E.—Capital gains

Capital gains.

[65]**45.** [66][(1)] Any profits or gains arising from the transfer of a capital asset effected in the previous year shall, save as otherwise provided in sections [67][***] [68][54, 54B, [69][***] [70][[71][54D, [72][54E, [73][54EA, 54EB,] 54F [74][, 54G and 54H]]]]], be chargeable to income-tax under the head "Capital gains", and shall be deemed to be the income of the previous year in which the transfer took place.

The following sub-section (1A) shall be inserted after sub-section (1) of section 45 by the Finance Act, 1999, w.e.f. 1-4-2000 :

(1A) Notwithstanding anything contained in sub-section (1), where any person receives at any time during any previous year any money or other assets under an insurance from an insurer on account of damage to, or destruction of, any capital asset, as a result of—

(i) flood, typhoon, hurricane, cyclone, earthquake or other convulsion of nature; or

(ii) riot or civil disturbance; or

(iii) accidental fire or explosion; or

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

then, any profits or gains arising from receipt of such money or other assets shall be chargeable to income-tax under the head "Capital gains" and shall be deemed to be the income of such person of the previous year in which such money or other asset was received and for the purposes of section 48, value of any money or the fair market value of other assets on the date of such receipt shall be deemed to be the full value of the consideration received or accruing as a result of the transfer of such capital asset.

Explanation.—*For the purposes of this sub-section, the expression "insurer" shall have the meaning assigned to it in clause (9) of section 2 of the Insurance Act, 1938 (4 of 1938).*

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65. *See* also Circular No. 23D(XXIII-6) of 1965 and Circular No. 751, dated 10-2-1997. For details, *see* Taxmann's Master Guide to Income-tax Act.
For relevant case laws, *see* Taxmann's Master Guide to Income-tax Act.

66. Inserted by the Finance Act, 1964, w.e.f. 1-4-1964. "(1)" deemed to have been omitted with the omission of sub-sections (2) to (4) by the Finance Act, 1966, w.e.f. 1-4-1966 and deemed to have been inserted with the insertion of sub-section (2) by the Taxation Laws (Amendment) Act, 1984, w.e.f. 1-4-1985.

67. Figure "53," omitted by the Finance Act, 1992, w.e.f. 1-4-1993.

68. "53, 54 and 54B" substituted for "53 and 54" by the Finance Act, 1970, w.e.f. 1-4-1970; "53, 54, 54B and 54C" substituted for "53, 54 and 54B" by the Finance Act, 1972, w.e.f. 1-4-1973 and "53, 54, 54B, 54C and 54D" substituted for "53, 54, 54B and 54C" by the Finance Act, 1973, w.e.f. 1-4-1974.

69. "54C" omitted by the Finance Act, 1976, w.e.f. 1-4-1976.

70. Substituted for "and 54D" by the Finance (No. 2) Act, 1977, w.e.f. 1-4-1978.

71. Substituted for "54D and 54E" by the Finance Act, 1982, w.e.f. 1-4-1983.

72. Substituted for "54E and 54F" by the Finance Act, 1987, w.e.f. 1-4-1988.

73. Inserted by the Finance (No. 2) Act, 1996, w.e.f. 1-10-1996.

74. Substituted for "and 54G" by the Finance (No. 2) Act, 1991, w.e.f. 1-4-1991.

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[75][(2) Notwithstanding anything contained in sub-section (1), the profits or gains arising from the transfer by way of conversion by the owner of a capital asset into, or its treatment by him as stock-in-trade of a business carried on by him shall be chargeable to income-tax as his income of the previous year in which such stock-in-trade is sold or otherwise transferred by him and, for the purposes of section 48, the fair market value of the asset on the date of such conversion or treatment shall be deemed to be the full value of the consideration received or accruing as a result of the transfer of the capital asset.]

[76][(2A) [77]Where any person has had at any time during previous year any beneficial interest in any securities, then, any profits or gains arising from transfer made by the depository or participant of such beneficial interest in respect of securities shall be chargeable to income-tax as the income of the beneficial owner of the previous year in which such transfer took place and shall not be regarded as income of the depository who is deemed to be the registered owner of securities by virtue of sub-section (1) of section 10 of the Depositories Act, 1996, and for the purposes of—

(*i*) section 48; and

(*ii*) proviso to clause (*42A*) of section 2,

the cost of acquisition and the period of holding of any securities shall be determined on the basis of the first-in-first-out method.

Explanation.—For the purposes of this sub-section, the expressions "beneficial owner", "depository" and "security"[78] shall have the meanings respectively assigned to them in clauses (*a*), (*e*) and (*l*) of sub-section (1) of section 2 of the Depositories Act, 1996.]

[79][(3) The profits or gains arising from the transfer of a capital asset by a person to a firm or other association of persons or body of individuals (not being a company or a co-operative society) in which he is or becomes a partner or member, by way of capital contribution or otherwise, shall be chargeable to tax as his income of the previous year in which such transfer takes place and, for the purposes of section 48, the amount recorded in the books of account of the firm, association or body as the value of the capital asset shall be deemed to be the full value of the consideration received or accruing as a result of the transfer of the capital asset.

(4) The profits or gains arising from the transfer of a capital asset by way of distribution of capital assets on the dissolution of a firm or other association of persons or body of individuals (not being a company or a co-operative society) or otherwise, shall be chargeable to tax as the income of the firm, association or body, of the previous year in which the said transfer takes place and, for the purposes of section 48, the fair market value of the asset on the date of such

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75. Inserted by the Taxation Laws (Amendment) Act, 1984, w.e.f. 1-4-1985. Original sub-section (2) was inserted by the Finance Act, 1964, w.e.f. 1-4-1964 and later on omitted by the Finance Act, 1966, w.e.f. 1-4-1966.

76. Inserted by the Depositories Act, 1996, w.r.e.f. 20-9-1995.

77. *See* Circular No. 768, dated 24-6-1998 for 'determination of date of transfer and period of holding securities held in dematerialized form'.

78. For definitions of "beneficial owner", "depository" and "security" under clauses (*a*), (*e*) and (*l*), respectively, of section 2(1) of the Depositories Act, 1996, *see* **Appendix One.**

79. Inserted by the Finance Act, 1987, w.e.f. 1-4-1988. Original sub-sections (3) and (4) were inserted by the Finance Act, 1964, w.e.f. 1-4-1964 and later on omitted by the Finance Act, 1966, w.e.f. 1-4-1966.

transfer shall be deemed to be the full value of the consideration received or accruing as a result of the transfer.]

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

(*a*) the capital gain computed with reference to the compensation awarded in the first instance or, as the case may be, the consideration determined or approved in the first instance by the Central Government or the Reserve Bank of India shall be chargeable as [81][income under the head "Capital gains" of the previous year in which such compensation or part thereof, or such consideration or part thereof, was first received]; and

(*b*) the amount by which the compensation or consideration is enhanced or further enhanced by the court, Tribunal or other authority shall be deemed to be income chargeable under the head "Capital gains" of the previous year in which such amount is received by the assessee.

Explanation.—For the purposes of this sub-section,—

(*i*) in relation to the amount referred to in clause (*b*), the cost of acquisition and the cost of improvement shall be taken to be *nil*;

(*ii*) the provisions of this sub-section shall apply also in a case where the transfer took place prior to the 1st day of April, 1988;

(*iii*) where by reason of the death of the person who made the transfer, or for any other reason, the enhanced compensation or consideration is received by any other person, the amount referred to in clause (*b*) shall be deemed to be the income, chargeable to tax under the head "Capital gains", of such other person.]

[82][(6) Notwithstanding anything contained in sub-section (1), the difference between the repurchase price of the units referred to in sub-section (2) of section 80CCB and the capital value of such units shall be deemed to be the capital gains arising to the assessee in the previous year in which such repurchase takes place or the plan referred to in that section is terminated and shall be taxed accordingly.

Explanation.—For the purposes of this sub-section, "capital value of such units" means any amount invested by the assessee in the units referred to in sub-section (2) of section 80CCB.]

Capital gains on distribution of assets by companies in liquidation.

[83]**46.** (1) Notwithstanding anything contained in section 45, where the assets of a company are distributed to its shareholders on its liquidation, such distribution shall not be regarded as a transfer by the company for the purposes of section 45.

80. Inserted by the Finance Act, 1987, w.e.f. 1-4-1988.

81. Substituted for 'income under the head "Capital gains" of the previous year in which the transfer took place' by the Finance (No. 2) Act, 1991, w.r.e.f. 1-4-1988.

82. Inserted by the Finance Act, 1990, w.e.f. 1-4-1991.

83. For relevant case laws, *see* Taxmann's Master Guide to Income-tax Act.

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(2) Where a shareholder on the liquidation of a company receives any money or other assets from the company, he shall be chargeable to income-tax under the head "Capital gains", in respect of the money so received or the market value of the other assets on the date of distribution, as reduced by the amount assessed as dividend within the meaning of sub-clause (*c*) of clause (*22*) of section 2 and the sum so arrived at shall be deemed to be the full value of the consideration for the purposes of section 48.

The following section 46A shall be inserted after section 46 by the Finance Act, 1999, w.e.f. 1-4-2000 :

Capital gains on purchase by company of its own shares or other specified securities.

46A. *Where a shareholder or a holder of other specified securities receives any consideration from any company for purchase of its own shares or other specified securities held by such shareholder or holder of other specified securities, then, subject to the provisions of section 48, the difference between the cost of acquisition and the value of consideration received by the shareholder or the holder of other specified securities, as the case may be, shall be deemed to be the capital gains arising to such shareholder or the holder of other specified securities, as the case may be, in the year in which such shares or other specified securities were purchased by the company.*

Explanation.—*For the purposes of this section, "specified securities" shall have the meaning assigned to it in Explanation to section 77A of the Companies Act, 1956 (1 of 1956).*

Transactions not regarded as transfer.

[84]**47.** Nothing contained in section 45 shall apply to the following transfers :—

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

(*ii*) [85][***]

(*iii*) any transfer of a capital asset under a gift or will or an irrevocable trust;

(*iv*) any transfer of a capital asset by a company to its subsidiary company, if—

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

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

[86][(*v*) any transfer of a capital asset by a subsidiary company to the holding company, if—

(*a*) the whole of the share capital of the subsidiary company is held by the holding company, and

(*b*) the holding company is an Indian company :]

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84. For relevant case laws, *see* Taxmann's Master Guide to Income-tax Act.

85. Clause (*ii*) omitted by the Finance Act, 1987, w.e.f. 1-4-1988. Prior to its omission, clause (*ii*) stood as under :

"(*ii*) any distribution of capital assets on the dissolution of a firm, body of individuals or other association of persons;"

86. Inserted by the Finance Act, 1965, w.e.f. 1-4-1965.

[87][**Provided** that nothing contained in clause (*iv*) or clause (*v*) shall apply to the transfer of a capital asset made after the 29th day of February, 1988, as stock-in-trade;]

[88][(*vi*) any transfer, in a scheme of amalgamation, of a capital asset by the amalgamating company to the amalgamated company if the amalgamated company is an Indian company;]

[89][(*via*) any transfer, in a scheme of amalgamation, of a capital asset being a share or shares held in an Indian company, by the amalgamating foreign company to the amalgamated foreign company, if—

(*a*) at least twenty-five per cent of the shareholders of the amalgamating foreign company continue to remain shareholders of the amalgamated foreign company, and

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

The following clauses (vib), (vic) and (vid) shall be inserted after clause (via) of section 47 by the Finance Act, 1999, w.e.f. 1-4-2000 :

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

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

(a) *at least seventy-five per cent of the shareholders of the demerged foreign company continue to remain shareholders of the resulting foreign company; and*

(b) *such transfer does not attract tax on capital gains in the country, in which the demerged foreign company is incorporated :*

Provided *that the provisions of sections 391 to 394 of the Companies Act, 1956 (1 of 1956) shall not apply in case of demergers referred to in this clause;*

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

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

(*a*) the transfer is made in consideration of the allotment to him of any share or shares in the amalgamated company, and

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

87. Inserted by the Finance Act, 1988, w.e.f. 1-4-1988.

88. Inserted by the Finance (No. 2) Act, 1967, w.e.f. 1-4-1967.

89. Inserted by the Finance Act, 1992, w.e.f. 1-4-1993.

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[90][(*viia*) any transfer of a capital asset, being bonds or shares referred to in sub-section (1) of section 115AC, made outside India by a non-resident to another non-resident;]

[91][(*viii*) any transfer of agricultural land in India effected before the 1st day of March, 1970;]

[92][(*ix*) any transfer of a capital asset, being any work of art, archaeological, scientific or art collection, book, manuscript, drawing, painting, photograph or print, to the Government or a University or the National Museum, National Art Gallery, National Archives or any such other public museum or institution as may be notified[93] by the Central Government in the Official Gazette to be of national importance or to be of renown throughout any State or States.

Explanation.—For the purposes of this clause, "University" means a University established or incorporated by or under a Central, State or Provincial Act and includes an institution declared under section 3 of the University Grants Commission Act, 1956 (3 of 1956), to be a University for the purposes of that Act;]

[94][(*x*) any transfer by way of conversion of [95][bonds or] debentures, debenture-stock or deposit certificates in any form, of a company into shares or debentures of that company;]

[96][(*xi*) any transfer made on or before the 31st day of December, [97][1998] by a person (not being a company) of a capital asset being membership of a recognised stock exchange to a company in exchange of shares allotted by that company to the transferor.

Explanation.—For the purposes of this clause, the expression "membership of a recognised stock exchange" means the membership of a stock exchange in India which is recognised under the provisions of the Securities Contracts (Regulation) Act, 1956 (42 of 1956);

(*xii*) any transfer of a capital asset, being land of a sick industrial company, made under a scheme prepared and sanctioned under section 18[98] of the Sick Industrial Companies (Special Provisions) Act, 1985 (1 of 1986) where such sick industrial company is being managed by its workers' co-operative :

Provided that such transfer is made during the period commencing from the previous year in which the said company has become a sick industrial company under sub-section (1) of section 17[98] of that Act and ending with the previous year during which the entire net worth

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90. Inserted by the Finance Act, 1992, w.e.f. 1-6-1992.

91. Inserted by the Finance Act, 1970, w.e.f. 1-4-1970.

92. Inserted by the Finance Act, 1976, w.e.f. 1-4-1977.

93. For notified public institution, *see* Taxmann's Master Guide to Income-tax Act.

94. Inserted by the Finance (No. 2) Act, 1991, w.r.e.f. 1-4-1962.

95. Inserted by the Finance Act, 1992, w.r.e.f. 1-4-1962.

96. Inserted by the Finance Act, 1997, w.e.f. 1-4-1998.

97. Substituted for "1997" by the Finance (No. 2) Act, 1998, w.r.e.f. 1-4-1998.

98. For text of sections 17 & 18 of the Sick Industrial Companies (Special Provisions) Act, 1985, *see* **Appendix One.**

of such company becomes equal to or exceeds the accumulated losses.

Explanation.—For the purposes of this clause, "net worth" shall have the meaning assigned to it in clause (ga) of sub-section (1) of section 3[98a] of the Sick Industrial Companies (Special Provisions) Act, 1985 (1 of 1986).]

[99][(xiii) *where a firm is succeeded by a company in the business carried on by it as a result of which the firm sells or otherwise transfers any capital asset or intangible asset to the company :*

Provided *that—*

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

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

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

(d) *the aggregate of the shareholding in the company of the partners of the firm is not less than fifty per cent of the total voting power in the company and their shareholding continues to be as such for a period of five years from the date of the succession;*

(xiv) *where a sole proprietary concern is succeeded by a company in the business carried on by it as a result of which the sole proprietary concern sells or otherwise transfers any capital asset or intangible asset to the company :*

Provided *that—*

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

(b) *the shareholding of the sole proprietor in the company is not less than fifty per cent of the total voting power in the company and his shareholding continues to so remain as such for a period of five years from the date of the succession; and*

(c) *the sole proprietor does not receive any consideration or benefit, directly or indirectly, in any form or manner, other than by way of allotment of shares in the company;*

(xv) *any transfer in a scheme for lending of any securities under an agreement or arrangement, which the assessee has entered into with the borrower of such securities and which is subject to the guidelines issued by the Securities and Exchange Board of India, established under section 3 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), in this regard.*]

98a. For text of section 3(1)(*ga*) of the Sick Industrial Companies (Special Provisions) Act, 1985, *see* **Appendix One.**

99. Clauses (*xiii*) to (*xv*) inserted by the Finance (No. 2) Act, 1998, w.e.f. **1-4-1999.**

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[1][**Withdrawal of exemption in certain cases.**

47A. [2][(1)] Where at any time before the expiry of a period of eight years from the date of the transfer of a capital asset referred to in clause (*iv*) or, as the case may be, clause (*v*) of section 47,—

(*i*) such capital asset is converted by the transferee company into, or is treated by it as, stock-in-trade of its business; or

(*ii*) the parent company or its nominees or, as the case may be, the holding company ceases or cease to hold the whole of the share capital of the subsidiary company,

the amount of profits or gains arising from the transfer of such capital asset not charged under section 45 by virtue of the provisions contained in clause (*iv*) or, as the case may be, clause (*v*) of section 47 shall, notwithstanding anything contained in the said clauses, be deemed to be income chargeable under the head "Capital gains" of the previous year in which such transfer took place.]

[2][(2) Where at any time, before the expiry of a period of three years from the date of the transfer of a capital asset referred to in clause (*xi*) of section 47, any of the shares allotted to the transferor in exchange of a membership in a recognised stock exchange are transferred, the amount of profits and gains not charged under section 45 by virtue of the provisions contained in clause (*xi*) of section 47 shall, notwithstanding anything contained in the said clause, be deemed to be the income chargeable under the head "Capital gains" of the previous year in which such shares are transferred.]

[3][*(3) Where any of the conditions laid down in the proviso to clause (*xiii*) or the proviso to clause (*xiv*) of section 47 are not complied with, the amount of profits or gains arising from the transfer of such capital asset or intangible asset not charged under section 45 by virtue of conditions laid down in the proviso to clause (*xiii*) or the proviso to clause (*xiv*) of section 47 shall be deemed to be the profits and gains chargeable to tax of the successor company for the previous year in which the requirements of the proviso to clause (*xiii*) or the proviso to clause (*xiv*), as the case may be, are not complied with.*]

[4][**Mode of computation.**

[5]**48.** The income chargeable under the head "Capital gains" shall be computed, by deducting from the full value of the consideration received or accruing as a result of the transfer of the capital asset the following amounts, namely :—

(*i*) expenditure incurred wholly and exclusively in connection with such transfer;

(*ii*) the cost of acquisition of the asset and the cost of any improvement thereto:

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1. Inserted by the Taxation Laws (Amendment) Act, 1984, w.e.f. 1-4-1985.

2. Inserted by the Finance Act, 1997, w.e.f. 1-4-1998.

3. Inserted by the Finance (No. 2) Act, 1998, w.e.f. **1-4-1999.**

4. Substituted by the Finance Act, 1992, w.e.f. 1-4-1993. Prior to substitution, section 48, as amended by the Finance Act, 1987, w.e.f. 1-4-1988, the Direct Tax Laws (Second Amendment) Act, 1989, w.e.f. 1-4-1990, the Finance Act, 1989, w.e.f. 1-4-1990 and the Finance (No. 2) Act, 1991, w.e.f. 1-4-1992, read as under :

(Contd. on p. 1.272)

[6]**Provided** that in the case of an assessee, who is a non-resident, capital gains arising from the transfer of a capital asset being shares in, or debentures of, an Indian company shall be computed by converting the cost of acquisition,

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(Contd. from p. 1.271)

'48. *Mode of computation and deductions.*—(1) The income chargeable under the head "Capital gains" shall be computed,—

(*a*) by deducting from the full value of the consideration received or accruing as a result of the transfer of the capital asset the following amounts, namely :—

(*i*) expenditure incurred wholly and exclusively in connection with such transfer;

(*ii*) the cost of acquisition of the asset and the cost of any improvement thereto :

Provided that in the case of an assessee, who is a non-resident Indian, capital gains arising from the transfer of a capital asset being shares in, or debentures of, an Indian company shall be computed by converting the cost of acquisition, expenditure incurred wholly and exclusively in connection with such transfer and the full value of the consideration received or accruing as a result of the transfer of the capital asset into the same foreign currency as was initially utilised in the purchase of the shares or debentures, and the capital gains so computed in such foreign currency shall be reconverted into Indian currency, so however, that the aforesaid manner of computation of capital gains shall be applicable in respect of capital gains accruing or arising from every re-investment thereafter in, and sale of, shares in, or debentures of, an Indian company.

Explanation.—For the purposes of this clause,—

(*i*) "non-resident Indian" shall have the same meaning as in clause (*e*) of section 115C;

(*ii*) "foreign currency" and "Indian currency" shall have the meanings respectively assigned to them in section 2 of the Foreign Exchange Regulation Act, 1973 (46 of 1973);

(*iii*) the conversion of Indian currency into foreign currency and the reconversion of foreign currency into Indian currency shall be at the rate of exchange prescribed in this behalf;

(*b*) where the capital gain arises from the transfer of a long-term capital asset (hereafter in this section referred to, respectively, as long-term capital gain and long-term capital asset) by making the further deductions specified in sub-section (2).

(2) The deductions referred to in clause (*b*) of sub-section (1) are the following, namely :—

(*a*) where the amount of long-term capital gain arrived at after making the deductions under clause (*a*) of sub-section (1) does not exceed fifteen thousand rupees, the whole of such amount;

(*b*) in any other case, fifteen thousand rupees as increased by a sum equal to,—

(*i*) in respect of long-term capital gain so arrived at relating to capital assets, being buildings or lands or any rights in buildings or lands or gold, bullion or jewellery,—

(*A*) in the case of a company, ten per cent of the amount of such gain in excess of fifteen thousand rupees;

(*B*) in the case of any other assessee, fifty per cent of the amount of such gain in excess of fifteen thousand rupees;

(*ia*) in respect of long-term capital gain so arrived at relating to equity shares of venture capital undertakings,—

(*A*) in the case of a company, other than venture capital company, thirty per cent of the amount of such gain in excess of fifteen thousand rupees;

(*B*) in the case of venture capital company, sixty per cent of the amount of such gain in excess of fifteen thousand rupees;

(*C*) in any other case, sixty per cent of the amount of such gain in excess of fifteen thousand rupees;

(Contd. on p. 1.273)

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expenditure incurred wholly and exclusively in connection with such transfer and the full value of the consideration received or accruing as a result of the transfer of the capital asset into the same foreign currency as was initially utilised in the purchase of the shares or debentures, and the capital gains so computed

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(Contd. from p. 1.272)

(*ii*) in respect of long-term capital gain so arrived at relating to capital assets other than capital assets referred to in sub-clauses (*i*) and (*ia*),—

(*A*) in the case of a company, thirty per cent of the amount of such gain in excess of fifteen thousand rupees;

(*B*) in any other case, sixty per cent of the amount of such gain in excess of fifteen thousand rupees :

Provided that where the long-term capital gain relates to both categories of capital assets referred to in sub-clauses (*i*) and (*ii*), the deduction of fifteen thousand rupees shall be allowed in the following order, namely :—

(*1*) the deduction shall first be allowed against long-term capital gain relating to the assets mentioned in sub-clause (*i*);

(*2*) thereafter, the balance, if any, of the said fifteen thousand rupees shall be allowed as deduction against long-term capital gain relating to the assets mentioned in sub-clause (*ii*),

and the provisions of sub-clause (*ii*) shall apply as if references to fifteen thousand rupees therein were references to the amount of deduction allowed in accordance with clauses (*1*) and (*2*) of this proviso :

Provided further that, in relation to the amount referred to in clause (*b*) of sub-section (5) of section 45, the initial deduction of fifteen thousand rupees under clause (*a*) of this sub-section shall be reduced by the deduction already allowed under clause (*a*) of section 80T in the assessment for the assessment year commencing on the 1st day of April, 1987, or any earlier assessment year or, as the case may be, by the deduction allowed under clause (*a*) of this sub-section in relation to the amount of compensation or consideration referred to in clause (*a*) of sub-section (5) of section 45 and references to fifteen thousand rupees in clauses (*a*) and (*b*) of this sub-section shall be construed as references to such reduced amount, if any.

Explanation.—For the purposes of this section,—

(*a*) "venture capital company" means such company as is engaged in providing finance to venture capital undertakings mainly by way of acquiring equity shares of such undertakings or, if the circumstances so require, by way of advancing loans to such undertakings, and is approved by the Central Government in this behalf;

(*b*) "venture capital undertaking" means such company as the prescribed authority may, having regard to the following factors, approve for the purposes of sub-clause (*ia*) of clause (*b*) of sub-section (2), namely:—

(*1*) the total investment in the company does not exceed ten crore rupees or such other higher amount as may be prescribed;

(*2*) the company does not have adequate financial resources to undertake projects for which it is otherwise professionally or technically equipped; and

(*3*) the company seeks to employ any technology which will result in significant improvement over the existing technology in India in any field and the investment in such technology involves high risk.

(3) The deductions specified in sub-section (2) shall be made also for the purposes of computing any loss under the head "Capital gains" in so far as it pertains to any long-term capital asset and, for this purpose, any reference in that sub-section to the amount of long-term capital gain arrived at after making the deductions under clause (*a*) of sub-section (1) shall be construed as reference to the amount of loss arrived at after making the said deductions."

5. For relevant case laws, *see* Taxmann's Master Guide to Income-tax Act.

6. *See* rule 115A.

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

Provided further that where long-term capital gain arises from the transfer of a long-term capital asset, other than capital gain arising to a non-resident from the transfer of shares in, or debentures of, an Indian company referred to in the first proviso, the provisions of clause (*ii*) shall have effect as if for the words "cost of acquisition" and "cost of any improvement", the words "indexed cost of acquisition" and "indexed cost of any improvement" had respectively been substituted :

[7][**Provided also** that nothing contained in the second proviso shall apply to the long-term capital gain arising from the transfer of a long-term capital asset being bond or debenture other than capital indexed bonds issued by the Government.]

Explanation.—For the purposes of this section,—

(*i*) "foreign currency" and "Indian currency"[8] shall have the meanings respectively assigned to them in section 2 of the Foreign Exchange Regulation Act, 1973 (46 of 1973);

(*ii*) the conversion of Indian currency into foreign currency and the reconversion of foreign currency into Indian currency shall be at the rate of exchange prescribed in this behalf;

(*iii*) "indexed cost of acquisition" means an amount which bears to the cost of acquisition the same proportion as Cost Inflation Index for the year in which the asset is transferred bears to the Cost Inflation Index for the first year in which the asset was held by the assessee or for the year beginning on the 1st day of April, 1981, whichever is later;

(*iv*) "indexed cost of any improvement" means an amount which bears to the cost of improvement the same proportion as Cost Inflation Index for the year in which the asset is transferred bears to the Cost Inflation Index for the year in which the improvement to the asset took place;

(*v*) "Cost Inflation Index" for any year means such Index as the Central Government may, having regard to seventy-five per cent of average rise in the Consumer Price Index for urban non-manual employees for that year, by notification[9] in the Official Gazette, specify in this behalf.]

Cost with reference to certain modes of acquisition.

[10]**49.** [11][(1)] Where the capital asset became the property of the assessee—

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7. Inserted by the Finance Act, 1997, w.e.f. 1-4-1998.

8. For definition of "foreign currency" and "Indian currency" *see* footnote 35 on page 1.62 and footnote 69 on page 1.246, respectively, *ante*.

9. Notified Cost Inflation Index for following financial year is as under :
1981-82: 100/1982-83: 109/1983-84: 116/1984-85: 125/1985-86: 133/1986-87: 140/1987-88: 150/1988-89: 161/1989-90: 172/1990-91: 182/1991-92: 199/1992-93: 223/1993-94: 244/1994-95: 259/1995-96: 281/1996-97 : 305/1997-98 : 331/1998-99 : 351.

10. For relevant case laws, *see* Taxmann's Master Guide to Income-tax Act.

11. Inserted by the Finance (No. 2) Act, 1967, w.e.f. 1-4-1967.

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(*i*) on any distribution of assets on the total or partial partition of a Hindu undivided family;

(*ii*) under a gift or will;

(*iii*) (*a*) by succession, inheritance or devolution, or

[12][(*b*) on any distribution of assets on the dissolution of a firm, body of individuals, or other association of persons, where such dissolution had taken place at any time before the 1st day of April, 1987, or]

(*c*) on any distribution of assets on the liquidation of a company, or

(*d*) under a transfer to a revocable or an irrevocable trust, or

(*e*) under any such transfer as is referred to in clause (*iv*) [13][or clause (*v*)] [14][or clause (*vi*)] [15][or clause (*via*)] of section 47;

[16][(*iv*) such assessee being a Hindu undivided family, by the mode referred to in sub-section (2) of section 64 at any time after the 31st day of December, 1969,]

the cost of acquisition of the asset shall be deemed to be the cost for which the previous owner of the property acquired it, as increased by the cost of any improvement of the assets incurred or borne by the previous owner or the assessee, as the case may be.

[17][*Explanation*.—In this [18][sub-section] the expression "previous owner of the property" in relation to any capital asset owned by an assessee means the last previous owner of the capital asset who acquired it by a mode of acquisition other than that referred to in clause (*i*) or clause (*ii*) or clause (*iii*) [19][or clause (*iv*)] of this [20][sub-section].]

[21][(2) Where the capital asset being a share or shares in an amalgamated company which is an Indian company became the property of the assessee in consideration of a transfer referred to in clause (*vii*) of section 47, the cost of acquisition of the asset shall be deemed to be the cost of acquisition to him of the share or shares in the amalgamating company.]

[22][(2A) Where the capital asset, being a share or debenture in a company, became the property of the assessee in consideration of a transfer referred to in clause (*x*) of section 47, the cost of acquisition of the asset to the assessee shall be deemed to be that part of the cost of debenture, debenture-stock or deposit certificates in relation to which such asset is acquired by the assessee.]

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12. Substituted for the following sub-clause (*b*) by the Finance Act, 1987, w.e.f. 1-4-1988:
"(*b*) on any distribution of assets on the dissolution of a firm, body of individuals or other association of persons, or"

13. Inserted by the Finance Act, 1965, w.e.f. 1-4-1965.

14. Inserted by the Finance (No. 2) Act, 1967, w.e.f. 1-4-1967.

15. Inserted by the Finance Act, 1992, w.e.f. 1-4-1993.

16. Inserted by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-4-1976.

17. Inserted by the Finance Act, 1965, w.e.f. 1-4-1965.

18. Substituted for "section" by the Finance (No. 2) Act, 1967, w.e.f. 1-4-1967.

19. Inserted by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-4-1976.

20. Substituted for "section" by the Finance (No. 2) Act, 1967, w.e.f. 1-4-1967.

21. Inserted, *ibid.*

22. Inserted by the Finance (No. 2) Act, 1991, w.r.e.f. 1-4-1962.

The following sub-sections (2B), (2C) and (2D) shall be inserted after sub-section (2A) of section 49 by the Finance Act, 1999, w.e.f. 1-4-2000 :

(2B) Where the capital gain arises from the transfer of the specified security referred to in sub-clause (iiia) of clause (2) of section 17, the cost of acquisition of such specified security shall be the fair market value on the date of exercise of option.

(2C) The cost of acquisition of the shares in the resulting company shall be the amount which bears to the cost of acquisition of shares held by the assessee in the demerged company the same proportion as the net book value of the assets transferred in a demerger bears to the net worth of the demerged company immediately before such demerger.

(2D) The cost of acquisition of the original shares held by the shareholder in the demerged company shall be deemed to have been reduced by the amount as so arrived at under sub-section (2C).

Explanation.—*For the purposes of this section, "net worth" shall mean the aggregate of the paid up share capital and general reserves as appearing in the books of account of the demerged company immediately before the demerger.*

[23][(3) Notwithstanding anything contained in sub-section (1), where the capital gain arising from the transfer of a capital asset referred to in clause (*iv*) or, as the case may be, clause (*v*) of section 47 is deemed to be income chargeable under the head "Capital gains" by virtue of the provisions contained in section 47A, the cost of acquisition of such asset to the transferee-company shall be the cost for which such asset was acquired by it.]

[24][**Special provision for computation of capital gains in case of depreciable assets.**

[25]**50.** Notwithstanding anything contained in clause (*42A*) of section 2, where the capital asset is an asset forming part of a block of assets in respect of which depreciation has been allowed under this Act or under the Indian Income-

23. Inserted by the Taxation Laws (Amendment) Act, 1984, w.e.f. 1-4-1985.

24. Substituted for the following section 50 by the Taxation Laws (Amendment & Miscellaneous Provisions) Act, 1986, w.e.f. 1-4-1988:

"50. *Special provision for computing cost of acquisition in the case of depreciable assets.*—Where the capital asset is an asset in respect of which a deduction on account of depreciation has been obtained by the assessee in any previous year either under this Act or under the Indian Income-tax Act, 1922 (11 of 1922) or any Act repealed by that Act or under executive orders issued when the Indian Income-tax Act, 1886 (2 of 1886), was in force, the provisions of sections 48 and 49 shall be subject to the following modifications:—

(1) The written down value, as defined in clause (*6*) of section 43, of the asset, as adjusted, shall be taken as the cost of acquisition of the asset.

(2) Where under any provision of section 49, read with sub-section (2) of section 55, the fair market value of the asset on the *1st day of April, 1974*, is to be taken into account at the option of the assessee, then the cost of acquisition of the asset shall, at the option of the assessee, be the fair market value of the asset on the said date, as reduced by the amount of depreciation, if any, allowed to the assessee after the said date, and as adjusted."

The expression in italics was substituted for "1st day of January, 1964" by the Finance Act, 1986, w.e.f. 1-4-1987 and "1st day of January, 1964" was substituted for "1st day of January, 1954" by the Finance (No. 2) Act, 1977, w.e.f. 1-4-1978.

25. For relevant case laws, *see* Taxmann's Master Guide to Income-tax Act.

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tax Act, 1922 (11 of 1922), the provisions of sections 48 and 49 shall be subject to the following modifications :—

(*1*) where the full value of the consideration received or accruing as a result of the transfer of the asset together with the full value of such consideration received or accruing as a result of the transfer of any other capital asset falling within the block of the assets during the previous year, exceeds the aggregate of the following amounts, namely :—

(*i*) expenditure incurred wholly and exclusively in connection with such transfer or transfers;

(*ii*) the written down value of the block of assets at the beginning of the previous year; and

(*iii*) the actual cost of any asset falling within the block of assets acquired during the previous year,

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

(*2*) where any block of assets ceases to exist as such, for the reason that all the assets in that block are transferred during the previous year, the cost of acquisition of the block of assets shall be the written down value of the block of assets at the beginning of the previous year, as increased by the actual cost of any asset falling within that block of assets, acquired by the assessee during the previous year and the income received or accruing as a result of such transfer or transfers shall be deemed to be the capital gains arising from the transfer of short-term capital assets.]

[26][**Special provision for cost of acquisition in case of depreciable asset.**

50A. Where the capital asset is an asset in respect of which a deduction on account of depreciation under clause (*i*) of sub-section (1) of section 32 has been obtained by the assessee in any previous year, the provisions of sections 48 and 49 shall apply subject to the modification that the written down value, as defined in clause (*6*) of section 43, of the asset, as adjusted, shall be taken as the cost of acquisition of the asset.]

The following section 50B shall be inserted after section 50A by the Finance Act, 1999, w.e.f. 1-4-2000 :

Special provision for computation of capital gains in case of slump sale.

50B. *(1) Any profits or gains arising from the slump sale effected in the previous year shall be chargeable to income-tax as capital gains arising from the transfer of long-term capital assets and shall be deemed to be the income of the previous year in which the transfer took place :*

Provided *that any profits or gains arising from the transfer under the slump sale of any capital asset being one or more undertakings owned and held by an assessee for not more than thirty-six months immediately preceding the date of its transfer shall be deemed to be the capital gains arising from the transfer of short-term capital assets.*

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26. Inserted by the Finance (No. 2) Act, 1998, w.r.e.f. 1-4-1998.

(2) In relation to capital assets being an undertaking or division transferred by way of such sale, the "net worth" of the undertaking or the division, as the case may be, shall be deemed to be the cost of acquisition and the cost of improvement for the purposes of sections 48 and 49 and no regard shall be given to the provisions contained in the second proviso to section 48.

(3) Every assessee, in the case of slump sale, shall furnish in the prescribed form along with the return of income, a report of an accountant as defined in the Explanation *below sub-section (2) of section 288 indicating the computation of the net worth of the undertaking or division, as the case may be, and certifying that the net worth of the undertaking or division, as the case may be, has been correctly arrived at in accordance with the provisions of this section.*

Explanation.—*For the purposes of this section, "net worth" means the net worth as defined in clause (ga) of sub-section (1) of section 3 of the Sick Industrial Companies (Special Provisions) Act, 1985 (1 of 1986).*

Advance money received.

51. Where any capital asset was on any previous occasion the subject of negotiations for its transfer, any advance or other money received and retained by the assessee in respect of such negotiations shall be deducted from the cost for which the asset was acquired or the written down value or the fair market value, as the case may be, in computing the cost of acquisition.

Consideration for transfer in cases of understatement.

[26a]**52.** [*Omitted by the Finance Act, 1987, w.e.f. 1-4-1988.*]

26a. Prior to its omission, section 52 stood as under:

"52. *Consideration for transfer in cases of understatement.*—(1) Where the person who acquires a capital asset from an assessee is directly or indirectly connected with the assessee and the Income-tax Officer has reason to believe that the transfer was effected with the object of avoidance or reduction of the liability of the assessee under section 45, the full value of the consideration for the transfer shall, with the previous approval of the Inspecting Assistant Commissioner, be taken to be the fair market value of the capital asset on the date of the transfer.

(2) Without prejudice to the provisions of sub-section (1), if in the opinion of the Income-tax Officer the fair market value of a capital asset transferred by an assessee as on the date of the transfer exceeds the full value of the consideration declared by the assessee in respect of the transfer of such capital asset by an amount of not less than fifteen per cent of the value so declared, the full value of the consideration for such capital asset shall, with the previous approval of the Inspecting Assistant Commissioner, be taken to be its fair market value on the date of its transfer:

Provided that this sub-section shall not apply in any case—

(*a*) where the capital asset is transferred to the Government, or

(*b*) where the full value of the consideration for the transfer of the capital asset is determined or approved by the Central Government or the Reserve Bank of India."

Earlier, sub-section (2) and its proviso were inserted by the Finance Act, 1964, w.e.f. 1-4-1964 and the Finance Act, 1975, with retrospective effect from 1-4-1974, respectively. The proviso was later amended by the Finance Act, 1978, with retrospective effect from 1-4-1974.

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Exemption of capital gains from a residential house.

[27]**53.** [*Omitted by the Finance Act, 1992, w.e.f. 1-4-1993.*]

Profit on sale of property used for residence.

[28]**54.** [29][(1)] [30][[31][Subject to the provisions of sub-section (2), where, in the case of an assessee being an individual or a Hindu undivided family], the capital gain arises from the transfer of a long-term capital asset [32][***], being buildings or lands appurtenant thereto, and being a residential house, the income of which is chargeable under the head "Income from house property" (hereafter in this section referred to as the original asset), and the assessee has within a period of [33][one year before or two years after the date on which the transfer took place purchased], or has within a period of three years after that date constructed, a residential house, then], instead of the capital gain being charged to income-tax as income of the previous year in which the transfer took place, it shall be dealt with in accordance with the following provisions of this section, that is to say,—

(*i*) if the amount of the capital gain [34][is greater than the cost of [35][the residential house] so purchased or constructed (hereafter in this

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27. Prior to its omission, section 53, as amended by the Taxation Laws (Amendment) Act, 1984, w.e.f. 1-4-1985 and the Finance Act, 1987, w.e.f. 1-4-1988, read as under :

'53. *Exemption of capital gains from a residential house.*—Notwithstanding anything contained in section 45, where in the case of an assessee being an individual or a Hindu undivided family, the capital gain arises from the transfer of long-term capital asset, being buildings or lands appurtenant thereto, and being a residential house, the income of which is chargeable under the head "Income from house property", the capital gain arising from such transfer shall be dealt with in accordance with the following provisions of this section, that is to say,—

(*a*) in a case where the full value of the consideration received or accruing as a result of the transfer of such capital asset does not exceed two hundred thousand rupees the whole of the capital gain shall not be charged under section 45;

(*b*) in a case where the full value of such consideration exceeds two hundred thousand rupees, so much of the capital gain as bears to the whole of the capital gain the same proportion as the amount of two hundred thousand rupees bears to such considera-tion shall not be charged under section 45:

Provided that nothing contained in this section shall apply to a case where the assessee owns on the date of such transfer any other residential house.

Explanation.—In this section and in sections 54, 54B, 54D, 54E, 54F and 54G, references to capital gain shall be construed as references to the amount of capital gain as computed under clause (*a*) of sub-section (1) of section 48.'

28. *See* also Circular No. 471, dated 15-10-1986, Circular No. 520, dated 11-8-1988, Circular No. 538, dated 13-7-1989, Circular No. 672, dated 16-12-1993, Circular No. 667, dated 18-10-1993 and Circular No. 743, dated 6-5-1996. For details, *see* Taxmann's Master Guide to Income-tax Act.

For relevant case laws, *see* Taxmann's Master Guide to Income-tax Act.

29. Inserted by the Finance Act, 1978, with retrospective effect from 1-4-1974.

30. Substituted by the Finance Act, 1982, w.e.f. 1-4-1983.

31. Substituted for "Where, in the case of an assessee being an individual" by the Finance Act, 1987, w.e.f. 1-4-1988.

32. "to which the provisions of section 53 are not applicable" omitted by the Finance Act, 1985, w.e.f. 1-4-1985.

33. Substituted for "one year before or after the date on which the transfer took place purchased" by the Finance Act, 1986, w.e.f. 1-4-1987.

34. Substituted for "is greater than the cost of the new asset" by the Finance Act, 1978, w.r.e.f. 1-4-1974.

35. Substituted for "the house property" by the Finance Act, 1982, w.e.f. 1-4-1983.

section referred to as the new asset)], the difference between the amount of the capital gain and the cost of the new asset shall be charged under section 45 as the income of the previous year; and for the purpose of computing in respect of the new asset any capital gain arising from its transfer within a period of three years of its purchase or construction, as the case may be, the cost shall be *nil*; or

(*ii*) if the amount of the capital gain is equal to or less than the cost of the new asset, the capital gain shall not be charged under section 45; and for the purpose of computing in respect of the new asset any capital gain arising from its transfer within a period of three years of its purchase or construction, as the case may be, the cost shall be reduced by the amount of the capital gain.

[36][***]

[37][(2) The amount of the capital gain which is not appropriated by the assessee towards the purchase of the new asset made within one year before the date on which the transfer of the original asset took place, or which is not utilised by him

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36. Omitted by the Finance Act, 1987, w.e.f. 1-4-1988. Original *Explanation*, as inserted by the Finance Act, 1982, w.e.f. 1-4-1983, stood as under:

'*Explanation*.—For the purposes of this sub-section, "long-term capital asset" means a capital asset which is not a short-term capital asset.'

37. Substituted for the following sub-section (2) [as inserted by the Finance Act, 1978, w.r.e.f. 1-4-1974 and amended by the Finance Act, 1982, w.e.f. 1-4-1983 and the Finance Act, 1986, w.e.f. 1-4-1987] by the Finance Act, 1987, w.e.f. 1-4-1988:

'(2) Where the transfer of the original asset is by way of compulsory acquisition under any law and the compensation awarded for such acquisition is enhanced by any court, Tribunal or other authority, then,—

(*a*) so much of the capital gains computed under section 48 by taking the compensation as so enhanced as the full value of the consideration received or accruing as a result of such transfer, as is not excluded under sub-section (1) from being charged to tax under section 45, or

(*b*) the capital gain attributable to the enhancement of the compensation,

whichever is less (that which is less being hereafter in this sub-section referred to as the unadjusted capital gain), shall, if the assessee has within a period of one year before or two years after the date of receipt of the additional compensation purchased, or has within a period of three years after that date constructed, a residential house (hereafter in this sub-section referred to as the relevant asset), be dealt with in the following manner, that is to say,—

(*i*) if the amount of the unadjusted capital gain is greater than the cost of the relevant asset, the difference between the amount of the unadjusted capital gain and the cost of the relevant asset shall be charged under section 45 as the income of the previous year in which the transfer took place; and for the purpose of computing in respect of the relevant asset any capital gain arising from its transfer within a period of three years of its purchase or construction, as the case may be, the cost shall be *nil* ; or

(*ii*) if the amount of the unadjusted capital gain is equal to or less than the cost of the relevant asset, the unadjusted capital gain shall not be charged under section 45; and for the purpose of computing in respect of the relevant asset any capital gain arising from its transfer within a period of three years of its purchase or construction, as the case may be, the cost shall be reduced by the amount of the unadjusted capital gain.

Explanation.—For the purposes of this sub-section, sub-section (2) of section 54B and sub-section (2) of section 54D,—

(Contd. on p. 1.281)

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for the purchase or construction of the new asset before the date of furnishing the return of income under section 139, shall be deposited by him before furnishing such return [such deposit being made in any case not later than the due date applicable in the case of the assessee for furnishing the return of income under sub-section (1) of section 139] in an account in any such bank or institution as may be specified in, and utilised in accordance with, any scheme[38] which the Central Government may, by notification in the Official Gazette, frame in this behalf and such return shall be accompanied by proof of such deposit; and, for the purposes of sub-section (1), the amount, if any, already utilised by the assessee for the purchase or construction of the new asset together with the amount so deposited shall be deemed to be the cost of the new asset :

Provided that if the amount deposited under this sub-section is not utilised wholly or partly for the purchase or construction of the new asset within the period specified in sub-section (1), then,—

(*i*) the amount not so utilised shall be charged under section 45 as the income of the previous year in which the period of three years from the date of the transfer of the original asset expires; and

(*ii*) the assessee shall be entitled to withdraw such amount in accordance with the scheme aforesaid.

(Contd. from p. 1.280)

(*1*) "additional compensation", in relation to the transfer of any capital asset by way of compulsory acquisition under any law, means the difference between the compensation for the acquisition of such asset as enhanced by any court, Tribunal or other authority and the compensation which would have been payable if such enhancement had not been made;

(*2*) the capital gain attributable to the enhancement by any court, Tribunal or other authority of the compensation for the compulsory acquisition of any capital asset shall be—

(*a*) where the computation of the capital gain under section 48 by taking the compensation which would have been payable if such enhancement had not been made as the full value of the consideration received or accruing as a result of the transfer results in a loss or does not result in any profits or gains chargeable to income-tax under the head "Capital gains", the capital gain computed under section 48 by taking the compensation as so enhanced as the full value of the consideration received or accruing as a result of the transfer; and

(*b*) in any other case, the difference between—

(*i*) the capital gain computed under section 48 by taking the compensation as so enhanced as the full value of the consideration so received or accruing, and

(*ii*) the capital gain computed under section 48 by taking the compensation which would have been payable if such enhancement had not been made as the full value of the consideration so received or accruing.'

38. For text of Capital Gains Accounts Scheme, 1988—GSR 724(E), dated 22-6-1988 and for list of authorised branches (except rural branches) of the banks specified to receive deposits and maintain account—GSR 725(E), dated 22-6-1988, refer Taxmann's Direct Taxes Circulars, 1999 edn., Vol. 1, pp. 1.1143-1.1164.

Explanation.—[39][*Omitted by the Finance Act, 1992, w.e.f. 1-4-1993.*]

Relief of tax on capital gains in certain cases.

54A. [*Omitted by the Finance (No. 2) Act, 1971, w.e.f. 1-4-1972. Original section was inserted by the Finance Act, 1965, w.e.f. 1-4-1965. The Direct Tax Laws (Amendment) Act, 1989 has deleted new section 54A, dealing with relief of tax on capital gains on transfer of property held under trust for charitable or religious purposes or by certain institution, earlier inserted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989.*]

[40][**Capital gain on transfer of land used for agricultural purposes not to be charged in certain cases.**

[41]**54B.** [42][(1)] [43][Subject to the provisions of sub-section (2), where the capital gain arises] from the transfer of a capital asset being land which, in the two years immediately preceding the date on which the transfer took place, was being used by the assessee or a parent of his for agricultural purposes [44][(hereinafter referred to as the original asset)], and the assessee has, within a period of two years after that date, purchased any other land for being used for agricultural purposes, then, instead of the capital gain being charged to income-tax as income of the previous year in which the transfer took place, it shall be dealt with in accordance with the following provisions of this section, that is to say,—

(*i*) if the amount of the capital gain is greater than the cost of the land so purchased (hereinafter referred to as the new asset), the difference between the amount of the capital gain and the cost of the new asset shall be charged under section 45 as the income of the previous year; and for the purpose of computing in respect of the new asset any capital gain arising from its transfer within a period of three years of its purchase, the cost shall be *nil*; or

(*ii*) if the amount of the capital gain is equal to or less than the cost of the new asset, the capital gain shall not be charged under section 45; and for the purpose of computing in respect of the new asset

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39. Prior to its omission, *Explanation*, as amended by the Finance (No. 2) Act, 1991, w.e.f. 1-4-1992, read as under:

"*Explanation*.—Where any amount becomes chargeable under section 45 in accordance with the proviso to this sub-section, then,—

(*a*) for the purposes of the deductions to be made under clause (*b*) of sub-section (1) of section 48, the initial deduction of fifteen thousand rupees under sub-section (2) of that section shall not be admissible; and

(*b*) nothing contained in section 53 shall apply in relation to such amount."

40. Inserted by the Finance Act, 1970, w.e.f. 1-4-1970.

41. For relevant case laws, *see* Taxmann's Master Guide to Income-tax Act.

42. Inserted by the Finance Act, 1978, with retrospective effect from 1-4-1974.

43. Substituted for "Where the capital gain arises" by the Finance Act, 1987, w.e.f. 1-4-1988.

44. Inserted by the Finance Act, 1978, w.r.e.f. 1-4-1974.

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any capital gain arising from its transfer within a period of three years of its purchase, the cost shall be reduced, by the amount of the capital gain.]

[45][(2) The amount of the capital gain which is not utilised by the assessee for the purchase of the new asset before the date of furnishing the return of income under section 139, shall be deposited by him before furnishing such return [such deposit being made in any case not later than the due date applicable in the case of the assessee for furnishing the return of income under sub-section (1) of section 139] in an account in any such bank or institution as may be specified in, and utilised in accordance with, any scheme[46] which the Central Government may, by notification in the Official Gazette, frame in this behalf and such return shall be accompanied by proof of such deposit; and, for the purposes of sub-section (1), the amount, if any, already utilised by the assessee for the purchase of the new asset together with the amount so deposited shall be deemed to be the cost of the new asset:

Provided that if the amount deposited under this sub-section is not utilised wholly or partly for the purchase of the new asset within the period specified in sub-section (1), then,—

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45. Substituted for the following sub-section (2), as inserted by the Finance Act, 1978, w.r.e.f. 1-4-1974, by the Finance Act, 1987, w.e.f. 1-4-1988:

"(2) Where the transfer of the original asset is by way of compulsory acquisition under any law and the compensation awarded for such acquisition is enhanced by any court, Tribunal or other authority, then,—

(*a*) so much of the capital gain, computed under section 48 by taking the compensation as so enhanced as the full value of the consideration received or accruing as a result of such transfer, as is not excluded under sub-section (1) from being charged to tax under section 45, or

(*b*) the capital gain attributable to the enhancement of the compensation,

whichever is less (that which is less being hereinafter referred to as the unadjusted capital gain), shall, if the assessee has within a period of two years after the date of receipt of the additional compensation purchased any land for being used for agricultural purposes (hereinafter referred to as the relevant asset), be dealt with in the following manner, that is to say,—

(*i*) if the amount of the unadjusted capital gain is greater than the cost of the relevant asset, the difference between the amount of the unadjusted capital gain and the cost of the relevant asset shall be charged under section 45 as the income of the previous year in which the transfer took place; and for the purpose of computing in respect of the relevant asset any capital gain arising from its transfer within a period of three years of its purchase, the cost shall be *nil*; or

(*ii*) if the amount of the unadjusted capital gain is equal to or less than the cost of the relevant asset, the unadjusted capital gain shall not be charged under section 45; and for the purpose of computing in respect of the relevant asset any capital gain arising from its transfer within a period of three years of its purchase, the cost shall be reduced by the amount of the unadjusted capital gain."

46. For text of the Capital Gains Accounts Scheme, 1988—GSR 724(E), dated 22-6-1988 and for list of authorised branches (except rural branches) of the banks specified to receive deposits and maintain accounts—GSR 725(E), dated 22-6-1988, refer Taxmann's Direct Taxes Circulars, 1999 edn., Vol. 1, pp. 1.1143-1.1164.

(*i*) the amount not so utilised shall be charged under section 45 as the income of the previous year in which the period of two years from the date of the transfer of the original asset expires; and

(*ii*) the assessee shall be entitled to withdraw such amount in accordance with the scheme aforesaid.

Explanation.—[47][*Omitted by the Finance Act, 1992, w.e.f. 1-4-1993.*]

Capital gain on transfer of jewellery held for personal use not to be charged in certain cases.

54C. [*Omitted by the Finance Act, 1976, w.e.f. 1-4-1976. Original section was inserted by the Finance Act, 1972, w.e.f. 1-4-1973.*]

[48][**Capital gain on compulsory acquisition of lands and buildings not to be charged in certain cases.**

[49]**54D.** [50][(1)] [51][Subject to the provisions of sub-section (2), where the capital gain arises] from the transfer by way of compulsory acquisition under any law of a capital asset, being land or building or any right in land or building, forming part of an industrial undertaking belonging to the assessee which, in the two years immediately preceding the date on which the transfer took place, was being used by the assessee for the purposes of the business of the said undertaking [52][(hereafter in this section referred to as the original asset)], and the assessee has within a period of three years after that date purchased any other land or building or any right in any other land or building or constructed any other building for the purposes of shifting or re-establishing the said undertaking or setting up another industrial undertaking, then, instead of the capital gain being charged to income-tax as the income of the previous year in which the transfer took place, it shall be dealt with in accordance with the following provisions of this section, that is to say,—

(*i*) if the amount of the capital gain is greater than the cost of the land, building or right so purchased or the building so constructed (such land, building or right being hereafter in this section referred to as the new asset), the difference between the amount of the capital gain and cost of the new asset shall be charged under section 45 as the income of the previous year; and for the purpose of computing in respect of

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47. Prior to omission, *Explanation*, as amended by the Finance (No. 2) Act, 1991, w.e.f. 1-4-1992, read as under :

"*Explanation*.—Where any amount becomes chargeable under section 45 in accordance with the proviso to this sub-section, then, for the purposes of the deductions to be made under clause (*b*) of sub-section (1) of section 48, the initial deduction of fifteen thousand rupees under sub-section (2) of that section shall not be admissible."

48. Inserted by the Finance Act, 1973, w.e.f. 1-4-1974.

49. For relevant case laws, *see* Taxmann's Master Guide to Income-tax Act.

50. Inserted by the Finance Act, 1978, w.r.e.f. 1-4-1974.

51. Substituted for "Where the capital gain arises" by the Finance Act, 1987, w.e.f. 1-4-1988.

52. Inserted by the Finance Act, 1978, w.r.e.f. 1-4-1974.

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the new asset any capital gain arising from its transfer within a period of three years of its purchase or construction, as the case may be, the cost shall be *nil*; or

(*ii*) if the amount of the capital gain is equal to or less than the cost of the new asset, the capital gain shall not be charged under section 45; and for the purpose of computing in respect of the new asset any capital gain arising from its transfer within a period of three years of its purchase or construction, as the case may be, the cost shall be reduced by the amount of the capital gain.]

[53][(2) The amount of the capital gain which is not utilised by the assessee for the purchase or construction of the new asset before the date of furnishing the return of income under section 139, shall be deposited by him before furnishing such return [such deposit being made in any case not later than the due date applicable in the case of the assessee for furnishing the return of income under sub-section (1) of section 139] in an account in any such bank or institution as

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53. Substituted for the following sub-section (2), as inserted by the Finance Act, 1978, w.r.e.f. 1-4-1974 and as amended by the Finance Act, 1987, w.e.f. 1-4-1988 :

"(2) Where the compensation awarded for the compulsory acquisition of the original asset is enhanced by any court, Tribunal or other authority, then,—

(*a*) so much of the capital gain, computed under section 48 by taking the compensation as so enhanced as the full value of the consideration received or accruing as a result of such transfer, as is not excluded under sub-section (1) from being charged to tax under section 45, or

(*b*) the capital gain attributable to the enhancement of the compensation,

whichever is less (that which is less being hereafter in this sub-section referred to as the unadjusted capital gain), shall, if the assessee has within a period of three years after the date of receipt of the additional compensation purchased any land or building or any right in any land or building or constructed any building for the purposes of shifting or re-establishing the undertaking referred to in sub-section (1) or setting up another industrial undertaking (such land, building or right being hereafter in this sub-section referred to as the relevant asset), be dealt with in the following manner, that is to say,—

(*i*) if the amount of the unadjusted capital gain is greater than the cost of the relevant asset, the difference between the amount of the unadjusted capital gain and the cost of the relevant asset shall be charged under section 45 as the income of the previous year in which the transfer took place; and for the purpose of computing in respect of the relevant asset any capital gain arising from its transfer within a period of three years of its purchase or construction, as the case may be, the cost shall be *nil*; or

(*ii*) if the amount of the unadjusted capital gain is equal to or less than the cost of the relevant asset, the unadjusted capital gain shall not be charged under section 45; and for the purpose of computing in respect of the relevant asset any capital gain arising from its transfer within a period of three years of its purchase or construction, as the case may be, the cost shall be reduced by the amount of the unadjusted capital gain."

may be specified in, and utilised in accordance with, any scheme[54] which the Central Government may, by notification in the Official Gazette, frame in this behalf and such return shall be accompanied by proof of such deposit; and, for the purposes of sub-section (1), the amount, if any, already utilised by the assessee for the purchase or construction of the new asset together with the amount so deposited shall be deemed to be the cost of the new asset:

Provided that if the amount deposited under this sub-section is not utilised wholly or partly for the purchase or construction of the new asset within the period specified in sub-section (1), then,—

(*i*) the amount not so utilised shall be charged under section 45 as the income of the previous year in which the period of three years from the date of the transfer of the original asset expires; and

(*ii*) the assessee shall be entitled to withdraw such amount in accordance with the scheme aforesaid.

Explanation.—[55][*Omitted by the Finance Act, 1992, w.e.f. 1-4-1993.*]

[56][**Capital gain on transfer of capital assets not to be charged in certain cases.**

[57]**54E.** (1) Where the capital gain arises from the transfer of a [58][long-term capital asset] [59][before the 1st day of April, 1992], (the capital asset so transferred being hereafter in this section referred to as the original asset) and the assessee has, within a period of six months after the date of such transfer, invested or deposited the [60][whole or any part of the net consideration] in any specified asset (such specified asset being hereafter in this section referred to as the new asset), the capital gain shall be dealt with in accordance with the following provisions of this section, that is to say,—

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54. For text of the Capital Gains Accounts Scheme, 1988—GSR 724(E), dated 22-6-1988 and for list of authorised branches (except rural branches) of the banks specified to receive deposits and maintain accounts—GSR 725(E), dated 22-6-1988, refer Taxmann's Direct Taxes Circulars, 1999 edn., Vol. 1, pp. 1.1143-1.1164.

55. Prior to its omission, *Explanation*, as amended by the Finance (No. 2) Act, 1991, w.e.f. 1-4-1992, read as under :

"*Explanation.*—Where any amount becomes chargeable under section 45 in accordance with the proviso to this sub-section, then, for the purposes of the deductions to be made under clause (*b*) of sub-section (1) of section 48, the initial deduction of fifteen thousand rupees under sub-section (2) of that section shall not be admissible."

56. Inserted by the Finance (No. 2) Act, 1977, w.e.f. 1-4-1978.

57. *See* also Circular No. 359, dated 10-5-1983 and Circular No. 560, dated 18-5-1990. For details, *see* Taxmann's Master Guide to Income-tax Act.

58. Substituted for "capital asset, not being a short-term capital asset" by the Finance Act, 1987, w.e.f. 1-4-1988.

59. Inserted by the Finance Act, 1992, w.e.f. 1-4-1992.

60. Substituted for "full value of the consideration or any part thereof received or accruing as a result of such transfer" by the Finance Act, 1979, w.e.f. 1-4-1979.

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(*a*) if the cost of the new asset is not less than the [61][net consideration] in respect of the original asset, the whole of such capital gain shall not be charged under section 45;

(*b*) if the cost of the new asset is less than the [61][net consideration] in respect of the original asset, so much of the capital gain as bears to the whole of the capital gain the same proportion as the cost of acquisition of the new asset bears to the [62][net consideration] shall not be charged under section 45:

[63][**Provided** that in a case where the original asset is transferred after the 28th day of February, 1983, the provisions of this sub-section shall not apply unless the assessee has invested or deposited the whole or, as the case may be, any part of the net consideration in the new asset by initially subscribing to such new asset:]

[64][**Provided further** that in a case where the transfer of the original asset is by way of compulsory acquisition under any law and the full amount of compensation awarded for such acquisition is not received by the assessee on the date of such transfer, the period of six months referred to in this sub-section shall, in relation to so much of such compensation as is not received on the date of the transfer, be reckoned from the date immediately following the date on which such compensation is received by the assessee [65][or the 31st day of March, 1992, whichever is earlier].]

Explanation 1.—[66][For the purposes of this sub-section, "specified asset" means,—

(*a*) in a case where the original asset is transferred before the 1st day of March, 1979, any of the following assets, namely:—]

(*i*) securities of the Central Government or a State Government;

(*ii*) [67]savings certificates as defined in clause (*c*) of section 2 of the Government Savings Certificates Act, 1959 (46 of 1959);

(*iii*) units in the Unit Trust of India established under the Unit Trust of India Act, 1963 (52 of 1963);

(*iv*) debentures specified by the Central Government for the purposes of clause (*ii*) of sub-section (1) of section 80L;

(*v*) shares in any Indian company which are issued to the public or are listed in a recognised stock exchange in India in accordance with the Securities Contracts (Regulation) Act, 1956 (42 of 1956),

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61. Substituted for "full value of consideration received or accruing" by the Finance Act, 1979, w.e.f. 1-4-1979.

62. Substituted for "full value of such consideration", *ibid.*

63. Inserted by the Finance Act, 1983, w.e.f. 1-4-1983.

64. Inserted by the Taxation Laws (Amendment) Act, 1984, w.e.f. 1-4-1984.

65. Inserted by the Finance Act, 1992, w.e.f. 1-4-1992.

66. Substituted for 'For the purposes of this sub-section *and sub-section (3)*, "specified asset" means any of the following assets, namely:—' by the Finance Act, 1979, w.e.f. 1-4-1979. The italicised words were inserted by the Finance Act, 1978, w.e.f. 1-4-1978.

67. For definition of "savings certificates", *see* footnote 29 on p. 1.104 *ante*.

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and any rules made thereunder, [68][where the investment in such shares is made before the 1st day of March, 1978];

[69][(*va*) equity shares forming part of any eligible issue of capital, where the investment in such shares is made after the 28th day of February, 1978;]

(*vi*) deposits for a period of not less than three years with the State Bank of India established under the State Bank of India Act, 1955 (23 of 1955), or any subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959) or any nationalised bank, that is to say, any corresponding new bank, constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970), or any co-operative society engaged in carrying on the business of banking (including a co-operative land mortgage bank or a co-operative land development bank);

[70][(*b*) in a case where the original asset is transferred after the 28th day of February, 1979 [71][but before the 1st day of March, 1983], such National Rural Development Bonds as the Central Government may notify[72] in this behalf in the Official Gazette;]

[73][(*c*) in a case where the original asset is transferred after the 28th day of February, 1983 [74][but before the 1st day of April, 1986], any of the following assets, namely :—

(*i*) securities of the Central Government which that Government may, by notification in the Official Gazette, specify in this behalf;

(*ii*) special series of units of the Unit Trust of India established under the Unit Trust of India Act, 1963 (52 of 1963), which the Central Government may, by notification[75] in the Official Gazette, specify in this behalf;

(*iii*) such National Rural Development bonds as have been notified[76] under clause (*b*) of *Explanation 1* or as may be notified in this behalf under this clause by the Central Government;

(*iv*) such debentures issued by the Housing and Urban Development Corporation Limited [a [77]Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956)], as the Central Government may, by notification in the Official Gazette, specify in this behalf;]

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68. Inserted by the Finance Act, 1978, w.e.f. 1-4-1978.

69. Inserted, *ibid.*

70. Inserted by the Finance Act, 1979, w.e.f. 1-4-1979.

71. Inserted by the Finance Act, 1983, w.e.f. 1-4-1983.

72. For notification, *see* Taxmann's Master Guide to Income-tax Act.

73. Inserted by the Finance Act, 1983, w.e.f. 1-4-1983.

74. Inserted by the Finance Act, 1986, w.e.f. 1-4-1987.

75. For notification, *see* Taxmann's Master Guide to Income-tax Act.

76. For notification, *see* Taxmann's Master Guide to Income-tax Act.

77. For definition of "Government company", *see* footnote 18 on p. 1.19 *ante*.

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[78][(*d*) in a case where the original asset is transferred after the 31st day of March, 1986, any of the assets specified in clause (*c*) and such bonds issued by any public sector company, as the Central Government may, by notification[79] in the Official Gazette, specify in this behalf; [80][***]]

[81][(*e*) in a case where the original asset is transferred after the 31st day of March, 1989, any of the assets specified in clauses (*c*) and (*d*) and such debentures or bonds issued by the National Housing Bank established under section 3 of the National Housing Bank Act, 1987 (53 of 1987), as the Central Government may, by notification[82] in the Official Gazette, specify in this behalf.]

[83][*Explanation 2*.—"Eligible issue of capital" shall have the meaning assigned to it in sub-section (3) of section 80CC.]

[84][*Explanation 3*.—An assessee shall not be deemed to have invested the [85][whole or any part of the net consideration in any equity shares referred to in sub-clause (*va*) of clause (*a*)] of *Explanation 1*, unless the assessee has subscribed to or purchased the shares in the manner specified in sub-section (4) of section 80CC.]

Explanation [86][*4*]—"Cost", in relation to any new asset, being a deposit referred to in [87][sub-clause (*vi*) of clause (*a*)] of *Explanation 1*, means the amount of such deposit.

[88][*Explanation 5*.—"Net consideration", in relation to the transfer of a capital asset, means the full value of the consideration received or accruing as a result of the transfer of the capital asset as reduced by any expenditure incurred wholly and exclusively in connection with such transfer.

[89][(1A) Where the assessee deposits after the 27th day of April, 1978, the [90][whole or any part of the net consideration in respect] of the original asset in any new asset, being a deposit referred to in [91][sub-clause (*vi*) of clause (*a*)] of *Explanation 1* below sub-section (1), the cost of such new asset shall not be

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78. Inserted by the Finance Act, 1986, w.e.f. 1-4-1987.
79. For notification, *see* Taxmann's Master Guide to Income-tax Act.
80. Omitted by the Finance Act, 1987, w.e.f. 1-4-1987. Omitted *Explanation* stood as under : '*Explanation*.—For the purposes of this clause, "public sector company" means any corporation established by or under any Central, State or Provincial Act or a Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956).'
81. Inserted by the Finance Act, 1989, w.e.f. 1-4-1990.
82. For notification, *see* Taxmann's Master Guide to Income-tax Act.
83. Inserted by the Finance Act, 1978, w.e.f. 1-4-1978.
84. Inserted, *ibid*.
85. Substituted for "full value of the consideration or any part thereof in any equity shares referred to in clause (*va*)" by the Finance Act, 1979, w.e.f. 1-4-1979.
86. Substituted for "2" by the Finance Act, 1978, w.e.f. 1-4-1978.
87. Substituted for "clause (*vi*)" by the Finance Act, 1979, w.e.f. 1-4-1979.
88. Inserted, *ibid.*
89. Inserted by the Finance Act, 1978, w.e.f. 1-4-1978.
90. Substituted for "full value of the consideration or any part thereof received or accruing as a result of the transfer" by the Finance Act, 1979, w.e.f. 1-4-1979.
91. Substituted for "clause (*vi*)", *ibid.*

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taken into account for the purposes of that sub-section unless the following conditions are fulfilled, namely :—

(*a*) the assessee furnishes, along with the deposit, a declaration in writing, to the bank or the co-operative society referred to in the said [92][sub-clause (*vi*)] with which such deposit is made, to the effect that the assessee will not take any loan or advance on the security of such deposit during a period of three years from the date on which the deposit is made;

(*b*) the assessee furnishes, along with the return of income for the assessment year relevant to the previous year in which the transfer of the original asset was effected or within such further time as may be allowed by the [93][Assessing] Officer, a copy of the declaration referred to in clause (*a*) duly attested by an officer not below the rank of sub-agent, agent or manager of such bank or an officer of corresponding rank of such co-operative society.]

[94][(1B) Where on the fulfilment of the conditions specified in sub-section (1A), the cost of the new asset referred to in that sub-section is taken into account for the purposes of sub-section (1), the assessee shall, within a period of ninety days from the expiry of the period of three years reckoned from the date of such deposit, furnish to the [95][Assessing] Officer a certificate from the officer referred to in clause (*b*) of sub-section (1A) to the effect that the assessee has not taken any loan or advance on the security of such deposit during the said period of three years.]

[96][(1C) Notwithstanding anything contained in sub-section (1), where the capital gain arises from the transfer of the original asset, made after the 31st day of March, 1992, in respect of which the assessee had received any amount by way of advance on or before the 29th day of February, 1992 and had invested or deposited the whole or any part of such amount in the new asset on or before the later date, then, the provisions of clauses (*a*) and (*b*) of sub-section (1) shall apply in the case of such investment or deposit as they apply in the case of investment or deposit under that sub-section.]

(2) Where the new asset is transferred, or converted (otherwise than by transfer) into money, within a period of three years from the date of its acquisition, the amount of capital gain arising from the transfer of the original asset not charged under section 45 on the basis of the cost of such new asset as provided in clause (*a*) or, as the case may be, clause (*b*), of sub-section (1) shall be deemed to be

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92. Substituted for "clause (*vi*)" by the Finance Act, 1979, w.e.f. 1-4-1979.

93. Substituted for "Income-tax" by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.

94. Inserted by the Finance Act, 1978, w.e.f. 1-4-1978.

95. Substituted for "Income-tax" by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.

96. Inserted by the Finance Act, 1992, w.e.f. 1-4-1992.

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income chargeable under the head "Capital gains" relating to [97][long-term capital assets] of the previous year in which the new asset is transferred or converted (otherwise than by transfer) into money.]

[98][[99][*Explanation 1*].—Where the assessee deposits after the 27th day of April, 1978, the [1][whole or any part of the net consideration in respect] of the original asset in any new asset, being a deposit referred to in [2][sub-clause (*vi*) of clause (*a*)] of *Explanation 1* below sub-section (1), and such assessee takes any loan or advance on the security of such deposit, he shall be deemed to have converted (otherwise than by transfer) such deposit into money on the date on which such loan or advance is taken.]

[3][*Explanation 2*.—In a case where the original asset is transferred after the 28th day of February, 1983 and the assessee invests the whole or any part of the net consideration in respect of the original asset in any new asset and such assessee takes any loan or advance on the security of such new asset, he shall be deemed to have converted (otherwise than by transfer) such new asset on the date on which such loan or advance is taken.]

[4][***]

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97. Substituted for "capital assets other than short-term capital assets" by the Finance Act, 1987, w.e.f. 1-4-1988.

98. Inserted by the Finance Act, 1978, w.e.f. 1-4-1978.

99. Numbered as *Explanation 1* by the Finance Act, 1983, w.e.f. 1-4-1983.

1. Substituted for "full value of the consideration or any part thereof received or accruing as a result of the transfer" by the Finance Act, 1979, w.e.f. 1-4-1979.

2. Substituted for "clause (*vi*)", *ibid*.

3. Inserted by the Finance Act, 1983, w.e.f. 1-4-1983.

4. Omitted by the Finance Act, 1987, w.e.f. 1-4-1988. Original sub-section (3) was inserted by the Finance Act, 1978, w.e.f. 1-4-1978. Prior to its omission, sub-section (3) as amended by the Finance Act, 1983, w.e.f. 1-4-1983 and the Finance Act, 1979, w.e.f. 1-4-1979, stood as under:

'(3) Where the transfer of the original asset is by way of compulsory acquisition under any law or where the full value of the consideration for the transfer of the capital asset is determined or approved by the Central Government or the Reserve Bank of India, and the compensation awarded for such acquisition or, as the case may be, the full value of the consideration so determined or approved is enhanced by any Court, Tribunal or other authority, then, so much of the capital gain, computed under section 48 by taking the compensation or consideration as so enhanced as the full value of the consideration received or accruing as a result of such transfer, as is attributable to the enhancement of the compensation or consideration (hereafter in this sub-section referred to as the unadjusted capital gain) shall, if the assessee has, within a period of six months after the date of receipt of the additional compensation or, as the case may be, the additional consideration, invested or deposited the whole or any part of such additional compensation or consideration in any specified asset (hereafter in this section referred to as the relevant asset), be dealt with in the following manner, that is to say,—

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[5][***]

(Contd. from p. 1.291)

(*a*) if the cost of the relevant asset is not less than the additional compensation or consideration, the whole of the unadjusted capital gain shall not be charged under section 45;

(*b*) if the cost of the relevant asset is less than the additional compensation or consideration, so much of the unadjusted capital gain as bears to the whole of the unadjusted capital gain the same proportion as the cost of acquisition of the relevant asset bears to the additional compensation or consideration shall not be charged under section 45.

Explanation.—For the purposes of this sub-section,—

(*i*) "additional compensation" shall have the meaning assigned to it in clause (*1*) of the *Explanation* to sub-section (2) of section 54;

(*ii*) "additional consideration", in relation to the transfer of any capital asset the consideration for which was determined or approved by the Central Government or the Reserve Bank of India, means the difference between the amount of consideration for such transfer as enhanced by any Court, Tribunal or other authority and the amount of consideration which would have been payable if such enhancement had not been made;

(*iii*) "cost" in relation to any relevant asset, being a deposit referred to in sub-clause (*vi*) of clause (*a*) of *Explanation 1* below sub-section (1) means the amount of such deposit;

(*iiia*) "specified asset" means—

(*a*) in relation to any additional compensation or additional consideration received before the 1st day of March, 1979, any of the assets referred to in clause (*a*) of *Explanation 1* below sub-section (1);

(*b*) in relation to any additional compensation or additional consideration received after the 28th day of February, 1979, the National Rural Development Bonds referred to in clause (*b*) of *Explanation 1* below sub-section (1);

(*c*) in relation to any additional compensation or additional consideration received after the 28th day of February, 1983, in any of the assets referred to in clause (*c*) of *Explanation 1* below sub-section (1) by way of initial subscription thereto;

(*iv*) the capital gain attributable to the enhancement by any Court, Tribunal or other authority of the compensation for the compulsory acquisition of any capital asset or of the consideration for the transfer of any capital asset as determined or approved by the Central Government or the Reserve Bank of India shall be deemed to be so much of the capital gain arising from the transfer of the capital asset as bears to the whole of the capital gain as computed under section 48 by taking the compensation or consideration as so enhanced as the full value of the consideration received or accruing as a result of the transfer, the same proportion as the amount of additional compensation or consideration bears to the compensation or consideration as so enhanced.'

5. Omitted by the Finance Act, 1987, w.e.f. 1-4-1988. Original sub-section (4) was inserted by the Finance Act, 1978, w.e.f. 1-4-1978. Prior to its omission, sub-section (4), as amended by the Finance Act, 1979, w.e.f. 1-4-1979, stood as under:

(Contd. on p. 1.293)

[6][***]

[7][(3) Where the cost of the equity shares referred to in [8][sub-clause (*va*) of clause (*a*)] of *Explanation 1* below sub-section (1) is taken into account for the purposes of clause (*a*) or clause (*b*) of sub-section (1) [9][***], a deduction with reference to such cost shall not be allowed under section 80CC.]

[10][Capital gain on transfer of long-term capital assets not to be charged in the case of investment in [11][specified securities].

[12]**54EA.** (1) Where the capital gain arises from the transfer of a long-term capital asset (the capital asset so transferred being hereafter in this section referred to as the original asset) and the assessee has, at any time within

(Contd. from p. 1.292)

'(4) Where the relevant asset is transferred, or converted (otherwise than by transfer) into money, within a period of three years from the date of its acquisition, the amount of capital gain arising from the transfer of the original asset not charged under section 45 on the basis of the cost of such relevant asset as provided in clause (*a*) or, as the case may be, clause (*b*), of sub-section (3) shall be deemed to be income chargeable under the head "Capital gains" relating to capital assets other than short-term capital assets of the previous year in which the relevant asset is transferred or converted (otherwise than by transfer) into money.

Explanation.—Where the assessee deposits after the 27th day of April, 1978, the whole or any part of the additional compensation or, as the case may be, the additional consideration referred to in sub-section (3) in any relevant asset, being a deposit referred to in sub-clause (*vi*) of clause (*a*) of *Explanation 1* below sub-section (1), and such assessee takes any loan or advance on the security of such deposit, he shall be deemed to have converted (otherwise than by transfer) such deposit into money on the date on which such loan or advance is taken.'

6. Omitted by the Finance Act, 1987, w.e.f. 1-4-1988. Original sub-section (5) was inserted by the Finance Act, 1978, w.e.f. 1-4-1978. Prior to its omission, sub-section (5), as amended by the Finance Act, 1979, w.e.f. 1-4-1979, stood as under :

"(5) Where the assessee deposits the whole or any part of the additional compensation or, as the case may be, the additional consideration referred to in sub-section (3) in any relevant asset, being a deposit referred to in sub-clause (*vi*) of clause (*a*) of *Explanation 1* below sub-section (1), the provisions of sub-sections (1A) and (1B) shall apply in relation to such deposit as they apply in relation to the deposit referred to in the said sub-sections."

7. Sub-section (6), which was originally inserted by the Finance Act, 1978, w.e.f. 1-4-1978, was renumbered as sub-section (3) by the Finance Act, 1987, w.e.f. 1-4-1988.

8. Substituted for "clause (*va*)" by the Finance Act, 1979, w.e.f. 1-4-1979.

9. "or clause (*a*) or clause (*b*) of sub-section (3)" omitted by the Finance Act, 1987, w.e.f. 1-4-1988.

10. Sections 54EA and 54EB inserted by the Finance (No. 2) Act, 1996, w.e.f. 1-10-1996.

11. Substituted for "specified bonds or debentures" by the Income-tax (Amendment) Act, 1997, w.r.e.f. 1-10-1996.

12. *See* also Circular No. 748, dated 19-12-1996 and Circular No. 750, dated 13-1-1997. For details, *see* Taxmann's Master Guide to Income-tax Act.

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a period of six months after the date of such transfer, invested the whole or any part of the net consideration in any of the [13][bonds, debentures, shares of a public company or units of any mutual fund referred to in clause (*23D*) of section 10,] specified[14] by the Board in this behalf by notification in the Official Gazette (such assets hereafter in this section referred to as the [15][specified securities]), the capital gain shall be dealt with in accordance with the following provisions of this section, that is to say,—

(*a*) if the cost of the [15][specified securities] is not less than the net consideration in respect of the original asset, the whole of such capital gain shall not be charged under section 45;

(*b*) if the cost of the [15][specified securities] is less than the net consideration in respect of the original asset, so much of the capital gain as bears to the whole of the capital gain the same proportion as the cost of acquisition of the [15][specified securities] bears to the net consideration shall not be charged under section 45.

(2) Where the [15][specified securities] are transferred or converted (otherwise than by transfer) into money at any time within a period of three years from the date of their acquisition, the amount of capital gain arising from the transfer of the original asset not charged under section 45 on the basis of the cost of such [15][specified securities] as provided in clause (*a*) or clause (*b*) of sub-section (1) shall be deemed to be the income chargeable under the head "Capital gains" relating to long-term capital assets of the previous year in which the [15][specified securities] are transferred or converted (otherwise than by transfer) into money.

Explanation.—In a case where the original asset is transferred and the assessee invests the whole or any part of the net consideration in respect of the original asset in any [15][specified securities] and such assessee takes any loan or advance on the security of such [15][specified securities], he shall be deemed to have converted (otherwise than by transfer) such [15][specified securities] into money on the date on which such loan or advance is taken.

(3) Where the cost of the [15][specified securities] has been taken into account for the purposes of clause (*a*) or clause (*b*) of sub-section (1), a rebate with reference to such cost shall not be allowed under section 88.

Explanation.—For the purposes of this section,—

(*a*) "cost", in relation to any [15][specified securities], means the amount invested in such [15][specified securities] out of the net consideration received or accruing as a result of the transfer of the original asset ;

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13. Substituted for "bonds, debentures or units of any mutual fund referred to in clause (*23D*) of section 10," by the Income-tax (Amendment) Act, 1997, w.r.e.f. 1-10-1996.

14. For notified bonds/securities, *see* Taxmann's Master Guide to Income-tax Act.

15. Substituted for "specified bonds or debentures" by the Income-tax (Amendment) Act, 1997, w.r.e.f. 1-10-1996.

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(*b*) "net consideration", in relation to the transfer of a capital asset, means the full value of the consideration received or accruing as a result of the transfer of the capital asset as reduced by the expenditure incurred wholly and exclusively in connection with such transfer.

Capital gain on transfer of long-term capital assets not to be charged in certain cases.

[16]**54EB.** (1) Where the capital gain arises from the transfer of a long-term capital asset (the capital asset so transferred being hereafter in this section referred to as the original asset), and the assessee has, at any time within a period of six months after the date of such transfer invested the whole or any part of capital gains, in any of the assets specified[17] by the Board in this behalf by notification in the Official Gazette (such assets hereafter in this section referred to as the long-term specified assets), the capital gain shall be dealt with in accordance with the following provisions of this section, that is to say,—

(*a*) if the cost of the long-term specified asset is not less than the capital gain arising from the transfer of the original asset, the whole of such capital gain shall not be charged under section 45 ;

(*b*) if the cost of the long-term specified asset is less than the capital gain arising from the transfer of the original asset, so much of the capital gain as bears to the whole of the capital gain the same proportion as the cost of acquisition of the long-term specified asset bears to the whole of the capital gain, shall not be charged under section 45.

Explanation.—"Cost", in relation to any long-term specified asset, means the amount invested in such specified asset out of capital gains received or accruing as a result of the transfer of the original asset.

(2) Where the long-term specified asset is transferred or converted (otherwise than by transfer) into money at any time within a period of seven years from the date of its acquisition, the amount of capital gains arising from the transfer of the original asset not charged under section 45 on the basis of the cost of such long-term specified asset as provided in clause (*a*), or as the case may be, clause (*b*) of sub-section (1) shall be deemed to be the income chargeable under the head "Capital gains" relating to long-term capital assets of the previous year in which the long-term specified asset is transferred or converted (otherwise than by transfer) into money.

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16. *See* also Circular No. 748, dated 19-12-1996 and Circular No. 750, dated 13-1-1997. For details, *see* Taxmann's Master Guide to Income-tax Act.

17. For notified long-term capital assets, *see* Taxmann's Master Guide to Income-tax Act.

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Explanation.—In a case where the original asset is transferred and the assessee invests the whole or any part of the capital gain received or accrued as a result of transfer of the original asset in any long-term specified asset and such assessee takes any loan or advance on the security of such specified asset, he shall be deemed to have converted (otherwise than by transfer) such specified asset into money on the date on which such loan or advance is taken.

(3) Where the cost of the long-term specified asset has been taken into account for the purposes of clause (*a*) or clause (*b*) of sub-section (1), a deduction from the amount of income-tax with reference to such cost shall not be allowed under section 88.]

[18][**Capital gain on transfer of certain capital assets not to be charged in case of investment in residential house.**[19]

54F. (1) [20][Subject to the provisions of sub-section (4), where, in the case of an assessee being an individual or a Hindu undivided family], the capital gain arises from the transfer of any long-term capital asset, not being a residential house (hereafter in this section referred to as the original asset), and the assessee has, within a period of one year before or [21][two years] after the date on which the transfer took place purchased, or has within a period of three years after that date constructed, a residential house (hereafter in this section referred to as the new asset), the capital gain shall be dealt with in accordance with the following provisions of this section, that is to say,—

(*a*) if the cost of the new asset is not less than the net consideration in respect of the original asset, the whole of such capital gain shall not be charged under section 45 ;

(*b*) if the cost of the new asset is less than the net consideration in respect of the original asset, so much of the capital gain as bears to the whole of the capital gain the same proportion as the cost of the new asset bears to the net consideration, shall not be charged under section 45 :

Provided that nothing contained in this sub-section shall apply where the assessee owns on the date of the transfer of the original asset, or purchases, within the period of one year after such date, or constructs, within the period of three years after such date, any residential house, the income from which is chargeable under the head "Income from house property", other than the new asset.

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18. Inserted by the Finance Act, 1982, w.e.f. 1-4-1983.

19. For relevant case laws, *see* Taxmann's Master Guide to Income-tax Act.

20. Substituted for "Where, in the case of an assessee being an individual" by the Finance Act, 1987, w.e.f. 1-4-1988.

21. Inserted, *ibid.*

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Explanation.—For the purposes of this section,—

[22][***]

[23][***] "net consideration", in relation to the transfer of a capital asset, means the full value of the consideration received or accruing as a result of the transfer of the capital asset as reduced by any expenditure incurred wholly and exclusively in connection with such transfer.

(2) Where the assessee purchases, within the period of [24][two years] after the date of the transfer of the original asset, or constructs, within the period of three years after such date, any residential house, the income from which is chargeable under the head "Income from house property", other than the new asset, the amount of capital gain arising from the transfer of the original asset not charged under section 45 on the basis of the cost of such new asset as provided in clause (*a*), or, as the case may be, clause (*b*), of sub-section (1), shall be deemed to be income chargeable under the head "Capital gains" relating to long-term capital assets of the previous year in which such residential house is purchased or constructed.

(3) Where the new asset is transferred within a period of three years from the date of its purchase or, as the case may be, its construction, the amount of capital gain arising from the transfer of the original asset not charged under section 45 on the basis of the cost of such new asset as provided in clause (*a*) or, as the case may be, clause (*b*), of sub-section (1) shall be deemed to be income chargeable under the head "Capital gains" relating to long-term capital assets of the previous year in which such new asset is transferred.]

[25][(4) The amount of the net consideration which is not appropriated by the assessee towards the purchase of the new asset made within one year before the date on which the transfer of the original asset took place, or which is not utilised by him for the purchase or construction of the new asset before the date of furnishing the return of income under section 139, shall be deposited by him before furnishing such return [such deposit being made in any case not later than the due date applicable in the case of the assessee for furnishing the return of income under sub-section (1) of section 139] in an account in any such bank or institution as may be specified in, and utilised in accordance with, any scheme[26] which the Central Government may, by notification in the Official Gazette, frame in this behalf and such return shall be accompanied by proof of such deposit ;

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22. Omitted by the Finance Act, 1987, w.e.f. 1-4-1988. Prior to its omission, clause (*i*) read as under :

'(*i*) "long-term capital asset" means a capital asset which is not a short-term capital asset ; '

23. "(*ii*)" omitted, *ibid.*

24. Substituted for "one year", *ibid.*

25. Inserted, *ibid.*

26. For text of the Capital Gains Accounts Scheme, 1988—GSR 724(E), dated 22-6-1988 and for list of authorised branches (except rural branches) of the banks specified to receive deposits and maintain accounts—GSR 725(E), dated 22-6-1988, refer Taxmann's Direct Taxes Circulars, 1999 edn., Vol. 1, pp. 1.1143-1.1164.

and, for the purposes of sub-section (1), the amount, if any, already utilised by the assessee for the purchase or construction of the new asset together with the amount so deposited shall be deemed to be the cost of the new asset :

Provided that if the amount deposited under this sub-section is not utilised wholly or partly for the purchase or construction of the new asset within the period specified in sub-section (1), then,—

(*i*) the amount by which—

(*a*) the amount of capital gain arising from the transfer of the original asset not charged under section 45 on the basis of the cost of the new asset as provided in clause (*a*) or, as the case may be, clause (*b*) of sub-section (1),

exceeds

(*b*) the amount that would not have been so charged had the amount actually utilised by the assessee for the purchase or construction of the new asset within the period specified in sub-section (1) been the cost of the new asset,

shall be charged under section 45 as income of the previous year in which the period of three years from the date of the transfer of the original asset expires ; and

(*ii*) the assessee shall be entitled to withdraw the unutilised amount in accordance with the scheme aforesaid.

Explanation.—[27][*Omitted by the Finance Act, 1992,w.e.f. 1-4-1993.*]

[28][**Exemption of capital gains on transfer of assets in cases of shifting of industrial undertaking from urban area.**

54G.(1) Subject to the provisions of sub-section (2), where the capital gain arises from the transfer of a capital asset, being machinery or plant or building or land or any rights in building or land used for the purposes of the business of an industrial undertaking situate in an urban area, effected in the course of, or in consequence of, the shifting of such industrial undertaking (hereafter in this section referred to as the original asset) to any area (other than an urban area) and the assessee has within a period of one year before or three years after the date on which the transfer took place,—

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27. Prior to omission, *Explanation,* as amended by the Finance (No. 2) Act, 1991, w.e.f. 1-4-1992, read as under :

"*Explanation.*—Where any amount becomes chargeable under section 45 in accordance with sub-section (2) or sub-section (3) or the proviso to this sub-section, then, for the purposes of the deductions to be made under clause (*b*) of sub-section (1) of section 48, the initial deduction of fifteen thousand rupees under sub-section (2) of that section shall not be admissible."

28. Inserted by the Finance Act, 1987, w.e.f. 1-4-1988.

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(*a*) purchased new machinery or plant for the purposes of business of the industrial undertaking in the area to which the said undertaking is shifted ;

(*b*) acquired building or land or constructed building for the purposes of his business in the said area ;

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

(*d*) incurred expenses on such other purpose as may be specified in a scheme framed by the Central Government for the purposes of this section,

then, instead of the capital gain being charged to income-tax as income of the previous year in which the transfer took place, it shall be dealt with in accordance with the following provisions of this section, that is to say,—

(*i*) if the amount of the capital gain is greater than the cost and expenses incurred in relation to all or any of the purposes mentioned in clauses (*a*) to (*d*) (such cost and expenses being hereafter in this section referred to as the new asset), the difference between the amount of the capital gain and the cost of the new asset shall be charged under section 45 as the income of the previous year ; and for the purpose of computing in respect of the new asset any capital gain arising from its transfer within a period of three years of its being purchased, acquired, constructed or transferred, as the case may be, the cost shall be *nil* ; or

(*ii*) if the amount of the capital gain is equal to, or less than, the cost of the new asset, the capital gain shall not be charged under section 45 ; and for the purpose of computing in respect of the new asset any capital gain arising from its transfer within a period of three years of its being purchased, acquired, constructed or transferred, as the case may be, the cost shall be reduced by the amount of the capital gain.

Explanation.—In this sub-section, "urban area" means any such area within the limits of a municipal corporation or municipality as the Central Government may, having regard to the population, concentration of industries, need for proper planning of the area and other relevant factors, by general or special order[29], declare to be an urban area for the purposes of this sub-section.

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29. For notified urban area, *see* Taxmann's Master Guide to Income-tax Act.

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(2) The amount of capital gain which is not appropriated by the assessee towards the cost and expenses incurred in relation to all or any of the purposes mentioned in clauses (*a*) to (*d*) of sub-section (1) within one year before the date on which the transfer of the original asset took place, or which is not utilised by him for all or any of the purposes aforesaid before the date of furnishing the return of income under section 139, shall be deposited by him before furnishing such return [such deposit being made in any case not later than the due date applicable in the case of the assessee for furnishing the return of income under sub-section (1) of section 139] in an account in any such bank or institution as may be specified in, and utilised in accordance with, any scheme[30] which the Central Government may, by notification in the Official Gazette, frame in this behalf and such return shall be accompanied by proof of such deposit ; and, for the purposes of sub-section (1), the amount, if any, already utilised by the assessee for all or any of the purposes aforesaid together with the amount, so deposited shall be deemed to be the cost of the new asset :

Provided that if the amount deposited under this sub-section is not utilised wholly or partly for all or any of the purposes mentioned in clauses (*a*) to (*d*) of sub-section (1) within the period specified in that sub-section, then,—

(*i*) the amount not so utilised shall be charged under section 45 as the income of the previous year in which the period of three years from the date of the transfer of the original asset expires ; and

(*ii*) the assessee shall be entitled to withdraw such amount in accordance with the scheme aforesaid :

Explanation.—[31][*Omitted by the Finance Act, 1992, w.e.f. 1-4-1993.*]

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30. For text of the Capital Gains Accounts Scheme, 1988—GSR 724(E), dated 22-6-1988 and for list of authorised branches (except rural branches) of the banks specified to receive deposits and maintain accounts—GSR 725(E), dated 22-6-1988 ; refer Taxmann's Direct Taxes Circulars, 1999 edn., Vol. 1, pp. 1.1143-1.1164.

31. Prior to omission, *Explanation,* as amended by the Finance (No. 2) Act, 1991, w.e.f. 1-4-1992, read as under :

"*Explanation.*—Where any amount becomes chargeable under section 45 in accordance with the proviso to this sub-section, then, for the purposes of the deductions to be made under clause (*b*) of sub-section (1) of section 48, the initial deduction of fifteen thousand rupees under sub-section (2) of that section shall not be admissible."

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[32][**Extension of time for acquiring new asset or depositing or investing amount of capital gain.**

54H. Notwithstanding anything contained in sections 54, 54B, 54D [33][***] [34][, *54EA, 54EB*] and 54F, where the transfer of the original asset is by way of compulsory acquisition under any law and the amount of compensation awarded for such acquisition is not received by the assessee on the date of such transfer, the period for acquiring the new asset by the assessee referred to in those sections or, as the case may be, the period available to the assessee under those sections for depositing or investing the amount of capital gain in relation to such compensation as is not received on the date of the transfer, shall be reckoned from the date of receipt of such compensation :

Provided that where the compensation in respect of transfer of the original asset by way of compulsory acquisition under any law is received before the 1st day of April, 1991, the aforesaid period or periods, if expired, shall extend up to the 31st day of December, 1991.]

Meaning of "adjusted", "cost of improvement" and "cost of acquisition".

[35]**55.** (1) For the purposes of [36][sections 48 and 49],—

(*a*) [37][***]

[38][(*b*) "cost of any improvement",—

(*1*) in relation to a capital asset being goodwill of a business [39][or a right to manufacture, produce or process any article or thing] shall be taken to be *nil* ; and

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32. Inserted by the Finance (No. 2) Act, 1991, w.e.f. 1-10-1991.

33. ", 54E" omitted by the Finance Act, 1992, w.e.f. 1-4-1992.

34. Inserted by the Finance (No. 2) Act, 1998, w.e.f. **1-4-1999.**

35. For relevant case laws, *see* Taxmann's Master Guide to Income-tax Act.

36. Substituted for "sections 48, 49 and 50" by the Taxation Laws (Amendment & Miscellaneous Provisions) Act, 1986, w.e.f. 1-4-1988.

37. Omitted, *ibid.* Prior to its omission, clause (*a*), as amended by the Taxation Laws (Amendment) Act, 1970, w.e.f. 1-4-1971, stood as under :

'(*a*) "adjusted", in relation to written down value or fair market value, means diminished by any loss deducted or increased by any profit assessed, under the provisions of clause (*iii*) of sub-section (1) or clause (*ii*) of sub-section (1A) of section 32 or sub-section (2) or sub-section (2A) of section 41, as the case may be, the computation for this purpose being made with reference to the period commencing from the 1st day of April, 1974 in cases to which clause (2) of section 50 applies ;'

In the omitted clause, "1st day of April, 1974" was substituted for "1st day of January, *1964" by the Finance Act, 1986, w.e.f. 1-4-1987.

*"1964" was substituted for "1954" by the Finance (No. 2) Act, 1977, w.e.f. 1-4-1978.

38. Substituted for ' "cost of any improvement", in relation to a capital asset,—' by the Finance Act, 1987, w.e.f. 1-4-1988.

39. Inserted by the Finance Act, 1997, w.e.f. 1-4-1998.

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(2) in relation to any other capital asset,—]

(i) where the capital asset became the property of the previous owner or the assessee before the [40][1st day of April, [41][1981]], [42][***] means all expenditure of a capital nature incurred in making any additions or alterations to the capital asset on or after the said date by the previous owner or the assessee, and

(ii) in any other case, means all expenditure of a capital nature incurred in making any additions or alterations to the capital asset by the assessee after it became his property, and, where the capital asset became the property of the assessee by any of the modes specified in [43][sub-section (1) of] section 49, by the previous owner,

but does not include any expenditure which is deductible in computing the income chargeable under the head "Interest on securities", "Income from house property", "Profits and gains of business or profession", or "Income from other sources", and the expression "improvement" shall be construed accordingly.

[44](2) [45][For the purposes of sections 48 and 49, "cost of acquisition",—

[46][(a) in relation to a capital asset, being goodwill of a business [47][or a right to manufacture, produce or process any article or thing], tenancy rights, stage carriage permits or loom hours,—

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40. Substituted for "1st day of January, *1964" by the Finance Act, 1986, w.e.f. 1-4-1987. *"1964" was substituted for "1954" by the Finance (No. 2) Act, 1977, w.e.f. 1-4-1978.

41. Substituted for "1974" by the Finance Act, 1992, w.e.f. 1-4-1993.

42. Words "and the fair market value of the asset on that day is taken as the cost of acquisition at the option of the assessee," omitted, *ibid.*

43. Inserted by the Finance (No. 2) Act, 1967, w.e.f. 1-4-1967.

44. *See* also Circular No. 31 (LXXVII-5)-D, dated 21-9-1962. For details, *see* Taxmann's Master Guide to Income-tax Act.

45. Substituted for 'For the purposes of sections 48 and 49, "cost of acquisition", in relation to a capital asset,—' by the Finance Act, 1987, w.e.f. 1-4-1988.

46. Substituted for clause (*a*) by the Finance Act, 1994, w.e.f. 1-4-1995. Prior to substitution, clause (*a*) read as under :

"(*a*) in relation to a capital asset, being goodwill of a business,—

(*i*) in the case of acquisition of such asset by the assessee by purchase from a previous owner, means the amount of the purchase price ; and

(*ii*) in any other case, shall be taken to be *nil* ;"

47. Inserted by the Finance Act, 1997, w.e.f. 1-4-1998.

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(*i*) in the case of acquisition of such asset by the assessee by purchase from a previous owner, means the amount of the purchase price ; and

(*ii*) in any other case [not being a case falling under sub-clauses (*i*) to (*iv*) of sub-section (1) of section 49], shall be taken to be *nil* ;

(*aa*) [48][in a case where, by virtue of holding a capital asset, being a share or any other security[49], within the meaning of clause (*h*) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956) (hereafter in this clause referred to as the financial asset), the assessee—

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

(*B*) is allotted any additional financial asset without any payment,

then, subject to the provisions of sub-clauses (*i*) and (*ii*) of clause (*b*)],—

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

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

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

[50][(*iiia*) in relation to the financial asset allotted to the assessee without any payment and on the basis of holding of any other financial asset, shall be taken to be *nil* in the case of such assessee ;]

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48. Substituted for the portion beginning with the words "in a case where" and ending with the words "sub-clauses (*i*) and (*ii*) of clause (*b*)" by the Finance Act, 1995, w.e.f. 1-4-1996. Prior to its substitution, the quoted portion read as under :

"in a case where, by virtue of holding a capital asset, being a share or any other security within the meaning of clause (*h*) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956) (hereafter in this clause referred to as the financial asset), the assessee becomes entitled to subscribe to any additional financial asset, then, subject to the provisions of sub-clauses (*i*) and (*ii*) of clause (*b*)".

49. For definition of "security", *see* footnote 51 on p. 1.23 *ante*.

50. Inserted by the Finance Act, 1995, w.e.f. 1-4-1996.

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(*iv*) in relation to any financial asset purchased by any person in whose favour the right to subscribe to such asset has been renounced, means the aggregate of the amount of the purchase price paid by him to the person renouncing such right and the amount paid by him to the company or institution, as the case may be, for acquiring such financial asset ;]

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

(*i*) where the capital asset became the property of the assessee before the [51][1st day of April, [52][1981]], means the cost of acquisition of the asset to the assessee or the fair market value of the asset on the [53][1st day of April, [54][1981]], at the option of the assessee ;

(*ii*) where the capital asset became the property of the assessee by any of the modes specified in [55][sub-section (1) of] section 49, and the capital asset became the property of the previous owner before the [53][1st day of April, [54][1981]], means the cost of the capital asset to the previous owner or the fair market value of the asset on the [53][1st day of April, [54][1981]], at the option of the assessee ;

(*iii*) where the capital asset became the property of the assessee on the distribution of the capital assets of a company on its liquidation and the assessee has been assessed to income-tax under the head "Capital gains" in respect of that asset under section 46, means the fair market value of the asset on the date of distribution ;

(*iv*) [56][***]

[57][(*v*) where the capital asset, being a share or a stock of a company, became the property of the assessee on—

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

(*b*) the conversion of any shares of the company into stock,

(*c*) the re-conversion of any stock of the company into shares,

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51. Substituted for "1st day of January, *1964" by the Finance Act, 1986, w.e.f. 1-4-1987. *"1964" was substituted for "1954" by the Finance (No. 2) Act, 1977, w.e.f. 1-4-1978.

52. Substituted for "1974" by the Finance Act, 1992, w.e.f. 1-4-1993.

53. Substituted for "1st day of January, *1964" by the Finance Act, 1986, w.e.f. 1-4-1987. *"1964" was substituted for "1954" by the Finance (No. 2) Act, 1977, w.e.f. 1-4-1978.

54. Substituted for "1974" by the Finance Act, 1992, w.e.f. 1-4-1993.

55. Inserted by the Finance (No. 2) Act, 1967, w.e.f. 1-4-1967.

56. Omitted by the Finance Act, 1966, w.e.f. 1-4-1966. Original clause (*iv*) was inserted by the Finance Act, 1964, w.e.f. 1-4-1964.

57. Inserted by the Finance Act, 1964, w.e.f. 1-4-1964.

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(*d*) the sub-division of any of the shares of the company into shares of smaller amount, or

(*e*) the conversion of one kind of shares of the company into another kind,

means the cost of acquisition of the asset calculated with reference to the cost of acquisition of the shares or stock from which such asset is derived.]

(3) Where the cost for which the previous owner acquired the property cannot be ascertained, the cost of acquisition to the previous owner means the fair market value on the date on which the capital asset became the property of the previous owner.

[58][**Reference to Valuation Officer.**

[59]**55A.** With a view to ascertaining the fair market value of a capital asset for the purposes of this Chapter, the [60][Assessing] Officer may refer the valuation of capital asset to a Valuation Officer—

(*a*) in a case where the value of the asset as claimed by the assessee is in accordance with the estimate made by a registered valuer, if the [61][Assessing] Officer is of opinion that the value so claimed is less than its fair market value ;

(*b*) in any other case, if the [61][Assessing] Officer is of opinion—

(*i*) that the fair market value of the asset exceeds the value of the asset as claimed by the assessee by more than such percentage[62] of the value of the asset as so claimed or by more than such amount[62] as may be prescribed in this behalf ; or

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

[63]and where any such reference is made, the provisions of sub-sections (2), (3), (4), (5) and (6) of section 16A, clauses (*ha*) and (*i*) of sub-section (1) and sub-sections

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58. Inserted by the Taxation Laws (Amendment) Act, 1972, w.e.f. 1-1-1973.

59. For relevant case laws, *see* Taxmann's Master Guide to Income-tax Act.

60. Substituted for "Income-tax" by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.

61. Substituted for "Income-tax", *ibid.*

62. Percentage of value of asset referred to in section 55A(*b*)(*i*) : 15%
Amount referred to in section 55A(*b*)(*i*) : Rs. 25,000.

63. *See* rule 111AB. Prescribed form of report of valuation by registered valuer (*vide* Wealth-tax Rules) are as follows :

(*i*)	Immovable property (other than agricultural lands, plantations, forests, mines and quarries)	Form O-1
(*ii*)	Agricultural lands (other than coffee, tea, rubber and cardamom plantations)	Form O-2
(*iii*)	Coffee, tea, rubber or cardamom plantations	Form O-3
(*iv*)	Forests	Form O-4

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(3A) and (4) of section 23, sub-section (5) of section 24, section 34AA, section 35 and section 37 of the Wealth-tax Act, 1957 (27 of 1957), shall with the necessary modifications, apply in relation to such reference as they apply in relation to a reference made by the [64][Assessing] Officer under sub-section (1) of section 16A of that Act.

Explanation.—In this section, "Valuation Officer" has the same meaning, as in clause (*r*) of section 2 of the Wealth-tax Act, 1957 (27 of 1957).]

F.—Income from other sources

Income from other sources.

[65]**56.** (1) Income of every kind which is not to be excluded from the total income under this Act shall be chargeable to income-tax under the head "Income from other sources", if it is not chargeable to income-tax under any of the heads specified in section 14, items A to E.

(2) In particular, and without prejudice to the generality of the provisions of sub-section (1), the following incomes, shall be chargeable to income-tax under the head "Income from other sources", namely :—

(*i*) dividends ;

[66][(*ia*) income referred to in sub-clause (*viii*) of clause (*24*) of section 2 ;]

[67][(*ib*) income referred to in sub-clause (*ix*) of clause (*24*) of section 2 ;]

[68][(*ic*) income referred to in sub-clause (*x*) of clause (*24*) of section 2, if such income is not chargeable to income-tax under the head "Profits and gains of business or profession" ;]

[69][(*id*) income by way of interest on securities, if the income is not chargeable to income-tax under the head "Profits and gains of business or profession" ;]

(Contd. from p. 1.305)

(*v*)	Mines and quarries	Form O-5
(*vi*)	Stocks, shares, debentures, securities, shares in partnership firms and business assets including goodwill but excluding those referred to in any other item in this Table	Form O-6
(*vii*)	Machinery and plant	Form O-7
(*viii*)	Jewellery	Form O-8
(*ix*)	Work of art	Form O-9
(*x*)	Life interest, reversions and interest in expectancy	Form O-10

64. Substituted for "Wealth-tax" by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.

65. See also Letter [F.No. 40/29/67-IT (A-I)], dated 22-5-1967, Circular No. 371, dated 31-11-1983, Circular No. 409, dated 12-2-1985 and Circular No. 3-D(XXXI-20), dated 30-3-1967. For details, *see* Taxmann's Master Guide to Income-tax Act.
For relevant case laws, *see* Taxmann's Master Guide to Income-tax Act.

66. Inserted by the Finance Act, 1965, w.e.f. 1-4-1965.

67. Inserted by the Finance Act, 1972, w.e.f. 1-4-1972.

68. Inserted by the Finance Act, 1987, w.e.f. 1-4-1988.

69. Inserted by the Finance Act, 1988, w.e.f. 1-4-1989.

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