

**INCOME UNDER THE HEAD PROFIT
& GAINS OF BUSINESS OR PROFESSION**

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PGBP – 1 : BASICS

Section 28 : Following Incomes are chargeable under “P/G/B/P”

- a) Profit of any Business or Profession *carried by assessee at any time* during P/Y
- b) **Partner of a Firm.**
Any Interest, Salary, Bonus, Commission, or any type of remuneration due /received from Firm.
- c) **Compensation due or received.**
- Termination/Modification of agreement for managing a Company.
 - Termination/modification of terms of Agency.
 - Vesting in Govt, management of any property/business under any law.
- d) **Non-Compete fees & Exclusivity rights.**
Any sum received/receivable in Cash or Kind under an agreement for:
- 1) Not carrying out any activity in relation to any business **or profession**,
 - 2) Not sharing any know-how, patent, copyright etc., and any similar right.
- e) **Benefits/Perquisites** in cash or kind arising from carrying on business or profession
- f) Sum received under **Keyman Insurance Policy** including bonus on such policy
- g) **Export Incentives** like
- Sale of Import license.
 - Cash assistance against Export.
 - Duty drawback of Customs/Excise.
 - Profit on transfer of duty entitlement pass book scheme
- h) Income derived by trade, professional association from **Specific services** performed for its member.
- i) Any sum in relation to capital asset which is allowed as deduction u/s 35AD
- j) If any person receives compensation or other amount in connection with termination or modification of terms and conditions of any contracts relating to his business
- k) If any person has converted any inventory or stock in trade into a capital asset, for this purpose fair market value of the inventory as determined in prescribed manner, on the date of conversion shall be taken as Business Income

Special point : Explanation 1A to section 43(1) : Where a capital asset referred u/s 28(via) is used for the purposes of business or profession, the actual cost of such asset to the assessee shall be the fair market value which has been taken into account for the purposes of the said clause.

Special Points:

1. **Sec 2(13) : Business** includes any **Trade, Commerce** or manufacture or any **Adventure or concern** in the nature of trade, commerce or manufacture

2. **Sec 2(29BA) : Manufacture means**

A change in non living physical object or article

- Resulting in transformation of object or article into a **New and Distinct object or article** having a different name, character or use
- Bringing into existence of a new object or article with a **Different chemical composition or integral structure**

3. **Sec 2(36): Profession** includes vocation

4. **Illegal Business** : From Income Tax point of view, even profits of illegal business are taxable under P/G/B/P.
5. **Speculation Business** : Where speculative transaction is of such a nature as to constitute a business, such speculation business shall be deemed to distinct & separate from any business.
6. **Business Loss** :Business Income includes business losses provided they are of revenue nature, real losses & are incidental to carrying on business

Method of Accounting (Sec. 145)

- Income under head **P/G/B/P** & Income under head **Other Sources** is to be calculated on basis of **Cash or Mercantile basis** of accounting **regularly employed** by the assessee
- The **Central Government may notify** in Official Gazette, income computation and disclosure standards to be followed by any class of assessee or in respect of any class of income.
- Where the **AO is not satisfied** about the
 - ✓ **correctness or completeness** of the accounts of assessee, or
 - ✓ where the **method of accounting** have not been regularly followed by the assessee
 - ✓ the AO may make an **assessment u/s 144**

Special point :**Income computation & Disclosure standards notified by Central Government**

- ICDS I : Accounting Policies
- ICDS II : Valuation of Inventories
- ICDS III : Construction Contracts
- ICDS IV : Revenue Recognition
- ICDS V : Tangible Fixed Assets
- ICDS VI : Effects of Changes in Foreign Exchange Rates
- ICDS VII : Government Grants
- ICDS VIII : Securities
- ICDS IX : Borrowing Costs
- ICDS X : Provisions, Contingent Liabilities and Contingent Assets

Sec 145A : Valuation of inventory

For the purpose of determining the income chargeable under the head “Profits and gains of business or profession”,—

- (i) Valuation of inventory shall be made at lower of actual cost or net realisable value computed in accordance with the income computation and disclosure standards notified u/s 145(2);
- (ii) Valuation of purchase and sale of goods or services and of inventory shall be adjusted to include the amount of any tax, duty, cess or fee actually paid or incurred by the assessee to bring the goods or services to the place of its location and condition as on the date of valuation;
- (iii) Inventory being securities not listed on a recognised stock exchange, or listed but not quoted on a recognised stock exchange with regularity from time to time, shall be valued at actual cost initially recognised in accordance with the income computation and disclosure standards notified u/s 145(2);
- (iv) Inventory being securities other than those referred to in clause (iii), shall be valued at lower of actual cost or net realisable value in accordance with the income computation and disclosure standards notified u/s 145(2):

Provided that the inventory being securities held by a scheduled bank or public financial institution shall be valued in accordance with the income computation and disclosure standards notified u/s 145(2) after taking into account the extant guidelines issued by the RBI in this regard:

Provided further that the comparison of actual cost and net realisable value of securities shall be made category-wise.

Explanation 1.—For the purposes of this section, any tax, duty, cess or fee (by whatever name called) under any law for the time being in force, shall include all such payment notwithstanding any right arising as a consequence to such payment.

Sec 145B : Taxability of certain income

(1) Notwithstanding anything to the contrary contained in section 145, the interest received by an assessee on any compensation or on enhanced compensation, as the case may be, shall be deemed to be the income of the previous year in which it is received.

(2) Any claim for escalation of price in a contract or export incentives shall be deemed to be the income of the previous year in which reasonable certainty of its realisation is achieved.

PGBP – 2 : Allowable Deductions

Section 32 : DEPRECIATION

Depreciation shall be allowed if all the following conditions are satisfied:

1. **Specified Assets** : Only the following types of assets are eligible for Depreciation.
 - Tangible Assets : Building, Machinery, Plant or Furniture.
 - Intangible Assets : Know-how, patent, copyright, trademark, licence, franchise or other rights
2. **Purpose**: The specified assets should be used for **Business or Profession** of assessee.
3. **Ownership**: The specified assets can be **Wholly or partly** owned by assessee during the previous year.
4. **Basis of Depreciation**: Depreciation shall be calculated as

[Rate of Depreciation] X [WDV of the **Block Of Asset** as on last day of the P/Y]

BLOCK OF ASSET

- Group of assets falling within a class of assets
- Comprising of Tangible assets and Intangible assets
- In respect of which same percentage of depreciation is prescribed.

WRITTEN DOWN VALUE (WDV)

WDV of block of assets at the beginning of relevant P/Y	A
Add : <u>Actual Cost</u> of asset belonging to that block acquired during P/Y	B
Less : <u>Money Receivable</u> on assets sold, discarded, demolished or destroyed during previous year including Scrap Value	C
WDV of the block of asset as on the last day relevant P/Y	A+B-C

Special point: Where the income of an assessee is derived in *Part from Agriculture & in Part from P/G/B/P*, for computing WDV, the total amount of depreciation shall be computed as if the entire income is derived from the business of the assessee under the head P/G/B/P

RATES OF DEPRECIATION

TYPES OF ASSETS	% Depreciation
Building :	
- Residential	5 %
- Non Residential	10 %
- Temporary Structure	40 %
Furniture & Fittings including Electrical Fittings	10%
Plant & Machinery :	
- Books owned by Professional	40%
- Books owned for Library business	40%
- Air & Water Pollution control equipments	40%
- Renewal energy device/Energy saving device	40%
- Computer including computer software	40%
- Aero planes	40%
- Life saving Medical Equipment	40%
- Motor car, buses, lorries etc used for hire (WN1)	30%
- Ships/Speed boats	20%
- Oil wells	15%
- Motor Car for Business & Profession (WN2)	15%
General rate of other machinery	15%
Intangible Assets :	25%

(WN1) : Motor buses, motor lorries and motor taxis used in a business of running them on hire, acquired between period 23.8.2019 to 31.3.2020 & put to use upto 31.3.2020 : Depreciation @ 45%

(WN2) : Motor cars other than those used in business of running them on hire, [acquired between 23.8.2019 to 31.3.2020 and put to use on or before 31.3.2020 : Depreciation @ 30%

Special Points :

1. **Plant** Includes Ships, Vehicles, Books, Scientific Apparatus & Surgical Equipment used for business or profession and does not include Tea Bushes, Live Stock, Building or furniture & fixtures.
2. Building includes Roads, Bridges, Wells, Tube wells.
3. Residential Building mean building in which **atleast 2/3rd** of built-up area is used for residential purposes.
4. Wind mills/Related Equipment/Generator or pump driven by wind mills installed wef 1/4/2014 : 40%
Otherwise : 15%

Depreciation Restricted to 50%

- ❖ Where assets **acquired** during previous year
- ❖ and **put to use** for less than 180 days in **that** previous year
- ❖ Then depreciation on that asset **restricted to 50%** of normal rate
- ❖ for **that previous year** only

Additional Depreciation**a. General Case :**

- Assessee engaged in the business of **manufacture or production** of any article or thing or “**In business of Generation, Transmission or Distribution of power**”
- **New Machinery or plant** acquired and installed (other than ships & aircraft)

b. Specific case :

- *Assessee, sets up an undertaking for manufacture or production of any article or thing,*
- *On or after the 1st day of April, 2015*
- *In any backward area notified by Central Government in this behalf,*
- *In Andhra Pradesh or Bihar or Telangana or West Bengal,*
- *Acquires and installs any new machinery or plant (other than ships and aircraft)*
- *for the purposes of the said undertaking*
- *during 1/4/15 and 31/3/2020 in the said backward area*

b. Conditions to be satisfied:

- i. P&M should not be used by any person in India or outside India before date of installation by assessee.
- ii. P&M not installed in **office premises** or in **residential accommodation** including a guest house.
- iii. P&M should not be an **office appliance** or road transport vehicle.
- iv. **Whole of actual cost** of P&M **not allowed as deduction** under P/G/B/P of any one previous year.

c. Quantum of Increased Depreciation

General case : 20% for the P/Y in which conditions are satisfied

(If acquired and put to use for less than 180 days then **10% & balance 10% next year**)

Special case : 35% for the P/Y in which conditions are satisfied

(**If acquired and put to use for less than 180 days then 17.5% & balance 17.5% next year**)

Proportionate Depreciation

- In case of succession of *Partnership Firm* by a **Company** u/s 47 or
 - **Conversion of Private Company or Unlisted Public Company into a LLP u/s 47**
 - Succession of *Proprietary Concern* by a **Company** u/s 47 or
 - **Amalgamation** or **De merger** or
 - Other cases of **Succession otherwise on death**
- Depreciation allowable for the P/Y in which the above succession takes place
 - Shall be apportioned between the **Predecessor & Successor**
 - On the basis of Number of **days the assets used** by them during that P/Y.

Section 50 : Short Term Capital Gain for Block Assets
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Whenever a depreciable asset of block is sold, the **Sales consideration** is **Subtracted** from WDV of block to which such asset belongs.

CASE 1	CASE 2
1. All Assets of block are transferred during P/Y	1. Some Assets of block are transferred during P/Y & Sale proceeds of assets transferred > (Opening w.d.v + Actual cost)
2. Block Ceases to exist & no depreciation shall be provided for that P/Y	2. Block will Exist at NIL value & no depreciation shall be provided for that P/Y
3. Closing WDV is Short term capital Gain or Loss	3. Closing WDV is Short term capital gain

Depreciation for Undertaking engaged in Generation of Power
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Such undertaking has the option either to claim depreciation

- ❖ On W.D.V basis on block of assets **or**
- ❖ On S.L.M basis on the actual Cost of assets
- ❖ Such option has to be exercised before furnishing ROI for the assessment year in which undertaking starts to generate power. (*Once such option is exercised it will be final and later on cannot be changed*)

Sale of assets by such undertaking

- *Depreciation. Claimed and provided on **WDV basis** : **Treatment under block***
- *Depreciation Claimed and provided on **SLM basis** :*

Step 1 : Find out **Opening Value** as on 1/4/2019 (Cost of asset less deduction claimed in prior p/y)

Step 2 :

Sale price < Opening W.D.V	Sale Price > Opening W.D.V
Loss is Terminal Depreciation allowed as deduction in the P/Y of sale.	Deemed Business Income (Balancing Charge) taxable u/s 41 in P/Y of sale : Selling price or Deduction Claimed, less Capital Gain : Selling price > Cost <i>Short term or long term depending upon period of holding</i>

Section 43(1) : Actual Cost

Means actual cost of the asset to the assessee reduced by that portion of the cost, which is met directly or indirectly by any other person or authority

If assessee incurs any expenditure for acquisition of any asset or part for which payment or aggregate of payments made to a person in a day, otherwise than by A/C payee cheque drawn on bank or A/C payee bank draft or use of ECS through bank account or by other prescribed electronic method, exceeds ₹10,000, such expenditure shall not be included in actual cost.

Explanations to section 43(1)	Notional Actual Cost
Asset ceases to be used for Scientific research & now to be used for B/P of the Assessee.	Actual Cost to Assessee Less: Deduction claimed u/s.35
Asset belonging to other person is gifted or inherited by the Assessee	Actual cost to other person Less: Deduction allowed to previous owner as if only asset in block
Asset belonging to other person, used for the purpose of his business or profession is transferred to Assessee and AO is satisfied that transfer is to reduce Income tax liability	Amount determined by AO with prior approval of Joint Commissioner
Building belonging to assessee brought into B&P during P/Y	Actual cost Less Depreciation allowable as if building used for B&P since its acquisition.
Interest paid or payable for acquiring an asset	<u>Will not be added</u> to actual cost after asset first put to use.
Where an asset is acquired on which Taxes/Duty is repayable	Actual cost <u>reduced</u> by Excise, Custom Duty repayable
Where portion of cost of an asset met by Central Government, State Government, Authority or other person	
→ If Subsidy, Grant etc., is <i>directly related</i> to the asset	Actual cost <u>reduced</u> by value of subsidy

→ If Subsidy, Grant etc., is <i>not directly</i> related to an asset but a consolidated sum	Actual cost <u>reduced</u> by proportionate amount of subsidy.
Capital asset on which deduction has been allowed u/s 35AD	NIL

MISCELLANEOUS ISSUES OF DEPRECIATION

1. Is it mandatory to claim depreciation.

Explanation to Sec. 32 : Depreciation provisions shall apply whether or not the assessee has claimed deduction for depreciation.

2. Carry forward and set off of unabsorbed depreciation [Sec. 32(2)]

1. Deduct current year depreciation from current year income under P/G/B/P.
2. If current year P/G/B/P is insufficient deduct balance depreciation from other head of income for same previous year.[Except Salary & Other Incomes chargeable at special rates excluding Capital Gains]
3. Even if incomes under other heads insufficient, it is *unabsorbed depreciation* which will be carried forward for **any number** of assessment years.
4. In the next assessment years ,b/f unabsorbed depreciation will be added to current year depreciation and again step 1 to step 4 will be followed

However, if B/F losses are also there in a previous year along with B/F unabsorbed depreciation, then priority of set off shall be as follows

- 1st setoff current year depreciation
- Then setoff brought forward losses
- Then setoff unabsorbed depreciation.

Special point :

1. The business or profession of which depreciation was computed need not be carried on in the previous year in which b/f depr is set off.
2. Depreciation can be c/f only by the same assessee.i.e Assessee who has claimed the deduction for depreciation and the assessee who wants to carry forward the depreciation must be the same.

Exceptions to 2nd point:

- a) Firm succeeded by a company u/s 47
- b) Proprietary concern succeeded by a Company u/s 47
- c) Amalgamation or Demerger

PGBP – III : Other Allowable deductions

Section 30 : Rent, Repairs, Taxes & Insurance for Buildings used for B&P

If assessee is a **Owner**, following deductions shall be allowed to him

- **Revenue Repairs**
- **Municipal Taxes** (*Subject to 43B*)
- **Insurance Premium** for insurance of building

If assessee is a **TENANT**, following deductions shall be allowed to him

- **Rent** & following expenses *if borne by him*
- **Revenue Repairs**
- **Municipal Taxes**
- **Insurance Premium** for insurance of building

Section 31 : Machinery, Plant & Furniture used for B&P

- ✓ Following deductions shall be allowed:
- ✓ **Revenue Repairs**
- ✓ **Insurance Premium** of such Plant, Machinery & Furniture

Asset not exclusively used for Business or Profession [Sec. 38(2)]

- Where Building, Machinery, Plant or Furniture
- **Not exclusively** used for Business or Profession
- Then deduction **u/s. 30, 31, 32**
- Shall be restricted to such **fair proportion** as AO may determine for purpose of business or profession.

Sec 32 AC : Investment Allowance for New Plant or Machinery

1. Assessee	Company engaged in the business of manufacture or production of any article or thing
2. Investment & Deduction	<p><u>WEF A/Y 15/16 upto A/Y 17/18</u></p> <p>Acquires and installs Eligible P&M between 1/4/14 to 31/3/2017 and actual cost > 25 crore ,than deduction @ 15% of actual cost shall be allowed</p> <p>If installation of the new assets are in a year other than the year of acquisition, the deduction shall be allowed in the year in which the new assets are installed.</p>
3. Eligible P&M	<p>New plant or machinery (other than ship or aircraft) Excluding :</p> <p>(i) P&M which before its installation by assessee was used either within or outside India by any other person</p> <p>(ii) P&M installed in any office premises or any residential accommodation, including guest house</p> <p>(iii) Office appliances including computers or computer software</p> <p>(iv) Any vehicle or</p> <p>(v) P&M, whole of actual cost allowed as deduction (whether by way of depreciation/otherwise) in computing income of Business/Profession of any P/Y</p>
4. Eligible P&M sold	<p>If P&M is transferred except under amalgamation or demerger, within 5 years from date of its installation, deduction allowed shall be deemed as Business Income of p/y of transfer in addition to taxability of gains arising on account of transfer of such new asset.</p> <p>Where P&M is transferred under amalgamation or demerger within 5 years from date of its installation, the above provision shall apply to amalgamated company or resulting company as they would have applied to amalgamating company or demerged company.</p>

Sec 32 AD : Investment allowance for New plant & machinery in backward area

1. Assessee	Assessee, sets up undertaking for manufacture of any article , <ul style="list-style-type: none"> • on or after 1.4.2015 • in any backward area notified by Central Government , • in Andhra Pradesh or Bihar or Telangana or West Bengal
2. Investment	<ul style="list-style-type: none"> • Acquires and installs eligible P&M • during 1/4/15 and 31/3/2020 in backward area
3. Deduction	15% of actual cost of Eligible P&M in p/y in which it is installed
4. Eligible P&M	Same as U/s 32AC
5. Eligible P&M sold	Same as u/s 32AC

Sec 33AB / ABA : Deduction for Business of Tea/Coffee/Rubber/Exploration

Section	33AB : Tea/coffee/rubber Devp. A/c.	33ABA : Site Restoration Fund
1 Assessee	Growing and Manufacturing Tea or Coffee or Rubber in India	Prospecting or Extraction or production of Petroleum or Natural Gas or both in India
2 Conditions	Deposit with NABARD <i>or</i> Special Deposit Account under within 6 months from end of P/Y <i>or</i> before due date of ROI, whichever is earlier	Deposit in SBI in a special Account <i>or</i> In a site restoration account before end of P/Y
3 Deduction	Amount deposited under point 2 <i>or</i> 40% profits of such business before 33AB, whichever is less	Amount deposited under point 2 <i>or</i> 20% profits of such business before 33ABA, whichever is less

Section 35 : Expenditure on Scientific Research

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)		Post commencement (On or after date of commencement)	
Prescribed Revenue expenditure 35(1)(i)	Capital Expenditure Sec35(1)(iv)	All Revenue Expenditure 35(1)(i)	Capital Expenditure Sec 35(1)(iv)
Salary(excluding perquisites) of Research Staff & Purchase of Material for scientific Research only	Any Capital expenditure except Land	All Revenue Expenditure	Any Capital expenditure except Land
Deduction in P/Y of commencement	Deduction in P/Y of commencement	Deduction in P/Y in which incurred	Deduction in P/Y in which incurred

Calculation of Deduction u/s 35

1. Revenue expenditure on scientific research is **100% allowed** as deduction irrespective of profits.
2. Capital expenditure on scientific research are allowed as deduction **subject to availability of profit**.
3. Set off & Carry forward **same as unabsorbed depreciation**

Section 35 (2AB)

- Company Assessee (*Engaged in Manufacture of any article except specified under XI schedule*)
- Incurred expenditure (**Except on Land & Building**) on **in house** scientific research **approved by prescribed authority**
- Weighted deduction of **150 % of such expenditure** will be allowed

**Contributions/Donations for Research to Approved Associations
(Related or Unrelated to Assessee business)**

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

Special point : Deduction u/s 35 shall not be disallowed if subsequent to payment ,approval of such association, institution, etc is withdrawn.

Sec 10(21) : Exemption of Income of Research Association

Any income of **Research Association** approved u/s 35 shall be exempt provided that Research association applies its Income & Invest in funds u/s 11

SALE OF ASSET USED FOR SCIENTIFIC RESEARCH

Option 1 : Sold without using for business

Step 1 : Find out **Opening Value** as on 1/4/2019 (Cost of asset less deduction claimed in prior p/y)

Step 2 :

Sale price < Opening W.D.V	Sale Price > Opening W.D.V
Loss is allowed as deduction in the P/Y of sale.	<p align="center">Deemed Business Income taxable u/s 41 in P/Y of sale : Selling price or Deduction Claimed, less</p> <p align="center">Capital Gain : Selling price > Cost <i>Short term or long term depending upon period of holding</i></p>

Special Point : Business income shall be taxable in the previous year of transfer even if business is not in existence in that previous year

Option 2 : Sold after using for business

Step 1 : The cost of asset will be added to value of block to which it belongs.

The cost added to value of block will be
Actual Cost to Assessee
Less: Deduction claimed u/s.35(1)(iv)

Step 2 : Sale price will be deducted from value of WDV of the block to which it belongs

Section 35 ABB : Expenditure for obtaining Telecommunication License

Capital Expenditure ACTUALLY INCURRED to acquire Telecom license	
<i>Before commencement of business</i>	<i>After commencement of business</i>
<p><u>Period of Deduction</u> Deduction shall be available from P/Y in which business commences to P/Y in which license expire</p>	<p><u>Period of Deduction</u> Deduction from P/Y in which license fee actually paid to P/Y in which license expires</p>
<p><u>Amount of deduction</u> = $\frac{\text{License fees actually paid}}{\text{No. of previous years in above period}}$</p>	<p><u>Amount of deduction</u> = $\frac{\text{License fees actually paid}}{\text{No. of previous years in above period}}$</p>

TAX TREATMENT ON SALE OF LICENSE

Option 1 : Whole license sold

Computation of Profit /Loss on sale

Step 1 : Find out **Opening Value** as on **1/4/2019** (Cost of asset less deduction claimed in prior p/y)

Step 2 :

Sale price < Opening W.D.V	Sale Price > Opening W.D.V
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Loss is allowed as deduction in the P/Y of sale.	Deemed Business Income taxable in P/Y of sale : Selling price or Deduction Claimed, less Capital Gain : Selling price > Cost <i>Short term or long term depending upon period of holding</i>
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Option 2 : Part license sold

Computation of Profit /Loss on sale

Step 1 : Find out **Opening Value** as on 1/4/2019 (Cost of asset less deduction claimed in prior p/y)

Step 2 :

Sale price < Opening W.D.V	Sale Price > Opening W.D.V
Loss is allowed as deduction in balance P/Y of life of license	Deemed Business Income taxable in P/Y of sale : Selling price or Deduction Claimed, less Capital Gain : Selling price > Cost <i>Short term or long term depending upon period of holding</i>

Special point :

Business income shall be taxable in the previous year of transfer even if business is not in existence in that previous year

Sec 35ABA : Expenditure for obtaining right to use spectrum for telecommunication services.

1. Deduction : Capital expenditure, incurred for acquiring any right to use spectrum for telecommunication services

2. Applicability of Sec 35ABB : The provisions of section 35ABB, shall apply as if for the word “licence”, the word “spectrum” had been substituted.

3. Failure to comply : Where, in a previous year, any deduction has been claimed and granted to the assessee, and, subsequently, there is failure to comply with any of the provisions of this section, then,—

(a) Deduction shall be deemed to have been wrongly allowed;

(b) AO may, notwithstanding anything contained in this Act, re-compute the total income of the assessee for the said previous year and make the necessary rectification;

Sec 35AD : Deduction of Capital Expenditure of Specified Business

Assessee	<ol style="list-style-type: none"> 1) Setting up & operating <u>Cold Chain facility</u> 2) Setting up & operating <u>Warehousing facilities</u> for storage of agriculture produce 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 <i>(Where the assessee builds a hotel of two-star or above category & subsequently, while continuing to own the hotel, transfers the operation thereof to another person, assessee shall be deemed to be carrying on Hotel Business)</i> 5) Building and operating a Hospital with at least one hundred beds for patients 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 a housing project under a scheme for affordable housing framed by Government and notified by Board 8) Production of fertilizer in India & investment in a new plant or in a newly installed capacity in an existing plant 9) <i>Setting up and operating an inland container depot or a container freight station notified or approved under Customs Act</i> 10) <i>Bee-keeping and production of honey and beeswax</i> 11) <i>Setting up and operating a warehousing facility for storage of sugar</i> 12) <i>Laying and operating a slurry pipeline for the transportation of iron ore</i> 13) <i>Setting up and operating a semi-conductor wafer fabrication manufacturing unit and is notified by the Board</i> 14) <i>Developing or operating and maintaining or developing, operating and maintaining, any infrastructure facility (on or after 1/4/17) Business is owned by Indian company or statutory corporation & has entered into agreement with Government / local authority</i> <p style="margin-left: 20px;"><i>Infrastructure facility means—</i></p> <ol style="list-style-type: none"> <i>(i) Road , toll road, bridge or rail system;</i> <i>(ii) Highway project ;</i> <i>(iii) Water supply project, water treatment system, irrigation project, sanitation and sewerage system ;</i> <i>(iv) Port, airport, inland waterway, inland port</i>
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Deduction	100% Capital expenditure for above business incurred after commencement including Pre commencement Capital Expenditure
Exclusions	Does not include expenditure on land, goodwill or financial instrument <i>Any expenditure for which payment or aggregate of payments made to a person in a day, otherwise than by A/y payee cheque drawn on a bank or an account payee bank draft or use of ECS through a bank A/c or by other prescribed electronic method, exceeds ₹10,000</i>
Conditions	1. It is not set up by Splitting up or Reconstruction of existing business 2. Atleast 80% of P&M should not be Previously used for any purpose <u>Exception to 2nd Condition</u> - P&M used outside India by any person other than the assessee & - Such P&M is imported into India & - No deduction of depreciation on that P&M has been allowed to any person for any period prior to the date of installation by assessee
Limitations	If deduction is allowed under this section, such expenditure will not be allowed as deduction under other provision.
Sale of asset	Sum received/receivable on account of destruction/ demolition/ discard/ transfer of such Capital asset shall be deemed as P/G/B/P u/s 28 If sold after using for other business : Actual Cost = Nil
Use of Asset	Any asset on which deduction allowed shall be used only for specified business, for 8 years beginning with p/y in which such asset is acquired or constructed. Otherwise deduction allowed in one or more p/y, as reduced by depreciation allowable u/s 32, as if no deduction under this section was allowed, shall be deemed to be income under PGBP of p/y in which the asset is so used. <i>Where any capital asset on deduction is allowed u/s 35AD is deemed to be income as above , actual cost of asset shall be actual cost, as reduced by depreciation calculated at rate in force that would have been allowable had the asset been used for business since date of its acquisition</i>
Set off & C/F of Loss of business (Sec 73A)	- Loss of Specified Business can be set off against profits of other specified business only. -Unabsorbed loss will be c/f & set off against profits of specified business of subsequent A/Y -C/F & set off for Unlimited period of A/Y

Section 35 CCA : Payment to Associations for Rural Development Plans

Deduction for payment of sum to			
Association whose object is to undertake Rural Development Program <i>approved by prescribed authority</i>	Association engaged in Training of persons for implementing Rural Development Program	Rural Development Fund set up by Central Govt.	National Urban Poverty Eradication Fund Set up by Central Govt.

Deduction u/s 35CCA **shall not be disallowed** if subsequent to payment ,approval of such institution or programme is withdrawn

35CCC : Expenditure on Agricultural extension project

- (1) Where **assessee** incurs **any expenditure** on **agricultural extension project** notified by CBDT , then, there shall be allowed a deduction of **150% such expenditure**.
- (2) Where a deduction under this section is allowed for any A/Y , such expenditure will not be allowed as deduction under any other provisions.
- (3) **W.E.F A/Y 21/22 : 100% deduction**

35CCD : Expenditure on skill development project

- (1) Where **a company** incurs **any expenditure (except land or building)** on any **skill development project** notified by CBDT, then, there shall be allowed a deduction of **150% such expenditure**.
- (2) Where a deduction under this section is allowed for any A/Y , such expenditure will not be allowed as deduction under any other provisions.
- (3) **W.E.F A/Y 21/22 : 100% deduction**

Section 35 D: Amortization of Preliminary Expenses

1	Assessee	Indian Company or Non Corporate Resident
2	Expenditure when incurred	Before commencement of business or After commencement of business <i>for</i> - Extension of existing undertaking <i>or</i> - Setting up of new unit
3	Specified Expenditure <i>(Expenditure under point i to iv, can be incurred by assessee himself or by concern approved by CBDT)</i>	(i) Feasibility report (ii) Project report (iii) Market/Other Surveys (iv) Engineering Services (v) Legal Charges for drafting agreements For Company Assessee , also expenditure on Memorandum & Articles, Legal Fees for registration, expenses on public issue
4	Qualifying amount of Specified Expenditure	Non-Corporate resident Assessee A. Total of Specified expenditure or B. 5% of Cost of Project A or B, whichever is less Indian Company A. Total of Specified expenditure or B. 5% of Cost of Project or 5% of Capital employed, Higher A or B, whichever is less
5	Period of Deduction	Qualifying Amount in 5 equal annual installments starting from P/Y of <i>commencement or completion of extension or setting up new unit</i> (as the case may be)
6	Compulsory Audit <i>(Not applicable for Company, Cooperative society)</i>	Audit of accounts by C.A for the previous year in which expenditure incurred & attach C.A report with ROI for the 1 st yr.

Special Points:

1. Cost of Project : Means **Actual cost** of **FIXED ASSETS** as per books of accounts on last day of P/Y in which business is commenced or extension is completed or new unit is Set up, as the case may be

2. Capital Employed : Means **Aggregate** of **Issued share capital, Debentures, Long term borrowings** as on the last day of same P/Y as mentioned above

3. L T Borrowings : Means

a) Money borrowed from Govt. or IFCI or ICICI or Banking / Approved financial institution, **repayable in not less than 5 years**

b) Money borrowed in foreign currency for purchase of P&M outside India, **repayable after 7 years**

Section 35 DD : Expenditure in case of Amalgamation or Demerger

- **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

Section 35 DDA : Expenses incurred under Voluntary Retirement Scheme

- **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.

Section 35 E: Deduction for Prospecting Minerals

- **Indian Company** or **non-corporate Resident assessee** engaged in Production of any **specified mineral**.
- Incurs **Expenditure** for Prospecting or Extraction or Production during **year of Commercial production** or **4 p/y years prior** to such commercial production
- Expenditure does not include the following:
 1. Expenditure of a **Capital nature** on which depreciation is admissible u/s 32.
 2. Expenditure on **acquisition of site**
 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 p/y of production
- **Maximum deduction allowed each year** : 10% of qualifying expenditure **or** Income from such Business before 35E, *whichever is less*.
- **Unallowed qualifying expenditure** carried forward for next year & added to next year installment. However after 10th year no deduction shall be allowed
- **Audit of accounts by C.A** for the previous year in which expenditure incurred & attach C.A report with ROI for the 1st yr. (*Not applicable for Company, Cooperative society*)

Special Point:

1. For the purposes of this section,—

- (a) **“Operation relating to prospecting”** means any operation undertaken for the purposes of exploring, locating of deposits of mineral, and includes any such operation which proves to be **infructuous or abortive**

Sec. 43B: Certain deductions on Actual Payment Basis

- **Overriding other provisions of IT Act**
- **Specified Expenses** which are **allowable under other sections**
- Shall be allowed only in **Previous year** in which such expenditure is **actually paid**
- Irrespective of p/y in which liability was incurred as per method of accounting

Specified expenses :

1. Tax, duty under **any law**
2. Employer Contribution to Provident fund, superannuation fund, Gratuity fund or other welfare fund
3. Bonus or Commission to employee
4. Interest on Loan from Public Financial Institution, State Financial Corporation **or** State industrial investment corporation
5. Interest on any loan or advance from schedule bank or a co-operative bank other than a primary agricultural credit society or primary co-operative agricultural and rural development bank
6. Payment of leave Salary to employee
7. Sum payable to Indian Railways for use of railway assets
8. Sum payable by assessee as interest on any loan or borrowing from a deposit taking NBFC or systemically important non-deposit taking NBFC, in accordance with the terms & conditions of the agreement governing such loan or borrowing.*[FA,2019]

Special point :

1. Provision of Sec. 43B Shall not apply
 - ✓ for the P/Y in which liability to pay such sum was incurred
 - ✓ If such sum is **Actually Paid** by Assessee
 - ✓ On or before the **due date of return u/s. 139(1)**
 - ✓ And evidence of such payment is furnished along with ROI

2. *

Where deduction in point 8 is allowed in computing income referred u/s 28, of A/Y 19/20, or any earlier A/Y) in which the liability to pay such sum was incurred by assessee, the assessee shall not be entitled to any deduction under this section in respect of such sum in computing the income of p/y in which the sum is actually paid by him

Deduction of any sum, being interest payable under point 8 shall be allowed if such interest has been actually paid and any interest referred to in that point which has been converted into a loan or borrowing shall not be deemed to have been actually paid.

Deposit taking NBFC means NBFC which is accepting or holding public deposits and is registered with RBI under the provisions of RBI Act, 1934

Systemically important non-deposit taking NBFC means a NBFC which is not accepting or holding public deposits and having total assets of not less than 500 crore rupees as per the last audited balance sheet and is registered with RBI under the provisions of RBI Act, 1934.

Section 36(1) : Expenses allowed from Business/Profession

1. Premium for insurance of **Stock in trade** used for Business or Profession.
2. Premium by **employer** for **Health insurance** of his employees by **any mode other than cash** under a approved scheme
3. **Bonus or Commission** to employee provided such bonus or commission is **not payable as Dividend.**
(Subject to sec 43B)
4. Interest on Capital Borrowed for the purpose of Business or Profession. (Subject to sec 43B)
5. Prorata amount of **Discount** on a **Zero Coupon Bond.**
6. **Employer** contribution towards Recognised Provident Fund or Approved Superannuation Fund or Approved Gratuity Fund. (Subject to sec 43B)

7. Employer contribution towards a pension scheme u/s 80CCD, on account of an employee upto 10% **Salary** of the employee in the previous year. [Refer Chapter Deductions] (*Subject to sec 43B*)
8. Sum received *by employer* as employee contribution to Provident Fund, Superannuation Fund or under other welfare fund provided such amount is **credited** by employer in account of employee **upto due date** of relevant fund

Special Point :

Sec 2(24) : Amount received by employer from employee as contribution to Provident Fund, Superannuation Fund or other welfare fund ,shall be treated as **deemed income** of such employer.

If the employer satisfies condition of sec 36(1) then he will be entitled to deduction of such amount.

9. Animals used for Business or Profession (not as S.I.T) & have died or become useless for such purpose Deduction of Difference between actual cost to such assessee & realisation (if any) from sale of carcass of such animal.
10. **Bad debt is written off as irrecoverable** in accounts of assessee during p/y Provided such debt should have been **taken into account for computing income of any P/Y**

Special Points :

1. Where assessee deals in money lending or is a Bank, income condition need not be satisfied.
2. No deduction is allowed for provision made for bad & doubtful debt (Except Next deduction)
3. **Sec. 41(4) : Subsequent recovery of written off bad debt.**
 - ✓ Where deduction claimed upto 36(1) for any previous year
 - ✓ and subsequently amount is recovered,
 - ✓ than such amount shall be the income under P/G/B/P
 - ✓ of P/Y in which recovered.

However,

- a) **Assessee** claiming Bad Debt & who recovers the bad debt should be **same**
- b) It is not necessary business is in existence in previous year of recovery.

11. Provision for bad and doubtful debts made by—

- (a) **Bank or a co-operative bank** : **Upto 8.5% of Gross Total Income** (computed before making this deduction) + **upto 10% of aggregate average advances** made by rural branches of such bank
- (b) Foreign Banks/Public financial institution/State financial corporation/State industrial investment corporation/Non Banking financial company : **Upto 5% of Gross Total Income** (computed before making this deduction)

12. Special reserve created and maintained by a **specified entity**,**Deduction : Least of following**

- a) 20% of profits derived from **eligible business** computed under head "PGBP" (before making this deduction)
- b) Profit transferred to special reserve account:
- c) $2 \times \{[\text{Paid up share capital} + \text{General reserves as on last day of P/Y}] - [\text{Balance of special reserve A/c on 1}^{\text{st}} \text{ day of P/Y}]\}$

Special Point :**(a) "Specified entity" means ,**

- (i) Financial corporation u/s 4A of the Companies Act;
- (ii) Financial corporation which is a public sector company;
- (iii) Banking company;
- (iv) Co-operative bank other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank;
- (v) Housing finance company; and

(b) "Eligible business" means ,

- (i) providing **long-term finance** for
 - (A) industrial or agricultural development;
 - (B) development of infrastructure facility in India; or
 - (C) development of housing in India;

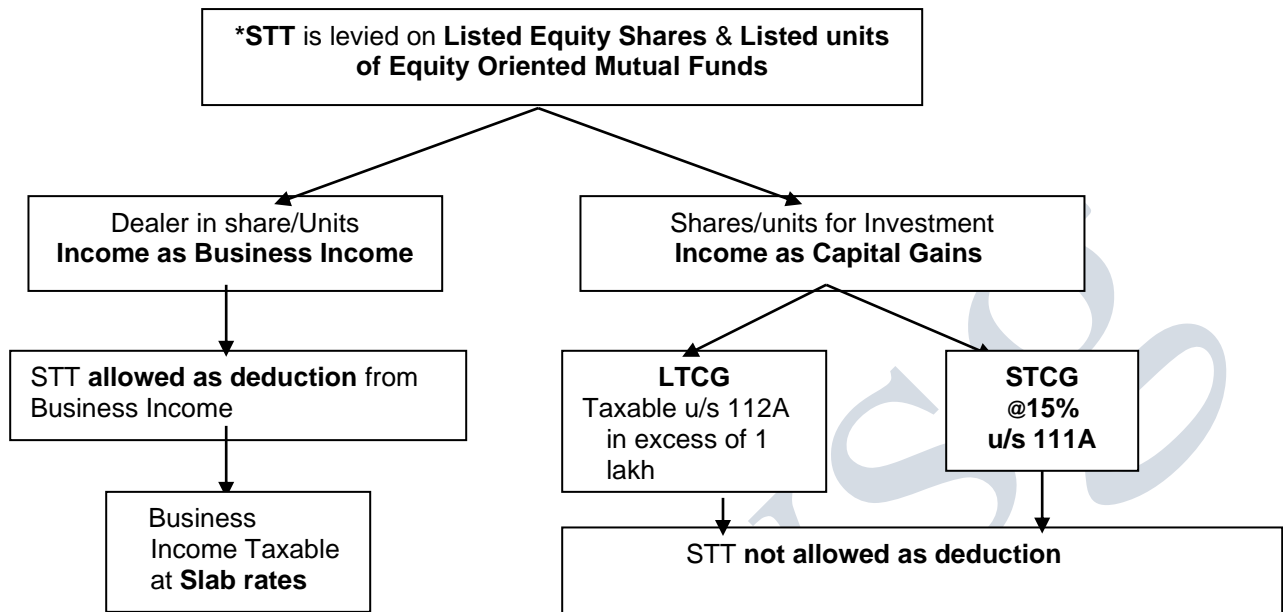
(c) "long-term finance" means any loan where the terms under which moneys are loaned for repayment along with interest during a period of not less than five years;**13. Expenditure incurred by *Company***

- for promoting Family Planning **among Employees**
- **If expenditure is Revenue Expenditure : 100% allowed** in P/Y in which incurred
- **If expenditure is Capital Expenditure : Allowed in 5 equal installments** from P/Y in which incurred

Special Points:

Sale of family planning capital assets treatment same as sale of scientific research capital asset

14. Security Transaction Tax (STT) on Transaction arising in course of Business or profession.



15. Commodities Transaction Tax (CTT) in respect of Specified Commodities Transactions if the income arising from such transactions is chargeable under Business or Profession.

Special Point :

Commodities Transaction Tax is levied on every taxable commodities transaction, being sale of commodity derivative @ **0.01 %** on value of such transaction & such tax shall be payable by the seller.

Specified Commodities Transaction means a transaction of sale of commodity derivatives in respect of commodities, other than agricultural commodities, traded in recognised associations.

16. Expenditure incurred by a co-operative society engaged in the business of manufacture of sugar for purchase of sugarcane at a price which is equal to or less than price fixed or approved by Government.

Sec. 37(1) : GENERAL DEDUCTION

If an expenditure fulfills ALL the below conditions it will allowed u/s 37(1)

- If not covered under Sec. 30 to Sec. 36
- If incurred during P/Y wholly & exclusively for B/P
- If not of Capital Nature
- If Not a personal expense of Assessee

Special Points:

1. Expenditure of any purpose which relates to any **Offence or which is prohibited by law** shall not be allowed a deduction
2. **Sec 37(2B)** : Expenditure on advertisement in any Newspaper, Magazine, Souvenir, Pamphlet etc. of a political party is not allowed as deduction
3. *Any expenditure incurred on corporate social responsibility u/s 135 of Companies Act, 2013 shall not be allowed as deduction u/s 37(1)*

PGBP – IV : Disallowances**Sec. 40(a) : Expenses not deductible****Overriding Sec 30 to Sec 38****1. Expenditure to Non Resident without TDS**

- Expenditure during P/Y of Interest ,Royalty, fees for technical services or other sum chargeable under this act (other than salary)
- **Payable to Non-Resident**
- No Deduction of **such expenses** shall be allowed if
- Tax has been not been deducted at source **or** after deduction has not been deposited **upto due date of return(DDR) u/s 139(1)**
- However, **if deducted in later p/y or deducted earlier but deposited after DDR**, then deduction will be allowed in p/y in which it is actually deposited

2. Expenditure to Resident

- Incurs **Any Expenditure subject to TDS** during P/Y
- **Payable to a Resident**
- **30% of such expenditure** shall be disallowed allowed if
- Tax has not been deducted at source or after deduction has not been deposited **Upto Due Date of Return u/s 139(1)**

- However ,if deducted in later p/y or deducted earlier but deposited after above DDR , then 30% of such expenditure shall be allowed as deduction in previous year in which it is actually deposited.

Special point : *If Payer fails to deduct tax for above payment to resident/non resident payee but is not deemed as assessee in default as resident payee has directly paid the tax , than it shall be deemed that payer has deducted & paid the tax on such sum on date of furnishing of return of income by the resident payee*

3. **Income Tax** shall not be allowed as deduction.
4. Royalty / Licence fee / Service fee / Privilege fee / Service charge by State Government undertaking to State Government

Special point :

State Government undertaking includes—

- (i) Corporation established under any Act of State Government
 - (ii) Company in which more than 50% of paid-up equity share capital is held by State Government
 - (iii) Undertaking in which State Government has the right to appoint the majority of the directors
5. Tax u/s.10(10CC) on **Non Monetary Perquisite** shall not be allowed deduction.
 6. Any consideration to a non-resident for a specified service on which equalisation levy is deductible & such levy has not been deducted or after deduction, has not been paid upto due date u/s 139(1)

Provided for such consideration, the equalisation levy has been deducted in any subsequent year or has been deducted during P/Y but paid after due date u/s139(1), such sum shall be allowed as deduction in computing income of P/Y in which such levy has been paid.

Sec. 40A(2) : Expense greater than Market value
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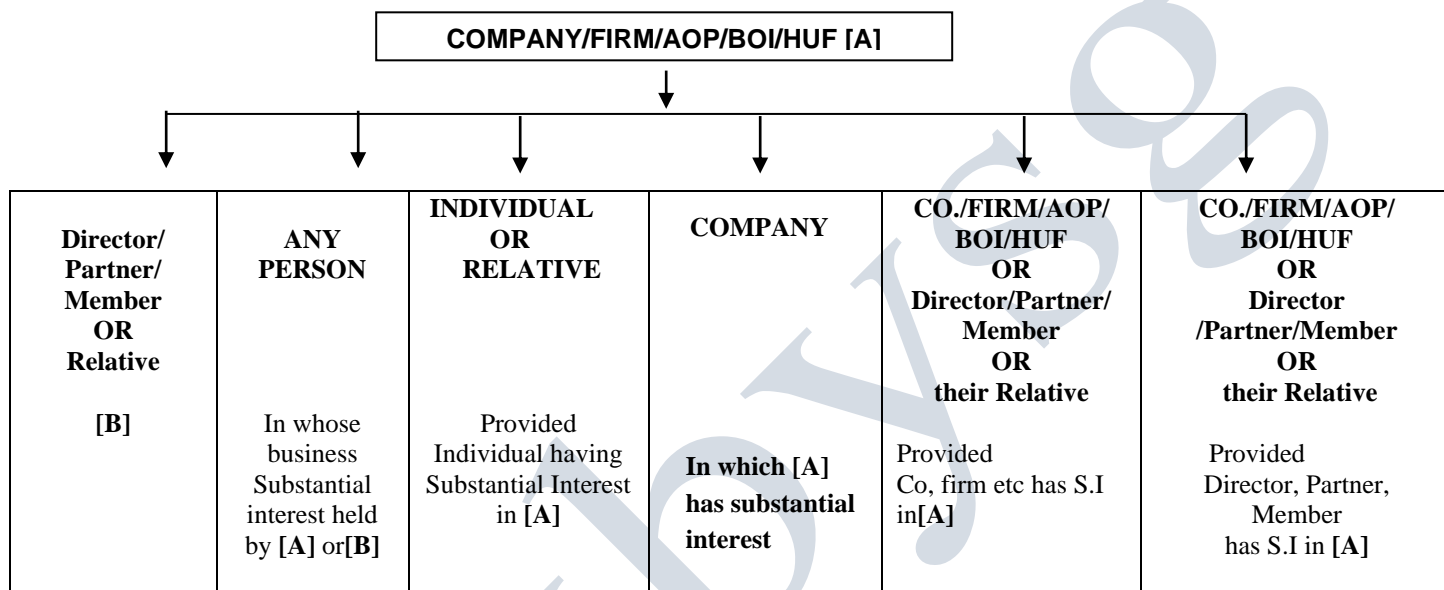
- Expenditure** by which payment made /is to be made to **Specified Person**
- AO may disallow so much expenditure as he consider **Excessive or Unreasonable**
- Having regard to
- FMV** of goods or service for which payment made or **legitimate** needs of business.

Special Points :**1. Specified Persons :**

i. Where assessee is an **Individual**.

- His Relative
- Entity *In which such Individual or his Relative has Substantial Interest*

ii. Where Assessee is :

**2. A Person has Substantial Interest in**

- ➔ Company, if he holds *at any time* during the P/Y beneficial ownership of **at least 20% Equity Shares** in that company
- ➔ Other than company, if he is *at any time* during the P/Y entitled to **at least 20% profits**

3. Disallowance u/s 40A(2) shall be made in respect of a specified domestic transaction referred to in section 92BA, if such transaction is not at arm's length price as defined in 92F.**Sec. 40A(3): Expenditure in cash**

- Where the assessee incurs any expenditure
- For which a payment or aggregate of payments
- Exceeding ₹10,000
- Made to a person
- In a day,

- Otherwise than by account payee bank cheque or
- Account payee bank draft or
- ECS through bank Account
- other prescribed electronic method,
- No deduction shall be allowed in respect of such expenditure.

Special Point : The limit for Payment for plying, hiring or leasing goods carriages is ₹35,000

Special Point :

- Where an **expenditure is allowed** during any previous year
- and in subsequent previous year
- the assessee makes payment in respect thereof
- in excess of ₹10,000
- otherwise than by an account payee cheque or account payee bank draft or electronic clearing system through a bank account or other prescribed electronic method
- the payment so made
- shall be **Deemed to be P/G/B/P** Income of subsequent P/Y
-

Exceptions to Sec. 40A(3) : <u>Rule 6DD</u>
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No disallowance in the following cases even if payment greater than 10,000 is made otherwise by Account payee cheque or Account payee bank draft or electronic clearing system through a bank account or other prescribed electronic method

- a) Payment to Banks, LIC
- b) To Government.
- c) Payment through letter of credit, telegraphic transfer, bill of exchange, ECS, credit card or debit card
- d) Payment to cultivator or producer of agriculture, forest, animal husbandry, dairy, poultry farming or fish products.
- e) Payment for purchase of products manufactured by producer without aid of power in a cottage industry.
- f) Payment in a village or town not served by any bank on date of payment to a person who resides in such village or carrying on his business, profession or vocation in such village
- g) Payment to an employee or his legal heir of gratuity, retrenchment compensation or similar terminal benefit provided aggregate of such amount does not exceed ₹ 50,000
- h) Payment on the day on which banks were closed on account of **holiday or strike**.

Sec. 40A(7) : Disallowance for Gratuity

No deduction shall be allowed of any provision made by the Assessee being an Employer for payment of Gratuity to his employees unless provision made

- Towards **Approved** Gratuity Fund *or*
- For payment of gratuity actually becoming payable during P/Y

Sec 40A(9):Employer contribution towards funds required by law

No deduction shall be allowed of sum paid by employer towards the setting up/formation or as contribution to any fund not required to be kept under law

Sec. 40(b) : Salary /Interest by Firm to Partner

- ✓ Partnership firm/LLP shall be allowed deduction of
- ✓ Salary, Bonus, commission or other remuneration to **Working Partner** and
- ✓ Interest to **Any Partner**
- ✓ *Subject to certain conditions*

Working Partner : Individual who is actively engaged in conducting the affairs of Business or Profession of the firm of which he is a partner.

Analysis of sec 40(b)

Type	Salary/Bonus/Commission/other Remuneration		Interest on Capital
Partner	Working Partner		All Partner
Partnership deed	Authorized by the terms of Partnership Deed		Authorized by the terms of Partnership Deed
Prospective	Such payment should relate to period after date of Partnership Deed.		Such payment should relate to period after date of Partnership Deed
Amount of deduction	Book Profits	Maximum Deduction	Upto 12 % P.a
	First 3,00,000 (Including Loss)	₹ 1,50,000 or 90% Book profits <i>(whichever is more)</i>	
	BalanceBook profit	60% of Book Profit	

Computation of Book Profits

1. **Compute Net profit** of firm under head **P/G/B/P** after making adjustments as per **Sec 29 to 43**
2. **Add Remuneration** to working partner (if Debited to P&L A/C)

Tax treatments in Hands of Partner

Type of Payment	Working Partner	Non working Partner
Salary from firm	Taxable to extent allowed as deduction to firm	Not Taxable
Interest from firm	Taxable upto 12%	Taxable upto 12%
Share of Profit	Exempt u/s 10(2A)	Exempt u/s 10(2A)

PGBP –V : Missl

Sec 41 : <u>Deemed Profits Chargeable to tax</u>

Sec. 41(1): Recovery of Loss/Deductions etc. allowed earlier

- Deduction allowed in any P/Y for **loss/Expense** or **Trading liability**
- Subsequently during any P/Y, *same assessee or his successor*
- Obtains any amount in respect of such loss/expense (in cash or other manner) or some benefit in respect of such trading liability through remission or cessation thereof
- Then such amount or benefit shall **deemed to be P/G/B/P** of P/Y in which received

Special Points : *Provision of sec 41(1) will apply even if business is not in existence*

Sec. 41(2) : Balancing Charge (*discussed earlier*)

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

Sec. 41(4) : Recovery of Bad Debt. (*discussed earlier*)

Sec. 41(5) : Loss of P/Y in which business cease to exist can be **set off** from Deemed incomes u/s. 41(1), (3), (4). (*Exception to rule that business loss can be carried forward for 8 years only*)

Sec. 44AA : Maintenance of accounts

Sec 2(12A):Books or books of accounts includes ledgers, day-books, cash books, account-books and other books, whether kept in the written form or as print-outs of data stored in a floppy, disc, tape or any other form of electro-magnetic data storage device

Specified Profession		Non specified Profession / Business	
Gross Receipts exceeds ₹1,50,000 for All 3 years preceding P/Y OR where profession is <i>newly setup</i> in P/Y, gross receipts is likely to exceed ₹1,50,000 for that P/Y	Other case	Gross Receipt > ₹10,00,000 <i>(For Individual/HUF ₹25,00,000</i> Or Income from P/G/B/P > ₹1,20,000 <i>(For Individual/HUF ₹2,50,000</i> in Any of 3 years preceding P/Y's or where profession is <i>newly setup</i> in P/Y, above limits are likely to exceed for that P/Y	Other case
Specified books of accounts has to be maintained for that P/Y	Such books of accounts has be maintained that will enable the AO to compute his TI <i>(i.e. Cash Book, & Ledger)</i>		Not required to maintain any books of accounts

Special Points :

1. **Specified profession** : Legal, Medical, Engineering, Architectural, Accountancy, Technical Consultancy, Interior decoration or **other notified profession**
2. **Specified books of accounts** :
 - a. Journal (if accounts on mercantile basis).
 - b. Cash Book & Ledger.
 - c. Carbon copies of bill issued exceeding ₹25
 - d. Original bills or receipts received for exp. incurred exceeding ₹50
 - e. Payment vouchers prepared and signed for exp. incurred upto ₹50

These books are required to be kept and maintained for 6 years from end of relevant A/Y
3. A person carrying on **Medical Profession**, in addition to above shall maintain :
 - f. A **daily case register** in Form 3C.
 - g. A **stock register** showing inventory as on the 1st and last day of p/y of stock of drugs, medicines and other consumable accessories used for profession.

Sec. 44AB: Compulsory Audit of Accounts
PROFESSION:

Compulsory audit of accounts for **that P/Y** in which Fees/Gross receipts *exceeds ₹50,00,000*

BUSINESS:

Compulsory audit of accounts for **that P/Y** in which Sales/Gross receipts *exceed ₹1,00,00,000*

Special Points:

Accounts have to be audited u/s. 44AB by a CA before due date u/s 139(1) and also the audit report is to be furnished on or before the said date.

COMPUTATION OF P/G/B/P ON PRESUMPTIVE BASIS

		SEC 44AD	SEC 44AE
1.	Overriding	Sec 28 to 43C	Sec 28 to 43C
2.	Assessee	Resident Individual, Resident HUF or Resident Partnership Firm Excluding LLP	Any Assessee (Resident/Non Resident)
3.	Business	Any Business except business u/s 44AE EXCEPTION : <i>(i) Specified Profession u/s 44AA or (ii) income of commission or brokerage (iii) Agency business</i>	Plying, Hiring or Leasing goods carriage
4.	Limitations	<i>Provided Gross receipts/turnover does not exceeds 2 Cr</i>	<i>Owns not more than 10 goods carriage at any time during p/y</i>
5.	Deemed P/G/B/P	<i>8 % of Gross Receipts/ Turnover in P/Y</i> Exception : <i>6% of Total turnover /Gross receipts received by A/c payee cheque or A/c payee bank draft or use of ECS through a bank A/c or by other prescribed electronic method during p/y or before due date u/s 139(1) of that p/y.</i>	<u>For Heavy goods vehicle</u> <i>₹1,000 per ton of gross vehicle Weight/unladen weight, per month Or part owned in p/y or amount claimed to have been actually earned from such vehicle, whichever is higher;</i> <u>Other than heavy goods vehicle</u> <i>₹7,500 per month or part owned In p/y or amount claimed to have been actually earned from such vehicle, whichever is high</i> Heavy goods vehicle means goods vehicle having gross weight/Unladen weight is more than 12,000 kgs (more than 12 tonne)

6.	Deductions under PGBP	<i>No deduction u/s Sec. 30 to 38 shall be allowed from Deemed income</i>	<i>No deduction u/s Sec. 30 to 38 shall be allowed from Deemed income</i>
7.	B/F losses	<i>Set off of Brought Forward losses Shall be available</i>	<i>Set off of Brought Forward losses Shall be available</i>
8.	Benefits	<i>If assessee declares Deemed income or any amount higher, then no requirement to maintain books u/s 44AA or to get audit u/s 44AB*</i> <i>*Sec 44AB shall not apply to person, who declares profits for p/y u/s 44AD and his total sales, turnover/gross receipts in business does not exceed ₹2 crores in such p/y</i>	<i>If assessee declares Deemed income or any amount higher, then no requirement to maintain books u/s 44AA or to get audit u/s 44AB</i>
9.	Limit for 44AA/44AB	The turnover of such business will not be added to turnover of other business for applicability of Sec 44AA/44AB of other business	The turnover of such business will not be added to turnover of other business for applicability of Sec 44AA/44AB of other business

Special point :

1. Sec 44AD : Where assessee declares profit for any P/Y u/s 44AD & he declares profit for any of 5 P/Y succeeding such P/Y not in accordance with sec 44AD, he shall not be eligible to claim the benefit of this section for 5 subsequent P/Y from P/Y in which the profit has not been declared.

Eligible assessee to whom above provisions are applicable & whose total income exceeds exemption limit, shall be required to keep and maintain such books of account u/s 44AA & get them audited and furnish a report of such audit as required u/s 44AB.

2. Sec 44AE : Assessee covered u/s 44AE & disclosing lower profits than deemed profits, shall be required to keep and maintain such books of account u/s 44AA & get them audited and furnish a report of such audit as required u/s 44AB

Sec 44ADA : Profits and gains of profession on presumptive basis.

1. Overriding : Notwithstanding anything contained in sections 28 to 43C

2. Assessee : Resident in India, who is engaged in specified profession u/s 44AA & whose Gross receipts is upto 50 lakh in a P/Y.

3. Sum Deemed as business profits : 50% of Total Gross Receipts in P/Y or sum higher claimed to have been earned by the assessee

4. Deductions : Deduction u/s 30 to 38 shall be deemed to have been allowed and no further deduction under those sections shall be allowed.

5. WDV of block : The WDV of any asset used for purposes of profession shall be deemed to have been calculated as if the assessee had claimed and had been actually allowed the deduction in respect of the depreciation for each of the relevant A/Y.

6. Lower Profits : An assessee who claims that his profits from profession are lower than deemed profits & whose total income exceeds exemption limit shall be required to keep & maintain such books of account and other documents u/s 44AA and get them audited and furnish a report of such audit as required u/s 44AB.

Sec 43CA : Sale consideration in case of Real Estate Transactions

- Consideration on transfer of land or building or both
- Not being a capital asset
- is less than the Stamp duty valuation by any authority of a State Government ,then
- Such value shall be deemed to be full value of the consideration for computing Business Profits

Option available to Assessee

- Assessee can claims before AO that
- Stamp duty Valuation exceeds FMV of property
- On the date of transfer &
- Such value has not been disputed in any Appeal/Revision or
- No reference is made before any authority, court or the High Court, Than
- AO may refer the valuation of Asset to a Valuation Officer and
- Provisions of Wealth tax Act shall apply

Valuation of Valuation Officer

- *Valuation of valuation officer is less than Stamp Duty Valuation,*
- *the value of valuation officer shall be*
- *taken as the full value of the consideration*

Special point : Where Date of agreement for transfer of asset and Date of registration of such transfer are different, the Stamp duty Value on date of Agreement shall be considered if consideration or part thereof has been **received by way of an account payee cheque or an account payee bank draft or by use of ECS through a bank account** or by other prescribed electronic method on or before date of agreement for transfer of the asset.

Proviso to 43CA(1):

Where the value adopted or assessed or assessable by the authority for the purpose of payment of stamp duty does not exceed 105% of the consideration received or accruing as a result of the transfer, the consideration so received or accruing as a result of the transfer shall, for the purposes of computing profits and gains from transfer of such asset, be deemed to be the full value of the consideration.

Sec 43AA : Taxation of foreign exchange fluctuation

(1) Subject to the provisions of section 43A, any gain or loss arising on account of any change in foreign exchange rates shall be treated as income or loss, as the case may be, and such gain or loss shall be computed in accordance with the income computation and disclosure standards notified u/s 145(2).

(2) For the purposes of sub-section (1), gain or loss arising on account of the effects of change in foreign exchange rates shall be in respect of all foreign currency transactions, including those relating to—

- (i) monetary items and non-monetary items;
- (ii) translation of financial statements of foreign operations;
- (iii) forward exchange contracts;
- (iv) foreign currency translation reserves.

Sec 43CB. : Computation of income from construction and service contract

(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 income computation and disclosure standards notified u/s 145(2):

Provided that profits and gains arising from a contract for providing services,—

- (i) with duration of not more than ninety 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 straight line method.

(2) For the purposes of percentage of completion method, project completion method or straight line method referred to in sub-section (1)—

- (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.”.

<u>Some Sections applicable for Non residents</u>
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Sec	44B	44BB	44BBA	44BBB
Overriding	Overriding sec 28 to 43A	Overriding sec 28 to 43A	Overriding sec 28 to 43A	Overriding sec 28 to 43A
Assessee	Non Resident	Non Resident	Non Resident	Foreign company
Business	Operation of Ships	Supply of P&M on hire for prospecting/ extraction/production of mineral oils	Operation of Aircraft	Civil construction
% deemed as Income	7.5 % Indian Income (Due in India + Due outside received in India)	10% Indian Income (Due in India + Due outside received in India)	5 % Indian Income (Due in India + Due outside received in India)	10 % Income due in India
Option to claim Lower profits	NO	Yes Provided books u/s 44AA , audit u/s 44AB & scrutiny u/s 143(3) for that A/Y	No	Yes Provided books u/s 44AA , audit u/s 44AB & scrutiny u/s 143(3) for that A/Y