1. What is the meaning of capital asset for the purpose of capital gain?

   Capital asset is defined to include:

   a. Any kind of property held by an assesse, whether or not connected with business or profession of the assesse.

   b. Jewellery, Drawings, Paintings, Sculpture, Archaeological Collection, Gold Utensils, Silver Bars, Silver Coins or Any other work of Art

   <u>But excludes</u>

   a. Stock in Trade
   b. Moveable Personal Property (used by assessee or his dependent family member for personal purpose)
      - T.V., Car, Mobile, Silver Utensils etc.
   c. Rural Agricultural Land in India
   d. Gold Deposits Bond or Deposits Certificates issued under the Gold Monetisation Scheme, 2015

2. Type of Capital Assets

Short Term Capital Assets	Listed equity shares Units of Equity Oriented Mutual Funds Zero Coupon Bond	Held for Less than 1 year
	Immovable Property (House Property) Unlisted Shares	Held for Less than 2 year
	Any Other Capital Asset	Held for Less than 3 year
Long Term Capital Assets	Listed equity shares Units of Equity Oriented Mutual Funds Zero Coupon Bond	Held for More than 1 year
	Immovable Property (House Property) Unlisted Shares	Held for More than 2 year
	Any Other Capital Asset	Held for More than 3 year

3. Computation of Long Term Capital Gain

Particulars	*Rs.*
Full value of consideration (i.e., Sales consideration of asset)	*XXXXX*
Less: Expenditure incurred wholly and exclusively in connection with transfer of capital asset (E.g., brokerage, commission, etc.)	*(XXXXX)*
Net sale consideration	*XXXXX*
Less: Indexed cost of acquisition (*)	*(XXXXX)*
Less: Indexed cost of improvement, if any (*)	*(XXXXX)*
Long-Term Capital Gain	*XXXXX*

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

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

4. Computation of Short Term Capital Gain

Particulars	*Rs.*
Full value of consideration (i.e., Sales value of the asset)	*XXXXX*
Less: Expenditure incurred wholly and exclusively in connection with transfer of capital asset (E.g., brokerage, commission, etc.)	*(XXXXX)*
Net Sale Consideration	*XXXXX*
Less: Cost of acquisition (i.e., the purchase price of the capital asset)	*(XXXXX)*
Less: Cost of improvement (i.e., post purchase capital expenses incurred on addition/improvement to the capital asset)	*(XXXXX)*
Short-Term Capital Gain	*XXXXX*

5. **What is the meaning of stamp duty value and what is its relevance while computing capital gain in case of transfer of capital asset, being land or building or both?**

Stamp duty value means the value adopted or assessed or assessable by any authority of a State Government for the purpose of payment of stamp duty.

As per section 50C, while computing capital gain arising on transfer of land or building or both, if the actual sale consideration of such land and/or building is less than the stamp duty value, then the stamp duty value will be taken as full value of consideration, *i.e.*, as deemed selling price and capital gain will be computed accordingly.

However, if stamp duty value does not exceed 105% of the consideration received, the consideration so received shall be deemed to be the full value of consideration.

6. Cost Inflation Index (CII)

F.Y	CII	F.Y	CII	F.Y	CII
2001-02	100	2007-08	129	2013-14	220
2002-03	105	2008-09	137	2014-15	240
2003-04	109	2009-10	148	2015-16	254
2004-05	113	2010-11	167	2016-17	264
2005-06	117	2011-12	184	2017-18	272
2006-07	122	2012-13	200	2018-19	280

Notes:-

- Assets acquired before 01/04/2001 shall be re-valued at Actual Cost or Fair Market Value (FMV), whichever is higher
- Improvement done before 01/04/2001 shall be ignored after revaluation.

7. Tax Rate for Capital Gain

Section 112A	Tax on Long Term Capital Gain on transfer of - Equity Shares - Equity Oriented Mutual Funds - Units of Business Trust *STT Paid	10% If gain is in excess of Rs. 1,00,000 then the excess amount shall be taxable @ 10%
Section 111A	Tax on Short Term Capital Gain on transfer of - Equity Shares - Equity Oriented Mutual Funds - Units of Business Trust *STT Paid	15%
Long Term Capital (other than referred in Section 112 A)		20%
Short Term Capital (other than referred in Section 111 A)		Normal Slab Rate

8. Capital Gains Account Scheme

What is Capital Gains Account- Capital gains account is a saving bank account opened in any of the authorised bank branches to deposit the un-utilised capital gains.

Purpose - The time limit available for re-investment and availing the exemption, in many cases is longer than the due date to file the return of income. In such cases, the taxpayer is given an option of depositing such underutilised capital gains in 'Capital Gains Account'. Any capital gain invested in Capital Gains Account Scheme will be eligible for capital gain exemption as it would in case of re-investment.

Time Limit - If a taxpayer is unable to re-invest capital gains in the specified investment before furnishing the return of income and specified time limit for the investment has not expired then he is required to deposit such unutilised capital gain in the capital gains account before furnishing return of income but not beyond the due date for furnishing return of income.

If the amount deposited in CGAS is not utilised within stipulated time of 2/3/4 years, then amount such deposited will be charged as capital gain of previous year in which time has been expired.

9. Compensation on compulsory acquisition under any law

- ✓ In case of compulsory acquisition of capital asset, capital gain will be taxable in the year in which compensation is received.
- ✓ If any enhanced compensation is received due to the interim order of any court, then such compensation shall be taxable in the year in which final order is passed by such court or other authority.
- ✓ Any interest received on late compensation shall be taxable under Income from Other Sources in the year of receipt & 50% deduction will be allowed u/s 57.

Calculation of Gain:

Initial Compensation		**Enhanced Compensation**	
Initial Compensation	**XXX**	Initial Compensation	**XXX**
(-) Cost of Acquisition	**XXX**	(-) Litigation Expenses	**XXX**
(-) Cost of Improvement	**XXX**		
Capital Gain	**XXX**	**Capital Gain**	**XXX**

10. Advance Money (Token Money) Forfeited

- ✓ If any advance money / token money / earnest money is forfeited by the assessee before 01/04/2014, then it shall be reduced from “Cost of Acquisition”.
- ✓ Any Advance Money forfeited on or after 01/04/2014 shall be charged to tax in the year of receipt under the head “Income from other Sources”.

Frequently Asked Questions

a. **Why capital gains are classified as short-term and long-term?**
The taxability of capital gain 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. Similarly, computation provisions are different for long-term capital gains and short-term capital gains.

b. **Is the benefit of indexation available while computing capital gain arising on transfer of short-term capital asset?**
Indexation is a process by which the cost of acquisition/improvement of a capital asset is adjusted against inflationary rise in the value of asset. The benefit of indexation is available only in case of long-term capital assets and is not available in case of short-term capital assets.

c. **In respect of capital asset acquired before 1st April, 2001 is there any special method to compute cost of acquisition?**
Generally, cost of acquisition of a capital asset is the cost incurred in acquiring the capital asset. It includes the purchase consideration plus any expenditure incurred exclusively for acquiring the capital asset. However, in respect of capital asset acquired before 1st April, 2001, the cost of acquisition will be higher of the actual cost of acquisition of the asset or fair market value of the asset as on 1st April, 2001. This option is not available in the case of a depreciable asset.

d. **What are the provisions relating to computation of capital gain in case of transfer of asset by way of gift, will, etc.?**
Capital gain arises if a person transfers a capital asset. section 47 excludes various transactions from the definition of 'transfer'. Thus, transactions covered under section 47 are not deemed as 'transfer' and, hence, these transactions will not give rise to any capital gain. Transfer of capital asset by way of gift, will, etc., are few major transactions covered in section 47. **Thus, if a person gifts his capital asset to any other person, then no capital gain will arise in the hands of the person making the gift** (*).

If the person receiving the capital asset by way of gift, will, etc. subsequently transfers such asset, capital gain will arise in his hands. Special provisions are designed to compute capital gains in the hands of the person receiving the asset by way of gift, will, etc. In such a case, the cost of acquisition of the capital asset will be the cost of acquisition to the previous owner and the period of holding of the capital asset will be computed from the date of acquisition of the capital asset by the previous owner.

(*) As regards the taxability of gift in the hands of person receiving the gift, separate provisions are designed under section 56

e. Are any capital gains exempt under section 10?

Section 10(37) : An individual or Hindu Undivided Family (HUF) can claim exemption in respect of capital gain arising on transfer of agricultural land situated in an urban area by way of compulsory acquisition. This exemption is available if the land was used by the taxpayer (or by his parents in the case of an individual) for agricultural purpose for a period of 2 years immediately preceding the date of its transfer .

Section 10(38) : Long-term capital gain arising on transfer of equity shares or units of equity oriented mutual fund (*) or a unit of a business trust other than a unit allotted by the trust in exchange of shares of a special purpose vehicle as referred to in section 47(xvii), will be exempt from tax, if the securities transaction tax (STT) is paid at the time of transfer.

However 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.