AKASAM MAGAZINE

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akasam & associates

chartered accountants

Contents

ARTICLE

INCOME TAX FORMS VIS A VIS INCOME TAX RETURNS

Key notes

This article intends to provide a bird's eye view on the reporting requirements under various relevant sections extending benefits of deductions/exemptions/special status to the Assessee under Income Tax Act 1961.

Introduction

While preparing any tax return there are various aspects to be looked in such as the nature of income, expenses, savings, books of accounts wherever applicable etc. Income Tax Act 1961 also extends benefits in the form of deductions, exemptions such as expenditure incurred for the purpose of scientific research u/s 35 of the Act, preliminary expenses incurred u/s 35D, deduction from profit for industrial undertakings u/s 80IB etc. Specific exemptions are also granted for certain industries, for example Section 10A/B grant exemption of a specified percentage of profits for software, export oriented units.

Whenever an Assessee wants to avail any such specific deduction prescribed in Income Tax Act 1961 or is covered under any specific schemes of benefit extended by the Act, there would be some procedural formalities prescribed for reporting purposes. These formalities are generally in the nature of capturing specific information or obtaining an independent audit from qualified accountants. Lot of other basic conditions also need to be complied with to become eligible to avail the benefits/exemptions/ deductions prescribed. Apart from these basic conditions, it calls for filling up of various forms or obtaining audit reports in the prescribed format and enclosed along with the return. Currently this documentation need not be enclosed with the return under ITR scheme but the income tax department can call for this information later.

This article intends to provide a glance of such forms and specific audit reports to be obtained at the time of preparation of the returns wherever necessary. The basic conditions to be fulfilled by an Assessee in order to be eligible are not discussed here. Moreover, this is a gist of relevant forms and all the forms referred in IT rules are not covered here.

The sections referred to in the article are mentioned in brief and simplified manner for an easy understanding and the various conditions and provisions to be fulfilled to claim deductions under each section are not discussed.

Below mentioned table provides brief mention of the section about what it deals with and the relevant form number applicable to that section as per the Income Tax Rules. As already mentioned above, only important forms are captured in this table.

Section	Description of section	Form applicable
32 (1)(iia)	Additional depreciation in respect of any new machinery or plant (other than ships and aircraft) acquired and installed after the 31/03/2005 for business of manufacturing or producing any article or thing, a further sum equal to twenty per cent of the actual cost of such machinery or plant shall be allowed as deduction	3AA
32AB(5)	Audit report in respect of investment deposit account allowing a deduction of sum equal to amount deposited or sum equal to 20% of profits from business & profession	30AAA
33AB(2)	Audit report in respect of business of growing and manufacturing tea in India allowing a deduction of sum equal to the amount deposited or sum equal to 40% of business profits	3AC
33ABA(2)	Audit report in respect of business consisting of the prospecting for, or extraction or production of, petroleum or natural gas allowing a deduction of sum equal to the amount deposited or sum equal to 20% of business profits	3AD
44AB	Audit report in respect of person who carry out business or profession and are required by or under any other law to get their accounts audited	3CA
44AB	Audit report in respect of person who carry out business or profession but don't require to get their accounts audited	3CB
44AB	Statement of particulars required to be furnished along with audit report under section 44AB	3CD
44DA(2)	Audit report in respect of Non-resident (not being a company) or a foreign company require to maintain books of account get them audited	3CE
50B(3)	Report in respect of capital gains in case of slump sale	3CEA
92E	Report in respect of persons entering into international transaction.	3CEB

80GG	Declaration to be filed by the assessee for claiming deduction	10BA
80HHD (2A)	Certificate from a person making payment to an assessee, engaged in the business of a hotel/tour operator/travel agent, out of Indian currency obtained by conversion of foreign exchange received from/on behalf of a foreign tourist/group of tourist	10CCAE
80-I(7)/ 80-IA(7)/ 80-IB	Audit report in respect of persons other then company or a co-operative society earning profit & gain from • industrial undertakings after a certain date allowing a deduction of 20%, • industrial under taking or enterprises engaged in infrastructure allowing a deduction of 100% • development and industrial undertaking other than infrastructure undertaking allowing a deduction from such profits and gains of an amount equal to such percentage	10CCB
80-IB(7A)	Audit report in respect of 50% deduction in case of profit and gains derived from the business of building owning and operating a multiplex theater for 5 consecutive years beginning from the initial assessment year	10CCBA
80-IB (7B)/(14)	Audit report in respect of 50% deduction in case of profit and gains derived from the business of building owning and operating a convention centre for 5 consecutive years beginning from the initial assessment year	10CCBB
80QQB	Certificate to for Authors of certain books in receipt of Royalty income, etc. allowing a deduction of sum equal to the whole of such income or an amount of three lakh rupees, whichever is less	10CCD
80RRB	Certificate in respect of royalty on patents allowing a deduction of sum equal to the whole of such income or an amount of three lakh rupees, whichever is less	10CCE

80JJAA	Report in respect profits and gains derived from any industrial undertaking engaged in the manufacture or production of article or thing be allowed a deduction of 30% additional wages paid to the new regular workmen employed	10DA
80QQB(4)/ 80RRB(3)/ 80R/80RR/ 80RRA	Certificate of foreign inward remittance	10H
80DDB	Certificate of prescribed authority in respect of medical treatment allowed a deduction of the amount actually paid or a sum of forty thousand rupees, whichever is less	10I
80DD/80U	Certificate of the medical authority for certifying person with disability, severe disability, autism, cerebral palsy and multiple disability	10IA
192(2)	Form stating the nature & value of perquisite provided by the employer to the employee if the salary exceeds Rs.1,50,000/-	12B
	Statement showing particulars of perquisites, other fringe benefits or amenities and profits in lieu of salary with value thereof	12BA
115JB	Report in respect of companies where the tax payable on total income is less than 10% of book profits than such income shall to amount to tax at the rate of 10% on book profits	29B
115VW	Audit report to maintain & audit of account to gain the option of tonnage tax scheme by a tonnage tax company	66

Deductions to trust & societies

The IT Act provides certain extra benefits to trust and societies in the form of deduction. Forms for some of certain deduction is mentioned below

Section	Description of section	Form applicable
12A(b)	Audit report for trust or institutions falling in the limit of tax audit	10B
10(23C)	Audit report in respect of any fund or trust or institution or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of this section	10BB

Deduction on expenses

There are certain provisions in the Income Tax Act 1961 that provide deduction not on profit or gain from the activity but based on the expenses incurred on the activity. Forms applicable to such relevant deductions are mentioned below

Section	Description of section	Form applicable
35D(4)/ 35E(6)	Audit report in respect of Amortization of certain preliminary expenses and expenditure on prospecting or extraction or production of mineral allowing a deduction of sum equal 1/10th of such expenditure	3AE
35(2AA)	Order of approval of scientific research program	3CH
35(2AA)	Receipt of payment for carrying out scientific research	3CI
35(2AA)	Report to be submitted by Director General in respect of any sum paid to scientific research programs allowing a deduction of 1 ¼ of amount paid	3CJ
35(2AB)	Application form for entering into an agreement with the Department of Scientific and Industrial Research for co-operation in in-house Research and Development facility and for audit of the accounts maintained for that facility	3CK

35(2AB)	Report to be submitted by Director General in respect of company engaged in business of bio-technology incurring in-house expenses shall be allowed a deduction of 1 ½ of expenses incurred	3CL

Deduction on taking certain steps

There are certain sections and provisions in Income Tax Act 1961 that provide exemptions & deductions on carrying on prescribed activities at a certain place

Section	Description of section	Form applicable
33A	Statement of particulars for purposes of section 33A relating to (a) planting of tea bushes on land not planted at any time with tea bushes or on land which had been previously abandoned; (b) replanting of tea bushes in replacement of tea bushes that have died or have become permanently useless on any land already planted	5A
10A	Report on special provisions in respect of newly established undertaking in free trade zone	56F
10B	Report on special provisions in respect of newly established 100% export oriented undertaking	56G
10BA	Report on special provisions in respect of export of certain articles or things	56H

By—

Ms. Roopali. J

Ms. Ayesha Siddiqua

INTERNATIONAL FINANCIAL REPORTING STANDARDS (IFRS) MADE SIMPLE

Key notes

IFRS is highly Principle based and the Standards follow certain fundamental concepts/assumptions. Let us understand some basis concepts and definitions in this first edition. Detailed interpretations of Standards and their comparison with IGAAP, i.e., the existing standards in India will follow in future.

Objective of financial statements

The objective of financial statements is to provide information about

- **Financial position**

The balance sheet presents this information. The financial position of an enterprise is affected by the economic resources it controls, its financial structure, its liquidity and solvency, and its capacity to adapt to changes in the environment in which it operates.

- **Performance**

Performance is the ability of an enterprise to earn a profit on the resources that have been invested in it. Information about the amounts and variability of profits helps in forecasting future cash flows from the enterprise's existing resources and in forecasting potential additional cash flows from additional resources that might be invested in the enterprise. The Framework states that information about performance is primarily provided in an income statement

- **Changes in the financial position of an entity**

Users of financial statements seek information about the investing, financing and operating activities that an enterprise has undertaken during the reporting period. This information helps in assessing how well the enterprise is able to generate cash and cash equivalents and how it uses those cash flows. The cash flow statement provides this kind of information

Assumptions for preparing financial statements

- **Accrual basis of accounting**

The effects of transactions and other events are recognized when they occur, rather than when cash or its equivalent is received or paid, and they are reported in the financial statements of the periods to which they relate

- **Going concern**

The financial statements presume that an enterprise will continue in operation indefinitely or, if that presumption is not valid, disclosure and a different basis of reporting are required.

Qualitative characteristics

The qualitative characteristics that determine the usefulness of information in financial statements are:

- **Understandability**

Information should be presented in a way that is readily understandable by users who have a reasonable knowledge of business and economic activities and accounting and who are willing to study the information diligently.

- **Relevance**

Information in financial statements is relevant when it influences the economic decisions of users. It can do that both by

- Helping them evaluate past, present, or future events relating to an enterprise and by
- Confirming or correcting past evaluations they have made.

Materiality is a component of relevance. Information is material if its omission or misstatement could influence the economic decisions of users. Timeliness is another component of relevance. To be useful, information must be provided to users within the time period in which it is most likely to bear on their decisions.

- **Reliability**

Information in financial statements is reliable if it is free from material error and bias and can be depended upon by users to represent events and transactions faithfully. Information is not reliable when it is purposely designed to influence users' decisions in a particular direction. There is sometimes a tradeoff between relevance and reliability - and judgment is required to provide the appropriate balance. Reliability is affected by the use of estimates and by uncertainties associated with items recognized and measured in financial statements. These uncertainties are dealt with, in part, by disclosure and, in part, by exercising prudence in preparing financial statements. Prudence is the inclusion of a degree of caution in the exercise of the judgment needed in making the estimates required under conditions of uncertainty, such that assets or income are not overstated and liabilities or expenses are not understated. However, prudence can only be exercised within the context of the other qualitative characteristics in the Framework, particularly relevance and the faithful representation of transactions in financial statements. Prudence does not justify deliberate overstatement of liabilities or expenses or deliberate understatement of assets or income, because the financial statements would not be neutral and, therefore, not have the quality of reliability.

- Comparability

Users must be able to compare the financial statements of an enterprise over time so that they can identify trends in its financial position and performance. Users must also be able to compare the financial statements of different enterprises. Disclosure of accounting policies is essential for comparability.

Elements of financial statements

Financial statements portray the financial effects of transactions and other events by grouping them into broad classes according to their economic characteristics.

Recognition of the elements of financial statements

An item is recognized when it is included in the financial statements. It is the process of incorporating in the balance sheet or income statement an item that meets the definition of an element and satisfies the following criteria for recognition:

- It is probable that any future economic benefit associated with the item will flow to or from the enterprise; and
- The item's cost or value can be measured with reliability.
- Matching principle is a useful concept where it considers whether an asset arises when liability is recognized and vice versa. It is the principle of matching expenses with income.

Elements are directly related to financial position

- Assets

Definition

An asset is a resource controlled by the enterprise as a result of past events and from which future economic benefits are expected to flow to the enterprise.

Recognition

An Asset is recognized in the balance sheet when it is probable that the future economic benefits will flow to the enterprise and the asset has a cost or value that can be measured reliably.

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- Liability

Definition

A liability is a present obligation of the enterprise arising from past events, the settlement of which is expected to result in an outflow from the enterprise of resources embodying economic benefits

Recognition

A liability is recognized in the balance sheet when it is probable that an outflow of resources embodying economic benefits will result from the settlement of a present obligation and the amount at which the settlement will take place can be measured reliably.

- Equity

Definition

Equity is the residual interest in the assets of the enterprise after deducting all its liabilities.

Elements relates to performance

- Income

Definition

Income is the increase in economic benefits during the accounting period in the form of inflows or enhancements of assets or decreases of liabilities that result in increases in equity, other than those relating to contributions from equity participants.

The definition of income encompasses both revenue and gains. Revenue arises in the course of the ordinary activities of an enterprise and is referred to by a variety of different names including sales, fees, interest, dividends, royalties and rent. Gains represent other items that meet the definition of income and may, or may not, arise in the course of the ordinary activities of an enterprise. Gains represent increases in economic benefits and as such are no different in nature from revenue. Hence, they are not regarded as constituting a separate element in the IASC Framework.

Recognition

Income is recognized in the income statement when an increase in future economic benefit related to an increase in an asset or a decrease of a liability has arisen that can be measured reliably. This means, in effect, that recognition of income occurs simultaneously with the recognition of increases in assets or decreases in liabilities (for example, the net increase in assets arising on a sale of goods or services or the decrease in liabilities arising from the waiver of a debt payable).

- Expense

Definition

Expenses are decreases in economic benefits during the accounting period in the form of outflows or depletions of assets or incurrence of liabilities that result in decreases in equity, other than those relating to distributions to equity participants.

The definition of expenses encompasses losses as well as those expenses that arise in the course of the ordinary activities of the enterprise. Expenses that arise in the course of the ordinary activities of the enterprise include, for example, cost of sales, wages and depreciation. They usually take the form of an outflow or depletion of assets such as cash and cash equivalents, inventory, property, plant and equipment. Losses represent other items that meet the definition of expenses and may, or may not, arise in the course of the ordinary activities of the enterprise. Losses represent decreases in economic benefits and as such they are no different in nature from other expenses. Hence, they are not regarded as a separate element in this Framework.

Recognition

Expenses are recognized when a decrease in future economic benefit related to a decrease in an asset or an increase of a liability has arisen that can be measured reliably. This means, in effect, that recognition of expenses occurs simultaneously with the recognition of an increase in liabilities or a decrease in assets (for example, the accrual of employee entitlements or the depreciation of equipment).

Measurement of the elements of financial statements

It is probable that any future economic benefit associated with the item will flow to or from the enterprise; and the item's cost or value can be measured with reliability. Based on these general criteria:

Measurement involves assigning monetary amounts at which the elements of the financial statements are to be recognized and reported.

The Framework acknowledges that a variety of measurement bases are used today to different degrees and in varying combinations in financial statements, including:

- Historical cost
- Current cost
- Net realizable (settlement) value
- Present value (discounted)

Historical cost is the measurement basis most commonly used today, but it is usually combined with other measurement bases. The Framework does not include concepts or principles for selecting which measurement basis should be used for particular elements of financial statements or in particular circumstances. However, the qualitative characteristics do provide some guidance.

By—

Ms. Manjula. K

NOTIFICATION/CIRCULARS

Time limit for filing ITR-V extended to 60 days

The Central Board of Direct Taxes had, vide circular No.3/2009 dated 21.05.2009, allowed assessee who file their income tax returns in electronic form without digital signature to submit their verified ITR-V form, within a period of 30 days, thereafter. The ITR-V form was required to be sent to Post Bag No.1, Electronic City Post Office, Bangalore, Karnataka-560100, by ordinary post.

It has now been decided to extend the time limit for filing the ITR-V form by relaxing the stipulations in the circular dated 21.05.2009. The ITR-V form relating to returns which have been filed electronically (without digital signature) on or after 1st April, 2009 can now be filed on or before the 30th September, 2009 or within a period of 60 days of uploading of the electronic return data, whichever is later. The ITR-V should continue to be sent by ordinary post to Post Bag No.1, Electronic City Post Office, Bangalore, and Karnataka-560100.

By—

Mr. Suresh Kumar

Service tax on commission paid to managing director / directors by the company

CBEC issued circular 115/2009, in the sais circular, it is clarified that remunerations paid to Managing Director / Directors of companies whether whole-time or independent when being compensated for their performance as Managing Director/Directors would not be liable to service tax.

By—

Mr. N Srinivas

CIT Vs. POOMPUHAR SHIPPING CORPORATION LTD

Key notes

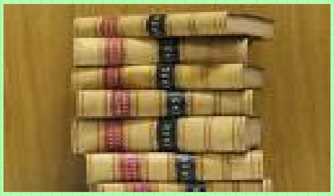
Entering into a contract for hiring of trucks is not equivalent to entering into a contract for carrying out any work as contemplated in section 194C; therefore, Explanation III to section 194C is not attracted to the facts of the case.

Facts of the Case

- The assessee is a company engaged in civil constructions.
- The assessee hired the trucks for a fixed period, on payment of hire charges, to utilize in its business.
- There was no contract between the assessee and the owners of the trucks to carry out any work.
- For carrying out any work, man power is the “sine qua non” and without man power, it cannot be said that work has been carried out.
- "Work" shall also include carriage of goods or passengers by any mode of transportation other than railways.
- It is not the case that the trucks taken on hire by the assessee from the truck owners were supplied by the truck owners to the assessee along with man power, i.e., drivers and/or conductors
- Mere providing of the trucks without any man power" cannot be termed as carrying out of any work by the truck owners.

High court decision

- It was held that hiring of ships for the purpose of using them in the assessee's business did not amount to a contract for carrying out any work
- The provisions of Section 194C will attract only when any sum is paid for carrying out any work including supply of labour for carrying out any work.
- ‘Hiring’ is a contract by which one gives to another temporary possession and use of property other than money for payment of compensation and the latter agrees to return the property after the expiry of the agreed period.
- Entering into a contract for hiring of trucks is not equivalent to entering into a contract for carrying out any work.
- Hence the contract was not for carrying out any work, the provisions of section I94C are not attracted.



CIT VS PANACEA BIOTECH LTD

Key notes

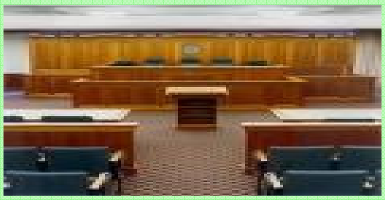
Once the goods have been purchased, the invoices raised and the purchase considerations are accounted for in the books of the assessee, the expenditure can be said to have been incurred as per the method of accounting followed by the assessee.

Facts of the Case

- The assessee purchased two machineries and the same has been used for the purpose of scientific research
- For the first machinery the assessee has paid the advance payment within the assessment year, where as for the second machinery he has not made any payment.
- However invoices were raised within the relevant financial year and a letter of credit was also opened with respect to the second machinery,
- The same was disallowed during the assessment on the grounds that the expenditure was not incurred with in the meaning of the provision of section 35(2)(i)(a)
- The assessee has urged that the books of accounts were maintained on mercantile basis and, therefore, since the invoices were raised within the relevant financial year and since a letter of credit was already opened with respect to the second machinery, it cannot be said that expenditure was not incurred.
- The counsel of assessee was argued that a debt incurred is an expenditure incurred within the meaning of the expression ‘expenditure is incurred’ under section 35(2)(i)(a).
- During the proceedings in the court the assessee draws the attention of section 43 sub-section 2 of the Act which defines the expression “paid” to means actually paid or incurred according to the method of accounting upon the basis of which profits or gains are computed

High court decision

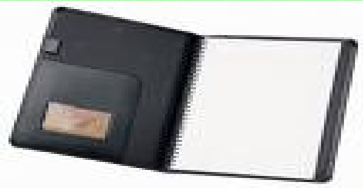
- In the mercantile method of accounting incurring of the expenditure is not based on payment but on the liability to pay.
- Once the goods have been purchased, the invoices, raised and the purchase considerations are accounted for in the books of the assessee, the expenditure can be said to have been incurred as per the method of accounting followed by the assessee.



- The high court of Delhi relied upon the decision of Belapahar Refractories Ltd. v. CIT, 2007 ITR 144 (Orissa) in which the Division Bench of the Orissa High Court has held that incurring of expenditure for scientific research means "to become liable to" i.e. to incur a debt and at such time the expenditure can be said to have been incurred.
- The high court further held that the expression "incurring" includes either an actual payment or that the concerned person has become liable for payment but had not actually made payment.

By—

Mr. Manikanta Raju



DIARY

Upcoming statutory tax compliances

Due Date	Compliance
September 7	Payment of TDS deducted in the month of August 2009 (AY 2010-2011)

Data compilation and verification by—

Ms. Ayesha Siddiqua

Ms. Roopali. J