

SET-OFF AND CARRY FORWARD OF LOSSES

1. Following are the particulars of the income of Mr. Srikant for the previous year 2008-2009

Rs

1. Income from house property	
(a) Property R	(+) 12,000
(b) Property J	(-) 20,000
2. Profits and gains from business:	
(A) Non-speculation:	
(i) Business X	40,000
(ii) Business Y	(-) 50,000
(B) Speculation:	
(i) Silver	40,000
(ii) Bullion	(-) 10,000
3. Capital gains:	
(i) Long-term capital gains	(+) 30,000
(ii) Short-term loss	(-) 10,000
4. Income from other sources:	
(i) Card games-loss	10,000
(ii) From the activity of owning and maintaining race horses:	
(a) Loss at Mumbai	(-) 50,000
(b) Profit at Kolkata	(+) 40,000
(iii) Dividend from Indian companies	10,000
(iv) Income by letting out plant and machinery	1,11,000
The following losses have been carried forward:	
(i) Long-term capital loss from the assessment year 2005-2006:	18,000
(ii) Loss from silver speculation from the assessment year 2005-2006 and which was discontinued in the assessment year 2006-2007	25,000

Compute the gross total income for the assessment year 2009-2010

Computation of gross total income for the assessment year 2009-2010

Particulars	Rs	Rs
1. Income from house property (+ 12,000 - 20,000)		(-) 8,000
2. Profits from speculation:		
(i) Silver-profit	40,000	
Less: Current year loss from bullion	(-) 10,000	
	30,000	
Less: Carried forward silver speculative loss surplus from speculation	(-) 25,000	
	5,000	
(ii) Add: Business profit X business	40,000	
(iii) Less: Business loss Y business	(-) 50,000	
	(-) 5,000	

Unabsorbed business loss may be set-off against the income of any other head except 'salaries' and 'winnings from lottery, card games, crossword puzzle, betting on race horses', etc.

3. Capital gains:		
Long-term capital gains	30,000	
Less: Short-term capital loss	(-) 10,000	
Long-term capital gain	<u>20,000</u>	20,000
4. Income from other sources:		
(i) Income by letting out plant and machinery		1,11,000
(ii) Card game-loss of Rs 10,000		
Neither it can be set-off nor it can be carried forward		
(iii) Profit from race horses at Kolkata	(+) 40,000	
Less: Loss from race horses at Mumbai	(-) 50,000	
Loss to be carried forward for next four assessment year	(-) 10,000	
(iv) Dividend from Indian companies: Exempt under Sec. 10(34)		Nil
Aggregated income after setting-off current year losses from house property, profit and business against income from other sources:		1,18,000
Less: Carried forward long-term capital loss, from the assessment year 2005-2006 to be set-off against long-term capital gains		<u>18,000</u>
Gross total income or total income as there is no deduction available from GTI		<u>1,00,000</u>

2. Mr. Dey furnishes the following particulars of his income for the previous year 2008-2009:

Particulars	Rs
A: Business loss	(-) 4,00,000
Unabsorbed depreciation	(-) 2,00,000
B: Business profit	10,00,000
Income from house property	2,00,000
Carried forward losses and allowance;	
C business was discontinued on 31-12-2003	
Apart from the abovementioned, the following unabsorbed:	
1. Business loss	(-) 3,00,000
2. Depreciation	(-) 2,00,000
D business was discontinued on 1-3-2006 leaving the following unabsorbed:	
1. Business loss	(-) 3,00,000
2. Depreciation	(-) 1,00,000

Compute his total income for the assessment year 2009-10.

Solution : Computation of total income for the AY 2009-2010:

Particulars	Rs	Rs
Income from house property		2,00,000
Business - profession		
Prof it of B-business	(+) 10,00,000	
Less: Business loss of A - business	(-) 4,00,000	
Depreciation of A-business	(-) 2,00,000	
	<u>(+) 4,00,000</u>	<u>4,00,000</u>

Aggregated income	6,00,000	
Less: Carried forward business loss:		
(i) Loss of C Business to be set-off against business profits	(-) 3,00,000	
(ii) Loss of D business	(-) <u>3,00,000</u>	
	<u>6,00,000</u>	(-) <u>6,00,000</u>
Total income		Nil

Note: Where business loss and depreciation both are being carried forward, business loss has got priority, over depreciation. Unabsorbed depreciation is carried forward without time-limit.

3. XYZ & Co., a partnership firm, submits the following particulars of its income and carry forward losses for the previous year 2008-2009:

Particulars	Betting on race horses made lawfully(Rs)	Betting on race horses made illegally(Rs)
1. Gross prize on race horses	15,00,000	5,00,000
2. Expenses incurred:		
(i) Horses purchased during the year	6,00,000	75,000
(ii) Medical expenses	1,00,000	20,000
(iii) Animal trainer fees	50,000	15,000
(iv) Fodder expenses	2,60,000	50,000
(v) Stable-rent/insurance	1,20,000	36,000
(vi) Depreciation in the value of horses	4,60,000	1,50,000
(vii) Staff salaries	1,00,000	40,000
3. Loses brought forward from the assessment year 2008-2009	6,00,000	2,00,000

Solution:

Computation of total income for the Assessment Year 2009-10

Particulars	Betting on race horses made lawfully (Rs)	Betting on race horses made illegally (Rs)
Gross prize		
Less: Expenses incurred:	15,00,000	15,00,000
(i) Horses purchased—not allowed	—	—
(ii) Medical expenses	(-) 1,00,000	(-) 20,000
(iii) Animal trainer fees	(-) 50,000	(-) 15,000
(iv) Fodder expense	(-) 2,60,000	(-) 50,000
(v) Stable rent/insurance	(-) 1,20,000	(-) 36,000
(vi) Staff salaries	(-) 1,00,000	(-) 40,000
(vii) Depreciation in the value of horses—not allowed	—	—
	8,70,000	3,39,000
Less: Brought forward loss	6,00,000	Nil
	<u>2,70,000</u>	<u>3,39,000</u>
Total income of the firm = Rs 6,09,000		

Note:

"Horse race" means a horse race upon which wagering or betting may be lawfully made [Explanation (b) to Sec. 74A]. Thus, where wagering or betting is not lawfully made on race horses, any loss incurred on such betting can neither be set-off nor carried forward. Hence, the carried forward loss of Rs 2,00,000 cannot be set-off.

4. Mr N discloses the following incomes for the PY 2008-2009

House property	Business or profession		Capital gains		Income from other sources
Rs	Speculation Rs	Non-speculation Rs	STCG Rs	LTCG Rs	Rs
A 50,000	P 3,00,000	X 5,00,000	C 6,00,000	F 7,00,000	Family pension 95,000
B (-) 40,000	S (-)2,00,000	Y (-) 3,00,000	D (-) 3,00,000	E (-)5,00,000	Loss from (-) 50,000 letting out from machinery/plant

Determine income under head of income for the AY 2009-2010:

Solution: Aggregation of income under each head of income: AY 2009-2010

House property	Business or profession		Capital gains		Income from other sources
Rs	Speculation Rs	Non-speculation Rs	STCG Rs	LTCG Rs	Rs
A 50,000	P 3,00,000	X 5,00,000	C 6,00,000	F 7,00,000	Family pension 95,000
B (-)40,000	S (-)2,00,000	Y (-)3,00,000	D (-)3,00,000	E (-)5,00,000	Loss from (-)50,000 letting out machinery/ plant
Total	10,000	1,00,000	2,00,000	3,00,000	2,00,000 45,000

5. A discloses the following incomes from business or profession for the previous year 2009-2010:

	Rs
(i) Profit from X business	6,00,000
(ii) Loss from Y business	(-) 2,00,000
(iii) Loss from profession Z	(-) 2,50,000
(iv) Profit from speculation business – M	2,00,000
(v) Loss from speculation business – N	(-) 3,00,000
Determine the income from business or profession for the assessment year 2009-2010	

Solution: Income from business-profession for the AY 2009-2010

Particulars	Rs
(i) X	6,00,000
(ii) Y	(-) 2,00,00
(iii) Z	(-) 2,50,000
Total business profits	1,50,000
Income from speculation-profession	
(i) M	2,00,000
(ii) N	(-)3,00,000
Loss from speculation business	(-) 1,00,000

Speculation loss cannot be set-off against the income from business profit, though both of them fall under the same head of income.

Thus, taxable business profits for the assessment year 2009-2010 is Rs. 1,50,000. The speculation loss will be carried forward for future set-off for 4 assessment years, immediately succeeding the assessment year for which it was first computed [Sec. 73(4)].

The time-limit of 4 years is applicable from the assessment year 2008-2009 and subsequent year. Prior to this, the time-limit was 8 assessment years, immediately following the assessment year in which the loss was first computed.

6.D has earned income of Rs 5,60,000 from speculation business during the PY 2008-2009. However, he has suffered losses in business and profession Rs 3,20,000 and Rs 1,70,000, respectively during the same period. Determine his income from business profession for the assessment year 2009-2010.

Solution: Income from business profession for the AY 2009-2010:

Particulars	Rs
Profits from speculation business	5,60,000
Less. (i) Loss from business	(-) 3,20,000
(ii) Loss from profession	(-) 1,70,000
Income from business and profession	70,000

7. M and N disclose the particulars in respect of capital gains/loss during the PY 2008-2009:

M	Rs	N	Rs
(i) Long-term capital gains/ loss		(i) Long-term capital gains/loss:	(-) 14,00,000
(a) Shares	(+) 10,00,000	(a) Buildings	(+) 6,00,000
(b) Land	(-) 3,00,000	(b) Tenancy rights	
(ii) (Short-term capital gains/loss		(ii) Short-term capital gains/loss	
(a) Machinery and plant	(+) 7,00,000	(a) Bonds and debentures	(+) 15,00,000
(b) Jewellery	(-) 12,50,000	(b) Goodwill	(-) 1,00,000

Determine capital gains, if any, assessable in their hands during the assessment year 2009-2010:

Solution: Computation of capital gains for the assessment year 2009-2010

M	Rs	N	Rs
Long-term capital gains: Shares		Short-term capital gains:	
Less: Loss from land	(+) 10,00,000	STCG - Bonds and debentures	(+) 15,00,000
LTCG	(-) 3,00,000	Less: STCL - goodwill	(-) 1,00,000
Short-term capital loss:	(+) 7,00,000	STCG	14,00,000
STCG - Machinery		Long-term capital gains:	
Less: STCL Jewellery	(+) 7,00,000	LTCG - Tenancy rights Less:	(+) 6,00,000
	(-) 12,50,000	LTCL - buildings	(-) 11,00,000
Net loss - ST Taxable LTCG	(-) 5,50,000	LT - capital loss	(-) 8,00,000
7,00,000 - 550,000 =	1,50,000		
		LT capital loss of - 8,00,000 cannot be set-off against STCG of Rs 14,00,000, though both of them fall under the same head. LT-Capital loss of Rs - 8,00,000 will be carried forward for future set-off for 8 assessment years immediately succeeding the assessment year for which the loss was first determined [Sec. 74(2)].	
Taxable LTCG	1,50,000	Taxable STCG	14,00,000

8. K and Z disclose the particulars of their income from other sources, earned during the PY 2008-2009.

K	Rs	Z	Rs
(i) Loss from card games	(-) 3,00,000	(i) Winning on betting on horse	(+) 6,00,000
(ii) Winning from card games	(+) 4,00,000	(ii) Loss from betting on horse races	(-) 4,00,000
(iii) Income from owning and maintaining race horse:		(iii) Profit from owning and maintaining race horse	(+) 4,00,000
(a) Loss at Kolkata	(-) 5,00,000	(iv) Loss in leasing out machinery & plant	(-) 3,50,000
(b) Profit at Mumbai	(+) 2,50,000		
(iv) Interest on securities	(+) 1,00,000		
(v) Loss from letting out machinery & plant	(-) 2,50,000		

Determine income from other sources, assessable in their hands for the assessment year 2009-2010.

Solution: Computation of taxable income from other sources: AY 2008-2009

K	Rs	Z	Rs
Card games: (i) Winning from card games (ii) Loss from card games neither can be set-off nor can be carried forward	4,00,000	Winning on horse races: (i) Winning on betting on horse races (ii) Loss from betting on race horses: Neither can be set-off nor can be carried forward	6,00,000 6,00,000
Owning and maintaining race horses: (i) Profits at Mumbai: 2,50,000 (ii) Loss at Kolkata (-) 5,00,000		Profit from owning and maintaining race horses Less: Loss from leasing out plant and machinery to be set-off to the extent of profit from owning and maintaining race horses	4,00,000 (-) 3,50,000
(-) 2,50,000			<u>50,000</u>
Loss from owning and maintaining race horses cannot be set-off against any other income from other sources. However, such loss is carried forward for 4 assessment years immediately succeeding the assessment year for which the loss was first determined [Sec. 74A(3)] Interest on securities (+) 1,00,000 Less: Loss from letting out plant (-) 2,50,000 (-) 1,50,000			
Loss from letting out plant and machinery cannot be set-off from winning on card games			
Income from other sources	4,00,000	Income from other sources	6,50,000

9. Mr. Kushal discloses the particulars of his income earned during the PY 2008-2009

	Rs
(i) Profit from business X	4,50,000
(ii) Shares of profit from an AOP, entitled to rebate of tax under Sec. 86	2,00,000
(iii) Loss from business Y	3,50,000

The Assessing Officer wants to set-off the loss of business Y against the share of profit from AOP. Do you agree with the contention of the Assessing Officer?

Solution:

(a)		(b)	
Tax liability under the mode of set-off chosen by the Assessing officer:	Rs	Tax-liability under the mode of set-off chosen by the assessee:	Rs
Profit from business X	4,50,000	Profit from business X:	
Share of profit from AOP 2,00,000		Less: Loss from business Y	(-) 3,50,000
Less: Loss from business Y	(-) 1,50,000		
(-) 3,50,000			
Unabsorbed business loss		Share of profit from AOP	1,00,000
1,50,000		Total income	2,00,000
Total income	3,00,000		3,00,000

	Rs		Rs
Tax liability on total income	39,000	Tax liability	39,000
Add : Education cess @ 2%	780	Less : Rebate at the average rate	26,000
Add : SHEC @ 1%	390	of tax on the share of profit from	
		AOP (Sec. 86) : $\frac{39,000}{3,00,000} \cdot 2,00,000$	
		Tax after rebate	13,000
		Add : Education cess @ 2%	260
		Add : SHEC @ 1%	130
Tax payable	40,170	Tax payable	13,390

Note: No particular mode of set-off has been prescribed by the income-tax law. In absence of this, the assessee is entitled to claim a mode of set-off which is most beneficial to him. Thus, the assessee is entitled to set-off the loss of business Y against the profits from Business X and pay tax of Rs 13,390. Even otherwise, set off should against taxable income.

10. Karan discloses the following particulars of his income for the previous year 2008-2009:

	Rs
(i) Business A	(+) 4,50,000
(ii) Business B	(-) 6,00,000

Instead of full set-off of Rs (-) 6,00,000, Karan wants to claim a partial set-off of B-business loss of Rs (-) 50,000 against the profits of business-A. Comment.

Solution: Tax implication Karan's Option:

	Rs
Profit from A business	4,50,000
Less : Business – Loss from B business	3,50,000
Total income	1,00,000

There will be no tax liability of Karan for the assessment year 2008-2009 as his income does not exceed the exemption limit of Rs 1,00,000. Besides, Karan will be entitled to carry forward the business loss of Rs 2,50,000 for future set-off. The law does not allow him to claim partial set-off. He has to claim the full set-off:

	Rs
Profit from A business	4,50,000
Loss from B business	(-) 6,00,000
Business loss to be carried forward	(-) 1,50,000

11. Determine the taxable income of Neil for the previous year 2008-2009 in the following cases:

Particulars	Case I Rs	Particulars	Case II Rs
Business loss	(-) 6,00,000	STCG - short-term capital gain	(+) 6,00,000
Speculation loss	(-) 2,00,000	LTCL - Long-term capital loss	(-) 2,00,000
LTCG (long-term capital gain)	(+) 8,00,000	House property: Loss	(-) 3,00,000
STCL (short-term capital loss)	(-) 3,00,000	Loss from profession	(-) 1,50,000
Profit from leasing out plant and machinery	(+) 50,000	Loss from business	(-) 60,000
Winning from card games	(+) 4,00,000	Loss from betting on race-horse	(-) 40,000
		Loss from leasing plant and machinery	(-) 30,000

Solution :

Case I		Case II	
Particulars	Rs	Particulars	Rs
LTCG	8,00,000	Short-term capital gain	(+) 6,00,000
Less: STCL	(-) 3,00,000	Long-term capital loss cannot be set-off against short term capital gains.	
LTCG	(+) 5,00,000	It has to be carried forward:	
Less: Business loss	(-) 6,00,000	(-) 2,00,000	
Unabsorbed business loss	(-) 1,00,000	Loss from house property to be set-off against STCG	(-) 3,00,000
Profit from leasing out of plant and machinery on hire	(+) 50,000	Loss from profession to be set-off against STCG	(-) 1,50,000
Unabsorbed business loss to be carried forward	(-) 50,000	Loss from business to be set-off against STCG	(-) 60,000
Unabsorbed speculation loss to be carried forward for 4 years	(-) 2,00,000	Loss from leasing plant and machinery may be set-off against STCG	(-) 30,000
The two losses cannot be set-off against winning from card games		Loss from betting on race horses to be carried forward: (-) 40,000	
Taxable income—winning	4,00,000	Taxable income	60,000
Taxable income	4,00,000		

12 Determine the taxable income of Joyce Padit for the previous year 2008-2009 in the following two cases:

Particulars	Case I Rs	Particulars Rs	Case II
Income from salaries	(+) 4,00,000	Loss from export of wooden/ articles of artistic value (Sec.10BA)	(-) 3,20,000
Profits from 100% export-oriented undertaking (Sec. 10B)	(+)10,00,000	Loss from manufacturing business	(-) 4,50,000
Loss from export of trading good	(-) 5,00,000	Speculation profits	(+) 6,50,000
Income from house property	(+) 3,00,000	Loss from house property	(-) 2,20,000
Short-term capital loss	(-) 2,50,000	Profit from owning and maintaining race houses	(+) 1,0,000
Gross Interest from debentures of C Ltd.	1,20,000		

Solution :

Case I		Case II	
Particulars	Rs	Particulars	Rs
Income from salaries	(+) 4,00,000	Loss from house property to be set-off under inter-head adjustment	(-) 2,20,000
Income from house property	(+) 3,00,000		
Profits from 100% export- oriented undertaking: exempt (Sec. 10B)	X		
Short-term capital loss of Rs 2,50,000 cannot be set off against the income of any other head. It has to be carried forward	X	Speculation profit 6,50,000 Less: 1. Loss from (-) 4,50,000 manufacturing business 2. Loss from exporting wooden articles not entitled for set-off as it is from exempted source of income xx Taxable speculation profit 2,00,000	(+) 2,00,000
Income from other sources: Gross interest on debentures	(+) 1,20,000	Income from other sources: Profit from owning and main- taining race horses	(+) 1,00,000
Loss from export of trading goods to be set-off under inter- head adjustment but not against salaries to the extent of other income Unabsorbed business loss to be carried forward: (-) 80,000	(4,20,000)		
Total Income	4,00,000	Total income	80,000

13. Sanjay discloses the following particulars of his income for the previous year 2008-2009

	Rs
(i) Profits and gains from business of collecting and processing of bio-degradable waste, started during PY 2008-2009	(+) 4,50,000
(ii) Loss from house property	(-) 6,00,000
(iii) Interest on Government Securities	(+) 1,50,000
(iv) Dividends received from foreign companies	(+) 2,50,000

The Assessing Officer wants to set-off the loss from house property against business profits and the balance amount against the income of Government Securities. Do you agree?

Mode of Set-off opted by the Assessing Officer		Mode of set-off beneficial to the Assessee	
Particulars	Rs	Particulars	Rs
Loss from house property	(-) 6,00,000	Loss from house property	(-) 6,00,000
Less: Profits from bio-degradable waste	(+) 4,50,000	Less: Income from other sources—	
Unabsorbed loss from house property to be set-off against	(-) 1,50,000	Dividends received from foreign companies	(+) 2,50,000
Interest from government securities	(+) 1,50,000	Balance of loss from HP	(-) 3,50,000
Loss from house property	Nil	Profits from bio-degradable waste	(+) 3,50,000
Dividends from foreign companies	2,50,000	Interest on securities	(+) 1,50,000
		Gross total income	1,50,000
		Less: 100% deduction from business of bio-degradable waste (Sec. 80JJA)	<u>1,50,000</u>
		Resiceted upto GTI	
Total taxable income	2,50,000	Total taxable income	Nil

The Income-tax Act does not specify any particular mode of set-off either under intra-head or inter-head adjustment. The assessee is free to adopt a mode of set-off which is most beneficial to him. The mode of set-off opted by the Assessing Officer is not tenable in law.