

Suggestions given in Post Budget Memorandum, 2009 and accepted by the Ministry of Finance

Clause	Section	Proposed Amendment	Suggestion Given in Post-Budget Memorandum, 2009	Suggestions Accepted
13	35AD	100% of the capital expenditure incurred wholly and exclusively for the specified businesses would be allowed as deduction from the business income in the year in which the expenditure is incurred.	A significant portion of the capital expenditure is generally incurred before the commencement of business, and consequently, the assessee may not be able to avail deduction in respect of the same. For example, if capital expenditure is incurred in Feb 2009 and the assessee commences business in May 2009, he would not be able to avail deduction in respect of the expenditure, since it was not incurred during the P.Y.2009-10. Therefore, it may be clarified that such expenditure incurred before the commencement of business should be allowed in the year of commencement of business.	This suggestion has been accepted in toto. A condition has been inserted that such amount incurred prior to commencement should be capitalized in the books of account of the assessee on the date of commencement of its operations. (See Sl. No.14 of list no.3 – Amendments to Finance (No.2) Bill, 2009)

Clause	Section	Proposed Amendment	Suggestion Given in Post-Budget Memorandum, 2009	Suggestions Accepted
11, 23 & 26	56(2)(vii)	It is proposed to bring gifts-in-kind, whose value exceeds Rs.50,000, also within the purview of section 56 with effect from 1 st October, 2009. Accordingly, it has been provided that the value of the property received without consideration or for inadequate consideration, would be included in the computation of the total income of the recipient.	It was suggested that - - The definition of income under section 2(24) be amended to include any sum referred to in clause (vii) of sub-section (2) of section 56. - The fair market value of movable property and stamp value of immovable property taken into account for the purpose of section 56(2)(vii) should be considered as cost of acquisition for computation of capital gains on sale of such property.	These suggestions have been accepted. (See Sl. Nos.11 & 15 of list no.3 – Amendments to Finance (No.2) Bill, 2009)
26	56(2)(viii)	Clause (viii) is proposed to be inserted in section 56(2) to include income by way of interest received on compensation or enhanced compensation referred to in sub-section (2) of section 145A, within its scope.	The reference should be to clause (b) of section 145A and not sub-section (2) of section 145A.	This correction has been incorporated. (See Sl. No.18 of list no.3 – Amendments to Finance (No.2) Bill, 2009)

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30	80CCD	The benefit of deduction under this section in respect of contribution to pension scheme of the Central Government has been extended to self employed individuals also.	However, the deduction in all cases is restricted to 10% of salary. There is no salary income for a self employed person. Therefore, in such cases, the deduction may be restricted to 10% of gross total income.	This suggestion has been accepted in toto. (See SI. No.19 of list No.3 – Amendments to Finance (No.2) Bill, 2009)
42	115BBC	An exemption is proposed to be given in respect of anonymous donations taxable under section 115BBC. The exemption would be the higher of 5% of total income or Rs.1 lakh.	It was suggested that the exemption should be the higher of 5% of gross receipts (instead of total income) or Rs.1 lakh.	This suggestion has been accepted. The limit would be the higher of 5% of total donations received by the assessee or Rs.1 lakh. (See SI. No.34 of list No.3 – Amendments to Finance (No.2) Bill, 2009)