

Filing of Return of Income – ITR – 5

By

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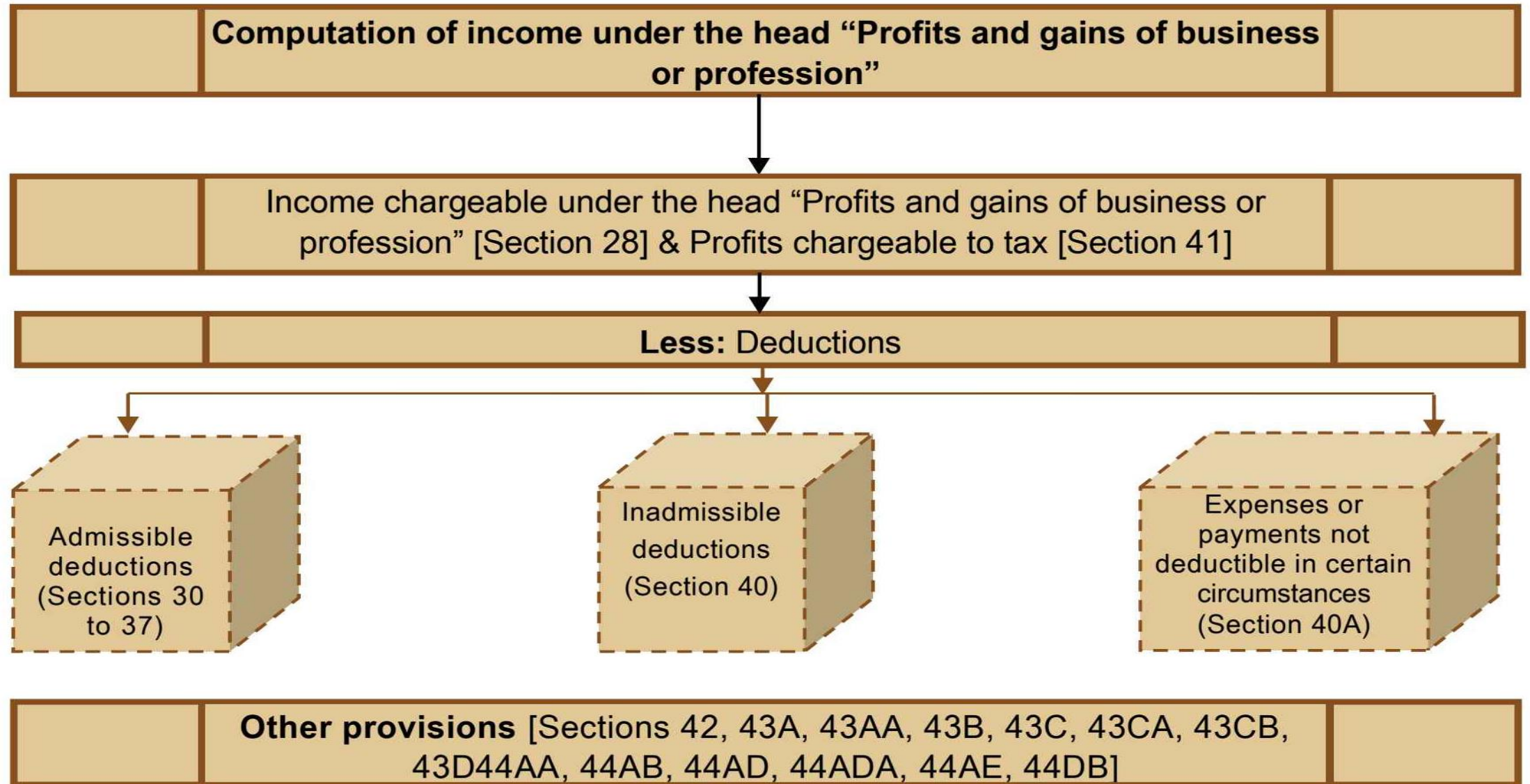
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ITR- 5 used by

- ☐ Firm
- ☐ Limited Liability Partnership (LLP)
- ☐ Association of Persons (AOP)
- ☐ Body of Individuals (BOI)
- ☐ Artificial Juridical Person (AJP) referred to in clause (vii) of Section 2(31)
- ☐ Local Authority referred to in clause (vi) of Section 2(31)
- ☐ Representative Assessee referred to in Section 160(1)(iii) or (iv)
- ☐ Fund referred to in Section 139(4F)
- ☐ Cooperative Society
- ☐ Society Registered under Societies Registration Act, 1860 or under any other law of any State
- ☐ Trust other than Trusts eligible to file Form ITR-7
- ☐ Estate of Deceased Person
- ☐ Estate of an Insolvent
- ☐ Business Trust referred to in Section 139(4E) and Investmentinfo
- ☐ **Note: However, a person who is required to file the Return of Income u/s 139(4A) or 139(4B) or 139(4D) shall not use this form**

Who can file return of Income

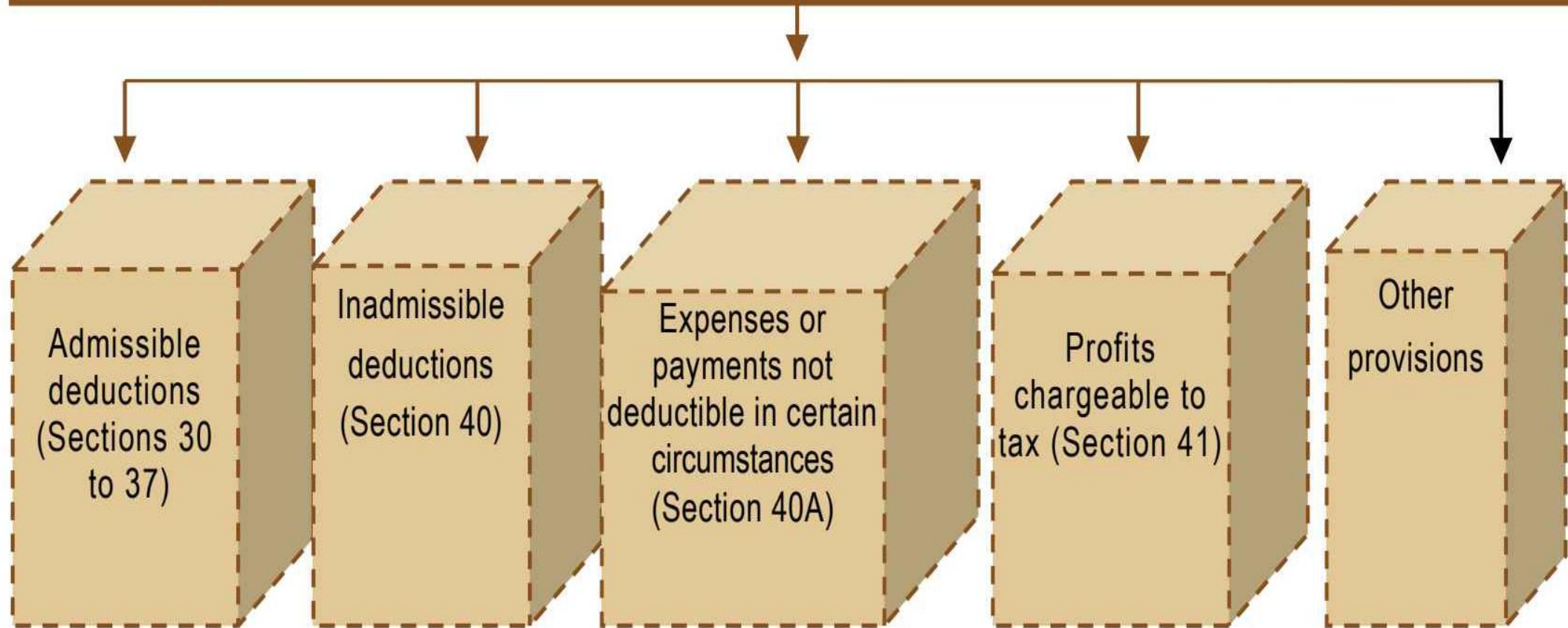
Section	Different Situations
139(4A)	A person in receipt of income derived from property held under a trust for charitable or religious purposes is required to submit return of income if its income (without giving exemption under section 11 or 12) exceeds exemption Limit.
139(4B)	Chief executive officer of every political party is required to submit income-tax return if income of the political party (without giving exemption under section 13A) exceeds exemption limit.
139(4C)	If total income (without claiming any exemption given below) of the assessee (who is qualified to claim exemption under section 10 / 23) exceeds the exemption limit -
139(4D)	Any university/college/other institution referred to in section 35(1)(ii)/ (iii) is required to submit return of income (return has to be submitted whether there is income or loss. Such return has to be submitted even if it is not required by any other provision)
139(4E)/(4F)	These sub-sections cover submission of return by business trust/investment fund.



Notified ICDS and Corresponding AS and IND AS

ICDS	Corresponding AS	Corresponding IND AS
ICDS I - Accounting Policies	AS – 1 Disclosure of Accounting Policies	Ind AS 1 - Presentation of Financial Statements
ICDS II - Valuation of Inventories	AS - 2 Valuation of Inventories (Revised)	Ind AS – 2 Inventories
ICDS III - Construction Contracts	AS 7 – Construction Contracts	Ind AS 115 – Revenue from contracts with customers
ICDS IV - Revenue Recognition	AS 9 – Revenue Recognition	Ind AS 115 - Revenue from contracts with customers
ICDS V - Tangible Fixed Assets	AS 10 – Property, Plant and Equipment (Revised)	Ind AS 16 Property, Plant and Equipment
ICDS VI - The Effects of changes in foreign exchange rates	AS 11 – The Effects of changes in foreign exchange rates	Ind AS 21 – The Effects of changes in foreign exchange rates
ICDS VII - Government Grants	AS 12 - Accounting for Government Grants	Ind AS 20 – Accounting for Government Grants and Disclosure of Government Assistance
ICDS VIII - Securities	AS 13 - Accounting for Investments (Revised)	Ind AS 40 – Investment Property, Ind AS109 – Financial Instruments, Ind AS 105 – Non-current Assets held for Sale and Discontinued Operations
ICDS IX - Borrowing Costs	AS 16 - Borrowing Costs	Ind AS 23 - Borrowing Costs
ICDS X - Provisions, Contingent Liabilities and Contingent Assets	AS 29 - Provisions, Contingent Liabilities and Contingent Assets (Revised)	Ind AS 37 - Provisions, Contingent Liabilities and Contingent Assets

Computation of income from business or profession [Section 29]



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 CBDT 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.**

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.

Prescribed books of accounts & other documents: The CBDT 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(1).

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 Rule 6F(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.

(2) Maintenance of books of account and other documents by persons carrying on business or profession [other than notified professions referred to in section 44AA(1)] [Section 44AA(2)]:

- I. **In case of Individual or HUF:** An Individual or HUF carrying on any business or profession (other than notified professions specified in section 44AA(1)) 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:
- (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 accounting year; or
 - (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.

- (2) **Maintenance of books of account and other documents by persons carrying on business or profession [other than notified professions referred to in section 44AA(1)] [Section 44AA(2)]:**

II. **Person (other than individual or HUF):** Every person (other than individual or HUF) carrying on any business or profession (other than the notified professions referred to in section 44AA(1)) 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:

(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 accounting year; or

(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;

(2) Maintenance of books of account and other documents by persons carrying on business or profession [other than notified professions referred to in section 44AA(1)] [Section 44AA(2)]:

- III. Showing lower income as compared to income computed on presumptive basis under section 44AE or (section 44BB or section 44BBB)¹³:** 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.
- IV. Where the provisions of section 44AD(4) are applicable in his case and his income exceeds the basic exemption limit in any previous year:** In cases, where an assessee not eligible 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.

Audit of Books of Accounts

	Persons	When tax audit is required?
(1)	(2)	(3)
I	In case of a person carrying on business	
(a)	In case of a person carrying on business	If his total sales, turnover or gross receipts in business > ₹ 1 crore in the relevant PY Note – The requirement of audit u/s 44AB does not apply to a person who declares profits and gains for the previous year on presumptive basis u/s 44AD(1).
	If in case of such person carrying on business - (i) Aggregate cash receipts in the relevant PY ≤ 5% of total receipts (including receipts for sales, turnover, gross receipts); and (ii) Aggregate cash payments in the relevant PY ≤ 5% of total payments (including amount incurred for expenditure)	If his total sales, turnover or gross receipts in business > ₹ 10 crore in the relevant PY
	Note – For this purpose, the payment or receipt, as the case may be, by a cheque drawn on a bank or by a bank draft, which is not account payee, would be deemed to be the payment or receipt, as the case may be, in cash.	

Audit of Books of Accounts

(b)	In case of an assessee covered u/s 44AE i.e., an assessee engaged in the business of plying, hiring or leasing goods carriages who owns not more than 10 goods carriages at any time during the P.Y.	If such assessee claims that the profits and gains from business in the relevant P.Y. are lower than the profits and gains computed on a presumptive basis u/s 44AE [i.e., ₹ 1000 per ton of gross vehicle weight or unladen weight in case of each heavy goods vehicle and ₹ 7,500 for each vehicle, other than heavy goods vehicle, for every month or part of the month for which the vehicle is owned by the assessee].
(c)	In case of an eligible assessee carrying on business, whose total turnover, sales, gross receipts \leq ₹ 200 lakhs, and who has opted for section 44AD in any earlier PY (say, P.Y. 2022-23)	If he declares profit for any of the five successive PYs (say, P.Y.2023-24) not in accordance with section 44AD (i.e., he declares profits lower than 8% or 6% of total turnover, sales or gross receipts, as the case may be, in that year), then, he cannot opt for section 44AD for five successive PYs after the year of such default (i.e., from P.Y.2024-25 to P.Y.2028-29). For the year of default (i.e., P.Y.2023-24) and five successive previous years (i.e., P.Y.2024-25 to P.Y.2028-29), he has to maintain books of account u/s 44AA and get them audited u/s 44AB, if his income exceeds the basic exemption limit.
	<i>In case of an eligible assessee carrying on business, whose aggregate cash receipts in the relevant PY \leq 5% of total turnover or gross receipts and whose total turnover, sales, gross receipts \leq ₹ 300 lakhs, and who has opted for section 44AD in any earlier PY (say, P.Y. 2022-23)</i>	

Audit of Books of Accounts

II	In case of persons carrying on profession	
(a)	In case of a person carrying on profession	<p>If his gross receipts in profession > ₹ 50 lakh in the relevant PY.</p> <p>Note – <i>The requirement of audit u/s 44AB does not apply to a person who declares profits and gains for the previous year on presumptive basis u/s 44ADA(1).</i></p>
(b)	In case of an assessee carrying on a notified profession under section 44AA(1) i.e., legal medical, engineering, accountancy, architecture, interior decoration, technical consultancy, whose gross receipts ≤ ₹ 50 lakhs	<p>If such resident assessee claims that the profits and gains from such profession in the relevant PY are lower than the profits and gains computed on a presumptive basis u/s 44ADA (50% of gross receipts) and his income exceeds the basic exemption limit in that PY.</p>
	<i>In case of an assessee carrying on a notified profession under section 44AA(1) i.e., legal medical, engineering, accountancy, architecture, interior decoration, technical consultancy, whose aggregate cash receipts in the relevant PY ≤ 5% of total gross receipts and whose gross receipts ≤ ₹ 75 lakhs</i>	

Form 3CA	Form 3CB	Form 3CD
For professionals/ businesses requiring mandatory audit under law other than Income Tax law.	For those not requiring mandatory audit under any law apart from Income Tax Law.	Detailed form with fields featuring different audit information
Single Page form containing audit details obtained from multiple documents such as Balance Sheet, Form 3CD, P&L Statement, etc.	Single Page form containing income details of document obtained from multiple documents such as Balance Sheet, P&L Statement, etc.	Detailed audit report form featuring multiple fields that need to be filled out with specific details such as revenue, turnover, expenses, profits, asset-liability details and much more.
Can be submitted by any applicable tax assessee irrespective of income/turnover.	Only tax assessees with income exceeding Rs. 1 crore who have not opted for presumptive tax mechanism can file this form.	This document is applicable to all business audits and is a detailed account of all transaction carried out by the business/ professional being audited.

	Particulars	Section 44AD	Section 44ADA	Section 44AE
(1)	Eligible Assessee	<p>Resident individual, HUF or Partnership firm (but not LLP) engaged in eligible business and who has not claimed deduction under section 10AA or Chapter VIA under “C – Deductions in respect of certain incomes”</p> <p>Non-applicability of section 44AD in respect of the following persons:</p> <ul style="list-style-type: none"> - A person carrying on profession specified u/s 44AA(1); - A person earning income in the nature of commission or brokerage; - A person carrying on any agency business. 	<p>Resident individual or resident partnership firm (but not LLP) engaged in any profession specified u/s 44AA(1), namely, legal, medical, engineering, architectural profession or profession of accountancy or technical consultancy or interior decoration or notified profession (authorized representative, film artist, company secretary, profession of information technology)</p>	<p>An assessee owning not more than 10 goods carriages at any time during the P.Y.</p>

	Particulars	Section 44AD	Section 44ADA	Section 44AE
(2)	Eligible business/ profession	Any business, other than business referred to in section 44AE, whose total turnover/ gross receipts in the P.Y. \leq ₹ 200 lakhs	Any profession specified under section 44AA(1), whose gross receipts \leq ₹ 50 lakhs in the relevant P.Y.	Business of plying, hiring or leasing goods carriages
		<i>Any business, other than business referred to in section 44AE, whose total turnover/gross receipts in the P.Y. \leq ₹ 300 lakhs in the relevant P.Y., if aggregate cash receipts in the relevant PY \leq 5% of total turnover or gross receipts.</i>	<i>Any profession specified u/s 44AA(1), whose gross receipts \leq ₹ 50 lakhs in the relevant P.Y., if aggregate cash receipts in the relevant PY \leq 5% of total gross receipts.</i>	
		<i>In effect, if the turnover of business is $>$ ₹ 200 lakhs \leq ₹ 300 lakhs, the benefit of section 44AD can be availed only if aggregate cash receipts in relevant P.Y. \leq 5% of total turnover or gross receipts.</i>	<i>In effect, if the gross receipts from profession is $>$ ₹ 50 lakhs \leq ₹ 75 lakhs, the benefit of section 44ADA can be availed only if aggregate cash receipts in relevant P.Y. \leq 5% of total gross receipts.</i>	
		Note: For this purpose, the receipt of amount or aggregate of amounts by a cheque drawn on a bank or by a bank draft, which is not account payee, would be deemed to be the receipt in cash.		

	Particulars	Section 44AD	Section 44ADA	Section 44AE
(3)	Presumptive income	8% of total turnover/sales/gross receipts or a sum higher than the aforesaid sum claimed to have been earned by the assessee.	50% of gross receipts of such profession or a sum higher than the aforesaid sum claimed to have been earned by the assessee.	For each 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 month;
		6% of total turnover/gross receipts in respect of the amount of total turnover/ sales/ gross receipts received by A/c payee cheque/ bank draft/ ECS through a bank account or through such other prescribed electronic modes (credit card, debit card, net banking, IMPS, UPI, RTGS, NEFT, and BHIM Aadhar Pay) during the P.Y. or before due date of filing of return u/s 139(1) in respect of that P.Y. (or) such higher sum claimed to have been earned by the assessee.		For each vehicle, other than heavy goods vehicle: ₹ 7,500 per month or part of a month during which such vehicle is owned by the assessee or an amount claimed to have been actually earned from such vehicle, whichever is higher.

	Particulars	Section 44AD	Section 44ADA	Section 44AE
(4)	Non-allowability of deductions while computing presumptive income	Deductions allowable under sections 30 to 38 shall be deemed to have been given full effect to and no further deduction shall be allowed.		
		Even in case of a firm, salary and interest paid to partners is <u>not</u> deductible.	Even in case of a firm, salary and interest paid to partners is <u>not</u> deductible.	In case of a firm, salary and interest paid to partners is deductible subject to the conditions and limits specified in section 40(b) .
(5)	Written down value of asset	WDV of any asset of an eligible business/profession shall be deemed to have been calculated as if the eligible assessee had claimed and had been actually allowed depreciation for each of the relevant assessment years.		

	Particulars	Section 44AD	Section 44ADA	Section 44AE
(6)	Requirement of maintenance of books of account u/s 44AA and audit u/s 44AB	If eligible assessee declares profits and gains in accordance with the provisions of section 44AD, he is not required to maintain books of account	If eligible assessee declares profits and gains in accordance with the provisions of section 44ADA, he is not required	If eligible assessee declares profits and gains in accordance with the provisions of section 44AE, he is not required to
		<p>u/s 44AA or get them audited u/s 44AB.</p> <p>However, if after declaring profits on presumptive basis u/s 44AD, say, for A.Y.2024-25, non-declaration of profits on presumptive basis for any of the 5 successive A.Y.s thereafter (i.e., from A.Y.2025-26 to A.Y.2029-30), say, for A.Y. 2026-27, would disentitle the assessee from claiming profits on presumptive basis for five successive AYs subsequent to the AY relevant to the PY of such non-declaration (i.e., from A.Y.2027-28 to A.Y.2031-32). In such a case, the assessee would have to maintain books of account and other documents u/s 44AA(2) and get his accounts audited u/s 44AB, if his total income exceeds the basic exemption limit in those years.</p>	<p>to maintain books of account u/s 44AA or get them audited u/s 44AB.</p> <p>However, if the assessee claims his profits to be lower than the profits computed by applying the presumptive rate, he has to maintain books of account and other documents u/s 44AA(1) and get his accounts audited u/s 44AB, if his total income > basic exemption limit for that year.</p>	<p>maintain books of account u/s 44AA or get them audited u/s 44AB.</p> <p>However, if the assessee claims his profits to be lower than the profits computed by applying the presumptive rate, he has to maintain books of account u/s 44AA(2) and get his accounts audited u/s 44AB.</p>

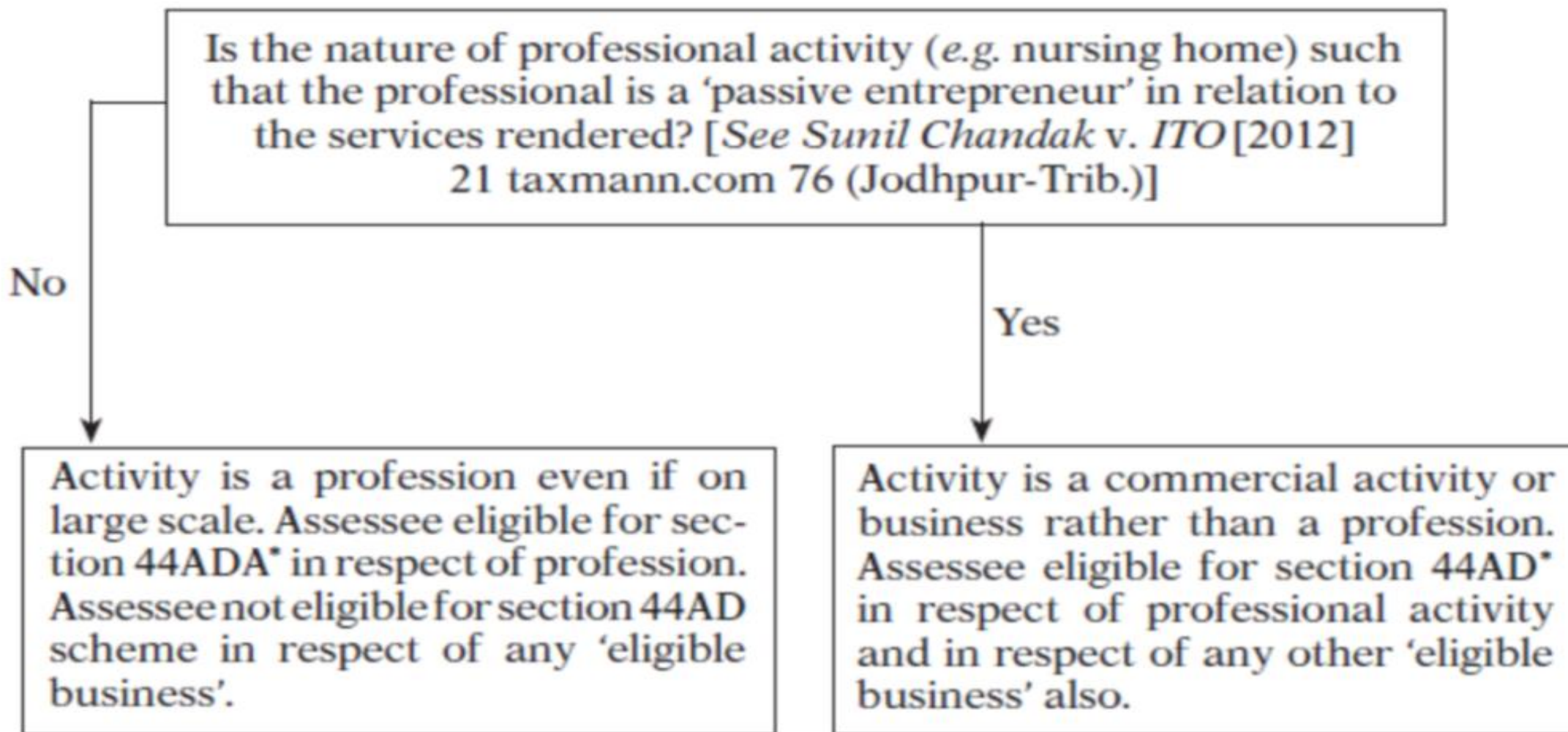
	Particulars	Section 44AD	Section 44ADA	Section 44AE
(7)	Advance tax obligation	The eligible assessee opting for section 44AD is required to pay advance tax by 15th March of the financial year (F.Y.) .	The eligible assessee opting for section 44ADA is required to pay advance tax by 15th March of the F.Y.	The eligible assessee has to pay advance tax in four installments [See Chapter 13 in Module 3 for details] .

Meaning of certain terms for the purpose of section 44AE:

S.No	Term	Meaning
(1)	Heavy goods vehicle	any goods carriage, the gross vehicle weight of which exceeds 12,000 kilograms.
(2)	Gross vehicle weight	total weight of the vehicle and load certified and registered by the registering authority as permissible for that vehicle.
(3)	Unladen weight	the weight of a vehicle or trailer including all equipment ordinarily used with the vehicle or trailer when working but excluding the weight of driver or attendant and where alternative parts or bodies are used the unladen weight of the vehicle means the weight of the vehicle with the heaviest such alternative body or part

The CBDT clarified that in respect of a “heavy goods vehicle” i.e. any goods carriage vehicle whose gross vehicle weight exceeds 12,000 kilograms, the profits and gains from each goods carriage would be at the rate of ₹ 1,000 per ton of gross vehicle weight for every month or part of the month.

However, in respect of a tractor or a road-roller. where the gross vehicle weight is not applicable, and unladen weight exceeds 12,000 Kilograms. the profits and gains from each goods carriage shall be at the rate of ₹ 1,000 per ton of unladen weight for every month or part of the month [Clarification dated 14.8.2019].



*Conditions apply



ALTERNATE MINIMUM TAX

Provisions relating to AMT

- ❑ MAT applies to companies and AMT applies to a person other than a company.
- ❑ The provisions relating to AMT are given in sections 115JC to 115JF.
- ❑ AMT will apply to every non-corporate taxpayer who has claimed
 - ❖ (i) deduction under section 80H to 80RRB (except 80P),
 - ❖ (ii) deduction under section 35AD and
 - ❖ (iii) deduction under section 10AA.

Provisions relating to AMT

- ❑ Thus, the provisions of AMT are not applicable to a non- corporate taxpayer who has not claimed any deduction under above discussed sections. However, following points should be kept in mind in this regard.
- ❑ The provisions of AMT shall apply to an individual or a Hindu undivided family or an association of persons or a body of individuals (whether incorporated or not) or an artificial juridical person only if the adjusted total income (discussed later) of such person exceeds Rs. 20,00,000.(Section 115JEE)
- ❑ The provisions of AMT shall apply to every other person (i.e., other than an individual or a HUF or an AOP/BOI or an artificial juridical person) irrespective of its income. For definition of a person refer to section 2(31)

Non applicability of MAT

- Further the provisions of AMT are not applicable to a person:**
 - (a) Who has exercised the concessional tax regime available under section 115BAC, section 11BAD or section 115BAE; or**
 - (b) Income tax payable in respect of total income of a person is computed under section 115BAC(1A).**

❑ Re-computation of Book Profits of Past Years due to APA or Secondary Adjustment

- ❑ The Finance Act, 2021 has introduced a new sub-section (2D) to Section 115JB. It has been provided that Assessing Officer, on an application by the assessee, shall re-compute book profit of the past years and tax payable thereon if assessee's current year's income has increased due to repatriation on account of an Advance Pricing Agreement entered into by the assessee under section 92CC or on account of secondary adjustment required to be made under section 92CE.
- ❑ The CBDT may notify the manner for re-computation of the book profits of past years by the Assessing Officer. Further, it has been provided that for rectification of mistake under section 154, the period of 4 years as specified in the said section shall be reckoned from the end of the financial year in which such application is received by the Assessing Officer.
- ❑ Two provisos to the sub-section (2D) to Section 115JB have also been inserted. The first proviso provides that the benefit of re-computation of book profit shall be available only if the assessee has not utilised the MAT credit in any subsequent Assessment Year.

Meaning of adjusted total income

■ **In case of a non-corporate taxpayer, adjusted total income is computed in following manner :**

<i>Particulars</i>	<i>(Rs.)</i>
Taxable income of the taxpayer	XXXX
<u>Add:</u> Amount of deduction claimed under section 80H to 80RRB (except 80P)	XXXX
<u>Add:</u> Amount of deduction claimed under section 35AD (as reduced by the amount of depreciation allowable in accordance with the provisions of section 32)	XXXX
<u>Add:</u> Amount of deduction claimed under section 10AA	<u>XXXX</u>
<i>Adjusted total income</i>	XXXX

Tax liability in case of a non-corporate taxpayers to whom the provisions of AMT apply

- ❑ As per the concept of AMT, the tax liability of a non-corporate taxpayer to whom the provisions of AMT applies will be higher of the following:
 - ❖ Tax liability computed as per the normal provisions of the Income-tax Law, i.e., tax computed on the taxable income of the taxpayer at the tax rate applicable to him. Tax computed in above manner can be termed as normal tax liability.
 - ❖ Tax computed @ 18.5% (plus surcharge and cess as applicable) on adjusted total income. The tax computed by applying 18.5% (plus surcharge and cess as applicable) on adjusted total income is called AMT.
- ❑ **Note:**
 - (1) AMT is levied @ 9% in case of a non-corporate assessee being a unit located in International Financial Services Centre and deriving its income solely in convertible foreign exchange. Surcharge and cess as applicable will also be levied.
 - (2) AMT is levied @ 15% in case of a co-operative society (Applicable from Assessment Year 2023-24)

Illustration

- ❑ **The taxable income for the year 2023-24 of Mr. Kumar (resident and age 39 years) computed as per the provisions of Income-tax Act is Rs. 28,40,000. The taxable income has been computed after deduction of Rs. 2,00,000 under section 80QQB in respect of royalty on books. Will he be liable to AMT? What will be his tax liability for the year?**
- ❖ The provisions of AMT shall apply to a non-corporate taxpayer if he has made any claim for deduction under section 80H to 80RRB (except section 80P), under section 35AD and under section 10AA. Further, the provisions of AMT shall apply to an individual or a Hindu undivided family or an association of persons or a body of individuals (whether incorporated or not) or an artificial juridical person only if the adjusted total income of such person exceeds Rs. 20,00,000. In this case, Mr. Kumar has claimed deduction under section 80QQB and his adjusted total income exceeds Rs. 20,00,000 and, hence, the provisions of AMT will apply to him.

Illustration

- ❑ By applying the provisions of AMT, the tax liability of Mr. Kumar will be higher of the following:
- ❖ Tax liability computed as per the normal provisions of the Income-tax Law, i.e., tax computed on the taxable income of the taxpayer by applying the tax rate applicable to him. Tax computed in above manner can be termed as normal tax liability.
- ❖ Tax computed @ 18.5% (plus surcharge and cess as applicable) on adjusted total income. The tax computed by applying 18.5% (plus surcharge and cess as applicable) on adjusted total income is called AMT.
- ❖ His taxable income is Rs. 28,40,000, tax on Rs. 28,40,000 by applying the tax rates applicable to an individual below the age of 60 years for the assessment year 2024-25 works out to Rs. 6,64,500. Tax liability after health & education cess of 4% would work out to Rs. 6,91,080.
- ❖ Adjusted total income will come to Rs. 30,40,000 (Rs. 28,40,000 + Rs. 2,00,000, i.e., deduction under section 80QCB). AMT @ 18.5% on Rs. 30,40,000 will come to Rs. 5,62,400. AMT liability after health & education cess of 4% will come to Rs. 5,84,896.
- ❖ From the above computation it can be observed that the liability as per the normal provisions of the Income-tax Act is more than the liability as per the provisions of AMT and, hence, the tax liability of Mr. Kumar will be Rs. 6,91,080.

AMT credit

- ❑ If in any year the taxpayer pays liability as per AMT, then he is entitled to claim credit in the subsequent year(s) of AMT paid above the normal tax liability.
- ❑ Provided that where the amount of Foreign Tax Credit ('FTC') allowed against the AMT exceeds the amount of such FTC admissible against the tax payable by the assessee under normal provisions of the Income-Tax Act, then, while computing the amount of FTC under this sub- section, such excess amount shall be ignored.
- ❑ **Illustration:** The tax liability of Essem Enterprises (a partnership firm) for the financial year 2023-24 under the normal provisions of the Income-tax Act is Rs. 8,40,000 and the liability as per the provisions of AMT is Rs. 10,00,000. Will it be entitled to claim any AMT credit in the subsequent year(s)?

AMT credit

- A non-corporate taxpayer paying AMT is entitled to claim the credit of AMT paid in excess of normal tax liability. In this case the liability of Essem Enterprises for the financial year 2023-24 under the normal provisions is Rs. 8,40,000 and as per the provisions of AMT is Rs. 10,00,000 (which is higher than normal tax liability) and, hence, the firm has to pay Rs. 10,00,000, i.e., liability as per AMT provisions.
- If in any year, the taxpayer pays liability as per AMT, then it can claim AMT credit of the excess of AMT paid over the normal tax liability. In this case, the liability of AMT is higher, hence, the firm will be entitled to claim AMT credit of Rs. 1,60,000 (being excess of AMT over normal tax liability of Rs. 8,40,000).

Adjustment of carried forward AMT credit

- ❑ Credit of AMT can be utilised by the taxpayer in the subsequent year(s) and be adjusted in the year in which the liability of the taxpayer as per the normal provisions is more than the AMT liability.
- ❑ The set off in respect brought forward AMT credit shall be allowed in the subsequent year(s) to the extent of the difference between the tax on his total income as per the normal provisions and the liability as per the AMT provisions.
- ❑ **Illustration:** The tax liability of Essem Enterprises (a partnership firm) for the financial year 2023-24 under the normal provisions of the Income-tax Act is Rs. 18,40,000 and the liability as per the provisions of AMT is Rs. 18,00,000. It has brought forward AMT credit of Rs. 2,00,000. Can the firm adjust the AMT credit? If yes, then how much and what will be the tax liability of the firm after adjustment of AMT credit?

Adjustment of carried forward AMT credit

- ❑ In this case, the liability as per the normal provisions of the Income-tax Act is Rs. 18,40,000 and the liability as per the provisions of AMT is Rs. 18,00,000. Liability as per the normal provisions is more than liability as per the provisions of AMT and, hence, the firm can adjust the AMT credit.
- ❑ In this case, the liability as per AMT is Rs. 18,00,000, and, hence, after claiming set off of the AMT credit, the liability of the firm cannot be less than Rs. 18,00,000. Hence, out of the credit of Rs. 2,00,000 the firm can claim credit of Rs. 40,000 only and the balance credit of Rs. 1,60,000 can be carried forward to next year(s).

Period for which AMT credit can be carried forward

- As discussed earlier, a non-corporate taxpayer (to whom the provisions of AMT applies) can carry forward the AMT credit for adjustment in subsequent year(s), however, the AMT credit can be carried forward only for a period of 15 years after which it will lapse. In other words, if AMT credit cannot be utilised by the non-corporate taxpayer within a period of 15 years (immediately succeeding the assessment year in which such credit was generated), then such credit will lapse. No interest is paid to the taxpayer in respect of such credit.

Report from Chartered Accountant

- Every non-corporate taxpayer to whom the provisions of AMT apply is required to obtain a report from a chartered accountant in Form No. 29C before the date referred to in Section 44AB.

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Provisions – Income of PF

Salient features of assessment of partnership firms

The following are the salient features of assessment of partnership firms:

- (a) The firm will be taxed as a separate entity. There will be no distinction between registered and unregistered firm.
- (b) The share of the partner in the income of the firm will not be included in the hands of the partner. It will be exempt under section 10(2A).
- (c) Any salary, bonus commission or remuneration, by whatever name called, which is due to or received by a partner will be allowed as a deduction subject to certain restrictions.
- (d) Where a firm pays interest to any partner, the firm can claim deduction of such interest from its total income subject to certain conditions. However, the maximum rate at which interest can be allowed to a partner will be 12% per annum.
- (e) The income of the firm will be taxed at a flat rate of 30% plus surcharge **@12%** if its total income exceeds ₹1 crore plus health and education cess **@4%**.

Partnership Firm assessed as Firm [PFAS] – If

the firm is evidenced by an “instrument”.

individual shares of partners are specified in the instrument

a certified copy of the instrument accompany the first return of income of a firm

a certified copy of the revised instrument of partnership filed along with the return of income of the relevant assessment year

- ◆ **Computation of income of partnership firm:** While computing the income of a firm assessed as such, we have to keep in mind the following points:
 - (a) Remuneration is to be allowed
 - (b) Interest is to be allowed
 - (c) Unabsorbed depreciation and other losses should be provided for.
 - (1) Such remuneration should be paid only to the working partner.
 - (2) It should be authorised by the partnership deed.
 - (3) It should not pertain to a period prior to partnership deed.
 - (4) It should not exceed the permissible limit.

Allowable of Interest to Partner

- (1) The interest payable by a firm to its partners should be **authorised by and in accordance with the partnership deed.**
- (2) The interest payable by a firm to its partners should **not be for a period falling prior to the date of such partnership deed** authorizing the payment of such interest.
- (3) The rate of interest payable to the partners **shall not exceed 12% simple interest per annum.**

In the case of any firm assessable as such or a limited liability partnership (LLP) the following amounts shall not be deducted in computing the business income

Section 40(b)

- (1) Remuneration to non-working partner** - Any salary, bonus, commission, remuneration by whatever name called, to any partner who is not a working partner. (In the following discussion, the term 'remuneration' is applied to denote payments in the nature of salary, bonus, commission);
- (2) Remuneration to a working partner not authorized by deed** - Any remuneration paid to the working partner or interest to any partner which is not authorised by or which is inconsistent with the terms of the partnership deed

In the case of any firm assessable as such or a limited liability partnership (LLP) the following amounts shall not be deducted in computing the business income

- (5) Remuneration to a working partner in excess of prescribed limits** - Any remuneration paid to a working partner, authorised by a partnership deed and falling after the date of the deed in excess of the following limits:

Book Profits	Quantum of deduction
On the first ₹ 3 lakh of book profit or in case of loss	₹ 1,50,000 or 90% of book profit, whichever is higher
on the balance of book profit	60% of book profit

In the case of any firm assessable as such or a limited liability partnership (LLP) the following amounts shall not be deducted in computing the business income

(6) Meaning of certain terms:

Term	Meaning
Book Profit	<p>The net profit as shown in the profit and loss account for the relevant previous year computed in accordance with the provisions for computing income from profits and gains [<i>Explanation 3</i> to section 40(b)].</p> <p>The above amount should be increased by the remuneration paid or payable to all the partners of the firm if the same has been deducted while computing the net profit.</p>
Working partner	<p>An individual who is actively engaged in conducting the affairs of the business or profession of the firm of which he is a partner [<i>Explanation 4</i> to section 40(b)]</p>

In the case of any firm assessable as such or a limited liability partnership (LLP) the following amounts shall not be deducted in computing the business income

A firm assessed as such has paid ₹ 7,50,000 as remuneration to its partners for the P.Y.2023-24, in accordance with its partnership deed, and it has a book profit of ₹ 10 lakh as computed under section 40(b). What is the remuneration allowable as deduction?

SOLUTION

The allowable remuneration calculated as per the limits specified in section 40(b)(v) would be –

Particulars	₹
On first ₹ 3 lakh of book profit [₹ 3,00,000 × 90%]	2,70,000
On balance ₹ 7 lakh of book profit [₹ 7,00,000 × 60%]	4,20,000
	6,90,000

The excess amount of ₹ 60,000 (i.e., ₹ 7,50,000 – ₹ 6,90,000) would be disallowed as per section 40(b)(v).

In the case of any firm assessable as such or a limited liability partnership (LLP) the following amounts shall not be deducted in computing the business income

(7) *Explanations to section 40(b)*

(i) Where an individual is a partner in a firm in a representative capacity:

- (a) interest paid by the firm to such individual otherwise than as partner in a representative capacity shall not be taken into account for the purposes of this clause.
- (b) interest paid by the firm to such individual as partner in a representative capacity and interest paid by the firm to the person so represented shall be taken into account for the purposes of this clause [*Explanation 1* to section 40(b)]

(ii) Where an individual is a partner in a firm otherwise than in a representative capacity, interest paid to him by the firm shall not be taken into account if he receives the same on behalf of or for the benefit of any other person [*Explanation 2* to section 40(b)].

Computation of income of partner of a firm (PFAS): While computing the income of a partner including a minor partner of a firm, the following points have to be taken into consideration.

Share income exempt under section 10(2A): The partner's share in the total income of firm (PFAS) will be exempt in his hands and will not be included in his total income. His share in the total income of the firm will be calculated as follows: -

$$\text{Total income of firm} \times \frac{\text{Partner's share in profits of firm as per partnership deed}}{\text{Total profit of the firm}}$$

By virtue of this exemption, a partner of PFAS will not be taxed in respect of his share in the firm's income since the firm itself will be taxed as a separate entity @ 30%. There will be no allocation of income among the partners. On account of this exemption, he will not be entitled to set-off his share in the firm's loss against his other personal income.

Chargeability of remuneration and interest: Remuneration and interest received by a partner of a PFAS in accordance with the conditions prescribed under section 40(b) will be taxable in his hands as income from profits and gains of business or profession.

Treatment of losses: If PFAS incurs any loss, the firm alone can set off and forward such losses to be set off against income of the subsequent years. The firm will not be allowed to apportion its unabsorbed losses among its partners.

Set off of carry forward loss in case of change in the constitution of the firm [Section 78]: If there is a change in the constitution of the firm, the loss of a retired/deceased partner can be carried forward by the firm only to the extent that it does not exceed such partner's share in the profits of the firm of the relevant previous year.

However, it is to be carefully noted that section 78 is applicable only in case there is a change in the constitution of the firm as result of retirement or death of a partner in the previous year. In other words, it does not apply when there is a change in the profit-sharing ratio or change in the constitution because of induction of a new partner. Similarly, section 78 will not apply to set off and carry forward of unabsorbed depreciation etc.

In the case of any firm assessable as such or a limited liability partnership (LLP) the following amounts shall not be deducted in computing the business income

In the case of Association of persons or body of individuals, following amounts shall not be deducted in computing the business income

Section 40(ba)

Any payment of interest, salary, commission, bonus or remuneration made by an association of persons or body of individuals to its members will also not be allowed as a deduction in computing the income of the association or body.

There are three Explanations to section 40(ba):

Explanation 1 - Where interest is paid by an AOP or BOI to a member who has paid interest to the AOP/BOI, the amount of interest to be disallowed under clause (ba) shall be limited to the net amount of interest paid by AOP/BOI to the partner.

Explanation 2 - Where an individual is a member in an AOP/BOI in a representative capacity, interest paid by AOP/BOI to such individual or by such individual to AOP/ BOI otherwise than as member in a representative capacity shall not be taken into account for the purposes of clause (ba). But interest paid to or received from each person in his representative capacity shall be taken into account.

Explanation 3 - Where an individual is a member in his individual capacity, interest paid to him in his representative capacity shall not be taken into account.

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Taxation of Cooperative Society

Income in the hands of Co-operative Society

- ☐ Income of cooperative society
- ☐ The following are the income of the following types-
- ☐ Interest on securities;
- ☐ Income from house properties;
- ☐ Profits or gains of a business or profession;
- ☐ Capital gains income;
- ☐ Income from other sources.
- ☐ The society may adopt either cash basis method or mercantile basis method for accounting.
- ☐ Whatever the method the society may follow it should be followed continuously in all years.

Deduction U/s 80 P – Following Co-operative Societies are eligible

(a) A cooperative society engaged in-

- ❖ carrying on the business of banking or providing credit facilities to its members; or
- ❖ a cottage industry; or
- ❖ the marketing of agricultural produce grown by its members; or
- ❖ the purchase of agricultural implements, seeds, livestock or other articles intended for agriculture for the purpose of supplying them to its members; or
- ❖ the processing, without the aid of power, of the agricultural produce of its members; or
- ❖ the collective disposal of the labour of its members; or
- ❖ fishing or allied activities, that is to say, the catching, curing, processing, preserving, storing or marketing of fish or the purchase of materials and equipment in connection therewith for the purpose of supplying them to its members, the whole of the amount of profits and gains of business attributable to any one or more of such activities;

Deduction U/s 80 P – Following Co-operative Societies are eligible

(b)in the case of a co-operative society,

- ❖ being a primary society engaged in supplying milk,oilseeds, fruits or vegetables raised or grown by its members to-
- ❖ a federal co-operative society, being a society engaged in the business of supplying milk,oilseeds, fruits, or vegetables, as the case may be; or
- ❖ the Government or a local authority; or a Government company as defined in section 617 of the Companies Act, 1956, or
- ❖ a corporation established by or under a Central, State or Provincial Act (being a companyor corporation engaged in supplying milk, oilseeds, fruits or vegetables, as the case maybe, to the public),

the whole of the amount of profits and gains of such business;

Deduction U/s 80 P – Following Co-operative Societies are eligible

© in the case of a co-operative society, engaged in activities other than those specified in clause(a) or clause (b) (either independently of, or in addition to, all or any of the activities specified), so much of its profits and gains attributable to such activities as does not exceed,-

- ❖ where such co-operative society is a consumers' cooperative society, ₹ 1,00,000/-; and
- ❖ in any other case, ₹ 50,000/-;

(d) In respect of any income by way of interest or dividends derived by the cooperative society from its investments with any other cooperative society, the whole of such income;


(e) in respect of any income derived by the cooperative society from the letting of godowns or warehouses for storage, processing or facilitating the marketing of commodities, the whole of such income

Deduction U/s 80 P – Following Co-operative Societies are eligible

(e) in the case of a co-operative society, not being a housing society or an urban consumers' society or a society carrying on transport business or a society engaged in the performance of any manufacturing operations with the aid of power, where the gross total income does not exceed ₹ 20,000/-, the amount of any income by

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Exemption in rate of Tax & AMT to Co-operative Society – Sec.115BAD & 115BAE



Taxation of AOP/BOI/ Local Authority / Mutual Concerns

Related Video Links

FAQ – ITR-5 - <https://www.youtube.com/watch?v=ISyk-gL422s>

TAX AUDIT REPORT - <https://www.youtube-nocookie.com/embed/DsjvPilqiHs?hl=en#3>

Common Tax Issue - <https://www.youtube.com/watch?v=6rcQmOaUXql>

Upload Income Tax Forms - <https://www.youtube-nocookie.com/embed/8n5U3hkq5mY?hl=en#7>

ROI Offline Mode - <https://www.youtube.com/watch?v=naIvEN0I1WY>

Pre validation Bank Account - <https://www.youtube.com/watch?v=2ie86mHNeyc>

Generate EVC - <https://www.youtube-nocookie.com/embed/eOGHchsdjF8?hl=en#6>

Representative Assessee - <https://www.youtube-nocookie.com/embed/ER-Ppu3SGoo?hl=en#6>

Q&A

