CHAPTER 9

CAPITAL GAINS

What is a **capital asset**, what counts as **disposal**, how to compute the gain, the **treatment of capital losses**, and the separate-block regimes for **immovable property** and **securities**. Rates depend on the **date of acquisition** and the **holding period**. Law: ITO 2001 · tax year 2027.

CHAPTER ROADMAP

1. **Capital asset and disposal** — s.37 · s.75
2. **Computation of gain** — A − B
3. **Capital losses** — ss.38 · 59
4. **Immovable property** — s.37(1A)
5. **Securities** — s.37A · 8th Sch

DEFINITION **Section 37:** a gain on **disposal** of a **capital asset** in a tax year (other than exempt gain) is chargeable **in that year** under **Capital gains** — even for a cash-basis taxpayer who is paid later.

1 WHAT IS A CAPITAL ASSET

section 37(5)

INCLUDED

Property of every kind held by a person, whether or not connected with business — e.g. ordinary, right and **bonus shares**, modaraba certificates, PTCs, TFCs, musharika certificates, PTC vouchers.

EXCLUDED

Stock-in-trade, consumable stores, raw materials (property traded in the ordinary course of business gives business income); property on which **depreciation or amortisation** is claimed; **movable personal-use property**.

BUT THESE PERSONAL ITEMS ARE CAPITAL ASSETS

Painting, sculpture, drawing, work of art, jewellery, rare manuscript, folio, book, postage stamp, first day cover, coin, medallion, antique. A personal car, furniture or animal is **not**.

2 DISPOSAL

sections 2(18) and 75

PARTING WITH OWNERSHIP

Sold, exchanged, transferred, distributed; **cancelled, redeemed, relinquished, destroyed, lost, expired, surrendered**.

SUCCESSION

Transmission by succession or will = disposal **by the deceased**; for immovable property this includes a **family settlement** after death.

BUSINESS ASSET

Applied to **personal use**, or **discarded** / no longer used in business = disposal. A **part** of an asset can be disposed of.

DEFINITIONS

Business asset: held wholly or partly for business, incl. stock and depreciable assets. **Personal asset**: held wholly for personal use.

3 COMPUTING THE GAIN

gain = A − B

FORMULA

Gain = A − B: A = consideration received; B = cost. Taxed under the normal regime for ordinary assets — **100% of the gain**, however long it was held.

CONSIDERATION · s.77

Higher of amount received and **FMV**, plus FMV of anything in kind. FMV of shares: **listed** – stock exchange quotation; **unlisted** – **break-up value**. Lost or destroyed asset: **scrap + compensation** (insurance, settlement, judgment).

COST · s.37(4)

Excludes expenditure that is deductible under **another head** or **disallowed by s.21**. Inherited asset: cost = **FMV on the date of inheritance** (as in the Study Text exercises).

4 CAPITAL LOSSES

sections 38 and 59

LOSS FORMULA

Loss = cost − consideration, deducted from other capital gains.

NO LOSS ALLOWED

On **art, jewellery, rare manuscripts, stamps, first day covers, coins, medallions, antiques**, and where a gain would not have been taxable.

SET-OFF AND CARRY FORWARD

Not against **any other head**; unadjusted loss carried forward **six years** against capital gains only; **earliest year first**.

PRIVATE vs PUBLIC SHARES

Loss on **private company** shares may be set off against a gain on **public company** shares; **not the reverse**.

5 WITHHOLDING ON PURCHASE OF SHARES

section 37(6) – (10)

WHO AND HOW MUCH

The **acquirer** of shares (except listed shares settled through NCCPL) deducts **10% of the FMV** as adjustable advance tax, at **payment or registration with SECP / SBP, whichever is earlier**.

DEPOSIT AND FMV

Deposit within **15 days**. FMV determined **without deducting liabilities** (Rule 19H). The acquirer may obtain an **exemption or reduced-rate certificate**.

SELLER AND SBP

Seller furnishes a statement within **30 days**. The SBP does not register **repatriable shares** without the Commissioner's certificate. Off-market sales of listed shares fall under **s.37**, not s.37A.

6 IMMOVABLE PROPERTY · SEPARATE BLOCK

section 37(1A)

Holding period (acquired on or before 30 June 2024)	Open plot	Constructed	Flat
Up to 1 year	15%	15%	15%
1 – 2 years	12.5%	10%	7.5%
2 – 3 years	10%	7.5%	**0%**
3 – 4 years	7.5%	5%	0%
4 – 5 years	5%	**0%**	0%
5 – 6 years	2.5%	0%	0%
Over 6 years	**0%**	0%	0%

ACQUIRED AFTER 1 JULY 2024

Active taxpayer: 15%. Non-active person: progressive slab rates (not less than 15%); company: corporate rate. No holding-period relief.

SCOPE

Open plots, constructed property and flats held as **capital assets** — not offices, factories or a dealer's stock.

EXEMPTION · cl.114B

First sale of property allotted by Government or a certified authority in recognition of service (armed forces / government personnel, war-wounded, dead on service): **exempt**. Clause 9A: rates cut by **50%** for original allottees.

CASH PURCHASE · s.75A

Immovable property above **Rs. 5 million** bought in cash: the cash is **not cost**; penalty of **5%** of the FBR / DC value (higher).

7 SECURITIES · SEPARATE BLOCK

section 37A · Eighth Schedule

WHAT IS A SECURITY

Shares of a **public company**, PTC voucher, modaraba certificate, redeemable capital, ETF unit, **debt securities** (TFCs, sukuk, bonds, T-bills, PIBs…) and **derivatives**. **Private company shares are not securities.**

COMPUTATION

Gain = A − B. For **market-based transactions** (PSX / NCCPL) a **notional expense of 0.5% of sale proceeds and 0.5% of cost** replaces brokerage etc. (not for open-ended fund units or PMEX futures). **FIFO**; shares bought the **same day** use average.

LOSSES

Loss on securities set off only against **securities gains**; carried forward **three years**.

NOT COVERED

Banking and insurance companies; sales of listed shares **off-market** (not on PSX / NCCPL); IPO disposals not reported to NCCPL → **s.37**.

Securities acquired	Rate of tax
On or after 1 July 2024 – active taxpayer on acquisition and disposal	**15%**
After 1 July 2025 – non-active taxpayer	**30%**
After 1 July 2024 – non-active taxpayer	Progressive rates (individual / AOP), 29% (company); **not less than 15%**
1 July 2022 – 30 June 2024	By holding period: ≤1 yr 15% · 1–2 yrs 12.5% · 2–3 yrs 10% · 3–4 yrs 7.5% · 4–5 yrs 5% · 5–6 yrs 2.5% · over 6 yrs 0%
1 July 2013 – 30 June 2022	**12.5%** regardless of holding period
Before 1 July 2013	**0%**
PMEX future commodity contracts	**5%** regardless of date

8 WORKED EXAMPLES

fresh numbers

OPEN PLOT

Bought 10 Aug 2022 for Rs. 6m, sold 20 Dec 2026 for Rs. 10m (held 4 years 4 months): gain 4m × **5%** = **Rs. 200,000**.

FIFO + NOTIONAL EXPENSE

Bought 1,000 @ 100 and 1,000 @ 140; sold 1,500 @ 160 via PSX. FIFO cost = 170,000; proceeds 240,000. Notional 0.5% × (240,000 + 170,000) = 2,050. Gain = **67,950** at 15%.

OFF-MARKET vs PSX

Sold for 300,000, cost 200,000, brokerage 1,500. Off-market: gain **98,500**, normal regime. Through PSX / NCCPL: notional 0.5% × 500,000 = 2,500 → gain **97,500** at 15% separate block.

DESTROYED, NEVER USED

Imported machine cost Rs. 2,400,000 + clearing 100,000; destroyed before use; insurer paid 2,000,000, scrap 300,000, legal fee on the claim 50,000. Consideration 2,300,000 − cost 2,550,000 = **capital loss 250,000** (no depreciation claimed, so a capital asset).

CASH PURCHASE · s.75A

Shop bought for Rs. 20m, of which Rs. 7m cash; sold for Rs. 24m. Cost = 20 − 7 = 13m; gain 11m × **15%** = **Rs. 1,650,000**.

9 EXAM FOCUS · MCQ TRAPS

what examiners test

1 Year of disposal
A cash-basis person is still taxed in the year of **disposal**, not the year the cash arrives.

2 Personal assets
A personal **car or furniture** is not a capital asset; **art, jewellery, stamps, coins, antiques** are — but their **losses** are ignored.

3 Loss set-off
Capital loss never against other heads; **six years**; private-share loss may absorb public-share gain, not vice versa. Securities loss: securities gains only, **three years**.

4 Rate depends on date
Immovable property: acquisition date and holding period; after 1 July 2024 → **15%** for active taxpayers. Securities: four date bands.

5 Notional expense
0.5% of sale proceeds AND 0.5% of cost on PSX / NCCPL trades; FIFO.

6 Off-market sale
Listed shares sold off-market, banks and insurers → **s.37** normal regime, not s.37A.

7 Cash purchase
Immovable property above **Rs. 5m** in cash: not cost; **5% penalty**.

8 Share purchase withholding
10% of FMV at payment or registration, **whichever is earlier**; deposit in **15 days**.

CLASSIFY IT · CAPITAL ASSET OR NOT?

1	Ordinary shares held as an investment	CAPITAL ASSET
2	Personal car	NOT
3	Painting from a personal collection	CAPITAL ASSET
4	Collection of postage stamps	CAPITAL ASSET
5	Plot bought and sold by a property dealer	STOCK IN TRADE
6	Machine on which depreciation is claimed	BUSINESS ASSET
7	Bonus shares	CAPITAL ASSET
8	Household furniture	NOT

CLASSIFY IT · WHICH RATE?

1	Open plot (pre-July 2024) held 7 years	0%
2	Constructed house (pre-July 2024) held 5 years	0%
3	Property bought after 1 July 2024, active taxpayer	15%
4	Listed shares via PSX bought after 1 July 2024, active	15%
5	Securities bought before 1 July 2013	0%
6	Securities bought between 2013 and 2022	12.5%
7	PMEX future commodity contract	5%
8	Private company shares sold	NORMAL REGIME

LISTS TO KNOW

Loss c/f	Notional expense	Share WHT	Penalty s.75A	Active taxpayer
6 years · securities 3	0.5% + 0.5%	10% of FMV · 15 days	5% of FBR / DC value	15% post-2024

REVISION MAP

1 · ASSET AND DISPOSAL

Capital asset: property of every kind except stock, depreciable assets, personal-use movables (art, jewellery, stamps, coins, antiques are in) · disposal = parting with ownership, succession, discarding

2 · GAIN AND LOSSES

Gain = consideration (higher of price / FMV) − cost · 100% taxable · loss only against capital gains, six years, no loss on art etc. · private-share loss may absorb public-share gain

CHAPTER 9
CAPITAL GAINS

3 · IMMOVABLE PROPERTY

Separate block · pre-July 2024 by holding period (plot 6 years, flat 2 to nil) · after: active 15% · cl.114B exemption · s.75A cash rule

4 · SECURITIES

s.37A · 0.5% + 0.5% notional · FIFO · after July 2024: 15% active, 30% non-active · 2022–24 by period · 2013–22 12.5% · before 2013 nil · PMEX 5% · loss three years

Asset
Personal-use movables are out.

Gain
Consideration − cost.

Property
Date and holding period.

Securities
Four date bands.