

Capital Gains After April 1, 2026

Section 536(5) Saving Clause Keeps 1961 Act Live for AY 2026-27 Files

CBDT FAQ Deep-Dive Series #4 | Sections 45 to 55A Continuity | Cross-Border, HNI & Family-Office Practitioners

CA Adityavikram Banka | Founder, A S Banka Advisors Private Limited

AY 2026-27

1961 ACT CONTINUITY

SECTION 536(5)



What Section 536 Sub-Clause 5 Does for Capital Gains

The Income-tax Act 2025 (gazetted August 21, 2025, effective April 1, 2026) replaces the 1961 Act for AY 2027-28 onwards. **Section 536** is the saving clause that preserves the 1961 Act framework for transitional events.

i **Sub-clauses 1, 2, 4 & 5 together preserve:**
Sections 45 to 55A capital-gains framework for ANY asset transferred on or before March 31, 2026 — irrespective of when consideration is received.

- Section 45(1) transfer date is the trigger; receipt schedule does NOT shift year of tax
- Cash, kind, or instalments straddling the cutover — all governed by 1961 Act
- Holding-period clock keeps running across April 1, 2026 cutover

Cutover Map

Transfer Date	Governing Act	Schedule CG Rubric
On/before March 31, 2026	1961 Act	1961 Act, AY 2026-27
On/after April 1, 2026	Income-tax Act 2025	New Act, AY 2027-28

⚠ Key Trigger: The Section 45(1) transfer date — not the receipt date — determines which Act governs. Document the transfer date meticulously.

Every Capital-Gains Section You Must Lock Into the FY 2025-26 File

The full **Sections 45 to 55A** 1961 Act framework operates for AY 2026-27 transfers. All 18 operative sections are preserved by Section 536.

Charging & Computation

Sec	What It Does
45(1)	Charging section, year of transfer
45(1A)	Insurance compensation on destroyed assets
45(2)	Capital asset converted to stock-in-trade
45(3)	Capital contribution to firm/AOP
45(4)	Distribution on dissolution / partner reconstitution
45(5A)	JDA — completion certificate trigger
46	Liquidation distribution
47	25-clause exempt-transfer catalogue
48	Computation, indexation, FX conversion
49	Cost anchor for donee/successor

Deeming, Exemptions & Reference

Sec	What It Does
50 / 50A / 50B	Depreciable, power undertaking, slump sale
50C / 50CA / 50D	Stamp-duty FMV deeming
51	Forfeited advance reduces cost
54–54GB	Reinvestment exemptions
55	Cost of special assets, April 1, 2001 option
55A	DVO reference

✔ **CII = 363** for FY 2025-26. Applies ONLY to land/building acquired pre-July 23, 2024 in resident individual/HUF hands.

FA 2024 Holding Periods & Rates Operative for AY 2026-27

Finance Act 2024 rationalised the holding-period grid to two buckets and unified the LTCG rate at **12.5%** (Section 112). The following grid governs all AY 2026-27 capital-gains computations.

Asset	LTCG If Held	STCG Rate	LTCG Rate
Listed equity / equity MF (STT-paid)	>12 months	20% (Sec 111A)	12.5% above Rs 1.25 lakh (Sec 112A)
Listed bonds / REIT / InvIT	>12 months	Slab	12.5% no indexation
Unlisted shares / immovable / gold	>24 months	Slab	12.5% no indexation
Land/building acquired pre-July 23, 2024 (resident ind/HUF only)	>24 months	Slab	Lower of 12.5% no-indexation OR 20% with indexation
Debt MF acquired on/after April 1, 2023	Always STCG	Slab (Sec 50AA)	N/A

Sec 112A

12.5% LTCG on listed equity above Rs 1.25 lakh exemption

Sec 111A

20% STCG on listed equity (STT-paid)

Sec 112

12.5% LTCG on all other long-term assets

CII 363

FY 2025-26 indexation — pre-July 23, 2024 land/building only

Section 47 Cost Anchor Continuity — The Family Office & Restructuring Lifeline

Section 47 lists **25 transactions** not regarded as transfer. Section 49 anchors donee/successor cost to donor/predecessor cost. Section 536 preserves both across the cutover.

Clause	Transaction	Sec 49 Anchor
47(i)	HUF total partition	Cost in HUF hands
47(iii)	Gift, will, irrevocable trust	Donor cost + donor holding period
47(iv)/(v)	Holding-WOS Indian transfer	Transferor cost + 8-year Sec 47A lock-in
47(vi)/(vib)	Amalgamation, demerger	Amalgamating/d emerged company cost
47(vii)/(viia)	Shares received in amalgamation	Original shares cost continues
47(xiiiib)	Pvt Ltd to LLP conversion	Company cost + 5-year lock-in
47(xiv)/(xvi)	Sole-prop / firm to company	Proprietor / firm cost
47(viiae)	Cat I AIF strategic restructuring	Transferor cost preserved

⊗ **HARD RULE**

Lock NCLT orders, gift deeds, partition deeds, LLP conversion certificates, and schemes of arrangement into the FY 2025-26 file **BEFORE March 31, 2026**.

Incomplete documentation breaks the Section 49 cost anchor when the asset is finally transferred under the 2025 Act.

47(xiiiib) Lock-In

5-year window — Pvt Ltd to LLP conversion

47A Lock-In

8-year window — holding-WOS transfers

Sec 49 Anchor

Does NOT auto-survive incomplete documentation

Three Real Practitioner Scenarios Across the Cutover

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Scenario 1: HNI Listed-Equity Switch

March 28, 2026 sell

- LTCG **Rs 8L** after Rs 1.25L exempt; STCG **Rs 4L**
- LTCG tax = **Rs 1L** (12.5% Sec 112A)
- STCG tax = **Rs 80K** (20% Sec 111A)
- Re-buy April 2, 2026 = fresh asset, holding period restarts
- No wash-sale rule under Indian law

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Scenario 2: Family Office Demerger

NCLT effective March 30, 2026

- Sec 47(vib) demerger; resulting company shares issued
- Sec 49(2C) anchors resulting-co share cost
- Oct 2026 sale: holding period includes original co holding (Explanation 1(i)(g) to Sec 2(42A))
- LTCG at **12.5% Sec 112**
- NCLT order MUST be in FY 2025-26 file

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Scenario 3: Founder Pre-IPO Sec 54F

Feb 15, 2026 sale Rs 3 Cr

- LTCG **Rs 2.5 Cr**
- Buy residential house **Rs 4 Cr** within 2 years — Sec 54F exempt
- **Rs 10 Cr** cap (FA 2023) leaves headroom
- CGAS deposit by AY 2026-27 ITR due date (July 31, 2026)
- 3-year lock-in on new house runs to 2029, evaluated under 1961 Act

Section 54 to 54GB Reinvestment Lock-In Map for AY 2026-27 Returns

Reinvestment exemptions claimed in AY 2026-27 ITRs are locked under **1961 Act conditions** through the entire lock-in window, even when the window extends past April 1, 2026.

Sec	Asset Sold	Reinvest In	Window	Cap	Lock-In
54	Residential house (LTCG)	1 or 2 residential houses (one-time, LTCG < Rs 2 Cr)	-1y/+2y purchase, +3y construction	Rs 10 Cr (FA 2023)	3 years
54B	Agricultural land (2y prior use)	Agricultural land	+2y	None	3 years
54D	Industrial undertaking land/bldg (compulsory acq)	Industrial undertaking	+3y	None	3 years
54EC	Long-term land/building	NHAI/REC/PFC/IRFC bonds	+6 months	Rs 50L per assessee per FY	5 years
54F	Any long-term non-residential	One residential house	-1y/+2y purchase, +3y construction	Rs 10 Cr (FA 2023)	3 years
54G/54GA	Urban industrial undertaking	Non-urban / SEZ asset	-1y/+3y	None	3 years
54GB	Residential property (by Mar 31, 2025 sunset)	Eligible startup equity	By ITR due date	None	5 years (3y for computers)

⊗ **CGAS deposit by Sec 139(1) due date is non-negotiable.** July 31, 2026 (non-audit) / October 31, 2026 (audit). Skip it, lose the exemption. No exceptions under 1961 Act or 2025 Act.

8-Step Capital-Gains File-Review Sprint Before March 31, 2026



Map Every Transfer

Assign each transfer to a 1961 Act section: **45** charging, **47** exempt, **50** depreciable, **50B** slump sale, **50C/50CA/50D** deeming



Confirm Transfer Date

Must be on/before **March 31, 2026**. For JDA, check Sec **45(5A)** completion certificate date specifically



Anchor Sec 49 Cost

For inherited / gifted / partitioned / reorganisation-received assets; tag donor cost & FY. Document fully before cutover



Compute Holding Period

Apply rationalised **12/24-month** threshold; include donor/predecessor period for Sec 49 carry-overs



Apply Correct Rate

12.5% Sec 112A (listed STT-paid above Rs 1.25L) | **12.5%** Sec 112 (other LTCG) | **20%** Sec 111A (listed STCG) | Slab (other STCG). Evaluate 20% with-indexation election for pre-July 23, 2024 land/building



Run Sec 50C / 50CA Check

Stamp-duty / FMV comparison — if deeming triggers, document **10% tolerance band** exhaustion; consider Sec **55A** DVO reference



Lock Sec 54–54GB Reinvestment File

Investment proof, CGAS deposit, **3-/5-year** lock-in calendar, Sec **54EC** bond receipt within 6 months



Cross-Tab Sec 70/71/74 Set-Off

LTCL set off only against LTCG; STCL set off against both; **8-year carry-forward** under Sec 74

Critical Deadlines & Cross-Border / HNI Action Plan

Lock by March 31, 2026

- All Sec 47 documentation — NCLT orders, gift deeds, schemes of arrangement, conversion certificates
- Sec 50C/50CA agreement vs registration date documentation
- Pre-cutover JDA completion certificate analysis (Sec 45(5A))

Lock by July 31 / Oct 31, 2026

- AY 2026-27 ITR-2/3/5/6 filing with Schedule CG under 1961 Act rubric
- CGAS deposit for unutilised Sec 54 to 54F reinvestment proceeds

5-Year Lock-Ins Extending Into Income-tax Act 2025 Era

Sec 47(xiiib)

5-year window — Pvt Ltd to LLP conversion done March 2026 runs to March 2031

Sec 47A

8-year window — holding-WOS transfers

Sec 54EC

5-year bond lock-in

⚠️ If you advise HNI, family office, or cross-border restructuring clients:

Map every transfer, lock every Sec 49 anchor, and document the file **BEFORE March 31, 2026**.

Section 49 cost continuity does not auto-survive incomplete documentation.

📄 Need help mapping a specific file?

Sec 47 / 47(xiiib) / 54F / slump-sale analysis — book a strategy session with **CA Adityavikram Banka, Founder, A S Banka Advisors Private Limited**.

The **2-week window** matters more than the next 6 months.

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Saving Clause

Income-tax Act 2025 section preserving 1961 Act

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Sections Preserved

Sec 45 to 55A operative for AY 2026-27

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Exempt Transfers

Clauses under Sec 47 preserved by Sec 536