



Section 8: Income on receipt of Capital Asset or Stock-in-trade by Specified Person from Specified Entity.

Sub-section	Concept	Comprehensive Details & Nuances
8(1)	Deemed Transfer on Dissolution or Reconstitution	<ul style="list-style-type: none"> ▪ Where <ul style="list-style-type: none"> ➤ a specified person receives during the tax year any capital asset, stock-in-trade, or both ➤ from a specified entity ➤ in connection with the dissolution or reconstitution of that entity, the specified entity is deemed to have transferred these assets to the person. ▪ The transfer is recognized strictly in the tax year the assets are actually received by the specified person.
8(2)	Taxability and Heads of Income	<ul style="list-style-type: none"> ▪ Any profits and gains arising from this [8(1)] deemed transfer are treated as <ul style="list-style-type: none"> ➤ the income of the specified entity ➤ in the tax year of receipt (by S. Person). ▪ This income is chargeable to income tax under either the head <ul style="list-style-type: none"> ➤ "Profits and gains of business or profession" or ➤ "Capital gains".
8(3)	Valuation of Consideration	<ul style="list-style-type: none"> ▪ The fair market value (FMV) of the capital asset or stock-in-trade <ul style="list-style-type: none"> ➤ exactly on the date of its receipt by the specified person ➤ is deemed to be the full value of the consideration received or accruing ➤ as a result of such [8(1)] deemed transfer.
8(4)	Power to Issue Guidelines	<p>To remove any difficulty in giving effect to the provisions of this section and section 67(10), the Board is authorized to issue guidelines. However, this strictly requires the previous approval of the Central Government.</p> <p><i>[67(10): Computation of capital gains when a specified person receives any money or capital asset, or both, from a specified entity in connection with the reconstitution of such specified entity]</i></p>
8(5)	Parliamentary Oversight	<ul style="list-style-type: none"> ▪ Every guideline issued by the Board u/8(4) must be laid before each House of Parliament <ul style="list-style-type: none"> ➤ while it is in session for a total period of 30 days ➤ (which can be comprised in one session or in two or more successive sessions). ▪ If both Houses agree (before the expiry of the following session) <ul style="list-style-type: none"> ➤ to modify or annul the guideline, ➤ it takes effect only in the modified form or becomes of no effect, ➤ without prejudice to the validity of anything previously done under that guideline.
8(6)(a) & (b)	Definitions: Specified Entity & Specified Person	<ul style="list-style-type: none"> ▪ Specified Entity: Means <ul style="list-style-type: none"> ➤ a firm, ➤ other association of persons (AOP), or ➤ body of individuals (BOI), <div style="margin-left: 100px;">} explicitly excluding companies and co-operative societies.</div> ▪ Specified Person: Means a person who is <ul style="list-style-type: none"> ➤ a partner of a firm or ➤ a member of an AOP or BOI in any tax year.
8(6)(c)	Definition: Reconstitution	<ul style="list-style-type: none"> ▪ A reconstitution of the specified entity means when:



	of the Entity	<p>(1) Exit: One or more of its partners or members ceases to be partners or members.</p> <p>(2) Admission with Continuity: New partners or members are admitted, provided that one or more of the original partners/members continue in their roles after the change.</p> <p>(3) Change in Profit Sharing: All original partners or members continue, but there is a change in their respective shares or the shares of some of them.</p>
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