Income from business or profession

Charging section (sec-28)

Any income arising from any person by way of profits or gains from business or profession or vocation carried on by him at any time during the previous year will be taxable under this head.

Business (sec-2(13))

It includes any trade commerce or manufacture, or any adventure or concern in nature of trade commerce manufacture.

Profession (sec-2(13))

It implies occupation requiring intellectual skill or some degree of learning.

Profession also include vacation (exercise of skill).

General points

- ✓ For constituting business income, continues activity will be necessary, some of the cases isolated transaction are also covered in the definition of business.
- ✓ Profit may be in cash or kind.
- ✓ Capital receipts are not business income.
- ✓ Business should be carried out some “time” during the previous year thorough it is not necessary that it should have been continued thorough the previous year.

Income are chargeable to tax even if business is not at all carried out during the year

- ➢ Excess recovery against a deduction previously allowed u/s 41(1)
- ➢ Sale of an assets used for scientific research u/s 41(3)
- ➢ Recovery against bad debts previously allowed u/s 41(4)
- ➢ Income tax is charged not on gross receipts on real net profits.
- ➢ Profit of illegal business also taxable legal expenses incurred for earning such income will only be allowed as deduction.
- ➢ Speculative business income will be treated separately in income tax accordingly to expiation 2 to section 28
  - Loss from speculative business can-not be treated setoff with any other non-speculative business income or with any other income.
  - Such loss can be set off only against future speculation income up to maximum of 4 years as per section 73 provision.

Certain business income which are taxed under other heads of income

- ➢ Rent from house property
- ➢ Dividend on shares held as a stock in trade
- ➢ Income from activity of owning and maintain race horses.

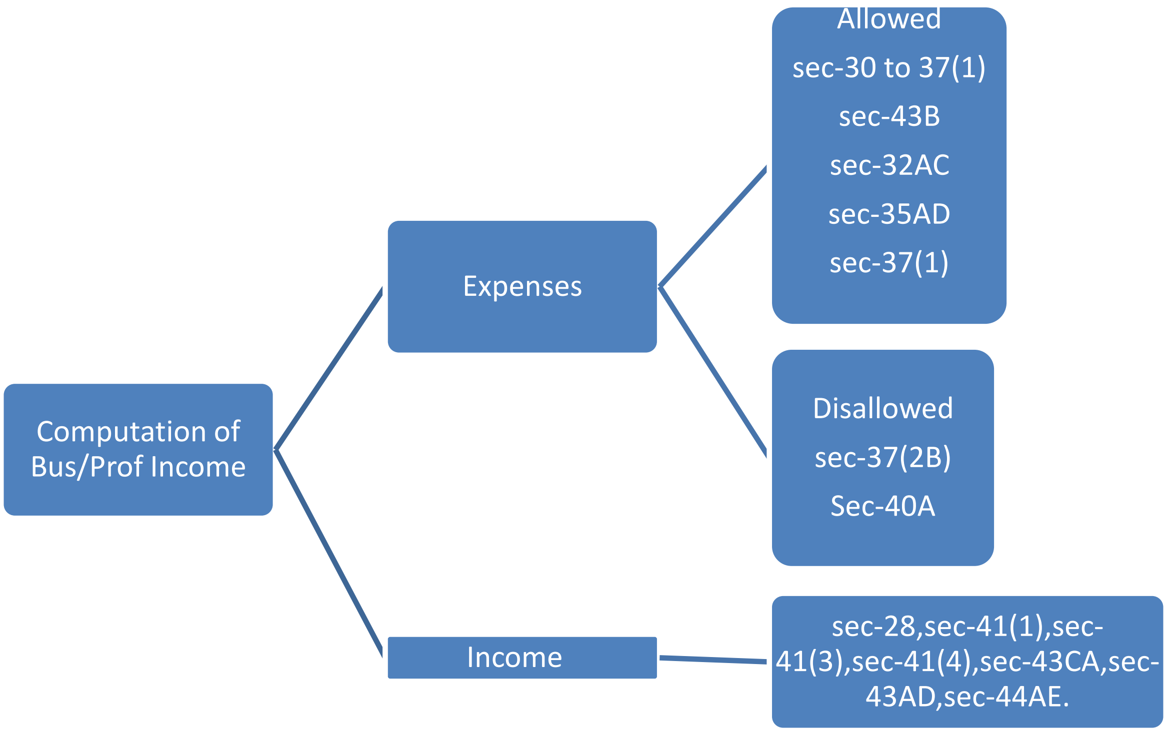
Basis of charge

- ✓ Profit or gains of any business or profession
- ✓ Compensation or any other payment due or received by the assessee in conduct of business.
- ✓ Profit on sale of import entitlement license cash assistant compensatory support.
- ✓ Value of any benefit or perquisite.
- ✓ Any salary, interest, bonus, commission received by a partner of a firm from such firm.

- ✓ Any sum received under a key man insurance policy. For employee taxable under the head income from salary, for employer taxable under the head income from business or profession, for legal hire of employee taxable under the head income from other source.
- ✓ Any sum received in cash or kind under an agreement for not
  - Carrying out any activity in-relation to any business
  - Not to show any know how, patents, copy right, trade mark, license franchise or any other business or commercial rights of similar nature.

General principles of computation of business income

- ✓ According to section 29 the profit and gains of business are to be computed in accordance with the provision continued in section 30 to 44DB
- ✓ Business or profession should be carried on during previous year, expenses and loss of discontinued business is not allowed.



Format for computation of business income

Particular	amount
Net profit as per profit and loss account	XXX
Add:-	
1. Expenses debited to profit and loss account but not allowed. Exp-RDD	XXX
2. Income not credited to profit and loss account but taxable.	XXX
Less:-	
1. Expense not debited to profit and loss account but allowed. (Deferred revenues expenses)	XXX
2. Income credited to profit and loss account but exempted / taxable under the other head. (dividend from Indian company, rent from house property)	XXX
Taxable income from business or profession	XXX

<u>Expenses expressly allowed</u>

<u>Sec-30</u> Rent, rate, taxes, repairs, insurance of building used for business or profession,

- No notional rent is allowed as a deduction to assessee who is the owner of business premises.
- Even passive use

<u>Sec-31</u> Repairs and insurance of plant and machinery or furniture.

<u>Sec-32</u> Depreciation :-

Class of assets	Rate of depreciation
1. Building	10% WDV
2. Machinery	15% WDV
3. Furniture	10% WDV
4. Plant (including car, electricity)	
➢ Computer	60% WDV
➢ Ships	20% WDV
➢ General rate	15% WDV
5. Intangible assets	-

Conditions,

1. Assessee should be owner of the assets part or full,
2. Assessee should be assets used for business or profession,
3. Assets used during the previous year used actively, or used passive (kept ready to use).

Computation

Particular	amount
Opening WDV of block	XXX
+Addition during the year	
✓ Purchased during the previous year and used for less than 180 days	Half
✓ Other wise	Full
	XXX
-sales proceedings during the PY	XXX
Qualifying amount	XXX
-Depreciation u/s 32	XXX
Closing WDV of block	XXX

Example

1-4-2015 opening WDV of assets no-5 cost 50L

1-1-2016 purchase no-8 cost 10L

30-3-2015 sales of assets no 8 cost 10L

Calculate depreciation u/s 32

Case-1 Normal no profit or no loss on sale

Case-2 loss on sale

Case-3 profit on sale

ANS-

	Particular	No of assets	Case-1	Case-2	Case-3
1-4-2015	Opening WDV of assets	5	50	50	50
1-1-2016	Purchase	8	10	10	10
		13	60	60	60
25-3-2016	Sales	8	10	8	12
	Qualifying amount	5	50	52	48
31-3-2016	Depreciation u/s 32				
	Addition-10*15/100*1/2		0.75	0.75	0.75
	Opening WDV		6	6.3	5.7
	Closing WDV		43.25	44.95	41.55

Case-2 in this case the sales value is lesser then the cost. It this effect to increase in closing stock and increase in depreciation.(depn on Opening WDV = 50-8=42*15/100)

Case-3 in this case sale value is more than the cost. It this effect to decrease in closing stock and decrease in depreciation. (depn on Opening WDV = 50-12=38*15/100)

Block turns negative and Block ceases to exist

Particular	Block turns Negative		Block ceases to exist		
	No of assets	Amount	No of assets	Amount	
Opening WDV	5	50	5	50	50
Purchase	8	10	8	10	10
	13	60	13	60	60
Sales	(3)	(80)	(13)	(80)	(8)
	10	(20)	0	(20)	52
Capital gain					
Sales consideration		80		80	8
Cost of acquisition					
Opening WDV	50		50		
Addition	10	(60)	10	(60)	(60)
		20		20	(52)
		(capital gain)		(capital gain)	(capital loss)

Sec 32AC

Investment in new plant and machinery (investment allowance)

➢ Sec-32AC(1) ➢ If the total cost of plant and machinery for the PY 2013-14 and 2014-15 more than 100 crores ➢ Deduction 15% of total cost-Deduction allowed Earlier in PY-2013-14	➢ 32AC(1A) ➢ If actual cost of plan and machinery in any of 3 years more than 25 crores (PY-2014-15,2015-16,2016-17) ➢ Deduction 15% of actual cost

Lock in period

The new plant and machinery for which deduction u/s 32AC(1) and u/s 32AC(1a) has been claimed cannot be sold or transferred for the period of 5 years from the date of installation.

If the condition is violated the deduction allowed earlier would be deemed as income taxable under profit or gain of business or profession in the PY in which such plant and machinery sold or transferred. Capital gain shall be taxable on the transfer of such plant and machinery.

Computation of taxable income in the year of violation

Net profit	XXX
+Deduction u/s 32AC allowed earlier	XXX
Taxable income	XXX

Deduction u/s 32AC to be reduced from net profit not to be reduced from block of assets.

Sec-35 Scientific research

Sec-35(1)(i) Revenue expenditure incurred by the assessee. Example salary.

Sec-35(1)(ia) capital expenditure incurred by the assessee. Example purchase of plant and machinery.

Sec-35(1)(ii) contribution to approved scientific research association or college or university.

Sec-35(1)(iia) contribution made to an Indian company which has as its main object the scientific research and development and which approver by the prescribed authority.

Sec-35(1)(iii) contribution made to research association which has as its main object. The undertaking for research in social science or statistical research or the university collage or other institution to be used for research in social science or statistical research.

Sec-35(2AA) Any sum paid to the national laboratory or IIT or university or a specified person approved by prescribed authority.

Sec-35ABB capital expenditure incurred for acquiring a right to operate telecommunication service (of the business to operate telecommunication service or there-after at any time during any previous year) by obtaining a license.

Deduction will be given equally over the life of the license.

Sec-35AC Expenditure on eligible projects and schemes.

Any amount paid by assessee to

- A public sector company
- Local authority
- Approved association for implementing the scheme made by the national committee relating to social or Economic welfare of the poor people.

Sec-35AD capital expenditure on specified business.

Fully allowed in the year of commencement

- Setting up and operate a cold chain facility on or after 1-4-2009
- Ware house facility for storage of agricultural produce on or after 1-4-2009

- Operating a cross country natural gas or crude or petroleum oil pipeline network for distribution includes storage facility on or after 1-4-2007
- Operating a new hotel of 2 star or above categories any were in India as classified by the central government on or after 1-4-2010
- Operating any were in India a new hospital with at least 100 beds for patients on or after 1-4-2010.
- Developing and building a housing project under a scheme for slum development or rehabilitation formed by central government or state government on or after 1-4-2010
- Developing and building of housing projects under the scheme of affordable housing formed by central government or state government on or after 1-4-2011
- Production of fertilizers in India on or after 1-4-2011
- Operating inland container depot or a container freight station notified or approved under the custom act 1862 on or after 1-4-2012
- Bee-keeping and production of honey and beeswax on or after 1-4-2012
- Operating a ware house facility for storage of sugar
- Operating a slurry pipeline for transportation of iron on or after 1-4-2014
- Setting up and operating a semi-conductor wafer fabrication manufacturing units on or after 1-4-2014

Commencing operations on or after 1-4-2012 a weighted deduction of 150% of capital expenditure will be allowed.

Fixed assets should be retained in specified business for 8 years.

If condition is violated (exp- personal use, used in any normal business)

Net profit as per profit and loss a/c	XXX
+Deduction u/s 35AD allowed earlier	(XXX)
-Depreciation u/s 32 from previous year of purchase to PY of violation	XXX

Plant and machinery

- Brand new not second handle
  If value of old asset is less than or equal to 20% of actual cost of plant and machinery
  Then old equals to new

Sec-35CCA-Expenditure by way of payment to association and institution for carrying out rural development program or urban poverty eradication.

Sec-35CCC-Weighted deduction of 150% of the expenditure incurred on agricultural extension project.

Sec-35D-Amortization of certain preliminary expenses. Example market survey, feasibility report, project report, engineering service, legal charges for agreement, registration fees.

1. Actual expenses

   Or

2. 5% of coat of fixed assets (land + Tangible block)

=Whichever is less is eligible for deduction

Deduction= Eligible
5 years

Sec-35DD-Amortization of expenditure in case of amalgamation or demerger.

Deduction=Demerger Expenses
5 year

Sec-35DDA-VRS compensation

Deduction=VRS compensation
5 year

Expenses expressly allowed

Sec-36(1)(i) Insurance premium on stock in trade

Deduction-payment against risk of damage or destruction of stock or store used for the purpose of business or profession.

Sec-36(1)(ia)Insurance premium paid by federal milk co-operative society.

Deduction-insurance on the life of cattle owned by the members.

Sec-36(1)(ii) Bonus and commission to employees.

Sec-36(1)(ib) Premium paid by Employer

Group insurance scheme of general Insurance Corporation and approved by the central government. Premium paid on medical insurance policy which is paid by any mode of payment other than cash is allowed as deduction.

Sec-36(1)(iii) Interest on borrowed capital it is allowed if

- The loan is borrowed by the assessee (notional)
- Loan is used for the purpose of his business
- Interest is paid or payable by the assessee on such a loan.

Sec-36(1)(iiia) Pro rate deduction of discount on Zero coupon bond.

- Bond are issued by any infrastructure capital company or scheduled bank on or after 1-6-2005
- Minimum life 10 Year maximum life 20 year,

Deduction=Discount
Life of bond

Example
Face value-500
Issue price-400
And zero coupon bond issued by infrastructure capital Company and life of bond 15 Years.

ANS-
Face value-500
Issue price-400
Discount- 100
Deduction=100
15 year
=6.67 allowed as deduction

Sec-36(1)(iv) Employer's contribution to RPF or approved superannuation fund.
It is allowed on payment basis only u/s 43B
Sec-36(1)(iva) Employer contribution towards pension scheme as referred to in section 80CCD.
It is allowed as deduction provided it does not exceed 10% of salary of the employee in the previous year. (Salary means basic + DA (In terms) only)

Sec-36(1)(v) Contribution to approved gratuity fund. It is allowed on payment basis only u/s 43B)

Sec-36(1)(vi) Write off allowance for animal
- Animal should be used for business (Not as stock in trade)
- Anima has died or has become useless than the difference between cost or sales proceeds of such animal or its carcasses would be allowed to be written off.

Sec-36(1)(vii) Bad debts
The deduction is allowed in respect of the bad debts of the business and profession which have actually become irrecoverable in the previous year.
- Bad debt related to business or profession in the accounting year
- Actually written off in books of accounts of the assessee in the previous year in which the deduction is claimed.
- Subsequently recovery of bad debts after its allowance will be taxable in the year of recovery u/s 41(4).

Sec-36(1)(iX) Family planning expenses
- Any expenditure incurred by a company for family planning program is allowed(revenue fully allowed)
- Any capital expenditure incurred by a company will be allowed over a period of 5 year in 5 equal annual instalment(1/5) each or 20% SLM.

Sec-36(1)(XV) Security transaction tax (STT) paid by the assessee
Security means equity shares, equity oriented mutual fund.

When a shares broker sells equity shares, units of equity oriented mutual fund held as a stock in trade through recognized stock exchange and STT paid on sales value , such STT paid is allowed as a deduction under this section.

Sec-36(1)(xvi)) Commodity transaction tax (CTT) paid by the assessee.

General deduction

Sec-37(1) any expenditure which is not covered u/s 30 to 36 which is not capital in nature and if incurred wholly and exclusively / necessarily for the purpose of the assessee business or profession will be allowed as deduction.

1. Basic salary paid to employees
2. Electricity charges
3. Telephone and mobile expenses.
4. Advertisement expenses
5. Sales promotion expenses
6. Travelling expenses
7. Bank charges
8. Commission paid for arranging loan for business purpose (not covered u/s 36(1)(iii)
9. Family planning expenses of revenue nature incurred by an employees who is not a company (Not covered by sec-36(1)(ix)

Expenses disallowed

Sec-37(2B) Advertisement expenses in relation to a political party
Advertisement expenses or donation to political party , than
The payment disallowed in business or profession i.e. taxable
The payment allowed in u/s 80GGB and 80GGC from gross total income

Sec-38 Personal expenses

When building, plant and machinery, furniture not wholly used in business or profession.
Proportionate expenditure in relation to non-business used for rent rates taxes insurance repair and depreciation will be disallowed.

Sec-40(a) No TDS no Deduction

If tax has not been deducted by the payer or after deducting tax has not been deposited with the government within time limit. The expenditure or part of expenditure shall be diaallowed.
Time limit u/s 200(1)
Month of the TDS on or Before
Apr to Fed – 7^{th} of the next month
Mar-30^{Th} April
Income tax is personal liability and does not depend on existence or absence of business or profession if income tax paid has been debited to profit and loss account. It shall be disallowed by calculating taxable income from business or profession. Subsequently if income tax refund is received it shall not be taxable

as the corresponding income tax paid must have been disallowed, any interest on income tax refund shall be taxable as income from other source.

Sec-40(b) book profit

Interest and salary paid to the partner by the partnership firm are allowed to be deducted as an expense only incase all the specified conditions are being satisfied

- Interest on capital not being more than 12% p.a. Any amount exceeds
- Salary bonus, commission to working partner if authorized or covered in partnership deed.(not authorized or covered in partnership deed shall be disallowed)
- Salary bonus commission or other remuneration in relation to a period from the date of partnership deed. (salary, bonus, commission or other remuneration in relation to a period prior to the date of partnership deed shall be disallowed)
- Salary, bonus, commission or other remuneration to working partner only. (Any salary, bonus, commission or other remuneration to non-working partner shall be disallowed)
- Permissible remuneration to partner

Particular	Salary allowed
1. On the first 3,00,000/- of book profit or in case of loss,	Rs. 1,50,000/- or 90% of book profit (whichever is higher)
2. On the balance of book profits	At the rate of 60%

Sec-40A(2) Un reasonable payment to Relatives

Reasonable payment allowed

Excessive payment disallowed

Relative meaning

Payer business or profession	**Receiver (Related parties)**
Individual	Spouse, children, parents, bro, sis
HUF	Member of family
Firm	Partner, Relative of partner
Company	Director, relative of director
AOP / BOI	Member, relatives of member.

Sec-40A (3) Cash payment

Cash payment more than 20,000/-,

Bill for expenses more than 20000/- in cash shall be disallowed,

Payment not on account payee chq shall be disallowed,

In the case of payment made for playing, hiring or leasing goods carriage the ceiling of rs.20000 shall be enhanced to rs. 35000/-

Sec-40A (7) Payment for gratuity to employees is allowable only if

- It is contribution to approved gratuity fund
- Actual gratuity paid to the employees who retires during the previous year is allowed u/s 37(1)

Sec-40A(9,10,11) Contribution to URPF, Superannuation fund, it will be disallowed but when payment is actually made to employee, it is allowed u/s 37(1).

<u>Taxable income</u>

Sec-41(1) Recovery of any expenses, loss deduction allowed earlier. Shall be taxable as business or profession income in the year of recovery.

Sec-41(3) Capital expenditure on scientific research sold without using for business properly.
If the sales consideration, exceeds the value in the books (whole cost if not allowed initially as a deduction u/s 35(2)(ia) then there will be value in the books else not) then such excess, to the maximum extent of deduction previously allowed u/s 35(2)(ia), shall be treated as a business profit of the assessee.

Sec-43CA-special provision for full value of consideration for transfer of assets other than capital asset in certain cases.

1. Where the consideration received or accruing as a results of the transfer by an assessee of an asset (other than capital assets), being land and building or both, is less than the value adopted or assessed or assessable by any authority of state government for the purpose of payment of stamp duty in respect of such transfer, the value so adopted or assessed or assessable shall, for the purpose of computing profit or gain from transfer of such asset, be deemed to be full value of consideration received or accruing as a results of such transfer.
2. Example-
   Agreed value 60L
   Stamp duty value 65L
   In the above case the sales consideration 65L (SDV)

Sec-44AA compulsory maintenance of books or not

- If the business or profession his newly started. The condition of sec 44AA shall have to be checked for the previous year for which the business or profession has been existence.
- If section 44AA his not complied the penalty payable is rs. 25000/-
  Condition
- In their gross receipts have Exceed Rs. 1,50,000/-on all the three immediately preceding previous year, preceding the relevant previous year.
- If the profession has been set up in current previous year and his total gross receipts in the profession for such current year are likely to exceed rs.150000/-
  Such person have to maintain the following books of accounts
  1. cash or bank book
  2. Journal
  3. Ledger
  4. Bills issue and bills received

Specified profession

Profession of legal, medical, engineering, architectural, accounting, technical consultancy, interior decoration, film artist or authorized representative.

If gross receipt every year more than Rs. 1,50,000/-, in all preceding Previous year.

Other profession or any Business

If turn over or gross receipts every year Rs. >10,00,000/-, or
If the income of business or profession Rs.>1,20,000/- in any of 3 year preceding previous year.
Not compulsory to maintain books.

Sec-44AB Compulsory tax audit:-
If the turn over or gross receipts for particular previous year exceed rs. 1,00,00,000/- (in case of business) and rs. 25,00,000/- (in case of profession) the books of accounts shall have to be audited by practicing chartered accountant as per provision of income tax act.
The tax auditor shall issue the tax audit report to the person starting the observation of the tax audit.
If the tax audit apply in a particular previous year the due date for filling of income for that year shall be 30^{th} September of the assessment year.
If tax audit does not apply the due date shall be 31^{st} July of the assessment year .

Scheme for presumptive taxation
Sec-44AD Provision for computation of income on estimated basis for people.
Eligible assessee
Resident individual
Resident HUF
Resident Firm (Not LLP).
Eligible business,
The assessee is not covered by the provision of section 44AA and Section 44AB small business if turn over and gross receipt less than or equal to 1 crore during the previous year.

1. 8% of turn over and Gross receipts
   (Minimum Net profit ration assumption)
   Or
2. Actual income as per books or if any

=whichever is higher of the above is taxable income from small business.

Sec-44AE Income in case of assessee engaged in the business of playing, hiring or leasing of goods carriage.

Eligible assessee,

The provisions of section 44AE are applicable to every person
(Any person resident or Non-resident)

Eligible business,

The presumptive taxation scheme under these provisions can be opted for by an assessee who is engaged in business of playing, hiring, or leasing goods carriages and does not own more than 10 goods vehicles at any time during the previous year.

The important criteria in this scheme are the restriction of owning more than 10 goods vehicles at any time during the previous year. Thus, if any if any assessee is owning more than 10 goods vehicles during the year, than such an assessee cannot adopt this scheme.

Further, this scheme can be adopted only by the assessee who is engaged in the business of playing, hiring, or leasing goods carriages. Thus, an assessee engaged in the business of passenger transport cannot adopt these provisions.

Computation,

- Number of truck owned throughout previous year less than or equal to 10,
- In respect of heavy goods vehicle income will be computed @ Rs. 7500/- per month or part, per truck part of the month or full of the month.
- Differentiation between heavy and other goods vehicle been removed.

Kiran kumar

"If you don't fight for what you want, don't cry for what you lost"