

New Provisions of Capital Gains in Income Tax Act 2025-Analysis

- ▶ LIVE WEBINAR
- ▶ ORGANISED BY DIRECT TAXES COMMITTEE OF ICAI

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Capital Gains 1961 Act vis-à-vis ITA 2025

| Income Tax Act 1961 | Income Tax Act 2025 | Change and impact |
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| <p>. 2(14) – "capital asset": property of any kind held by assessee + FII-held securities + non-exempt ULIPs; excludes stock-in-trade, personal effects, rural agricultural land,</p> | <p>s. 2(22) – identical layout. Sub-clauses (a) property; (b)(i) FII securities, (b)(ii) securities held by Schedule-IV investment funds under SEBI/IFSCA regulations (new); (c) non-exempt ULIPs now cross-refer to Schedule II (which absorbs old s. 10(10D)).</p> | <p>Cosmetic + minor substantive. The FA 2025 addition of investment-fund-held securities is carried in. <i>CIT v. Podar Cement (1997) 226 ITR 625 (SC)</i> – beneficial-ownership test for "property of any kind held by an assessee" – fully survives.</p> |
| <p>s. 2(29A) LTCA / 2(29B) LTCG / 2(42A) STCA / 2(42B) STCG. Post-FA(No.2) 2024: listed securities -12m; all other assets (unlisted shares, immovable property, gold, debt) 24m; 36-month bucket eliminated.</p> | <p>s. 2(67) LTCA / 2(101) STCA (and adjacent definitional clauses for LTCG/STCG). The 12m / 24m two-bucket holding-period rationalization embedded on the face of the base definition; includes FIFO rule for dematerialized securities; period of previous owner takes on via s. 73.</p> | <p>Substantive consolidation of FA(No.2) 2024. No provisional/Explanation layering – the simplified thresholds are primary text. Practice impact: unlisted shares and immovable property uniformly at 24 months; debt MFs/MLDs always STCG via s. 76 (old 50AA) regardless of period.</p> |

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Substantive consolidation of FA(No.2) 2024. No provisional/Explanation layering – the simplified thresholds are primary text. **Practice impact:** unlisted shares and immovable property uniformly at 24 months; Tax on Republic World debt MFs/MLDs always STCG via s. 76 (old 50AA) regardless of period.

s. 2(47) – "transfer": inclusive definition, sub-clauses (i)-(vi) + (iva); Explanation 1 (immovable property = s. 269UA(d)); Explanation 2 (FA 2012 retrospective – indirect transfer).

s. 2(109) – re-lettered (a) sale/exchange/relinquishment; (b) extinguishment of any rights; (c) compulsory acquisition; (d) conversion to stock-in-trade; Income Tax India (e) maturity/redemption of zero-coupon bond; (f) co-op/company/AOP share transaction enabling enjoyment of immovable property; (g) part-performance transfer u/s 53A TOPA 1882. Explanation 2 (indirect transfers)

Largely cosmetic re-organisation. Statutory verbs identical, so Vania Silk Mills v. CIT (1991) 191 ITR 647 (SC), CIT v. Grace Collis (2001) 248 ITR 323 (SC) (extinguishment as independent limb), and CIT v. Balbir Singh Maini (2017) 398 ITR 531 (SC) (unregistered JDA ≠ transfer) continue to bind. PCIT v. Jupiter Capital (SC, 2 Jan 2025) – reduction of share capital = transfer applies unchanged.

**s. 2(22) — "dividend"
(a)-(e); (f) buy-back-as-
dividend inserted by FA
2024 w.e.f. 1 Oct 2024**

**s. 2(40) — (a)-(f) mirrored.
Sub-clause (f) is omitted by
Finance Act, 2026 w.e.f. 1
April 2026, reverting s. 2(22)
— "dividend" (a)-(e); (f) buy-
back-as-dividend inserted by
FA 2024 w.e.f. 1 Oct 2024 buy-
back to capital-gains
treatment. New sub-clause (g)
excludes IFSC inter-group
loans.**

**Substantive policy U-
turn. Buy-back taxation
whipsawed: capital-gains
(pre-1.10.2024) →
dividend (1.10.2024-
31.3.2026) → capital-
gains with promoter
surcharge (1.4.2026
onwards via s. 69).**

Section 45 family: Charging Section (old s. 45 → new s. 67)

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| <p>s. 45(1) – charging, "save as otherwise provided in ss. 54/54B/54D/54EC/54EE/54F/54G/54GA/54GB/54H".</p> | <p>s. 67(1) – "save as otherwise provided in ss. 82-89", chargeable in the tax year of transfer</p> | <p>Change and impact Cosmetic. Cross-references migrated</p> |
| <p>s. 45(1A) – insurance receipts on damage/destruction (flood, riot, fire, enemy action) taxed in year of receipt</p> | <p>s. 67(2)-(4) – identical four-event list; insurer definition imported from Insurance Act 1938.</p> | <p>Cosmetic.</p> |
| <p>s. 45(1B) – non-exempt ULIPs (premium \u003e ₹2.5 L).</p> | <p>s. 67(5) – cross-refers Schedule II (Table Sl. No. 2) for exemption limb.</p> | <p>Cosmetic.</p> |
| <p>s. 45(2) – conversion of capital asset to stock-in-trade; FMV on conversion date = FVC; chargeable in year of sale</p> | <p>s. 67(6) – verbatim</p> | <p>Cosmetic.</p> |

Exemption from Capital Gains under 1961 Act the reference to section 54EC and 54GA was missing which was drafting error which has been cured in 2025 Act

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| Beneficial-owner / depository FIFO rule (dispersed). | s. 67(7)-(8) – now on the face of the statute; FIFO for dematerialised securities. | Codification of earlier-scattered rule. |
| s. 45(3) – partner's contribution to firm; book value = FVC | s. 67(9) – verbatim. Sunil Siddharthbhai v. CIT (1985) 156 ITR 509 (SC) – contribution is "transfer" – was overridden by deeming mechanism; both continue | Cosmetic. |
| s. 45(4) / s. 9B (FA 2021) – reconstitution/dissolution. Firm taxed on $A = B + C - D$ where D excludes revaluation increments / self-generated goodwill | s. 67(10)-(11) + s. 8 – identical formula; "D" exclusion mirrors the anti-avoidance logic of Mansukh Dyeing & Printing Mills v. CIT (2023) 449 ITR 439 (SC), which is statutorily cemented | Cosmetic codification of FA 2021 scheme |
| s. 45(5) – compulsory acquisition; enhanced compensation in year of receipt. | s. 67(12)-(13) – four-clause scheme preserved; nil-cost for enhanced portion; legal-heir taxation retained. CIT v. Ghanshyam (HUF) (2009) 315 ITR 1 (SC) fully applies. | Cosmetic. |

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| <p>s. 45(5A) – JDA for individual/HUF; year of completion certificate; SDV + cash = FVC</p> | <p>s. 67(14)-(16) – requires registered agreement; pre-completion-certificate transfer by landowner disappplies deferral</p> | <p>Cements Balbir Singh Maini recognised (registration mandatory).</p> |
| <p>Liquidation and buy-back (ss. 46, 46A → ss. 68, 69)</p> | | |
| <p>s. 46 – distribution on liquidation not transfer by company; shareholder taxed on market value less deemed-dividend portion u/s 2(22)(c).</p> | <p>s. 68 – identical; cross-ref to s. 2(40)(c) and s. 72</p> | <p>Pure renumbering.</p> |
| <p>s. 46A – buy-back taxed as capital gains; post-FA 2024 (1.10.2024) consideration was deemed nil because amount was treated as dividend u/s 2(22)(f).</p> | <p>s. 69 as substituted by Finance Act, 2026 w.e.f. 1.4.2026: (i) reverts to capital-gains treatment for shareholder; (ii) additional tax on promoters – aggregate effective rate ≈ 30% (individual/HUF promoters) / 22% (corporate promoters) (iii) statutory definition of "promoter" drawing on SEBI Buy-Back Regulations 2018</p> | <p>Substantive policy U-turn. Net effect: minority/retail shareholders benefit from lower capital-gains rate vis-à-vis the 2024-2026 slab-rate dividend regime; promoters face punitive surcharge to neutralise arbitrage over dividend payout TDS framework realigned in new s. 393.</p> |

Transactions not regarded as transfer and withdrawal

s. 47 – 25+ clauses (i)-(xxiii) covering HUF partition; gift/will/irrevocable trust (post-FA 2024 restricted to individual/HUF only, 1.4.2025); parent-WOS and WOS-parent transfers; amalgamation (domestic and cross-border); demerger; FCCB and bond-debenture conversions; demutualisation; sick-company transfers; LLP conversion; sole-proprietorship succession; securities lending; reverse mortgage; MF-scheme consolidations; SGB redemption by individuals; REIT/InvIT unit exchanges; IFSC fund relocation

s. 70 opens with "Nothing contained in s. 67 shall apply"; clauses re-lettered (a) through (zg); every existing carve-out carried forward. FA 2024 restriction of gift/will/trust exemption to individual/HUF preserved.

Cosmetic re-lettering; substantively intact. Flag: mapping of specific Roman numerals to (a)-(zg) letters – s. 71 references "s. 70(zd) or (zf)" for LLP conversion / sole-proprietor succession should be verified against the Gazette before citation

s. 47A – clawback: 8-year window (s. 47(iv)/(v) parent-WOS), 3-year (s. 47(xi) demutualisation), proviso-condition breaches (s. 47(xiii)/(xiv)/(xiiib)).

s. 71 – identical limitation windows; cross-refs migrated to s. 70(1)(c)/(d), s. 70(zd)/(zf).

Cosmetic.

Computation and Depreciable Assets

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| <p>s. 48 – FVC minus (transfer expenditure + COA + cost of improvement). First proviso: NR foreign-currency computation. Second proviso: indexation for LTCG. Third proviso (FA(No.2) 2024): indexation withdrawn for LTCG under s. 112 @ 12.5% on transfers from 23.7.2024. STT disallowance.</p> | <p>s. 72 – sub-s. (1) deductions; eztax sub-s. (2) indexation hook tied to s. 197(3) formula item B (indexation applies only when rate section permits); sub-s. (3) STT disallowance; further sub-sections preserve NR foreign-currency computation, rupee-denominated-bond FX-ignore rule, and CII definition now anchored to "tax year".</p> | <p>Structurally recast; substantively preserved. Indexation is not statutorily abolished – it survives only where s. 197(3) grandfathering is invoked (resident individual/HUF, pre-23.7.2024 land/building). B.C. Srinivasa Shetty remains the governing "integrated code" authority for computation machinery</p> |
| <p>s. 49 – COA where capital asset acquired under s. 47 modes (gift, will, amalgamation, demerger, ESOP sweat-equity, FCCB conversion, preference-to-equity, REIT-InvIT exchange, IFSC relocation). s. 49(4) – FMV taxed u/s 56(2)(x) becomes COA.</p> | <p>s. 73 – consolidated into unified structure; taxtmi every identified acquisition mode carried over; cross-references point to s. 70 (ex-47) and s. 92(2)(k)/s. 223(2) (ex-56(2)(x)).</p> | <p>Cosmetic consolidation.</p> |

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| <p>s. 50 – depreciable block: WDV + additions + transfer expenditure; deemed STCG; STCG when block extinguished.</p> | <p>s. 74 – identical block-STCG fiction; taxtmi STT non-deductibility preserved.</p> | <p>Cosmetic.</p> |
| <p>s. 50A – power-sector straight-line depreciation.</p> | <p>s. 75 – separately retained.</p> | <p>Cosmetic.</p> |
| <p>s. 50AA (FA 2023; expanded FA(No.2) 2024) – MLDs + Specified MFs (≥65% debt/money-market or FoF ≥65% in such MF, annual-average daily-closing basis) + unlisted bonds/debentures transferred on/after 23.7.2024 → always STCG regardless of holding period.</p> | <p>s. 76 – "AA" suffix dropped; FA 2024 redefinition hard-coded as primary definition.</p> | <p>Substantive consolidation. Gold ETFs and international FoFs exit the SMF fiction from AY 2026-27; revert to general CG grid</p> |
| <p>s. 50B – slump sale; net worth = COA; FMV (Rule 11UAE, higher of FMV1/FMV2) = FVC post-FA 2021 "slump exchange". Form 3CEA CA report.</p> | <p>s. 77 – identical substance; Draft Rule 53 replaces Rule 11UAE; Draft Form 28 replaces Form 3CEA.</p> | <p>Cosmetic renumbering + rule/form housekeeping. PNB Finance v. CIT (2008) 307 ITR 75 (SC) – machinery-failure for undifferentiated slump – and CIT v. Artex Manufacturing (1997) 227 ITR 260 (SC) – itemised-valuation distinction</p> |

s. 50C — land/building SDV deemed FVC; 10% safe harbour; agreement-date SDV where part consideration via banking channel; DVO reference; DVO-value SDV capped at SDV.

s. 78 — verbatim 110% safe harbour; VO-reference cross-ref to s. 269(3)-(8); DVO cap retained.

Cosmetic renumbering + rule/form housekeeping. *PNB Finance v. CIT (2008) 307 ITR 75 (SC)* — machinery-failure for undifferentiated slump — and *CIT v. Artex Manufacturing (1997) 227 ITR 260 (SC)* — itemised-valuation distinction — continue to govern classification between s. 77 and item-wise transfers. 10% safe harbour fully codified. *K.P. Varghese v. ITO (1981) 131 ITR 597 (SC)* — burden of proof against artificial deeming, natural-justice right to challenge deemed value — informs construction of s. 78 through the VO-reference mechanism.

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| <p>s. 50CA – unquoted shares FMV (Rule 11UA/11UAA/11UAD).</p> | <p>s. 79 – "CA" suffix dropped; CBDT rule-making preserved</p> | <p>Cosmetic.</p> |
| <p>s. 50D – FMV on date of transfer where consideration not ascertainable.</p> | <p>s. 80 – verbatim.</p> | <p>Cosmetic</p> |
| <p>s. 51 – pre-1.4.2014 residual advance-forfeiture reduces COA; post-FA 2014 forfeiture routed to s. 56(2)(ix).</p> | <p>s. 81 – residual 1961 rule preserved; new forfeitures route to s. 92(2)(i).</p> | <p>Cosmetic.</p> |

Roll-over exemptions (ss. 54-55A → ss. 82-91)

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| <p>s. 54 – individual/HUF; LTCG on residential house; 1yr-before/2yr-after purchase or 3yr construction; two-house option once in lifetime if LTCG ≤ ₹2 cr; ₹10 crore cap (FA 2023)</p> | <p>s. 82 – substance preserved; two-house "once-in-lifetime" restriction on face of statute; ₹10 cr cap codified in principal provision (both for new-asset cost and CGAS deposit). CGAS now a "scheme notified by the Central Government".</p> | <p>₹10 cr cap codified. Sanjeev Lal v. CIT (2014) 365 ITR 389 (SC) – date of agreement/earnest and equitable relief from legal impediments – fully survives. CIT v. T.N. Aravinda Reddy (1979) 120 ITR 46 (SC) – expansive meaning of "purchase" including co-sharer release – survives.</p> |
| <p>s. 54B – individual/HUF; agricultural land (2 yrs' prior use); 2-yr reinvestment window; 3-yr lock-in.</p> | <p>s. 83 – identical; no monetary cap introduced.</p> | <p>Cosmetic.</p> |
| <p>s. 54D – any assessee; compulsorily acquired industrial land/building; 3-yr reinvestment for shifting/re-establishment.</p> | <p>s. 84 – verbatim</p> | <p>Cosmetic.</p> |

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| <p>s. 54EC – LTCG on land/building; invest in NHAI/REC/PFC/IRFC bonds within 6 months; ₹50 lakh cap per FY and aggregate across FY of transfer + next FY; 5-year lock-in.</p> | <p>s. 85 – cap and lock-in expressly on face of the statute; anti-abuse (loans against bonds, conversion) preserved</p> | <p>Cap codified. Split-investment planning across two financial years (when 6-month window straddles 31 March) remains available.</p> |
| <p>s. 54EE – specified-fund route (FA 2016).</p> | <p>OMITTED – expressly classified as "Omitted" in CBDT Section Mapping Navigator.</p> | <p>Substantive deletion. No successor. Dead letter in practice anyway (fund never meaningfully notified).</p> |
| <p>s. 54F – individual/HUF; LTCG on asset other than residential house; invest net consideration in one house; proportionate exemption; 3-yr lock-in; negative conditions (max one other house); ₹10 crore cap (FA 2023).</p> | <p>s. 86 – substance preserved; ₹10 cr cap codified.</p> | <p>₹10 cr cap codified. CIT v. Kamal Wahal (2013) 351 ITR 4 (Del HC) – purchase in spouse's name where funds traced to assessee – continues to be arguable under s. 86 (identical operative words); contrary Bombay HC view (Prakash) persists, so litigation risk remains.</p> |
| <p>s. 54G – shifting urban → non-urban industrial undertaking.</p> | <p>s. 87 – verbatim.</p> | <p>Cosmetic.</p> |

| s. 54GA – shifting urban → SEZ. | s. 88 – verbatim. | Cosmetic |
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| s. 54GB – residential property LTCG reinvested in eligible start-up/MSME equity; FA 2024 sunset 31.3.2025. | OMITTED – CBDT Navigator records "Omitted". | Substantive deletion by sunset codification. Transactions completed by 31.3.2025 protected by saving clause; no post-1.4.2026 route to deploy residential-property LTCG into start-up/MSME equity. |
| s. 54H – time extension for compulsory acquisition cases. | s. 89 – cross-refs updated. | Cosmetic. |
| s. 55 – "adjusted"/"COA"/"cost of improvement"; FMV-as-on-1.4.2001 option; SDV cap for land/building (FA 2020); self-generated goodwill COA = nil and cost of improvement for intangibles = nil (FA 2021); depreciation-reduction for goodwill depreciated up to AY 2020-21 | s. 90 – base year remains 1.4.2001; SDV cap preserved; goodwill-nil and intangibles-nil rules codified. 31.1.2018 FMV grandfathering for s. 198 equity preserved. | Base year unchanged. FA 2021 goodwill regime fully codified. CIT v. B.C. Srinivasa Shetty (1981) 128 ITR 294 (SC) – partly superseded for self-generated goodwill (statutorily deemed nil) but remains alive for self-generated intangibles/rights not enumerated (adverse-possession rights, certain regulatory licenses) under the "no machinery = no charge" ¹⁶ doctrine. |

s. 55A – DVO reference; post-FA 2012 test "at variance with FMV" (broader than pre-FA 2012 "less than").

s. 91 – post-FA 2012 text retained

Cosmetic. CIT v. Puja Prints (2014) 360 ITR 697 (Bom HC) – effectively spent for post-FA 2012 periods but remains authoritative for pending pre-AY 2013-14 cases.

Tax rates on capital gains (ss. 111A, 112, 112A → ss. 196, 197, 198)

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| <p>s. 111A – STCG on STT-paid listed equity / equity MF / business-trust units; rate raised from 15% to 20% w.e.f. 23.7.2024; basic-exemption shelter for resident individual/HUF; IFSC carve-out.</p> | <p>s. 196 – 20% rate; basic-exemption shelter; IFSC carve-out; no Chapter VIII deduction against such STCG; s. 156 (new s. 87A) rebate restricted.</p> | <p>Codification of FA(No.2) 2024.</p> |
| <p>s. 112 – LTCG general; FA(No.2) 2024 substituted clauses (a)-(d) with flat 12.5% without indexation from 23.7.2024; second proviso to s. 48 rewritten; grandfathering proviso for resident individual/HUF on pre-23.7.2024 land/building (lower of 12.5% without indexation OR 20% with indexation; excess ignored; no loss generation).</p> | <p>s. 197 – 12.5% flat rate; sub-s. (3) grandfathering formula preserved as statutory text; basic-exemption shelter; special NR provisions for unlisted shares retained.</p> | <p>Codification of FA(No.2) 2024 including grandfathering. Indexation survives only through this narrow resident-only, land/building-only, pre-23.7.2024-only option.</p> |

s. 112A – LTCG on STT-paid listed equity / equity MF / business-trust units; FA(No.2) 2024 raised rate from 10% to 12.5% and threshold from ₹1,00,000 to ₹1,25,000 w.e.f. 23.7.2024; 31.1.2018 FMV grandfathering via s. 55(2)(ac); no Chapter VI-A deduction; s. 87A rebate disallowed; FA 2025 expanded "equity-oriented fund" definition to include non-exempt ULIPs.

s. 198 – 12.5% above ₹1,25,000; IFSC STT-condition disappplied; Chapter VIII deduction blocked; s. 156 rebate restricted; "equity oriented fund" definition via Schedule VII + Schedule II (includes non-exempt ULIPs).

Codification of FA(No.2) 2024 + FA 2025. 31.1.2018 grandfathering preserved.

Finance (No. 2) Act 2024 CG overhaul: before/after/ITA 2025

| Parameter | Pre-23.7.2024 | Post-23.7.2024 (ITA 1961 amended) | ITA 2025 (Tax Year 2026-27) |
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| Holding period buckets | 12m / 24m / 36m (three) | 12m (listed securities) / 24m (all else) | 12m / 24m (two) – s. 2(101) |
| STCG STT-paid listed equity | 15% | 20% | 20% — s. 196 |
| LTCG STT-paid listed equity threshold | ₹1,00,000 | ₹1,25,000 | ₹1,25,000 — s. 198 |
| LTCG STT-paid listed equity rate | 10% | 12.5% | 12.5% — s. 198 |
| LTCG general | 20% with indexation (+ 10% option for listed securities) | 12.5% flat, no indexation | 12.5% — s. 197 |
| LTCG resident ind./HUF on pre-23.7.2024 land/building | 20% with indexation | Lower of 12.5% no-indexation OR 20% with indexation | s. 197(3) grandfathering preserved ²⁰ |

| Indexation (s. 48 2nd proviso) | Available broadly | Abolished (except s. 197(3) option) | Available only via s. 72(2) read with s. 197(3) |
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| Specified MFs / MLDs / unlisted bonds (23.7.2024+) | 20% LTCG with indexation (for debt MF pre-1.4.2023) | Always STCG at slab | s. 76 – STCG |
| Buy-back | CG in shareholder hands + s. 115QA company tax | Deemed dividend at slab from 1.10.2024 | CG for shareholder + promoter surcharge – s. 69 (from 1.4.2026) |
| NR/FII LTCG (ss. 115AB/AC/ACA/AD/E) | 10% asymmetric | 12.5% aligned | Migrated to ss. 207-210 |
| Roll-over exemptions (ss. 54-54GB) | Various | Unchanged (CBDT FAQ Q10-12) | ss. 82-89; ₹10 cr cap codified; 54EE and 54GB omitted |

Analysis of land mark judgements

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| <i>CIT v. B.C. Srinivasa Shetty</i> (1981) 128 ITR 294 (SC) | s. 45/48 – machinery failure | s. 67/72/90 | Partly superseded (goodwill deemed nil); survives for unenumerated self-generated intangibles |
| <i>Vania Silk Mills v. CIT</i> (1991) 191 ITR 647 (SC) | s. 2(47) – extinguishment | s. 2(109) | Overruled Narrow scope; largely displaced by Grace Collis and statutory s. 67(2) |
| <i>CIT v. Grace Collis</i> (2001) 248 ITR 323 (SC) | s. 2(47) – extinguishment as independent limb | s. 2(109)(b) | Fully survives The 2025 Act retains the definition of "Transfer" including extinguishment. This ratio remains the bedrock for corporate restructuring taxability. |
| <i>CIT v. Balbir Singh Maini</i> (2017) 398 ITR 531 (SC) | s. 2(47)(v) – unregistered JDA | s. 2(109)(g) / s. 67(14) | Statutorily cemented (registration mandatory) |
| <i>PCIT v. Jupiter Capital P Ltd</i> (SC 2 Jan 2025) | s. 2(47) – capital reduction | s. 2(109) | Fully applies |

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| <p><i>Sunil Siddharthbhai v. CIT</i> (1985) 156 ITR 509 (SC)</p> | <p>s. 45 – firm contribution</p> | <p>s. 67(9)</p> | <p>Overridden by deeming; ratio survives on "transfer" Specific provisions (corresponding to old Sec 45(3)) in the 2025 Act deem the value recorded in the books of the firm as the full value of consideration, making it computable.</p> |
| <p>Smt. Sarifabibi Mohmed Ibrahim</p> | <p>Criteria for determining whether land is "Agricultural" or "Capital Asset" (intent, surroundings, etc.).</p> | <p>Active</p> | <p>The definition of "Agricultural Land" in the 2025 Act is largely identical. The "tests of character" laid down here remain the standard for litigation.</p> |

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| <i>Mansukh Dyeing v. CIT</i> (2023) 449 ITR 439 (SC) | s. 45(4) – revaluation credit | s. 67(10) | Codified in "D" exclusion |
| <i>CIT v. Ghanshyam (HUF)</i> (2009) 315 ITR 1 (SC) | s. 45(5) / 56(2)(viii) – interest | s. 67(12) / 92(2)(h) | Fully survives ; 50% deduction in s. 93(1)(f) |
| <i>PNB Finance v. CIT</i> (2008) 307 ITR 75 (SC) | Slump / machinery failure | s. 77 | Continues for pre-s.50B slumps; principle drives classification |
| <i>CIT v. Artex Manufacturing</i> (1997) 227 ITR 260 (SC) | Itemised vs slump | s. 67/77 | Survives ; test unchanged |
| <i>K.P. Varghese v. ITO</i> (1981) 131 ITR 597 (SC) | s. 52(2) – deeming | s. 78 (via VO mechanism) | Informs construction ; natural-justice/proof principles carry over |
| <i>CIT v. Podar Cement</i> (1997) 226 ITR 625 (SC) | s. 22 "owner"; bleeds to s. 2(14) | s. 2(22) | Fully survives |
| <i>Sanjeev Lal v. CIT</i> (2014) 365 ITR 389 (SC) | s. 54 – date of transfer | s. 82 | Fully survives |
| <i>CIT v. T.N. Aravinda Reddy</i> (1979) 120 ITR 46 (SC) | s. 54 – meaning of "purchase" | s. 82 | Fully survives |

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| <i>CIT v. Kamal Wahal</i> (2013) 351 ITR 4 (Del HC) | s. 54F – spouse's name | s. 86 | Survives, with caution (contrary Bom HC view) |
| <i>CIT v. Puja Prints</i> (2014) 360 ITR 697 (Bom HC) | s. 55A(a) pre-FA 2012 | s. 91 | Effectively spent post-FA 2012 |
| <i>CIT v. Vegetable Products</i> (1973) 88 ITR 192 (SC) | Rule of beneficial construction | ss. 196-198 | Survives ; key in interpretive disputes on grandfathering |
| <i>Nalinikant Ambalal Mody v. S.A.L. Narayan Row</i> (1966) 61 ITR 428 (SC) | s. 56(1) – classification test | s. 92(1) | Fully survives |
| <i>Sultan Brothers v. CIT</i> (1964) 51 ITR 353 (SC) | s. 56(2)(iii) – inseparable letting | s. 92(2)(g) | Fully survives |

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| <i>CIT v. Rajendra Prasad Moody</i> (1978) 115 ITR 519 (SC) | s. 57(iii) – purpose test | s. 93(1)(e) / 93(2)(b) | Survives subject to 20% cap |
| <i>Sudhir Menon HUF v. ACIT</i> (2014) 148 ITD 260 (Mum ITAT) | s. 56(2)(vii)/(x) – rights issue | s. 92(2)(m) | Fully survives |
| <i>ACIT v. Subhodh Menon</i> (Bom HC) | s. 56(2)(vii)(c) – disproportionate rights | s. 92(2)(m) | Fully survives |
| <i>Checkmate Services P Ltd v. CIT</i> (2022) 448 ITR 518 (SC) | s. 36(1)(va) / 56(2)(ic) | s. 29 / 92(2)(c) | Fully survives |
| <i>Chennai Properties & Investments Ltd v. CIT</i> (2015) 373 ITR 673 (SC) | s. 56 vs 28 | s. 92 vs 26 | Fully survives |
| <i>PCIT v. Cinetaan Entertainment</i> (2021) 433 ITR 82 (Del HC) | s. 56(2)(viib) DCF | n/a — abolished | Relevant only for pre-AY 2025-26 pending litigation |
| <i>CIT v. Bacha F. Guzdar</i> (1955) 27 ITR 1 (SC) | Nature of dividend | s. 92(2)(a) / 2(40) | Fully survives |

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| <p>Alapati Venkataramiah / Seshasayee Steels</p> | <p>Mere delivery of possession without a registered deed is not a "transfer" for immovable property.</p> | <p>Impaired</p> | <p>The 2025 Act retains the "Part-Performance" rule (old Sec 2(47)(v)). Transfer is recognized once possession is given, regardless of registration, overriding the old "legal title" ratio.</p> |
| <p>V.S. Dempo Company Ltd.</p> | <p>For depreciable assets (Sec 50), the asset remains "long-term" even if the gain is deemed "short-term."</p> | <p>Active</p> | <p>The 2025 Act keeps the "Deeming Fiction" for computation only. The nature of the asset remains unchanged for exemption purposes (like Ace Builders).</p> |

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|------------------------------|---|-----------------|---|
| K.P. Varghese | Tax cannot be levied on "notional" gains; full value of consideration must be what was actually received. | Impaired | The 2025 Act (like later amendments to the 1961 Act) adopts Fair Market Value (FMV) for many transactions (e.g., Real Estate). The "actual receipt" rule is now secondary to statutory valuation. |
| Dhun Dadabhoy Kapadia | While calculating gains on the sale of "Right Shares," the depreciation in the value of original shares can be set off. | Active | Since ITA 2025 maintains the "Cost of Acquisition" framework, the principle of accounting for the net commercial gain remains a valid interpretive tool. |

- ▶ Business Realization vs. Capital Assets (Amalgamation)
- ▶ Judgement: Jindal Ferro Alloys Ltd vs. CIT (Supreme Court, 2026)
- ▶ • Context: The Court ruled that if shares held as stock-in-trade are substituted during an amalgamation, it triggers a taxable business event if the new shares are marketable and have an ascertainable value.
- ▶ • Impact on 2025 Act:
 - ▶ o The 2025 Act explicitly separates "Capital Assets" from "Trading Assets."
 - ▶ o Reason: Since Section 47(vii) of the 1961 Act (now reorganized in the 2025 Act) only grants exemption to capital assets in mergers, this judgement ensures that the department can still tax the "real commercial benefit" arising from stock-in-trade, preventing taxpayers from using the new Act's simplified merger provisions to bypass business income tax.

Substance Over Form in Indirect Transfers

Judgement: Vodafone International Holdings B.V. vs. Union of India (Supreme Court)

- Context: This landmark case dealt with the "look-through" approach for offshore transfers of shares that derive value from Indian assets.
- Impact on 2025 Act:
 - o The 2025 Act has refined the language of Explanation 5 to Section 9(1)(i) (Indirect Transfer) into more direct sub-sections (e.g., Section 9(9) of the Bill).
 - o Reason: The principles of "territoriality" and "tax planning vs. tax avoidance" established here will guide the interpretation of the new General Anti-Avoidance Rules (GAAR) integrated into the 2025 framework to ensure the "substance" of a transaction is taxed regardless of its digital or offshore structure.

Exemption Eligibility Without Formalities

Judgement: Mrs. Kamlesh Bansal vs. ITO (Delhi ITAT/HC)

- Context: Held that for claiming exemptions under Section 54F, a registered deed is not mandatory; a valid agreement to purchase/construct is sufficient.
- Impact on 2025 Act:
 - o The 2025 Act consolidates exemptions (formerly Sections 54, 54EC, 54F) into simplified, sequential sections.
 - o Reason: As the 2025 Act aims to reduce "interpretational disputes," this judgement will prevent the department from denying exemptions based on technicalities (like lack of registration) during the transition to the new "Tax Year" concept.

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 - o Reason: As the 2025 Act aims to reduce "interpretational disputes," this judgement will prevent the department from denying exemptions based on technicalities (like lack of registration) during the transition to the new "Tax Year" concept.

The Statutory Equivalent of Section 159

Under the Income-tax Act, 2025, the provisions related to Legal Representatives have been renumbered.

- 1961 Act Reference: Section 159
- 2025 Act Reference: Section 302 (as per the Final Bill passed in 2025).

Why this matters for your argument:

Section 302 of the 2025 Act mirrors the language of the old Section 159. It states that the legal representative is liable for any sum which the deceased would have been liable to pay if he had not died. Since the "deemed income" from an unutilized Capital Gains Account only triggers after the expiry of 2 or 3 years, and the deceased is no longer a "person" at that point of crystallization, the liability never actually attaches to the deceased. Thus, it cannot be transmitted to the legal heir under Section 302.

Section 536 (Repeals and Savings)

The bridge between the two Acts is the Savings Clause in the Income-tax Act, 2025.

- **Continuation of Circulars:** Generally, when a statute is repealed and re-enacted, the rules, circulars, and notifications issued under the old Act continue to be in force unless they are inconsistent with the new provisions.
- **Specific Linking:** The final version of the 2025 Act explicitly links several transitional matters (like the set-off of brought-forward capital losses) to the "manner provided in the repealed Income-tax Act, 1961." This confirms that the legislative intent is to maintain continuity where the underlying law hasn't changed.

Evaluation of Key Circulars & Principles

While the 2025 Act simplifies the language, most core principles from the 1961 Act circulars remain applicable, though with nuanced shifts.

| Subject Area | Relevant 1961 Act Circulars / Principles | Applicability to 2025 Act | Reasons / Comments |
|--------------------------|---|----------------------------------|---|
| Set-off of Losses | Section 74 / Circulars on LTCL vs. STCG | Strictly Applicable | The 2025 Act was revised to ensure that pre-2026 losses are set off strictly as per the 1961 Act restrictions (LTCL only against LTCG). |

| | | | |
|-----------------------------|--|--------------------|---|
| Cost of Acquisition | Circular No. 31/1969 & Circular No. 27/1969 (on cost to previous owner) | Applicable | The concept of "deemed cost" and "holding period of previous owner" (Sections 47/49 equivalents) is retained in the 2025 Act. |
| Conversion of Assets | Circulars on Sec. 45(2) (Stock-in-trade conversion) | Applicable | The 2025 Act retains the mechanism of taxing gains in the year the stock is sold, preserving the logic of existing circulars. |
| Indexation Benefits | Notification 70/2025 (CII for FY 2025-26) | Conditional | Post-Finance (No. 2) Act 2024, indexation is limited. The CII remains relevant only for specific "grandfathered" assets (e.g., immovable property acquired before July 23, 2024). |

- ▶ Concessions and Technical Sessions
- ▶ • Integration of Provisos: Many "concessions" previously found in fragmented provisos or explanations have been integrated directly into the main text of the 2025 Act. This reduces the need for circulars to clarify ambiguity but doesn't invalidate the historical interpretation of those concessions.
- ▶ • Uniform Rates: The 2025 Act formalizes the 12.5% LTCG rate for most assets. Circulars dealing with higher previous rates (20%) or complex indexation formulas will become "dormant" for new transactions but remain active for litigation involving assessment years prior to 2026-27.
- ▶ • Partnership Reconstitution: The principles in Circular No. 14/2021 (regarding Section 45(4) and attribution of gains to remaining assets) are likely to remain the gold standard for interpretation, as the 2025 Act mirrors the 2021 amendments.

Can you rely on 1961 Act Circulars?

- ▶ Yes, but with cautious validation.
- ▶ • Reason 1 (Structural Identity): The 2025 Act is described as a "rearticulation." Since the "charging event" (transfer of a capital asset) remains fundamentally the same, the administrative interpretations (Circulars) issued by CBDT to explain that event remain persuasive unless the new Act specifically introduces a contradictory formula or table.
- ▶ • Reason 2 (Judicial Consistency): Courts generally hold that if the language of a new section is "in pari materia" (on the same subject/language) as the old section, the old circulars and precedents must be followed.

- ▶ **Warning:** The 2025 Act has removed many "redundant" provisions. If a circular was issued to clarify a provision that has been deleted or significantly overhauled (like the withdrawal of certain 54-series exemptions or specific indexation methods), that circular will lose its legal force.

- ▶ The Core Clarification (Circular No. 743/1996)
- ▶ The circular addresses the taxability of unutilized amounts in the Capital Gains Accounts Scheme (CGAS) upon the death of an assessee.
- ▶ The Problem: Under the 1961 Act (Sections 54, 54B, 54D, 54F, etc.), if the deposited amount is not utilized within the specified period, it is deemed to be the capital gain of the year in which the period expires.
- ▶ The Clarification: CBDT clarified that if the individual assessee dies before the expiry of the stipulated period, the unutilized amount cannot be taxed as income in the hands of the legal heirs.
- ▶ The Reasoning: The amount is considered part of the "estate" of the deceased. Since the "deeming provision" (which treats unutilized money as income) was specific to the assessee who earned the gain, that "fictional" income does not transmit to the legal heirs. The heirs receive the money as an inheritance, not as income.

- ▶ Will it hold good under the Income Tax Act, 2025?
- ▶ Yes, this principle is highly likely to remain valid under the 2025 Act for the following reasons:
- ▶ A. The "Savings Clause" (Section 536)
- ▶ The Income Tax Act, 2025, includes a comprehensive Repeal and Savings provision. It generally provides that any circular, notification, or direction issued under the repealed 1961 Act shall continue to be in force unless it is "inconsistent" with the new Act. Since the 2025 Act retains the same fundamental structure for Capital Gain Deposits, there is no inherent inconsistency.
- ▶ B. Principle of "Person" and "Assessee"
- ▶ The 2025 Act maintains the distinction between the deceased and their legal representative. Under the general principles of taxation:
- ▶ The legal heir is liable for the tax the deceased would have been liable to pay up to the date of death (Section 159 equivalent).
- ▶ However, the unutilized gain only "crystallizes" as income after the period expires. If the person is already deceased at the time of crystallization, the "person" who was supposed to be taxed no longer exists, and the "legal heir" is not the person who made the original transfer.

- ▶ Structural Continuity
- ▶ The 2025 Act is a rearticulation project. The CBDT's FAQ on the transition (issued in early 2026) emphasizes that the new Act "aims to present the same tax policy in a more logical format."

▶ **The Statutory Equivalent of Section 159**

- ▶ Under the Income-tax Act, 2025, the provisions related to Legal Representatives have been renumbered.
- ▶ 1961 Act Reference: Section 159
- ▶ 2025 Act Reference: Section 302 (as per the Final Bill passed in 2025).
- ▶ Why these matters for your argument?
- ▶ Section 302 of the 2025 Act mirrors the language of the old Section 159. It states that the legal representative is liable for any sum which the deceased would have been liable to pay if he had not died. Since the "deemed income" from an unutilized Capital Gains Account only triggers after the expiry of 2 or 3 years, and the deceased is no longer a "person" at that point of crystallization, the liability never actually attaches to the deceased. Thus, it cannot be transmitted to the legal heir under Section 302.

| Feature | Income-tax Act, 1961 | Income-tax Act, 2025 |
|-----------------------------|---|--|
| Legal Representative | Section 159 | Section 302 |
| CGAS Governing Rules | CGAS 1988 | CGAS 2025 (as amended) |
| CBDT Protection | Circular No. 743/1996 | Principle holds good |
| Reasoning | Deeming fiction dies with the assessee. | Savings Clause (Sec. 536) preserves the 1996 interpretation. |



THANKS