Profit & Gains from Business or Profession.

DATE

Sec 28: Charging Section

→ following incomes will be charged under the head of PGBP:
→ Any Profit / Gain of any business / profession.
→ cash compensatory support or duty drawback.
→ Any gift / benefit / perquisite arising due to business / profession.

ACC cement → ~~Thailand~~ Trip (FMV 2L) → Mr. J
↓ exp. ↓ allowed u/s 37
Mr. J ↓ PGBP - taxable
TDS $\boxed{\text{u/s 194R}}$
Benefit > 20,000 p.a.
TDS @ 10%

→ Paid to Partner:

Firm → P (Partner)
↓ exp ↓ allowed u/s 40(b)

↳ share of profit → exempt u/s 10(2A)
↳ Int. on cap
↳ Remuneration
↳ commission
↳ non-compete fees
} Taxable in PGBP

DATE

→ FMV of inventory as on date which is converted into Cap Assets.

→ Shares
- Held as stock in trade (Dealer in shares) ↓ Sold ↓ PGBP.
- Held as investment ↓ Sold ↓ Capital Gain.
- Dividend taxed under IOS.

→ winning from lotteries → income from other sources. (even if derived as a regular business Activity).

Some Basic concepts

→ PGBP : Business / Profession
→ Any Method of Accounting - cash / Mercantile.
→ Business related exp allowable.
→ Personal expenses not allowed.
→ Capital exp. not allowed. (claim depr. on that.)
→ Revenue exp. are allowable.
→ Actual expenses are allowable.
→ future / contingent expenses not allowable (eg. RDD, loss, penalty, you may suffer in future.)

Sec 30 - 37: Allowable Expenditures

Sec 30: Exp. on building	Sec 31: Exp. on P/M & Furniture
→ Rent Paid	→ Any Rent paid
→ Revenue Repairs	→ Revenue Repairs
→ Insurance	→ Taxes paid.
→ Taxes paid for Business building.	

$\underbrace{\hspace{6cm}}$ Allowed as Deduction.

* Capital Repairs → Disallowable

Sec 32: Depreciation.

→ WDV Method.

→ Tangible Assets - Building, Mach., Plant or furniture

Intangible Assets - know how, patents, copyrights, trade marks, licenses, franchises.

→ Assets should be used by assessee for the purpose of business / Profession.

→ wholly or partly owned.

→ claiming of depr. mandatory not optional.

→ Goodwill of business / Profession is not eligible for depr.

→ Depreciation is limited to 50% of Normal depreciatn.

→ The highest rate of depr. shall be restricted to 40% for all the assets (whether old or new):

Blocks & Rates

1) Building → office. 10%
→ Staff Quarter 5%
→ Temporary Structure. 40%

2) Furniture → 10%.

3) Intangible → 25%
*(excl. G/W)

4) Plant & Machinery → General 15%.
→ Computer 40%.
→ Books. 40%.

Depreciatn Available to:

→ Owner.

→ HP : Hire purchaser

→ lease : leassor.

DATE

unabsorbed depreciation

amount of utilised depreciation which the assessee will not be able to claim as an expense in his income tax returns due to lack of sufficient profit...
Such unabsorbed depr. can be set off against any heads of income & the remaining balance can be carried off till for any number of assessment year.

**→ If Payment is in excess of ₹10,000 is done in cash then to the extent it will not be eligible for depreciation.

eg.

① 10L Mach. < 8000 - cash ; 992,000 - ECS. ∴ depreciable value = 10L

② 10L Mach. < 100,000 - cash ; 900,000 - ECS ∴ depreciable value = 900,000/-

Calculation of depr.

Opening WDV	xx
(+) Additions made during the year.	xxx
(-) Sale consideration (sale price)	(xx)
Closing balance / closing WDV	xx
(-) depreciation	(xx)
(-) Add. depr. (if any)	(xx)
closing WDV.	xx.

Module does sometimes.

DATE

→ Purchase date is given only.
↳ consider for calculation

→ Purchase date + Ready to use date (i.e. Put to use) given
↳ consider for calculation.

→ Depreciation is calculated for active as well as passive use.

ADDITIONAL DEPRECIATION:

→ Eligible plant & Machinery:
→ engaged in business of generation or distribution or transmission of power.

→ Computer or any other P/M < Installed in factory → Add. depr ✓ ; Installed in office → Add depr ✗

→ Additional depr. is available everytime assessee purchase eligible plant & Mach.
→ Available only once in the year of purchase, in the same year
→ acquired & put to use less than 180 days then
→ Add. depr = 50% of rate × cost of P/M. (20% not 40%)
∴ 10% × cost of P/M.
Balance 50% of add. depr. can be claim in the next year. 10%

→ $\boxed{\text{Addition depr = 20\% of cost of P/M.}}$

→ Following Plant & Machinery not eligible for Additional Depreciation:

1) Ship & aircraft.
2) Second hand Machinery.
3) Plant & Machinery installed in office or Guest House.
4) Transport vehicle.
5) Plant & Mach. for which 100% deduction has already been claimed.

**Sec 35: Exp on Scientific Research.

Expenditure incurred by the Assesee

- Reseaech should be related to business.
- Revenue exp allowoble
- Cap exp. allowoble **
  (No. depr. can be claim)
- cost of land not allowed.

Reseaech befoee commencement of business.

- 3yrs prior expenses allowed.
- Revenue expenses allowed. should be approved.
- Capital expenses allowed. (No depr.)
- Cost of land not Allowed.
- exceptions : exp. on peequisite not allowed.

Contribution made to outsiders

- Reseaech may oe may not be eelated to business ***
- Donation to approved institutes / reseaech laboratory / national lab / university / company.
- Allowable exp. = Amt. of Donation.

Inc. tax authority will cross check the donation given from the receiver statement which the receiver required to submit to Inc. tax.

$$\text{XYZ Ltd.} \xrightarrow[100,000/-]{\text{Donatn}} \text{university}$$

↓

university should submit a statement of donation received to Inc. tax authority.

Expenditure on In house R&D.

- Coepoeate Assessee.
- engaged in manufacturing, Pharma, Bio-technology.
- Company doing reseaech on its own.
- It should be related to business.
- Revenue expenses allowed.
- Cap. depr. allowed
  (No. depr.)
- Cost of land not allowed.

DATE

Sec 35AD: Deductⁿ in respect of Specified Business.

→ 14 specified Businesses.
→ allowable exp = ~~10%~~ 100% capital exp. u/s 35AD.
→ No depr. u/s 32 ***
→ cost of land / Goodwill / exp. on financial inst. - *** Not allowed
→ Some conditions - New business / No Amalgamation / No Merger.
only 20% of old P/M allowed. Total
→ what is second hand P/M? P/M used in specified ~~business~~
second hand plant & machinery imported from outside of India.
→ for this section it will treated as new P/M.
→ Cap. exp. machinery should not be sold for 8 yrs. ***

Sec 35CCA: Expenses for Rural Development Programme.

Assessee contribute for
→ National Fund for Rural Development
→ National Urban Poverty Rediction Fund

$\boxed{\text{Deduction} = 100\%}$

* If you don't have PGBP income, claim deductⁿ u/s 80GGA

DATE

Sec 35D: Amortization of Preliminary Exp.

→ Indian company & Resident non-corporate assessee (firm / LLP / Individual / HUF / BOI / AJP). can claim deduction
→ expenses if incurred before commencement of the business for setting up any undertaking / business shall be allowable.
→ Expenses if incurred after commencement of the business in connection with extension / in connection with setting up new unit shall be allowable.

Qualifying expenditure: Maximum ceiling.

In case of corporate Assessee.	In case of non-corporate assessee
5% of cost of project (OR) 5% of capital employed	5% of cost of project

Cost of Project = Actual cost of extension or cost of fixed Assets.

Capital Employed = Issued share capital + debentures + long term borrowings as on the last date of the previous year in which the business commence.

→ Following expenses qualify as preliminary expenses

A Expenses Approved by Board :-

1) Preparing for feasibility Report.
2) Preparation of projection Report.
3) Conducting a market survey or any other survey.
4) Engineering service related to the Business.

B Expenses May or May Not Approved by Board

1) legal charges for drafting any agreement betn the assesee & any other person relating to setting up of business.
2) legal charges for drafting MOA & AOA if the taxpayee is a company.
3) Registration fees of a company.
4) Expenses in connection with public issue of shares or debentures of company, underwritting commission, brokerage & charges for drafting, typing, printing & adverising of the Prospectus.
5) Any other exp. as prescribed.

$$\boxed{\text{Allowable expenditure u/s 35D} = \frac{\text{Total Expenditure Preliminary}}{5\text{ years}}}$$

→ To claim deduction the books should be audited by CA

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PAGE

Sec 35DDA : Amortization of expenditure incurred under VRS :

→ allowable as a deduction over a period of 5 years.

→ Rule is even applicable even if VRS has not been framed in accordance with guidlines of sec 10(10c)

→ In case of firm/ Proprietor concern taken over by a company deduction will be available to successor Company for remaining period.

Sec. 37(1): General Deduction:

$\boxed{\text{Deduction} = 100\%}$ if following conditions satisfied.

→ Not cover u/s 30-36.

→ It should not be personal expenditure.

→ It should not be capital expenditure.

→ It should be real expenditure & incurred wholly & exclusively for business.

→ It should not for breach of law.

only then Deductn = 100% — of total exp. incurred i.e actually paid.

The deduction is limited only to the amount actually expended &

does not extend to a reserve created against a contingent liability.

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DATE

Expenses.

Allowable	Disallowable
→ Telephone expenses.	→ Income tax.
→ GST Paid / Custom Duty.	→ Penalty foe IT / GST / Other Law *
→ Advance.	→ Int. on income tax.
→ Salary Paid.	→ Insurance for proprietor
→ Int. on late payment of GST.	→ CSR *
→ Insurance foe stock	→ Any Donation (80G)
→ Printing & Publication	→ ~~Brid~~ Bribe paid or penalty paid
→ listing fees / fees paid to ROC	→ Alteration of MOA.
→ Alteration of AOA.	→ share issue exp. (u/s 35D)
→ Bonus issue expenses.	→ Removal of walls.
→ website development charges	→ Dividend paid.
→ Glowing sign board	→ Provisions / Reserves.
→ CCTV Installation	
→ Repairs.	
→ office expenses.	
→ maintenance of Guest house.	
→ embezzlement of cash, theft, destruction of asset, Misappropriated by employee	
→ Distributn of gift to employees	
→ Postage & Telegram.	

Expl 3: Added by FA 2022 - following exp disallowed:

1) Any payment foe breach of law in India or outside India.

2) Compounding of any offense.

3) If person cannot receive any gift / Benefit by reason of Act / Rules / Guidelines / Code of conduct

→ exp by com. on such gifts disallowed.

DATE

Sec 37(2B): Disallowances:

→ Any expenditure incurred on advertisement in any Souvenir, brochure, pamplet, etc. published by a political party, is not allowable expenditure.

Sec 36: Allowable Exp:

Sec.	
36(1)(i)	Insurance Premium :- against risk of damage / destruction of stock / store.
36(1)(ib) *****	Insurance premium on health of employee: Premium paid in any mode other than cash.
36(1)(ii)	Bonus or Commission to employee: Allowable if genuinely paid as bonus or commission & not a way of profit Distribution. (Dividend) [Dividend paid to shareholder is not an exp foe company company may call it as bonus :. It's a disallowable exp.)
36(1)(iii) *****	Interest on Borrowed Money: → borrowed for the business purpose → Int. is paid or payable. → In case of Cap. Asset, int. on loan after the asset has been put to use shall be allowed. → Int. on loan taken foe payment 1) Income tax → × Not allowed 2) Any other tax → Allowed.

→ Int. on proprietors own capital not allowed
→ Int. on partner's Cap. → Allowed subject to sec. 40b

36(1)(iiia) Discount on zero coupon Bonds, etc:
→ issued by infrastructure company, public sector company or by scheduled bank.
→ Disc = Diff. betn amt. received & amt. payable on redemption.
→ Deduction = Prorata over the life of bond.

36(1)(iv) Employer's contribution toward Recognized Provident fund or an superannuation fund approved.

36(1)(iv)(a) Employer's contribution towards pension scheme referred to in sec 80CCD
→ not exceeding 10% of salary
(salary = Basic + DA(R))

36(1)(v) Employer's contribution towards approved Gratuity fund → available only if the fund is approved.

36(1)(va) Employees contribution towards staff welfare scheme:
→ contribution collected by employer
→ Deductn is allowed if amt. is credited to the employees acc before the due date of the fund & not the due date of ITR

36(1)(vii) Bad Debts:
Allowable if following conditions satisfied:
1) There is a debt & it has become bad.
2) has been treated as the income of the assessee of the previous year.
Bad debt → Allowable exp.
RDD/Provision for bad debt → Disallowable exp.

36(1)(ix) Family Planning Expenditure:
(Allowed only to corporate assessee)
→ incurred by company for the purpose of promoting family planning amongst its employee. → allowable.
→ If exp. is of capital Nature, then, deduction = installment over 5 years.

36(1)(xv) Securities Transaction Tax paid during the year.

36(1)(xvi) Commodities Transaction tax paid during the year.

Sec 40a: Expenses not deductible

Expenditure.	Disallowance.
① Interest, Royalty, fees or technical services; are payable outside India / in India to NR.	→ 100% disallowance if TDS is not deducted / paid within due date of 139 → It shall be allowable in the year in which it is paid.
② Incase of royalty, int., fees for technical services, are payable to a contractor / sub-contractor which is payable to resident.	→ 30% disallowance if TDS is not deducted / paid within the due date of 139 → shall be allowed in the yr of payment.
③ Salary paid / payable to outside India or to NR.	→ If TDS not deducted / paid then there is permanent disallowance. → No deductn in later yrs also.
④ Tax on non-monetary perquisite.	→ Not deductible in the hands of employer.
⑤ Income tax paid / payable	→ Disallowable including surcharge & cess.

⑥ Royalty / License fees / Service fee. — State Govt. undertaking ⟷ SG

↳ Disallowable exp u/s 40a.

Sec 40(b): Int. & Remuneration to Partners of PFA'S

①

Firm ⟶ Partners.

① share of Profit ⟶ Tax is paid by firm ∴ exempt in hands of partner.

② Int. on Partners Capital.

③ Remuneration / Salary / Commission

↳ firm's exp. as per 40b & Partners. Int./Rem ⟶ 28 PGBP (whatever is allowed as exp. for firm).

② Remuneration to partners of PFAs is allowable expenditure:

Conditions to be satisfied:
- → paid to working partner.
- → authorized by partnership deed.
- → should not pertain to period prior to partnership deed
- → should not exceed permissible limit.

DATE

[Int. & Remuneration to members of AOP including PFAOS will not be allowed as deduction) [sec 40(ba)].

③ Brought forward business loss will not be deducted from Profits.

④ Remuneration cannot exceeds the maximum permissible limit.

⑤ Maximum permissible limit is calculated as follows:

Book Profit.	Limit.
On the first ₹300,000 of the Book Profit. or in case of loss.	Rs. 150,000 or at the rate of 90% of Book profit, whichever is more.
On the balance of Book Profit.	At the rate of 60% of Book Profit.

⑥ Book profit will be calculated as follows:

Net Profit as per Profit/Loss A/c.	XX
Add/less: adjustments u/s 28 to 44	XX
Add: Remuneration to partners. if debited to profit & loss A/c	XX
Book Profit.	XX.

⑦ Book Profit will be computed after setting of unabsorbed depreciation brought forward.

classmate PAGE

DATE

⑧ Interest to Partners of PFAS is allowed subject to following conditions:
→ should be authorized by Partnership Deed.
→ should pertain to the period after the partnership deed.
→ Rate of int. should not exceeds 12% p.a. simple interest.

Sec 40A(2): Excessive / unreasonable payment to relatives & associatn.

Any payment made to Relatives which is excessive or unreasonable.

As per AO
↓
Excess payment Disallowable

Sec 40A(3): Payment in excess of ₹10,000. Cash Payment.

Any payment made
To a person → In a day → for a single bill
↓
Exceeding
10,000 or 35000 (in case of 47A).
Otherwise then by
← A/c payee cheque
← Demand draft.
← ECS
← Other electronic mode

The whole of such exp is disallowed

classmate

DATE

Sec 40A(7) : Provision for Gratuity.

mere provision of Gratuity → Not allowed.

Provision for gratuity with is become due → Allowed.

Sec 40A(9) : Contribution by employers to non-statutory fund.

Employer's contribution to PF / Gratuity is disallowable if fund is unrecognized or unapproved

Sec. 43B : Certain deductn to be made only on actual payment.

① Employee & Employer.
- Bonus & Commission
- Leave Salary
- Employer's contributn to staff welfare scheme.

② Int. on loan taken from Bank / Co-op / NBFC / FI / Agri & Rural development bank.

③ Payment to Railways for use of Railway Assets.

DATE

④ Tax / Cess / duty / fees payable under law or statute.
eg. Municipal tax, customs duty, GST.

Sec 41 : Deemed Income

Deemed Business Income:

① Any expenditure which was earlier allowed as deduction & is recovered later on then it will be treated as business income.

② Any Capital Asset bought for scientific research, deduction u/s 35 is claimed & later on same is sold.

Deemed business income u/s 41 = Sale consideratn or Exp. allowed.

* when sale consideratn > Exp allowed then deemed inc. u/s 41 = Ex. allowed. & The excess amt will be Capital Gain.

→ It is taxable as business income even if business is not in existence.

→ It is taxable in the year of receipt.

DATE

Sec 43A : Special provisions consequential to change in exchange rate of currency.

Where capital Asset has been acquired from a country outside India addition /deduction from Actual cost of asset on account of change in rate of exchange in PY shall be allowed to be made only on payment by the assessee towards the cost of the asset / ~~pay~~ repayment of loan/int. irrespective of method of accounting adopted.

Sec.43CA:

① Assessee transfer an asset (other than capital Asset) being land or building or both
② transferred for less than stamp duty valuation
③ diff upto 10% betn stamp duty & sale consideration will be ignored.
④ Consideration is received in other than cash mode.

*. Sale consideration

Sale price +10% < Stamp valuation, then Sale consideration = Stamp valuation

Sale price +10% > Stamp valuation, then sale consideration = sale price.

DATE

Sec 44AA : Maintenance of books of A/cs.
(required to be maintained for a period of 6 yrs)

Specified Person = Legal, Medical, accountancy, technical consultancy, Interior Decoration or any other notified person by CBDT.

Person	Books to be maintained.
→ Specified person whose gross receipts in any 1 of the 3 PY's does not exceeds ₹150,000.	Such Books of A/c & Documents to enable AO to compute taxable income.
→ specified person whose gross receipts in any 1 of the PY exceeds ₹150,000.	Cash book, ledger, Journal, cc exceeding 25, original bills exceeding 50, Medical profession further required to maintain daily / inventory registers.
→ In non specified profession Inc. ≤ 120,000 TO / Gross sale ≤ 1000,000 in any 1 of the 3 years.	No requirement.
→ In non specified profession Inc > 120,000 TO > 1000,000 In any 1 of the 3 yr.	Such books of A/c's & Documents to enable AO to compute taxable income.
→ opted for presumptive basis	

DATE

Sec AB : Tax Audit.

Tax Audit

- Business
  - To > 10cr. 1st check for 10cr. 10 crores within 2 condit's.
    1. Cash payment are upto 5% of total payment.

    (and)

    2. Cash Receipts are upto 5% of total Receipts.
  - to > 1cr if 10crore criteria is not applicable then the criteria will be 1cr
- Profession
  - If Gross Receipts in profession exceeds 50 lakhs.

Sec 68 : Cash Credit
Sec 69 : unexplained inv. / Money.

In case of cash credit, or unexplained money, etc are found in accounts & assessee offers no explanation to source or if it is not satisfactory the AO can treat it as income in such financial year.

→ No loss can be set off against such income.

DATE

Sec 69D : Hundi Borrowings.

where any amount is borrowed on Hundi.
Any amount due on hundi is repaid other than account payee cheque.

Amt. so borrowed / repaid will be income in ~~which~~ the year which amount was borrowed / repaid.

PRESUMPTIVE BASIS

44 AD

→ Business 5yrs → TO ≤ 2cr
→ remain in 44AD

→ No need to maintain books of A/c's

→ Net Profit presumed at
8% of TO (OR) 6% of TO (if money is received digitally/ ECS)

→ expenses from 28 to 44 not allowed.

→ Partners salary & interest X

→ Advance tax in 1 installment

→ If you opt out before 5years, then

① No 44AD for next 5yrs

② If your NTI exceeds BEL then maintain books of Accounts & tax Audit.

44 ADA

→ Profession u/s 44AA.

→ receipt ≤ 50 lakhs

→ Net profit presumed = 50% of NP.

→ expenses u/s 28 to 44 X

→ Partners salary & int. X

→ No need to maintain books

→ Advance tax in 1 installment.

→ If you opt out & Inc. exceeds BEL then maintain books & tax Audit.

44 AE

→ Business. plying & hiring of goods carriages.

→ Not owning more than 10 trucks in a year

→ Net profit presumed.
Heavy = 1000pm. per tonne / vehicle
Light = 7500 pm /vehicle.

→ exp. u/s 28 to 44 X

→ partners salary & interest ✓

→ No need to maintain books.

→ Advance tax - 4 installments.

→ If you opt out then maintain books & tax Audit ✓

→ ownership is important, use not important.

→ pm & part there off
eg. 3months, 2days
→ 4 months
1 days ~ 1 month is also

Common points

① Opted for presumptive = ITR 31st July.

② Opted out + conditions. = ITR. 31st Oct.
[books + Audit]

Specified professions u/s 44 AA

legal, Medical, engineering, Accountancy, Technical consultant, Interior Decoration or any other notified (by CBDT) professions (Authorised representative, film artist & company secretary)