



TAX ON LONG-TERM CAPITAL GAINS

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 FII 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) 6 1/2 per cent Gold Bonds, 1977 or 7 per cent Gold Bonds, 1980 or National Defence Gold Bonds, 1980 issued by the Central Government;
- (v) Special Bearer Bonds, 1991;
- (vi) Gold Deposit Bonds issued under the Gold Deposit Scheme, 1999 or deposit certificates issued under the Gold Monetisation Scheme, 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, 2017 for Rs. 84,00,000 and sold in April, 2018 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 :

<i>Short-Term Capital Asset</i>	<i>Long-Term Capital Asset</i>
<p>Any capital asset held by the taxpayer for a period of not more than 36 months immediately preceding the date of its transfer will be treated as short-term capital asset.</p> <p>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</p> <p>Note:</p> <p>1) 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, 2) With effect from A.Y. 2018-19, period of holding to be considered as 24 months in instead of 36 months in case of immovable property being land or building or both.</p>	<p>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.</p> <p>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</p> <p>Note:</p> <p>1) 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, 2) With effect from A.Y. 2018-19, period of holding to be considered as 24 months in instead of 36 months in case of immovable property being land or building or both.</p>

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, 2018. In this case, land is a capital asset for Mr. Kumar. He purchased land in April, 2010 and sold in December, 2018 i.e. after holding it for a period of more than 24 months. Hence, land will be treated as long-term capital asset.



Illustration

Mr. Raj is a salaried employee. In the month of April, 2017, he purchased a piece of land and sold the same in December, 2018. In this case land is a capital asset for Mr. Raj. He purchased land in April, 2017 and sold it in December, 2018, i.e., after holding it for a period of less than 24 months. Hence, land will be treated as short-term capital asset.

Illustration

Mr. Vipul is a salaried employee. In the month of July, 2015, he purchase a piece of land and sold the same in January 2019. In this case land is a capital asset for Mr. Vipul and it was sold in the Assessment Year 2019-20. He purchased land in July, 2015 and sold it in January 2019, i.e. after holding it for a period of more than 24 months. Hence land will be treated as long-term capital asset.

Illustration

Mr. Raj is a salaried employee. In the month of April, 2017 he purchased equity shares of SBI Ltd. (listed in BSE) and sold the same in December, 2018. In this case shares are capital assets for Mr. Raj. He purchased shares in April, 2017 and sold them in December, 2018, i.e., after holding them for a period of more than 12 months. Hence, shares will be treated as long-term capital assets.

Illustration

Mr. Kumar is a salaried employee. In the month of April, 2018 he purchased equity shares of SBI Ltd. (listed in BSE) and sold the same in January, 2019. In this case shares are capital assets for Mr. Kumar. He purchased shares in April, 2018 and sold them in January, 2019, 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, 2017 he purchased **un-listed** shares of XYZ Ltd. and sold the same in January, 2019. In this case shares are capital assets for Mr. Raj and to determine nature of capital gain, period of holding would be considered as 24 month as shares are unlisted. He purchased shares in April, 2017 and sold them in January, 2019, i.e., after holding them for a period of less than 24 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, 2018. In this case shares are capital assets for Mr. Raj and to determine nature of capital gain, period of holding would be considered as 24 month as shares are unlisted. He purchased shares in April, 2011 and sold them in December 2018, i.e., after holding them for a period of more than 24 months. Hence, shares will be treated as Long Term Capital Assets.



Illustration

Mr. Vikas is a salaried employee. In the month of September, 2015 he purchased unlisted shares of ABC Ltd. and sold the same in May 2018. In this case, shares are sold in assessment year 2019-20. Hence, period of holding for unlisted shares to be considered as 24 months instead of 36 months.

Mr. Vikas purchased shares in September 2015 and sold them May 2018, 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, 2018 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, 2018 Mr. Rahul sold his residential house property which was purchased in May, 2016. 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 :

<i>Particulars</i>	<i>Rs.</i>
Full value of consideration (<i>i.e.</i> , Sales consideration of asset)	XXXXX
Less: Expenditure incurred wholly and exclusively in connection with transfer of capital asset (E.g., brokerage, commission, advertisement expenses, etc.).	<u>(XXXXX)</u>



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Net sale consideration	XXXXXX
Less: Indexed cost of acquisition (*)	(XXXXXX)
Less: Indexed cost of improvement if any (*)	(XXXXXX)
Long-Term Capital Gains	XXXXXX

(*) 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 :

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

= not in short term

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

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

The Central Government has notified the following Cost Inflation Indexes:-

Sl. No.	Financial Year	Cost Inflation Index
(1)	(2)	(3)
1	2001-02	100
2	2002-03	105
3	2003-04	109
4	2004-05	113
5	2005-06	117
6	2006-07	122
7	2007-08	129
8	2008-09	137
9	2009-10	148
10	2010-11	167
11	2011-12	184



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12	2012-13	200
13	2013-14	220
14	2014-15	240
15	2015-16	254
16	2016-17	264
17	2017-18	272

Illustration

Mr. Raja purchased a piece of land in May, 2004 for Rs. 84,000 and sold the same in April, 2017 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 :

<i>Particulars</i>	<i>Rs.</i>
Full value of consideration (<i>i.e.</i> , Sales consideration of asset)	10,10,000
<i>Less:</i> Expenditure incurred wholly and exclusively in connection with transfer of capital asset (brokerage)	<u>10,000</u>
Net sale consideration	10,00,000
<i>Less:</i> Indexed cost of acquisition (*)	2,02,195
<i>Less:</i> Indexed cost of improvement, if any	<u>Nil</u>
<i>Long-Term Capital Gains</i>	7,97,805

(*) The cost inflation index notified for the year 2004-05 is 113 and for the year 2017-18 is 272. Hence, the indexed cost of acquisition, *i.e.*, the inflated cost of acquisition will be computed as follows:

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

$$\frac{\text{Rs. } 84,000 \times 272}{113} = \text{Rs. } 2,02,195$$

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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) [Upto Assessment year 2018-19]



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 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.

(*) Equity 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

Exemption for long-term capital gains arising from transfer of listed securities as referred to in Section 10(38) has been withdrawn by the Finance Act, 2018 w.e.f. Assessment Year 2019-20 and a new section 112A is introduced in the Income-tax Act.

As per Section 112A, long-term capital gains arising from transfer of an equity share, or a unit of an equity oriented fund or a unit of a business trust shall be taxed at 10% (without indexation) of such capital gains. The tax on capital gains shall be levied in excess of Rs. 1 lakh.

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 following cases:

- 1) Long-term capital gains arising from sale of listed securities and it exceeds Rs. 1,00,000 (Section 112A);
- 2) Long-term capital gains arising from transfer of any of the following asset:
 - 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.

Long-term capital gains arising from sale of listed securities [Section 112A –with effect from Assessment Year 2019-20]

The Finance Act, 2018 inserts a new Section 112A with effect from Assessment Year 2019-20. As per the new section capital gains arising from transfer of 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 shall be taxed at the rate of 10 per cent of such capital gains exceeding Rs. 1,00,000.

This concessional rate of 10 per cent will be applicable if:

- a) in a case of an equity share in a company, securities transaction tax has been paid on both acquisition and transfer of such capital asset; and
- b) in a case a unit of an equity oriented fund or a unit of a business trust, STT has been paid on transfer of such capital asset.

The cost of acquisitions of a listed equity share acquired by the taxpayer before February 1, 2018, shall be deemed to be the higher of following:

- a) The actual cost of acquisition of such asset; or
- b) Lower of following:
 - (i) Fair market value of such shares as on January 31, 2018; or
 - (ii) Actual sales consideration accruing on its transfer.

The Fair market value of listed equity share shall mean its highest price quoted on the stock exchange as on January 31, 2018. However, if there is no trading in such shares on January 31, 2018, the highest price of such share on a date immediately preceding January 31, 2018 on which trading happens in that share shall be deemed as its fair market value.

In case of units which are not listed on recognized stock exchange, the net asset value of such units as on January 31, 2018 shall be deemed to be its FMV.

In a case where the capital asset is an equity share in a company which is not listed on a recognised stock exchange as on 31-1-2018 but listed on the date of transfer, the cost of unlisted shares as increased by cost inflation index for the financial year 2017-18 shall be deemed to be its FMV.

Long-term capital gains arising from transfer of specified asset



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A taxpayer who has earned long-term capital gains from transfer of any listed security or any unit of UTI or mutual fund (whether listed or not), not being covered under Section 112A, and Zero coupon bonds shall have the 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. 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, 2018 @ Rs. 2,600 per share. The highest price of X Ltd. share quoted on the stock exchange on January 31, 2018 was Rs. 1,800 per share. What will be the nature of capital gain in this case?

**

Shares were purchased in January, 2014 and were sold in April, 2018, i.e., sold after holding them for a period of more than 12 months and, hence, the gain will be long-term capital gain (LTCG).

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. Therefore, section 112A is applicable in this case.

The cost of acquisition of X Ltd. shares shall be higher of:

- a) Cost of acquisition i.e., 1,40,000 ($1,400 \times 100$);
- b) Lower of:
 - a. Highest price quoted as on 31-1-2018 i.e., 1,80,000 ($1,800 \times 100$);
 - b. Sales consideration i.e., 2,60,000 ($2,600 \times 100$)

Thus, the cost of acquisition of shares shall be Rs. 1,80,000. Accordingly, Long-term capital gains in hands of Mr. Janak would be Rs. 80,000 (i.e., $2,60,000 - 1,80,000$). Since long-term capital gains doesn't exceed Rs. 1,00,000, nothing is taxable in hands of Mr. Janak.

Illustration

Mr. Saurabh is a salaried employee. In the month of July, 2016 he purchased 100 shares of XYZ Ltd. @ Rs. 2,000 per share from Bombay Stock Exchange. These shares were sold through NSE in June, 2018 @ Rs. 4,900 per share. The highest price of XYZ Ltd. share quoted on the stock exchange on January 31, 2018 was Rs. 3,800 per share. What will be the nature of capital gain in this case?

**



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Shares were purchased in July, 2016 and were sold in June, 2018, i.e., sold after holding them for a period of more than 12 months and, hence, the gain will be long-term capital gain (LTCG).

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. Therefore, section 112A is applicable in this case.

The cost of acquisition of X Ltd. shares shall be higher of:

- a) Cost of acquisition i.e., 2,00,000 (2,000 × 100);
- b) Lower of:
 - (i) Highest quoted price as on 31-1-218 i.e., 3,80,000 (3,800 × 100);
 - (ii) Sales consideration i.e., 4,90,000 (4,900 × 100)

Thus from above, the cost of acquisition of shares shall be Rs. 3,80,000. Accordingly, Long-term capital gains taxable in hands of Mr. Saurabh would be Rs. 1,10,000 (i.e., 4,90,000 – 3,80,000). Since the long-term capital gains exceeds Rs. 1,00,000, hence it will be covered under section 112A. Mr. Saurabh would be liable to pay at the rate of 10% on Rs. 1,10,000 i.e., gains exceeding Rs. 1,00,000.

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, 2017 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:

<i>Particulars</i>	<i>Option 1 (Avail indexation)</i>	<i>Option 2 (Do not avail indexation)</i>
Full value of consideration	5,00,000	5,00,000
Less: Indexed cost of acquisition (Rs. 28,100 × 272/100)	76,432	-----
Less: Cost of acquisition	-----	28,100
<i>Taxable Gain</i>	4,23,568	4,71,900
Tax @ 20% on Rs. 4,23,568	84,714	-----
Tax @ 10% on Rs. 4,71,900	-----	47,190

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 (excluding cess as applicable) under option 1 i.e. Rs. 84,714.

Illustration



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Mr. Kumar (a non-resident) purchased a piece of land in December, 2004 for Rs. 28,100 and sold the same, in April, 2017 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 :

<i>Particulars</i>	<i>(Rs.)</i>
Full value of consideration	5,00,000
Less: Indexed cost of acquisition (Rs. 28,100 × 272/113)	67,639
Less: Indexed cost of improvement	<u>Nil</u>
Long term capital gain	4,32,361
Tax @ 20% on Rs. 4,32,361	86,472
Add: Health & education cess @ 4%	<u>3,459</u>
Net tax payable	89,931

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 2018-19 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 2018-19?

**

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 2018-19 is Rs. 2,25,200. He does not have any other income. What will be his tax liability for the year 2018-19?

**

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 2018-19 is Rs. 4,84,000. She does not have any other income. What will be her tax liability for the year 2018-19?

**

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 2018-19?

**

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, 2011 and sold the same in April, 2018. 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 2018-19?

*

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 2018-19 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, 2011 and sold the same in April, 2018. 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 2018-19?

*

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 health & education cess @ 4%). Thus, the tax liability will come to Rs. 38,272.

Illustration



Income Tax Department
Department of Revenue, Ministry of Finance, Government of India

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, 2018. 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 2018-19?

*

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 health & education cess @ 4%). Thus, the tax liability before cess will come to Rs. 6,000 and after deducting rebate of Rs. 2,500 as per section 87A, he would be liable to pay tax of Rs. 3,640 (including health & education cess @ 4%).

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, 2018. 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 2018-19?

*

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 health & education cess @ 4%) on LTCG of Rs. 2,20,000. Thus, the tax liability will come to Rs. 45,760.

Deductions under sections 80C to 80U and LTCG



Income Tax Department
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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, 2018. 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 :

<i>Particulars</i>	<i>Rs.</i>
Long-Term Capital Gains	4,00,000
<i>Gross Total Income</i>	4,00,000
<i>Less:</i> Deduction under sections 80C to 80U	<u>Nil</u>
<i>Total Income or Taxable Income</i>	4,00,000

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% (+HEC). Thus, his tax liability before cess will come to Rs. 30,000 and he would be liable to pay tax of Rs. 31,200 (including cess @ 4%).



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.

Q2. 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.

Q3. 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)



Thus, option (c) is the correct option.

Q7. 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.

Q8. 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.

Q9. 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.