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INCOME-TAX ACT, 2025

E: Capital gains

Section 90 - Meaning of “adjusted”, “cost of improvement” and “cost of acquisition”.

(1) For the purposes of sections 72 and 73, “cost of improvement”,—

(a) in relation to a capital asset being goodwill or any intangible asset of a business, or a right to manufacture, produce or process any article or thing, or right to carry on any business or profession, or any other right, shall be taken to be *nil*; and

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

(i) if the capital asset became the property of the previous owner or the assessee before the 1st April, 2001, means all expenditure of a capital nature incurred on or after the said date in making any additions or alterations to the capital asset 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 section 73 (Table: Sl. No. 1), by the previous owner.

(2) For the purposes of sub-section (1)(b), the cost of improvement does not include any expenditure which is deductible in computing the income chargeable under the head “Income from house property”, “Profits and gains of business or profession” or “Income from other sources”.

(3) For the purposes of sections 72 and 73, “cost of acquisition” of a capital asset (being goodwill of a business or profession, or a trade mark or brand name associated with a business or profession, or any other intangible asset, or a right to manufacture, produce or process any article or thing, or a right to carry on any business or profession, or tenancy rights, or stage carriage permits, or loom hours, or any other right) means—

(a) the purchase price, if acquisition of such asset by the assessee is by purchase from the previous owner; and

(b) the purchase price for the previous owner, in the case covered in section 73 (Table: Sl. No. 1), where such asset was acquired by purchase by the previous owner as defined in sub-section (2) of the said section; and

(c) *nil*, in any other case.

(4) For the purposes of sub-section (3)(a) or (b), if—

(a) the capital asset is goodwill of a business or profession; and

(b) the assessee has obtained a deduction on account of depreciation under section 32(1) of the Income-tax Act, 1961 in a tax year preceding the tax year commencing on the 1st April, 2020,

then the total amount of depreciation obtained before the tax year commencing on the 1st April, 2020 shall be reduced from the amount of purchase price.

(5) For the purposes of sections 72 and 73, and subject to the provisions of sub-sections (9)(a) and (b), “cost of acquisition” shall be as per sub-section (6), in a case where, by virtue of holding a capital asset, being a share or any other security, within the meaning of section 2(h) of the Securities Contracts (Regulation) Act, 1956 (herein referred to as the financial asset), the assessee—

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

(b) is allotted any additional financial asset without any payment.

(6) In a case referred to in sub-section (5), "cost of acquisition", in relation to––

(a) 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;

(b) 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;

(c) 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;

(d) 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*; and

(e) any financial asset purchased by any person in whose favour the right to subscribe to such asset has been renounced, means the total 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, for acquiring such financial asset.

(7) For the purposes of sections 72 and 73, "cost of acquisition", subject to sub-sections (9)(a) and (b), in relation to a long-term capital asset, being an equity share in a company or a unit of an equity oriented fund or a unit of a business trust referred to in section 198, acquired before the 1st February, 2018, shall be higher of—

(a) the cost of acquisition of such asset; and

(b) lower of—

(i) the fair market value of such asset; and

(ii) the full value of consideration received or accruing as a result of the transfer of the capital asset.

(8) For the purposes of sub-section (7),—

(a) "Cost Inflation Index", shall have the meaning assigned to it in section 72(8)(a);

(b) "fair market value" means,—

(i) in a case where the capital asset is listed on any recognised stock exchange as on the 31st January, 2018, the highest price of the capital asset quoted on such exchange on that date;

(ii) in a case where there is no trading in such asset on such exchange on the 31st January, 2018, as mentioned in sub-clause (i) the highest price of such asset on such exchange on a date immediately preceding the 31st January, 2018 when such asset was traded on such exchange shall be the fair market value;

(iii) if the capital asset is a unit which is not listed on a recognised stock exchange as on the 31st January, 2018, the net asset value of such unit as on that date;

(iv) if the capital asset is an equity share in a company which is—

(A) not listed on a recognised stock exchange as on the 31st January, 2018 but listed on such exchange on the date of transfer;

(B) not listed on a recognised stock exchange as on the 31st January, 2018, or which became the property of the assessee in consideration of share which is not listed on such exchange as on the 31st

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January, 2018 by way of transaction not regarded as transfer mentioned in section 70, but listed on such exchange subsequent to the date of transfer (where such transfer is in respect of sale of unlisted equity shares under an offer for sale to the public included in an initial public offer);

(C) listed on a recognised stock exchange on the date of transfer and which became the property of the assessee in consideration of share which is not listed on such exchange as on the 31st January, 2018 by way of transaction not regarded as transfer mentioned in section 70,

an amount which bears to the cost of acquisition the same proportion as Cost Inflation Index for the tax year 2017-18 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 April, 2001, whichever is later.

(9) For the purposes of sections 72 and 73, cost of acquisition in relation to any other capital asset,—

(a) if the capital asset became the property of the assessee before the 1st April, 2001, subject to sub-section (10), shall be the cost of acquisition of the asset to the assessee or its fair market value on the 1st April, 2001, at the option of the assessee;

(b) if the capital asset became the property of the assessee by any of the modes specified in section 73 (Table: Sl. No. 1), and the capital asset became the property of the previous owner before the 1st April, 2001, subject to sub-section (10), shall be the cost of the capital asset to the previous owner or its fair market value on the 1st April, 2001, at the option of the assessee;

(c) if 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 68, means the fair market value of the asset on the date of distribution;

(d) if the capital asset, being a share or a stock of a company, became the property of the assessee on—

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

(ii) the conversion of any shares of the company into stock; or

(iii) the re-conversion of any stock of the company into shares; or

(iv) the sub-division of any of the shares of the company into shares of smaller amount; or

(v) 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.

(10) In case of a capital asset referred to in sub-section (9)(a) and (b), being land or building, or both, the fair market value of such asset on the 1st April, 2001 for the said sub-section 9(a) and (b) shall not exceed the stamp duty value, wherever available, of such asset as on the 1st April, 2001.

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

(12) For the purposes of sections 72 and 73, cost of acquisition in relation to a capital asset—

(a) being equity share or shares allotted to a shareholder of a recognised stock exchange in India under a scheme for demutualisation or corporatisation approved by the Securities and Exchange Board of India established under section 3 of the Securities and Exchange Board of India Act, 1992, shall be the cost of acquisition of his original membership of the exchange:

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(b) bring trading or clearing rights of the recognised stock exchange acquired by a shareholder who has been allotted equity share or shares under such scheme of demutualisation or corporatisation, shall be deemed to be *nil*.

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