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INCOME-TAX ACT, 2025

E: Capital gains

Section 67 - Capital gains.

(1) Any profits or gains arising from the transfer of a capital asset effected in a tax year shall, save as otherwise provided in sections 82, 83, 84, 85, 86, 87, 88 and 89, be chargeable to income-tax under the head “Capital gains” and shall be deemed to be the income of the tax year in which the transfer took place.

(2) Irrespective of anything contained in sub-section (1), if a person receives during any tax 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 circumstances mentioned in sub-section (3), then,––

(a) 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 tax year in which such money or other asset was received; and

(b) for the purposes of section 72, the 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.

(3) The following shall be the circumstances referred to in sub-section (2):––

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

(b) riot or civil disturbance; or

(c) accidental fire or explosion; or

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

(4) In sub-section (2), “insurer” shall have the same meaning as assigned to it in section 2(9) of the Insurance Act, 1938.

(5) Irrespective of anything contained in sub-section (1), if any profits or gains arises to a person from receipt of any amount, including a bonus, under a unit linked insurance policy to which the exemption specified at Schedule II (Table: Sl. No. 2) does not apply, then,––

(a) such profits and gains shall be chargeable to income-tax under the head “Capital gains” and shall be deemed to be the income of such person in the tax year in which such amount was received; and

(b) the income taxable shall be calculated in such manner, as may be prescribed.

(6) Irrespective of anything contained in sub-section (1), if the profits or gains arising from the transfer by way of conversion of a capital asset into, or its treatment by the owner as, stock-in-trade of a business carried on by him, then,––

(a) such profits and gains shall be chargeable to income-tax as his income in the tax year in which such stock-in-trade is sold or otherwise transferred by him; and

(b) for the purposes of section 72, 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 such capital asset.

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(7) If any person, at any time during the tax year, had any beneficial interest in any securities and any profits or gains arise from transfer made by the depository or participant of such beneficial interest in respect of securities, then,––

(a) such profits and gains shall be chargeable to income-tax as the income of the beneficial owner of the tax year in which such transfer took place;

(b) such profits and gains shall not be regarded as income of the depository who is deemed to be the registered owner of securities by virtue of section 10(1) of the Depositories Act, 1996; and

(c) for the purposes of section 72 and section 2(101)(b), 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.

(8) In sub-section (7), “beneficial owner”, “depository” and “security” shall have the same meanings as respectively assigned to them in section 2(1)(a), (e) and (l) of the Depositories Act, 1996.

(9) If any profits or gains arise 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 co-operative society) in which he is or becomes a partner or member, by way of capital contribution or otherwise, then,––

(a) such profits and gains shall be chargeable to tax as his income of the tax year of such transfer; and

(b) for the purposes of section 72 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 such capital asset.

(10) Irrespective of anything contained in sub-section (1), if a specified person receives during the tax year, any money or capital asset, or both, from a specified entity in connection with the reconstitution of such specified entity, then,––

(a) any profits or gains arising from such receipt shall be deemed as income of the specified entity of the tax year of such receipt by the specified person and chargeable to income-tax under the head “Capital gains”; and

(b) such profits or gains shall be determined irrespective of anything to the contrary contained in this Act as follows:—

$$A = B + C - D,$$

where,

A = income chargeable to income-tax under this sub-section as income of the specified entity under the head “Capital gains”;

B = value of any money received by the specified person from the specified entity on the date of such receipt;

C = amount of fair market value of the capital asset received by the specified person from the specified entity on the date of such receipt; and

D = amount of balance in the capital account (represented in any manner) of the specified person in the books of account of the specified entity at the time of its reconstitution;

(c) for the purposes of clause (b),––

(i) if the value of “A” as computed is negative, such value shall be deemed to be zero;

(ii) the balance in the capital account of the specified person in the books of account of the specified

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entity shall be calculated without considering any increase in the capital account of the specified person due to revaluation of any asset or due to self-generated goodwill or any other self-generated asset; and

(d) the provisions of this sub-section shall operate in addition to the provisions of section 8 and the taxation under the said section shall be worked out independently, when a capital asset is received by a specified person from a specified entity in connection with the reconstitution of such specified entity.

(11) In sub-section (10),—

(a) “reconstitution of the specified entity”, “specified entity” and “specified person” shall have the meanings respectively assigned to them in section 8;

(b) “self-generated goodwill” and “self-generated asset” mean goodwill or asset, as the case may be, which has been acquired without incurring any cost for purchase or which has been generated during the course of the business or profession.

(12) Irrespective of anything contained in sub-section (1), if the capital gain arises from the transfer of a capital asset 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:––

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

(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 tax year in which such amount is received;

(c) any compensation as referred to in clause (b) received in pursuance of an interim order of a court, tribunal or other authority shall be deemed as income chargeable under the head “Capital gains” of the tax year in which the final order of such court, tribunal or other authority is made; and

(d) the capital gain assessed for any tax year under clause (a) or (b) shall be recomputed where the compensation or consideration referred to in clauses (a) to (c) is reduced by any court, tribunal or other authority, and such reduced value shall be taken to be the full value of the consideration.

(13) In relation to the amount referred to in sub-section (12)(b) and (c),—

(a) the cost of acquisition and the cost of improvement shall be taken as *nil*; and

(b) in a case, where the enhanced compensation or consideration is received by any other person due to the death of the person who made the transfer, or for any other reason, such amount shall be deemed as the income chargeable to tax under the head “Capital gains” in the hands of such other person.

(14) Irrespective of anything contained in sub-section (1), if the capital gains arises to a person (being an individual or a Hindu undivided family), from the transfer of a capital asset, being land or building or both, under a specified agreement, then,––

(a)such capital gains shall be chargeable to income-tax for the tax year in which the certificate of completion for the whole or part of the project is issued by the competent authority; and

(b)for the purposes of section 72, the stamp duty value, on the date of issue of the said certificate, of the share of such person, being land or building or both, in the project, as increased by any consideration received in cash or by a cheque or draft or by any other mode shall be deemed to be the full value of the consideration received or accruing as a result of the transfer of such capital asset.

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(15) In sub-section (14),––

(a)“competent authority” means the authority empowered to approve the building plan under any law;

(b)“specified agreement” means a registered agreement in which a person owning land or building, or both, agrees to allow another person to develop a real estate project on such land or building, or both, in consideration of a share, being land or building or both, in such project, whether with or without payment of part of the consideration in cash.

(16) The provisions of sub-section (14) shall not apply, if the person transfers his share in the project on or before the date of issue of the certificate of completion, and then,––

(a)the capital gains shall be deemed to be the income of the tax year of such transfer; and

(b)the provisions of this Act, other than sub-section (14), shall apply for the purpose of determination of full value of consideration.

(17) Irrespective of anything contained in sub-section (1), the difference between the repurchase price of the units referred to in section 80CCB(2) of the Income-tax Act, 1961 and the capital value of such units shall be deemed to be the capital gains arising to the assessee in the tax year in which––

(a) such repurchase takes place; or

(b) the plan referred to in that section is terminated.

(18) For the purposes of sub-section (17), “capital value of such units” means any amount invested by the assessee in the units referred to in section 80CCB(2) of the Income-tax Act, 1961.

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