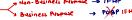
### Section 28: Charging Section Following income shall be taxable under the head PGBP.

- 1. Any profit or gain of any Business/Profession
- 2. Profit on sale of import entitlement licence.
- 3. Cash compensatory support or duty drawback.
- 4. Profit on sale of DEPB (duty entitlement pass book scheme] or Duty Free Replenishment certification (DFRC)
- 5. Any amount received under Keyman insurance policy
- 6. Any gift/benefit/perquisite arising due to business or profession.
- 7. Any interest, salary, bonus commission received by partner from partnership firm
- 8. Non-compete Fees [not carrying out any activity in relation to any business or profession or not sharing any know-how, patent, copyright, trade mark etc.)
- 9. Income derived by a trade, professional or similar association from specific service perform for its member.
- 10. FMV of SIT as on the date on which it is converted into Capital
- 11. Any compensation or other payment due to or received by, any person, at or in connection with the termination or modification of the terms and conditions of any contract relating to his business.

### Section 29: How to compute PGBP

PGBP are to be computed in accordance with the provisions contained in sections 30 to 43D





### Section 30: Rent, Rates, Taxes, Repairs & Insurance of Building

	Rent	Rates & taxes	Insurance	Revenue repair	Cap repair
Owner	Not Allowed	Allowed	Allowed	Allowed	Not Allowed
Tenant	Allowed	Allowed	Allowed	Allowed	Not Allowed

Note- If tenant spends on capital repair — he will not get the deduction of depreciation as he is not the owner of the asset. It will be deemed building and depreciation CAN BE CLAIMED on that

#### Section 31: Insurance and repairs of Plant and Machinery

	Rent	Insurance	Revenue repair	Cap repair
Owner	Not	Allowed	Allowed	Not Allowed
	Allowed			
Tenant	Allowed	Allowed	Allowed	Not Allowed

Note- If tenant spends on capital repair — he will not get the deduction of depreciation as he is not the owner of the asset. It will be deemed building and depreciation CAN BE CLAIMED on that



### Section 32: Depreciation

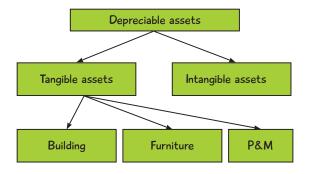


#### Conditions to claim depreciation

- Asset should be used for business / profession purposes (active or passive)
- 2. Assessee should be Owner of such asset (wholly or partly)

#### Notes:

- 1. Depreciation is allowed if assessee is beneficial owner (Even though not Registered owner)
- 2. In case of Hire Purchase, assessee gets the ownership only after payment of last instalment but he can claim depreciation from beginning, assuming assessee is the owner from beginning.
- Depreciation on asset partially owned by the assessee shall be allowed to him to the extent of his share in asset.
- 4. In case of stand by machinery and emergency spares, the depreciation shall be allowed even if they are ready for use & not put to use.
- 5. NO Depreciation on LAND



- 1. Mandatory to claim depreciation for all assessee.
- 2. Depreciation on EPABX & Mobile phone 15%
- 3. Depreciation allowed when asset actually put to use & not ready to use.

#### Rates of depreciation:

Asset	Rate (%)
Class I - Building	
i. Residential	5
ii. General ★	10
iii. Temporary structure	40
Class II - Furniture & Fittings	10
Class III - Plant & Machinery	
i. Motor Vehicles	
() (33) a) Used in business of running on hire	30
b) Other motor vehicles ★	15
ii. Ships	20
iii. Aircraft	40
iv. Computer/laptop ★	40
v. Books	40
a) Owned by assesses carrying on a profession	40
(annual publications or other than annual pub)	
b) Libraries business	40
vi. Windmills & its equipment	
a) Installed before 1.04.2014	15
b) Installed on or after 1.04.2014	40
vii. Pollution control equipment	40
viii. Other plant & machinery ★	15
ix. Oil wells	15
Class IV - Intangible assets ★	25

Depreciation for Power Generating undertaking/ sale of asset/ SLM method/ Individual asset system:

If power units follow SLM method then they are subject to individual asset system profit & loss is calculated on every sale.

For eg.

Actual cost of asset: Rs 100 - rate of depreciation = 10% SLM In 3rd year suppose asset sold for a) 70 b) 85 c) 120

Calculation of depreciation is as follows for 2 yrs:

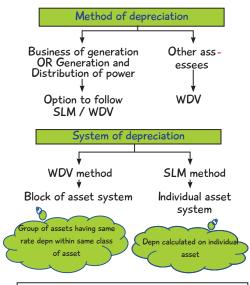
Tax treatment in case of sale (3rd year) a) Sale value 70

a) Sale value (-) WDV (80)
Loss - P&L (Dr side) (10) ---> Terminal depreciation allowed as deduction u/s 32(i)(iii)

b) Sale value 85 (-) WDV (80)
Profit — P&L (Cr side) 5 ---> Balancing charge taxable as income under PGBP

c) Sale value 120 (-) WDV (80) Profit 40

20 (upto cost of asset) 20 (SP > Cost)
Balancing charge — taxable STCG u/s 50A
u/s 41(2)



Calculation of depreciation (Block of asset/ WDV method]

Opening WDV of block

XXX

XXX

XXX

PY Actual cost of asset acquired during

- Put to use 180 days or more XXX XXX - put to use less than 180 days
- acquired but not put to use

Less: Selling price of asset XXX WDV of block for Depreciation Less: Dep actually allowed (XX)

Closing WDV of block

#### WDV of block for depreciation

Asset Cost of asset Cost of asset used for < acquired but used for > not put to 180 days 180 days

Half

Rate

NO depreciation

Full Rate

#### Notes:

- 1. If asset acquired during current FY & not put to use then depreciation shall not be allowed for such asset but that asset should be added to Block of asset.
- Actual sale price of asset shall be reduced and not the FMV / SDV of asset sold.

Proviso to Sec 32(1) - Depreciation is restricted to 50% if asset is put to use for less than 180 days in the year of acquisition. Restriction applies in the year of acquisition. Ex - Purchased in FY 2018-19 put to use I the same FY for less than 180 days = Halfrate

Ex - Purchased in FY 2018-19 put to use in the NEXT FY for less than 180 days = Half FULL rate

#### Section 32(1)(iia) Additional Depreciation

<u>Eligible assessee?</u> - Engaged in the business of manufacture of any article or Generation Transmission or Distribution of Power Rate of additional depreciation = 20% on P&M ONLY **?** Q 1 4

<u>P&M will not include</u> the following [SOS 100%]

- 5 = Second hand P&M
- 0 = Any P&M installed in office premises or residential accommodation (Factory premises — ALLOWED)

  S = Ships, aircraft & transport vehicles
- 100% = P & M on which 100% deduction allowed

Note - Additional depreciation is allowed Only in the First year in which it is put to use. If put to use for < 180 days then 10% depn shall be allowed [20% \* 50%]

#### Additional notes:

- If additional depreciation allowed at Half Rate [asset used less than 180 days] then balance half rate depreciation shall be allowed in Next year.
- Additional depreciation is allowed only if assessee follow WDV method. It is not allowed to Power units if they follow SLM method.

Proviso to Sec. 32(1): Depreciation in case of Amalgamation / Demerger/ Succession Dep is calculated normally & after that it shall be distributed between Amalgamating co./ Demerged co./ Predecessor AND Amalgamated co./ Resulting co./ Successor in the ratio of the number of days for which assets were used by them

PROFITS AND GAINS FROM BUSINESS AND PROFESSION (PGBP)

lden = 50k x 365 56 14/24-14/12/24/15/12/24-31/2/24

Section 43(1) — Actu	al cost 🦚 Q 🕽 💿
Cost of asset (purchase (+)	price) XXX
i. Installation charges	XXX
ii. Transportation exper	
for asset	XXX
iii. Trial run/test run ex	penses XXX
iv. Taxes & duties	7441
(if ITC not available)	XXX
	,,,,,
Interest on loan take	
for acquisition of ass	et
(upto the date of ass	set
put to use)	XXX
put to use,	700C
(-) Amount recd. on sale	
trial run product	(XX)
(-) Subsidy / Govt Gran	ts
recd. for acquisition	
assets	(vv)
	(\lambda\lambda)
Actual cost	XXX
1	

NOTE - Where an assessee incurs any expenditure for acquisition of any asset or part thereof in respect of which a payment made to a person in a day, other wise than by an account payee cheque or account payee DD or use of electronic clearing system, or any other mode as may be prescribed exceeds Rs 10,000, such expenditure shall not form part of actual cost of such asset.

Sec 38(2) - Asset partly used for other purpose

If asset is not exclusively used for the purpose of Business / Profession then deduction u/s 30/31/32 shall be restricted to a proportionate part as determined by Assessing Officer

Cases	Actual cost as per Sec 43(1)		
Asset previously used for Scientific research brought in to regular business	Actual cost = NIL [because deduction already claimed u/s 35)		
Stock converted into Capital asset and used for Business or $\ensuremath{Profession}$	FMV on the date of conversion		
Asset acquired by way of gift / Will /Inheritance	Actual cost to the previous owner LESS Dep already allowed to him Tray.		
Asset acquired with an intention to claim higher depreciation	Amount determined by AO, with the approval of Joint Commissioner (JC) $$		
Re-acquisition of asset sold	i. WDV at the time of sale ii. Reacquisition cost		
Asset Purchased & Leased back to the same person	WDV of the previous owner (Lessee)		
Building was used for personal purpose now brought into business	Original cost XXX (-) notional depn till date at current depn rate XXX Actual cost XXX		
Capital asset transferred by holding Co. to 100% subsidiary Co. or 100% Subsidiary Co. to holding Co. [Sec. 47 (iv)/(v)]	Cost / WDV to the transferor company		
Transferred by Amalgamating Co. to Amalgamated Co.	Cost / WDV to the amalgamating company		
Transferred by Demerged Co. to Resulting Co	Cost / WDV to the demerged company		
Asset acquired out of Borrowed fund	Interest up to first put to use form part of actual cost		
GST	Duty in respect of which ITC is not allowed forming part of Actual cost		
Govt grant / subsidy	If related to Asset = Reduce it from actual cost		
Asset brought into India by $\overline{NR}$ for use in his Business or Profession	Actual cost (-) Depn calculated at the rate in force as if the asset was used in India from date of acquisition		
Any capital asset acquired under Scheme of corporatisation of recog. Stock exchange (AOP/BOI to Company)	Gost / WDV of AOP / BOI		
Actual Cost allowed as deduction u/s35AD and capital asset transferred to non-specified business after 8 years from the year of acquisition or transfer by way of transactions referred in section 47	Actual cost for transferee shall be NIL		





YES

YES

YES

NO

# Computation of Capital Gains for depreciable assets

Block o		set	Rs	No.	Rs	No.
		of	6,20,000		11,30,000	
Opening block	WDV	of	8,00,000	5	8,00,000	5
(+) actual asset acqu		of	3,00,000	<u>2</u>	3,00,000	2
			11,00,000	7	11,00,000	7
(-) sale assets	value	of	(6,20,000)	<u>7</u>	(11,00,000)	7
WDV of asset	block	of	4,80,000	-	NIL	-

WDY	
Block of osset	
(4?  () when block -> Ze	~o
OR (Block is reased to	- CALL
(3) PDA -2 Black -2	

Asset	NO	Asset	NO
WDV	YES	WDV	NO
Depn	NO	Depn	NO
CG	YES	CG	YES

Capital Gains	Rs
computation	
FVOC	6,20,000
(-) COA = Opening WDV + asset acquired during PY	(11,00,000)
Capital Gains / Loss	(4,80,000)

Rs
11,30,000
(11,00,000)
30,000

Some assets of the block are transferred	Rs	No.	Rs	No.
Selling price of asset	11,20,000		11,30,000	
Opening WDV of block	8,00,000	5	8,00,000	5
(+) actual cost of asset	3,00,000	<u>2</u>	3,00,000	<u>2</u>
acquired				
	11,00,000	7	11,00,000	7
(-) sale value of assets	(11,00,000)	4	(8,30,000)	4
WDV of block of asset	NIL	3	2,70,000	3

Asset

WDV

YES

NO

NO

YES

Asset

WDV

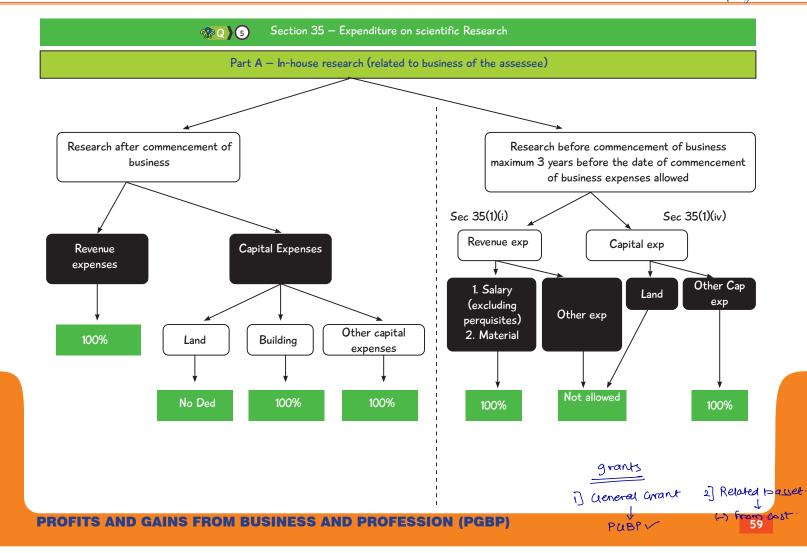
Depn

	Depn
	CG
Capital Gains computation	Rs
FVOC	11,20,000
(-) COA = Opening WDV	
+ asset acquired during	(11,00,000)
PY	
Capital Gains / Loss	20,000

Normal
depreciation will
be allowed

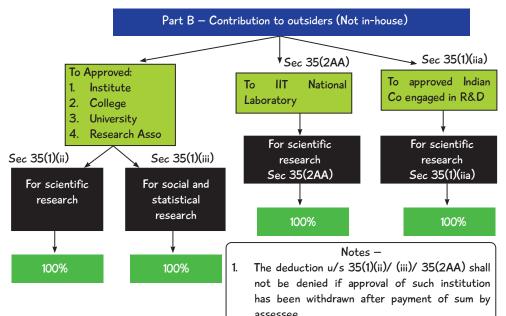
CG (NO CG

as block not ceased)



#LetsCrackTax CA Amit Mahayan

No depreciation allowed on assets if deduction



<u>Section 35CCC:</u> Expenditure on Agriculture Extension Project - <u>Deduction @ 100 % allowed, if expenses (revenue + capital) (except Land & Building) incurred for notified agriculture extension project. This deduction is allowed to <u>all assessees</u></u>

u/s 35 claimed.

<u>Section 35CCD:</u> Expenditure for Skill Development Project - <u>Deduction @ 100%</u> allowed, if any expenditure incurred (revenue + capital) (except Land & Building) for notified skill development project. This deduction is allowed <u>only to companies</u>

Taxation of Grants/Subsidies from Govt

Any subsidy, grants, cash incentive, duty drawback, waiver etc by CG or SG or any Authority or Body (other than referred in explanation 10) shall be treated as Income.

#### Notes

- If subsidy received for acquiring an asset
   it shall be deducted from actual cost of asset
- Any other subsidy / waiver of loan / Govt.
   Grant = Taxable under PGBP
- Any subsidy / grant received by trust or institution (established by CG/SG) as a Corpus fund from Central Govt shall not be treated as income.
- If loan taken for acquisition of asset is waived = then such loan shall be reduced from Actual cost of asset [block of asset].

#### **NEW POINT**

Section 35(1A) - Payer shall be entitled to deduction u/s 35(1)(ii) / (iia) / (iii) ONLY IF

- The institution prepares a statement in Form 10BD and submit the same to the prescribed authority upto 31 May of next FY
- The institution furnishes a certificate to the Donor in Form 10BE upto 31 May of next FY

PROFITS AND GAINS FROM BUSINESS AND PROFESSION (PGBP)

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#### Section 35D - Preliminary expenses

Preliminary expenses means: Market survey Preparation of feasibility report Engineering services Drafting and printing services Legal fees, etc

Deduction allowed to resident assessee who incurs preliminary expenses before commencement of business or after commencement for extension / setting up a new unit.

#### Indian Co =

- i. Actual Prel Expenses
- ii. 5% of COP / CE Whichever is LOWER



Other Non corporate assessees



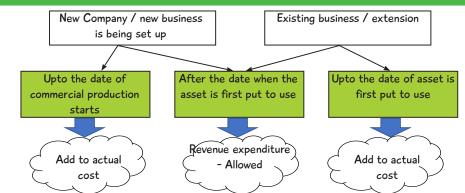
ii. 5% of COP

Whichever is LOWER

#### NOTES

- 1. Deduction = 5 equal installments
- 2. COP = Cost of Project means = Amt invested in fixed asset of new project
- CE = Cap Employed (Share Capital + Debentures + Long Term borrowing for new project = NO Reserves and Surplus
- Accordingly, statement containing particulars of above specified expenditure is required to be furnished one month prior to the due date of ROI.

#### Treatment of interest on loan taken for acquiring asset



Miscellaneous Provisions - Please read this after reading Section 36

Security Transaction Tax [Sec 36(1)(xv)] @Q 22

Any amount of Securities Transaction Tax (STT) paid by the assessee during the previous year shall be allowed as deduction provided income arising from such transactions is included in the income computed under the head PGBP

Cap Asset - X

CIT

- STT - V Deduction

Commodity Transaction Tax [Sec. 36(1)(xvi)]

Any amount of Commodities Transaction Tax (CTT) paid by the assessee in respect of the taxable commodities transactions entered into in the course of his business during the previous year shall be allowed as deduction provided income arising from such transactions is included in the income computed under the head PGBP

#### Purchase of Sugarcane [Sec. 36(1)(xvii)]

The amount of expenditure incurred by a co-operative society engaged in the business of manufacture of sugar for purchase of sugarcane at a price which is equal to or less than the price fixed or approved by the Government shall be allowed

#### Loss as per ICDS [Sec 36(1)(xvii)]

Marked to market loss or other expected loss as computed in accordance with the ICDS shall be allowed.

	Section 35AD — Specified business 🕸 🤉 🔞 🔻 🔞	
Sr No	Nature of business	% of deduction (capex)
1	Setting up & operating a cold chain facility	100%
2	Setting up & operating a warehousing facility for agricultural produce	100%
3	Laying & operating cross country pipeline for distribution of petroleum oil, natural gas	100%
4	Building & operating a Hotel of 2 star or above	100%
5	Building & operating a Hospital with minimum 100 patient beds	100%
6	Developing & building a Housing project under Slum development scheme	100%
7	Developing & building a housing project under affordable housing scheme	100%
8	Production of Fertilizers in India	100%
9	Setting up & operating inland container depot or container freight station	100%
10	Bee keeping and production of bee's honey& wax	100%
11	Setting up & operating a warehousing facility for sugar	100%
12	Laying & operating a slurry pipeline for transportation of Iron ore	100%
13	Setting up & operating a Semiconductor wafer fabrication manufacturing unit	100%
14	Developing or maintaining and operating or developing, maintaining and operating a new infrastructure facility (1. Road including toll road, bridge / rail system. 2. Highway project, water treatment system, irrigation project 3. Port, airport, inland waterways, inland port etc 4. Water supply project, water treatment system, irrigation project, sanitation)	100%

#### Conditions / Notes

- Not formed by splitting or reconstruction of existing business means business should be New
- 2. P&M should be New

#### Exception:

- (1) Imported old P&M (P&M on which dep, not claimed under IT Act.)(2) 20% of total P&M can be old (Second Hand)
- 3. Deduction allowed on all Capital expenses except (a) Land (b) Goodwill (c) Financial instruments.
- 4. Further, any expenditure in respect of which payment or aggregate of payment made to a person of an amount exceeding 10,000 in a day otherwise than by ac payee cheque or an ac payee DD or use of electronic clearing system through a bank account would not be eligible for deduction or any other mode as may be prescribed [BHIM, Aadhar Pay etc]
- 5. Depreciation not allowed if deduction claimed u/s 35AD.
- If deduction u/s 35AD is claimed then deduction u/s 80IA to 80RRB & 10AA deduction shall not be allowed.
- 7. Expenditure incurred, wholly and exclusively, for the purpose of specified business prior to commencement of operation would be allowed as deduction during the PY in which the assessee commences operation of his specified business.
- 8. Claiming deduction u/s 35AD is optional. They can opt to not to avail the benefit of the section

#### Section 36 - Deductions

<u>Section 36(1)(i) - Premium for insurance of stock</u> in trade = Allowed

Section 36(1)(ib) — Health insurance premium for employees = Allowed

Condition: Premium is paid in any mode other than cash

Section 36(1)(ii) — Bonus / commission paid to employees = Allowed

Condition: Subject to Sec 43BBonus may exceed bonus payable under Payment of Bonus Act

Section 36(1)(iii) — Interest on loan

- Loan taken for business / profession purpose
   ALLOWED
  - Loan from Scheduled bank, Pub Financial Inst, State Financial Corp, NBFC = ALLOWED (43B restr)
  - 2. Loan from others = ALLOWED (NO 43B restriction)
- 2. Personal purpose NOT ALLOWED

Section 36(1)(vi) — Animals used in business (other than SIT)

Deduction is allowed in the year in which such animal becomes permanently useless or died

Deduction = Cost - scrap value

Section 36(1)(iiia) - Zero Coupon Bond



Pro-rata amount of discount shall be amortized over the life of ZCB (in calendar months)

Example - Tanvi Ltd issued 1,00,000 ZCB on 9 Dec 2018 @ Rs 90. FV of such ZCB is Rs 100.

It is redeemable after 10 months.

Deduction available for FY 2018-19:

Total discount available = 1L \* Rs 10 = Rs 10L

Monthly discount = 10L / No of monthsi.e. Rs 10L / 10 months = Rs 1L per month

Number of months in FY 2018-19 = 4 months (Dec to Mar)

Deduction = Rs 1L \* 4 months = Rs 4L

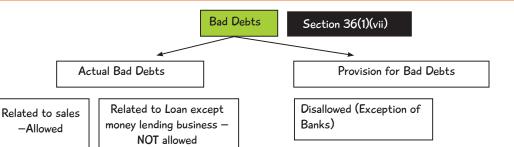
\*Imp note\*

If in any calendar month part is 15 days or more — it shall be increased to one calendar monthlf LESS than 15 days — ignore

If above ZCB is issued on 16 Dec 2018 (redeemable after 10 months i.e. on 16 Oct 2019)

— we will consider 11 months (consider Dec too as it has more than 15 days).





#### Notes:

- 1. Bad debts should be written off in the BOA of assessee in the FY in which deduction of BD is claimed
- 2. Debt should have been taken into account for computing income for FY or earlier FY
- 3. Subsequent recovery of bad debts after its allowance, it will be taxable in the year of receipt u/s 41(4)

### Section 36(1)(iv)/(v) - Employer's contribution for the benefit of the employees

#### Contribution to

- 1. Recognized Provident Fund
- 2. Approved Super Annuation Fund
- 3. Approved Gratuity Fund = Allowed subject to Sec 43B

© Section 36(1)(iva) — Employer's contribution towards Pension scheme referred u/s 80CCD

Total deduction allowed:

- Actual contribution
- 14% of salary [Basic salary + DA(terms)]



Sec 36(1)(va) - Employees contribution towards welfare fund

Any sum received by Employer from Employee as contribution to PF, SAF, ESI etc. is deemed to be PGBP if such sum is not deposited in respective fund up to the due date to such fund AND NOT due date of filing of ROI



### Section 37 - General Deduction

Section 37(1) - Any expenditure [other than covered u/s 30 to 36] shall be allowed as deduction if following conditions are satisfied:

- Expenses should be incurred wholly or exclusively for the purpose of Business or Profession.
- 2. Expenses should be revenue in nature.
- 3. Expenses should be Legal (It should not be illegal Bribes)

Section 37(2B) — Any advertisement in a political magazine, newspaper will not be allowed as deduction. It is allowable as deduction u/s 80GGB and 80GGC

#### Important points

- 1. Expenditure to be incurred in PY
- 2. Gift to employee Allowed as Ded
- 3. Dividend- NOT Allowed
- 4. Customary expenses (Puja during Diwali, Sankranti etc) Allowed
- 5. Provisions NOT allowed

#### Expenditure incurred towards

- IPO, FPO, Right shares = NOT allowed (Capital base is getting altered)
- 2. Buy-back, Bonus shares, Debenture or loan issue expenses = Allowed (No Change in Cap base)

# Taxes, Interest and Penalties DIRECT TAX (Income Tax etc)

Tax	NOT allowed
Interest	NOT allowed
Penalty	NOT allowed

#### INDIRECT TAX (GST etc)

Tax	Allowed
Interest	Allowed
Penalty	NOT allowed

Penalty for breach of law = NOT allowed

FID Penalty for breach of contract = Allowed

Penalty in the nature of interest = Interest in the nature of penalty =



#### Additional points

- 1. Interest on loan taken for income tax payment = NOT allowed
- Tax audit fees / litigation expenses in relation to income taxes = Allowed

#### Section 40 - Amount specifically not included

### Section 40(a)(i) - Payment made NR

Amount towards interest, royalty, Fees for Technical Services or similar sums paid / credited to NR or Foreign Co and if:

- TDS not deducted in PY; OR
- TDS deducted during the CY but not paid to the Govt up to due date filing return of income u/s 139(1)

#### THEN

Such amount to be paid to NR shall be 100% disallowed as deduction in the current FY

# Section 40(a)(ia) — Payment made Resident

Amount towards interest, royalty, Fees for Technical Services or similar sums paid / credited to Resident and if:

- TDS not deducted in PY; OR
- TDS deducted during the CY but not paid to the Govt up to due date filing return of income u/s 139(1)

#### THEN

Such amount to be paid to Resident shall be 30% disallowed as deduction in the current FY

#### Exception -

- My fault If any amount paid /credited to Recipient payee without deduction of TDS
- Payee being compliant Such payee -Furnishes his ROI and takes into account such amount in Total income.
- Wow moment AND has paid the tax due on such income - Govt ko paisa mil gaya
- CA certificate Payer furnishes a certificate from CA to this effect then it shall be deemed that
- the payer has deducted TDS & paid to Govt on date of furnishing of return by payee and
- Je Baat deduction of such expenditure shall be allowed accordingly

Sec 40(a)(iib) - Royalty, fees etc charged by State Govt

If any royalty, fees, service charge is exclusively collected by SG from SG undertaking then such expenses is NOT allowed to such SG undertaking

Sec 40(a)(iii) — TDS on salary payable outside India or NR

Any salary payable outside India or to NR in India and if:

- TDS not deducted; OR
- TDS deducted but not paid to the Govt up to due date filing return of income u/s 139(1)

#### **THEN**

Such sum shall NOT be allowed as dedn

Section 40(a)(v) – Tax on non-monetary perquisite (2) 23

- If employer offers some Non-Monetary perquisite to the employee,
- Then tax on such Non-Monetary perquisite is the responsibility of the employee.
- But instead of employee, if employer decides to pay tax on such Non-Monetary perquisite from his pocket, then that Tax is Not Allowed as deduction because its Exempt in hand of Employee u/s 10(10CC).

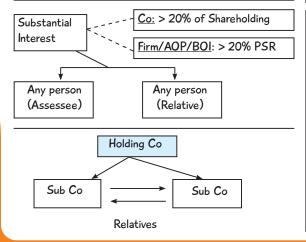
### Section 40A(2) - Payments to specified persons



If payment is made to specified person (relative) then excessive  $\!\!\!\!/$  unreasonable amount shall be disallowed by the AO

Specified person (relative) specifically for Sec 40A(2) is as follows:

Assessee	Specified person
Individual	Spouse, Brother, Sister, LA, LD
HUF	Member and their Relatives
Firm / LLP	Partner and their Relatives
Company	Director and their Relatives
AOP / BOI	Member and their Relatives



### Section 40A(3) - Cash payment > Rs 10,000 to single person in a single day



If assessee makes payment for any expenditure to any person otherwise than Account Payee cheque or DD or use of electronic clearing system through a bank account or such other modes prescribed - is more than Rs 10,000 in a single day then such expenditure shall be disallowed

Example - If, w.r.t an expenditure of Rs 32,000 incurred by X Ltd., 4 cash payments of 8,000 are made on a particular day to Mr. Y - one in the morning at 10 a.m., one at 12 noon, one at 3 p.m. and one at 6 p.m., the entire expenditure of Rs 32,000 would be disallowed under section 40A(3), since the aggregate of cash payments made during a day to Mr. Y exceeds Rs 10,000.

#### Special Notes:

- If payment made to transporter then limit is 35,000,
- If expenditure paid by Cross cheque then also deduction not allowed
- If deduction is already claimed in the earlier year later payment is done in any other mode other than prescribed mode — deemed income of that later yr

### Rule 6DD - Exceptions to Sec 40A(3)

- 1. Payment made to RBI/LIC / Commercial Banks (Pvt / Pub) / IDBI / Govt (Taxes).
- 2. Payment made through NEFT/RTGS/Debit card /ECS /credit card.
- 3. Payments by book entry (adjustment).
- Payment of producers of agriculture product, forest product, poultry product, fish product, live-stock etc.
- 5. Payment required to be made on a day when banks are closed.
- 6. Payment of Retirement benefits, provided such payment is up to 50,000.
- Payment of salary to an employee who is posted to any other place for continuous period of 15 days or more other than his normal place of duty (No bank account).
- Payment made where banking facility not available. Payment is made by any person to
  his agent who is required to make payment in cash for goods or services on behalf of
  such person.
- Payment is made by an authorised dealer or a money changer against purchase of foreign currency or travellers cheques in the normal course of his business

### Sec 40A(7) — Provision of Gratuity





Only payment to Approved Gratuity Fund or provision for gratuity actually become payable during the P.Y. (due basis) is allowed as Deduction

# Sec 43B — Expenses allowed on payment basis

### 7 Q (14)

Following expenses are allowed only if they are PAID up to the due date of return filing as per Section 139(1)

- a. Any tax, duty, cess
- Employer's contribution towards SPF, RPF, Apprved Gratuity Fund, Approved Super Annuation Fund, New Pension Scheme, only fund as per law
- c. Bonus or commission to Employees
- d. Interest on loan to any PFI, State Financial Corp, State Industrial Investment Corp, scheduled banks
- e. Leave encashment (leave salary) to employee
- f. Any sum payable to Indian railways for use of railway assets
- g. Interest on any loan or borrowing from a deposit taking NBFC or systematically important Non deposit NBFC
- h. New Clause 43B (FA-2023)
  - a. Payment to MSME included in 43B

#### b. Meaning of MSME

	Micro Ent.		Micro Ent.		Small E	nt.
Manufacturing	Invst. in P&I	М	25	lakhs		
Bus	upto 2	5	upto 5	crore		
	Lakhs					
Service	Invst.	in	10	lakhs		
Provider	Equipmen	t	upto 2	crore		
	upto 10 Lakhs					

Sum payable to a MICRO or SMALL Enterprise beyond time-limit specified in section 15 of MSME Development Act, 2006.

Sec 15 of MSME Development Act, 2006: Due Date of Payment

- If there is a written agreement: Date agreed upon (Max. 45 Days)
- If no written agreement: Within 15 days of acceptance of goods.

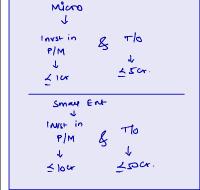
#### Analysis:

- If paid as per section 15-Deduction on accrual basis.
- If not paid as per section 15 Deduction in PY of payment

Example: Mr. A has purchased goods of 10,000 from A & Co, a micro enterprise on 1.3.2024. As per the written agreement between them, the payment has to be made by 54.2024. Mr. A

follows mercantile method of accounting.

- (i) If Mr. A paid the sum on 24.2024
  Since Mr. A paid the sum on or before 54.2024, the deduction would be allowed in P.Y. 2023-24
- (ii) If Mr. A paid the sum on 204.2024 Since Mr. A paid the sum beyond the time limit, the deduction would be allowed in the year of actual payment ie, P.Y. 2024-25.



Expenses.

(PU 24-84)

- i] Generally -> Ded on account basis.
- 438 2] Specific \_\_ Ded on partment basis -> dates fills
  - 3] Micro & Small ... Ded only on pay + books 24 day ... (Ag+v)

Dak of purchase.  1. 4/7/24.  1. 19124	Hat ed	Payt V 1   7   25 5   4   24	26-26 V 23-24 V	->≤15 (Ag+
(FU 29-24)				
15/3/25	60 days	2)4/26	24.35	6.8

40 days 13/3/25 24-

# Sec 43A — Asset acquired from foreign country

If any asset is acquired from a foreign country through a loan in foreign currency or foreign suppliers credit, any loss/gain arising at the time of payment shall be adjusted with the Block of asset.

#### Notes:

- Adjustment is made only at the time of actual payment of foreign loan or supplier's credit.
- 2. If there is gain then reduce from block of asset & if there is loss then added to the block of asset.
- Profit or Loss on hedging contract for meeting out the loss in foreign currency payment towards asset acquired from outside India shall also be reduced or added to cost of asset.

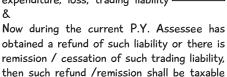
If interest is payable on loan is converted into debentures by which the liability to pay is deferred to future date then it will not be considered as actual payment of interest

### Sec 41 - Deemed PGBP

Sec. 41(1) - Recovery against any deductions already claimed

If Assessee was allowed a deduction in a earlier PY by way of expenditure, loss, trading liability &

under PGBP.



Example: a) Sales Tax Refund b) Stock in trade is destroyed by fire & allowed as trading loss & later on insurance compensation is received by assessee.

# Sec 41(2) — Balance charge Discussed earlier

Sec 41(4) — Recovery of Bad Debts

Recovered amount shall be taxable in the year
in which it is recovered

V Imp - If interest payable is converted into loan interest so converted and not actually paid = shall not be deemed as actual payment

Sec 44AA - Compulsory of maintenance accounts

#### Refer next page

Assets -> purchased \( \)

Using there assets -> for specified businenes

If I sell this asset \( \leq \) Fus

Then -> In the year of sale

Considered as PUBP -> Income.

Once you consider this as income -> Donot Forget

to Using depreciation \( \)

#### Sec 44AB - Tax Audit

Tax audit is compulsory in following cases:

- a) Business If T/O > 1 crore during the PY (Also refer next page)
- b) Profession If Gross receipts > 50 lakhs during the P.Y.
- Requirement of audit u/s 44AB does not apply to a person who declares profits / gains on a presumptive basis under section 44AD
- c) If assessee covered by Sec. 44AD or Sec. 44ADA and assessee claimed income less than 8%/6% or 50% & his Total income is more than Basic exemption = comply 44AA and 44AB. Even if TO < 1 Cr? - YES</li>
- d)If Total turnover ≤ Rs. 2 crores & assessee has opted for section 44AD in any earlier PY (say, PY 2022-23) or Assessee whose Total
   Cash Receipts in relevant PY ≤ 5% of Total turnover & Turnover ≤ Rs. 3 Crores & who has opted for section 44AD in any earlier PY (say,
   PY 2022-23) →

If he declares profit for any of 5 successive PYs not in accordance with section 44AD (i.e, he declares profits lower than 8% or 6%), then, he cannot opt for section 44AD for 5 successive PYs after the year of such default (i.e, from PY 2024-25 to PY 2028-29).

For the year of default (ie, PY 2023-24) & next 5 PYs (i.e, PY 2024-25 to PY 2028-29), he has to maintain books of account u/s 44AA and get them audited u/s 44AB, if his income > BEL.

- e)If Gross Receipt for PY > Rs. 50 Lacs.

Note: If Gross Receipts for the PY < Rs. 50 Lacs OR Assessee whose Total Cash receipts in relevant PY < 5% of Total receipts & whole Gross Receipts < Rs. 75 Lacs but such resident assessee claims that his income is LOWER than income computed on Presumptive basis u/s 44ADA & his Income > BEL in PY→ Audit is compulsory.

- g) Penalty u/s 271B: if assessee fails to get accounts audited:
  - (i) 0.5% of T.O. or G.R. or
  - (ii) Rs. 1,50,000
  - Whichever is lower

#### Note:

- 1. Audit can be done by CA
- 2. Due date = 31 Oct of AY

Recovery after discontinuance of business or profession [Sec. 176(3A) and (4)] — Due to death or retirement — Income received shall be deemed to be the receipts and taxable

# Sec 44AA **QQQ** 15

- 1) Notified Profession [Medical / Legal / film artist / Architecture / Consulting]
  - $\rightarrow$  GR > ₹ 1,50,000 in <u>all</u> 3 preceding F.Y.
  - → <u>OR</u> likely to exceed ₹ 1,50,000 during P.Y. if newly set up.
- 2) Other person carrying on business / Profession :
  - (i) Individual / HUF
  - $\rightarrow$  TI > ₹2,50,000 in any 1 of past 3 Yrs.
  - → To/GR > ₹25,00,000 in <u>any</u> 1 of past 3 Yrs.
  - (ii) Other than Individual / HUF
  - $\rightarrow$  TI > 1,20,000 in any 1 of Past 3 Yrs.
  - → To/GR > 10,00,000 in any 1 of past 3 Yrs.
- 3)  $\rightarrow$  Minimum period of Maintenance of books of A / C \* s = 6 years from the end of AY.
  - → Penalty for failure to maintain books of A/c [Section 271A] = Rs. 25,000.

### New provision in Section 44AB [Tax Audit]

	Persons	When tax audit is required
lf	in case of such person carrying on business —	If his total sales, turnover or gross
1.	Aggregate cash receipts in the relevant PY < $5\%$	receipts in business > 10 crore in the
	of total receipts (incl. receipts for sales, turnover,	relevant PY
	gross receipts); AND	
2.	Aggregate cash payments in the relevant PY $<$	
	5% total payments (including amount incurred for	
	expenditure)	

# 

- Eligible Assessee: Resident Individual/Resident HUF / Resident firm (excluding LLP) who has not claimed dedn u/s 10AA or 80IA to 80RRB
- b. This Section is applicable for any Business except
  - a) Sec. 44AE Business
  - b) Agency Business
  - c) Commission & Brokerage business and

#### Turnover / Gross Receipts is up to 2 crore

- c. Presumptive PGBP Income = Turnover / Gross receipts x 8% NOTE: If Turnover / Gross Receipts realized by AC Cheque/DD/ Electronic payment through Bank Account or any other electronic mode may be prescribed upto due date of Return Filing the PGBP Income = Turnover \* 6%
- The eligible assessee is required to pay Advance tax. However, there will be only one instalment 15 March of Financial year
- e. If Sec 44AD is applied = Sec 30 to 38 shall not be allowed
- g. If assessee declares income as per Sec 44AD and whose T/O is up to 2 Crores assessee is not required to maintain books of account & get it audited.
- h. If assessee declares income for any PY as per 44AD & he doesn't declare income as per 44AD in any of the 5 consecutive PYs, then he shall not be eligible to claim benefit of sec. 44AD for 5 years subsequent to the year in which assessee not declared income as per Sec. 44AD
- i. Note: Where the amounts received during the PY in \*cash does not exceed 5% of the total turnover or gross receipts of such PY then limit of T/o ₹ 3 crore apply instead of ₹2 crore [Amended by FA 2023 w.e.f. AY 24-25]

 $^*$ Cheque/DD, which is not account payee, shall be treated as Cash

# Sec. 44ADA: PGBP on presumptive basis for professional QQQ 35

- Eligible Assessee : Resident assessee (Individual / Firm and NOT LLP) engaged in profession as referred to in Section 44AA
- b. This <u>Section is applicable</u> if gross receipt is less than Rs 50 Lakhs
- c. Total income under PGBP = Gross receipt \* 50%
- I. NO furher deduction allowed -Expenses referred to in Sec 30 to 38 shall not be allowed as dedn
- e. Maintenance of books of accounts If assessee declares income lower than 50% and his Net Total Income is more than basic exemption = he is required to maintain books of accounts and get it audited
- f. Advance Tax Eligible assessee is required to pay advance tax by 15 March of the Financial Year
- g. PGBP Income = Gross receipt x 50%.

Note: Where the amounts received during the PY in \*cash does not exceed 5% of the gross receipts of such PY then limit of GR ₹75 lakhs apply instead of ₹ 50 lakhs. (Amended by FA 2023 w.e.f. AY 24-25)

\*Cheque/DD, which is not account payee, shall be treated as Cash

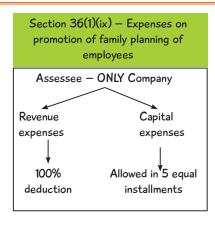
# Sec. 44AE: Presumptive taxation for Transporters QQQ 70 26 31 32

Eligible Assessee :
 Assessee engaged in the business of plying, hiring leasing such goods carriage then PGBP



Heavy	Rs 1000 per ton per month
goods	/ part of the month of gross
vehicle	vehicle weight or unladen
	weight
Other	Rs 7500 for every month or
	part of the month

- Can assessee declare higher income in his return of income
- c. Assessee should own maximum 10 vehicles. If assessee owns more than 10 vehicles at any time during the PY = this section will not apply
- d. Expenses referred to in Sec 30 to 38 shall not be allowed as dedn
- e. Partner remuneration, salary, interest as per 40(b) = Allowed
- Heavy goods vehicle means any goods carriage, gross vehicle weight of which exceeds 12000 kgs
- g. Maintenance and Audit of BOA





Eligible assessee – All asseessee

Deduction allowed - Allowed

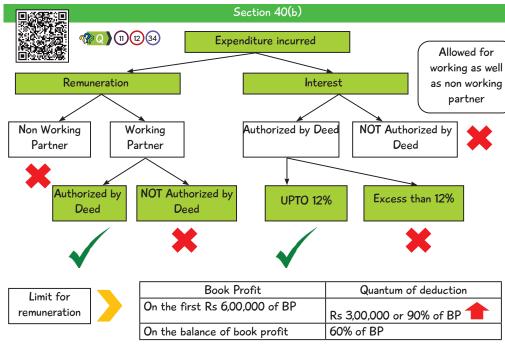
IN 5 equal instalments

# while computing Back Profit

Find out final answer of BP

Reduce unabsorbed Dep?

But donot reduce B| Fd 10 sses



 $\underline{Book\ profit}$  - Book profit means income computed under the head Income from Business or Profession under BEFORE allowing deduction in respect of remuneration allowed to partners (but after reducing interest to the extent of 12% - thus, calculate interest first and then remuneration).

If there's a BOOK LOSS — Deduction is Rs 1,50,900