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MAY '19
REVISION NOTES

Direct Tax

Part - 1

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PROFITS AND GAINS FROM BUSINESS AND PROFESSION

The term “**business**” has been defined in section 2(13) to “include any trade, commerce or manufacture or any adventure or concern in the nature of trade, commerce or manufacture”. The term “**profession**” has not been defined in the Act. It means an occupation requiring some degree of learning. The term ‘profession’ includes vocation as well [Section 2(36)]

INCOME CHARGEABLE UNDER THIS CHAPTER (SECTION 28)

1. Income from business, profession or vocation: Income arising to any person by way of profits and gains from the business, profession or vocation carried on by him at any time during the previous year.
2. Any compensation or other payment due to or received in course of business and profession
3. Incentives received or receivable by assessee carrying on export business (Profit on sale of import entitlements, Cash assistance, Customs duty or excise duty re-paid or repayable as drawback, Profit on transfer of Duty Entitlement Pass Book Scheme.)
4. Value of any benefit or perquisite: The value of any benefit or perquisite whether convertible into money or not, arising from business or the exercise of any profession.
5. Sum due to, or received by, a partner of a firm
6. Any sum received under a Keyman insurance policy.
7. The fair market value of inventory as on the date on which it is converted into, or treated as, a capital asset
8. Sum received on account of capital asset referred under section 35AD
9. Any sum received or receivable, in cash or kind, under an agreement for not carrying out any activity in relation to any business or profession

Section 29 : COMPUTATION OF INCOME FROM BUSINESS

According to section 29, the profits and gains of any business or profession are to be computed in accordance with the provisions contained in sections 30 to 43D.

Section	Particulars
30	<p><u>Rent, rates, repairs and insurance for buildings</u></p> <ul style="list-style-type: none"> - Notional Expenses not allowed - Capital expenditure not allowed under this section
31	<p><u>Repairs and insurance of machinery, plant and furniture</u></p> <ul style="list-style-type: none"> - Notional Expenses not allowed - Capital expenditure not allowed under this section
32	<p><u>Depreciation</u></p> <p>1. The assets in respect of which depreciation is claimed must belong to either of the following categories, namely:</p> <ul style="list-style-type: none"> a) buildings, machinery, plant or furniture, being tangible assets; b) know-how, patents, copyrights, trademarks, licences, franchises or any other business or commercial rights of similar nature, being intangible assets

2. **The assets should be actually used by the assessee for purposes of his business or profession during the previous year** - The asset must be put to use at any time during the previous year. The amount of depreciation allowance is not proportionate to the period of use during the previous year. (**Use includes passive use**)

3. **The assessee must own the assets**

Mysore Minerals Ltd v. CIT (1999) 239 ITR 775 – One who has invested in the asset is considered as owner of the asset

CIT v. Smifs Securities Ltd (2012) (SC)– Goodwill is a depreciable Asset.

Explanation 1 to Section 32

It may be noted that as per Explanation 1 to section 32 provides that where the business or profession of the assessee is carried on in a building not owned by him but in respect of which the assessee holds a lease or other right of occupancy, and any capital expenditure is incurred by the assessee for the purposes of the business or profession or the construction of any structure or doing of any work by way of renovation, extension or improvement to the building, then depreciation will be allowed as if the said structure or work is a building owned by the assessee. (**i.e. Deemed Block of Building**)

Calculation of depreciation

Asset used for less than 180 days - However, it has been provided that where any asset is acquired by the assessee during the previous year and is put to use for the purposes of business or profession for a period of less than 180 days, depreciation shall be allowed **at 50 per cent** of the allowable depreciation according to the percentage prescribed in respect of the block of assets comprising such asset.

Block of assets: In the case of any block of assets, at such percentage of the written down value of the block, as may be prescribed by Rule 5(1). A “block of assets” is defined in clause (11) of section 2, as a group of assets falling within a class of assets comprising—

- (a) tangible assets, being buildings, machinery, plant or furniture;
- (b) intangible assets, being know-how, patents, copyrights, trademarks, licenses, franchises or any other business or commercial rights of similar nature, in respect of which the same percentage of depreciation is prescribed.

Additional depreciation on Plant & Machinery [Section 32(1)(ia)]: Additional depreciation is allowed on any new machinery or plant (other than ships and aircraft) acquired and installed after 31.3.2005 by an assessee engaged in the business of manufacture or production of any article or thing or **in the business of generation or transmission or distribution of power** at the rate of 20% of the actual cost of such machinery or plant.

Such additional depreciation will not be available in respect of:

- A. any machinery or plant which, before its installation by the assessee, was used within or outside India by any other person; or
- B. any machinery or plant installed in office premises, residential accommodation, or in any guest house; or
- C. any machinery or plant, the whole or part of the actual cost of which is allowed as a deduction (whether by way of depreciation or otherwise) in computing the income chargeable under the head “Profits and Gains of Business or Profession” of any one previous year.

Additional depreciation @35% to be allowed to assessee setting up manufacturing units in notified backward areas of specified States and acquiring and installing of new plant & machinery [Proviso to section 32(1)(iia)]

Asset put to use for less than 180 days: As per second proviso to section 32(1)(ii), 50% of additional depreciation to be allowed, where the plant and machinery is put to use for less than 180 days during the previous year in which such asset is acquired. Further, third proviso to section 32(1)(ii) also provides that the balance 50% of the additional depreciation on new plant or machinery acquired and used for less than 180 days which has not been allowed in the year of acquisition and installation of such plant or machinery, shall be allowed in the immediately succeeding previous year.

RATES OF DEPRECIATION

Nature of asset Rate

Buildings which are used mainly for residential purposes except hotels and boarding houses - 5%

Buildings which are not used mainly for residential purposes - 10%

Furniture and fittings including electrical fittings - 10%

Motors buses, motor lorries, motor taxis used in the business of running them on hire - 30%

Computers including computer software - 40%

Annual publications owned by assessee carrying on a profession 40%

Books, other than annual publications, owned by assessee carrying on a profession - 40%

Plant & machinery (General rate) - 15%

Know-how, patents, copyrights, trademarks, licences, franchises or any other business or commercial rights of similar nature - 25%

Depreciation in case of succession of firm/sole proprietary concern by a company or business reorganization, amalgamation or demerger of companies or succession of business otherwise than on death:

As per the fifth proviso to section 32(1), depreciation allowable in the hands of

- a) predecessor and the successor in case of succession of firm/sole proprietary concern by a company fulfilling the conditions mentioned in section 47(xiii)/(xiv) or;
- b) predecessor company and successor LLP in case of conversion of a private company or an unlisted public company into an LLP fulfilling the conditions mentioned in section 47(xiiib) or predecessor and the successor in case of succession of business otherwise than on death
- c) amalgamating/amalgamated company or demerged or resulting company in case of amalgamation or demerger of companies

shall not exceed the amount of depreciation calculated at the prescribed rates as if the succession, business reorganization, amalgamation or demerger had not taken place. It is also provided that such amount of depreciation shall be apportioned between the two entities **in the ratio of the number of days for which the assets were used by them.**

Federal Bank Ltd. v. ACIT (2011) 332 ITR 319 (Kerala) it was held that communication equipments cannot be treated as computer. Hence, Electronic Private Automatic Branch Exchange (EPABX) and mobile phones are not computers and therefore, are not entitled to higher depreciation at 40%.

	<p>CIT v. BSES Yamuna Powers Ltd (2013) 358 ITR 47 (Delhi) The High Court observed that computer accessories and peripherals such as printers, scanners and server etc. form an integral part of the computer system and they cannot be used without the computer. Consequently, the High Court held that since they are part of the computer system, they would be eligible for depreciation at the higher rate of 60% applicable to computers including computer software.</p>
	<p>Power generation undertakings: In the case of assets of an undertaking engaged in generation or generation and distribution of power, such percentage on the actual cost to the assessee as prescribed by Rule 5(1A). Rule 5(1A) - As per this rule, the depreciation on the abovementioned assets shall be calculated at the percentage of the actual cost at rates specified in Appendix IA of these rules. However, the aggregate depreciation allowed in respect of any asset for different assessment years shall not exceed the actual cost of the asset. It is further provided that such an undertaking as mentioned above has the option of being allowed depreciation on the written down value of such block of assets as are used for its business at rates specified in Appendix I to these rules. However, such option must be exercised before the due date for furnishing return under section 139(1) for the assessment year relevant to the previous year in which it begins to generate power. It is further provided that any such option once exercised shall be final and shall apply to all subsequent assessment years. Terminal depreciation: In case of a power concern as covered under clause (i) above, if any asset is sold, discarded, demolished or otherwise destroyed in the previous year (other than the previous year in which it is first brought into use), the depreciation amount will be the amount by which the moneys payable in respect of such building, machinery, plant or furniture, together with the amount of scrap value, if any, falls short of the written down value thereof. The depreciation will be available only if the deficiency is actually written off in the books of the assessee. Balancing Charge Section 41(2) provides for the manner of calculation of the amount which shall be chargeable to income-tax as income of the business of the previous year in which the moneys payable for the building, machinery, plant or furniture on which depreciation has been claimed under section 32(1)(i), i.e. in the case of power undertakings, is sold, discarded, demolished or destroyed. The balancing charge will be the amount by which the moneys payable in respect of such building, machinery, plant or furniture, together with the amount of scrap value, if any, exceeds the written down value. However, the amount of balancing charge should not exceed the difference between the actual cost and the WDV. The tax shall be levied in the year in which the moneys payable become due.</p>
<p>43(1)</p>	<p>The expression “actual cost” means the actual cost of the asset to the assessee as reduced by that portion of the cost thereof, if any, as has been met directly or indirectly by any other person or authority. However, where an assessee incurs any expenditure for acquisition of any asset or part thereof in respect of which a payment or aggregate of payments made to a person in a day, otherwise than by an account payee cheque drawn on a bank or account payee bank draft or use of electronic clearing system through a bank account, exceeds ` 10,000, such expenditure shall not form part of actual cost of such asset [Proviso to section 43(1)] (i) Asset used for business after it ceases to be used for scientific research: Where an asset is used for the purposes of business after it ceases to be used for scientific research related to that business, the actual cost to the assessee for depreciation purposes shall be the actual cost to the assessee as reduced by any deduction allowed under section 35(1)(iv) [Explanation 1].</p>

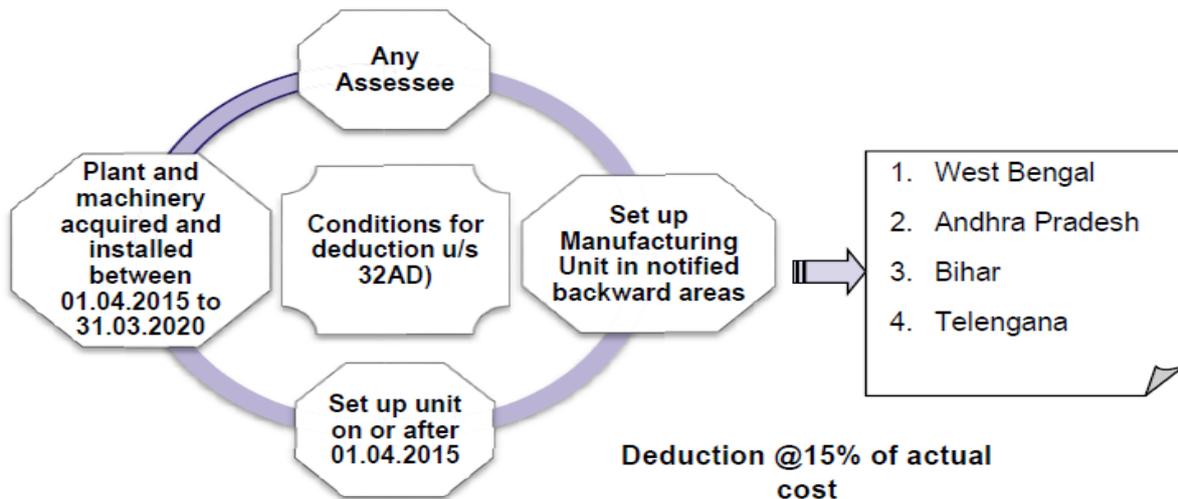
- (ii) **Inventory converted into capital asset and used for business or profession:** Where inventory is converted or treated as a capital asset and is used for the purpose of business or profession, the fair market value of such inventory as on the date of its conversion into capital asset, shall be the actual cost of such capital asset to the assessee [Explanation 1A].
- (iii) **Asset is acquired by way of gift or inheritance:** Where an asset is acquired by way of gift or inheritance, its actual cost shall be the **written down value to the previous owner** [Explanation 2].
- (iv) **Second hand asset:** Where, before the date of its acquisition by the assessee, the asset was at any time used by any other person for the purposes of his business or profession, and the Assessing Officer is satisfied that the main purpose of the transfer of the asset directly or indirectly to the assessee was the reduction of liability of income-tax directly or indirectly to the assessee (by claiming depreciation with reference to an enhanced cost) the actual cost to the assessee shall be taken to be such an amount which the Assessing Officer may, with the previous approval of the Joint Commissioner, determine, having regard to all the circumstances of the case [Explanation 3].
- (v) **Re-acquisition of asset:** Where any asset which had once belonged to the assessee and had been used by him for the purposes of his business or profession and thereafter ceased to be his property by reason of transfer or otherwise, is re-acquired by him, the actual cost to the assessee shall be —
 - (a) the written down value at the time of original transfer; or
 - (b) the actual price for which the asset is re-acquired by him**whichever is less [Explanation 4].**
- (vi) **Transfer of asset on lease, hire or otherwise to the previous owner:** Where before the date of acquisition by the assessee say, Mr. A, the assets were at any time used by any other person, say Mr. B, for the purposes of his business or profession and depreciation allowance has been claimed in respect of such assets in the case of Mr. B and such person acquires on lease, hire or otherwise, assets from Mr. A, then, the actual cost of the transferred assets, in the case of Mr. A, shall be the same as the written down value of the said assets at the time of transfer thereof by Mr. B [Explanation 4A].
- (vii) **Amount of duty of excise or additional duty leviable shall be reduced if credit is claimed:** Where an asset is or has been acquired by an assessee, the actual cost of asset shall be reduced by the amount of duty of excise or the additional duty leviable under section 3 of the Customs Tariff Act, 1975 in respect of which a claim of credit has been made and allowed under the Central Excise Rules, 1944 [Explanation 9].
- (viii) where an asset, in respect of which deduction is claimed and allowed under section 35AD is deemed to be the income of the assessee in accordance with the provisions of section 35AD(7B) (on account of being used for a purpose other than specified business under section 35AD), the actual cost of the asset to the assessee shall be actual cost to assessee as reduced by the amount of depreciation allowable had the asset been used for the purpose of business, calculated at the rate in force, since the date of its acquisition [Proviso to Explanation 13 to section 43(1)]

Composite Income: Explanation 7 provides that in cases of ‘composite income’, for the purpose of computing written down value of assets acquired before the previous year, the total amount of depreciation shall be computed as if the entire composite income of the assessee is chargeable under the head “Profits and Gains of business or profession”. The depreciation so computed shall be deemed to have been “actually allowed” to the assessee.

Carry forward and set off of depreciation [Section 32(2)]

Section 32(2) provides for carry forward of unabsorbed depreciation. Where, in any previous year the profits or gains chargeable are not sufficient to give full effect to the depreciation allowance, the unabsorbed depreciation shall be added to the depreciation allowance for the following previous year and shall be deemed to be part of that allowance. If no depreciation allowance is available for that previous year, the unabsorbed depreciation of the earlier previous year shall become the depreciation allowance of that year. The effect of this provision is that the unabsorbed depreciation shall be carried forward indefinitely till it is fully set off.

Section 32AD – Investment Allowance



“New plant and machinery” does not include—

- (a) Any ship or aircraft;
- (b) Any plant or machinery, which before its installation by the assessee, was used either within or outside India by any other person;
- (c) Any plant or machinery installed in any office premises or any residential accommodation, including accommodation in the nature of a guest house;
- (d) Any vehicle;
- (e) Any plant or machinery, the whole of the actual cost of which is allowed as deduction (whether by way of depreciation or otherwise) in computing the income chargeable under the head “Profits and gains of business or profession” of any previous year.

In order to ensure that the manufacturing units which are set up by availing this incentive actually contribute to economic growth of these backward areas by carrying out the activity of manufacturing for a substantial period of time, a suitable safeguard restricting the transfer of new plant and machinery for a period of 5 years has been provided. Accordingly, section 32AD(2) provides that if any new plant and machinery acquired and installed by the assessee is **sold or otherwise transferred** except in connection with the amalgamation or demerger or re-organisation of business, **within a period of 5 years from the date of its installation**, the amount allowed as deduction in respect of such new plant and machinery shall be deemed to be the income chargeable under the head “Profits and gains from business or profession” of the previous year in which such new plant and machinery is sold or transferred, in addition to taxability of gains, arising on account of transfer of such new plant and machinery.

Section 33AB – Tea Coffee Rubber Development Account

1. This section provides for a deduction in the computation of the taxable profits in the case of an assessee carrying on business of growing and manufacturing tea or coffee or rubber in India.
2. Amount to be deposited
 - (a) In National Bank in accordance with a scheme approved by Tea Board or Coffee Board or Rubber Board, or
 - (b) In an account 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
3. Time Limit
 - a) Within 6 Months from the end of PY or
 - b) Due Date of filing return**whichever is earlier**
4. Amount of Deduction
 - a) Amount deposited in Development Account or
 - b) 40% of PGBP income (before 33AB)**whichever is lower**
5. Where any deduction in respect of any amount deposited in the special account or Deposit Account has been allowed in any previous year, no deduction shall be allowed in respect of such amount in any other previous year.
6. This deduction shall not be allowed unless the accounts of such business of the assessee for the previous year have been audited by a CA and the assessee furnishes along with his return of income the report of such audit in the prescribed form duly signed and verified by such accountant.
7. where the assessee is required by any other law to get his accounts audited it shall be sufficient compliance with the provision of this section if such assessee gets the accounts of such business audited under any such law and furnishes the report of the audit and a further report in the prescribed form under this section.
8. Where the sum standing to the credit of the assessee in the Special account or in the Deposit account is released and is utilised for the purchase of:
 - (a) Any machinery or plant installed in any office premises or residential accommodation including a guest house.
 - (b) Any office appliances (other than computers)
 - (c) Any machinery or plant, the whole of the actual cost of which is allowed as a deduction (whether by way of depreciation or otherwise) in computing the income chargeable under the head 'Profits and gains of business or profession' of any one previous year;
 - (d) Any new machinery or plant to be installed in an industrial undertaking for the purpose of the business of construction, manufacture or production of any article or thing specified in the list in the Eleventh Schedule.
the whole of such amount so utilised will be treated as taxable profits of that year and taxed accordingly.
9. Where any amount in the special account which is released during any previous year by the National Bank or is withdrawn by the assessee from the Deposit Account, for being utilised by the assessee for the purposes of such business and is not utilized in accordance with the scheme or deposit scheme in that year, the unutilised amount shall

be deemed to be profits and gains and chargeable to income-tax as the income of that previous year.

10. Any amount standing to the credit of the assessee in the special account or deposit account cannot be withdrawn except for the purposes specified in the scheme, or, as the case may be, in the deposit scheme.

The above amount can also be withdrawn in the following circumstances:

- (a) Closure of business
- (b) Death of an assessee
- (c) Partition of HUF
- (d) Dissolution of a firm
- (e) Liquidation of a company.

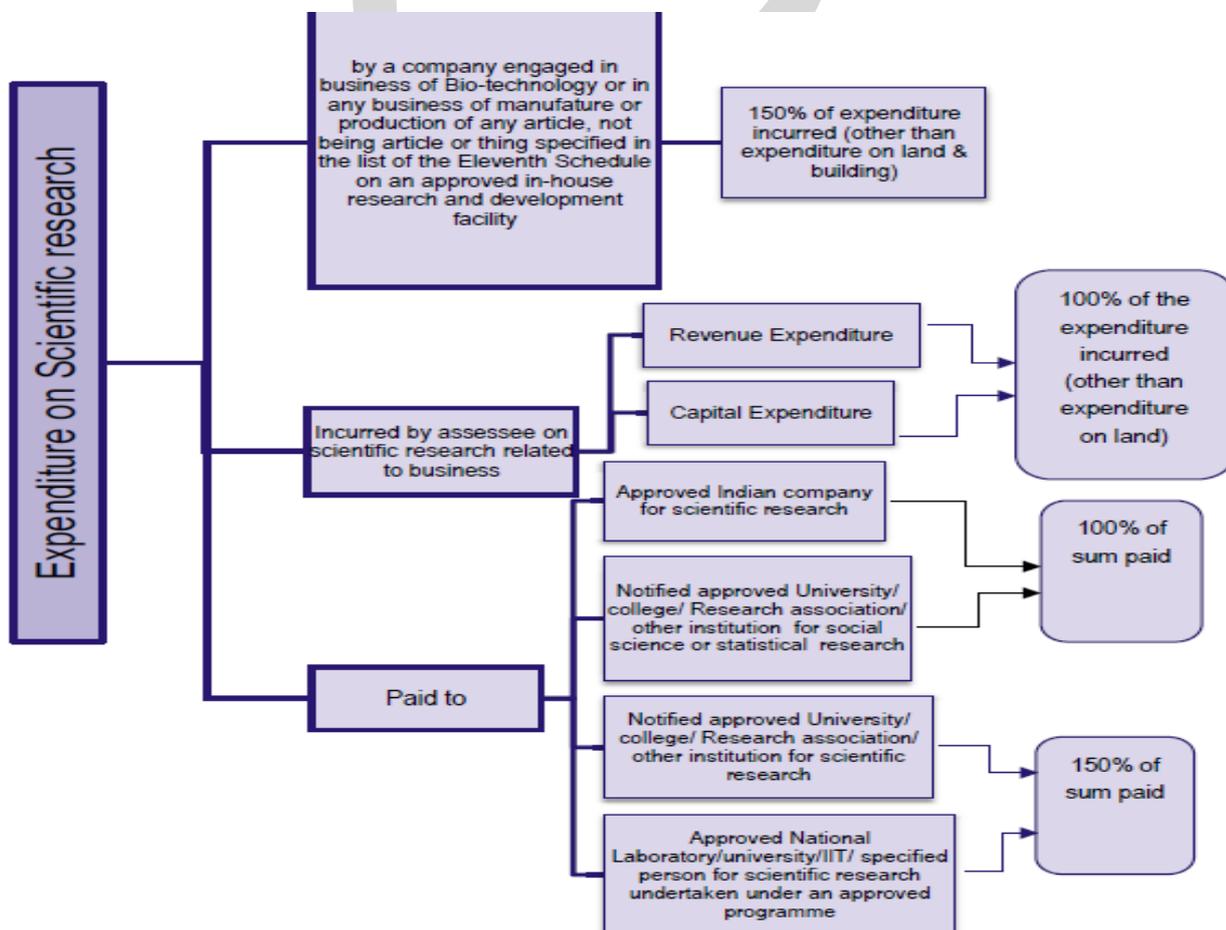
Where such amount is released during the previous year at the closing of the account on the death of the assessee, partition of a HUF or liquidation of a company amount withdrawn is not taxable.

11. Where an asset acquired in accordance with the scheme is transferred within 8 years from the end of the previous year in which it was acquired then that part of the cost of which deduction was allowed under this section shall be chargeable to PGBP in the year of transfer

Exception

- a) Where asset is transferred to local authority, SG, CG or corporation established under central/state Act
- b) Conversion of Firm into Company

Section 35 – Scientific Research



(I) Incurred by assessee: (i) Revenue Expenditure: Any revenue expenditure incurred by the assessee on scientific research related to his business would be allowed as deduction in the year in which it was incurred. Expenditure incurred within 3 years immediately preceding the commencement of the business on payment of salary to research personnel engaged in scientific research related to his business carried on by the taxpayer or on purchase of material inputs for such scientific research will be allowed as deduction in the year in which the business is commenced. [Section 35(1)(i)]

(ii) Capital Expenditure: Any expenditure of a capital nature on scientific research related to the business carried on by the assessee would be deductible in full in the previous year in which it is incurred [Section 35(1)(iv)].

(a) Capital expenditure prior to commencement of business

The *Explanation 1* to sub-section (2)(ia) specifically provides that where any capital expenditure has been incurred prior to the commencement of the business the aggregate of the expenditure so incurred within the three years immediately preceding the commencement of the business shall be deemed to have been incurred in the previous year in which the business is commenced and will rank for deduction as expenditure for scientific research incurred during the previous year.

Expenditure on land disallowed

No deduction will be allowed in respect of capital expenditure incurred on the acquisition of any land whether the land is acquired as such or as part of any property.

Sale of asset representing expenditure of capital nature on scientific research

Section 41, inter alia, seeks to tax the profits arising on the sale of an asset representing expenditure of a capital nature on scientific research.

Such an asset might be sold, discarded, demolished or destroyed, either after having been used for the purposes of business on the cessation of its use for the for other purposes. In either case, tax liability could arise.

Where the asset is sold, etc., after having been used for the purposes of the business - It may be noted that in such cases, the actual cost of the concerned asset under section 43(1) read with explanation 1 would be nil and no depreciation would be allowed by virtue of section 35(2)(iv). On sale of such asset, the moneys payable in respect of such asset together with the amount of scrap value, if any, could be brought to charge under section 41(1) the provisions of which are wide enough to cover such situations and to bring to tax that amount of deductions allowed in earlier years.

Where the asset representing expenditure of a capital nature on Scientific Research is sold without having been used for other purposes - This case would come under section 41(3) and if the proceeds of sale together with the total amount of the deductions made under section 35 exceed the amount of capital expenditure, the excess or the amount of deduction so made, whichever is less, will be charged to tax as income of the business of the previous year in which the sale took place.

In simple words, if (sale proceeds + deduction under section 35) > amount of capital expenditure, then sale proceeds + deduction under section 35 – amount of capital expenditure **OR** deduction under section 35, whichever is less will be the charged to tax as income of the business.

Section 35AD – Specified Business**1. List of Business**

- setting-up and operating ‘cold chain’ facilities for specified products;
- setting-up and operating warehousing facilities for storing agricultural produce;
- laying and operating a cross-country natural gas or crude or petroleum oil pipeline network for distribution, including storage facilities being an integral part of such network;
- building and operating a hotel of two-star or above category, anywhere in India;
- building and operating a hospital, anywhere in India, with at least 100 beds for patients;
- developing and building a housing project under a notified scheme for slum redevelopment or rehabilitation framed by the Central Government or a State Government.
- developing and building a housing project under a notified scheme for affordable housing framed by the Central Government or State Government;
- production of fertilizer in India;
- setting up and operating an inland container depot or a container freight station notified or approved under the Customs Act, 1962;
- bee-keeping and production of honey and beeswax;
- setting up and operating a warehousing facility for storage of sugar;
- laying and operating a slurry pipeline for the transportation of iron ore;
- setting up and operating a semiconductor wafer fabrication manufacturing unit, if such unit is notified by the Board in accordance with the prescribed guidelines;
- developing or maintaining and operating or developing, maintaining and operating a new infrastructure facility

2. 100% capital expenses are allowed as deduction

Exception

- a) Cost of land/goodwill/financial Instrument
 - b) Any expense > 10000 paid by mode other than account payee cheque/account payee DD/ECS
3. a) Specified Business should not be started by splitting up. or reconstruction of a business already in existence.
b) Value of Old Plant and Machinery should be less than or equal to 20% of total value of P&M (If any machinery is purchased from outside India, then for the purpose of this section, it should be treated as new P&M)
4. Pre commencement expenses are allowed in the year of commencement provided those expenses are capitalized in books of account
5. The loss of an assessee claiming deduction under section 35AD in respect of a specified business can be set-off against the profit of another specified business under section 73A, irrespective of whether the latter is eligible for deduction under section 35AD.
Carry forward – no time Limit
6. Sum received on account of capital asset referred under section 35AD (Section 28)
7. If asset is **used for any purpose other than the specified business** during 8 years beginning with the previous year in which such asset is acquired, the total amount of deduction so claimed and allowed in any previous year in respect of such asset, as reduced by the amount of depreciation allowable in accordance with the provisions of section 32 as if no deduction had been allowed under section 35AD, shall be deemed to be income of the assessee chargeable under the head “Profits and gains of business or profession” of the previous year in which the asset is so used.

In such a case, as per the proviso to *Explanation 13* to Section 43(1), the actual cost of such asset for the assessee shall be the actual cost as reduced by amount of depreciation would have been allowable had the asset been used for the purpose of business since the date of its acquisition.

8. The deduction shall be allowed to the assessee only if the accounts of the assessee for the relevant previous year have been audited by a chartered accountant
9. The assessee shall be deemed to be carrying on the specified business of building and operating hotel if –
 - (i) The assessee builds a hotel of two-star or above category;
 - (ii) Thereafter, he transfers the operation of the hotel to another person;
 - (iii) He, however, should continue to own the hotel.

Section 35D – Preliminary Expenses

1. This section applies only to Indian companies and resident non-corporate assesseees
2. Amount of deduction – Eligible expense/5

Indian Company	Others assessee
Actual expenses or Limit (whichever is lower) Limit – 5% of COP or 5% of capital employed	Actual expenses or Limit (whichever is lower) Limit – 5% of COP

COP = Amount Invested in fixed assets as on last day of the PY in which business was commenced

CE = Issued Share capital (equity + preference) (excluding securities premium) + Debentures + Long Term Loans(repayable after 7 years) as on last day of the PY in which business was commenced.

Berger Paints India Ltd v. CIT [2017] 393 ITR 113 (SC) - in the absence of the reference in section 35D, share premium is not a part of the capital employed.

Section	Explanation
35CCA	National fund for rural development Urban poverty eradication Programme
35CCC	In order to incentivize the business entities to provide better and effective agriculture extensive services, section 35CCC provides a weighted deduction of a sum equal to 150% of expenditure (not being expenditure in the nature of cost of any land or building) incurred by an assessee on agricultural extension project in accordance with the prescribed guidelines.
35CCD	In order to encourage companies to invest on skill development projects in the manufacturing sector, section 35CCD provides for a weighted deduction of a sum equal to 150% of the expenditure (not being expenditure in the nature of cost of any land or building) on skill development project incurred by the company.
35DD	Amalgamation/demerger expenses are allowed as deduction in 5 equal installments beginning with the previous year in which amalgamation or demerger takes place.
35DDA	VRC is allowed as deduction in 5 equal installments starting from the previous year in which amount is paid
36(1)(i)	Insurance to insure stock in trade is allowed
36(1)(ia)	Deduction is allowed in respect of the amount of premium paid by a Federal Milk Co- operative Society to effect or to keep in force an insurance on the life of the cattle
36(1)(ib)	Premium paid by employer for health insurance of employees (mode of payment other than cash)
36(1)(ii) + 43B	Bonus and commission is allowed as deduction subject to 43B

	Bonus paid over and above the limits under Payment of Bonus Act shall be allowed as deduction under section 37 of the Act.
36(1)(iii)	<p>- Deduction of interest is allowed in respect of capital borrowed for the purposes of business or profession in the computation of income under the head "Profits and gains of business or profession".</p> <p>- As per proviso to section 36(1)(iii), deduction in respect of any amount of interest paid, in respect of capital borrowed for acquisition of new asset (whether capitalized in the books of account or not) for any period beginning from the date on which the capital was borrowed for acquisition of the asset till the date on which such asset was first put to use shall not be allowed</p> <p>- Notional Interest is not allowed as deduction</p> <p>- Interest (section 2(28A))</p> <p>A) Interest payable in any manner w.r.t moneys borrowed or debt incurred and B) It includes any service fee or other chargers w.r.t. money borrowed or credit facility remaining unutilised</p>
36(1)(iiia)	Provides deduction for the discount on ZCB on pro rata basis having regard to the period of life of the bond
36(1)(iv) + 40(a)(iv) + 43B	<p>Contribution of Employer to Recognized provident fund and approved superannuation fund is allowed as deduction subject to 43B</p> <p>Any contribution to a provident fund or the fund established for the benefit of employees of the assessee, unless the assessee has made effective arrangements to make sure that tax shall be deducted at source from any payments made from the fund which are chargeable to tax under the head 'Salaries'.</p>
40A(7) + 36(1)(v) + 40(a)(iv) + 43B	<p>Provision for gratuity is not allowed as deduction</p> <p>Exceptions :-</p> <ol style="list-style-type: none"> 1. Employee retires during the PY and gratuity is payable to employees 2. Employer contributes in gratuity fund on the basis of actuarial valuation (subject to 43B + 36(1)(v)) <p>Any contribution to a provident fund or the fund established for the benefit of employees of the assessee, unless the assessee has made effective arrangements to make sure that tax shall be deducted at source from any payments made from the fund which are chargeable to tax under the head 'Salaries'.</p>
36(1)(iva) + 40A(9) + 43B + 40(a)(iv)	<p>Employers contribution to approved pension scheme is allowed as deduction (Employers Contribution or 10% of Basic Salary + Dearness allowance in terms whichever is lower)</p> <p>Any contribution to a provident fund or the fund established for the benefit of employees of the assessee, unless the assessee has made effective arrangements to make sure that tax shall be deducted at source from any payments made from the fund which are chargeable to tax under the head 'Salaries'.</p>
36(1)(va)	<p>Section 36(1)(va) and section 57(ia) provide that deduction in respect of any sum received by the taxpayer as contribution from his employees towards any welfare fund of such employees will be allowed only if such sum is credited by the taxpayer to the employee's account in the relevant fund on or before the due date.</p> <p>CIT v. Gujarat State Road Transport Corpn (2014) 366 ITR 170 (Guj) - The High Court, accordingly, held that the delayed remittance of employees' contribution beyond the 'due date' prescribed in section 36(1)(va), is not deductible while computing the business income, even though such remittance has been made before the due date of filing of return of income under section 139(1).</p>

<p>36(1)(vii)</p>	<p>These can be deducted subject to the following conditions: (a) The debts or loans should be in respect of a business which was carried on by the assessee during the relevant previous year. (b) The debt should have been taken into account in computing the income of the assessee of the previous year in which such debt is written off or of an earlier previous year or should represent money lent by the assessee in the ordinary course of his business of banking or money lending. Recovery of a bad debt subsequently [Section 41(4)] - If a deduction has been allowed in respect of a bad debt under section 36, and subsequently the amount recovered in respect of such debt is more than the amount due after the allowance had been made, the excess shall be deemed to be the profits and gains of business or profession and will be chargeable as income of the previous year in which it is recovered, whether or not the business or profession in respect of which the deduction has been allowed is in existence at the time.</p>	
<p>36(1)(viiia)</p>	<p>PFI/SFC/SIIC/NBFC/Foreign Bank 5% of GTI (excluding RDD)</p>	<p>Other Banks 8.5% of GTI (excluding RDD) + 10% aggregate average advances by rural branches</p>
<p>36(1)(viii)</p>	<p>(i) This section provides deduction in respect of any special reserve created and maintained by a specified entity. (ii) Amount of deduction: The quantum of deduction, however, should not exceed 20% of the profits derived from eligible business computed under the head “Profits and gains of business or profession” carried to such reserve account. However, where the aggregate amount carried to such reserve account exceeds twice the amount of paid up share capital and general reserve, no deduction shall be allowed in respect of such excess. (iii) Specified assessee and Specified Business a) PFI, Public sector company, banking co, & co op bank engaged in providing long term finance for industrial & agriculture development or development of infrastructure facility or development of housing facility in India b) housing finance Company engaged in providing long term finance for purchase & construction of residential HP in India c) Any other finance company providing long term finance for development of infrastructure in India.</p>	
<p>36(1)(xi)</p>	<p>Any expenditure of revenue nature <i>bona fide</i> incurred by a company for the purpose of promoting family planning amongst its employees will be allowed as a deduction in computing the company’s business income Where, the expenditure is of a capital nature, one-fifth of such expenditure will be deducted in the previous year in which it was incurred and in each of the four immediately succeeding previous years. • This deduction is allowable only to companies and not to other assessees. • The assessee would be entitled to carry forward and set off the unabsorbed part of the allowance in the same way as unabsorbed depreciation. The capital expenditure on promoting family planning will be treated in the same way as capital expenditure for scientific research for purposes of dealing with the profit or loss on the sale or transfer of the asset including a transfer on amalgamation.</p>	
<p>36(1)(xv)</p>	<p>Deduction of securities transaction tax paid</p>	
<p>36(1)(xvi)</p>	<p>commodities transaction tax</p>	
<p>37</p>	<p>(1) Revenue expenditure incurred for purposes of carrying on the business, profession or vocation - This is a residuary section under which only business expenditure is allowable but not the business losses, e.g., those arising out of embezzlement, theft, destruction of assets, misappropriation by employees etc. (These are allowable under section 29 as losses incidental to the business). The deduction is limited only to the amount actually expended</p>	

	<p>and does not extend to a reserve created against a contingent liability.</p> <p>(2) Conditions for allowance: The following conditions should be fulfilled in order that a particular item of expenditure may be deductible under this section:</p> <p>(a) The expenditure should not be of the nature described in sections 30 to 36.</p> <p>(b) It should have been incurred by the assessee in the accounting year.</p> <p>(c) It should be in respect of a business carried on by the assessee the profits of which are being computed and assessed.</p> <p>(d) It should not be in the nature of any personal expenses of the assessee.</p> <p>(e) It should have been laid out or expended wholly and exclusively for the purposes of such business.</p> <p>(f) It should not be in the nature of capital expenditure.</p> <p>(g) The expenditure should not have been incurred by the assessee for any purpose which is an offence or is prohibited by law.</p> <p>Disallowance of CSR expenditure [Explanation 2 to Section 37(1)]</p> <p>It has now been clarified that for the purposes of section 37(1), any expenditure incurred by an assessee on the activities relating to corporate social responsibility referred to in section 135 of the Companies Act, 2013 shall not be deemed to have been incurred for the purpose of business and hence, shall not be allowed as deduction under section 37.</p> <p>(v) The rationale behind the disallowance is that CSR expenditure, being an application of income, is not incurred wholly and exclusively for the purposes of carrying on business.</p> <p>(vi) However, the Explanatory Memorandum to the Finance (No.2) Bill, 2014 clarifies that CSR expenditure, which is of the nature described in sections 30 to 36, shall be allowed as deduction under those sections subject to fulfillment of conditions, if any, specified therein.</p>
<p>37(2B)</p>	<p>Advertisements in souvenirs of political parties: disallows any deduction on account of advertisement expenses representing contributions made by any person carrying on business or profession in computing the profits and gains of the business or profession. It has specifically been provided that this provision for disallowance would apply notwithstanding anything to the contrary contained in section 37(1).</p>
<p>40A(3)</p>	<p>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 by an account payee cheque drawn on a bank or by an account payee bank draft or use of electronic system through bank account exceeds ₹ 10,000, such expenditure shall not be allowed as a deduction.</p> <p>The provision applies to all categories of expenditure involving payments for goods or services which are deductible in computing the taxable income.</p> <p>Cash Payment made in excess of ₹ 10,000 deemed to be the income of the subsequent year, if expenditure has been allowed as deduction in any previous year on due basis:</p> <p>In case of an assessee following mercantile system of accounting, if an expenditure has been allowed as deduction in any previous year on due basis, and payment has been made in a subsequent year otherwise than by account payee cheque or account payee bank draft or use of electronic clearing system through a bank account, then the payment so made shall be deemed to be the income of the subsequent year if such payment or aggregate of payments made to a person in a day exceeds ₹ 10,000 [Section 40A(3A)].</p> <p>Increase in limit of cash payment, where payment made to transport operator: This limit of ₹ 10,000 has been raised to ₹ 35,000 in case of payment made to transport operators for plying, hiring or leasing goods carriages. Therefore, payment or aggregate of payments up to ₹ 35,000 in a day can be made to a transport operator otherwise than by way of account payee cheque or account payee bank draft or use of electronic clearing system through a bank</p>

account. In all other cases, the limit would continue to be ₹ 10,000.

Exceptions (Rule 6DD)

(a) where the payment is made to

- (i) the Reserve Bank of India or any banking company;
- (ii) the State Bank of India or any subsidiary bank;
- (iii) any co-operative bank or land mortgage bank;
- (iv) any primary agricultural credit society or any primary credit society;
- (v) the Life Insurance Corporation of India;

(b) where the payment is made to the Government and, under the rules framed by it, such payment is required to be made in legal tender;

(c) where the payment is made by

- (i) a credit card;
- (ii) a debit card.
- (iii) RTGS and NEFT

(d) where the payment is made by way of adjustment against the amount of any liability incurred by the payee for any goods supplied or services rendered by the assessee to such payee;

(e) where the payment is made for the purchase of -

- (i) agricultural or forest produce; or
- (ii) the produce of animal husbandry (including livestock, meat, hides and skins) or dairy or poultry farming; or
- (iii) fish or fish products; or
- (iv) the products of horticulture or apiculture, to the cultivator, grower or producer of such articles, produce or products;

(f) where the payment is made for the purchase of the products manufactured or processed without the aid of power in a cottage industry, to the producer of such products;

(g) where the payment is made in a village or town, which on the date of such payment is not served by any bank, to any person who ordinarily resides, or is carrying on any business, profession or vocation, in any such village or town;

(h) where any payment is made to an employee of the assessee or the heir of any such employee, on or in connection with the retirement, retrenchment, resignation, discharge or death of such employee, on account of gratuity, retrenchment compensation or similar terminal benefit and the aggregate of such sums payable to the employee or his heir does not exceed fifty thousand rupees;

(i) where the payment is made by an assessee by way of salary to his employee after deducting the income-tax from salary in accordance with the provisions of section 192 of the Act, and when such employee -

- (i) is temporarily posted for a continuous period of fifteen days or more in a place other than his normal place of duty or on a ship; and
- (ii) does not maintain any account in any bank at such place or ship;
- (j) where the payment was required to be made on a day on which the banks were closed either on account of holiday or strike;

(k) where the 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;

<p>40A(2)</p>	<p>Section 40A(2) provides that where the assessee incurs any expenditure in respect of which a payment has been or is to be made to a specified person [See column (2) of Table below) so much of the expenditure as is considered to be excessive or unreasonable shall be disallowed by the Assessing Officer. While doing so he shall have due regard to:</p> <p>(a) the fair market value of the goods, service of facilities for which the payment is made; or</p> <p>(b) the legitimate needs of the business or profession carried on by the assessee; or</p> <p>(c) the benefit derived by or accruing to the assessee from such a payment.</p> <table border="1" data-bbox="400 488 1484 1249"> <thead> <tr> <th data-bbox="400 488 635 521">Assessee</th> <th data-bbox="635 488 1484 521">Specified Person</th> </tr> <tr> <th data-bbox="400 521 635 562">(1)</th> <th data-bbox="635 521 1484 562">(2)</th> </tr> </thead> <tbody> <tr> <td data-bbox="400 562 635 797">Individual</td> <td data-bbox="635 562 1484 797"> 1. Any relative of the individual assessee 2. Any person who carries on a business or profession, if <ul style="list-style-type: none"> • the individual has a substantial interest in the business of that person or • any relative of the individual has a substantial interest in the business of that person </td> </tr> <tr> <td data-bbox="400 797 635 1200">Company, Firm, HUF or AOP</td> <td data-bbox="635 797 1484 1200"> 1. Any director, partner of the firm or member of the family or association or any relative of such director, partner or member or 2. In case of a company assessee, any individual who has substantial interest in the business or profession of the company or any relative of such individual or 3. Any person who carries on a business or profession, in which the Company/ Firm/ HUF/ AOP or director of the company, partner of the firm or member of the family or association or any relative of such director, partner or member has substantial interest in the business of that person </td> </tr> <tr> <td data-bbox="400 1200 635 1249">Any concern</td> <td data-bbox="635 1200 1484 1249">Any person who has substantial interest in a concern</td> </tr> </tbody> </table> <p><i>Relative in relation to an Individual means the spouse, brother or sister or any lineal ascendant or descendant of that individual</i></p>	Assessee	Specified Person	(1)	(2)	Individual	1. Any relative of the individual assessee 2. Any person who carries on a business or profession, if <ul style="list-style-type: none"> • the individual has a substantial interest in the business of that person or • any relative of the individual has a substantial interest in the business of that person 	Company, Firm, HUF or AOP	1. Any director, partner of the firm or member of the family or association or any relative of such director, partner or member or 2. In case of a company assessee, any individual who has substantial interest in the business or profession of the company or any relative of such individual or 3. Any person who carries on a business or profession, in which the Company/ Firm/ HUF/ AOP or director of the company, partner of the firm or member of the family or association or any relative of such director, partner or member has substantial interest in the business of that person	Any concern	Any person who has substantial interest in a concern
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Any concern	Any person who has substantial interest in a concern										
<p>40(a)(i)</p>	<p>Any interest, royalty, fees for technical services or other sum chargeable under this Act, which is payable, -</p> <p>(a) outside India;</p> <p>(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 XVII-B and such tax has not been deducted or, after deduction, has not been paid on or before the due date of filing of return specified under section 139(1).</p> <p>It is also provided that where in respect of any such sum, where tax has been deducted in any subsequent year, or has been deducted in the previous year but paid after the due date of filing of return under section 139(1), such sum shall be allowed as a deduction in computing the income of the previous year in which such tax has been paid.</p>										
<p>40(a)(ia)</p>	<p>Section 40(a)(ia) provides that 30% of any sum payable to a resident, on which tax is deductible at source under Chapter XVII-B, shall be disallowed if –</p> <p>(i) such tax has not been deducted; or</p> <p>(ii) such tax, after deduction, has not been paid on or before the due date specified in section 139(1).</p> <p>If in respect of such sum, tax has been deducted in any subsequent year or has been deducted during the previous year but paid after the due date specified in section 139(1), 30% of such sum shall be allowed as deduction in computing the income of the previous year in which such tax has been paid.</p> <p>Section 201 provides that the payer (including the principal officer of the</p>										

	<p>company) who fails to deduct the whole or any part of the tax on the amount credited or payment made to a resident payee shall not be deemed to be an assessee-in-default in respect of such tax if such resident payee –</p> <p>(i) has furnished his return of income under section 139;</p> <p>(ii) has taken into account such sum for computing income in such return of income; and</p> <p>(iii) has paid the tax due on the income declared by him in such return of income,</p> <p>and the payer furnishes a certificate to this effect from an accountant in such form as may be prescribed.</p> <p>The date of deduction and payment of taxes by the payer shall be deemed to be the date on which return of income has been furnished by the resident payee.</p>
40(a)(ib)	<p>Section 40(a)(ib) provides that where any consideration is paid or payable to a non-resident for a specified service on which equalisation levy is deductible, and such levy has not been deducted or after deduction, has not been paid on or before the due date under section 139(1), then, such expenses incurred by the assessee towards consideration for specified service shall not be allowed as deduction. However, where in respect of such consideration, if the equalisation levy has been deducted in any subsequent year or has been deducted during the previous year but paid after the due date specified under section 139(1), such sum shall be allowed as deduction in computing the income of the previous year in which such levy has been paid.</p>
40(a)(ii)	Income tax
40(a)(iib)	<p>(i) any amount paid by way of royalty, licence fee, service fee, privilege fee, service charge, etc., which is levied exclusively on, or</p> <p>(ii) any amount appropriated, directly or indirectly, from a State Government undertaking, by the State Government (SG)</p>
40(a)(iii)	<p>Any sum which is chargeable under the head ‘Salaries’ if it is payable outside India or to a non-resident and if the tax has not been paid thereon nor deducted therefrom under Chapter XVII-B.</p>
40(a)(v)	<p>Tax paid on perquisites on behalf of employees is not deductible - In case of an employee, deriving income in the nature of perquisites (other than monetary payments), the amount of tax on such income paid by his employer is exempt from tax in the hands of that employee.</p> <p>Correspondingly, such payment is not allowed as deduction from the income of the employer. Thus, the payment of tax on perquisites by an employer on behalf of employee will be exempt from tax in the hands of employee but will not be allowable as deduction in the hands of the employer.</p>
41(1)	<p>Remission or cessation of trading liability</p> <p>Suppose an allowance or deduction has been made in any assessment year in respect of loss, expenditure or trading liability incurred by A. Subsequently, if A has obtained, whether in cash or in any manner whatsoever, any amount in respect of such loss or expenditure or some benefit in respect of such trading liability by way of remission or cessation thereof, the amount obtained by A, or the value of benefit accruing to him shall be taxed as income of that previous year. It does not matter whether the business or profession in respect of which the allowance or deduction has been made is in existence in that year or not.</p> <p>It is possible that after the above allowance in respect of loss, expenditure, or trading liability has been given to A, he could have been succeeded in his business by another person. In such a case, the successor will be liable to be taxed in respect of any such benefit received by him during a subsequent previous year.</p> <p>Successor in business:</p> <p>(i) Where there has been an amalgamation of a company with another company, the successor will be the amalgamated company.</p> <p>(ii) Where a firm carrying on a business or profession is succeeded by another firm the successor will be the other firm.</p>

	(iii) In any other case, where one person is succeeded by any other person in that business or profession the other person will be the successor. (iv) In case of a demerger, the successor will be the resulting company. Remission or cessation of a trading liability includes remission or cessation of liability by a unilateral act of the assessee by way of writing off such liability in his accounts.
41(2)	Refer Section 32
41(3)	Refer Section 35

44AA	COMPULSORY MAINTENANCE OF ACCOUNTS
	<p>(1) Maintain the books of account and other documents by notified profession [Section 44AA(1)]: This section provides that every person carrying on the legal, medical, engineering or architectural profession or accountancy or technical consultancy or interior decoration or any other profession as has been notified by the Central Board of Direct Taxes in the Official Gazette must statutorily maintain such books of accounts and other documents as may enable the Assessing Officer to compute his total income in accordance with the provisions of the Income-tax Act, 1961.</p> <p>Notified professions: The professions notified so far are as the profession of authorised representative; the profession of film artist (actor, camera man, director, music director, art director, dance director, editor, singer, lyricist, story writer, screen play writer, dialogue writer and dress designer); the profession of Company Secretary; and information technology professionals.</p> <p>(2) Maintain the books of account and other documents if income/ sales/ turnover/ gross receipts exceeds the prescribed limits [Section 44AA(2)]:</p> <p>I. In case of Individual or HUF carrying on any business or profession: An Individual or HUF carrying on any business or profession (other than the professions specified in (1) above) must maintain such books of account and other documents as may enable the Assessing Officer to compute his total income in accordance the provisions of the Income-tax Act, 1961 in the following circumstances:</p> <p>(i) Existing business or profession: In cases where the income from the existing business or profession exceeds ` 2,50,000 or the total sales turnover or gross receipts, as the case may be, in the business or profession exceed ` 25,00,000 in any one of three years immediately preceding the previous year; or</p> <p>(ii) Newly set up business or profession: In cases where the business or profession is newly set up in any previous year, if his income from business or profession is likely to exceed ` 2,50,000 or his total sales turnover or gross receipts, as the case may be, in the business or profession are likely to exceed ` 25,00,000 during the previous year.</p> <p>II. In case of Person (other than individual or HUF): Every person (other than individual or HUF) carrying on any business or profession (other than the professions specified in (1) above) must maintain such books of account and other documents as may enable the Assessing Officer to compute his total income in accordance the provisions of the Income-tax Act, 1961 in the following circumstances:</p> <p>(i) Existing business or profession: In cases where the income from the business or profession exceeds ` 1,20,000 or the total sales turnover or gross receipts, as the case may be, in the business or profession exceed ` 10,00,000 in any one of three years immediately preceding the previous year; or</p> <p>(ii) Newly set up business or profession: In cases where the business or profession is newly set up in any previous year, if his income from business or profession is likely to exceed ` 1,20,000 or his total sales turnover or gross receipts, as the case may be, in the business or profession are likely to exceed ` 10,00,000 during the previous year;</p> <p>III. Showing lower income as compared to income computed on presumptive basis under section 44AE or (section 44BB or section 44BBB)11: Where profits and gains from the business are calculated on a presumptive basis under section 44AE or section 44BB or section 44BBB and the assessee has claimed that his income is lower than the profits or gains so deemed to be the profits and gains of his business.</p> <p>IV. Where the provisions of section 44AD(4) are applicable in his case and his income</p>

exceeds the basic exemption limit in any previous year: In cases where an assessee becomes ineligible to claim the benefit of the provisions of section 44AD(1) for five assessment years subsequent to the assessment year relevant to the previous year in which the profit has not been declared in accordance with the provisions of 44AD(1) and his income exceeds the basic exemption limit during the previous year.

(3) Prescribed books of accounts & other documents: The Central Board of Direct Taxes has been authorised, having due regard to the nature of the business or profession carried on by any class of persons, to **prescribe by rules the books of account and other documents** including inventories, wherever necessary, to be kept and maintained by the taxpayer, the particulars to be contained therein and the form and manner in which and **the place at which they must be kept and maintained.**

Rules pertaining to maintenance of books of accounts & other documents:

Rule 6F of the Income-tax Rules contains the details relating to the books of account and other documents to be maintained by certain professionals under section 44AA.

Prescribed class of persons: As per Rule 6F, every person carrying on legal, medical, engineering, or architectural profession or the profession of accountancy or technical consultancy or interior decoration or authorised representative or film artist shall keep and maintain the books of account and other documents specified in sub-rule (2) in the following cases :

– if his gross receipts 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, his gross receipts are likely to exceed `1,50,000 in that year.

Prescribed books of accounts and other documents [Sub-rule (2) of Rule 6F]: The following books of account and other documents are required to be maintained.

(i) a cash book;

(ii) a journal, if accounts are maintained on mercantile basis ;

(iii) a ledger;

(iv) Carbon copies of bills and receipts issued by the person whether machine numbered or otherwise serially numbered, in relation to sums exceeding ` 25;

(v) Original bills and receipts issued to the person in respect of expenditure incurred by the person, or where such bills and receipts are not issued, payment vouchers prepared and signed by the person, provided the amount does not exceed ` 50. Where the cash book contains adequate particulars, the preparation and signing of payment vouchers is not required.

In case of a person carrying on medical profession, he will be required to maintain the following in addition to the list given above:

(i) a daily case register in Form 3C.

(ii) an inventory under broad heads of the stock of drugs, medicines and other consumable accessories as on the first and last day of the previous year used for his profession.

44AB

AUDIT OF ACCOUNTS OF CERTAIN PERSONS CARRYING ON BUSINESS OR PROFESSION

(1) Who are required to get the accounts audited?: It is obligatory in the following cases for a person carrying on business or profession to get his accounts audited before the “specified date” by a Chartered Accountant:

(i) if the total sales, turnover or gross receipts in business exceeds `100 lakh in any previous year; or

(ii) if the gross receipts in profession exceeds ` 50 lakh in any previous year; or

(iii) where the assessee is covered under section 44AE, (44BB or 44BBB)¹² and claims that the profits and gains from business are lower than the profits and gains computed on a presumptive basis. In such cases, the normal monetary limits for tax audit in respect of business would not apply.

(iv) where the assessee is carrying on a notified profession under section 44AA, and he claims that the profits and gains from such profession are lower than the profits and gains computed on a presumptive basis under section 44ADA and his income exceeds the basic exemption limit.

(v) where the assessee is covered under section 44AD(4) and his income exceeds the

	<p>basic exemption limit.</p> <p>(2) Audit Report: The person mentioned above would have to furnish by the specified date a report of the audit in the prescribed forms. For this purpose, the Board has prescribed under Rule 6G, Forms 3CA/ 3CB/ 3CD containing forms of audit report and particulars to be furnished therewith.</p> <p>(3) Non-applicability:</p> <p>(i) The requirement of audit under section 44AB does not apply to a person who declares profits and gains on a presumptive basis under section 44AD and his total sales, turnover or gross receipts does not exceed ` 2 crore.</p> <p>(ii) Further, the requirement of audit under section 44AB does not apply to a person who derives income of the nature referred to in (sections 44B and 44BBA)</p>
<p>44AD</p>	<p>SPECIAL PROVISIONS FOR COMPUTING PROFITS AND GAINS OF BUSINESS ON PRESUMPTIVE BASIS</p> <p>(1) Eligible business: The presumptive taxation scheme under section 44AD covers all small businesses with total turnover/gross receipts of up to ` 200 lakh (except the business of plying, hiring and leasing goods carriages covered under section 44AE).</p> <p>(2) Eligible assessee: Resident individuals, HUFs and partnership firms (but not LLPs) and who has not claimed deduction under any of the section 10AA or deduction under any provisions of Chapter VIA under the heading “C - Deductions in respect of certain incomes” in the relevant assessment year would be covered under this scheme.</p> <p>(3) Presumptive rate: The presumptive rate would be 8% of total turnover or gross receipts. However, the presumptive rate of 6% of total turnover or gross receipts will be applicable in respect of amount which is received</p> <ul style="list-style-type: none"> ◆ by an account payee cheque or ◆ by an account payee bank draft or ◆ by use of electronic clearing system through a bank account <p>During the previous year or before the due date of filing of return under section 139(1) in respect of that previous year.</p> <p>However, the assessee has the option to declare in his return of income, an amount higher than the presumptive income so calculated, claimed to have been actually earned by him.</p> <p>(4) No further deduction would be allowed: All deductions allowable under sections 30 to 38 shall be deemed to have been allowed in full and no further deduction shall be allowed.</p> <p>(5) Written down value of the asset: The WDV of any asset of such business shall be deemed to have been calculated as if the assessee had claimed and had been actually allowed the deduction in respect of depreciation for each of the relevant assessment years.</p> <p>(6) Relief from maintenance of books of accounts and audit: The intention of widening the scope of this scheme is to reduce the compliance and administrative burden on small businessmen and relieve them from the requirement of maintaining books of account. Such assessee's opting for the presumptive scheme are not required to maintain books of account under section 44AA or get them audited under section 44AB.</p> <p>(7) Higher threshold for non-audit of accounts for assessee's opting for presumptive taxation under section 44AD: Section 44AB makes it obligatory for every person carrying on business to get his accounts of any previous year audited if his total sales, turnover or gross receipts exceed ` 1 crore.</p> <p>However, if an eligible person opts for presumptive taxation scheme as per section 44AD(1), he shall not be required to get his accounts audited if the total turnover or gross receipts of the relevant previous year does not exceed ` 2 crore.</p> <p>(8) Advance tax: The eligible assessee is required to pay advance tax by 15th March of the financial year.</p> <p>(9) Persons not eligible for presumptive taxation scheme: The following persons are specifically excluded from the applicability of the presumptive provisions of section 44AD -</p> <p>(a) a person carrying on profession as referred to in section 44AA(1) i.e., legal, medical, engineering or architectural profession or the profession of accountancy or technical consultancy or interior decoration or any other profession as is notified by the Board (namely, authorized representatives, film artists, company secretaries and profession</p>

	<p>of information technology have been notified by the Board for this purpose);</p> <p>(b) a person earning income in the nature of commission or brokerage; or</p> <p>(c) a person carrying on any agency business.</p> <p>(10) Not eligible to opt for presumptive taxation under this section for 5 assessment years: Where an eligible assessee declares profit for any previous year in accordance with the provisions of this section and he declares profit for any of the five consecutive assessment years relevant to the previous year succeeding such previous year not in accordance with the provisions of sub-section (1), he shall not be eligible to claim the benefit of the provisions of this section for five assessment years subsequent to the assessment year relevant to the previous year in which the profit has not been declared in accordance with the provisions of sub-section (1). This is provided in sub-section (4).</p> <p>(11) Books of accounts and Audit if sub-section (4) attracted: An eligible assessee to whom the provisions of sub-section (4) are applicable and whose total income exceeds the basic exemption limit has to maintain books of account under section 44AA and get them audited and furnish a report of such audit under section 44AB. This is provided in section 44AD(5).</p>						
44ADA	<p>PRESUMPTIVE TAXATION SCHEME FOR ASSESSEES ENGAGED IN ELIGIBLE PROFESSION</p> <p>(i) Eligible business: The presumptive taxation scheme under section 44ADA for estimating the income of an assessee:</p> <ul style="list-style-type: none"> • who is engaged in any profession referred to in section 44AA(1) such as legal, medical, engineering or architectural profession or the profession of accountancy or technical consultancy or interior decoration or any other profession as is notified by the Board in the Official Gazette; and • whose total gross receipts does not exceed ` 50 lakh rupees in a previous year, <p>(ii) Presumptive rate: Presumptive rate would be a sum equal to 50% of the total gross receipts, or, as the case may be, a sum higher than the aforesaid sum claimed to have been earned by the assessee.</p> <p>(iv) No further deduction would be allowed: Under the scheme, the assessee will be deemed to have been allowed the deductions under section 30 to 38. Accordingly, no further deduction under those sections shall be allowed.</p> <p>(v) Written down value of the asset: The written down value of any asset used for the purpose of the profession of the assessee will be deemed to have been calculated as if the assessee had claimed and had actually been allowed the deduction in respect of depreciation for the relevant assessment years.</p> <p>(vi) Relief from maintenance of books of accounts and audit: The eligible assessee opting for presumptive taxation scheme will not be required to maintain books of account under section 44AA(1) and get the accounts audited under section 44AB in respect of such income.</p> <p>(vii) Option to claim lower profits: An assessee may claim that his profits and gains from the aforesaid profession are lower than the profits and gains deemed to be his income under section 44ADA(1); and if such total income exceeds the maximum amount which is not chargeable to income-tax, he has to maintain books of account under section 44AA and get them audited and furnish a report of such audit under section 44AB.</p> <p>(viii) Advance Tax: The eligible assessee is required to pay advance tax by 15th March of the financial year.</p>						
44AE	<p>(1) Eligible business: This section provides for estimating business income of an owner of goods carriages from the plying, hire or leasing of such goods carriages;</p> <p>(2) Eligible assessee: The scheme applies to persons owning not more than 10 goods vehicles at any time during the previous year;</p> <p>Presumptive Income: The estimated income from each goods vehicle, being a heavy goods vehicle or other than heavy goods vehicle would be</p> <table border="1" data-bbox="268 1899 1501 2067"> <thead> <tr> <th data-bbox="268 1899 687 1935">Goods Carriage</th> <th colspan="2" data-bbox="687 1899 1501 1935">Presumptive Income</th> </tr> </thead> <tbody> <tr> <td data-bbox="268 1935 687 2067">Heavy goods vehicle</td> <td data-bbox="687 1935 1134 2067">` 1,000 per ton of gross vehicle weight or unladen weight, as the case may be, for every month or part of a</td> <td data-bbox="1134 1935 1501 2067">during which such vehicle is owned by the assessee for the previous year.</td> </tr> </tbody> </table>	Goods Carriage	Presumptive Income		Heavy goods vehicle	` 1,000 per ton of gross vehicle weight or unladen weight, as the case may be, for every month or part of a	during which such vehicle is owned by the assessee for the previous year.
Goods Carriage	Presumptive Income						
Heavy goods vehicle	` 1,000 per ton of gross vehicle weight or unladen weight, as the case may be, for every month or part of a	during which such vehicle is owned by the assessee for the previous year.					

	<i>month</i>	
<i>Other than heavy goods vehicle</i>	<i>7,500 for every month or part of a month</i>	

The assessee can also declare a higher amount in his return of income. In such case, the latter will be considered to be his income;

- (4) All other deduction deemed to be allowed:** The assessee will be deemed to have been allowed the deductions under sections 30 to 38. Accordingly, the written down value of any asset used for the purpose of the business of the assessee will be deemed to have been calculated as if the assessee had claimed and had actually been allowed the deduction in re-spect of depreciation for each of the relevant assessment years.
- (5) Salary and interest to partners is allowed:** Where the assessee is a firm, the salary and interest paid to its partner are allowed to be deducted subject to the conditions and limit specified under section 40(b).
- (6) Not requirement to maintain books of accounts and get the accounts audited:** The assessee joining the scheme will not be required to maintain books of account under section 44AA and get the accounts audited under section 44AB in respect of such income.
- (7) Option to claim lower profits:** An assessee may claim lower profits and gains than the deemed profits and gains subject to the condition that the books of account and other documents are kept and maintained as required under section 44AA and the assessee gets his accounts audited and furnishes a report of such audit as required under section 44AB.

44BBA & 44BB & 44BBB & 44B

Presumptive Income provisions applicable to NRs				
Particulars	Section 44B	Section 44BBA	Section 44BB	Section 44BBB
Nature of business	Shipping business	Operation of aircraft	Business of providing services or facilities in connection with, or supplying P & M on hire used, or to be used, in the prospecting for, or extraction or production of, mineral oils	Business of civil construction or the business of erection of P&M or testing or commissioning thereof, in connection with turnkey power projects approved by the CG.
Eligible assessee	NR	NR	NR	Only Foreign Co.
Presumptive income	7.5% of specified sum	5% of specified sum	10% of specified sum	10% of specified sum
Specified sum	(i) Amt paid or payable on a/c of carriage of passengers, livestock, mail or goods shipped at/ from any port/place in India; and (ii) Amt recd or deemed to be recd in India on a/c of the carriage of passengers, livestock mail or goods shipped at/ from any port/place outside India		(i) Amt paid or payable on a/c of the provn of such services or facilities for the aforesaid purposes in India; and (ii) Amt recd or deemed to be recd in India on a/c of the provn of services or facilities for the aforesaid purpose outside India.	Amt paid or payable on a/c of such civil construction, erection, testing or commissioning
Option to declare lower profits	Not available		Lower profits may be claimed u/s 44BB and u/s 44BBB provided the assessee maintains BOA u/s 44AA and gets them audited u/s 44AB.	