>
<th>Rs.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Full value of consideration (i.e., Sales consideration of asset)</td>
<td>XXXXX</td>
</tr>
<tr>
<td><strong>Less:</strong> Expenditure incurred wholly and exclusively in connection with</td>
<td>(XXXXX)</td>
</tr>
<tr>
<td>transfer of capital asset (E.g., brokerage, commission, advertisement</td>
<td></td>
</tr>
<tr>
<td>expenses, etc.)</td>
<td></td>
</tr>
<tr>
<td>Net sale consideration</td>
<td>XXXXX</td>
</tr>
<tr>
<td><strong>Less:</strong> Indexed cost of acquisition (*)</td>
<td>(XXXXX)</td>
</tr>
<tr>
<td><strong>Less:</strong> Indexed cost of improvement if any (*)</td>
<td>(XXXXX)</td>
</tr>
<tr>
<td><strong>Long-Term Capital Gains</strong></td>
<td>XXXXX</td>
</tr>
</tbody>
</table>

(* Indexation is a process by which the cost of acquisition is adjusted against inflationary rise in the value of asset. For this purpose, Central Government has notified cost inflation index. The benefit of indexation is available only to long-term capital assets. For computation of indexed cost of acquisition following factors are to be considered:

- Year of acquisition/improvement
- Year of transfer
- Cost inflation index of the year of acquisition/improvement
- Cost inflation index of the year of transfer

Indexed cost of acquisition is computed with the help of following formula:

\[
\text{Cost of acquisition} \times \text{Cost inflation index of the year of transfer of capital asset}
\]
Cost inflation index of the year of acquisition

= not in short term

Indexed cost of improvement is computed with the help of following formula:

Cost of improvement × Cost inflation index of the year of transfer of capital asset = not in short term

Cost inflation index of the year of improvement

The Central Government has notified the following Cost Inflation Indexes:

<table>
<thead>
<tr>
<th>Fin. Year</th>
<th>Index</th>
</tr>
</thead>
<tbody>
<tr>
<td>1981-82</td>
<td>100</td>
</tr>
<tr>
<td>1982-83</td>
<td>109</td>
</tr>
<tr>
<td>1983-84</td>
<td>116</td>
</tr>
<tr>
<td>1984-85</td>
<td>125</td>
</tr>
<tr>
<td>1985-86</td>
<td>133</td>
</tr>
<tr>
<td>1986-87</td>
<td>140</td>
</tr>
<tr>
<td>1987-88</td>
<td>150</td>
</tr>
<tr>
<td>1988-89</td>
<td>161</td>
</tr>
<tr>
<td>1989-90</td>
<td>172</td>
</tr>
<tr>
<td>1990-91</td>
<td>182</td>
</tr>
<tr>
<td>1991-92</td>
<td>199</td>
</tr>
<tr>
<td>1992-93</td>
<td>223</td>
</tr>
<tr>
<td>1993-94</td>
<td>244</td>
</tr>
<tr>
<td>1994-95</td>
<td>259</td>
</tr>
<tr>
<td>1995-96</td>
<td>281</td>
</tr>
<tr>
<td>1996-97</td>
<td>305</td>
</tr>
<tr>
<td>1997-98</td>
<td>331</td>
</tr>
<tr>
<td>1998-99</td>
<td>351</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Fin. Year</th>
<th>Index</th>
</tr>
</thead>
<tbody>
<tr>
<td>1999-00</td>
<td>389</td>
</tr>
<tr>
<td>2000-01</td>
<td>406</td>
</tr>
<tr>
<td>2001-02</td>
<td>426</td>
</tr>
<tr>
<td>2002-03</td>
<td>447</td>
</tr>
<tr>
<td>2003-04</td>
<td>463</td>
</tr>
<tr>
<td>2004-05</td>
<td>480</td>
</tr>
<tr>
<td>2005-06</td>
<td>497</td>
</tr>
<tr>
<td>2006-07</td>
<td>519</td>
</tr>
<tr>
<td>2007-08</td>
<td>551</td>
</tr>
<tr>
<td>2008-09</td>
<td>582</td>
</tr>
<tr>
<td>2009-10</td>
<td>632</td>
</tr>
<tr>
<td>2010-11</td>
<td>711</td>
</tr>
<tr>
<td>2011-12</td>
<td>785</td>
</tr>
<tr>
<td>2012-13</td>
<td>852</td>
</tr>
<tr>
<td>2013-14</td>
<td>939</td>
</tr>
<tr>
<td>2014-15</td>
<td>1024</td>
</tr>
<tr>
<td>2015-16</td>
<td>1081</td>
</tr>
<tr>
<td>2016-17</td>
<td>1125</td>
</tr>
</tbody>
</table>

Illustration

[As amended by Finance Act, 2016]
Mr. Raja purchased a piece of land in May, 2004 for Rs. 84,000 and sold the same in April, 2016 for Rs. 10,10,000 (brokerage Rs. 10,000). What will be the taxable capital gain in the hands of Mr. Raja?

Computation of capital gain will be as follows:

<table>
<thead>
<tr>
<th>Particulars</th>
<th>Rs.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Full value of consideration (i.e., Sales consideration of asset)</td>
<td>10,10,000</td>
</tr>
<tr>
<td>Less: Expenditure incurred wholly and exclusively in connection with</td>
<td></td>
</tr>
<tr>
<td>transfer of capital asset (brokerage)</td>
<td>10,000</td>
</tr>
<tr>
<td>Net sale consideration</td>
<td>10,00,000</td>
</tr>
<tr>
<td>Less: Indexed cost of acquisition (*)</td>
<td>1,96,875</td>
</tr>
<tr>
<td>Less: Indexed cost of improvement, if any</td>
<td>Nil</td>
</tr>
<tr>
<td><strong>Long-Term Capital Gains</strong></td>
<td>8,03,125</td>
</tr>
</tbody>
</table>

(*) The cost inflation index notified for the year 2004-05 is 480 and for the year 2016-17 is 1125. Hence, the indexed cost of acquisition, i.e., the inflated cost of acquisition will be computed as follows:

\[
\text{Cost of acquisition} \times \frac{\text{Cost inflation index of the year of transfer of capital asset}}{\text{Cost inflation index of the year of acquisition}}
\]

Rs. 84,000 \times \frac{1125}{480} = Rs. 1,96,875

Long-term capital gains arising on account of sale of equity shares listed in a recognised stock exchange, i.e., LTCG exempt under section 10(38)

As per section 10(38), long-term capital gain arising on transfer of equity shares or units of equity oriented mutual fund (*) or units of business trust is not chargeable to tax in the hands of any person, if following conditions are satisfied:

- The transaction i.e. the transaction of sale of equity shares or units of an equity oriented mutual fund or units of business trust should be liable to securities transaction tax.
- Such shares/units should be long-term capital asset.
- Transfer should have taken place on or after October 1, 2004.
(*E*quity oriented mutual fund means a mutual fund specified under section 10(23D) and 65% of its investible funds out of total proceeds are invested in equity shares of a domestic company.

In other words, if LTCG is covered under section 10(38), then it is exempt from tax.

Exemption from long term capital gains under section 10(38) shall be available w.e.f. April 1, 2017 even where STT is not paid, provided that:

- transaction is undertaken on a recognised stock exchange located in any International Financial Service Centre, and
- consideration is paid or payable in foreign currency

**Illustration**

Mr. Janak is a salaried employee. In the month of January, 2014 he purchased 100 shares of X Ltd. @ Rs. 1,400 per share from Bombay Stock Exchange. These shares were sold through BSE in April, 2016 @ Rs. 2,000 per share (securities transaction tax was paid at the time of sale). What will be the nature of capital gain in this case?

**Shares were purchased in January, 2014 and were sold in April, 2016, i.e., sold after holding them for a period of more than 12 months and, hence, the gain will be long-term capital gain.

In the given case shares are sold after holding them for a period of more than 12 months, shares are sold through recognised stock exchange and the transaction is liable to STT, hence, the LTCG will be covered under section 10(38) and will not be charged to tax.**

**Illustration**

Mr. Saurabh is a salaried employee. In the month of January, 2014, he purchased 100 units of ABC Mutual fund @ Rs. 100 per unit. The mutual fund is an equity oriented mutual fund. These units were sold through BSE in April, 2016 @ Rs. 125 per unit (securities transaction tax was paid at the time of sale). What will be the nature of capital gain in this case?

**Units were purchased in January, 2014 and were sold in April, 2016, i.e., sold after holding them for a period of more than 12 months and, hence, the gain will be long-term capital gain.

In the given case, units were of equity oriented mutual funds which were sold after holding them for a period of more than 12 months. These units were sold through recognised stock exchange and the transaction was liable to STT, hence, the LTCG on sale of such units will be covered under section 10(38) and will not be charged to tax.**

**Illustration**

Mr. Raja is a salaried employee. In the month of January, 2014 he purchased 100 preference shares of ABC Ltd. @ Rs. 100 per share. These shares were sold in April,
2016 @ Rs. 125 per share (securities transaction tax was paid at the time of sale). Can the capital gains be claimed as exempt under section 10(38)?

**

Section 10(38) is applicable in case of LTCG arising on transfer of equity shares or units of equity oriented mutual-fund which are transferred on or after 1-10-2004 through a recognised stock exchange and such transaction is liable to securities transaction tax.

In the given case, the shares are preference shares and hence, the provisions of section 10(38) are not applicable. In other words, Mr. Raja cannot claim exemption under section 10(38) in respect of such gain.

Illustration

Mr. Rahul is a salaried employee. In the month of January, 2011 he purchased 100 units of debt oriented mutual fund @ Rs. 100 per unit. These units were sold in March, 2016 @ Rs. 125 per share (securities transaction tax was paid at the time of sale). Can the capital gain be claimed as exempt under section 10(38)?

**

Section 10(38) is applicable in case of LTCG arising on transfer of equity shares or units of equity oriented mutual-fund which are transferred on or after 1-10-2004 through a recognised stock exchange and such transaction is liable to securities transaction tax.

In the given case, the units sold are of debt oriented mutual funds (i.e., not equity oriented mutual fund) and, hence, the provisions of section 10(38) are not applicable. In other words, Mr. Rahul cannot claim exemption under section 10(38) in respect of such gain.

Illustration

Mr. Jay is a salaried employee. In the month of January, 2014 he purchased 100 shares of ABC Ltd. @ Rs. 100 per share. These shares were sold in April, 2016 @ Rs. 125 per share to his friend. The shares were not listed in any recognised stock exchange. Can the capital gain be claimed as exempt under section 10(38)?

**

Section 10(38) is applicable in case of LTCG arising on transfer of equity shares or units of equity oriented mutual-fund which are transferred on or after 1-10-2004 through a recognised stock exchange and such transaction is liable to securities transaction tax.

In the given case, the shares were not listed in recognised stock exchange and, hence, the provisions of section 10(38) were not applicable. In other words, Mr. Jay could not claim exemption under section 10(38) in respect of such gain.

Tax on long-term capital gain

Generally, long-term capital gains are charged to tax @ 20% (plus surcharge and cess as applicable), but in certain special cases, the gain may be (at the option of the taxpayer) charged to tax @ 10% (plus surcharge and cess as applicable). The benefit of charging
long-term capital gain @ 10% is available only in respect of long-term capital gains arising on transfer of any of the following assets:

(a) Any security (*) which is listed in a recognised stock exchange in India;
(b) Any unit of UTI or mutual fund (whether listed or not) ($); and
(c) Zero coupon bonds.

(*) Securities for this purpose means “securities” as defined in section 2(h) of the Securities Contracts (Regulation) Act, 1956. This definition generally includes shares, scrips, stocks, bonds, debentures, debenture stocks or other marketable securities of a like nature in or of any incorporated company or other body corporate, Government securities, such other instruments as may be declared by the Central Government to be securities and rights or interest in securities.

($) This option is available only in respect of units sold on or before 10-7-2014.

In other words, in case of long term capital gain arising on account of aforesaid assets, the taxpayer has following two options:

a. Avail of the benefit of indexation; the capital gains so computed will be charged to tax at normal rate of 20% (plus surcharge and cess as applicable).

b. Do not avail of the benefit of indexation; the capital gain so computed is charged to tax @ 10% (plus surcharge and cess as applicable).

The selection of the option is to be done by computing the tax liability under both the options, and the option with lower tax liability is to be selected.

**Illustration**

Mr. Kumar (a non resident) purchased equity shares (listed) of Shyamal Ltd. in December 1995 for Rs. 28,100. These shares are sold (outside recognised stock exchange) in April, 2016 for Rs. 5,00,000. He does not have any other taxable income in India. What will be his tax liability.

In this situation, Mr. Kumar has following two options:

<table>
<thead>
<tr>
<th>Particulars</th>
<th>Option 1 (Avail indexation)</th>
<th>Option 2 (Do not avail indexation)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Full value of consideration</td>
<td>5,00,000</td>
<td>5,00,000</td>
</tr>
<tr>
<td>Less: Indexed cost of acquisition (Rs. 28,100 × 1125/281)</td>
<td>1,12,500</td>
<td>------</td>
</tr>
<tr>
<td>Less: Cost of acquisition</td>
<td>------</td>
<td>28,100</td>
</tr>
<tr>
<td>Taxable Gain</td>
<td>3,87,500</td>
<td>4,71,900</td>
</tr>
<tr>
<td>Tax @ 20% on Rs. 3,87,500</td>
<td>77, 500</td>
<td>------</td>
</tr>
<tr>
<td>Tax @ 10% on Rs. 4,71,900</td>
<td>------</td>
<td>47,190</td>
</tr>
</tbody>
</table>
From the above computation, it is clear that Mr. Kumar should exercise option 2, since in this situation the tax liability (excluding cess as applicable) comes to Rs. 47,190 which is less than tax liability under option 1 i.e. Rs. 77,500. Tax liability after EC @ 2% and SHEC @ 1% will come to Rs. 48,606.

**Illustration**

Mr. Kumar (a non-resident) purchased a piece of land in December, 1995 for Rs. 28,100 and sold the same, in April, 2016 for Rs. 5,00,000. Can he claim the option of not availing of the indexation and paying tax @ 10% on the capital gain?

In this situation, the asset transferred is land and hence the options discussed in preceding illustration are not available and the gain will be computed after availing of the indexation and the resulting gain will be charged to tax @ 20% (plus surcharge and cess as applicable). The computation in this case will be as follows:

<table>
<thead>
<tr>
<th>Particulars</th>
<th>(Rs.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Full value of consideration</td>
<td>5,00,000</td>
</tr>
<tr>
<td>Less: Indexed cost of acquisition (Rs. 28,100 × 1125/281)</td>
<td>1,12,500</td>
</tr>
<tr>
<td>Less: Indexed cost of improvement</td>
<td>Nil</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>Long term capital gain</td>
<td>3,87,500</td>
</tr>
<tr>
<td>Tax @ 20% on Rs. 3,87,500</td>
<td>77,500</td>
</tr>
<tr>
<td>Add: EC @ 2% and SHEC @ 1%</td>
<td>2,325</td>
</tr>
<tr>
<td>Net tax payable</td>
<td>79,825</td>
</tr>
</tbody>
</table>

**Adjustment of LTCG against the basic exemption limit**

Basic exemption limit means the level of income up to which a person is not required to pay any tax. The basic exemption limit applicable in case of an individual for the financial year 2016-17 is as follows:

- For resident individual of the age of 80 years or above, the exemption limit is Rs. 5,00,000.
- For resident individual of the age of 60 years or above but below 80 years, the exemption limit is Rs. 3,00,000.
- For resident individual of the age of below 60 years, the exemption limit is Rs. 2,50,000.
- For non-resident individual, irrespective of the age of the individual, the exemption limit is Rs. 2,50,000.
- For HUF, the exemption limit is Rs. 2,50,000.

Illustration: Basic exemption limit

Mr. Kapoor (resident and age 25 years) is a salaried employee earning a salary of Rs. 1,84,000 per annum. Apart from salary income, he has earned interest on fixed deposit of Rs. 6,000. He does not have any other income. What will be his tax liability for the year 2016-17?

**

For resident individual of age of below 60 years, the basic exemption limit is Rs. 2,50,000. In this case the taxable income of Mr. Kapoor is Rs. 1,90,000 (Rs. 1,84,000 + Rs. 6,000), which is below the basic exemption limit of Rs. 2,50,000, hence, his tax liability will be nil.

Illustration: Basic exemption limit

Mr. Viren (resident and age 62 years) is a businessman. His taxable income for the year 2016-17 is Rs. 2,25,200. He does not have any other income. What will be his tax liability for the year 2016-17?

**

For resident individual of the age of 60 years and above but below 80 years, the basic exemption limit is Rs. 3,00,000. In this case, the taxable income of Mr. Viren is Rs. 2,25,200, which is below the basic exemption limit of Rs. 3,00,000, hence, his tax liability will be nil.

Illustration: Basic exemption limit

Mrs. Raja (resident and age 82 years) is a doctor. Her taxable income for the year 2016-17 is Rs. 4,84,000. She does not have any other income. What will be her tax liability for the year 2016-17?

**

For resident individual of the age of 80 years and above, the basic exemption limit is Rs. 5,00,000. In this case, the taxable income of Mrs. Raja is Rs. 4,84,000, which is below the basic exemption limit of Rs. 5,00,000, hence, her tax liability will be nil.

Illustration: Basic exemption limit

Mr. Raj (a non-resident and age 82 years) is a retired person. He is residing in Canada. He owns a house in Mumbai which is given on rent. The taxable rental income for the year 2016-17 amounts to Rs. 1,84,000. What will be his tax liability for the year 2016-17?

**
For non-resident individual, irrespective of the age, the basic exemption limit is Rs. 2,50,000. In this case the taxable income of Mr. Raj is Rs. 1,84,000, which is below the basic exemption limit of Rs. 2,50,000, hence, his tax liability will be nil.

**Adjustment of LTCG against the basic exemption limit**

In the preceding illustrations we observed that if the income is below the basic exemption limit, then there will be no tax liability. Now a question arises that can an individual adjust the basic exemption limit against long-term capital gain? The answer will depend on the residential status of the individual (i.e., resident or non-resident). The provisions in this regard are as follows:

Only a resident individual/HUF can adjust the exemption limit against LTCG. Thus, a non-resident individual and non-resident HUF cannot adjust the exemption limit against LTCG.

A resident individual can adjust the LTCG but such adjustment is possible only after making adjustment of other income. In other words, first income other than LTCG is to be adjusted against the exemption limit and then the remaining limit (if any) can be adjusted against LTCG.

**Illustration**

Mr. Kapoor (age 67 years and resident) is a retired person. He purchased a piece of land in December, 2010 and sold the same in April, 2016. Taxable long-term capital gain on such sale amounted to Rs. 1,84,000. Apart from gain on sale of land, he is not having any other income. What will be his tax liability for the year 2016-17?

*For resident individual of the age of 60 years and above but below 80 years, the basic exemption limit is Rs. 3,00,000. Further, a resident individual can adjust the basic exemption limit against LTCG. In this case, LTCG of Rs. 1,84,000 can be adjusted against the basic exemption limit. In other words, Mr. Kapoor can adjust the LTCG on sale of land against the basic exemption limit.

Considering the above discussion, the tax liability of Mr. Kapoor for the year 2016-17 will be nil.

**Illustration**

Mr. Kapoor (age 67 years and non-resident) is a retired person. He purchased a piece of land (at Delhi) in December, 2010 and sold the same in April, 2016. Taxable long-term capital gain on such sale amounted to Rs. 1,84,000. Apart from gain on sale of land, he is not having any other income. What will be his tax liability for the year 2016-17?

*For non-resident individual of any age, the basic exemption limit is Rs. 2,50,000. Further, a non-resident individual cannot adjust the basic exemption limit against LTCG. Hence, in this case the exemption limit of Rs. 2,50,000 cannot be adjusted against LTCG. In other words, Mr. Kapoor cannot adjust the LTCG on sale of land against the basic
exemption limit. Thus, LTCG of Rs. 1,84,000 will be charged to tax @ 20% (plus cess @ 2% and 1%). Thus, the tax liability will come to Rs. 37,904.

Illustration

Mr. Kapoor (age 67 years and resident) is a retired person earning a monthly pension of Rs. 5,000. He purchased gold in December, 2010 and sold the same in April, 2016. Taxable LTCG amounted to Rs. 2,70,000. Apart from pension income and gain on sale of gold he is not having any other income. What will be his tax liability for the year 2016-17?

For resident individual of the age of 60 years and above but below 80 years, the basic exemption limit is Rs. 3,00,000. Further, a resident individual can adjust the basic exemption limit against LTCG. However, such adjustment is possible only after adjusting income other than LTCG. In this case, he is having pension income of Rs. 60,000 (Rs. 5,000 × 12) and LTCG on gold of Rs. 2,70,000. Thus, first we have to adjust the pension income against the exemption limit and the balance limit will be adjusted against LTCG.

The basic exemption limit in this case is Rs. 3,00,000, after adjustment of pension income of Rs. 60,000 from the exemption limit of Rs. 3,00,000 the balance limit available will come to Rs. 2,40,000. The balance of Rs. 2,40,000 will be adjusted against LTCG.

Total LTCG on gold is Rs. 2,70,000 and the available limit is Rs. 2,40,000, hence, the balance LTCG left after adjustment of Rs. 2,40,000 will come to Rs. 30,000. The gain of Rs. 30,000 will be charged to tax @ 20% (plus cess @ 2% and 1%). Thus, the tax liability before cess will come to Rs. 6,000 and after deducting rebate of Rs. 5,000 as per section 87A, he would be liable to pay tax of Rs. 1,030 (including cess @ 2% and 1%).

Illustration

Mr. Gagan (age 67 years and non-resident) is a retired person earning a monthly pension of Rs. 5,000 from Indian employer. He purchased a piece of land in Delhi in December, 2010 and sold the same in April, 2016. Taxable LTCG amounted to Rs. 2,20,000. Apart from pension income and gain on sale of land he is not having any other income. What will be his tax liability for the year 2016-17?

For non-resident individual, irrespective of the age, the basic exemption limit is Rs. 2,50,000. Further, a non-resident individual cannot adjust the basic exemption limit against LTCG covered under section 112. In other words, Mr. Gagan can adjust the pension income against the basic exemption limit but the remaining exemption limit cannot be adjusted against LTCG on sale of land.

The basic exemption limit in this case is Rs. 2,50,000, and the same will be adjusted against pension income of Rs. 60,000. The balance limit of Rs. 1,90,000 (i.e., Rs. 2,50,000 less Rs. 60,000) cannot be adjusted against LTCG. Hence, in this case Mr. Gagan has to pay tax @ 20% (plus cess @ 2% and 1%) on LTCG of Rs. 2,20,000. Thus, the tax liability will come to Rs. 45,320.
Deductions under sections 80C to 80U and LTCG

No deduction under sections 80C to 80U is allowed from long-term capital gains.

Illustration

Mr. Kapoor (age 57 years and resident) is a retired person. He purchased a piece of land in December, 2010 and sold the same in April, 2016. Taxable LTCG on such sale amounted to Rs. 4,00,000. Apart from gain on sale of land he is not having any income. He deposited Rs. 1,00,000 in Public Provident Fund (PPF) and Rs. 50,000 in NSC. He wants to claim deduction under section 80C on account of Rs. 1,50,000 deposited in PPF and NSC. Can he do so?

**

Deduction under sections 80C to 80U cannot be claimed from long-term capital gains. Hence, Mr. Kapoor cannot claim deduction under section 80C of Rs. 1,50,000 from LTCG of Rs. 4,00,000. The taxable income of Mr. Kapoor will be computed as follows:

<table>
<thead>
<tr>
<th>Particulars</th>
<th>Rs.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Long-Term Capital Gains</td>
<td>4,00,000</td>
</tr>
<tr>
<td><strong>Gross Total Income</strong></td>
<td>4,00,000</td>
</tr>
<tr>
<td>Less: Deduction under sections 80C to 80U</td>
<td>Nil</td>
</tr>
<tr>
<td><strong>Total Income or Taxable Income</strong></td>
<td>4,00,000</td>
</tr>
</tbody>
</table>

He can claim basic exemption of Rs. 2,50,000 (being resident individual) and has to pay LTCG on remaining Rs. 1,50,000 @ 20% (+ Ed. Cess+ SHEC). Thus, his tax liability before cess will come to Rs. 30,000 and after deducting rebate of Rs. 5,000 as per section 87A, he would be liable to pay tax of Rs. 25,750 (including cess @ 2% and 1%).
MCQ ON TAX ON LONG-TERM CAPITAL GAINS

Q1. Any securities held by a Foreign Institutional Investor which has invested in such securities in accordance with the regulations made under the Securities and Exchange Board of India Act, 1992 will always be treated as capital asset, hence, such securities cannot be treated as stock-in-trade.

(a) True
(b) False

Correct answer: (a)

Justification of correct answer:
Any securities held by a Foreign Institutional Investor which has invested in such securities in accordance with the regulations made under the Securities and Exchange Board of India Act, 1992 will always be treated as capital asset, hence, such securities cannot be treated as stock-in-trade.

Thus, the statement given in the question is true and hence, option (a) is the correct option.

Q3. Listed equity shares will be treated as long-term capital assets if they are held by the taxpayer for a period of more than_______ months immediately preceding the date of its transfer.

(a) 12  
(b) 24  
(c) 36  
(d) 48

Correct answer: (a)

Justification of correct answer:
Any capital asset held by the taxpayer for a period of more than 36 months immediately preceding the date of its transfer will be treated as long-term capital asset. However, in respect of certain capital assets like shares (equity or preference) which are listed in a recognised stock exchange in India, units of equity oriented mutual funds, listed debentures, zero coupon bonds and Government securities the period of holding will be 12 months instead of 36 months.

Thus, option (a) is the correct option.

Q4. In computing indexed cost of acquisition _____ is not required.

(a) Cost of acquisition
(b) Cost inflation index of the year of improvement of capital asset
(c) Cost inflation index of the year of acquisition of capital asset
(d) Cost inflation index of the year of transfer of capital asset

Correct answer: (b)
Justification of correct answer:

Indexed cost of acquisition is computed with the help of following formula:

\[ \text{Cost of acquisition} \times \frac{\text{Cost inflation index of the year of transfer of capital asset}}{\text{Cost inflation index of the year of acquisition}} \]

Thus, option (b) is the correct option.

Q5. Indexed cost of improvement is computed with the help of following formula:

\[ \text{Cost of improvement} \times \frac{\text{Cost inflation index of the year of transfer of capital asset}}{\text{Cost inflation index of the year of improvement}} \]

(a) True (b) False

Correct answer: (a)

Justification of correct answer:

Indexed cost of improvement is computed with the help of following formula:

\[ \text{Cost of improvement} \times \frac{\text{Cost inflation index of the year of transfer of capital asset}}{\text{Cost inflation index of the year of improvement}} \]

Thus, the statement given in the question is true and hence, option (a) is the correct option.

Q6. As per section ______, long-term capital gain arising on transfer of equity shares or units of equity oriented mutual fund or units of business trust is not chargeable to tax in the hands of any person, if specific conditions are satisfied in this regard.

(a) 10(18) (b) 10(28) (c) 10(38) (d) 10(48)

Correct answer: (c)

Justification of correct answer:

As per section 10(38), long-term capital gain arising on transfer of equity share or units of equity oriented mutual fund or units of business trust is not chargeable to tax in the hands of any person, if specific conditions are satisfied in this regard.

Thus, option (c) is the correct option.

Q7. Generally, long-term capital gain is charged to tax @ ______ (plus surcharge and cess as applicable).

(a) 10% (b) 15% (c) 20% (d) 30%

Correct answer: (c)

Justification of correct answer:
Generally, long-term capital gain is charged to tax @ 20% (plus surcharge and cess as applicable).

Thus, option (c) is the correct option.

Q8. In respect LTCG arising on transfer of any security which is listed in a recognised stock exchange in India, the taxpayer can pay tax @ 10% (plus surcharge and cess as applicable) even though he avails the benefit of indexation.

(a) True     (b) False

Correct answer : (b)

Justification of correct answer :
In respect LTCG arising on transfer of any security which is listed in a recognised stock exchange in India, the taxpayer can pay tax @ 10% (plus surcharge and cess as applicable) only if he does not avail the benefit of indexation.

Thus, the statement given in the question is false and hence, option (b) is the correct option.

Q9. A resident as well as a non-resident individual and HUF can adjust the exemption limit against long-term capital gains.

(a) True     (b) False

Correct answer : (b)

Justification of correct answer :
Only a resident individual and resident HUF can adjust the exemption limit against LTCG. Thus, a non-resident individual/HUF cannot adjust the exemption limit against LTCG.

Thus, the statement given in the question is false and hence, option (b) is the correct option.

Q10. No deduction under sections 80C to 80U is allowed from long-term capital gains.

(a) True (b) False

Correct answer : (a)

Justification of correct answer :
No deduction under sections 80C to 80U is allowed from long-term capital gains.

Thus, the statement given in the question is true and hence, option (a) is the correct option.