Income from Other Sources

Any Income not chargeable to tax under the other 4 heads of income (Salary, IFHP, PGBP and Capital Gains) will be taxable under the head IFOS.

I Incomes taxable under the head IFOS – *Illustrative list*

a) Dividend Income – *Refer 'Taxation of Dividends & Income from units'*

b) Casual Income taxable u/s 115BB – *Refer "Rates of taxes"*

c) Royalty Income

d) Interest on compensation/enhanced compensation on compulsory acquisition

- Taxable only in the year of receipt
- 50% of the same shall be allowed as deduction u/s 57

e) Income from sub-letting of house property

f) Income from letting out on hire of P&M or furniture

g) Income from letting out of furnished accommodation (if inseparable)

h) Interest on securities

i) Proceeds from Keyman Insurance Policy

(e) to (i): If not chargeable under other heads

j) Salary of MPs, MLAs or MLCs

k) Forfeiture of Advance money received after 1st April 2014 for transfer of capital assets

l) Compensation or any other payment received in connection with termination or modification of the terms and conditions of his employment *(If received from employer for employment, taxable under Salaries. If received in relation to business, taxable under PGBP.)*

m) Interest on Income Tax

n) Interest from any deposits made

Interest on Post office Savings exempt to the extent of:

- ₹ 3,500, if individual a/c
- ₹ 7,000, if joint a/c

o) Amount received under Family pension:

Allowed as deduction upto: LESS

1/3rd of pension received (or)

₹ 15,000

p) Premium on issue of shares

q) Gifts

Note:

1. Any expenditure incurred for earning the above income can be claimed as deduction *(except for casual Income taxable on gross basis u/s 115BB (and) Interest on compensation, Amount received under Family Pension for which deduction limit has been specified).*

2. It is not necessary that income should be earned during the year to allow the expenditure incurred.

[CIT v. Rajendra Prasad Moody (SC)]

3. However, Provisions of Secs 30 & 31 [Expense for Building, P&M, Furniture], Sec 37 [Residuary expense], Sec 40(a)(i)/(ia) [TDS default], 40(a)(iii) [TDS default on foreign Salary], 40A(2) [Payment to related person], 40A(3) [Cash payments], 41 [Deemed Income] shall apply *mutatis mutandis* to all expenditures sought to be claimed

- Where the company was statutorily required to keep share application money in a separate a/c until allotment was completed, any interest income earned from such deposit is incidental as the intention was to comply with the statute and not earn such interest income. Accordingly, interest earned is eligible to set-off against the public issue expenses and not taxed separately under IFOS *[CIT v. Sree Rama Multi Tech Ltd. (SC)]*
- Interest received u/s 28 of Land Acquisition Act, 1894 represents enhanced value of land and thus partakes the character of compensation and not interest. Hence, the same is liable to be taxed under Capital Gains and not IFOS. It is only Interest u/s 34 of Land Acquisition Act which is liable to be taxed under IFOS *[Movaliya Bhikhubhai Balabhai v. ITO (Guj HC)]*
- Any winnings from unsold lottery tickets held by distributor of lottery tickets cannot be said to be "income earned" in business. Receipt of prize money is not in his capacity as lottery distributor but as a holder of ticket which won the prize. Hence, it cannot be contended that the said winnings is business income. In any case, winnings from lotteries are assessed by special provisions of Sec 115BB irrespective of head it falls. Therefore, even if the same is business income, it shall continue to be taxed at 30% u/s 115BB *[CIT v. Manjoo and Co. (Kerala)]*

A. Section 56(2)(viib): Premium on issue of Shares

If a Closely Held Company issues any shares to a Resident person at a premium, then

Consideration received (-) FMV of the shares

shall be taxable in the hands of such company under IFOS

<u>Exception</u>: Sec 56(2)(viib) shall not apply to:

a) Considerations received by a Venture Capital Undertaking from:
   - Venture Capital Fund
   - Venture Capital Company
   - Category I or Category II Alternative Investment Fund

b) Consideration received by a Start-up Pvt. Ltd. co. working towards innovation, development, improvement of product, processes or service (or) with a high potential of employee generation or wealth creation (and) whose T/O ≤ ₹ 100 crores for 10 years since incorporation (and) fulfilling such other conditions as prescribed in the notification

Note: Where the above start-up fails to comply with any of the conditions given under notification, any income exempted earlier shall be taxable in the year of failure and it shall be deemed that the company has underreported such income, thereby becoming liable for penalty of 200% on the income u/s 270A of the Act.

Notes:

1. It is the Residential Status of the recipient that is relevant. Income will be taxable in the hands of closely held company even if shares were received by the Resident while being outside India.
2. FMV means FMV as computed under Rule 11UA
3. If shares are issued at premium, but total issue price is below FMV, there will be no income
4. "Closely held company", means a company in which public are not substantially interested.
5. Company in which public are substantially interested [Sec 2(18)] means:
   a) Company in which not less than 40% of shares are owned/held by Indian Govt. or RBI
   b) Company in which atleast 50% of voting power is held by co-operative societies
   c) Section 8 Companies
   d) Nidhi Co. or Mutual benefit co.
   e) Public Limited Company whose:
      - Shares are listed on a recognised stock exchange in India as on the last day of PY (or)
      - At least 50% of voting power is held by Govt, Statutory corporation, or any other company in which public are substantially interested (including their wholly owned subsidiaries) [40% in case of Ship construction, Goods manufacturing or processing, Mining, Power generation/distribution companies]
   f) Company declared by CBDT as such

Rule 11UA(2): Determination of FMV in case of Sec 56(2)(viib)

FMV of unquoted equity shares for the purpose of Sec 56(2)(viib) shall be (a) or (b), at the option of assessee

a) FMV as determined by merchant banker using Discounted Free Cash Flow method

b) $$[A - L] \times \frac{\text{Paid up value of each share}}{\text{Total Paid up share capital}}$$

Where,

A = Book value of all assets
(-) TDS / TCS Credit
(-) Advance Tax (net of refund claimed)
(-) Unamortised portion of deferred expenditure shown as asset

L = Book value of all liabilities
(-) Paid up equity capital
(-) Proposed Dividend
(-) Reserve & Surplus
(-) Provision for tax
(-) Provision for unascertained liabilities
(-) Any Contingent liabilities

For the purpose of determining the FMV of unquoted equity shares, Book value of assets and liabilities shall be determined basis the balance sheet drawn up on the valuation date and audited by the auditor of the company. In case where the balance sheet is not drawn up, the last drawn balance sheet which has been approved and adopted in the AGM can be taken.

B. Section 56(2)(x): Taxation of Gifts

Gifts received by Any person in the form of:

- **Money [without consideration]**
  - If Total Money received during the year > ₹ 50,000, whole of money taxable
- **Specified Movable Property (Note 1)**
  - If Nil Consideration
    If Agg. FMV of all Properties received during the year > ₹ 50,000, whole FMV taxable
  - If Inadequate Consideration
    If [Agg. FMV (-) Consideration] all Properties received during the year > ₹ 50,000, such difference taxable
- **Immovable Property [Land and/or Building]**
  - If Nil Consideration
    If SDV of each Property > ₹ 50,000, whole SDV taxable
  - If Inadequate Consideration
    If [SDV (-) Consideration] of each Property is > ₹ 50,000,
    AND
    SDV > 110%* of Consideration,
    [SDV (-) Consideration] shall be taxable

*In case the asset acquired is a "residential unit" which was:

- Transferred by a person who held such unit as stock in trade
- Transfer took place during the period 12 November 2020 – 30 June 2021
- By way of First time allotment of such residential unit and
- The consideration paid for transfer was upto ₹ 2 crores

the limit of "110%" shall be substituted with "120%" of the Consideration.

Notes:

1. Above exception only applies if the buyer of residential unit holds the asset as capital asset (Since Sec 56(2)(x) does not apply on Stock in trade)
2. For meaning of residential unit, refer *"PGBP Chapter"*

Special Points:

Following gifts not covered under IFOS

a) Gifts received by employee from employer in course of employment → Taxable under Income from Salary (without any exceptions):
   - fully (in case received in cash)
   - if it exceeds ₹ 5,000 (in case received in kind)

b) Any benefit/ perquisite/ arising from business or profession → Taxable under PGBP (without any exceptions)

Note:

1. Specified Movable Property means: *[BA PASS DJ]*
   i) Bullion
   ii) Archaeological Collections
   iii) Paintings
   iv) Any work of Art
   v) Shares and Securities
   vi) Sculptures
   vii) Drawings
   viii) Jewellery

   Only these specified movable properties shall be taxable. Any other property like Car, Mobile Phone, T.V, Furniture, etc. shall not be taxable regardless of the consideration difference

2. In case of Immovable Property:
   a) SDV as on date of agreement or registration? — *Same as Sec 50C*
   b) Reference to Valuation Officer — *Refer "Capital Gains"*

3. Money/Property shall not be taxable if received: *[DIRT MINT LO]*
   a) D – In contemplation of Death
   b) I – Under Will or Inheritance
   c) R – From any Relative*
   d) T – From or by Trust regd. u/s 12AB
   e) M – On occasion of Marriage

   Wedding Anniversary gift fully taxable

   f) I – From Individual by a trust created solely for benefit of relative of individual

g) N – From or by any Fund, Foundation, University, Educational Institution, Hospital, Medical Institution referred to in Sec 10(23C) [Non-profit entities]

h) T – By way of transaction not regarded as transfer u/s 47(i) / (iv) / (v) / (vi) / (via) / (viaa) / (vib) / (vic) / (vica) / (vicb) / (vid) / (vii)/ (viiac)/ (viiad)/ (viiae)/ (viiaf)

i) L – From Local Authority defined u/s 10(20)

j) O – Such class of persons and conditions as may be prescribed (Others)

→ Land or Building received by resident of unauthorised colony in National Capital Territory of Delhi, where CG has regularised transactions of such immovable property for conferring or recognising right of ownership/transfer/mortgage in favour of such resident based on latest POA, Sale Agreement, Will, possession, etc. evidencing payments of consideration

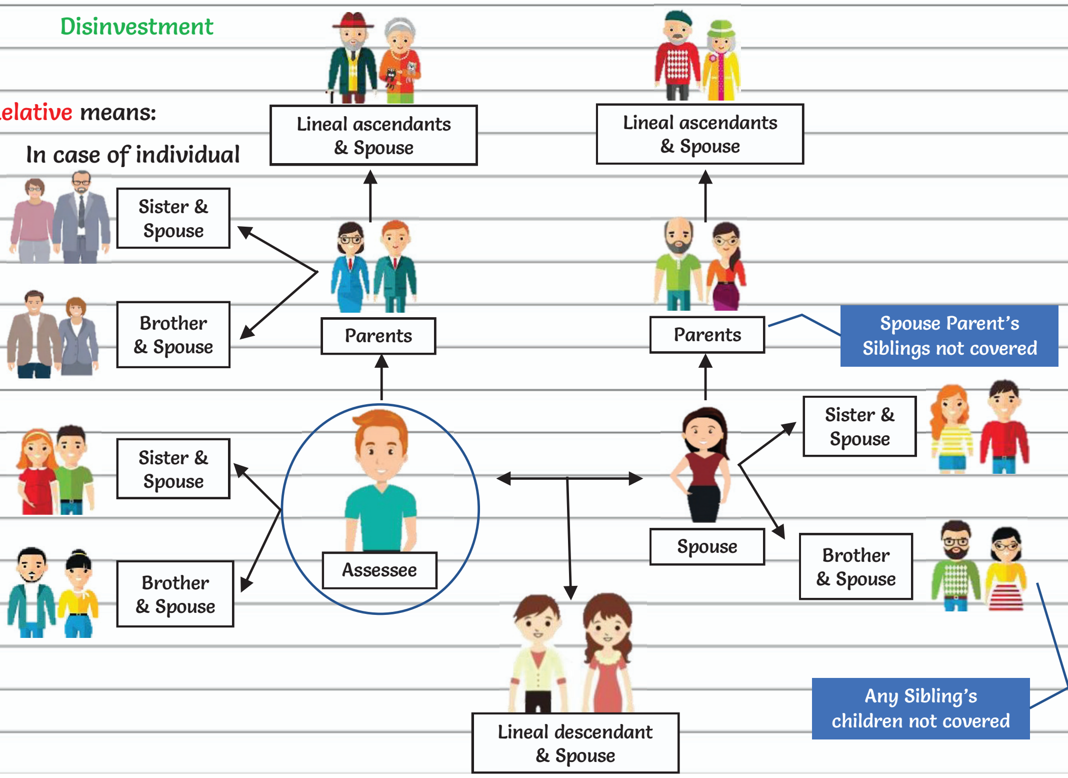
→ Receipt of Unquoted shares of company and its subsidiary and step down subsidiary by a shareholder where the NCLT on an application by CG has suspended the BOD of such company and appointed new directors nominated by CG and the shares so received are pursuant to resolution plan approved by NCLT after providing the PCIT/CIT an opportunity of being heard

→ Equity shares of Yes Bank Limited received by the investor as per the Yes Bank Limited Reconstruction Scheme, 2020

→ Equity shares of public sector company received by any person from the Govt. under Strategic Disinvestment

*Relative means:

a) In case of individual



b) In case of HUF → Any member of HUF

4. Sec 56(2)(x) applies only when the property is capital asset in the hands of the recipient. Not applicable when asset is stock-in-trade, raw material, consumable store of business of recipient *(No restriction on transferor. If asset trfd is capital asset, 50C applies. If stock in trade, 43CA applies)*

5. Where any Income in relation to capital asset has been subject to tax u/s 56(2)(x), such income shall be added to the COA of the Asset of the receiver. *[Sec 49]*.

   Also, POH in such case shall commence only from the year of receiving the asset and not from previous owner.

Issuing of bonus shares by capitalization of reserves is merely a reallocation of the company's funds. There is no inflow of fresh funds or increase in the capital employed. There is no addition or alteration to the profit-making apparatus and the total funds available with the company remain the same. Therefore, provisions of sec 56(2)(x) would not be attracted in the hands of the shareholders on receipt of bonus shares *[PCIT v. Dr. Ranjan Pai (Kar. HC)]*

Rule 11UA(1): Determination of FMV in case of Sec 56(2)(x)

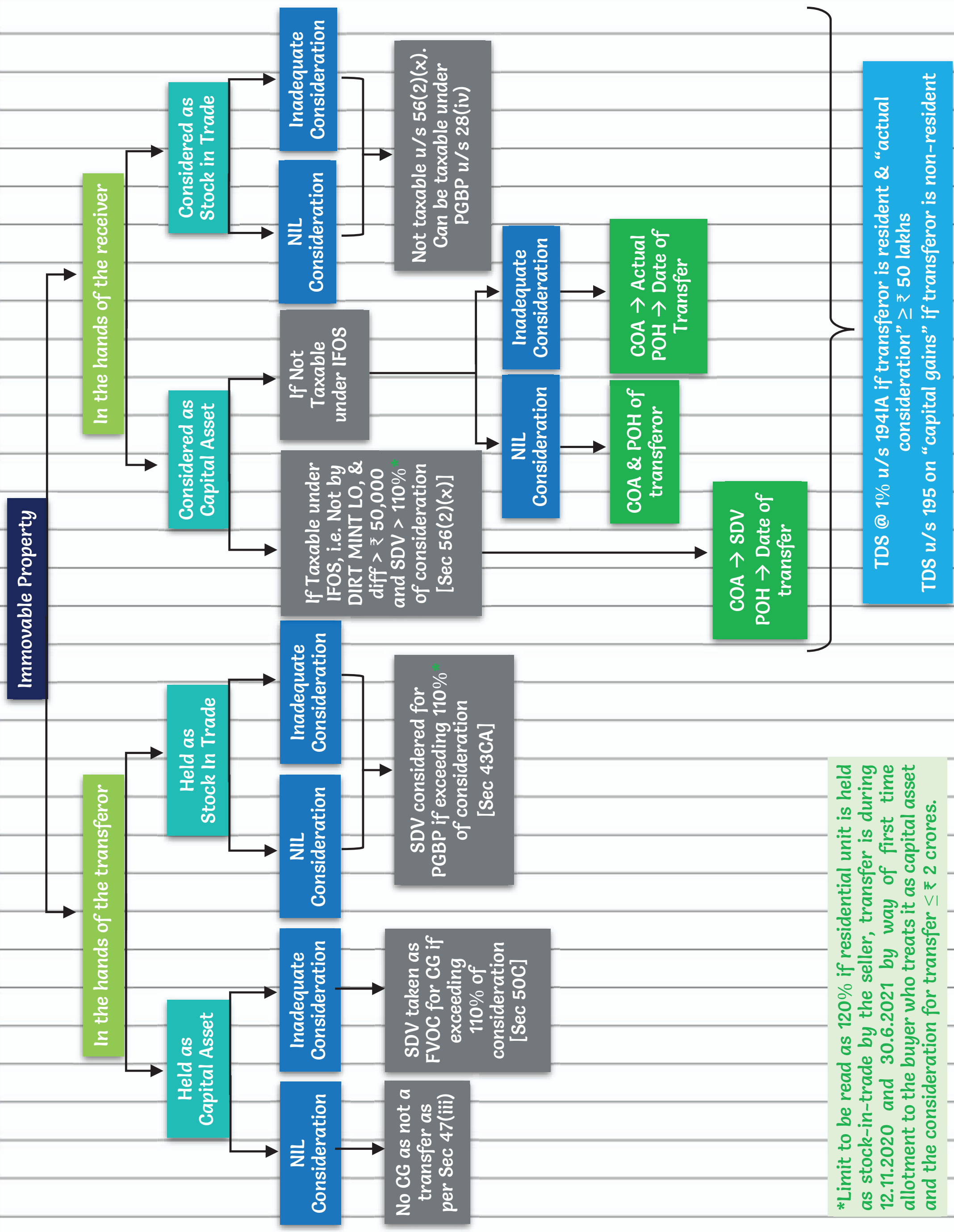
Asset Type	*FMV*
A. Jewellery, archaeological collections, drawings, paintings, sculptures or any work of art	
i) General	Price it would fetch if sold in the open market
ii) Purchase from registered dealer	Invoice value
iii) Received by any other mode and value exceeds ₹ 50,000	Price it would fetch if sold in the open market basis valuation report
B. Shares & Securities	
i) All Quoted shares and securities	
a) If received from transaction carried out in recognised stock exchange	Transaction value recorded in such stock exchange
b) Others	Lowest Price quoted on recog. Stock exchange If no trading on specified date → Consider lowest price on day when shares were last traded
ii) Unquoted equity shares	$(A + B + C + D - L) \times \dfrac{\text{Paid up value of each share}}{\text{Total Paid up share capital}}$

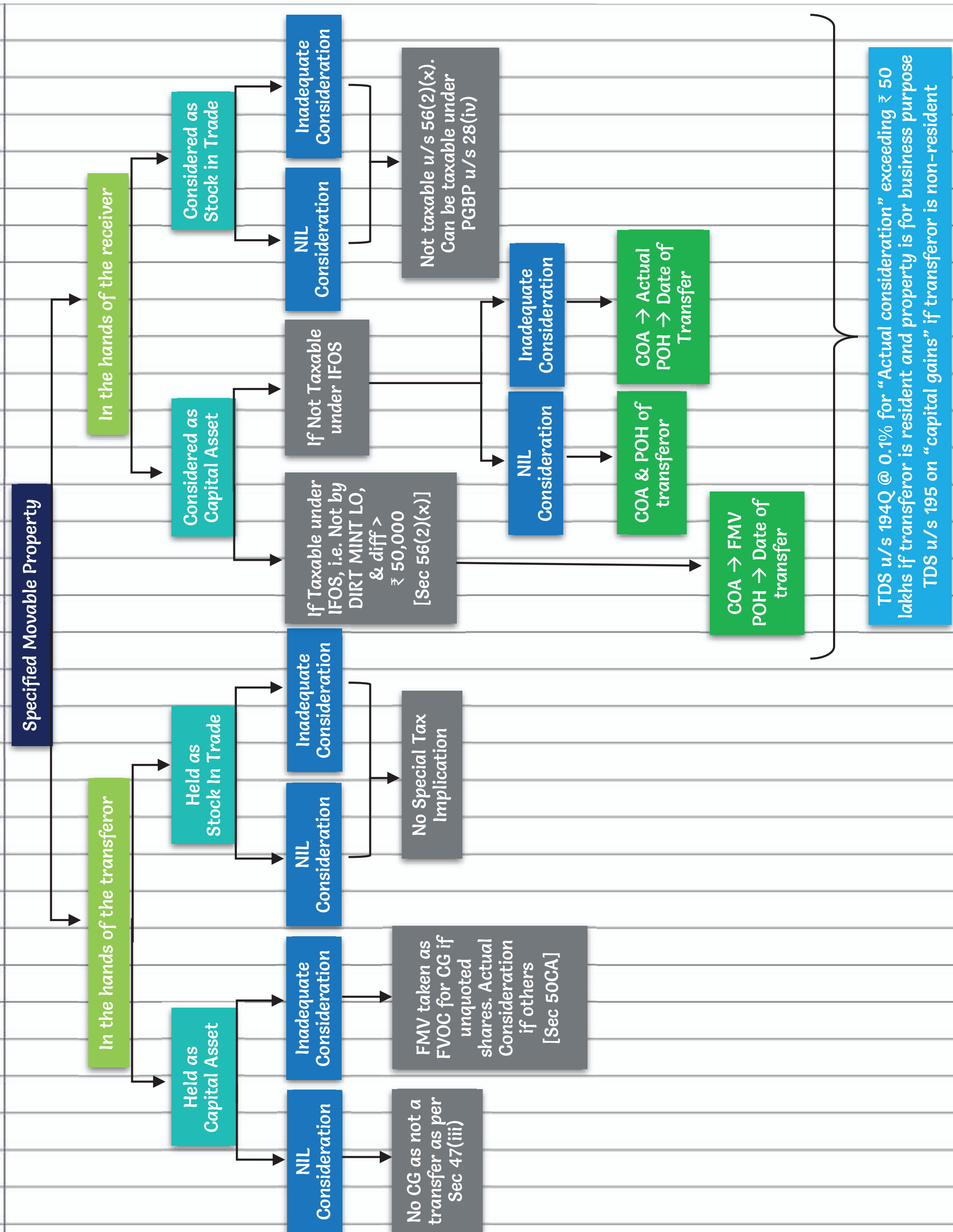
Asset Type	FMV
	where,
	A = Book value of all assets
	(-) Immovable Property & Specified Movable property
	(-) TDS / TCS Credit
	(-) Advance Tax (net of refund claimed)
	(-) Unamortised portion of deferred expenditure shown as asset
	B = Price jewellery and artistic work would fetch if sold in the open market basis valuation report
	C = FMV of shares and securities computed in this Rule
	D = SDV of immovable property
	L = Book value of all liabilities
	(-) Paid up capital of equity shares
	(-) Proposed Dividend
	(-) Reserve & Surplus
	(-) Provision for tax
	(-) Provision for unascertained liabilities
	(-) Any Contingent liabilities
iii) Other Unquoted shares & securities	Price it would fetch if sold in the open market basis valuation report

Notes:

1. For the purpose of determining the FMV of unquoted equity shares, Book value of assets and liabilities shall be determined basis the balance sheet drawn up on the valuation date and audited by the auditor of the company
2. FMV shall be computed as on the date on which the propoerty/consideration is received

➢ Interplay between CG, PGBP, IFOS and TDS




Specified Movable Property
In the hands of the receiver
Considered as Stock in Trade
Inadequate Consideration
NIL Consideration
Not taxable u/s 56(2)(x). Can be taxable under PGBP u/s 28(iv)
Considered as Capital Asset
If Not Taxable under IFOS
Inadequate Consideration
COA → Actual POH → Date of Transfer
NIL Consideration
COA & POH of transferor
If Taxable under IFOS, i.e. Not by DIRT MINT LO, & diff > ₹ 50,000 [Sec 56(2)(x)]
COA → FMV POH → Date of transfer
TDS u/s 194Q @ 0.1% for "Actual consideration" exceeding ₹ 50 lakhs if transferor is resident and property is for business purpose TDS u/s 195 on "capital gains" if transferor is non-resident
In the hands of the transferor
Held as Stock In Trade
Inadequate Consideration
NIL Consideration
No Special Tax Implication
Held as Capital Asset
Inadequate Consideration
FMV taken as FVOC for CG if unquoted shares. Actual Consideration if others [Sec 50CA]
NIL Consideration
No CG as not a transfer as per Sec 47(iii)