



IMPLICATIONS OF NEW CAPITAL GAIN REGIME ON VALUATION

**R. Jayaraman
Registered Valuer, IBBI**

1. PREAMBLE

Capital gains under tax laws are based on the financial concept. Only, when the assets are sold, the capital gains are referred to as having been realized. Profit earned on the sale of an asset that has increased in value over the period due to inflation.

Capital gain tax is a tax incurred on the growth in value of investments while selling those investments. The tax doesn't apply to unsold investments that may appreciate every year and will not incur capital gains taxes until they are sold. Whenever, there is any transfer of any capital asset, tax is computed under this head. Further, a capital asset may be classified as a long-term capital asset or a short-term capital asset, basis on the period held by the assessee.

2. MODE OF COMPUTATION

Determination of period of holding and inferring whether the capital asset is a long-term or a short-term capital asset is important as the mode of computation and tax rates for the gain on long-term capital assets differ from that of a short-term capital asset.

3. PERIOD OF HOLDING

For Immovable properties, as per section 2(42A), short term capital asset was defined as a capital asset held by an assessee for not more than thirty-six months immediately preceding the date of its transfer, if the asset is sold on or before 31.03.2017. From 01.04.2017, this provision to this section prescribed a period of holding of 24 months.

Particulars	Period of holding prior to Finance Act(2) 2024	Finance Act (2) 2024 Period of holding prior to Amendment	Finance Act (2) 2024 Period of Holding after Amendment
Immovable property	24 months	24 months	24 months

4. THE FINANCE BILL (2) 2024

The finance bill (2) 2024 by the Hon'ble Finance Minister, Government of India on 23.07.2024, has proposed various amendments in the provisions related to Income computed under the head Capital Gains. The most significant of them is the changes in the tax rates and removal of the indexation benefit. The finance bill, made an amendment to the section 48 and restricted the indexation benefit only on the transfers prior to on or before 22nd July 2024 as well as section 112 on tax treatment.

5. TAX RATES

In order to rationalize the provisions, a new proviso is proposed to be added to the section 112 clause (a) that states about the resident Individuals/HUFs. Thus, it can be understood that the proviso is inserted only for the Resident Individuals and HUFs and not for any other categories of assessee like domestic companies or non – residents.

Section 112 was amended and the Long term capital gain on Immovable property asset rate specified as 20% was substituted as 12.5% for any transfers on or after 23rd July 2024. The tax rates under the capital gains head have also been amended as follows –

Section	Mode	Transfers on or before 22nd July 2024	Transfers on or after 23rd July 2024
112	Long term capital gain on Immovable property asset	20%	12.50%

The proviso states that in case of transfer of a long term capital asset, being land or building or both, that is acquired on or before 22nd July 2024, where capital gain tax computed at the rate of 12.5% exceeds the tax computed in accordance with the provisions as they stood immediately before the amendment in Finance Bill, 2024, the excess shall be ignored.

So, any resident individual/ HUF who has acquired a property on or before 22nd July 2024, and transfers it on or after the said date, he can compute the tax as per the old provisions (20% with Indexation) as well as the new provisions (12.5% without indexation). If the tax payable as per the new provisions exceeds the tax as per the old provisions, the excess shall be ignored.

6. Amendment to Second proviso to section 48 indexation benefit

Indexation refers to recalculating the purchase price, after adjusting for inflation index, as published by the CBDT. This benefit of indexation is available for long-term capital assets.

Indexation intends to provide and counter the price increase over a time period. (i.e.) a relief towards inflation and profits earned for many years of holding the asset and taxed on the transfer year. This benefit of indexation is not available for short-term capital assets. This indexation benefit means to inflate the cost for the inflation index in 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 the asset was held. In case of an asset acquired before 01.04.2001, the CII of 2001-02 will apply.

The second proviso to section 48 mentioned about the indexation benefit in case of transfer of long term capital assets. Thus, it stated that in case the transfer is of a long term capital asset, the cost of acquisition and improvement shall be indexed for the computation of the gain.

The Finance Bill (2) 2024 has proposed to remove the benefit of indexation on the transfer of any capital asset on or after 23rd July 2024. So, in respect of any transfer on or after 23rd July 2024, the mode of computation would be similar in case of both short- and long-term capital assets.

7. SECTION 48

Section 48, prescribes the mode of computation of income under the head capital gains. As per the said section long term capital gain from transfer of a capital asset is to be computed as follows –

Computation of capital gain as adopted on old regime	
Gross Sale Consideration	
Less: Transfer expenses	
Net Sales Consideration	
Less: Indexed Cost of acquisition	
Less: Indexed Cost of improvement	
Capital Gain	
Capital gain tax as per old regime including cess	20.80 %
Capital gain tax	

Computation of capital gain as adopted on new regime	
Gross Sale Consideration	
Less: Transfer expenses	
Net Sales Consideration	
Less: Cost of acquisition as on 01.04.2001(FMV)	
Less: Cost of improvement as on 01.04.2001(FMV)	
Capital Gain	
Capital gain tax as per new regime including cess	13.00 %
Capital gain tax	

8.0. CONCLUSION

It is pertinent to note here that there is no change proposed in section 48 that governs the mode of computation. It would be interesting to consider the impact of section 54 providing the exemption to the capital gains. As there has been no change in the provisions of section 54 or 48 of the ITA. The amendment made in the Finance Bill (2) 2024, indeed not affected the mode of computation for capital gain purposes for the valuer fraternity. Hence, it remains same as there is no change in the procedural assignment of the Registered Valuer. It is fit equation for the Chartered Accountants in determining the capital gain tax either to adopt old regime or new regime with respect to the sale transfer date.
