

**SICASA**  
**E-NEWSLETTER**  
CHENGALPATTU DISTRICT BRANCH OF SIRC OF ICAI  
(FORMERLY KNOWN AS KANCHIPURAM DISTRICT BRANCH OF SIRC)

**JUNE 2021**

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***Of course it's  
Hard. It's  
supposed to be  
Hard. If it was  
Easy, Everyone  
would do it.  
Hard is what  
makes CA  
Great! Best of  
luck for  
upcoming  
exams!***

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**Note:** The views expressed in the articles published are their own views and SICASA Chengalpattu District Branch does not endorse or take any responsibility for the views expressed in the articles.

### **ARTICLES INVITED FROM STUDENTS:**

**Note:** Articles are invited from students for publishing in newsletter. The articles shall be either on the specific subject or a general article.

Students can mail their article with Name, SRO Number, Mobile Number, Residential Address, Office Address & Photo to our Mail mentioned below

### Contact Us



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## **FROM THE SICASA CHAIRMAN'S DESK**

My dear students

You joined this CA course with a Dream of becoming a CHARTERED ACCOUNTANT.



To become a Chartered Accountant is not something that can be attained by a shortcut. The journey of passing CA exams is not as easier it seems to be.

It requires a lot of hard work, dedication, motivation, perseverance. It only comes to the people with a firm determination. It can never be availed by people who just dream to become CA and does nothing to get it.

We have to face some failures too. We all would have played the game of snake ladder. In this game, we are bitten by the snake many times especially when we reach the target. The same is the story of CA examinations. But we need a spark of any one or more of the following motivating factors to rise up again and again till the goal of becoming a full-fledged CA accomplished.

- To get a Better Paid Job
- To become a Financial Stability to the Family
- To get a better Reputation and Respect in the Society
- To create more Employment Opportunities to others
- To Create a Modern Society
- To give back to the Community
- To create Equal Opportunities for all
- To become a Partner in Nation Building

Since the tentative dates are announced, give your best and a little more to make your dream come true.

**Stay Safe. Stay Healthy**  
**CA Shivachandra Reddy K**  
**Chairman, SICASA**

**Chengalpattu District Branch of SIRC of ICAI.**

FROM THE BRANCH CHAIRMAN'S DESK

My dear students,



Hope you all are safe staying at home and working from home / revising for your exams. Almighty is always with love and affection towards us and everything happening around us is for our benefit only. God has his own plan for each one of us.

The exam dates for Intermediate and final are to be announced and foundation exams are to be held on time and I request the students to get themselves vaccinated at the earliest. Getting vaccination is for the benefit for yourselves and for other others also. The branch is planning to conduct vaccination camp for CA members, their family members and CA students who have completed 18 years of age. The registration link is <https://forms.gle/aVQBJbyhuRDYdqDL9>. Please register at the earliest. Vaccination date shall be announced shortly.

My wishes and prayers for all students to be a successful Chartered Accountant and become a partner in NATION BUILDING.

STAY HOME AND BE SAFE.

**Best Wishes**

**CA Kathiresan C**

**CHAIRMAN**

**CHENGALPATTU DISTRICT BRANCH OF SIRC OF ICAI**

## Ind AS 105: Non-Current Assets Held for Sale and Discontinued Operations



Objective: - Ind AS 105 deals with the accounting of non-current assets (or disposal groups) classified as held for sale and discontinued operations along with their presentation and disclosure.

### Applicability: -

i. The classification, measurement, and presentation requirement of Ind AS 105 applies to all recognized non-current assets (or disposal groups) of an entity, subject to a few exceptions. The following assets are outside the scope of the measurement requirements of this Ind AS -

- ❖ Deferred Tax Assets (under Ind AS 12)
- ❖ Assets arising from employee benefits (under Ind AS 19)
- ❖ Financial Assets (under Ind AS 109)
- ❖ Insurance Contracts (under Ind AS 104)
- ❖ Biological Assets (under Ind AS 41)

ii. The requirements of this Ind AS applicable on non-current assets (or disposal groups) classified as held for sale shall apply, mutatis mutandis, to those held for distribution to owners.

### Relevant Terms: -

- ❖ Disposal Group - A group of assets and liabilities to be disposed of, by sale or otherwise, in a single transaction.
- ❖ Cash-Generating Unit - The smallest identifiable group of assets that generates cash flows independent from the other assets or the group of assets.
- ❖ Discontinued Operation - A component of an entity that has either been disposed of or is classified as held for sale and:
  - represents a separate major line of business or geographical area of operations,
  - is being disposed of in pursuance of a single coordinated plan, or
  - it is a subsidiary acquired exclusively to resell.

**AYUSHI**

**AGARWAL**

**CRO0602743**

### **Classification of Non-Current Assets (or Disposal Groups) as Held for Sale: -**

- ❖ A non-current asset (or disposal group) is classified as held for sale if its value will be recovered principally through sale rather than by its continued use, provided that the asset is available for immediate sale in its present condition, and its sale is highly probable.
- ❖ An entity shall not classify as held for sale a non-current asset (or disposal group) that is to be abandoned. However, an asset (or disposal group) temporarily taken out of use due to low demand or otherwise is not accounted for as if it had been abandoned.

### **Measurement of Non-Current Assets (or Disposal Groups) classified as Held for Sale:**

- ❖ A non-current asset (or disposal group) classified as held for sale is measured at the lower of the carrying amount and fair value less costs to sell, where –
  - ❑ The carrying amount is determined in accordance with applicable Ind AS after necessary adjustment of depreciation, amortization, revaluation, etc.,
  - ❑ The fair value is calculated in accordance with Ind AS 113, and
  - ❑ The cost to sell is the incremental costs directly attributable to the disposal of an asset (or disposal group), excluding finance costs and income tax expense.

#### **Note:**

- i. Depreciation and amortization cease from the date such asset (or disposal group) is classified as held for sale.
  - ii. Interest and other expenses attributable to the liabilities of a disposal group classified as held for sale shall continue to be recognized.
  - iii. In the case of fair value less costs to sell being lower than the carrying amount as on date of classification, the difference is to be recognized as an impairment loss in the statement of profit and loss according to Ind AS 105.
- 
- ❖ An entity shall measure a non-current asset (or disposal group) classified as held for distribution to owners at the lower of its carrying amount and fair value less costs to distribute where cost to distribute are the incremental costs directly attributable to the distribution, excluding finance costs and income tax expense

- ❖ When the sale is expected to occur beyond one year, the entity shall measure the costs to sell at their present value. Any increase in the present value of the costs to sell that arises from the passage of time shall be presented in profit or loss as a financing cost
- ❖ If the asset (or disposal group), initially classified as held for sale, no longer meets the held for sale criterion, then such asset shall be remeasured at lower of:
  - carrying amount had the held for sale accounting not been applied; and
  - its recoverable amount (In case of CGU determine in accordance with Ind AS 36).

**Note:**

The inability to conclude the sale transaction within twelve months due to events or circumstances beyond the entity's control, duly supported by sufficient evidence, is not considered as the case of a change in plan to sell. The asset (or disposal group) in such case shall continue to be classified as held for sale.

**Presentation and Disclosure of Non-Current Assets (or Disposal Groups) classified as Held for Sale: -**

- ❖ The non-current assets, including the assets of the disposal group, classified as held for sale are presented separately from other assets in the Balance Sheet under the head Current Assets and sub-head Other Current Assets, with details of major classes of assets in the group. The liabilities of a disposal group classified as held for sale are also presented separately from other liabilities in the Balance Sheet under the head Current Liabilities and sub-head Other Current Liabilities, with details of major classes of liabilities in the group.
- ❖ The following information is disclosed in the notes to the financial statement -
  - Description of the non-current assets (or disposal groups) classified as held for sale,
  - Description of the facts and circumstances of the sale along with the gain or loss recognized if any, and
  - If there is any change in the plan to sell, detailed disclosure to that effect.



❖ The presentation and disclosure requirements to enable the users of financial statements to evaluate the financial effects of discontinued operations is on parallel lines with those of a disposal group classified as held for sale, along with the following additional information to be disclosed separately -

- ❑ Detailed analysis of the revenue, expenses, assets, liabilities, and cash flows of discontinued operations in notes to financial statements,
- ❑ The profit or loss before tax, tax expense, post-tax profit or loss and earning per share of Discontinued Operations on the face of the statement of profit and loss in compliance with Schedule-III requirements,

**Thanks & Regards**  
**Ayushi Agarwal**

**THERE ARE NO LIMITS TO  
WHAT YOU CAN  
ACCOMPLISH, EXCEPT THE  
LIMITS YOU PLACE ON  
YOUR OWN THINKING**

**- BRAIN TRACY**

# Taxability of the Long Term Capital Gains arising from transfer of Long-term Capital Asset being an equity share in a company or a unit of an equity-oriented fund or a unit Of a business trust u/s 112A r.w.s 55(2)(ac)



## A. Introduction of Section 112A:

Under the earlier regime, that is, before FY 2018-19, Long Term Capital Gains arising from transfer of Long-Term Capital Assets being Equity Shares of a Company or a unit of equity-oriented fund or a unit of business trust, on which Securities Transaction Tax (STT) is paid, were exempted from tax under section 10(38).

**Sandhiya Raghunath**  
**SRO0592080**

The drawbacks due to the exemption provided by section 10(38) are as follows:

1. The Equity Investors enjoyed a long tax holidays, resulting in revenue loss to the Government.
2. Encouraged diversion of investment in financial assets. In consequence, it acted as a bias against the manufacturing sector
3. Significant erosion in the tax base

Hence to mitigate the tax arbitrage enjoyed by the equity investor and to curb the tax erosion, a new charging section 112A was introduced withdrawing the earlier exemption under section 10(38) in the Finance Budget 2018.

## B. Section 112A:

- Applicability: With effect from FY 2018-19 (AY 2019-20)
- Assets: Equity Shares of a Company / a unit of equity-oriented fund / a unit of business trust
- Tax rate: 10%
- Conditions for availing concessional tax rate @ 10% :
  - Capital Gains exceeds Rs. 1,00,000/-
  - In case of transfer of **equity share** in a Company, STT should be paid both on acquisition and transfer of such asset.
  - In case of a unit of **equity-oriented fund or a unit of business trust**, STT should be paid on transfer on such asset.

### **C. Grandfathering Effect u/s 55(2)(ac):**

The new Section 112A shall provide relaxation for assessee who had bought equity units before 01.02.2018 and transferred after 01.04.2018, that is, the Cost of Acquisition of units shall not necessarily be the actual cost, instead, adjusted Cost of Acquisition shall be adopted.

The “Adjusted Cost of Acquisition” has been explained in section 55(2)(ac). By this, assessee who had bought units before 01.02.2018 shall be relieved to the extent of adjusted cost of acquisition, which shall be higher than the cost.

To be precise, the Cost of acquisition deductible for units bought before 01.02.2018 and sold after 01.04.2018 as per section 55(2)(ac) shall be found out using the below mentioned formula,

“Higher of 1 and 2,

1. Cost of Acquisition of such asset, and
2. Lower of,
  - Fair market value of such asset as on 31.01.2018,
  - Full value of consideration / Sale Value of unit”.

Note:

- Fair Market Value of units shall be
  - The highest price of asset quoted on stock exchange as on 31.01.2018
  - In case there is no trading in such asset as on 31.01.2018, the last traded / latest price of such asset.
- Selling expenses not to be deducted while applying the above-mentioned formula for arriving at the cost of acquisition deductible, whereas, for calculating capital gains the selling expenses should be considered.

#### D. Requirements / Disclosures for filing ITR:

- In respect of capital assets (as specified u/s 112A) bought and sold after 01.04.2018, the capital gains shall be computed normally, that is,

$$\text{Long-term Capital Gains} = \text{Sale Consideration} (-) \text{Cost of Acquisition}$$

- Capital Gains of capital assets bought before 01.02.2018 and transferred after 01.04.2018 shall be computed as follows,

$$\text{Long-term Capital Gains} = \text{Sale Consideration} (-) \text{Cost of Acquisition Deductible}^*$$

\*as per section 55(2)(ac) – Refer Paragraph “C” above for formula

- In the above scenario, mentioning the ISIN Code of the Stock / Scrip bought before 01.02.2018 is mandatory for filing ITR.
- ISIN Code: ISIN Stands for “International Securities Identification Number”. ISIN is a 12-digit alpha numeric unique code that is used to identify securities of the company. All Indian Securities have ISIN that begins with ‘IN’.

#### E. Summary:

For more clarity, refer the below table:

- For Taxability:

Scenario	Date of Purchase	Date of Sale	Taxability of LTCG
I	Before 31.01.2018	Before 31.03.2018	Exempted under section 10(38)
II	Before 31.01.2018	After 01.04.2018	Capital gains exceeding Rs. 1,00,000 is taxable @ 10% considering Grandfathering effect.
III	After 01.04.2018	After 01.04.2018	Taxable as per section 112A

Example for calculation of Adjusted Cost of Acquisition Deductible:

Scrip Name	Cost [As per 55(2)(ac)(i)]	FMV as on 31.01.2018	Selling Price	Lower of B & C [As per Sec 55(2)(ac)(ii)]	Adjusted Cost of Acquisition for Sec 112A	Long Term Capital Gain or (Loss)
	A	B	C	D=Lower of 'B' or 'C'	E=Higher of 'A' or 'D'	F=(C-E)
ABC Ltd	100	500	1,000	500	500	500
XYZ Ltd	1,000	400	300	300	1,000	(700)

**Thanks & Regards**

**Sandhiya Raghunath**

IF YOU CAN'T FIGURE OUT  
YOUR PURPOSE, FIGURE OUT  
YOUR PASSION.  
IT WILL LEAD YOU RIGHT  
INTO YOUR PURPOSE

**- BISHOP T.D.JAKES**

## Multi Lateral Instruments

### What are Multi-Lateral Instruments:

Multilateral instruments (MLI) are an easy way to bring changes in the laws of different countries without having to change the existing laws in the rapidly changing global scene in the world. MLIs have been used to resolve issues or to commit to a change in the law or the way an issue should be tackled by the signatory countries to the MLIs. It is a fast and effective way to bring about changes based on the ever evolving issues across the world.



**Prithika J P**  
**SRO0576115**

### Need for Multi-Lateral Instruments:

The OECD Committee on Fiscal Affairs had given its recommendations to tackle BEPS through Action Plans to try to stabilise and remove double taxation and to improve communication of data across countries and encouraged them to adopt the same. All the signatory countries implemented the same by making amendments in their respective countries' taxation laws but one issue was still to be addressed for making the implementation a success; countries had to change their bilateral treaties with all the other signatory countries so that the implemented laws could be brought into force and not be side lined because if treaties were not changed, they would become more beneficial for the taxpayer and they would opt for the same thus making the changed law redundant. But changing every bilateral treaty is a tedious process and would take years as negotiations would take time. To speed up the process, an Ad hoc group was created with countries interested in development of an MLI for international taxation, which would act alongside the bilateral treaties and would override the same wherever the countries have agreed mutually to adopt the changes recommended by the OECD Committee.

### Features of Multi-Lateral Instruments:

MLI serves as the machinery provision for implementing the changes suggested by the OECD Committee for tackling BEPS into the existing treaty network. It was created to be a flexible instrument which would act in harmony with the existing bilateral treaties present between countries and not to make them irrelevant.

MLIs would modify the existing bilateral treaties between the parties to the MLI according to the jurisdiction's policy preferences with respect to implementation of tax treaty related BEPS policies. The flexibility provided being either of the following:

- To choose among alternative provisions in certain MLI articles
- To choose to apply optional provisions
- To choose to reserve the right to not apply MLI provision (i.e., to opt out through a reservation) with respect to all of their treaties or with respect to only some of the treaties with the possibility of withdrawing their reservation (i.e., opt in) at a later period.

### Structure of the Multi-Lateral Instrument:

Part	Particulars	Article
Part I	Scope and Interpretation of Terms	1 – Scope
		2 – Interpretation of Terms
Part II	Hybrid Mismatches	3 – Transparent Entities
		4 – Dual Resident Entities
		5 – Application of Methods for Elimination of Double Taxation
Part III	Treaty Abuse	6 – Purpose of Covered Tax Agreement
		7 – Prevention of Treaty Abuse
		8 – Dividend Transfer Transactions
		9 – Capital Gains from alienation of shares or interests of entities deriving their value principally from immovable property
		10 – Anti abuse rule for PEs situated in third jurisdiction
Part IV	Avoidance of PE Status	11 – Application of tax agreements to restrict a party's right to tax its own residents
		12 – Artificial avoidance of PE status through commissionaire arrangements and similar strategies
		13 - Artificial avoidance of PE status through the specific activity exemptions
		14 – Splitting up of contracts
		15 – Definition of person closely related to the enterprise

Part	Particulars	Article
Part V	Improving Dispute Resolution	16 – Mutual Agreement Procedure
		17 – Corresponding adjustments
Part VI	Arbitration	18 – Choice to apply Part VI
		19 – Mandatory binding arbitration
		20 – Appointment of arbitrators
		21 – Confidentiality of arbitration proceedings
		22 – Resolution of a case prior to the conclusion of the arbitration
		23 – Types of arbitration process
		24 – Agreement on a different resolution
		25 – Costs of arbitration proceedings
Part VII	Final Provisions	26 – Compatibility
		27 – Signature, Ratification, Acceptance or Approval
		28 – Reservations
		29 – Notifications
		30 – Subsequent modifications of covered tax agreements
		31 – Conference of the Parties
		32 – Interpretation and implementation
		33 – Amendment
		34 – Entry into force
		35 – Entry into effect
		36 – Entry into effect of Part VI
		37 – Withdrawal
		38 – Relation with Protocols
		39 – Depository

### **Entry into Force and Effective Date of Multi-Lateral Instruments:**

Article 34 and 35 of the MLI specify the entry into force and the effective date. MLI will apply only to those countries which have signed the MLI and also ratified the MLI in their domestic law and deposited such instrument of ratification with the OCED Depository.

**Entry into Force:** Upon deposit of the instrument of ratification, the MLI comes into force on the first day of the month following the expiry of 3 calendar months beginning on the date of such subsequent deposit.

#### **Effective Date:**

- a. For withholding of taxes: First day of next calendar year that begins on or after the latest of the dates on which the Convention enters into force for each of the Contracting Jurisdictions of the Covered Tax Agreement



- b. For other taxes: Taxable period that begins on or after the expiration of a period of 6 calendar months from the latest of the dates on which the Convention enters into force for each of the Contracting Jurisdictions of the Covered Tax Agreement

Entry of Force for India:

- Date of signing of MLI – June 7, 2017
- Deposit of instrument of ratification with the OECD Depository – June 25, 2019
- Entry of Force – October 1, 2019

Operation of Multi-Lateral Instruments:

For the application of Multi-Lateral instruments the following conditions needs to be satisfied:

- Both the contracting parties to the DTAA should be signatories to the MLI and it should have entered force
- Both the contracting parties should have notified each other's DTAA as Covered Tax Agreement
- Compatibility and Notification clause to be analysed regarding the provisions of Covered Tax Agreement that is to be modified by the MLI
- Identify if any reservation is made on the application of certain articles of the MLI by either of the contracting parties

**Understanding Key Terms:**

- Covered Tax Agreement (CTA): As per Article 2 of MLI, Covered Tax Agreement means:
  - An agreement for avoidance of double taxation with respect to taxes on income
  - That is in force between two or more parties / jurisdiction
  - With respect to which each party has notified to the Depository as a listed agreement to be covered under the MLI

It implies that each country needs to notify that DTAA with the other jurisdiction under the MLI, upon which the said DTAA will be Covered Tax Agreement for the purposes of the MLI. When India ratified the MLI, it notified 93 bilateral agreements to be covered by the MLI. They will be considered as a Covered Tax agreement only when the other jurisdiction also notifies their bilateral agreement with India to be covered in the scope of MLI when they ratify the same.

For Example: India has notified its bilateral agreement with Mauritius to be covered within the scope of the MLI but in return Mauritius has not notified the same. In this case, this cannot be called a covered tax agreement.

➤ Covered Tax Agreement (CTA):

Traditionally, when a DTAA is to be changed, both the countries are given flexibility to negotiate the terms regarding applicability of certain provisions to the respective countries. To make the countries sign the MLI, it also seeks to provide the same comfort regarding which provisions should be incorporated and transposed on to the already existing DTAA. This flexibility is given in the form of compatibility and reservation clause.

Compatibility clause has been put into place to avoid any conflicts between two DTAA's. It also gives an option to the party to not disturb an existing provision of the DTAA if it already serves the purpose of a particular MLI provision. There are 4 types of compatibility clauses which are:

Clause	Meaning and Effect	Notification Criteria
In Place Of	Replace an existing provision of the CTA with that of the mutually notified provisions of the MLI between two countries	Both the countries to notify to make MLI provisions applicable instead of the existing CTA provision
In The Absence Of	Enforce a new provision into the CTA, where such provision is absent in the CTA	Both the countries to notify to add the MLI provision to the existing CTA

Clause	Meaning and Effect	Notification Criteria
Applies To / Modifies	Relevant CTA provision will be modified by the MLI provision without replacing the CTA provision	Both the countries to notify to make MLI provisions applicable to the existing CTA provision
In Place Of Or In The Absence Of	Replace an existing provision in the CTA with that of the MLI. Where there is no such provision in the CTA, the MLI provisions will be added to the already existing CTA.	Even if no country notifies it or one of the countries notify it, the provision shall become applicable to the extent of incompatibility

➤ Reservation Clause: As per Vienna Convention of Law of Treaties, a reservation means:

- i. Unilateral statement made by the state
- ii. When signing / ratifying / accepting / approving / acceding to a MLI
- iii. Whereby it purports to exclude / modify the legal effect of certain provisions of the Convention

General rule of thumb of a MLI is that parties are bound by all the provision of the instrument unless one of the parties make a reservation to the same. Reservation can be made either partially or entirely and can apply either symmetrically (applies to both the reserving country and other countries to the Convention) and asymmetrically (in exceptional situations)

For Example: India has reserved its position on Article 3 – Transparent Entities so therefore it will not be added or modified in any of India’s existing DTAA as India has opted out.

➤ Minimum Standard:

This is the essence of the MLI and without which the object of the MLI will not be fulfilled. The objective of the minimum standard is bring consistency and therefore all the countries need to incorporate these minimum standard provisions in the MLI and ensure the elimination of double taxation by the tax evaders.

**Thanks & Regards**

**Prithika J P**