

# INTRODUCTION

## Chargeability u/s 45

Profits or gains arising from the transfer of a capital asset is chargeable to tax in the year in which transfer take place under the head “Capital Gains”.

## Definitions

### Transfer: **Sec. 2(47):**

Transfer in relation to a capital asset includes sale, Exchange, or relinquishment of the asset or extinguishment of any rights therein or the compulsory acquisition thereof under any law or conversion of the asset by the owner in stock-in-trade of a business carried on by him or the maturity or redemption of a zero coupon bond.

## **Capital Asset: Sec.2(14)**

Capital Asset means property of any kind held by an assessee whether or not connected with his business or profession ,but does not include the following

- a. Stock-in-trade
- b. Personal effects of the assessee
- c. Agricultural land in a rural area
- d. 6½% Gold Bonds, 1977 or 7% Gold Bonds, 1980 or National Defense Bonds, 1980 issued by the Central Government
- e. Special Bearer Bonds, 1991 issued by the Central Government.
- f. Gold Deposit Bonds issued under Gold Deposit Scheme 1999

## **CAPITAL ASSETS ARE TWO TYPES LONG TERM & SHORTTERM**

Capital gains arises from the transfer of any capital asset. Short-term capital gains is a gain arising from the transfer of an asset which is held by the assessee **for not more than 12 months** from the date of its acquisition **in case of shares,** units and any other listed securities and **for not more than 36 months** in the case of **other** assets ,otherwise it is long term capital gains Distribution of assets by a company at the time of liquidation shall be regarded as a transfer and subject to capital gains in the hands of the shareholders.

Transfer by holding company to its subsidiary company or by a subsidiary company to its holding company shall not

be regarded as transfer if the holding company owns 100 % shares of the subsidiary company Amalgamation of company as per the scheme of amalgamation shall not be regarded as transfer provided the amalgamated company is an Indian company Transfer of capital asset in the scheme of demerger shall not be regarded as transfer for the purpose of capital gain if the resulting company is an Indian company .

**The assessee is allowed to opt for market value as on 1.4.1981** in case of all capital assets other than depreciable assets, goodwill of a business, right to manufacture, etc.

Where the capital asset became the property of the assessee in any mode given under section 49(1), the cost of acquisition of such assets shall be cost for which the previous owner of the property acquired it .

**Note-Period of holding would be considered from the date of which property was held by the previous owner but index would be available the year in which the property is acquired by the assessee.**