TAXATION

INCOME - TAX

Profit and Gain from Business or Profession

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1. Meaning [Section 2(13)]:

'Business' include any trade, commerce, or manufacture or any adventure or concern in nature of trade, commerce or manufacture.

The term 'Profession' includes vocation as well.

2. Admissible deductions

Following deductions are allowed -

1) Rent, Repairs and Insurance for building [Section 30]:

- Deduction is allowed in respect of rent, taxes, repairs and insurance of building used by the assessee for the purpose of his business or profession.
- Where premises is are used partly for business and partly for other purpose, only proportionate deduction is allowed
- Where assessee sublet the part of premises, difference between the rent paid by assessee and the rent recovered from sub-tenant is allowed as deduction.
- Expenses in respect of repairs are allowed as deduction.
- Expenses by way of land revenue, local taxes, municipal taxes and insurance in respect of premises is allowed as deduction. Taxes levied by foreign govt. is also allowed deduction.
- If such expenses are not utilized wholly for the purpose of business or profession, then only proportionate deduction is allowed.

2) Repairs and insurance of machinery, plant and furniture [Section 31]

- Expenses on current repairs and insurance of machinery, plant and equipment is allowed as deduction.
- Even if asset is used for part of the year, assessee is entitled to the deduction of the full amount of the expense on repairs and insurance charges.

Explanation: Explanation to section 30 and 31 provides that the amount paid on the account of cost of repairs and the amount paid on the account of current repairs shall not include any expenditure in nature of capital expenditure.

3) Depreciation [Section 32]

a) Assets must be belong to following categories –

I. **Tangible Assets** – Buildings, Machinery, Plants or Furniture

II. **Intangible Assets** – Know-how, Patents, Copyrights, Trademark, Licences, franchise or any other business or commercial rights of similar nature.

Notes -

- No depreciation allowed on cost of land on which the building is erected.
- Plant includes books, vehicles, scientific apparatus and surgical equipment.
- Plant does not include an animal, human body or stock-in-trade.

b) **Assets should be used by the assessee for his business during the previous year –**
- The asset must be put into use at any time during the previous year.
- Amount of depreciation is not proportionate to the period of use during the previous year.

Asset used for less than 180 days - If an asset is put into use for less than 180 days during the previous year, then only 50 % of the depreciation calculated at prescribed rates is allowed as deduction.

This restriction is applied only to the year of acquisition and not for the subsequent year.

c) **The assessee must own the assets, wholly or partly –**
- Depreciation is allowable not only in respect of assets "wholly" owned by the assessee but also in respect of assets "partly" owned by him and used for the purposes of his business or profession.
- No depreciation will be allowed to an assessee in respect of an asset which he does not own but only uses or hires for the purpose of his business.
- Explanation 1 to section 32 provides that if an assessee carried out his business in a building which is not owned by him and assessee incurred and capital expenditure (construction of structure, extension, renovation or improvement) to the building, then such capital expenditure is allowed as deduction.

d) **In case of succession of firm/sole proprietary concern by a company or amalgamation or demerger of companies –**
- In this case, aggregate amount of depreciation allowed is not exceed the amount of depreciation calculated at the prescribed rates.
- Such deduction shall be apportioned between the two entities (Predecessor and successor) in the ratio of the number of days for which the assets were used by them.

Block of Assets: As per section 2(11), a block of asset is a group of assets falling within a class of assets comprising –

a. Tangible Assets, being Buildings, Machinery, Plants or Furniture
b. Intangible Assets, being Know-how, Patents, Copyrights, Trademark, Licences, franchise or any other business or commercial rights of similar nature.

e) **Rates of depreciation:** All assets have been divided into four main categories and rates of depreciation are given below –

PART A TENGIBLE ASSETS

I. Buildings

Block 1.	Buildings which are mainly for residential purpose	**5%**
Block 2.	Building other than residential purpose	**10%**

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Block 3.	Purely temporary erections such as wooden structures	**100%**
II.	**Furniture and fittings**	
Block 1.	Furniture and Fittings including electricity fittings	**10%**
III.	**Plant and Machinery**	
Block 1.	Motor Buses, motor lorries, motor taxies used in running them on hire	**30%**
Block 2.	Motor car other than running on hire	**15%**
Block 3.	Aeroplanes , aero engines	**40%**
Block 4.	Specified air, water pollution control equipment, solid waste control equipment and solid waste recycling	**100%**
Block 5.	Energy saving devices (as specified)	**80%**
Block 6.	Computers including computer software	**60%**
Block 7.	Annual publication	**100%**
Block 8	Books owned by assessee carrying on business in running lending libraries	**100%**
Block 9.	Books, other than annual publications, owned by assessee carrying on a profession	**60%**
Block 10.	Plant and Machinery (General rate)	**15%**
IV.	**Ships**	
Block 1.	Ocean-going ships	**20%**
Block 2.	Vessels ordinarily operating on inland water	**20%**
Block 3.	Speed boats operating on inland water	**20%**
PART B	**INTENGIBLE ASSETS**	
	Know-how, patents, copyrights, trademarks, licences, franchise or any other business or commercial rights of similar nature	**25%**

Notes:

i. Windmills and any specially designed device which run on windmills installed on or after 1.4.2014 would be eligible for depreciation @ 80%
ii. Likewise, any special device including electronic generators and pumps running on wind energy installed on or after 1.4.2014 would be eligible for depreciation @ 80%.
iii. If such devices (mentioned in above two points) installed on or before 31.3.2014, rate of depreciation is 15%.

f) Additional depreciation [Section 32(1)(iia) –

Additional depreciation allowable on new plant and machinery (other than ships and aircraft) acquired and installed on or after 1.4.2005 by an assessee who is engage in manufacture or production of any article or thing or in business of generation, **transmission** or distribution of power @ 20% of actual cost of such plant and machinery.

Additional depreciation will not be available in respect of –

i. Such plant and machinery previously used by any other person whether in India or outside India; or
ii. Machinery installed in office premises, residential accommodation, or in any guest house; or
iii. Office appliances or road transport vehicle; or
iv. Any plant or machinery, the whole or part of actual cost of which is allowed as deduction (whether by way of depreciation or otherwise) in computation of income under this head in any previous year.

If such plant and machinery is put into use for less than 180 days then only 50% of additional depreciation is allowed as deduction and balance 50% is allowed in immediately succeeding previous year i.e. in next previous year.

Proviso to Section 32(1) (iia) -

Additional depreciation @35% to be allowed to assessees setting up manufacturing units in **notified backward areas** of specified states and acquiring and installing of new plant & machinery.

g) **Actual cost -** The expression "actual cost" means the actual cost to the assessee reduce by the amount directly or indirectly met by any other person or authority.

Actual cost in certain special situations [Explanations to Section 43(1)] –

Explanation	**Asset**	**Actual Cost** (For the purpose of depreciation)
Explanation 1	Asset is used for the purpose of business after it ceases to be used for the scientific research related to the business.	Actual cost to the assessee less deduction allowed under section 35(1)(iv)
Explanation 2	Asset acquired by way of gift or inheritance.	Written down value (WDV) to previous owner.
Explanation 3	Assets is previously used by any other person, and assessing officer is satisfied that asset is transferred to the assessee for the purpose of reducing tax liability by claiming depreciation on enhanced cost.	Actual cost shall be amount determined by assessing officer with the previous approval of joint commissioner.
Explanation 4	An asset which is transferred by assessee and re-acquired by him	Actual cost to the assessee shall be – a. The written down value at the time if original transfer; or b. The actual price for which asset was re-acquired by him.

		Whichever is less.
Explanation4A	A person (Mr. A) use the asset for the purpose of his business and claim depreciation on such asset. He transfer such asset to another person (Mr. B) and re-acquire from him by way of lease, hire or otherwise.	Actual cost of such asset to Mr. A shall be the same WDV of the said asset at which he transfer the such asset to Mr. B.
Explanation 5	Building of the assessee brought into use for the purpose of business.	Actual cost of building to the assessee less amount equal to depreciation calculated at the rate in force.
Explanation 6	Capital assets transferred by holding company to its subsidiary of vice-versa	Actual cost of transferred capital asset to transferee company is same cost as to transferor company.
Explanation 7	Capital Assets transferred by amalgamating company to amalgamated company.	Actual cost of transferred capital asset to amalgamated company is same cost as to amalgamating company.
Explanation7A	Capital assets transferred by a demerged company to its resulting company.	Actual cost of transferred capital asset to resulting company is same cost as to demerged company.
Explanation 8	Amount paid as interest in connection with the acquisition of the asset and relatable to the period after asset put into use	Such interest shall not be included in actual cost of the asset and shall have never been included in actual cost of the asset.
Explanation 9	Asset is or has been acquired by the assessee	Actual Cost of asset shall be reduce by the amount of excise duty or additional duty.
Explanation 10	Where cost of an asset directly or indirectly met by the govt. or any authority established under any act or by any other person, in form of subsidy or grant or reimbursement.	Such subsidy or grant or reimbursement is not to be included in actual cost of asset.
Explanation 11	Assets acquired by a non-resident assessee and brought into India.	Actual cost of asset to the assessee less amount equal to depreciation calculated at the rate in force.

a) Written down value [Section 43(6)] –

- In the case of asset acquired by the assessee during the previous year, the written down value means the actual cost to the assessee.
- In case where asset acquire before the previous year, the written down value would be the actual cost to the assessee less aggregate amount of depreciation.

4) Deduction for investment in new plant and machinery [Section 32AC]:

- As per section 32AC(1A) , **a manufacturing company** is entitled for deduction @15% of investment in new plant or machinery if it is –
  a. Engaged in the business of manufacture of an article or thing; and
  b. Acquires new pant or machinery and cost of such new plant or machinery **exceeds 25 crore.**
- The deduction would be available for the three assessment years i.e. 2015-16, 2016-17, and 2017-18. Such plant or machinery **must be installed on or before 31-03-2017.**
- Where the installation of the new asset is in the year other than the year of acquisition, the deduction under this sub-section shall be allowed in the year in which the new asset is installed, provided that installation on or before 31-03-2017.

Example –

Company	Actual cost of new plant and machinery (₹)	Previous year of acquisition	Previous year of installation	Assessment year in which deduction u/s 32AC can be claimed	Deduction u/s 32AC (₹)
A Ltd.	40 crore	**P.Y.** 2015-16	**P.Y.** 2016-17	**A.Y.** 2017-18	6 crore
B Ltd.	50 crore	**P.Y.** 2016-17	**P.Y.** 2016-17.	**A.Y.** 2017-18	7.50 crore
C Ltd.	60 crore	**P.Y.** 2016-17	**P.Y.** 2017-18	-	-

- Deduction under this section is in addition to the depreciation and additional depreciation allowable under section 32(1).
- **"New plant or machinery" does not include –**
  i. Such plant and machinery previously used by any other person whether in India or outside India; or
  ii. Machinery installed in office premises, residential accommodation, or in any guest house; or
  iii. Office appliances (including computer or computer software) or road transport vehicle; or
  iv. Ships or aircraft; or
  v. Any plant or machinery, the whole of the actual cost of which is allowed as deduction (whether by way of depreciation or otherwise) in computation of income under this head in any previous year.

- The new plant and machinery in respect of which deduction has been claimed under section 32AC **cannot be sold or otherwise transferred for a period of 5 years** from the date of installation. If sold or otherwise transferred within this period deduction allowed earlier would be deemed as income chargeable the head "Profit and gain from business or profession" in the year in which such machinery transferred.

5) Deduction for investment in new plant & machinery in notified backward areas –

- Under this section, deduction @15% of the actual cost of new plant & machinery is allowed to an assessee subject to following conditions –

- Assessee set up an undertaking or enterprise for manufacture or production of any article or thing on or before 1st April, 2015 in notified backward areas of Andhra Pradesh or Bihar or Telangana or west Bengal.
- Assessee acquire and install new plant and machinery for such enterprise.

- Where the **assessee is a company,** it claim deduction under section 32AC as well as under section 32AD.
- For the purpose of this section, **"New plant or machinery" does not include –**
  i. Such plant and machinery previously used by any other person whether in India or outside India; or
  ii. Machinery installed in office premises, residential accommodation, or in any guest house; or
  iii. Office appliances (including computer or computer software) or road transport vehicle; or
  iv. Ships or aircraft; or
  v. Any plant or machinery, the whole of the actual cost of which is allowed as deduction (whether by way of depreciation or otherwise) in computation of income under this head in any previous year.

- The new plant and machinery in respect of which deduction has been claimed under section 32AC **cannot be sold or otherwise transferred for a period of 5 years** from the date of installation. If sold or otherwise transferred within this period deduction allowed earlier would be deemed as income chargeable the head "Profit and gain from business or profession" in the year in which such machinery transferred.

6) Tea Development Account/ Coffee Development Account/ Rubber Development Account [Section 33AB]:

- Where an assessee, who is engage in business of growing and manufacture tea or coffee or rubber in India,
- Before the expiry of six months from the end of the previous year or before the due date of furnishing the return of income, Whichever is earlier –
- Deposit in following account –
  i. Deposit with NABARD any amount in special account maintained by the assessee with that bank in accordance with the scheme approved Tea Board or Coffee Board or Rubber Board;

  Or

  ii. Deposited any amount to be known as Deposit Account opened by the assessee in accordance with the scheme framed by the Tea Board or Coffee Board or Rubber Board.
  iii. Assessee shall be allowed a deduction of –

A sum equal to deposit made

Or

40% of the profit of such business computed under the head 'Profit and Gain from Business or Profession' before making deduction under this section

Whichever is less.

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7) Expenditure on Scientific Research [Section 35]:

Deduction allowable under this section consist of –

✓ **Section 35(1) (i) – Revenue Expenditure on Scientific Research –**

- Any **revenue expenditure** incurred by the assessee,
- On the scientific research related to his business or profession,
- Such expenditure incurred during the three years immediately preceding the relevant previous year on payment of salary or material input for such research.
- **100%** deduction is allowed in respect of such expenditure.

✓ **Section 35(1) (ii) – Donation for Scientific Research –**

- Any sum paid to a university, college, or other institution or research association and,
- Such university, college, or institution or association is approved for this purpose by the central govt. in Official Gazette.
- **175%** weighted deduction of such sum paid is allowed as deduction.
- Deduction is allowable irrespective of whether – it is related with assessee's business or not, and the payment is of revenue nature or of capital nature.

✓ **Section 35(1) (iia) – Amount paid to a Company –**

- Any amount paid to a company main objective of which is carried out the scientific research & development and approved by prescribed authority,
- **125%** of such some paid is allowed as deduction.
- Company approved under this section cannot claim deduction under section 35(2AB).

✓ **Section 35(1) (iii) – Social Science or Statistical Research –**

- Any sum paid to a university, college, or other institution or research association approved by central govt. in Official Gazette,
- For the purpose of carried out Social science research or Statistical research
- **125%** of such sum paid is allowed as deduction.

✓ **Section 35(1) (iv) – Capital expenditure on Scientific Research –**

- Any **Capital** expenditure incurred by the assessee,
- On the scientific research related to his business or profession,
- Such expenditure incurred during the three years immediately preceding the relevant previous year on payment of salary or material input for such research.
- **100%** deduction is allowed in respect of such expenditure.
- **No deduction** shall be allowed in respect of **capital expenditure** incurred on acquisition of **land.**

✓ **Section 35(2AA) – Sum paid to a National Laboratory or University or IIT –**

- Under this section, any sum paid to a National Laboratory or University or Indian Institute of Technology (IIT) for carried out scientific research programme will be eligible for weighted deduction of 200% of the amount so paid.
- If deduction is allowed under this section, then no any other deduction is allowed under any provision of the act.

- ✓ **Section 35(2AB) – <u>Company</u> engage in business of Drugs, Electronics Equipment, etc. –**
  - Under this Section, deduction is allowed to a company engage in business of bio-technology or in business of manufacture or production of any article or thing, not being an article or thing specified in the eleventh schedule.
  - If such company incurred any expenditure on scientific research on in house research and development facility.
  - Weighted deduction of a sum equal to 200% of expenditure incurred will be allowed.
  - Such expenditure should not be in nature of cost of any land or building.

8) Expenditure for obtaining licence to operate telecommunication services [Section 35ABB]:

- Where any capital expenditure has been incurred for acquiring any right to operate telecommunication service and
- For which 'payment has actually been made',
- Deduction of such expenditure is allowed in equal annual installments over the years for which licence in force.
- 'Payment has actually been made' means the actual payment of expenditure irrespective of the previous year in which liability of expenditure was incurred.
- Expenditure incurred before actual commencement of business is also eligible for deduction.
- **In case of transfer of licence –**
  - Where the licence is transferred at a consideration less than the expenditure remaining unallowed, difference between expenditure remaining unallowed and amount of consideration is allowed as deduction in the year of transfer.
  - Where the whole or part of the licence is transferred at a consideration exceed the amount of expenditure incurred, then such excess amount is chargeable to tax in the year of transfer under this head.
  - Where a part of the licence is transferred in a previous year, the proceeds of transfer will be subtracted from the expenditure remaining unallowed. Such balance amount is allowed as deduction over the remaining year for which licence remains in force in equal instalments.

9) Tax treatment of spectrum fee [Section ABA]:

- Where any capital expenditure has been incurred for acquiring any right to use spectrum for telecommunication services either before the commencement of business or thereafter at any time during the previous year
- For which 'payment has actually been made',
- Deduction of such expenditure is allowed in equal annual installments over the years for which spectrum is in force.
- 'Payment has actually been made' means the actual payment of expenditure irrespective of the previous year in which liability of expenditure was incurred.
- **In case of transfer of spectrum –**
  - Where the spectrum is transferred at a consideration less than the expenditure remaining unallowed, difference between expenditure remaining unallowed and amount of consideration is allowed as deduction in the year of transfer.
  - Where the whole or part of the spectrum is transferred at a consideration exceed the amount of expenditure incurred, then such excess amount is chargeable to tax in the year of transfer under this head.
  - Where a part of the spectrum is transferred in a previous year, the proceeds of transfer will be subtracted from the expenditure remaining unallowed. Such balance amount is allowed as deduction over the remaining year for which licence remains in force in equal instalments.

10) "Investments-linked tax incentives" for specified Businesses [Section 35AD]:

Following "specified business" would be eligible for weighted deduction **@150%** of the capital expenditure incurred (including capital expenditure incurred before commencement of the business) –

i. Setting up and operating a cold chain facility;
ii. Setting up and operating a warehousing facility for storage of agriculture produce;
iii. Building and operating hospital in India with at least 100 bad capacity;
iv. Developing and building a housing project under affordable housing scheme;
v. Production of fertilizer in India.

Following "specified business" would be eligible for weighted deduction **@100%** of the capital expenditure incurred –

i. Laying and operating a cross-country natural gas or crude or petroleum oil pipeline network for distribution, including storage facilities;
ii. Building and operating a hotel of two-star or above hospital in India;
iii. Developing and building a housing project under a scheme for slum redevelopment or rehabilitation;
iv. Setting up and operating an inland project;
v. Bee-keeping and production of honey and beeswax;
vi. Setting up and operating a warehouse facility for storage of sugar;
vii. Laying and operating a slurry pipeline for transportation of iron ore;
viii. Setting up and operating a semiconductor wafer fabrication manufacturing units.

11) Contribution for Rural Development [Section 35CCA]:

Under this section deduction is allowed in respect of following expenditure –

i. Payment to ab association having the objective of undertaking programmes of rural development.
ii. Payment to an association or institution having object of training of person for rural development.
iii. Payment to Rural Development fund set up and notified by CG.
iv. Payment to 'National Urban Poverty Fund' set up and notified by CG.

12) Expenditure incurred on notified agriculture extension project [Section 35CCC]:

- Under this section a weighted deduction of a sum equal to **150%** of the expenditure incurred by assessee on agriculture extension project is allowed.
- If deduction is allowed under this section, then no deduction in respect of such expenditure is allowed under any other provision of the act in any assessment year.

13) Expenditure incurred by the companies on notified skills development project [Section 35CCD]:

- Under this section a weighted deduction is allowed of a sum equal to **150%** the expenditure (Not being expenditure in nature of cost of any land or building) on the skills development project by the **company.**

- If deduction is allowed under this section, then no deduction in respect of such expenditure is allowed under any other provision of the act in any assessment year.

14) Amortisation of Preliminary Expenses [Section 35D]:

- This section is applies to –
    a. Only to Indian companies and resident non-corporate assessee;
    b. In the case of new companies – To expenses incurred before the commencement of business.
    c. In the case of extension of existing undertaking – To expenses incurred till the extension is completed.
    d. In the case of setting up of new unit – To expense incurred till the new unit commences production or operation.
- Such preliminary expenses is amortised in **five equal installments** in five successive years i.e. $1/5^{th}$ of such expenditure is allowable as deduction for each of the five successive years beginning with the previous year in which the business commence or, the extension is completed or, new unit commence production or operation, as the case may be.
- **Eligible expenses –** Following expenditure is eligible for amortization –
    i. Preparation of feasibility report
    ii. Preparation of project report
    iii. Market survey
    iv. Engineering services
    v. Legal charges
    vi. Drafting of MoA and AoA
    vii. Printing of MoA and AoA
    viii. Registration fees
    ix. In connection with issue, public subscription
    x. Underwriting commission, brokerage and drafting & printing of prospectus
- **Overall Limit –** Maximum aggregate amount of the qualifying expenses that can be amortised has been 5% of the cost of project.
  In case of an Indian company, or, at the option of the company, 5% of the capital employed in the company, which is higher.
- For this purpose **cost of the project** means-
    - In case of expenditure before commencement of business the actual cost of fixed assets, being land, buildings, plants, machinery, fittings, railway sidings which are shown in the books of the assessee on the last day of the previous year in which business commence.
    - In the case of extension or setting up of new business unit In case of expenditure before commencement of business the actual cost of fixed assets, being land, buildings, plants, machinery, fittings, railway sidings which are shown in the books of the assessee on the last day of the previous year in which extension is completed or new unit start production, as the case may be.

15) Amortisation of the expenses for Amalgamation/ Demerger [Section 35DD]:

- Assessee shall be allowed a deduction equal to one-fifth of such expenditure for the five successive previous years beginning with the previous year in which amalgamation takes place.
- No any other deduction is allowed in respect of such expenditure under any other provision of the Act.

16) Amortisation of the expenditure incurred under Voluntary Retirement Scheme (VRS) [Section 35DDA]:

Assessee shall be allowed a deduction equal to one-fifth of such expenditure for the five successive previous years beginning with the previous year in which such expenditure incurred.

17) Other deductions:

✓ **Section 36(1) (i) - Insurance premium paid:**

Premium paid on insurance policy taken on damage or destruction of the stock or store of the business or profession is allowed as deduction.

✓ **Section 36(1) (ib) – Premium paid by the employer for health insurance of employees:**

- Premium paid by the employer to keep in force an insurance on the health of employees is allowed as deduction.
- Premium must be paid in any mode other than cash.
- Insurance should be in accordance with a scheme framed by – (i) the General insurance corporation of India and Approved by CG; or (ii) any other insurer and approved by the IRDA.

✓ **Section 36(1) (ii) – Bonus and commission:**

Bonus and commission is allowed as deduction provided the sum paid to the employees as bonus or commission shall not be payable them as profit or dividend if it not had been paid as bonus and commission.

✓ **Section 36(1) (iii) – Interest on Borrowed Capital:**

- Deduction of the interest is allowed as deduction in respect of capital borrowed for the purpose of business or profession.
- Interest paid on the capital borrowed for the purpose of acquisition of assets, from the date on which such capital borrowed till the date on which assets first put into use, is not allowed as deduction.

✓ **Section 36(1) (iiia) – Discount on Zero Coupon Bond:**

This section provides a deduction in respect of discount on Zero Coupon Bond on the pro-rata basis having regard to the period of life of the bond to be calculated in prescribed manner.

✓ **Section 36(1) (iv) and (v) - Contribution to provident fund or other fund:**

Contribution to provident fund or other fund is allowable as deduction subject to following conditions –

i. Fund should be settle upon a trust.
ii. In case of Provident or Superannuation or Gratuity Fund, it should be one recognised or approved under the Forth Schedule to the Income-Tax Act, 1961.
iii. The amount contributed should be periodic payment.

iv. The fund should be exclusive benefit for the employees.

✓ **Section 36(1) (iva) – Contribution to pension scheme referred under section 80CCD:**

- Under this section deduction is allowed in respect of contribution made to the account of an employee under a pension scheme as referred to in section 80CCD would be allowable as deduction while computing business income.
- Deduction would be restricted to **10%** of the salary of the employee.
- For this purpose salary means Basic Salary + Dearness Allowances (If provided in the terms of employment.

✓ **Section 36(1) (vi) – Allowances for animals:**

- Deduction is allowed in respect of animals which have died or become permanent useless.
- Amount of allowance is the difference between actual cost of animals and price realised on the sale of animals themselves or carcasses.

✓ **Section 36(1) (vii) – Bad debts:**

- Under this section, bad debts actually written off as irrecoverable in the books of accounts of the assessee is deductible.
- In the case of entities for which provision for bad and doubtful debts is allowable under section 36(1) (viia), amount of deduction would be amount of bad debts in excess of provision for bad and doubtful debts.
- No deduction shall be allowed unless the assessee has debited the amount of the debt or part of such debt in that previous year to the provision for bad and doubtful debts account made under section 36(1) (viia).
- Deduction is subject to following conditions –
  a. The debts or loans should be in respect of business which is carried out by the assessee.
  b. The debts should be taken into account in computation of income of the assessee in the previous year in which such debt is written off or of an earlier year.

✓ **Section 36(1) (viia) – provision for bad and doubtful debts:**

- **In case of schedule banks** – Following deductions will be allowed –

  7.5% of total income before allowing deduction under this clause and Chapter VI-A, and

  10% of aggregate average advances made by the rural branches of such bank.

- **In case of Foreign Banks –**

  5% of total income before allowing deduction under this clause and Chapter VI-A.

- **In case of public financial institution –**

  5% of total income before allowing deduction under this clause and Chapter VI-A.

- **In case of Non-banking Financial Companies –**

  5% of total income before allowing deduction under this clause and Chapter VI-A.

✓ **Section 36(1) (viii) – deduction to specified Entities engaged in eligible Business:**

- This Section provides a deduction in respect of any special reserve created and maintained by a specified entity.
- Eligible business for different entities specified are given in the table below -

	Specified entities	Eligible Business
1.	Financial corporation specified in section 4A of companies Act, 1956 Financial corporation which is a public sector company Banking company Co-operative bank	Business of providing long-term finance for – i. Industrial or agriculture development or infrastructure facility in India. ii. Development of infrastructure facility in India or iii. Development of housing in India.
2.	A housing finance company	Business of providing long term finance for the construction or purchase of house in India for residential purpose.
3.	Any other financial corporation including a public company	Business of providing long term finance for Development of infrastructure facility in India

- **Quantum of Deduction** – Up to 20% of the profit derived from the eligible business computed under the head 'Profit or Gain from Business or Profession'.
- If amount of reserve > 2 x (Paid-up share capital + General Reserve), then no deduction shall be allowed in respect of such excess amount.

✓ **Section 36(1) (ix) – Expenses on Family Planning:**

- Under this section deduction is allowable to a company in respect of expenditure incurred to promoting family planning among its employees.
- **Quantum of deduction** –
  - Revenue Expenditure – 100% deduction is allowed in the year of expenditure incurred.
  - Capital expenditure – Deduction is allowed in five equal installments in five successive years.
- Assessee would be entitled to carry forward and set-off the unabsorbed part of the allowance.

✓ **Section 36(1) (xv) – Securities Transaction Tax:**

Securities Transaction Taxes is allowed as deduction.

✓ **Section 36(1) (xvi) – Commodity Transaction tax:**

CTT is allowed as deduction.

✓ **Section 36(1) (xvii) – Expenditure incurred by a Co-operative society for purchase of sugarcane:**

Under this section, deduction is allowed to a co-operative society engage in business of manufacture of sugar, for the expenditure incurred on purchase of sugarcane at a price fixed or approved by the government.

18) Residuary Expenses (General Deduction) [Section 37]:

- **Conditions for allowance:** The following conditions should be fulfilled in order that a particular item of the expenditure may be deductible under this section:
  a) The expenditure should not be in the nature described in sections 30 to 36.
  b) Expenditure should be incurred wholly or exclusively for the purpose of business or profession of the assessee.
  c) Expenditure should be incurred after commencement of business.
  d) Expenditure should be not be in the nature of any personal expenditure of the assessee.
  e) It should not be in the nature of capital expenditure.
  f) Expenditure should not be incurred by the assessee for any purpose which is an offence or is prohibited by law.
- As per section 37(2B), no deduction shall be allowed in respect of expenditure incurred on advertisement in any souvenir, brochure, tract or the like published by a political party.
- No deduction shall be allowed in respect of CSR expenditure.

3. Inadmissible Deductions [Section 40]:

Section 40(a) – Following expenditure are not allowed as deduction-

- Any interest, royalty, fees for technical services or any other sum chargeable to tax, which is payable –
  a. Outside India;
  b. In India to a Non-resident, not being a company or to a foreign company,
- On which tax is deductible at source under Chapter XVIIB and if
  - Tax has not been deducted; or
  - Such tax, after deduction, before the due date of filling of return of Income.
- Such sum is allowed as deduction in the year in which such tax has been paid by the assessee.

Section 40(a) (ia) –

- **30%** of the any sum payable to a resident, on which tax is deductible at source under chapter XVII-B, shall be disallowed if –
  - Tax has not been deducted; or
  - Such tax, after deduction, before the due date of filling of return of Income.
- Deduction in respect of such 30% is allowed in the previous year in which such tax has been paid by the assessee.

Section 40(b) – In case of Partnership Firm:

- **In case of Interest –**
  - Simple interest up to 12% is allowed as deduction
  - This restriction is not applicable if a person is a partner in his representative capacity in the firm and he receives interest from the firm in his individual capacity.
  - Similarly, the restriction is also not applicable if a person who is a partner in his individual capacity receives interest for or on behalf of someone else from the firm in which he a partner.
- **In the case of salary. Bonus, commission or remuneration paid by a firm to its working partners –** It should not exceed the amount specified in the table below –

For all firms		
a.	On the first ₹3,00,000 of the book profit or in case of loss	₹1,50,000 or 90% of book profit, whichever is more

b.	On the balance of the book profit	@60%

- **Conditions:** In the case of partnership firm, the deduction on the account of interest and salary paid to its partners are subject to the following restriction contained in section 40(b) –
  i. It should be authorised by and I accordance with the terms of partnership deed.
  ii. It should not be relate to a period before the date of such deed.
  iii. Remuneration should be paid to a working partner.

4. Expenses or payments not deductible in certain circumstances [Section 40A]:

Section 40A (2) – Payment to relative and associates:

As per this section, where the assessee incurs any expenditure in respect of which a payment has been or is to be made to relative or to an associate concern so much of such expenditure as is considered to be excessive or unreasonable shall be disallowed by the assessing officer.

Section 40A (3) – Cash payment in excess of ₹ 20,000:

- According to section 40A (3), where the assessee incurs any expenditure in respect of which payment or aggregate of payments made to a person in a day otherwise than account payee cheque drawn on the bank or by an account payee cheque draft exceeds ₹20,000, such expenditure shall not be allowed as deduction.
- Where the payment has been made to **transport operator** for playing, hiring, or leasing goods carriages**,** the limit of ₹20,000 has been raised to **₹35,000.**

- **Rule 6DD** provides for cases and circumstances in which payment or aggregate of payment exceeding ₹ 20, 000 or ₹35,000, as the case may be shall be allowed as deduction –
  a. Where payment is made to -
     - The reserve bank of India or nay banking company;
     - The State bank of India or any Subsidiary bank;
     - Any Co-operative bank or land mortgage bank;
     - Any primary agriculture credit society or any primary credit society;
     - The LIC of India;
     - Payment is made to govt. and rules made framed by it.
  b. Where payment by -
     - Any letter of credit arrangement through a bank;
     - A mail or telegraphic transfer through a bank;
     - A book adjustment form any account in a bank to any other account in that or any other bank;
     - A bill of exchange made payable only to bank;
     - The use of electronic clearing system through a bank account;
     - A credit card;
     - A debit card;
  c. Payment is made for purchase of –
     - Agriculture or forest produce; or
     - The produce of animal husbandry or dairy or poultry farming; or
     - Fish or fish products; or
     - The product of horticulture or apiculture,

To cultivator, grower or producer of such article, produce or products;

d. Where payment is made to producer for the purchase of the product manufacture without the aid of power in a cottage industry.
e. Payment is made in a town or village no banking facility is available.
f. Where payment is required to be made on a day on which the banks were closed due to holiday or strike;
g. Where payment I made by an authorised dealer or a money changer against purchase of foreign currency or travellers cheques in the normal course of his business.
h. Payment of salary after deducting income tax.
i. Payment is made by employer to employee in connection with retirement, retrenchment, resignation, discharge or death, of such employee, on account of gratuity, retrenchment compensation or similar terminal benefits or aggregate of sum payable not exceed fifty thousand rupees.

Section 40A (7) – Disallowances of provision for gratuity

This section provides that no deduction shall be allowed in respect of any provision made by an employer towards payment of gratuity to his employees on their retirement or termination of their employment for any reason.

Section 40A (9) to (11) – Contribution by employers to funds, trust etc.:

- As per this section, no deduction shall be allowed where the assessee pays in his capacity as an employer, any sum towards setting up or as contribution to any fund, trust, company, AOP or BOI etc.
- However, sum paid in respect of fund covered by Sections 30(1) (iv), 36(1) (iva) and 36(1) (v) is allowed as deduction.

5. Profits chargeable to tax [Section 41]:

Section 41(1) – Remission or cessation of loss, expenditure etc.

- As per this section, any recovery, remission or cessation of any loss, expenditure or trading liability shall be chargeable to tax in that previous year.
- It does not matter whether the business or profession in respect of which the allowances or deduction has been made is in existence or not.
- In case of succession, successor will be liable to be taxed in respect of any benefit received by him during a subsequent previous year.

Section 41(4) – Recovery of Bad Debts:

- If a deduction has been allowed in respect of a bad debts under section 36, and subsequently the amount recovered in respect of such bad debts is more than the amount due after the allowances has been made, the excess shall be chargeable to tax in tat previous year in which it is recovered.
- It does not matter whether the business or profession in respect of which the allowances or deduction has been made is in existence or not.

6. Changes in rate of exchange of currency [Section 43A]:

- This section provides that
    - Where an assessee has acquired any asset from a foreign country for the purpose of his business or profession, and
    - Due to change thereafter in the exchange rate of two currencies involved,
    - There is an increase or decrease in liability (Expressed in Indian rupees) of the assessee at the time of making the payment,

- The following values may be changed accordingly with the respect to the increase or decrease in such liability –
    1. The actual cost of the asset under section 43(1)
    2. The amount of capital expenditure on scientific research under section 35(1)(iv).
    3. The amount of capital expenditure on acquisition of patents or copyright.
    4. The amount of capital expenditure incurred by a company for promoting family planning amongst its employees
    5. The cost of acquisition of the non-depreciable capital asset under section 48.
- The amount arrived at after making the above adjustments shall be taken as amount of capital expenditure or cost of acquisition of the capital asset as the case may be.
- The amount of such adjustment shall be equal to the change in liability at the time of making payment.

7. Certain deduction to be mad only on Actual Payment [Section 43B]:

The following sums are allowed as deduction only on actual payment within the time limit specified in Section 43B –

i. Any sum payable by way of tax, duty, fee or cess, under any law for the time being in force.
ii. Any sum paid by employer by way of contribution to any provident fund or superannuation fund or any other fund for welfare of employees.
iii. Bonus or commission to employees.
iv. Interest on loan or borrowing from any public financial institution or state financial corporation or a State Industrial Investment Corporation.
v. Payment of leave salary under section 10(10AA).
vi. **Sum payable to Indian railways for use of railway asset.**

8. Cost of acquisition of certain Assets [Section 43C]:

- Where an asset acquired under a scheme of amalgamation is sold by an amalgamated company as its stock-in-trade;
- In this case, in computation of profit or gain arise on such sale of Stock-in-trade;
- The cost of acquisition of stock-in-trade to the amalgamated company shall be the cost of acquisition of such stock-in-trade or asset to the amalgamating company is taken.
- Such cost should be increased by, if any, the cost of improvement or expenditure incurred wholly or exclusively in connection with such transfer.

9. Full value of consideration in case of transfer of Land or Building as Stock-in-trade [Section 43CA]:

As per section 43CA, where amount of consideration on transfer of land or building as stock-in-trade is less than the stamp duty value, then the stamp duty value shall be taken as full value of consideration for the purpose of computation of business income.

Further, where the date on agreement for fixing the value of consideration and date of registration for transfer are not same, stamp duty value on the date of agreement for transfer is taken as full value of consideration provided whole or part of consideration has been received by any mode other than cash on or before the date of agreement.

10. Income of Public Financial Institution [Section 43D]:

In case of public financial institution or a schedule Bank or state financial corporation or a State Industrial Investment Corporation, the income by way of interest shall be chargeable to tax in the previous year in which –

It is credited to the profit & loss account

Or

Actually received by the said institution

Whichever is earlier.

11. Special provisions in case of certain associations [Section 44A]:

- This section provides that where the expenditure incurred by an association solely for the purpose of protection or advancement of the common interest of its members, and
- Amount of such expenditure exceed the amount collected by the association from the members whether by way of subscription or otherwise,
- The resulting deficiency shall be allowed as deduction in computing the income of the association.

12. Compulsory maintenance of accounts [Section 44AA]:

- As per rule 6F, every person carrying on –
  - Legal
  - Medical
  - Engineering
  - Architectural
  - Accountancy
  - Technical consultancy
  - Interior decoration
  - Authorised representative
  - Film artist

  Shall keep and maintain the books of account and other documents in following cases:

  ✓ If his gross receipt exceed ₹1,50,000 in all the 3 years immediately preceding the previous year;

  Or

  ✓ If, where the profession has been newly set up in the previous year, the gross receipt likely to exceed ₹ 1, 50,000 in that year.
- Every taxpayer carrying on any business or profession (**Other than specified above**) must maintain their books of accounts in following circumstances –
  a. In case where the income from business or profession exceeds ₹1,20,000, or the sales turnover or gross receipt exceed ₹10,00,000 in any of three years immediately preceding the accounting year; or
  b. In case where the business or profession is newly set up in the previous year, if his income from business or profession is likely to exceed ₹1,20,000 or his total sales turnover or gross receipt are likely to be exceed ₹10,00,000. During the previous year;

c. In case where assessee is covered under section 44AE or 44BB or 44BBB and the he has claimed that his profit or gain from business is lower than the profit or gain computed on presumptive basis.
d. In case where the assessee is under section 44AD and the assessee has claimed that his profit or gain form business is lower than the profit or gain computed on presumptive basis and his income exceed basic exemption limit.

- Following books of account and other documents are required to be maintained –
    i. A cash book;
    ii. A journal, if accounts are maintain on mercantile basis;
    iii. A ledger;
    iv. Carbon copies of bills and receipt, if exceed ₹25
- The above books of accounts and documents shall be kept and maintained for a minimum of 6 year from the end of the relevant assessment year.

13. Audit of books of accounts [Section 44AB]:

In the following cases for a person carrying on business or profession to get his account audited before the specified date by a Chartered Accountant –

a. If the total sales, turnover or gross receipt in business exceeds ₹100 lakh i.e. 1 crore in any previous year; or
b. If the gross receipt in profession exceed ₹25 lakh in any previous year; or
c. In case where assessee is covered under section 44AE or 44BB or 44BBB and the he has claimed that his profit or gain from business is lower than the profit or gain computed on presumptive basis.
d. In case where the assessee is under section 44AD and the assessee has claimed that his profit or gain form business is lower than the profit or gain computed on presumptive basis and his income exceed basic exemption limit.

14. Computation of profit and gain of business on presumptive basis [Section 44AD]:

- This section covers all small businesses with total turnover/ gross receipt of up to 200 lakh i.e. **2 Crore**
- The presumptive rate of tax would be **8%** of total turnover or gross receipt. However assessee has an option to declare the higher income.
- All deduction from section 30 to 38 is deemed to have been allowed in full and no further deduction shall be allowed.
- In case of firm, salary and interest not to be allowed.
- Assessees those opting for presumptive scheme are not required to maintain books of account under section 44AA or get them audited under section 44AB.
- Advance tax to be paid on or before 15th march of the financial year.
- An assessee with the turnover up to ₹ 2 Crore, who shows an income below the presumptive rate, and if his total income exceed basic exemption limit, he required to be maintain books of account under section 44AA and get them audited under section 44AB.

15. Computation of profit or gains of business of playing, hiring or leasing goods carriage [Section 44AE]:

- This section covered the assessee who is owner of goods carriages form playing, hire or leasing of such goods carriages;
- This scheme applies to person owing not more than 10 goods vehicle at any time during the previous year;
- The presumptive income from each goods vehicle will be deemed to be ₹7,500 for every month or part of a month.
- All deduction from section 30 to 38 is deemed to have been allowed in full and no further deduction shall be allowed.
- Assessees those opting for presumptive scheme are not required to maintain books of account under section 44AA or get them audited under section 44AB.
- An assessee who shows an income below the presumptive rate, and if his total income exceed basic exemption limit, he required to be maintain books of account under section 44AA and get them audited under section 44AB.

16. Computation of profit or gain of shipping business in case of Non-resident [Section 44B]:

- 7.5% of the aggregate of the following amount must be deemed to be profit and gain of the shipping business-
- The amount paid or payable, whether in India or outside India to the assessee or any other person on his behalf on the account of carriage of passengers, livestock, mail or goods shipped at any port in India.
- The amount received or deemed to be received in India by the assessee himself or by any other person on his behalf on the account of carriage of passengers, livestock, mail or goods shipped at any port outside India.

17. Computation of profit or gain of operation of aircraft business in case of Non-resident [Section 44B]:

- 5% of the aggregate of the following amount must be deemed to be profit and gain of the shipping business-
- The amount paid or payable, whether in India or outside India to the assessee or any other person on his behalf on the account of carriage of passengers, livestock, mail or goods shipped at any port in India.
- The amount received or deemed to be received in India by the assessee himself or by any other person on his behalf on the account of carriage of passengers, livestock, mail or goods shipped at any port outside India.

18. Computation of business income in cases where income is partly agriculture and partly business in nature

✓ **Income from manufacture of rubber [Rule 7A]:**

35% of such income derived for sale of rubber shall be deemed to be liable to tax.

✓ **Income from manufacture of coffee [Rule 7B]:**

- Sale of coffee grown and cured – 25% of such income shall be deemed to be income liable to tax.
- Sale of coffee grown, cured, roasted, and grounded - 40% of such income shall be deemed to be income liable to tax.

✓ **Income from manufacture of tea [Rule 8]:**

40% of the income derived from the sale of tea shall be deemed to business income

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