

NDA Update – Long Term Capital Gain on transfer on Land or Building by Individual and HUF

Dear Sir,

The Finance Bill (No.2), 2024 has been passed by the Lok Sabha with a number of amendments. Most important amendment in the Bill is relating to Long Term capital Gain on sale / transfer of property.

A brief note on the same is enclosed herewith.

In the Budget proposals, indexation benefit available under second proviso to section 48 was proposed to be removed for calculation of any long-term capital gains which was earlier available for property, gold and other unlisted assets.

Now the Government has proposed further amendment in Section 112 relating to tax on long term capital gains.

As per the proposed amendment in Section 112, some relief from tax on capital gains has been provided on transfer of land or building or both.

The salient features of the amendment are:

- Indexation benefit which was available earlier but withdrawn in budget proposals, will be available subject to certain conditions
- It will be available **only to individual or HUF**.
- It will be available only on land or building or both, which is **acquired before 23rd July, 2024**
- Long term capital gain and tax thereof shall be required to be calculated as per the new provision (i.e. 12.5% on the capital gain without indexation) and then it will be compared with the tax calculated @ 20% on the capital gains with indexation.
- Lower of the tax with indexation (20%) and without indexation (12.5%) shall be the tax payable. Tax as per new provision in excess of old provision shall be ignored.
- If after indexation, there is long term capital loss, that loss will be ignored and will not be allowed to be set off or carried forward.
- Thus, capital gains as per old provision is only for comparison purpose.

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- Benefit u/s 54, 54EC etc will have to be computed with reference to the gain as per new provision which may require higher amount to be invested.

Long term capital gain on sale of property after 23/07/2024 calculated under different scenario as per amended provision

	Scenario 1	Scenario 2	Scenario 3	Scenario 4
Date of Acquisition	01/05/2010	01/05/2010	01/05/2010	01/05/2010
Date of Sale	09/08/2024	09/08/2024	09/08/2024	09/08/2024
Cost of acquisition	1,000,000	1,000,000	1,000,000	1,000,000
Sale consideration	6,000,000	4,000,000	3,000,000	2,000,000
Capital Gain as per new provision	5,000,000	3,000,000	2,000,000	1,000,000
Tax @12.5% as per new provision (A)	6,25,000	375,000	250,000	125,000
Indexed cost of acquisition	21,73,653	2,173,653	2,173,653	2,173,653
Capital Gain as per old provision	38,26,347	1,826,347	826,347	-173,653
Tax @20% as per old provision (B)	7,65,269	365,269	165,269	-34,731
Tax Payable - Lower of (A) & (B) [minus figure in (B) to be ignored]	6,25,000	365,269	165,269	0
Tax Payable under	New	Old	Old	Old