

PROFITS AND GAINS OF BUSINESS OR PROFESSION (SECTIONS 28 – 44DB)

For Departmental Exam - A.Y. 2019-20

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DISCUSSION ON

- **Chargeability**
- **Definitions**
- **Relevant Sections**
- **Other Sections.**



BASIS OF CHARGE (SECTION 28)

(i) Profit and Gains of any Business or Profession carried on by the assessee;

(ii) any compensation or other payment due to or received by,—

(a) any person managing the affairs of an Indian company in connection with the termination / modification;

(b) any person managing the affairs in India of any other company in connection with the termination / modification;

(c) any person holding an agency in India for any part of the activities relating to the business of any other person in connection with the termination / modification;

(d) any person in connection with the vesting in the Government, or in any corporation owned or controlled by the Govt., under any law for the time being in force, of the management of any property or business ;

(e) any person in connection with the termination / modification of any contract relating to his business;



BASIS OF CHARGE (SECTION 28)

(iii) income derived by a trade, professional or similar association from specific services performed for its members ;

(iiia) profits on sale of a license granted under the Imports (Control) Order, 1955, made under the Imports and Exports (Control) Act, 1947;

(iiib) cash assistance received or receivable by any person against exports under any scheme of the Government of India;

(iiic) any duty of customs or excise re-paid or re-payable as **drawback** to any person against exports under the Customs and Central Excise Duties Drawback Rules, 1971;

(iiid) any profit on the **transfer** of the Duty Entitlement Pass Book Scheme, being the Duty Remission Scheme under the export and import policy formulated and announced u/s 5 of the Foreign Trade (Development and Regulation) Act, 1992;

(iiie) any profit on the **transfer** of the Duty Free Replenishment Certificate, being the Duty Remission Scheme under the export and import policy formulated and announced u/s 5 of the Foreign Trade (Development and Regulation) Act, 1992;

BASIS OF CHARGE (SECTION 28)

- (iv) Value of any benefit / perquisite, whether convertible into money or not, arising from business / profession.
- (v) Interest, Salary, Bonus, Commission or Remuneration due to or received by a partner of a firm from such firm.
- (va) Sum received or receivable in cash or kind for
 - a) not carrying out any activity;
 - b) not sharing any knowhow's, patent, copyright, etc.
- (vi) Sum Received under 'Keyman Insurance Policy'.
- (via) The FMV of inventory as on the date on which it is converted into capital asset determined in the prescribed manner;
- (vii) Any sum, whether received / receivable, in cash or kind, on account of any capital asset (other than land or goodwill or financial instrument) being demolished, destroyed, discarded or transferred, if the whole of the expenditure on such capital asset has been allowed as a deduction under section 35AD.



BUSINESS & PROFESSION - DEFINITIONS

- **Business – Sec.2(13).**

includes any Trade, Commerce or Manufacture or any adventure or concern in the nature of Trade, Commerce or Manufacture.

- **Manufacture – Sec.2(29BA)**

means a change in a non-living physical object or article or thing –

Resulting in transformation of it into a new and distinct object or article or thing having a different name, character and use or

Bringing into existence of a new and distinct object or article or thing with a different chemical composition or integral structure.



BUSINESS & PROFESSION - DEFINITIONS

- **Adventure** in the nature of trade and commerce:

It means even a single activity can be also called as a business. That is, it is not necessary that the activity should be carried out regularly and continuously. Even if there is an isolated transaction then also it is liable to be called for business.

- **Profession – Sec.2(36)** Includes vocation.

- **Vocation:**

is an activity in which an assessee has specialized skill for earning Income.



BUSINESS & PROFESSION - DEFINITIONS

- As per **Sec.43(5)**,

Speculative business means a transaction in which a contract for the purchase or sale of any commodity, including stocks and shares, is periodically or ultimately settled otherwise than by the actual delivery or transfer of the commodity or scrip.



METHOD OF ACCOUNTING – SEC.145

(1). Two methods of accounting:

- **Cash system:** Income and expenses recorded on receipt / payment basis;
- **Mercantile system:** Income and expenses are recorded on accrual basis.

Income under this head should be calculated on the basis of method **regularly** employed by the assessee.

(2). The Central Government may notify income computation and disclosure standards to be followed by assessee in respect of any class of income.

(3). Where the AO is not satisfied about the correctness or completeness of the accounts of the assessee, or where the method of accounting provided in sub-section (1) has not been regularly followed by the assessee, or income has not been computed in accordance with the standards notified under sub-section (2), the AO may make an assessment in the manner provided in section 144.

HOW TO COMPUTE INCOME UNDER PGBP – SEC. 29

The income referred to in section 28 shall be computed in accordance with the provisions contained in sections 30 to 43D.



DEDUCTIONS ALLOWABLE

- ❑ **Rent, Rates, Taxes & Insurance of Building (u/s 30)**
 - Deduction is allowed in respect of these expenditures if incurred for the purpose of business or profession
 - Rent of building is not deductible if the building is owned by the assessee.

- ❑ **Repairs and Insurance of Machinery, Plant and Furniture (u/s 31):**
 - Allowable expenditure includes expenditure on current repairs and not capital expenditure and Insurance on P&M and Furniture used for business purpose.

Capital expenditure on repair is not deductible.



DEPRECIATION (SEC. 32)

Following conditions are to be fulfilled.

- a) Assessee must be owner of the Asset.
- b) Asset must be used for the purpose of Business or Profession.
- c) Such use must be in the relevant previous year.



DEPRECIATION

Deprecation is allowed in respect of

- a) Building
- b) Plant & Machinery
- c) Furniture
- d) Motor Vehicles
- e) Computers
- f) Intangibles



DEPRECIATION

Depreciation is allowed on the Written Down Value of Block of Assets

Opening WDV	XX
Add : Purchases during the year	XX
Less: Sales during the year	<u>XX</u>
Closing WDV	XX

Note: If the Asset is put to use for less than 180 Days in the year, depreciation will be allowed at 50% of the eligible rate.



DEPRECIATION RATES

Asset	Rate of Depreciation
Residential Building	5%
Office, Factory, Godown or Buildings not used for residential purpose	10%
Purely temporary construction e.g. wooden structures	40%
Furniture (including Electrical fittings)	10%
P&M: Motor cars other than used for running them on hire	15%
P&M : Ocean going ship, vessel operating on inland water & speed boat	20%
P&M : Buses, Lorry & Taxis used in the business of running them on hire	30%
P&M : Aeroplane, commercial vehicle and life saving medical equipment	40%
P&M : Computers including softwares	40%
P&M: Books	40%
P&M : Others	15%
Intangible assets – Knowhow, patents, copyrights, trademark, license	25%

DEPRECIATION(CONTD..)

Exceptions:

- No Depreciation is admissible when WDV has been reduced to Nil though Block of Assets does not cease to exist on the last day of the Previous year.
- If Block of Assets cease to exist or all Assets of the Block have been transferred and block is empty, No Depreciation is admissible.
- ***In case of transfer of assets due to succession, amalgamation, business reorganization or demerger, depreciation is first calculated as if there is no transfer and the amount of depreciation shall be apportioned between predecessor and successor in the ratio of no. of days of holding the asset.***



EXAMPLE

- M/s. ABC & Co. own six machines, put in use for business. Rate of depreciation is 15%. WDV of these machines as on 1st April, 2018 was Rs. 7,00,000. A new plant was bought for Rs. 9,00,000 on 30th June, 2018 and put to use on the same day. Three machines were sold on 10th July, 2018 for Rs. 10,00,000. You are required to determine the depreciation and the closing WDV.

<u>Solution:</u>	(A.Y. 2019-20)	Rs.
Opening WDV		7,00,000
Add : Purchases during the year	(+)	9,00,000
Less: Sales during the year	(-)	<u>10,00,000</u>
WDV before depreciation		6,00,000
Less: Depreciation @ 15%	(-)	<u>90,000</u>
Closing WDV		5,10,000



EXAMPLE

- In the previous question, what will be your answer, if the new machine was bought in November, 2018?

○ <u>Solution:</u>	(A.Y. 2019-20)	Rs.
Opening WDV		7,00,000
Add : Purchases during the year	(+)	9,00,000
Less: Sales during the year	(-)	<u>10,00,000</u>
WDV before depreciation		6,00,000
Less: Depreciation @ 15% / 2*	(-)	<u>45,000</u>
Closing WDV		5,55,000

*Why?



EXAMPLE

- A Sole Prop. concern, whose WDV of block of asset as on 01-04-2018 (15% rate of depreciation) is Rs.3,00,000, purchased another asset of same block on 15/10/18 for Rs.1,00,000. The concern is succeeded by the company on 1/11/18. Compute depreciation available to Prop. concern and to the company for A.Y 2019-20.
- **Soln.:** **(A.Y. 2019-20)**

(Assuming as if no succession)		Rs.
Opening WDV		3,00,000
Add : Purchases during the year	(+)	<u>1,00,000</u>
WDV before depreciation		<u>4,00,000</u>
Depreciation @ 15% on 3 lakhs & 7.5% on 1 lakh		52,500



EXAMPLE

○ Apportionment between Prop. Concern & Company

Particulars	Prop. Concern	Company
No. of days	1.4.2018 to 31.10.2018 = 214 days	1.11.2018 to 31.3.2019 = 151 days
Apportionment on op. block	$45,000 \times 214/365 = 26,384$	$45,000 \times 151/365 = 18,616$
No. of days	15.10.18 to 31.10.2018 = 17 days	1.11.2018 to 31.3.2019 = 151 days
Apportionment on new asset	$7,500 \times 17/168 = 759$	$7,500 \times 151/168 = 6,741$
Total depreciation	$26,384 + 759 = 27,143$	$18,616 + 6,741 = 25,357$



ADDITIONAL DEPRECIATION

As per sec.32(1)(iia), Additional Depreciation @ 20 % of Actual Cost of New Plant & Machinery acquired and installed after 31.03.2005 for

- a) New Industrial Undertaking
- b) Existing Industrial Undertaking.

Conditions to be fulfilled for Additional Depreciation:

- The assessee must be engaged in manufacturing, production of any article.
- Generation or transmission or distribution of power.
- It should be an eligible P&M.

Provided, if it is set up (between 1.4.2015 & 31.03.2020) in states of Andhra Pradesh / Telangana / Bihar / West Bengal, additional depreciation is 35%.

ADDITIONAL DEPRECIATION (CONTD..)

- Additional depreciation is not available in the case of ships, aircrafts, second hand assets, assets installed in office, residence, guesthouse, office appliances, road transport vehicles, and those assets which are qualified by 100% deduction in the first year.
- **Note:** If the asset is put to use for less than 180 days in the year in which it is acquired, the rate of additional depreciation will be 10%



EXAMPLE

C Ltd., a mfg. concern, is working since 2016 in TN. The block (Plant 15%) has WDV as on 1/4/2018: Rs.10,00,000. Calculate depreciation, if it has purchased the following plants:

Assets	Date of Acqn. & put to use	Cost
Plant A	07/04/2018	6,00,000
Plant B	07/12/2018	2,00,000

<u>Solution:</u>	(A.Y. 2019-20)	Rs.
Opening WDV		10,00,000
Add : Purchases during the year	(+)	<u>8,00,000</u>
WDV before depreciation		18,00,000
Less: Depreciation		
@ 15% on 16 lakhs & 7.5% on 2 lakhs	(-) 2,55,000	<u>3,95,000</u>
Less: Additional Depreciation		
@ 20% on 6 lakhs & 10% on 2 lakhs	(-) <u>1,40,000</u>	
Closing WDV		14,05,000

***If the balance (10%) addl dep. will be allowed in next year?**

DEPRECIATION IN CASE OF POWER GENERATING UNITS – SEC.32

A power generating unit shall have the option to claim depreciation either on the basis of

- SLM method on each asset; or
- WDV method on block of the assets

Option once exercised cannot be changed subsequently.

- a) Concept of 180 days shall be applicable here also.
- b) Rate of depreciation for SLM shall be as prescribed under Income Tax Act.
- c) Additional depreciation shall not be available if SLM is opted.



IN CASE OF POWER GENERATING UNITS – TREATMENT IN CASE OF SALE OF ASSET

Where Assessee has opted for 'SLM for each asset', tax treatment on sale of assets, shall be as given below:

Case I: If the sale price is less than its WDV

- The difference between the sale price and WDV shall be considered to be terminal depreciation and shall be allowed to be debited to the profit and loss account.

Case II: If the sale price is more than its WDV but

- The difference between the sale price and WDV shall be taxable as income u/h PGBP as per section 41 (2) (Such income is referred to as balancing charge)

Case III: If the sale price is more than its WDV and also exceeds the actual cost of the asset

- The difference between the actual cost of the assets and its WDV shall be taxable as income u/h PGBP as per section 41(2) (such income is called as 'balancing charge')
- The difference between the sale price of the asset and its actual cost shall be taxable as capital gains as per section 50A does not exceed the actual cost of the assets

EXAMPLE

X Ltd. is a power-generating unit. On 1-4-2016, it purchased a plant for Rs. 40,00,000 eligible for depreciation @ 15% on SLM. Compute terminal depreciation if the plant is sold on 21/4/2018 for Rs.9,90,000. What if it is sold for A] Rs.35,00,000 B) Rs.42,00,000

<u>Solution:</u>	(A.Y. 2019-20)	Rs.
Opening WDV		28,00,000
Less: Sales during the year	(-)	<u>9,90,000</u>
Terminal depreciation		18,10,000
(A) Opening WDV		28,00,000
Less: Sales during the year	(-)	<u>35,00,000</u>
Balance		(-) 7,00,000
Balancing charge		7,00,000



EXAMPLE

<u>Solution:</u>	(A.Y. 2019-20)	Rs.
(B) Opening WDV		28,00,000
Less: Sales during the year	(-)	<u>42,00,000</u>
Balance		(-) 14,00,000
Balancing charge		12,00,000
Short term capital gain		2,00,000



UNABSORBED DEPRECIATION – SEC.32(2)

- Depreciation allowance is first deductible from the income.
- If it is not fully deductible under the head Profits and Gains of Business or Profession because of absence or inadequacy of the profits, it is deductible from Income chargeable under other Heads (except Income under the head Salaries) in the same assessment year;
- If depreciation allowance is still unabsorbed, it can be carried forward to the subsequent assessment years by the same assessee.
- No time limit is fixed for the purpose of carrying forward of unabsorbed depreciation



ORDER OF PRIORITY

- Current Year Depreciation;
- Brought forward Business loss;
- Unabsorbed Depreciation.



INVESTMENT IN NEW PLANT & MACHINERY – SEC. 32 AD

Eligible Aseeesee	All Assesses (Corporate & Non-Corporates)
Investment In	New Plant & Machinery acquired and installed in Backward areas i.e. AP, Telangana, Bihar & WB.
Investment Period	PYs 2015-16 to 2019-20
Amount of Investment	No limit (Any Amount)
Deduction	15% of cost of New Plant & Machinery



TEA/COFFEE/RUBBER DEVELOPMENT ACCOUNT [SEC. 33AB]

Assessee	Growing and Manufacturing Tea/Coffee/Rubber in India
Conditions	Deposit with NABARD or Deposit Account under scheme framed by Tea/Coffee/Rubber board within 6 months from end of P.Y. or before due date of filing return, whichever is earlier
Deduction	Amount deposited as above or 40% profits of such business before 33AB, whichever is less.
Restriction on utilization of Amount deposited	Amount withdrawn to be utilised as per the scheme. Purchase of following shall be deemed to be Business income. i. P & M to be installed in Office or Residence, ii. Office appliance (other than computer), iii. P & M, whole of cost as dedn. under Business in one year iv. P & M for mfg. an article specified in XI Schedule.
Withdrawal of deduction	Amount withdrawn not utilised for, 1. Specified purposes shall be Business Income of that P.Y. 2. Asset sold before 8 years from end of P.Y. in which acquired, deduction claimed w.r.t cost, Business Income of P.Y. of sale.

EXAMPLE

X ltd is engaged in the business of growing and manufacturing tea in India. Total income from the business before allowing deduction u/s33AB of Rs.1 crore for pre. Year 2018-19. The company deposited 30 lakhs with NABARD on 24.5.2019. Compute Taxable Income.

<u>Solution:</u>	(A.Y. 2019-20)	Rs.
Income from business before deduction		1,00,00,000
Less: Dedn. u/s 33AB		
40% of Rs.1 crore or Rs. 30 lakhs	(-)	<u>30,00,000</u>
Income after deduction		70,00,000

Taxable income (Rule 8) 40% of 70 lakhs: 28,00,000



SITE RESTORATION FUND [SEC. 33ABA]

Assessee	Prospecting or Extraction or production of Petroleum or Natural Gas or both in India
Conditions	Deposit in SBI in a Spl. A/c under scheme framed by Ministry of Petroleum & Natural Gas or In a site restoration account opened as per the scheme of above ministry before end of previous year .
Deduction	Amount deposited as above or 20% profits of such business before 33ABA, whichever is less.
Restriction on utilization of Amount deposited	Amount withdrawn to be utilised as per the scheme. Purchase of following shall be deemed to be Business income. i. P & M to be installed in Office or Residence, ii. Office appliance (other than computer), iii. P & M, whole of cost as dedn. under Business in one year iv. P & M for mfg. an article specified in XI Schedule.
Withdrawal of deduction	Amount withdrawn not utilised for, 1. Specified purposes shall be Business Income of that P.Y. 2. Asset sold before 8 years from end of P.Y. in which acquired, deduction claimed w.r.t cost, Business Income of P.Y. of sale.

EXPENDITURE OF SCIENTIFIC RESEARCH [SEC.35]

Scientific research carried out by assessee i.e. In-house Scientific Research (has to be related to Assessee Business)

Pre commencement (3 years prior to date of commencement of Business)	
Revenue expenditure Section 35(1)(i)	Capital Expenditure Section 35(1)(iv)
Salary of Research Staff & Purchase of Material for scientific Research only	Any Capital expenditure except Land
Deduction in P/Y of commencement	Deduction in P/Y of commencement

- Note:**
1. Salary **does not include perquisites**
 2. Such revenue expenditure has to be certified by **prescribed author**

EXPENDITURE OF SCIENTIFIC RESEARCH [SEC.35]

Scientific research carried out by assessee i.e. In-house Scientific Research (has to be related to Assessee Business)

Post commencement (On or after date of commencement)	
Revenue Expenditure Section 35(1)(i)	Capital Expenditure Section 35(1)(iv)
All Revenue Expenditure	Any Capital expenditure except Land
Deduction in P/Y in which incurred	Deduction in P/Y in which incurred



EXAMPLE

Mr. X is engaged in paper business and commenced production on 1st Dec., 2018. He has incurred the following exp. on scientific research.

- 1. Salary of research staff from 1st December 2015 to 30th November, 2018 : Rs.6,00,000 (out of which Rs.2,00,000 certified)
- 2. Purchase of research material from 1st December, 2015 to 30th November, 2018 : Rs.3,00,000 (out of which Rs.2,50,000 certified)
- 3. On 15th Feb, 19, the assessee purchases a plot of land for Rs.6,00,000 and a Laboratory building is constructed (cost Rs.8,70,000 & Date of Completion 25th March 19) to do in-house scientific research. Compute deduction u/s 35 for A.Y 2019-20.

○ **Soln: Exp. Allowable u/s 35 for A.Y. 2019-20** **Rs.**

Salary of research staff	2,00,000
Purchase of research material	2,50,000
Purchases of plot of land	Not allowed
Construction of Laboratory building	<u>8,70,000</u>
Total exp. to be allowed in AY 19-20	13,20,000

What about perquisite, if any?



DONATION/ CONTRIBUTION TO RESEARCH ASSOCIATIONS [SEC.35]

(Related or Unrelated to Assessee business)

Section 35(1)(ii)	Section 35(1)(iii)	Section 35 (2AA)	Section 35(1)(ia)
<i>Approved Research association/ University /College for scientific research</i>	Approved Research association /University, Institution for Social science or statistical research	National Laboratory or University or IIT for approved Scientific Research Programme	Indian company having main object of scientific research & development & approved by prescribed authority
150% of amount paid allowed WEF A/Y 21/22 : 100%	100% of amount paid allowed	150% of amount paid allowed WEF A/Y 21/22 : 100%	100% of amount paid allowed



SPECIAL PROVISION FOR COMPANIES-SEC.35(2AB)

If any **Company** is engaged in the business of

- **bio-technology**; or
- in **manufacturing** of any product except the goods mentioned in eleventh schedule of Income-tax Act; and
- company is engaged in **approved research**

In such cases, the A shall be allowed to **debit 150% of the amount** of expenditure incurred on scientific research.

Points to Note

- a) Expenditure incurred on **land** shall not be allowed under this section.
- b) Expenditure on **building** is allowed at **100%**
- c) In case of expenditure incurred before commencement of business, Assessee shall be allowed to debit 100% of expenditure incurred i.e. deduction @ **150% is not allowed on pre-commencement expenditure.**

EXPENDITURE FOR OBTAINING TELECOM LICENSE SEC.35(ABB)

Capital Expenditure ACTUALLY INCURRED to acquire Telecom license

Before commencement of business

After commencement of business

Period of Deduction

Deduction shall be available from **P/Y in which business commences** to P/Y in which license expire

Period of Deduction

Deduction from **P/Y in which license fee actually paid** to P/Y in which license expires

Amount of deduction

= License fees actually paid /

No. of previous years in above period

Amount of deduction

= License fees actually paid /

No. of previous years in above period



EXPENDITURE FOR OBTAINING RIGHT TO USE SPECTRUM TELECOM SERVICES SEC.35(ABA)

- Capital expenditure, incurred for acquiring any right to use spectrum for telecommunication services either before the commencement of the business or thereafter at any time during any previous year and for which payment has actually been made to obtain a right to use spectrum, there shall be allowed for each of the relevant previous years, a deduction equal to the appropriate fraction of the amount of such expenditure.



DEDUCTION OF CAPITAL EXPENDITURE OF SPECIFIED BUSINESS [SEC.35AD]

- 1) Setting up & operating **Cold Chain facility** for specified product
- 2) Setting up & operating agriculture **Warehousing facilities**
- 3) Laying & operating **Cross-country Natural Gas/Crude / Petroleum** pipeline network for distribution, including storage facility
- 4) Building and operating a **Hotel** of two-star or above category anywhere in India as classified by the Central Government

(Where the assessee builds a hotel and subsequently, while continuing to own the hotel, transfers the operation thereof to another person, assessee shall be deemed to be carrying on Hotel Business)
- 5) Building and operating a **Hospital** with at least 100 beds for patients



DEDUCTION OF CAPITAL EXPENDITURE OF SPECIFIED BUSINESS [SEC.35AD]

- 6) Developing and building a **Housing project** under a scheme for **slum redevelopment or rehabilitation** framed by Government and notified by Board
- 7) Developing and building **Affordable housing project** under a scheme framed by Government & notified by Board
- 8) **Production of fertilizer in India**
- 9) **Setting up and operating inland container depot or a container freight station notified under Customs Act**
- 10) Bee-keeping and production of honey and beeswax
- 11) Setting up and operating a sugar warehouse



DEDUCTION OF CAPITAL EXPENDITURE OF SPECIFIED BUSINESS [SEC.35AD]

- 12) Laying and operating a slurry pipeline for transportation of iron ore
- 13) Setting up and operating a **semi-conductor wafer fabrication manufacturing** unit and is notified by the Board
- 14) Developing or operating and maintaining or developing, operating and maintaining, any **infrastructure facility**

Infrastructure facility means –

- (i) **Road including toll road, bridge or rail system;**
- (ii) **Highway project including housing or other activities being an integral part of the highway project;**
- (iii) **Water supply project, water treatment system, irrigation project, sanitation and sewerage system or solid waste management system;**
- (iv) **Port, airport, inland waterway, inland port or navigational channel in sea**



DEDUCTION OF CAPITAL EXPENDITURE OF SPECIFIED BUSINESS [SEC.35AD]

Note-1: The following **capital expenditure shall not be allowed** - Acquisition of any land; or Goodwill; or Financial instrument.

Note-2: Any expenditure in respect of which payment or **aggregate of payment** made to a **person** of an amount **exceeding INR 10,000** in a **day** otherwise than by account payee cheque drawn on a bank or an account payee bank draft or use of electronic clearing system through a bank account **would not be eligible for deduction.**

Note-3: The Assessee shall not be allowed deductions u/s10AA and under chapter VI-A under the heading 'C' i.e. the following deductions are not allowed [Section 80-IA, 80-IAB, 80-IB, 80-IC, 80-ID, 80-IE, 80JJA, 80JJAA, 80QQB, 80RRB and 10AA].



PAYMENT TO ASSOCIATIONS FOR RURAL DEVELOPMENT PLANS [SEC.35CCA]

Deduction for payment of sum to

1. Association whose object is to undertake Rural Development Program *approved by prescribed authority*
2. Association engaged in Training of persons for implementing Rural Development Program
3. Rural Development Fund set up by Central Govt.
4. National Urban Poverty Eradication Fund Set up by Central Govt.



EXPENDITURE ON AGRICULTURAL EXTENSION PROJECT [SEC.35CCC]

(1) Where an assessee incurs any expenditure on agricultural extension project notified by the Board in this behalf in accordance with prescribed guidelines , then, there shall be allowed a deduction of **150% such expenditure.**

(2) Where a deduction under this section is claimed and allowed for any A/Y in respect of any expenditure referred to in sub-section (1), deduction shall not be allowed in respect of such expenditure under any other provisions of this Act for the same or any other A/Y.

(3) W.E.F A/Y 21-22 : 100% deduction



EXPENDITURE ON SKILL DEVELOPMENT PROJECT [SEC.35CCD]

(1) Where a company incurs any expenditure (not being expenditure in the nature of cost of any land or building) on any skill development project notified by the Board in this behalf in accordance with prescribed guidelines , then, there shall be allowed a deduction of **150% such expenditure.**

(2) Where a deduction under this section is claimed and allowed for any A/Y in respect of any expenditure referred to above, deduction shall not be allowed in respect of such expenditure under any other provisions of this Act for the same or any other A/Y.

(3) W.E.F A/Y 21-22 : 100% deduction.



AMORTIZATION OF CERTAIN PRELIMINARY EXPENSES [SEC.35D]

- Preliminary expenses mean expenditure incurred before commencement of business.
- Such expenses are allowed to be debited in 5 annual equal instalments starting from the year of commencement of business.
- Such expenses are allowed only to Resident Assessee i.e. it is not allowed to non-residents and to foreign company.

Only the notified expenditure incurred before commencement of business shall be allowed:

1. Expenditure in connection with reports.
2. Legal charges for drafting any agreement related to setting up the business.

Maximum expenditure allowed shall be upto 5% of the project cost but an Indian Company has the option to take 5% of the capital employed.

EXAMPLE

Tax Ltd. has incurred expenditure of Rs.30,00,000 and its project cost is Rs.100,00,000 and capital employed is Rs.120,00,000.

Compute the deduction allowable u/s 35D.

Ans:

Deduction allowable = Rs.1,20,00,000 * 5% = Rs.6,00,000

Instalment Amount to be claimed in each of 5 years will be Rs.1,20,000.



EXPENDITURE ON AMALGAMATION OR DEMERGER [SEC.35DD]

- **Indian Company** incurs expenditure *wholly & exclusively* for amalgamation or demerger.
- Deduction shall be allowed of such expenditure in **5 equal annual installments** starting from P/Y of amalgamation or demerger.



EXPENDITURE FOR VRS SCHEME [SEC.35DDA]

- **Any assessee** incurs expenditure for payment of sum under V.R.S.
- Deduction shall be allowed of such expenditure in **5 equal annual installments** starting from the P/Y in which amount paid.



DEDUCTION FOR PROSPECTING MINERALS [SEC.35E]

Indian Com. or non-corporate Resident assessee engaged in Production of any specified mineral.(Sch. VII)

Incurs exp. for prospecting / extraction / production during year of commercial production or 4 p/y prior to such production.

Expenditure does **not** include the following :

1. Expenditure of capital nature in respect of any building, machinery, plant or furniture for which allowance by way of depreciation is admissible u/s 32.
2. Expenditure on the acquisition of the site of the source of any such specified mineral
3. Any expenditure which is met directly or indirectly by any other person or authority

Deduction : 10% of qualifying expenditure allowed for 10 years starting from previous year of commercial production



OTHER DEDUCTIONS – SEC. 36(1)

- (i) Insurance premium paid to cover the risk of damage or destruction of Stock/Stores.
 - (ia) Ins.prm. covering life of cattle of a member of co-op. society engaged in supplying milk to federal milk coops.
 - (ib) Insurance Premium on health of employees. (conditions)
- (ii) Bonus or Commission paid to Employees (conditions)
- (iii) Interest* on Capital borrowed for the purpose of business
- (iv) Employer's Contribution to Recognized Provident Fund and Approved Superannuation Fund.
 - (iva) Employer's Contribution towards Pension Scheme
 - (v) Employer's Contribution to Approved Gratuity Fund
 - (va) Employee's contribution to staff welfare scheme.
- (vi) Allowance in respect of animals which have died or become permanently useless.



OTHER DEDUCTIONS – SEC. 36(1)

(vii) Bad Debts.

(viiia) Provision for bad and doubtful debts created by certain banks, financial institutions and NBFC.

(ix) Expenditure on promotion of Family Planning among employees (Revenue exp – Fully; Capital exp – 1/5)

(xv) Securities Transaction Tax paid

(xvii) Amount of expenditure incurred by a co-operative society engaged in the business of manufacture of sugar for purchase of sugarcane.



EXAMPLE

Mr. X is engaged in paper business and commenced production on 1st Dec., 2018. He has incurred the following exp. on scientific research.

- 1. Salary of research staff from 1st December 2015 to 30th November, 2018 : Rs.6,00,000 (out of which Rs.2,00,000 certified)
- 2. Purchase of research material from 1st December, 2015 to 30th November, 2018 : Rs.3,00,000 (out of which Rs.2,50,000 certified)
- 3. On 15th Feb, 19, the assessee purchases a plot of land for Rs.6,00,000 and a Laboratory building is constructed (cost: Rs.8,70,000 & Date of Completion 25th March 19) to do in-house scientific research. Compute deduction u/s 35 for A.Y 2019-20.

○ **Soln: Exp. Allowable u/s 35 for A.Y. 2019-20** **Rs.**

Salary of research staff	2,00,000
Purchase of research material	2,50,000
Purchases of plot of land	Not allowed
Construction of Laboratory building	<u>8,70,000</u>
Total exp. to be allowed in AY 19-20	13,20,000



EXAMPLES

- 1. An employer has paid premium in cash on 7th February, 2019 towards insurance on the health of its employees for an amount of Rs.9,900. Deduction u/s 36(1) for A.Y 2019-20 is..**
- 2. A company has taken loan of Rs. 1 crore from bank on 1st February, 2019 @12% p.a. for purchase of P& M. The same was purchased on 1st March, 2019 and installed on 1st May, 2019. Compute deduction u/s 36(1) for A.Y 2019-20 & A.Y.2020-21 assuming that EMI is paid regularly.**
- 3. A company has taken loan of Rs. 1 crore from bank on 1st Feb. 2019 @12% p.a. for business. As it is not able to pay the EMI for two months viz., Feb. & March, 2019, interest for the two months was converted as loan (increased loan amount) and EMI has been regularly paid by the company thereafter. Deduction u/s 36(1) for A.Y 19-20 is..**
- 4. Mr. X uses a horse for his business. It was purchased in year 2015 at Rs.40,000. It died on 30/11/2018 & its carcass was sold for Rs. 5,000. Compute dedn. u/s 36(1) for A.Y 19-20.**
- 5. Mr. Y had given advance of Rs. 20,000 to one of his customers. He became insolvent and therefore could not return the money. Mr. Y writes off the debt as bad in his books.**
- 6. Mr. Z sells goods on credit. Out of total credit sales, one credit sale was made to Mr. A of Rs. 25,000, who has become insolvent. Mr. Z writes off Rs. 25,000 as bad debt in his books.**

EXAMPLES

Employee contrbn. of RPF for	Amount	Paid on	Employer contrbn. of RPF for	Amount	Paid on
April, 2018	10,000	15 th May, 2018	April, 2018	10,000	15 th May, 2018
May, 2018	10,000	15 th June, 2018	May, 2018	10,000	15 th July, 2018
June, 2018	10,000	15 th Aug., 2018	June, 2018	10,000	15 th Sept., 2018
July, 2018	10,000	15 th Mar., 2019	July, 2018	10,000	31 st Aug, 2019
Aug., 2018 to March, 2019	10,000 each	31 st July, 2019	Aug., 2018 to March, 2019	10,000 each	31 st Dec.2019

Prepared by M. Veerabhadra, ITO, DTRTI, Chennai.

If employer is a company, compute the deduction allowable u/s 36.



GENERAL EXPENSES U/S 37

Conditions to be fulfilled

1. Expenditure should not be in the nature prescribed u/s 30 to 36
2. Not a Capital Expenditure
3. Not Personal Expenditure
4. Should have been incurred in the previous year
5. Wholly & Exclusively for the purpose of Business / Profession
6. Should not have been incurred for any purpose which is an offence or is prohibited by any law



ADVERTISEMENT EXPENSES - SEC. 37(2B)

Deduction is not allowed in respect of expenditure incurred by an assessee on advertisement in any souvenir, brochure, tract, pamphlet or like published by a political party.

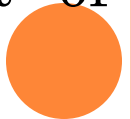


BUILDING, ETC., PARTLY USED FOR BUSINESS, ETC., OR NOT EXCLUSIVELY SO USED. - SEC. 38

(1) Where a part of any premises is used as dwelling house by the assessee,—

- (a) the deduction u/s 30(a)(i), in the case of rent, shall be such amount as the AO may determine proportionate annual value of the part used for the purpose of the business / profession, and in the case of any sum paid for repairs, such sum as is proportionate to the part of the premises used for the purpose of the business / profession;
- (b) the deduction u/s 30(b) shall be such sum as the AO may determine having regard to the part so used.

(2) Where any building, machinery, plant or furniture is not exclusively used for the purposes of the business / profession, the deductions u/s 30(a)(ii), 30(c), 31(i), 31(ii) and 32(1)(ii) shall be restricted proportionately which the AO may determine, having regard to the user of such building, machinery, plant or furniture for the purposes of the business / profession.



DISALLOWANCE – SEC. 40

Payment to Non-Resident without TDS - 40(a)(i):

- Any interest, royalty, fees for technical services or sum (other than salary) payable outside India or to a non-resident, which is chargeable to tax in India in the hands of the recipient, shall not be allowed to be deducted if it was paid without deduction of tax at source or if tax was deducted but not deposited with the Central Government till the due date of filing of return.
- However, if tax is deducted in subsequent year or deposited after due date for filing ROI, as the case may be, the expenditure shall be allowed as deduction in that year.



EXAMPLES

Interest payments for loan taken by Mr. X from non-resident

Date of payment	Amount	Date of TDS	Date of deposit into Govt.	Dedn. Allowable In the P.Y.
25/5/18	50,000	25/5/18	7/6/18	
26/6/18	60,000	26/6/18	10/7/18	
15/8/18	1,00,000	Not deducted	NA	
20/9/18	80,000	20/9/18	Not deposited	
15/2/19	20,000	15/2/19	30/4/19	
31/3/19	25,000	31/3/19	15/9/19	

EXAMPLES

Interest payments for loan taken by Mr. X from non-resident

Date of payment	Amount	Date of TDS	Date of deposit into Govt.	Dedn. Allowable In the P.Y.
25/5/18	50,000	25/5/18	7/6/18	50,000 allowed in PY 18-19
26/6/18	60,000	26/6/18	10/7/18	60,000 allowed in PY 18-19
15/8/18	1,00,000	Not deducted	NA	Nil
20/9/18	80,000	20/9/18	Not deposited	Nil
15/2/19	20,000	15/2/19	30/4/19	20,000 allowed in PY 18-19
31/3/19	25,000	31/3/19	15/9/19	25,000 allowed in PY 19-20

DISALLOWANCE – SEC. 40

Payment to Resident without TDS - 40(a)(ia):

- Any sum payable to a resident, which is subject to deduction of tax at source, would attract 30% disallowance if it was paid without deduction of tax at source or if tax was deducted but not deposited with the Central Government till the due date of filing of return.
- However, where in respect of any such sum, tax is deducted in subsequent year or deposited after due date for filing ROI, as the case may be, the expenditure so disallowed shall be allowed as deduction in that year.

(contd...)



DISALLOWANCE U/S 40

Payment to Resident without TDS u/s.40(a)(ia):

- Case 1 - If tax is deductible but not actually deducted, 30% of the expenditure will be disallowed in the current Previous year.
- Case 2 - If tax is deducted but not deposited before the submission of return of income, 30% of the expenditure will be disallowed.
- The amount which is disallowed in Case 1 or Case 2 during the current year, will be allowed as deduction in the year in which tax is deposited.

(contd...)



EXAMPLES

Interest payments for loan taken by Mr. X from resident

Date of payment	Amount	Date of TDS	Date of deposit into Govt.	
25/5/18	50,000	25/5/18	7/6/18	
26/6/18	60,000	26/6/18	10/7/18	
15/8/18	1,00,000	Not deducted	NA	
20/9/18	80,000	20/9/18	Not deposited	
15/2/19	20,000	15/2/19	30/4/19	
31/3/19	10,000	31/3/19	15/9/19	

EXAMPLES

Interest payments for loan taken by Mr. X from resident


Date of payment	Amount	Date of TDS	Date of deposit into Govt.	Dedn. Allowable In the P.Y.
25/5/18	50,000	25/5/18	7/6/18	50,000 allowed in PY 18-19
26/6/18	60,000	26/6/18	10/7/18	60,000 allowed in PY 18-19
15/8/18	1,00,000	Not deducted	NA	Nil
20/9/18	80,000	20/9/18	Not deposited	Nil
15/2/19	20,000	15/2/19	30/4/19	20,000 allowed in PY 18-19
31/3/19	10,000	31/3/19	15/9/19	7,000 allowed in PY 18-19 3,000 allowed in PY 19-20

DISALLOWANCE U/S 40

Payment to Resident without TDS u/s.40(a)(ia):

A relief is given in Case 1, if the payer is not deemed to be an assessee-in-default u/s 201(1). if -

- a. the resident recipient has furnished ROI u/s 139.
- b. the resident recipient has taken into account the above income in such return of income.
- c. the resident recipient has paid tax due on the income &
- d. the payer furnishes a certificate to this effect from a C.A. in the prescribed form.

If the above conditions are satisfied, then it shall be deemed that the payer has deducted and paid the tax on such amount on the date of furnishing the return of income. 

DISALLOWANCE U/S 40

- Wealth-Tax and any other tax similar nature are not deductible [Sec.40(a)(iia)]
- Salary payable to Non-resident or payable outside India : Not deductible if TDS is not made and / or is not paid to Government. [Sec.40(a)(iii)]
- Payments to provident fund or other funds for employees' benefit shall not be deductible if no effective arrangements have been made to ensure deduction of at source from payments made from such funds to employees which shall be chargeable to tax as 'salaries'. [Sec.40(a)(iv)]
- Tax on perquisites paid by employer: Not deductible for the employer. [Sec.40(a)(v)]



DISALLOWANCE U/S 40

Sec. 40(b) – In the case of partnership firm,

Salary and Interest to Partners : Deductible, subject to ...

- a) Payment should be permitted by Partnership Deed.
- b) Rate of interest should not be more than 12% (excess interest will be disallowed).
- c) Salary and Remuneration cannot exceed specified percentage of book profit, if the aggregate payment exceeds Rs. 1,50,000/- .

Maximum remuneration to partners which is deductible –

- On first Rs. 3 lakhs of book profit (or loss) : Rs.1,50,000 or 90% of book profit, whichever is more.
- On the balance of book profit : 60% of book profit.

How to calculate the book profit?

What about AOP / BOI?



COMPUTATION OF BOOK PROFIT

	Net Profit (or Loss) as per P & L A/c			XXX
Add:	Remuneration to Partners, if debited to P & L A/c	+	XXX	
Add:	Interest on Partners' capital, if debited, in excess of 12% rate	+	XXX	
Less:	Other heads income (such as HP, OS, CG), if credited	-	XXX	
Adjust:	As per chapter IV D (sections 28 to 44DB)	+/-	<u>XXX</u>	_____
	Book Profit			XXX

DISALLOWANCE U/S 40

Sec. 40A(2): Payment to a relative / specified person:

- Expenditure by which payment is made to Specified Person
- AO may disallow so much expenditure as he consider Excessive/Unreasonable having regard to FMV of goods/service for which payment is made

The person covered in this category are-

1. If any individual has made any payment to his relative.
2. If the assessee is a Company, Firm, AOP or HUF etc. and it has made payment to any director of the Company, partner of the Firm or member of the AOP or HUF or any relative of such director, partner, member etc.
3. If any person made payment to any other person who has substantial interest in the business of the assessee.

A Person has Substantial Interest in

è Company, if he holds at any time during the P.Y beneficial ownership of at least 20% Equity Shares in that company.

è Other than company, if he is at any time during the P.Y. entitled to at least 20% profits

DISALLOWANCE U/S 40

Sec. 40A(3): Expenditure exceeding Rs.10,000 paid by a mode other than A/c Payee cheque/Draft:

- Where the assessee incurs any expenditure in respect of which a payment or aggregate of payments made to a person in a day, otherwise than by an account payee cheque drawn on a bank or account payee bank draft, or use of electronic clearing system through a bank account [or through such other electronic mode], exceeds Rs.10,000/-, no deduction shall be allowed in respect of such expenditure.
- The limit is Rs. 35,000/- in the case of payment made for plying, hiring or leasing goods carriage.
- Exceptions are in Rule 6DD.



EXAMPLES

Please find the amount to be disallowed in each of the following

- 1. Mr A, who is carrying on business, purchases goods at Rs.8 lakhs from his brother. FMV of similar goods is Rs.7 lakhs.**
- 2. Mr X holds 30% equity shares of Y Ltd. Mr X purchases goods worth Rs. 5,00,000 from Y Ltd at Rs. 500 per article. The Market value of such article is Rs. 300 per article.**
- 3. A company has paid Rs.30,000 in cash to a goods transport agency for transportation of goods.**
- 4. An A has paid salary of Rs.15,000 to an employee by bearer cheque.**
- 5. A firm purchased goods on 1st March, 2019 for Rs.14,000 and Rs.9,000 was paid in cash in the morning and Rs.5,000 was paid in cash in the evening.**

EXAMPLES

Please find the amount to be disallowed in each of the following

- 1. Mr. Ram purchased goods worth Rs.75,000 on 01.01.2019 and payment was made Rs.60,000 on 03.01.2019 by account payee cheque and Rs.5,000 in cash on 03.01.2019 and Rs.10,000 in cash on 05.01.2019.**
- 2. An assessee has purchased goods on 30th March, 2018 for Rs.45,000 and Rs.30,000 was paid by a/c payee cheque on that day. Rs.15,000 was paid in cash on 1st April, 2019.**
- 3. Mr S, who is carrying on business, purchases goods at Rs.5 lakhs from his brother. FMV of similar goods is Rs.4.5 lakhs; Rs. 5 lakhs was paid in cash.**
- 4. What if a company acquires P & M or any other capital asset by paying cash (or otherwise than by a/c payee cheque, etc.) in excess of Rs.10,000?**

DISALLOWANCE U/S 40A

- Provision made for payment of gratuity – Sec. 40A(7):
Not deductible – if not approved / not payable in the P.Y.
- Employers contribution to non-statutory funds / unrecognized Provident Fund – Sec. 40A(9): Not deductible.
- Any marked to market loss or other expected loss except as allowable u/s 36(1) - Sec. 40A(13): Not deductible.



DEEMED PROFITS CHARGEABLE UNDER PGBP

Sec. 41(1): Remission or cessation of liability in respect of any loss, expenditure or a trading liability incurred.

Sec. 41(2): Balancing Charge (Power generation/ SLM)

Sec. 41(3): Sale of Capital Asset used for Scientific Research

Sec. 41(4): Where bad debts have been allowed u/s 36(1)(vii) in earlier years, any recovery of the same.

Sec. 41(5): Loss of P/Y in which business ceases to exist can be set off against the above deemed incomes (exception to 8 years time limit).



EXAMPLES

Determine which of the following would be taxable.

- 1. Mr X had claimed a deduction of Rs. 50,000 paid as Indirect Tax for P/Y 17-18 and the same was allowed as deduction to him. Mr. X receives a refund of Rs. 10,000 on 15/11/2018 from the Tax department.**
- 2. Mr Y purchased a machine to be used for scientific research for Rs.15,00,000 on 15/06/2017. It ceases to be used for scientific research on 18/12/2018 and therefore sold for Rs.18,00,000 on the same day.**
- 3. Mr. Z had recovered an amount of Rs.7 lakhs in P.Y. 2018-19 from one of his old customers, who did not pay for his purchases made in P.Y. 2015-16 of Rs. 10 lakhs and the same was written off by Mr. Z as bad debts in P.Y. 2017-18.**



EXAMPLE

Mr X purchased a machine to be used for scientific research for Rs.15,00,000 on 15/06/17. It ceases to be used for scientific research on 20/05/18 and thereafter is brought into Mr X's business on the same day. The eligible depreciation on such machine is 15% and WDV of 15% block as on 01-04-18 is Rs.20,00,000. The Machine is sold on 05-01-2019 for Rs.10,00,000. Determine tax treatment for A/Y 19-20.

<u>Soln:</u>	A.Y. 2019-20	Rs.
Opening WDV		20,00,000
Add : Actual cost of P &M brought into business		0
Less : Sale of machine		<u>10,00,000</u>
Closing WDV before depreciation		10,00,000
Less: Depreciation @ 15%		<u>1,50,000</u>
Closing WDV after depreciation		10,00,000

Depreciation to be allowed this year Rs.1,50,000.



EXAMPLE

Mr X's business was discontinued on 31/10/2008 because it was running into losses. The business loss for P.Y.2008-09 was Rs. 5,000. On 20/11/2018 Mr. X receives a debt of Rs. 40,000 from a debtor which was allowed as bad debt u/s 36(1) for P.Y 05-06. Determine business income for A/Y 19-20.

<u>Soln:</u>	A.Y. 2019-20	Rs.
Recovery of bad debt u/s 41(4)		40,000
Less : Set off of business loss of P/y 08/09		<u>5,000</u>
Taxable Business Income		35,000



DEEMED PROFITS CHARGEABLE UNDER PGBP

Sec. 43 AA: Any foreign exchange gain or loss arising in respect of specified foreign currency transactions shall be treated as income or loss.

Such gain or loss shall be computed in accordance with notified ICDS during the current P.Y.



DEEMED PROFITS CHARGEABLE UNDER PGBP

Sec. 43 CA : Full Value of Consideration on Transfer of Assets (other than capital assets)

- Where consideration for transfer of land/building/both as stock-in-trade is less than the stamp duty value, the value so adopted shall be deemed to be the full value of consideration for the purpose of computing income.
- However, no such adjustment is required to be made if value adopted for stamp duty purposes does not exceed 105%* of the sale consideration.
- **Please note the change from A.Y. 2021-22**



COMPUTATION OF INCOME FROM CONSTRUCTION AND SERVICE CONTRACTS [SEC. 43CB]

(1) The profits and gains arising from a construction contract or a contract for providing services shall be determined on the basis of percentage of completion method in accordance with the ICDS notified u/s 145(2) :

- Provided that profits and gains arising from a contract for providing services, –
- (i) with duration of not more than 90 days shall be determined on the basis of project completion method;
- (ii) involving indeterminate number of acts over a specific period of time shall be determined on the basis of SLM.

(2) For the purposes of percentage of completion method, project completion method or straight line method referred to above –


- (i) the contract revenue shall include retention money;
- (ii) the contract costs shall not be reduced by any incidental income in the nature of interest, dividends or capital gains.

EXPENSES DEDUCTIBLE ON PAYMENT BASIS

SEC. 43B

The following expenses shall be allowed as deduction if such expenditure are actually paid on or before the due date of filing of return of income:-

<u>Section</u>	<u>Particulars</u>
----------------	--------------------

- | | |
|---------------|--|
| 43B(a) | Any Tax, Duty, Cess or Fees under any Law |
| 43B(b) | Any contribution to Provident Fund/Superannuation Fund/Gratuity Fund/Welfare Fund |
| 43B(c) | Bonus or Commission paid to employees which would not have been payable as profit or dividend |
| 43B(d) | Interest on Loan or Borrowings from Public Financial Institutions/State Financial Institutions etc. |
| 43B(e) | Interest on loan or advance from bank |
| 43B(f) | Payment of Leave Encashment |
| 43B(g) | Sum payable to the Indian Railways for the use of railway assets. |
- 

ACTUAL COST – SEC. 43(1)

In case of depreciable assets, **depreciation is allowed on actual cost.**

As per section 43(1), actual cost means total expenses incurred **upto the date of putting the asset to use.**

Interest?

What if payment is made otherwise than by account payee cheque / account payee draft?



EXAMPLE

A company has taken a loan of Rs.50 lakhs @ 12% pa on 01.01.2018 for purchasing of P & M and the company has made payments of

1. Transportation charges Rs. 2 lakhs.
2. Loading and unloading expenses Rs.25,000.
3. Payment for the expert staff to install the P & M Rs.3 lakhs.
4. Rs.4 lakhs for construction of a platform for installing the P & M

The asset was put to use on 01.01.2019. Compute the actual cost.



Accounts and Audit



COMPULSORY MAINTENANCE OF BOOKS OF ACCOUNTS [SECTION 44AA]

Different Taxpayers	When they are covered by the provisions of compulsory audit under section 44AA
Specified Profession*	If gross receipts exceed Rs. 1,50,000 in all the three years immediately preceding the previous year . If newly set up?
Other business or profession	1) If total sales, turnover or gross receipts exceeds Rs.10,00,000 (Rs.25,00,000 for Indl./HUF) in any one of the 3 years immediately preceding the previous year; (or) 2) If income from business / profession exceeds Rs.1,20,000 (Rs.2,50,000 for Indl./HUF) in any one of the 3 years immediately preceding the previous year
A person covered u/s 44AD, 44ADA, 44AE	If such person claims that the Profits and gains from the business are lower than the profits and gains computed under these sections

Eligible Assessee to whom 44AD(4) applies and whose income exceeds the maximum amount not chargeable to tax.

SPECIFIED PROFESSIONALS [SEC. 44AA]

Persons engaged in any of the following professions:

- Legal
- Medical
- Engineering
- Architecture
- Accountancy
- Technical consultancy
- Interior decoration

Authorized representatives

Film Artists

Company Secretaries and
Information technology



COMPULSORY AUDIT OF BOOKS OF ACCOUNTS [SECTION 44AB]

Different Taxpayers	When they are covered by the provisions of compulsory audit under section 44AB
A person carrying on business	If the total sales, turnover or gross receipt in business for the p.y. exceeds Rs. 1 crore *
A person carrying on profession	If the gross receipts in profession for the p.y. exceeds Rs. 50 lakhs.
A person covered u/s 44AD, 44ADA or 44AE	If such person claims that the Profits and gains from the business are lower than the profits and gains computed under these sections
A person covered u/s 44AD(4)	If his income exceeds the maximum amount which is not chargeable to income-tax in any pre. year,



COMPUTING BUSINESS PROFITS ON PRESUMPTIVE BASIS [SEC.44AD]

Following conditions must be satisfied:

1 Eligible assessee:

The assessee must be an eligible assessee i.e. He is a resident individual, resident HUF, or a resident partnership firm and not a LLP

2 Assessee has not claimed deduction under sections 10A, 10AA, 10B , 80HH to 80RRB in the relevant A..Y.

3. Eligible business:

The assessee should be involved in the business – retail trading or wholesale trading or civil construction or any other business.



COMPUTING BUSINESS PROFITS ON PRESUMPTIVE BASIS [SEC.44AD]

Following are not eligible

A person carrying on profession as referred to in section 44AA(1) or

Person earning income in the nature of commission or brokerage or

Person carrying on any agency business or

Taxpayer is engaged in the business of plying, hiring, or leasing goods carriages.

*Pl. see Turnover**

How much to offer as income on presumptive basis?



COMPUTING PROFESSIONAL INCOME ON PRESUMPTIVE BASIS [SEC.44ADA]

Following conditions must be satisfied:

1. Eligible assessee:
2. The assessee must be an eligible assessee i.e. He is a resident individual, resident HUF, or a resident partnership firm and not a LLP
3. Assessee has not claimed deduction under sections 10A, 10AA, 10B , 80HH to 80RRB in the relevant assessment year
4. The assessee should not be involved in the specified profession.

How much to offer as income on presumptive basis?



PERSONS IN THE BUSINESS OF PLYING OF GOODS CARRIAGES [SEC. 44AE]

The section is applicable if the following conditions are satisfied:

- The tax payer must be an individual, HUF, AOP, BOI, firm, company, co-operative society, or any other person.
- He/It may be a resident/non resident
- Taxpayer is engaged in the business of plying, hiring, or leasing goods carriages
- The tax payer owns not more than 10 goods carriages at any time.



IF SECTION 44AE IS APPLICABLE:

Types of goods carriage	Estimated income
Heavy goods vehicle / any other goods carriage: From A.Y. 2019-20	Rs. 7500 for every month (or part of month) during which the goods carriage is owned; Rs. 7500 for every month (or part of month) for each goods carriage (other than Heavy goods vehicle) / Rs.1000 per ton of gross vehicle weight per month (or part of month) in case of Heavy goods vehicle during which the vehicle is owned.



- A taxpayer can claim his income from the said business higher than specified in this section
- No further deductions (Deductions u/s. 30 to 38 including depreciation and unabsorbed depreciation) are allowed under this section
- In case of firm, deduction in respect of salary and interest to partners u/s. 40(b) shall be allowed if income is offered u/s 44AE
- An assessee offers income u/s 44AD / 44ADA is exempted from paying advance tax (except last instalment).
- An assessee offers income u/s 44AD / 44ADA /44AE is exempted from maintaining books of accounts as required u/s. 44AA.



- An assessee can declare lower income than the deemed profits and gains as above. Following consequences will be applicable:
- Taxpayer needs to maintain books of accounts irrespective of the turnover if his total income exceeds the exemption limit
- To get the books of accounts audited u/s. 44AB irrespective of the turnover, if his total income exceeds the exemption limit.



FOR NON-RESIDENTS

	44B	44BBA	44BB	44BBB
	Shipping	Air Craft	Oil Exploration	Turnkey Power Project
Presumptive Rate of Income	7.5 %	5 %	10 %	10 %
Assessee type	Any	Any	Any	Foreign Company
Option to claim lower profits	No	No	Yes	Yes
44AB Books	No	No	No*	No*
44AB Tax Audit	No	No	No*	No*
MAT (if follows presumptive rates)	No	No	No	No

***If in case assessee claims lower profits then books should be maintained and should be audited.**



P & L A/C OF A FIRM ENGAGED IN MANUFACTURING OF GARMENTS, WHICH SATISFIES ALL CONDITION OF SEC 40(B) FOR THE YEAR ENDING 31.3.2019, IS AS FOLLOWS :

Cost of goods sold :	9,00,000	Sales :	12,00,000
Remuneration to Partners			
A : 72,000 B : 60,000 :	1,32,000	Long Term Capital Gain :	2,00,000
Remuneration to Employees :	1,00,000		
Interest to partner			
A : 16,000 B : 14,000 :	30,000		
Other expenses :	25,000		
Depreciation :	33,000		
Net profit :	1,80,000		
	14,00,000		14,00,000

Other information :

- 1. Depreciation not allowable as per Income tax act is Rs.18,000**
 - 2. Expenses of Rs.5,000 not allowed under 43B; 3. Mr. A is Working Partner**
 - 4. Interest Paid is as follows : Mr. A @ 20% & Mr. B @7 %**
- Compute income of Mr. A & Mr. B for A/Y 2019-2020.**



Solution :

Computation of Book Profit

Particulars	Amount (Rs.)
Net profit as per P&L A/C	1,80,000
Add : Depreciation not allowable	18,000
Add : Expenses of not allowed under 43B	5,000
Add : Remuneration to B (Non working partner not allowed as deduction)	60,000
Add : Remuneration to A (Working partner added to determine book profits)	72,000
Add : Interest to A in excess of 12% p.a. $(16,000/20 \times 8)$	6,400
Less : Long term capital gains	2,00,000
Book profit	1,41,400

Maximum allowable remuneration to Working partner A

Book profit	Maximum remuneration
Upto 3,00,000	1,50,000 or 90% of 1,41,400 ,higher i.e. 1,50,000

Therefore entire remuneration paid to A i.e. Rs. 72,000 will be allowed as deduction to firm.

Computation of Income of partners for A/Y 19-20

Income under business	Partner A (Rs.)	Partner B (Rs.)
Interest on capital	16,000 - 6,400 = 9,600	14,000
Remuneration	72,000	Not Taxable
Share of profit	Exempt u/s 10(2A)	Exempt u/s 10(2A)
Total	81,600	14,000



2 : Arjun Singh is the owner of a business. Following is his P & L A/c for year ended on 31-3-19 :

Particulars	Rs.	Particulars	Rs.
Establishment charges	51,110	Gross profit	5,08,700
Rent, rates and taxes	29,000	Interest on Govt. Securities (Gross)	53,500
Sundry expenses	70,500	Rent from property	54,000
House hold expenses	18,800		
Provision for bad debts	12,000		
Loss on sale of motor car (used for private purpose)	18,000		
Insurance premium (including life insurance of Rs.1790 of Arjun Singh)	28,800		
Interest on bank loan	13,800		
Provision for Depreciation	64,000		
Net profit	3,10,200		
Total	6,16,200	Total	6,16,200

Additional information :

- (i) Bad debts written off during the year Rs.6,500
- (ii) Admissible depreciation as per Income tax rules Rs.16,000
- (iii) The assessee is running his business in a rented property, half of which is used by him for his own residence. Rent of Rs. 24,000 in respect of entire house is included in rent, rate and taxes. The balance of Rs.5.000 is on municipal tax paid for property given on rent.
- (iv) Compute the Gross total Income of Sri Arjun Singh for the assessment year 2019-20.

SOLUTION

Income from house property

Rent received	54,000	
Less : Municipal taxes	(5,000)	
		49,000
Less : Statutory deduction @ 30%		(14,700)
		34,300



Profit and gains from business or profession

Profit as per P & L Account		3,10,200
Add : Inadmissible expenses		
Rent	12,000	
Household expenses	18,800	
Provision for bad debts	12,000	
Loss on sale of car	18,000	
Life insurance premium	17,900	
Provision for depreciation	64,000	
M. Taxes for let out house property	5,000	1,47,700
Total		4,57,900
Less Expenses allowed but not debited to P & L A/c		
Bad debts	6,500	
Depreciation	16,000	(22,500)
Total		4,35,400
Less : Incomes not taxable under this head but Credited to P & L A/c.		
Interest on govt. securities	53,500	
Rent from property	54,000	(1,07,500)
Income from Business		3,27,900

Income from other sources :

Interest on Govt. securities 53,500

Gross Total Income (34,300 + 3,27,900 + 53,500) **4,15,700**



QUESTIONS?



THANK YOU.

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