CA / CMA -FINAL

FOR MAY / JUNE 2023 EXAMS

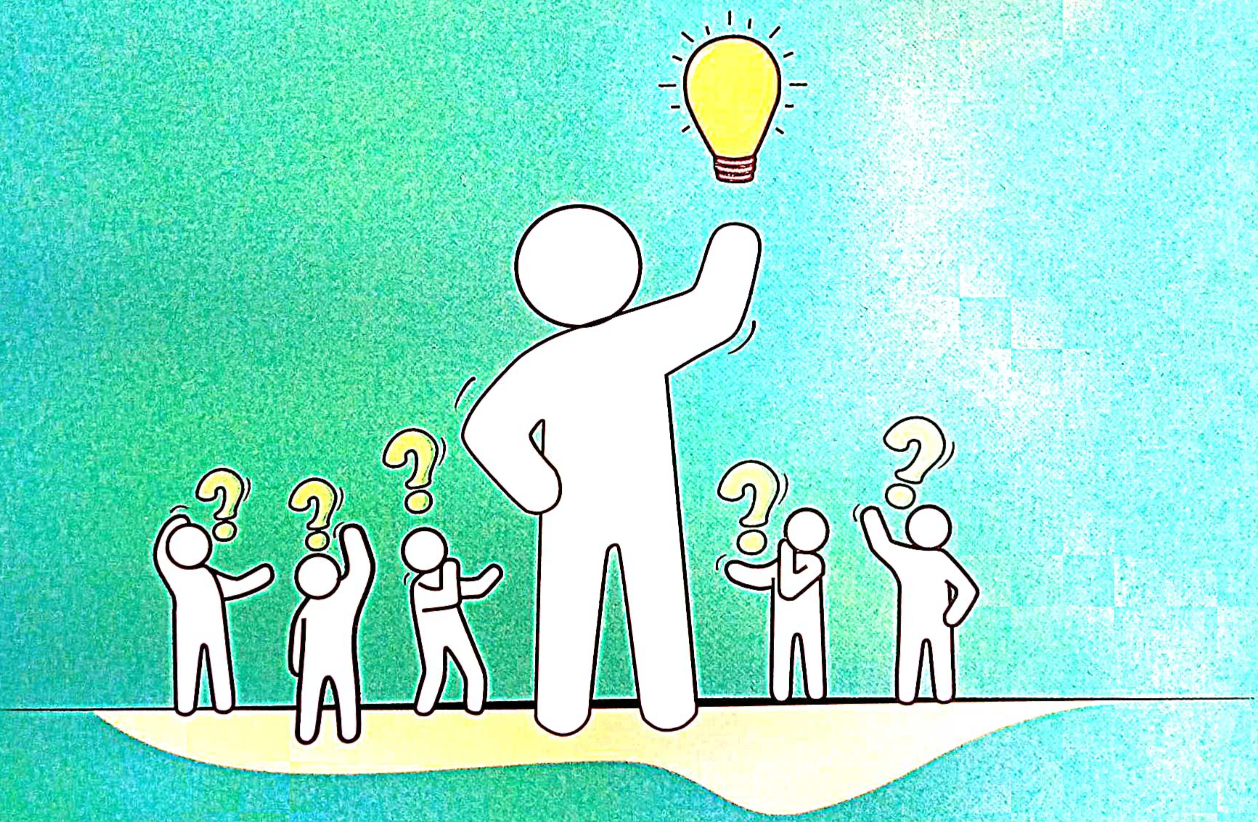
(AS AMENDED BY FINANCE ACT 2022 FOR A.Y. 23-24)

BB VIRTUALS

Make My Delivery

DIRECT TAX
QUESTION & ANSWER
COMPILER

As Per New Syllabus



A Compilation of more than 550+ Past Year Exam & RTP / MTP Questions

By CA BHANWAR BORANA

Make My Delivery

for CA/CMA Final

DIRECT TAX

(for May 2023 Exams)

Amended by Finance Act, 2022

COMPACT

Q & A COMPILER

(All New Revised Edition with Additional Question)

CA Bhanwar Borana

MMD Make My Delivery

Direct Taxation

By CA Bhanwar Borana

Edition : November,2022

Price : Rs. 650.00

Published & Distributed by :

Make My elivery

8-9-10, Hans Bhawan Building,Wing-2,
IP Estate , New delhi 110002

Ph.: +91 9958000380, 9899632870
E- Mail : Contact@makemydelivery.com
Web.: makemydelivery.com

CONTENTS

CHAPTER

1

Income from Capital Gains

Q-1

X furnishes the following Information:

No. of Shares	Month and Year of Purchase	Shares Dematted Month and Year
1000	March 2004	December 2007
500	March 2005	November 2008
1000	December 2006	October 2007

He sold 1500 shares in January 2023 out of the dematted shares. He seeks your advice as to the taxability towards capital gains for the Assessment Year 2023-24.

A-1

Section 45(2A) of the Act provides that where any person has had at any time during Previous Year any beneficial interest in any securities, then any profits or gains arising from transfer made by the depository of such beneficial interest in respect of securities shall be chargeable to Income Tax as the Income of the beneficial owner of the previous year in which such transfer took place and for the purposes of Computation of Capital Gain the cost of acquisition and the period of holding of any securities shall be determined on the basis of FIRST-IN- FIRST-OUT method

CBDT vide its Circular No. 768 has clarified that if in an existing account of dematerialized and entered at a later date, under the FIFO method, the basis for determining the movement out of the account is the date of entry into account.

Therefore, in the present question, the period of holding of 1500 shares sold shall be as under:

(1) 1000 Shares: December 2006 to January 2023 (Long Term). The cost of acquisition of these shares shall be taken from the broker's contract note.

(2) 500 Shares: March 2004 to January 2023 (Long Term). The cost of acquisition of these shares shall be taken from the broker's contract note.

Q-2

Preeti purchased a Land at a cost of ₹10 Lakhs in the Financial Year 1982-83 and held the same as her Capital Asset till 31st March, 2010. Preeti started her real estate business on 01st April, 2010 and converted the said land into Stock-in-Trade of her business on the said date, when the fair market value of the land was ₹150 Lakhs. FMV of land as on 1/4/2001 is 9.3 lacs.

She constructed 20 Flats of equal size, quality and dimension. Cost of construction of each flat is ₹8 Lakhs. Construction was completed in December 2022. She sold 15 Flats at ₹20 Lakhs per Flat between January, 2023 and March 2023. The remaining 5 flats were held in stock as on 31st March, 2023.

She invested ₹50 Lakhs in bonds issued by Rural Electrification Corporation Ltd. On 31st March, 2023.

Compute the amount of chargeable Capital Gain and Business Income in the hands of Preeti arising from the transactions for A.Y. 2023-24 indication clearly the reasons for treatment for each item.

CII F.Y. 2001-02 - 100, F.Y. 2010-11 - 167, F.Y. 2022-23 - 331

A-2

Name of the Assessee: Preeti

Previous Year 2022-23 Assessment Year 2023-24

	Particulars		Amount (₹)
A	CAPITAL GAINS:		
	Full Value of Consideration [FMV of Land]		1,50,00,000
	Less: Transfer Expenses	—	NIL
	Net Consideration		1,50,00,000
	Less: Indexed Cost of Acquisition $10,00,000 \times \frac{167 \text{ [F.Y. 2010-11]}}{100 \text{ [F.Y. 2001-02]}}$	—	16,70,000
	Total		1,33,30,000
	Proportionate Capital Gains arising during P.Y. 2022-23 [1,33,30,000 x 15/20]		99,97,500
	Less: Exemption under Section 54EC Bonds of Rural Electrification Corp Ltd.	—	50,00,000
	Capital Gains Chargeable to Tax (A)		49,97,500

	Particulars		Amount (₹)
B	BUSINESS INCOME:		
	Sales Consideration of Flats. [15 x ₹20 Lakhs]		3,00,00,000
	Less: Cost of Flats		
	FMV of Land as on date of conversion [₹150 Lakhs x 3/4]	—	1,12,50,000
	Cost of Construction of Flats [15 Flats x ₹8 Lakhs]	—	1,20,00,000
	Business Income chargeable to Tax (B)		67,50,000

Notes:

(1) The conversion of a Capital Asset into Stock-in-Trade is treated as a transfer under section 2(47). It would be treated as a transfer in the year in which the capital asset is converted into Stock-in-Trade.

(2) However, as per Section 45(2), the Capital Gains arising from the transfer by way of Conversion of Capital Assets in Stock-in-Trade will be Chargeable to tax only in the year in which the Stock-in-Trade is sold.

(3) For the purpose of computing Capital Gains in such cases the Fair Market Value (FMV) of the capital asset on the date on which it was converted into stock-in-trade shall be deemed to be the Full Value of Consideration received or accruing as a result of the transfer of the Capital Asset. In this case, since only 75% of the Stock-in-Trade (15 Flats out of 20 Flats) is sold in F.Y. 2022-23 only proportionately Capital Gains (i.e. 75%) would be chargeable in the A.Y. 2023-24.

(4) On sale of such Stock-in-Trade, business income would arise. The business income chargeable to tax would be the difference between the price at which the stock-in-trade is sold and the Fair market value on the date of conversion of capital asset into Stock-in-Trade.

(5) In case of conversion of Capital Asset into Stock-in-Trade and subsequent sale of Stock-in-Trade, the period of 6 months is to be reckoned from the date of sale of Stock-in-Trade for the purpose of exemption u/s 54EC [CBDT Circular No. 791 dated 2.6.2000]. In this case, since the investment in bonds of RECL has been made within 6 months of sale of flats, the same qualifies for exemption u/s 54EC.

Q-3

The Assessee was a Company carrying on business of manufacture and sale of Art-Silk cloth. It purchased Machinery worth ₹4 Lakhs on 1.5.2007 and insured it with United India Assurance Ltd. against Fire, Flood, Earthquake, etc. The written down value of the asset as on 01.04.2022 was ₹2,08,800. The Insurance policy contained a re-instatement clause requiring the insurance company to pay the value of the machinery, as in the date of the fire, etc., in case of destruction of loss. A fire broke out in August 2022 causing extensive damage to the machinery of the Assessee rendering them totally useless. The Assessee company received a sum of ₹6 Lakhs from the Insurance Company on 15th March, 2023. Discuss the issue arising on account on the transactions and their treatment.

(Cost Inflation Index for F.Y. 2007-08 and 2022-23 is 129 and 331 respectively)

A-3

As per Section 45(1A), where any person receives any money or other assets under an insurance from an insurer on account assets under an insurance from an insurer on account of damage to or destruction of capital asset, then, any 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 previous year in which such money or asset was received. U/s 45(1A) any profits and gains arising from receipt of insurance money is chargeable under the head "Capital Gains". For the purpose of Section 48 the money received shall be deemed to be the Full Value of Consideration accruing or arising u/s 50, the capital gains in respect of depreciable assets had to be computed in the following manner (assuming it was the only asset in the block)

The computation of Capital Gain and tax implication is given below:

Particulars		Amount (₹)
Full Value of Consideration		6,00,000
Less: Written Down Value as on 01st April, 2022	—	2,08,800
Short Term Capital Gains		**3,91,200**

Q-4

'X' purchased on 18.06.2003, house property for ₹20,00,000/- which was sold to 'A' On 18.10.2022 for ₹38,75,000/-. The sub registrar at the time of Registration of sale deed, charged stamp duty on ₹60,00,000/- which was paid by the buyer.

The Assessing officer while assessing for capital gain referred the matter to the valuation officer as per the request of vendor. The valuation officer determined the value of property at ₹55,00,000/- on the date of transfer. X seeks your advice on the following:

On what value the assessing officer could compute the Capital Gain Chargeable to tax?

The amount of capital gain on which 'X' is required to pay capital gains tax (The CII for F.Y. 2003-04 is 109 & of F.Y. 2022-23 is 331)

A-4

Name of Assessee: 'X'

Previous Year: 2022-23 Assessment Year: 2023-24

Computation of Capital Gain

Particulars		Amount ₹
Full Value of Consideration (Section 50C)		55,00,000
Less: Transfer Expenses	—	NIL
Net Consideration		55,00,000

Particulars		Amount ₹
Less: Indexed Cost of Acquisition 20,00,000 × 331 [F.Y. 2022-23] / 109 [F.Y. 2003-04]	—	(60,73,394)
Long Term Capital Loss		(5,73,394)

Notes:

(1) According the Section 50C, the Assessing Officer can refer to the property to the Valuation Officer, only when the following two conditions are satisfied:

(a) The value fixed by the stamp valuation authority is not disputed in appeal or revision, etc.

(b) The Assessee claims before the Assessing officer that the value adopted or Assesseed by the Stamp Valuation Authority exceeds the Fair Market Value (FMV) of the property as on the date of transfer.

(2) In the instant case, the value determined by the valuation officer is less than the value adopted by the stamp valuation authority. Therefore, such value only could be adopted for computing chargeable capital gains.

Q-5

A piece of land owned by Mr. Lobo located on Jaipur – Delhi Highway was acquired by NHAI in the F.Y. 2008-09, but the award ordered in F.Y. 2009-10 was paid in the F.Y. 2022-23. This land was purchased by him on 02.04.1998 for ₹10,000/-. The Fair Market Value (FMV) of the land as on 01.04.2001 was ₹9,000/-. Compensation paid was ₹18 Lakhs.

The other piece of land located in Chennai purchased in April 2004 for ₹25 Lakhs was also sold by him in February 2023 for ₹35 Lakhs, but sale deed thereof could not be executed by 31.03.2023. The value for the valuation authority was ₹40 Lakhs.

Compute the Income Chargeable to tax arising as a result of these transactions in A.Y. 2023-24. (The CII for F.Y. 2004-05, 2008-09, 2009-10 and 2022-23 are 113, 137, 148 and 331 respectively.)

A-5

Name of the Assessee: Mr. Lobo

Previous Year: 2022-23 Assessment Year 2023-24

Computation of Capital Gain

Particulars		Land – Jaipur Delhi Highway	Land – Chennai
Full Value of Consideration		18,00,000	40,00,000
Less : Transfer Expenses	—	----NIL---	----NIL---
Net Consideration		**18,00,000**	**40,00,000**

Particulars		Land – Jaipur Delhi Highway	Land – Chennai
Less: Indexed Cost of Acquisition	—		
Land: Jaipur – Delhi Highway Cost ↑ 10000 x $\frac{137\ [2008\text{-}09]}{100\ [2001\text{-}02]}$ FMV | 9000			
Land: Chennai		(13,700)	
25,00,000 x $\frac{331\ [2022\text{-}23]}{113\ [2004\text{-}05]}$			(73,23,009)
Long Term Capital Gain/(Loss)		**17,86,300**	**(33,23,009)**

Notes:

(1) As per section 45(5) in case of compulsory acquisition, transfer took place in the year in which asset was compulsory acquired but tax will be paid in the year in which compensation received.

(2) The execution of sale deed is not compulsory for the purpose of charge of capital gain because if possession is transfer then it is treated as transfer.

(3) As per section 50C is sale value is less than SDV & SDV is more than 110% of sale value, then such SDV is treated as FVOC.

Q-6

Nikhil, an individual purchased a site on 21.04.2003 for ₹2,00,000/. He completed construction of a building thereon on 14.02.2022 at a cost of ₹10,00,000/-. He sold the property consisting of site and building on 07.12.2022 for ₹20,00,000/-. Nikhil seeks your opinion on the nature of Capital Gain arising to him from the sale of property for the A.Y. 2023-24.

Computation of Capital gain is not necessary.

A-6

As per SC judgment in case of Alps Theatre, site and Building are separate assets for the purpose of Capital Gain.

In this case, site is LTCA since held for more than 2 years and building is STCA since held for less than 2 years. We have to calculate separate capital gain on both the assets. Capital gain on Land is treated as Long Term Capital Gain and on building treated as STCG.

Q-7

Answer the following questions.

1. John inherits a house property from his father, who had mortgaged it. John discharges the mortgage debt. John later sells the property. Can he claim the amount paid to the mortgages as cost of improvement in computing the Capital Gains?

2. Laxman mortgaged his house property and utilized the mortgage amount to perform the marriage of his son. He paid the amount to the mortgagee later. Upon the sale of the said property thereafter, he claims the mortgage debt discharged as forming part of the cost of acquisition. Can Capital Gain be computed accepting the claim?

A-7

1. As per SC, in case of R.M. Arunachalam if any property is inherited with the liability to discharge the mortgage debt, then the amount paid to mortgagee can be claimed as cost of acquisition/improvement.

2. Laxman has himself created the mortgage in respect of his property. Therefore, the debt discharged by Laxman does not Form part of Cost of acquisition. (V.S.M.R. Jagdish Chandran, S.C.)

Q-8

X Ltd has transferred its 'Units N' to Y Ltd. By way of slump sale on 30th November, 2022.

The summarized Balance Sheet of X Ltd as on that date is given below:

Liabilities	**₹ In Lakhs**	**Assets**	**₹ In Lakhs**
Paid up Capital	1700	**Fixed Assets:**	
		Unit L	150
		Unit M	150
		Unit N	550
Reserves & Surplus	620		
Liabilities:		**Other Assets:**	
Unit L	40	Unit L	520
Unit M	110	Unit M	800
Unit N	90	Unit N (FMV 425 Lakhs)	390
Total	**2560**	**Total**	**2560**

Using the further information given below, compute the capital gain arising from slump sale of unit N and tax on such capital gain.

1. CII for F.Y. 2006-07 and F.Y. 2022-23 are 122 and 331 respectively.
2. Lump sum consideration on transfer of unit N is ₹ 880 lakhs.
3. Fixed assets of Unit N include land which was purchased at ₹60 Lakhs in August 2007 and revalued at ₹90 Lakhs as on March 31, 2022. The SDV of the land on transfer date is ₹80 lakhs and FMV of other assets was ₹480 lakhs.

4. Other Fixed Assets are reflected at ₹460 Lakhs (i.e. ₹550 Lakhs less value of land) which represent written down value of those assets as per books. The written down value of these assets under section 43 (6) of the Income Tax Act, 1961 is ₹410 Lakhs and their FMV was ₹ 480 lakhs. The company does not own any artistc work on the date of slump sale.

5. Unit N was set up by X Ltd in July 2006.

A-8

Name of the Assessee: X Ltd

Previous Year: 2022-23

Assessment Year: 2023-24

Computation of Capital Gain

Particulars		₹ in Lakhs
Full Value of Consideration (FMV on the date of Transfer) Note-1		880
Less: Transfer Expenses	—	NIL
Net Consideration		880
Less: Cost of Acquisition (Net worth: Note 2)	—	(770)
Long Term Capital Gain		110

Computation of Tax Liability

Particulars		₹ in Lakhs
Tax on Capital Gains @ 20%		22.00
Add : Surcharge @ 7%	+	1.54
		23.54
Add : Health & education cess @4%	+	0.94
Tax liability on Capital Gains		24.48

Notes:

1. Calculation of Full value of Consideration

Particulars		₹ In Lakhs
Fair market value of the capital assets transferred by way of slump sale Land, being an immovable property [stamp duty value on the date of slump sale]		80
Other Fixed assets and Other Assets [Book value as appearing in the books of accounts] [₹ 460 lakhs + ₹ 390 lakhs]		850
		930
Less: Liability of Unit N		90
Fair market value of the capital assets transferred by way of slump sale [FMV1]		840

Fair market value of the consideration received or accruing as a result of transfer by way of slump sale [value of the monetary consideration received] [FMV2]		**880**
Full value of consideration [Higher of FMV1 or FMV2]		**880**

1. Net worth

Computation of Net worth of Unit N

Particulars		**₹ In Lakhs**
(A) Book Value of Non – depreciable assets:		
(i) Land (Revaluation is to be ignored for computing net worth)		60
(ii) Other assets		390
(B) Written down value of depreciable assets u/s 43(6)		410
Aggregate Value of Total Assets		**860**
Less: Value of liabilities of Unit N	—	90
Net Worth of Unit N		**770**

2. Since Unit N is held for more than 36 months, the capital gains of ₹110 Lakhs arising on transfer of such unit would be a long-term capital gain taxable u/s 112. However, indexation benefit is not available in the case of a slump sale.

Q-9

PQR Ltd has two units – one engaged in manufacture of computer hardware and the other involved in developing software. As a restructuring drive, the company has decided to sell its software unit as a going concern by way of slump sale for ₹385 Lakhs to a new company called S Ltd, in which it holds 74% of equity shares.

The Balance Sheet of PQR Ltd as on 31st March, 2023 being the date on which software unit has been transferred, is given here under:—

Balance Sheet as on 31.03.2023

Liabilities	**₹ In Lakhs**	**Assets**	**₹ In Lakhs**
Paid up Share Capital	300	**Fixed Assets:**	
General Reserve	150	Hardware Unit	170
Share Premium	50	Software Unit	200
Revaluation Reserve	120	**Debtors:**	
Current Liabilities:		Hardware Unit	140
Hardware Unit	40	Software Unit	110
Software Unit	90	**Inventories:**	
		Hardware Unit	95
		Software Unit	35
Total	**750**	**Total**	750

Following additional information is furnished by the management:

1. The software unit is in existence since May 2015
2. Fixed assets of software unit include Land which was purchased at ₹40 Lakhs in the year 2009 and revalued at ₹60 Lakhs as on March 31, 2023. The stamp duty value on 31.3.2023 is ₹ 55 lakhs.
3. Fixed Assets of Software unit mirrored at ₹140 Lakhs (₹200 Lakhs minus Land Value ₹60 Lakhs) is written down value of depreciable assets as per books of account. However, the written down value of these assets under section 43(6) of the Income Tax Act is ₹90 Lakhs

   A. Ascertain the tax liability on Capital Gain which would arise from Slump Sale to PQR Ltd., assuming it does not opt for section 115BAA.

   B. What would be your advice as a tax consultant to make tax – savy, without changing the amount of sale consideration?

A-9

Name of the Assessee: PQR Ltd

Financial Year : 2022-23

Assessment Year : 2023-24

Computation of Capital Gains

Particulars		₹ In Lakhs
Full Value of Consideration (FMV on the date of Transfer)		385
Less : Transfer Expenses	—	NIL
Net Consideration		**385**
Less : Cost of Acquisition [Net-worth : Note 1]	—	(185)
Long Term Capital Gain		**200**
Tax Liability on LTCG @20% u/s 112 (200 x 20%)		40
Add: Surcharge @7% on Tax		2.80
		42.80
Add: HEC @ 4%		1.712
Net Tax Payable		**44.512**

Notes

1. Calculation of Full value of Consideration

Particulars		₹ In Lakhs
Fair market value of the capital assets transferred by way of slump sale Land, being an immovable property [stamp duty value on 31.3.2023, being the date of slump sale] [A]		55

Particulars		₹ In Lakhs
Other Fixed assets (Furniture and Plant & machinery) [Book value as appearing in the books of accounts] [₹ 200 lakhs - ₹ 60 lakhs] [B]		140
Debtors [Book value as appearing in the books of accounts] [C]		110
Inventories [Book value as appearing in the books of accounts] [D]		35
		340
Less: Liability of Software Unit [₹ 750 - ₹ 40] [L]	**710**	
Excluding		
(i) Paid up share capital 300		
(ii) General Reserve 150		
(ii) Share Premium 50	**620**	**90**
(iii) Revaluation reserve 120		
Fair market value of the capital assets transferred by way of slump sale [A+B+C+D- L] [FMV1]		**250**
Fair market value of the consideration received or accruing as a result of transfer by way of slump sale [value of the monetary consideration received] [FMV2]		**385**
Full value of consideration [Higher of FMV1 or FMV2]		**385**

2. Calculation of Net-worth of Software Unit

Particulars		₹ In Lakhs
Depreciable Assets (WDV as per Income Tax Act)		90
Land	+	40
Debtors	+	110
Inventory	+	35
Total Assets		**275**
Less: Current Liability	—	(90)
Net-worth		**185**

Possible Tax Planning Aspects:

1. Since the transfer is on slump Sale, the benefit of indexation is not available. If the transfer of software unit is on item-wise basis, then land could be eligible for indexation benefit.
2. PQR Ltd may acquire remaining 26% of the equity shares in S Ltd in which case it will become a 100% subsidiary. Transfer of Capital Asset by the parent company to a 100% subsidiary company would not be regarded as transfer. However, this relationship must be retained for a period of at least 8 years from the date of transfer.
3. PQR may think about demerger of software unit to get benefit of sec 47 of the Income tax Act.

Q-10

Hiral sold a house property on 16.01.2023, on the said transaction she earned a Long term capital gain of ₹1,01,50,000/-. She invested a sum of ₹50,00,000/- in capital gains bonds specified in section 54EC on 05.03.2023. She further invested a sum of ₹50,00,000/- in the same bonds on 05.05.2023. Her other income for the Financial Year 2022-23 was ₹56,000/-.

Compute the tax payable by her for A.Y. 2023-24.

A-10

Computation of Total Income

Particulars		₹
Long Term Capital Gain		1,01,50,000
Exemption u/s 54EC (Note-1)	—	50,00,000
Total		**51,50,000**
Other Income	+	56,000
Gross Total Income/Net Total Income		**52,06,000**

Computation of Tax Liability

As per Section 112 LTCG is taxable @ 20%. In case of resident Individual & HUF if basic exemption is not fully utilized against other income then unexhausted Basic exemption can be utilized against LTCG, LTCG112A & STCG 111A

Basic Exemption - Other Income	=	**Unexhausted Basic Exemption**
2,50,000 – 56,000	=	1,94,000
LTCG = 51,50,000 – 1,94,000	=	49,56,000
Tax on LTCG = 49,56,000 x 20%	=	9,91,200
Add: Surcharge@10%	=	+ 99,120
Total	=	**10,90,320**
Add: HEC @ 4%		**43,613**
Net Tax Payable		**11,33,933**

Notes:

1. For Section 54EC, Assessee has to invest in NHAI/RECL/PFCL/IRFCL within 6 months from the date of transfer.

2. Assessee can claim maximum exemption of ₹50 Lakhs on investment made within 6 months.

Q-11

Mr. Ramesh purchased a plot of land in Chennai in June 2005 for ₹50 Lakhs. He decided to sell the land to Mr. Mahesh for ₹80 Lakhs and received an advance of ₹2 Lakhs in May 2009. Mr. Mahesh was unable to complete the agreement and hence the entire advance was forfeited by Mr. Ramesh.

Again Mr. Ramesh entered into an agreement to sell the land to Mr. Rakesh for ₹95 Lakhs and received advance money of ₹2.50 Lakhs in August 2022. But again the transfer did not materialize due to which the advance money was again forfeited.

On 04th January, 2023, the land was finally sold to Mr. Mukesh for ₹105 Lakhs and the stamp duty value on that date was ₹150 Lakhs. During Financial Year 2022-23 Mr. Mahesh earned business income of ₹25 Lakhs.

He acquired a new residential property for ₹130 Lakhs by investing entire Sales consideration and his business income.

Determine the Total Income of Mr. Ramesh for A.Y. 2023-24.

Financial Year	CII
2005-06	117
2009-10	148
2022-23	331

A-11

Name of the Assessee: Mr. Ramesh

Previous Year: 2022-23 Assessment Year: 2023-24

Computation of Total Income

	Particulars		₹- Lakhs	₹- Lakhs
A.	Business Income			25.00
B.	Capital Gains Full Value of Consideration (As per Section 50C, the Full value of Consideration would be the higher of— Actual Consideration ₹105 Lakhs Stamp Duty Value ₹150 Lakhs		150.00	
	Less: Indexed Cost of Acquisition (Note 1)	—	135.80	
			14.20	

	Particulars		₹- Lakhs	₹- Lakhs
	Less: Exemption u/s 54F (Note 2)	—	12.31	
	Long Term Capital Gain			1.89
C.	Income from Other Sources (Note 3)			2.50
	Total Income			**29.39**

Notes

1. Computation of Indexed Cost of Acquisition

Particulars		₹ In Lakhs
Cost of Acquisition		50.00
Less : Advance received from Mr. Mahesh in F.Y. 2009-10 and forfeited (To be reduced from cost of acquisition as per Section 51 since the same was received before 01.04.2014)	—	2.00
Cost for the purpose of indexation		48.00
Indexed Cost of Acquisition (₹48 Lakhs x 331/117)		135.80

2. When capital gain is Assesseed on notional basis as per the provisions of section 50C and the higher value i.e. the stamp duty value of ₹150 Lakhs under section 50C has been adopted as the Full Value of Consideration, the entire amount of ₹130 Lakhs reinvested in the residential house within the prescribed period should be considered for the purpose of exemption u/s 54F, irrespective of the source of funds for such reinvestment [*Gouli Mahadevaapa* (2013) (Kar.)]

$$\text{Exemption u / s 54F} = \frac{\text{Capital Gains} \times \text{Cost of new residential house}}{\text{Net Sales Consideration}}$$

$$= \frac{14.20 \times 130 \text{ Lakhs}}{150 \text{ Lakhs}} \qquad = 12.31 \text{ Lakhs}$$

3. Advance of ₹2.50 Lakhs received by Mr. Ramesh from Mr. Rakesh in August, 2022 which was forfeited due to the transfer not having materialized is taxable as per sec 56(2)(ix) under the head "Income from Other Sources", since the same was received on or after 1st April, 2014. Hence, such amount would not be reduced to compute the indexed cost of acquisition while determining capital gains on sale of the property.

Q-12

Gama Ltd located within the corporation limits decided in December 2022 to shift its industrial undertaking to non-urban area. The company sold some of the assets and acquired new assets in the process of shifting the relevant details are as follows:

₹ in Lakhs

Sr.	Particulars	Land	Building	P & M	Furniture
(i)	Sale proceeds (Sales effected in March, 2023)	8	18	16	3
(ii)	Indexed Cost of Acquisition	4	10	12	2
(iii)	Cost of acquisition in terms of Section 50	—	4	5	2
(iv)	Cost of new assets purchased in July 2023 for the purpose of business in the new place	4	7	17	2

Compute the capital gains of Gama Ltd for A.Y. 2023-24.

A-12

Name of Assessee: Gama Ltd

Previous Year 2022-23

Assessment Year 2023-24

Computation of Capital Gains

Particulars	Land	Building	P & M	Furniture
Full Value of Consideration	8	18	16	3
Less : Transfer Expenses	—	—	—	—
Net Consideration	8	18	16	3
Less : Cost of Acquisition /ICOA	(4)	(4)	(5)	(2)
	4	14	11	1
	LTCG	STCG		STCG

Particulars			LTCG		STCG
Capital Gain for exemption	29	—	4	=	25
Cost of New Assets (Note 1)	28	—	3	=	25
			1		NIL

Notes:

1. Calculation of Cost of New Assets

	₹ in Lakhs
Land	4
Building	7
Plant and Machinery	17
	28

2. The Capital assets referred to in section 54G are machinery or plant or land & building or any rights in building or land. Capital gain arising on transfer of furniture does not qualify for exemption u/s 54G. No exemption is therefore available u/s 54G in respect of investment of ₹2 Lakhs in acquiring furniture.

   The first step therefore is to determine the capital gain arising out of the transfer and thereafter apply the provisions of section 54G.

3. In case of Land, Normal Capital gain calculated but in case of depreciated asset (Building/P & M /Furniture). Section 50 shall apply and as per Section 50 there is always STCG.

4. Total exemption available u/s 54G is ₹28 Lakhs (₹4 Lakhs + ₹7 Lakhs + ₹17 Lakhs). The exemption should first be exhausted against short term capital gain as the rate of tax in case of short-term capital gain is more than in case of long-term capital gain. Therefore, ₹25 Lakhs is exhausted against short term capital gain and the balance of ₹3 lakhs against long term capital gain.

   The taxable capital gains would be:

Long Term Capital Gains	₹1,00,000	(Taxable @ 20% u/s 112)
Short Term Capital Gains	₹1,00,000	(Taxable @ normal tax rates)
	₹2,00,000	

Q-13

Can reference be made to the valuation officer u/s 55A of the Income Tax Act, 1961 where the Assessing Officer is of the view that in the context of Computation of Capital Gains the value of the asset as on 01.04.2001 adopted by the Assessee, is more than the Fair Market Value? If reference u/s 55A is not permissible, the Assessing Officer bound to accept the Value as returned by the Assessee? Can reference be made to the valuation officer u/s 55A of the Income Tax Act, 1961 where the Assessing Officer is of the view that in the context of Computation of Capital Gains the value of the asset as on 01.04.2001 adopted by the Assessee, is more than the Fair Market Value? If reference u/s 55A is not permissible, the Assessing Officer bound to accept the Value as returned by the Assessee?

A-13

Section 55A which provides for the reference to the Valuation Officer in certain cases read as under: With a view to ascertaining the Fair Market Value of a Capital Asset for the Purposes of the Chapter of Capital Gains, the Assessing Officer may refer the valuation of capital asset to a valuation officer—

A. In a case where the value of the asset as claimed by the Assessee is in accordance with the estimate made by a registered value, is the assessing officer is of opinion that value so claimed is at variance with its fair market value;

B. In any other case, if the Assessing Officer is of the opinion—

(i) that the Fair Market Value of the asset exceeds the value of the asset as claimed by the Assessee by more than 15% of the value of the asset as so claimed or by more than ₹25,000 whichever is less, or

(ii) That having regard to the nature of the asset and other relevant circumstances, it is necessary so to do.

Therefore, in the given case, in view of Section 55A, the Assessing Officer can refer the case to the Valuation Officer for determining the Fair Market Value of the asset as on 01.04.2001. He is not bound to accept the value declared by the Assessee.

Q-14

Mrs. Aparna, a resident individual, sold her house property on 16.01.2023. On the said transaction, she earned a long-term capital gain of ₹1,91,50,000. She invested a sum of ₹35,00,000 in bonds of NHAI on 05.03.2023. She further invested a sum of ₹45,00,000 in bonds of RECL on 05.05.2023. She purchased a house property for ₹60 lakhs in Malaysia on 15.3.2023. She purchased two flats situated adjacent to each other in Pune on 25.7.2023 through two different sale deeds from two different buyers for ₹25 lakhs each and constructed a door to link both the flats so that she can use the same as a single house property. Her other income representing interest on fixed deposits for the financial year 2022-23 was ₹32,000. Compute the tax payable by her for the A.Y.2023-24.

A-14

Computation of total income of Mrs. Aparna for the A.Y.2023-24

	Particulars		₹
A	Long term capital gains		1,91,50,000
	Less: Deduction under section 54 [See Note 1 below]	—	50,00,000
			1,41,50,000
	Less: Deduction under section 54EC [See Notes 2 & 3 below]	—	50,00,000
	Long term capital gain		**91,50,000**
B	Income from Other Sources [Interest on fixed deposit]	+	32,000
	Total Income		**91,82,000**

As per section 112, in case of an individual, being a resident where her total income includes long-term capital gain and other income, the tax payable on the total income is the aggregate of the amount of income tax on long-term capital gains@ 20% and the amount of income tax on the total income as reduced by the amount of long term capital gain, had the total income so reduced been her total income.

However, the unexhausted basic exemption limit can be exhausted against long-term capital gains, and tax would be leviable on the balance long-term capital gains @ 20%. Therefore, the basic exemption limit of ₹2,50,000 should be first adjusted against other income of ₹32,000 and the unexhausted basic exemption limit of ₹2,18,000 should be adjusted against the long-term capital gains of ₹91,50,000. The balance long-term capital gains of ₹89,32,000 would be taxable@20% plus 10% Surcharge plus Health & Edu. cess@4%. Therefore, the tax payable by the assessee would be ₹20,43,642.

Notes:

Section 54 provides that exemption thereunder can be availed in respect of investment made in one residential house situated in India. Therefore, Mrs. Aparna cannot avail exemption u/s 54 in respect of investment in house property situated outside India at Malaysia.

The next issue is whether Mrs. Aparna can claim exemption under section 54 in respect of ₹50 lakhs invested in two flats situated next to each other in Pune, where necessary modification has been effected to use the same as a single house. On this issue, the Karnataka High Court in *D. Ananda Basappa* (2009) observed that where the assessee had shown that the flats were situated side by side and the builder had also certified that he had effected modification of the flats to make them as a single house by constructing a door between the apartments, it was immaterial that the flats were purchased through different sale deeds from two different buyers. The Court observed that these were not the grounds to hold that the assessee did not have the intention to purchase the two flats to be used as one house. The Court held that the assessee was entitled to exemption under section 54 in respect of purchase of both the flats to form one residential house.

Even if we do not follow above judgment then also exemption available for both the flats since LTCG is upto 2 crore (Amended by FA 2019)

Therefore, in this case, Mrs. Aparna can avail exemption in respect of investment of ₹50 lakhs in purchase of two flats situated next to each other in Pune, since necessary modification has been effected to use the two flats as a single house property. Also, she has made the investment in purchase of two flats within the stipulated period of two years after the date of transfer.

1. In order to claim exemption under section 54EC, the assessee has to invest in specified bonds of RECL or NHAI within a period of 6 months from the date of transfer of the asset.

2. However, investments in such bonds by an assessee during any financial year cannot exceed ₹50 lakhs.

Further, second proviso to section 54EC(1) also provides that the investment made by an assessee in bonds of NHAI/RECL, out of capital gains arising from transfer of one or more original assets, during the financial year in which the original asset or assets are transferred and in the subsequent financial year should not exceed ₹50 lakhs.

In this case, Mrs. Aparna has invested ₹35 lakhs in bonds of NHAI in the F.Y.2022-23 and ₹45 lakhs in bonds of RECL in the F.Y.2023-24, both within six months from the date of transfer. However, since the amount of investment made during the financial year in which asset transferred and in the subsequent financial year cannot exceed ₹50 lakhs, she is eligible to claim exemption of only ₹50 lakhs under section 54EC.

Q-15

Mr. R holds 1000 shares in Star Minus Ltd., an unlisted company, acquired in the year 2001-02 at a cost of ₹75,000. He has been offered right shares the company in the month of August, 2022 at ₹160 per share, in the ratio of 2 for every 5 held. He retains 50% of the right and renounces the balance right shares in favour of Mr. Q for ₹30 per shares in September 2022. All the shares are sold by Mr. R for ₹300 per shares in January 2023 and Mr. Q sells his shares in December 2022 at ₹280 per share. What are the capital gains taxable in the hands of Mr.R and Mr. Q?

Financial year	Cost Inflation Index
2001-02	100
2022-23	331

A-15

Computation of capital gains in the hands of Mr. R for the A.Y.2023-24

Particulars		₹
1000 Original shares		
Sale proceeds (1000 x ₹300)		3,00,000
Less : Indexed cost of acquisition [₹75,000 x 331/100]	—	2,48,250
Long-term capital gain (A)		**51,750**
200 Right shares		
Sale proceeds (200 x ₹300)		60,000
Less : Cost of acquisition (₹160 x 200) **[Note 1]**	—	32,000
Short-term capital gain (B)		**28,000**
Sale of Right entitlement		
Sale proceeds (200 x ₹30)		6,000
Less : Cost of acquisition **[Note 2]**	—	NIL
Short term capital gain (C)		**6,000**
Capital Gains (A+B+C)		**85,750**

Note:

1. Since the holding period of these shares is less than 24 months, they are short term capital assets and hence cost of acquisition will not be indexed.
2. The cost of the rights renounced in favour of another person for a consideration is taken to be nil. The consideration so received is taxed as short-term capital gains in full. The period of holding is taken from the date of the rights offer to the date of the renouncement.

Computer of capital gains in the hands of Mr. Q for the A. Y. 2023-24

Particulars		₹
Sale proceeds (200 shares x ₹280)		56,000
Less: Cost of acquisition [200 shares x (₹30+₹160)] [See Note below]	—	38,000
Short-term capital gain		18,000

Note:

The cost of the right is the amount paid to Mr. R as well as the amount paid to the company. Since the holding period of these shares is less than 24 months, they are short capital assets.

Q-16

Calculate the income-tax liability for the assessment year 2023-24 in the following cases:

	Mr. A (age 45)	Mr. B (age 62)	Mr. C (age 81)	Mr. D (age 82)
Status	Resident	Non- resident	Resident	Non- resident
Total income other than long term capital gain	2,40,000	2,80,000	5,90,000	4,80,000
Long-term capital gain	15,000 from sale of vacant site	10,000 from sale of listed shares (STT paid on sale and purchase of shares)	60,000 from sale of agricultural land in rural area	Nil

A-16

Computation of income-tax liability for the A.Y. 2023-24

Particulars	Mr. A (age 45)	Mrs. B (age 62)	Mr. C (age 81)	Mr. D (age 82)
Residential status	Resident	Non- resident	Resident	Non- resident
Applicable basic exemption limit	₹2,50,000	₹2,50,000	₹5,00,000	₹2,50,000
Asset sold	Vacant site	Listed shares (SST paid at both sale and purchase of shares)	Rural agricultural land	—

Particulars	Mr. A (age 45)	Mrs. B (age 62)	Mr. C (age 81)	Mr. D (age 82)
Long-term capital gain (on sale of above asset)	₹15,000 [Taxable @ 20% u/s 112]	₹10,000 [Not taxable u/s 112A]	₹60,000 (Exempt not a capital asset)	—
Other Income	₹2,40,000	₹2,80,000	₹5,90,000	₹4,80,000
Tax Liability				
On LTCG (after adjusting Basic exemption Limit	₹1,000	—	—	—
On other income	Nil	₹1,500	₹18,000	₹11,500
	₹1,000			
Less: Rebate u/s 87 A	₹1,000	Nil	—	—
Add: HEC @ 4%	Nil	₹60	₹720	₹460
Total tax liability	**Nil**	**₹1,560**	**₹18,720**	**₹11,960**

Notes:

1. Since Mrs. B and Mrs. D are non-residents, they cannot avail the higher basic exemption limit of ₹3,00,000 and ₹5,00,000 for person over the age of 60 years and 80 years, respectively.

2. Since Mr. A is a resident whose total income does not exceed ₹5 lakhs, he is eligible for rebate of ₹12,500 or the actual tax payable, whichever is lower, under section 87A.

Q-17

Following are the details of income provided by Mr. Singh, the assesse for the financial year ended 31st March, 2023:

(i) Rental income from property at Bangalore- ₹3 lakhs, Standard Rent- ₹2,50,000, Fair Rent- ₹2,80,000.

(ii) Municipal and water tax paid during 2022-23: Current year ₹35,000, Arrears- ₹1,50,000.

(iii) Interest on lone borrowed towards major repairs to the property: ₹1,50,000.

(iv) Arrears of rent of ₹30,000 received during the year, which was not charged to tax in earlier years.

Further, the assesse furnished following additional information regarding sale of property at Chennai:

(i) Mr. Singh's fathers acquired a residential house in April 2005 for ₹1,25,000 and thereafter gifted this property to the assesse, Mr. Singh on 1st March 2006.

(ii) The property, so gifted, was sold by Mr. Singh on 10th June 2022. The consideration received was ₹25,00,000.

(iii) Stamp duty charges paid by the purchaser at the time of registration @13% (as per statutory guidelines) was ₹3,38,000.

(iv) Out of the sale consideration received:

(a) On 2/1/2023, the assesse had purchased two adjacent flats, in the same buildings, and made suitable modification to make it as one unit. The investment was made by separate, sale deeds, amount being ₹8,00,000and ₹7,00,000, respectively.

(b) On 10/10/2022, ₹10 lakhs were invested in bonds issued by National Highways Authority of India, but the allotment of the bonds was made on 1/2/2023.

Compute Mr. Singh's taxable income for assessment year 2023-24.

Cost inflation index: F.Y.2005-06:117; F.Y. 2022-23- 331.

A-17

Computation of taxable income of Ms. Singh for A. Y. 2023-24

Particulars		₹	₹
Income from house property			
Gross Annual Value [Higher of expected Rent & Actual Rent]			3,00,000
Expected Rent (lower of Fair Rent and Standard Rent)		2,50,000	
Actual Rent		3,00,000	
Less: Municipal taxes paid by Mr. Singh during the year (including arrears) [₹35,000+₹1,50,000]	—		1,85,000
Net Annual value (NAV)			1,15,000
Less: deduction under section 24 (a) 30% of NAV (b) Interest on loan borrowed for major repairs		34,500 1,50,000	1,84,500
			(69,500)
Arrears of rent taxable under section 25A		30,000	
Less: deduction @30%		9,000	21,000
			(48,500)

Particulars		₹	₹
Capital Gains			
Full value of consideration		25,00,000	
As per section 50C, the full value of consideration would be the higher of **(Note 1)**			
Actual consideration		₹25,00,000	
Stamp Duty Value [₹3,38,000/13%]		₹26,00,000	
Less: Indexed cost of acquisition [₹1,25,000 x 331/117]	—	3,53,632	
As per section 49(1), cost of acquisition of the residential house gifted by Mr. Singh's father to Mr. Singh would be a cost for which Mr. Singh's father acquired the asset			
		21,46,368	
Less: Exemption under section 54 (₹8,00,000 + ₹7,00,000)	—	15,00,000	
Purchase of residential house within the stipulated time (within one year before or two years after the date sale had effected the necessary modification to make it as one house, the assesse would be entitled to exemption under section 54 in respect of investment in both the flats, despite the fact that they were purchased by separate sale deeds [*CIT* v *Ananda Basappa* (2009) (Kar.)]			
Exemption under section 54EC		**6,46,368**	
Investment in bonds of NHAI within six months from the date of transfer. Where the payment for bonds has been made within the 6 month period, exemption under section 54EC would be available even if the allotment of bonds was made after the expiry of the six months [*Hindustan Unilever Ltd.* (2010) (Bom.)]			
Long-term capital gains			**Nil**
Total Income			**Nil**

Notes:

1. Since SDV is not more than 110% of consideration, so consideration is treated as FVOC.
2. Loss from HP to be C/F ₹48500.

Q-18

Mr. A, a non-resident Indian remits US $ 40,000 to India on 16.09.2001. The amount is party utilised on 3.10.2001 for purchasing 10,000 shares in A Ltd an Indian Company at the rate of ₹12 per share. These shares are sold for ₹48 per share on 30.03.2023.

The telegraphic transfer buying and selling rate of US dollars adopted by the State Bank of India is as follows:—

Date	Buying Rate (1 US $)	Selling Rate (1 US $)
16.09.2001	18	20
03.10.2001	19	21
30.03.2023	59	61

Compute Capital gain chargeable to tax for the AY 2023-24 on the assumption that these shares have not been sold through a recognised stock exchange.

A-18

Where the shares are not sold through recognised stock exchange.

Particulars		US $
Sale consideration (₹4,80,000/60)		8000
Less: Cost of Acquisition (1,20,000/20)	—	6000
Long-term capital gain		2000

Long-term-capital gain converted into $ 2000 x ₹59 = ₹1,18,000

Q-19

K and Co. (firm) had sold all its assets and liabilities as a slump sale on 31.03.2023 to SVPC &Co. (firm) for a lump sum consideration of ₹ 500 lakhs. FMV calculated as per rule 11UAE of transferred unit on the date of transfer is ₹ 600 lakhs. The statement of affairs of K & Co. as on 31.03.2023 is as below:

Liabilities	₹ (in lakhs)	Assets	₹ (in lakhs)	
Capital	1,627	**Fixed Assets**		
Unsecured Loans	25	Plant & Machinery at WDV	250	
Bank Borrowing	500	Land (At Revalued figure)	1,200	1,450