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Carry Forward and Set Off of Losses in tabular form with FAQs

Introduction :-

The public finance domain of Economics deals with principles/cannons of taxations. There are various models of Taxation but in the developing economies progressive system of taxation has been advocated which means a person having larger income should contribute more to the public exchequer in comparison to the person having lesser income.

While dealing with the subject, it has been envisaged that if a person has profits/income he should pay taxes if he has profit and losses simultaneously he should pay tax on net profit after deducting the losses and if he has resultant loss or only loss he is not required to pay taxes. However, due to the complexity and need it has been thought of to incorporate the provisions relating to set off and carry forward of losses. Additional complexity has been created and the losses have been restricted to be set off due to greediness of the legislators and tax administrators.

The set off and carry forward of losses can be sub divided into two broad categories:-

1. Set off of losses.
2. Carry forward and Set off of losses.

Specific provision have been made in the income tax act, 1961 for the set-off and carry forward of losses.

The term "Set-off" and "Carry forward of losses" in simple words,

"Set-off" means adjustments of losses against the profit from another source/head of income in the same assessment year.

If losses cannot be set-off in the same year due to inadequacy of edible profit, then such losses are carry forward to next assessment year for adjustment against the eligible profit of that year.
The maximum period for which different losses can be carried forward for set-off has been provided in the Act.

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Procedure for setting off losses:

The process of setting off of losses and their carry forward may be covered in the following Steps:

Step 1.

Set-off loss from same head of income – "Inter-source" adjustment.

Step 2.

If the loss is still existing after ***Step 1****, loss can be set-off from other heads of income (subject to certain restrictions) – "Inter - head" adjustments.*

Step 3.

If loss still persists after ***Step 1 & Step 2****, the same can be carried forward to the subsequent assessment years – Carry forward of losses.*

I am trying to re-produce the same in tabular form herein below along with FAQ issued by income tax department and some important case laws and respective notes.

Inter-source and inter-head Set-off [Section 70 & 71]

Section	Provision	Exception
70	**Set off of loss from one source against income from another source under the same head of income/ inter- source set-off under the same head of income** Any loss in respect of one source shall be set-off against income from other source under the same head of income. But, there are some exception to this.	*i) Loss from Speculative business* *ii) Loss from specified business under section 35 AD* *iii) Long term capital loss* *iv) Loss from the activity of owning and maintaining race horses* *v) No loss can be set- off against casual income i.e. Income from lotteries, cross word puzzles, betting gambling and other similar games* *vi) Loss from an exempted source cannot be set off against from a taxable source of income.* *(e.g. Share of loss of firm, agricultural losses, cultivation expenses)*

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Section	**Provision**	**Exception**
71	**Set Off of Loss from one head against income from another/ Inter head adjustment** Loss under one head of income can be set-off against income assessable under any other head of income.	*i) Loss under the head Profits and gains of business or profession" cannot be set off against income under the head "Salaries"*
		ii) No expenses can be claimed against casual income
		iii) Loss under the head "Capital gains" cannot be set off against income under any other head.
		iv) Speculation loss and loss from the activity of owing and maintaining race horses cannot be set-off against income under any other head.

Tabular Summary for adjustments of loss

Incomes	Salary	House Property	Non Speculative Business	Speculative Business	LTCG	STCG	Owning and maintenance of race horses	Others
Loss under the head House Property	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Speculative business loss	No	No	No	Yes	No	No	No	No
Other business or professional loss	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Long term capital loss	No	No	No	No	Yes	No	No	No
Short term capital loss	No	No	No	No	Yes	Yes	No	No
Loss from owning and maintenance of race horses	No	No	No	No	No	No	Yes	No

Remarks:-
"Yes" denotes loss can be adjusted with respective income.
"No" denotes loss cannot be adjusted with respective income.

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Carry forward and Set-off of brought forward losses

If a loss cannot be set off either under the same head or under the different heads because of absence or inadequacy of the income of the same year, it may be carried forward and set off against the income of the subsequent year.

However, the loss so carried forward can be set-off only against same head of income, i.e. the benefit of "inter-source' adjustment is lost.

Section	**Nature of loss to be carried forward**	**Income against which the brought forward loss can be set off in subsequent years.**	**Maximum permissible period [from the end of the relevant assessment year] for carry forward of losses**
71B	Unabsorbed loss from house property	Income from House Property	8 assessment years
72	Unabsorbed business loss (non- speculative)	Profit and gains from business or profession (non- speculative)	8 assessment years
73	Loss from speculation business	Income from speculation business	4 assessment years
73A	Loss from specified business under section 35AD	Profit from specified business under section 35AD	Indefinite period
74	Long-term capital loss	Long-term capital gains	8 assessment years
74	Short-term capital loss	Short/Long-term capital gains	8 assessment years
74A	Loss from the activity of owning and maintaining race horses	Income from the activity of owing and maintaining race horses.	4 assessment years

Remarks:

Past year losses can be set-off against income from that respective head of income (Inter head adjustment is not possible)

Important Note:-

a) **Mandatory Filing of IT return in order to carry forward and set-off of a loss in stipulated time**

- ✓ As per section 80, the assesses must have filed a return of loss under section 139(3) in order to carry forward and set off a loss. In other words, the non-filing of a return of loss disentitles the assesses from carrying forward the loss sustained by him. Such a return should filed within the time allowed under section 139(1).

- ✓ *However, this conditions does not apply to a loss from house property carry forward under section 71B and unabsorbed depreciation carry forward under section 32(2).*

  However in case return is filed late CBDT has a power to condone delay – Circular No. 8/2001 dt 16-05-2001

- ✓ *If return of the current year is not submitted in time, losses of the past years are not affected.*

- ✓ ***Return of loss in the case of a sick company***

  If a sick company fails to file the return of loss within the stipulated time specified in section 139(3), and a scheme made pursuant to an order under section 17(3) of the Sick Industrial Companies (Special Provisions) Act, 1985 is sanctioned by the Board for Industrial and Financial Reconstruction under section 18 of that Act, specifying a particular tax treatment for the carry forward and set off of loss incurred by the sick company, the said scheme will have overriding effect over the provisions of section 80 of the Income-tax Act. In such a situation the Assessing Officer will have to take cognisance of the scheme and give effect to the carry forward and set off of loss provided for under the scheme—Circular No. 576, dated August 31, 1990.

  Earlier the Board had issued Circular No. 523, dated October 5, 1988 in connection with the procedure to be followed in respect of grant of "consent" by the Central Government in cases involving financial assistance to be given under direct tax laws for rehabilitating sick industries under Sick Industrial Companies (Special Provisions) Act, 1985 (SICA).

  Withdrawal of circulars - The Board had withdrawn with immediate effect the above Circular Nos. 523 and 576 vide its letter of even number dated December 30, 1993. The said letter to AAIFR and BIFR clarified that each case of fiscal concession of "financial assistance" under direct tax laws will now be considered in each individual case on merits. The model agency for coordination between the Board for Industrial and Financial Reconstruction (BIFR) and Central Board of Direct Taxes and Appellate Authority for Industrial and Financial Reconstruction (AAIFR) and Central Board of Direct Taxes will be the Director General of Income-tax (Admn.), 7th Floor, Mayur Bhawan, New Delhi-110001. Cases already decided in accordance with Circular Nos. 523 and 576 were, however, not required to be reopened— Circular No. 683, dated June 8, 1994.

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b) **What is Speculation business ?**

- ✓ Defined u/s 43(5) as transaction in which a contract for purchase or sale of any commodity, including stocks and shares, is periodically or ultimately settled otherwise than by actual delivery or transfer of the commodity or scrips.

- ✓ The explanation to this section provides that where any part of business of a company consists in the purchase and sale of the shares of other companies, such a company shall be deemed to be carrying on speculation business to the extent to which the business consists of the purchase and sales of shares.

  However, this deeming provision does not apply to the following companies -

  1) A company whose gross total income consists of mainly income chargeable under the heads "Interest on securities", "Income from house property", "Capital gains" and "Income from other sources".

  2) A company, principle business in which is -

     i) the business of trading in shares; or

     ii) the business of banking; or

     iii) the grating of loans and advances.

  Thus, these companies would be exempted from the operation of this explanation. Accordingly, if these companies carry on the business of purchase and sales of shares of other companies, they would not be deemed to be carrying on speculation business.

- ✓ Transactions of trading in derivatives entered into on recognized stock exchange through a broker, or SEBI recognized intermediary and supported by a time stamped contract note is excluded from the definition of speculative transaction u/s. 43(5)(d). Thus, loss from such transactions can be set off against any other income.

  In simple words, Trading in derivatives shall not to be treated as speculation business.

  It may be noted that the losses on derivatives trading were treated as speculation losses upto a/y 2005-06. The profit/losses on derivative trading are treated as normal business income/losses from a/y 2006-07. Therefore the losses on derivative incurred upto a/y 2005-06 can not be setoff against the profit form derivative trading in a/y 2006-07 and future assessment years speculation losses can't be set=off against non speculative income.
- ✓ Trading in commodity derivatives carried out in a recognized association and chargeable to commodities transaction tax under Chapter VII of the Finance Act, 2013 shall not be considered to be a speculative transaction

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c) **Order of set-off of losses**

- ✓ As per provisions of section 72(2), brought forward business loss is to be set-off before setting off unabsorbed deprecation. In case where profits are insufficient to absorb brought forward losses, current depreciation and current business losses, the same should be deducted in the following order :

  i) Current year depreciation/ current year capital expenditure on scientific research and current year expenditure on family planning, to the extent allowed.
  ii) Brought forward loss from business/profession.
  iii) Unabsorbed expenditure on family planning
  iv) Unabsorbed depreciation
  v) Unabsorbed capital expenditure on scientific research

d) **Important notes on capital gains**

- ✓ Capital gain resulted from the transfer of an depreciable asset held for a period of more than three years, can be set off against the brought forward loss from the long term capital assets.

- ✓ Losses of the taxable long term capital gains to be set off only taxable long term capital gains and not against exempt long term capital gains. However set-off of indexed long term capital loss can be set off against long term capital gain without indexation.

- ✓ Long-term Capital Gains in respect of equity shares sold in recognized stock exchange and units of equity oriented mutual fund which has suffered Securities Transaction Tax (STT) are exempt u/s. 10(38) with effect from 1/10/2004.

  However long term gains is not exempt in case where STT is not paid on sale e.g. off market transactions, off market buyback, etc.

e) **Loss when clubbing provision apply**

- ✓ When clubbing provisions apply, loss is required to be clubbed in the same manner as income. Such clubbed loss can be set off and carried forward, as if it is loss determined in the taxpayer's own case. The successor of business can carry forward and set off the loss of his predecessor, if such succession is by way of inheritance.

- ✓ Business income of wife or minor child, clubbed under provision of section 64, with the income of assessee can be set off against any loss brought forward by assessee in respect of a business carried on by him—CIT v. J.H. Gotla [1985] 156 ITR 323 (SC).

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e) **Other Issue**

✓ ***Loss can be carried forward by the assesses who incurs the loss***

Exceptions

- Accumulated business loss of an amalgamating company/demerged (section 72A).
- Accumulated loss of a proprietary concern or a firm when its business is taken over by a company by satisfying conditions of section 47(xiii)/(xiv) (section 72A).
- Accumulated business loss of a demerged company
- Loss of business acquired by inheritance (section 78).CIT v. Bai Maniben [1960] 38 ITR 80 (Bom.).

✓ ***Loss cannot be carried forward for more than eight assessment years***

Exceptions

- Unabsorbed business loss in respect of rehabilitated business referred to in section 33B (such loss can be carried forward for eight assessment years after the business is revived including the year of revival).
- Unabsorbed business loss in respect of non-speculation business discontinued and after discontinuation there is receipt deemed as business income u/s 41(1), (3),(4) or (4A) [(section 41(5)].

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Important Case laws:-

- Losses in illegal business must be taken into account for computation of real profits of the illegal business.
  However loss for illegal business cannot be set off against profits of legal business – CIT v/s Kurji Jinabhai Kotecha (1977) 107 ITR 101 (SC).

- Losses in one business can be set off from profits in another business – CIT v/s Muthuram Chettiar (1962) 44 ITR 710(SC).

- Loss of dead business cannot be set off against the gains of a going concern B.C.G.A (Punjab) Ltd. v/s CIT (1937) 5 ITR 279 (Lahore) & South Indian Industrials Ltd. (1935) 3 ITR 11(Mad) (applicable upto A.Y.1999-2000).

- Loss from exempt source of income cannot be set off against income from a different source or income under a different head CIT v/s Thiagarajan (1981) 129 ITR 115 (Mad)

- Partial set off and partial carry forward is not permissible G.Atherton & Company v/s CIT (1989) Tax LR 13 (Cal.).

- Unabsorbed loss to be carried forward without interruption – Hiralal Jeramdas v/s CIT (1965) 58 ITR 1 (Bom.)

- No option given to assessee to show profit as income from one source and carry forward the loss from another source of income to the next year - CIT v/s Milling Trading Company. (P) Ltd. (1994) 76 Taxman 389 (Guj.)

- Loss from exempt source of income cannot be carried forward (CIT v/s Harprasad & Co. (P) Ltd. (1975) 99 ITR 118 (SC).

- Current depreciation must be deducted first before deducting the unabsorbed carried forward business losses of earlier years – CIT v/s Mother India Refrigeration Industries (P) Ltd. 155 ITR 711 (SC)

- Whether losses may be carried forward and set off in the following year u/s 72 to be determined by the assessing officer dealing with the assessment in the subsequent year (CIT v/s Manmohan Das (1966) 59 ITR 699 (SC)

- Carry forward of losses returns allowable even if return of losses is filed within extended period prescribed u/s 139(3) of the Act (I.e within one year from the end of the assessment year) [CIT v/s Glucose Products Ltd. (2001) 250 ITR 512(AP)]

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- The term "inheritance" means only a transmission of the assets and liabilities of one person to another by the personal law applicable to them and not by any other mode of transfer known to law—Hindustan Aeronautics Ltd. v. CIT [1983] 15 Taxman 265 (Kar.).

- Where legal heirs of a deceased-proprietor enters into partnership and carries on the same business in the same premises under the same trade name, there is succession by inheritance as contemplated in section 78(2) and assessee-firm is entitled to carry-forward and set-off of the deceased's business loss against its income for subsequent years—CIT v. Madhukant M. Mehta [2002] 124 Taxman 130 (SC).

- Loss incurred in speculative business in banned items cannot be carried forward to the next year—CIT v. Kurji Jinabhai Kotecha [1977] 107 ITR 101 (SC).

- A transaction cannot be described as a "speculative transaction" where there is a breach of contract and on a dispute between the parties damages are awarded as compensation by an arbitration award—CIT v. Shantilal (P.) Ltd. [1983] 14 Taxman 1 (SC).

FAQs on Set Off and Carry Forward of Losses (Source of Faqs – http://www.incometaxindia.gov.in)
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SET OFF AND CARRY FORWARD OF LOSS UNDER THE INCOME-TAX ACT

Loss from exempted source of income cannot be adjusted against taxable income

If income from a particular source is exempt from tax, then loss from such source cannot be set off against any other income which is chargeable to tax.

E.g., Agricultural income is exempt from tax, hence, if the taxpayer incurs loss from agricultural activity, then such loss cannot be adjusted against any other taxable income.

Meaning of intra-head adjustment

If in any year the taxpayer has incurred loss from any source under a particular head of income, then he is allowed to adjust such loss against income from any other source falling under the same head.

The process of adjustment of loss from a source under a particular head of income against income from other source under the same head of income is called intra-head adjustment, e.g. Adjustment of loss from business A against profit from business B.

Restrictions to be kept in mind while making intra-head adjustment of loss

Following restrictions should be kept in mind before making intra-head adjustment of loss:

1) Loss from speculative business cannot be set off against any income other than income from speculative business. However, non-speculative business loss can be set off against income from speculative business.
2) Long-term capital loss cannot be set off against any income other than income from long-term capital gain. However, short-term capital loss can be set off against long-term or short-term capital gain.
3) No loss can be set off against income from winnings from lotteries, crossword puzzles, race including horse race, card game, and any other game of any sort or from gambling or betting of any form or nature.
4) Loss from the business of owning and maintaining race horses cannot be set off against any income other than income from the business of owning and maintaining race horses.
5) Loss from business specified under section 35AD cannot be set off against any other income except income from specified business (section 35AD is applicable in respect of certain specified businesses like setting up a cold chain facility, setting up and operating warehousing facility for storage of agricultural produce, developing and building a housing projects, etc.).

Meaning of inter-head adjustment

After making intra-head adjustment (if any) the next step is to make inter-head adjustment. If in any year, the taxpayer has incurred loss under one head of income and is having income under other head of income, then he can adjust the loss from one head against income from other head, E.g., Loss under the head of house property to be adjusted against salary income.

Restrictions to be kept in mind while making inter-head adjustment of loss

Following restrictions should be kept in mind before making inter-head adjustment:

1) Before making inter-head adjustment, the taxpayer has to first make intra-head adjustment.
2) Loss from speculative business cannot be set off against any other income. However, non-speculative business loss can be set off against income from speculative business.
3) Loss under head "Capital gains" cannot be set off against income under other heads of income.
4) No loss can be set off against income from winnings from lotteries, crossword puzzles, race including horse race, card game, and any other game of any sort or from gambling or betting of any form or nature.
5) Loss from the business of owning and maintaining race horses cannot be set off against any other income.
6) Loss from business specified under section 35AD cannot be set off against any other income (section 35AD is applicable in respect of certain specified businesses like setting up a cold chain facility, setting up and operating warehousing facility for storage of agricultural produce, developing and building housing projects, etc.)
7) Loss from business and profession cannot be set off against income chargeable to tax under the head "Salaries".

Carry forward of unadjusted loss for adjustment in next year

Many times it may happen that after making intra-head and inter-head adjustments, still the loss remains unadjusted. Such unadjusted loss can be carried forward to next year for adjustment against subsequent year(s)' income. Separate provisions have been framed under the Income-tax Law for carry forward of loss under different heads of income.

Provisions under the Income-tax law in relation to carry forward and set off of business loss other than loss from speculative business

If loss of any business/profession (other than speculative business) cannot be fully adjusted in the year in which it is incurred, then the unadjusted loss can be carried forward for making adjustment in the next year. In the subsequent year(s) such loss can be adjusted only against income charged to tax under the head "Profits and gains of business or profession"

Loss under the head "Profits and gains of business or profession" can be carried forward only if the return of income/loss of the year in which loss is incurred is furnished on or before the due date of furnishing the return, as prescribed under section 139(1).

Such loss can be carried forward for eight years immediately succeeding the year in which the loss is incurred.

Above provisions are not applicable in case of unabsorbed depreciation (provisions relating to unabsorbed depreciation are discussed later)

Loss from business specified under section 35AD cannot be set off against any other income except income from specified business (section 35AD is applicable in respect of certain specified businesses like setting up a cold chain facility, setting up and operating warehousing facility for storage of agricultural produce, developing and building a housing projects, etc.). Such loss can be carried forward for adjustment against income from specified business for any number of years.

Loss from the business of owning and maintaining race horses cannot be set off against any income other than income from the business of owning and maintaining race horses. Such loss can be carried forward only for a period of 4 years.

If loss of any speculative business cannot be fully adjusted in the year in which it is incurred, then the unadjusted loss can be carried forward for making adjustment in the next year. In the subsequent year(s) such loss can be adjusted only against income from speculative business (may be same or any other speculative business).

Loss from speculative business can be carried forward only if the return of income/loss of the year in which loss is incurred is furnished on or before the due date of furnishing the return, as prescribed under section 139(1).

Such loss can be carried forward for four years immediately succeeding the year in which the loss is incurred.

Above provisions are not applicable in case of unabsorbed depreciation of speculative business (provisions relating to unabsorbed depreciation are discussed later).

Provisions under the Income-tax Law in relation to carry forward and set off of house property loss

If loss under the head "Income from house property" cannot be fully adjusted in the year in which such loss is incurred, then unadjusted loss can be carried forward to next year.

In the subsequent years(s) such loss can be adjusted only against income chargeable to tax under the head "Income from house property".

Such loss can be carried forward for eight years immediately succeeding the year in which the loss is incurred.

Loss under the head "Income from house property" can be carried forward even if the return of income/loss of the year in which loss is incurred is not furnished on or before the due date of furnishing the return, as prescribed under section 139(1).

Provisions under the Income-tax law in relation to carry forward and set off of capital loss

If loss under the head "Capital gains" incurred during a year cannot be adjusted in the same year, then unadjusted capital loss can be carried forward to next year.

In the subsequent year(s), such loss can be adjusted only against income chargeable to tax under the head “Capital gains”, however, long-term capital loss can be adjusted only against long-term capital gains. Short-term capital loss can be adjusted against long-term capital gains as well as short-term capital gains.

Such loss can be carried forward for eight years immediately succeeding the year in which the loss is incurred.

Such loss can be can carried forward only if the return of income/loss of the year in which loss is incurred is furnished on or before the due date of furnishing the return, as prescribed under section 139(1).

Meaning of unabsorbed depreciation, unabsorbed capital expenditure on scientific research and unabsorbed capital expenditure on promoting family planning amongst the employees

Apart from several other deductions, while computing income chargeable to tax under the head “Profits and gains of business or profession” a person is allowed to claim deduction on account for depreciation, capital expenditure incurred by him on scientific research and capital expenditure incurred by a company for promoting family planning amongst its employees.

If the income of the year in which these expenses are incurred falls short of these expenses, then the unabsorbed expenses can be carried forward to next year in the form of unabsorbed depreciation or unabsorbed capital expenditure on scientific research or unabsorbed capital expenditure on promoting family planning amongst the employees.

Illustration for better understanding

Business income (computed as per the provisions of Income-tax Law) of Mr. Kiran before allowing deduction on account of depreciation amounted to Rs. 84,000. Depreciation as per the provisions of section 32 amounted to Rs. 1,00,000. What will be the amount of unabsorbed depreciation in this case?

**

It can be observed that business income before claiming deduction under section 32 on account of depreciation is Rs. 84,000 and depreciation allowable as per section 32 is Rs. 1,00,000, hence, after claiming deduction on account of depreciation of Rs. 1,00,000, there will be a loss of Rs. 16,000.

This loss is on account of depreciation and, hence, loss of Rs 16,000 will be termed as unabsorbed depreciation.

Provisions under the Income-tax Law relating to set off of unabsorbed depreciation, unabsorbed capital expenditure on scientific research and unabsorbed capital expenditure on promoting family planning amongst the employees

Depreciation is first deducted from the income chargeable to tax under the head “Profits and gains of business or profession”. If such depreciationcouldnot be fully adjustedagainst such income chargeable to tax in that previous year, theunabsorbed portion shall be added to the amount of depreciation for the following year and shall be deemed to be the part of depreciation for that year(similar treatment would be given to other allowances as mentioned above). However, in the case of set off, following order of priority is to be followed:

1) First adjustments are to be made for current scientific research expenditure, family planning expenditure and current depreciation.
2) Second adjustment is to be made for brought forward business loss.
3) Third adjustments are to be made for unabsorbed depreciation, unabsorbed capital expenditure on scientific research or on family planning.

Carry forward of loss in case of change in the constitution of business

Generally, the person incurring the loss is only entitled to carry forward the loss to be adjusted in subsequent year(s). However, in certain cases of reconstitution of the business like amalgamation, demerger, conversion of proprietary firm into company or conversion of partnership firm into company, etc., the reconstituted entity is entitled to carry forward the unadjusted loss ofpredecessor entity (provided that conditions specified in this regard are satisfied).

Provisions relating to carry forward of loss in case of retirement of a partner from a partnership firm

Section 78 contains provisions relating to carry forward and set off of loss in case of change in constitution of a partnership firm due to death or retirement of a partner (i.e. when a partner goes out of firm by retirement or death). In such a case, the share of loss attributable to the outgoing partner cannot be carried forward by the firm.

Restriction of section 78 is applicable only in case of loss and is not applicable in case of adjustment of unabsorbed depreciation, unabsorbed capital expenditure on scientific research or family planning expenditure.

Special provisions relating to carry forward and set off of loss in case of a company in which public are not substantially interested

As per section 79 of the Income-tax Act, where a change in shareholding has taken place in a previous year in the case of a company, not being a company in which the public are substantially interested, no loss incurred in any year prior to the previous year shall be carried forward and set off against the income of the previous year unless-

On the last day of the previous year the shares of the company carrying not less than fifty-one per cent of the voting power were beneficially held by person who beneficially held shares of the company carrying not less than fifty-one per cent of the voting power on the last day of theyear or years in which the loss was incurred.

Restriction of section 79 is applicable only in case of loss and is not applicable in case of adjustment of unabsorbed depreciation, unabsorbed capital expenditure on scientific research or family planning expenditure.

Further, the provisions of section 79 are not applicable in case of change in share holding on account of death of shareholder or on account of transfer of shares by way of gift to any relative of the shareholder or change in shareholding in case of an Indian company which is a subsidiary of foreign company, when such foreign company is amalgamated/demerged with another foreign company and 51% or more shareholders of the amalgamating/demerged foreign company continues to be the shareholders of the amalgamated/resulting foreign company.

MCQ ON SET OFF AND CARRY FORWARD OF LOSS UNDER THE INCOME-TAX LAW

Q1. If income from a particular source is exempt from tax, then loss from such source cannot be set off against any other income which is chargeable to tax.

(a) True (b) False

Correct answer : (a)

Justification of correct answer :

If income from a particular source is exempt from tax, then loss from such source cannot be set off against any other income which is chargeable to tax.

Thus, the statement given in the question is true and hence, option (a) is the correct option.

Q2. The process of adjustment of loss from a source under a particular head of income against income from other source under the same head of income is called __________.

(a) Inter-head adjustment (b) Intra-head adjustment
(c) Carry forward of loss (d) Clubbing of income

Correct answer : (b)

Justification of correct answer:

The process of adjustment of loss from a source under a particular head of income against income from other source under the same head of income is called intra-head adjustment.

Thus, option (b) is the correct option.

Q3. While making intra-head adjustment of loss, short-term capital loss cannot be set off against long-term capital gain.

(a)True (b) False

Correct answer : (b)

Justification of correct answer :

While making intra-head adjustment of loss, short-term capital loss can be set off against short-term capital gain as well as against long-term capital gain.

Thus, the statement given in the question is false and hence, option (b) is the correct option.

Q4. While making intra-head adjustment, loss from the business of owning and maintaining race horses can be set off against ____________ only.

(a) Income from winnings from lotteries

(b) Income from crossword puzzles

(c) Income from business of owning and maintaining race horses

(d) Income from card game

Correct answer : (c)

Justification of correct answer :

Loss from the business of owning and maintaining race horses cannot be set off against any income other than income from the business of owning and maintaining race horses.

Thus, option (c) is the correct option.

Q5. While making inter-head adjustment of loss, loss from business and profession cannot be set off against income chargeable to tax under the head "Salaries".

(a) True (b) False

Correct answer : (a)

Justification of correct answer :

While making inter-head adjustment of loss, loss from business and profession (including unabsorbed depreciation) cannot be set off against income chargeable to tax under the head "Salaries".

Thus, the statement given in the question is true and hence, option (a) is the correct option.

Q6. Loss under the head "Profits and gains of business or profession" can be carried forward even if the return of income/loss of the year in which loss is incurred is not furnished on or before the due date of furnishing the return, as prescribed under section 139(1).

(a) True (b)False

Correct answer : (b)

Justification of correct answer :

Loss under the head "Profits and gains of business or profession" can be carried forward only if the return of income/loss of the year in which loss is incurred is furnished on or before the due date of furnishing the return, as prescribed under section 139(1).

Thus, the statement given in the question is false and hence, option (b) is the correct option.

Q7. If loss under the head "Income from house property" cannot be fully adjusted in the year in which such loss is incurred, then unadjusted loss can be carried forward for ____________ years immediately succeeding the year in which the loss is incurred.

(a) 2 (b) 5

(c) 8 (d) 10

Correct answer : (c)

Justification of correct answer :

If loss under the head "Income from house property" cannot be fully adjusted in the year in which such loss is incurred, then unadjusted loss can be carried forward for 8 years immediately succeeding the year in which the loss is incurred.

Thus, option (c) is the correct option.

Comment on incorrect answer : Option (c) is the correct option since it gives the correct number of years, all the other options, viz., option (a), (b) and (d) giving incorrect number of yearsare not correct.

Q8. Restriction of section 78 is applicable only in case of loss and is not applicable in case of adjustment of unabsorbed depreciation, unabsorbed capital expenditure on scientific research or family planning expenditure.

(a) True (b) False

Correct answer : (a)

Justification of correct answer :

Section 78 contains provisions relating to carry forward and set off of loss in case of change in constitution of a partnership firm due to death or retirement of a partner (i.e. when a partner goes out of firm by retirement or death). In such a case, the share of loss attributable to the outgoing partner cannot be carried forward by the firm. Restriction of section 78 is applicable only in case of loss and is not applicable in case of adjustment of unabsorbed depreciation, unabsorbed capital expenditure on scientific research or family planning expenditure.

Thus, the statement given in the question is true and hence, option (a) is the correct option.

Q9. In case of a closely held company, if the person beneficially holding ________ of the voting power as on the last day (i.e. 31st March) of the year in which the loss was incurred and on the last day (i.e. 31st March) of the year in which the company wants to set off the brought forward loss are different, then the company cannot set off such brought forward loss.

(a) 20% (b) 25%

(c) 50% (d) 51%

Correct answer : (d)

Justification of correct answer :

In case of a company in which public are not substantially interested (*i.e.*, closely held company), if the person beneficially holding 51% of the voting power as on the last day (i.e. 31st March) of the year in which the loss was incurred and on the last day (i.e. 31st March) of the year in which the company wants to set off the brought forward loss are different, then the company cannot set off such brought forward loss.

Thus, option (d) is the correct option.