

# Computation of Profits and Gains from Business or Professions

**INCOME TAX ACT,1961**

- **Income from 'Profits and Gains of Business or Profession'**

- **(Sections 28 to 44D)**

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- **1 Basis of Charge**

- **2 Important rules regarding assessment of PGBP**

- **3 Computation of Profits of Business or profession**

- **4 Deductions expressly allowed**

- **5 Expenses expressly disallowed**

- **Sec. 2(13) Business :**

- Business means the **purchase and sale or manufacture** of a commodity with a **view to make profit**. It includes any **trade, commerce or manufacture or any adventure** (Doing activity for the first time without knowing the outcome) **or concern in the nature of trade, commerce and manufacture.**

- **Transaction as considered as business transactions depends upon**
- 1. Nature of the transaction (Whether incidental to a business or not)
- 2. Objects of the transaction or commodity
- 3. Nature of commodity
- 4. Intention of the related party
- 5. Duration of transaction
- 6. Efforts applied in transaction.

- **Sec. 2(36) Profession:**
- Profession means the activities for earning livelihood which require **intellectual skill or manual skill**, e.g. the work of a lawyer, doctor, auditor, engineer and so on are in the nature of profession. **Profession includes vocation.**
- **Vocation** : Vocation implies natural ability of a person to do some particular work e.g. singing, dancing, etc. Here, no training or no qualification is required but having natural ability.
- **Profits** : Excess income over expenditure.
- **Gains** : Any incidental revenue from business.
- As the rules for the assessment of business, profession or vocation are the same, there is no importance of making any distinction between them for income tax purposes.

## Summary of the Provisions

Sections	Particulars
28	Income chargeable under PGBP
28(i)	General Clause-Profits and Gains from Business and Profession
2(13)	Meaning of Business
2(36)	Meaning of Profession
28(ii)	Management Compensation
28(iii a)/(iii b)/(iii c)	Export Incentives

<b>28(iv)</b>	<b>Any benefit, facilities, or perquisites in Business or Profession</b>
<b>28(v)</b>	Interest/salary/bonus/commission received by partner from Firm/LLP
<b>28(va)</b>	Non Compete Fee
<b>28(vi)</b>	Keyman Insurance Policy
<b>28(via)</b>	Stock converted into asset
	Amount received as insurance compensation/receipt for destroyed/sale of Specified Business Asset
	Recovery of Expenses/Losses during relevant previous years which were claimed as deduction in earlier year
	Remission/Cessation on outstanding liabilities during relevant previous years which were claimed as deduction in earlier year.
<b>29</b>	<b>Computation of Income from Business or Profession</b>

<b>30</b>	<b>Revenue expenses incurred on Building to be use/used in business by Assessee (owner/tenant)</b>
<b>31</b>	Revenue expenses incurred on Plant and machinery to be use/used in business by Assessee (owner/tenant)
<b>32</b>	Depreciation
<b>32(1)(iia)</b>	Additional Depreciation
<b>38(2)</b>	<b>Assessing Officer (A.O.) Power to determine ratio for usage of Asset</b>
<b>43(6)</b>	Computation of WDV
<b>43(1)</b>	Actual Cost of Asset
<b>38(2)</b>	<b>Assessing Officer (A.O.) Power to determine ratio for usage of Asset</b>
<b>43(6)</b>	Computation of WDV
<b>43(1)</b>	Actual Cost of Asset

<b>35</b>	<b>Donation to approved Research Institution</b>
<b>35(2AB)</b>	In-House Research Expenditure
<b>35AD</b>	Specified Business/VIP Business
<b>35CCA</b>	Donation to national fund
<b>35CCC</b>	Expenses on Agricultural Extension Project
<b>35CCD</b>	Expenses on Training Program under Notified Skill Development Programme
<b>35D</b>	<b>Preliminary expense</b>
<b>35DD</b>	Expenses incurred on amalgamation and demerger
<b>35DDA</b>	VRS Compensation paid to Employee
<b>37(1)</b>	<b>General Deduction</b>
<b>37(2B)</b>	Expenses incurred in any type of publication of Political Party

<b>38(2)</b>	<b>All expenses incurred on asset in proportion to personal use determined by A.O.</b>
<b>40(a)</b>	TDS Default not deducted or deducted but not deposited
<b>40A(2)</b>	Excess of Market Value on revenue expense incurred on goods/services received from specified person
<b>40A(3)</b>	Cash Payment made for revenue expenditure greater than ₹ 10,000 to a single person for a single bill
<b>40A(3A)</b>	Cash received in respect outstanding revenue expense, previously claimed > 10,000
<b>40A(7)</b>	<b>Employer's contribution to Unapproved gratuity fund.</b>
<b>40A(9)</b>	Employer's contribution to NPS in excess of 10% of Salary.
<b>44AA</b>	Maintenance of Books of Accounts
<b>44AB</b>	Tax Audit

- **Incomes are chargeable to income tax under the head 'PGBP':**
- **i) Revenue Profits from Business or Profession :** The profits and gains of any business or profession which was carried on by the assessee at any time during the previous year
- **ii) Any Compensation due to or received by an agent :** Any compensation or other payment due to or received by an agent, managing the whole or substantially the whole of the affairs of any person, at the termination his management or modification of the terms and conditions relating thereto.
- **iii) Income of trade association, etc :** Income derived by a trade, professional or similar association from specific services performed for its members.
- **Iv) Receipts in connection with foreign trade :**
  - a) Profit on sale of import license.
  - b) Duty Draw back / Duty remission (decrease) scheme / Duty free replenishment (refill) certificate.
  - c) Cash Assistance.
  - d) Profit on sale of Duty Entitlement Passbook.
  - e) Repayment of any customs or excise duty to any person against exports.
- **v) Value of any benefit or Perquisite from business or profession :** The value of any benefit or perquisite whether convertible into money or not, arising from business or the exercise of profession.
- **vi) Remuneration to partner from the firm :** Any interest, salary, bonus, commission or remuneration due to or received by a partner of a firm from the firm provided that it has been allowed as deduction in computing the taxable profits of such firm.

- **vii) Amount received or receivable for certain agreement :**
  - a) Not carrying out any activity in relation to any business or
  - b) Not sharing any know-how, patent, copyright, trade mark, license, franchise or any other business or commercial right of similar nature or information or technique.
- **viii) Keyman Insurance Policy :** Any sum received under a keyman insurance policy including the sum allocated by way of bonus on such policy
- **ix) Interest on securities :** Interest on securities, if the business of the assessee is to invest in securities, otherwise interest on securities shall be chargeable to income tax under the head 'Income from other sources'
- **x) Recovery against certain capital assets covered u/s 35AD :** Any sum received on account of any capital asset (other than land or goodwill or financial instrument) being demolished, destroyed discarded or transferred, if the whole of the expenditure on such capital asset has been allowed as deduction u/s 35AD.
- **xi) Income from speculative transaction.**
- **Sec. 43(5) Speculative Transaction :** Speculative transaction means a transaction in which a contract for the purchase or sale of any commodity, including stocks and shares, is periodically or ultimately settled otherwise than by the actual delivery or transfer of the commodity or scrip.

## Sec. 29: Computation of Income from Business or Profession:

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

Admissible Deduction (Sec.30 to 37)	Inadmissible Deduction (Sec.40)	Expenses not deductible under certain circumstances (Sec 40A)	Profit chargeable to tax U/s 41	Other Provisions
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### Rules for adjustment of Profit and Loss Account prepared by the Assessee :

The profit and Loss Account prepared by the assessee is not correct from the income tax point –

- a) Several expenses are charged to it which are wholly or partly inadmissible.
- b) Some admissible expenses are omitted.
- c) Some taxable income are not credit
- d) Some such incomes are credited which are either not taxable under the head PGBP or are not taxable at all.

**Sec. 30 : Expenses in respect of business premises :** Revenue expenses for use of premises for business or profession is allowed.

a) **Premises are occupied as tenant :** Rent, Repair, Insurance and Tax.

b) **Premises are occupied as owner :** Repair, Insurance and Tax.

**Note :**

1. If the business premise belongs to the assessee no deduction in respect of rent will be allowed.
2. If the assessee is a partnership firm and the business premises belongs to a partner of the firm, the rent payable to the partner will be an allowable deduction.

**Sec. 31 : Revenue Expenditure on Plant and Machinery / Furniture and Fixture :**

Revenue expenditure incurred on current **repairs and insurance** premium incurred on plant and machinery / furniture and fixture is allowed. [**Rent and taxes are allowed u/s 37**]

**Note :** Capital expenditure shall not included in repairs.

Sr. No.	Accounting System	Taxation System
1.	Charges against profit.	Allowances in nature
2.	WDV / SLM method is allowed.	Only WDV method is allowed. (Electricity Generation Unit can adopt SLM Method)
3.	Depreciation is charged on Individual assets	Depreciation is charged on Block of asset
4.	On the basis of number of days asset used	50% of normal Depreciation (If asset is put to be used below 180 days or Normal Depreciation.
5.	Only on Tangible Asset.	Tangible and Intangible asset
6.	Life of the asset.	At Prescribed rate.

# Expenditures Allowed as a Deduction

1. Capital expenditures are not allowed as deduction, unless & until expressly allowed whereas revenue expenditures are allowed as deduction until & unless expressly disallowed under the Income tax Act.
2. Any expenditure of a non-assessable business is not allowed as deduction. E.g. Agricultural income u/s 10(1).
3. Expenditure must have been incurred by the assessee for its business.
4. Subject to certain exceptions, no deductions are allowed for anticipated losses. E.g. provision for bad & doubtful debts.
5. No one can earn income from himself/herself. E.g. Rent, salary to sole proprietor from his own firm.

## Specific Deductions

As per sec. 29, income under this head will be computed considering the provisions of sec. 30 to 43DB, which decides the admissibility of expenditures for computing income under this head.

U/s 30- Rent, rates, taxes, repairs & insurance for premises used for the purpose of business or profession shall be allowed under this section. Points to be noted in this regard:

## 6. Specific Deductions

As per sec. 29, income under this head will be computed considering the provisions of sec. 30 to 43DB, which decides the admissibility of expenditures for computing income under this head.

- **U/s 30-** Rent, rates, taxes, repairs & insurance for premises used for the purpose of business or profession shall be allowed under this section. Points to be noted in this regard:

The building is to be used for the purpose of business or profession.

Rent paid by firm to its partner for using his premises is an allowed expenditure.

Only current repairs are allowed as deduction. Capital repairs are not disallowed.

Rates & taxes (for e.g. land revenue, municipal tax, etc.) are deductible on cash basis [Sec. 30 read with sec. 43B]

**U/s 31-** Repairs & insurance of plant, machinery & furniture are allowed as deduction. Points to be noted in this regard:

The asset must be used for the purpose of business or profession.

Only current repairs are allowed as deduction.

Only repairs & insurance of machinery, plant & furniture is covered under this section. Rent paid for use of such assets is deductible u/s 37(1).

**U/s 32-** Depreciation on tangible assets like building, machinery, plant, furniture and intangible assets like know how, copyright, trade mark, patent, license, franchise, or any other business or commercial right of the similar nature acquired on or after 1/4/1998. However, it does not include goodwill.

## Conditions:

Asset must be owned by the assessee. In case of hire purchase, the buyer can claim depreciation even though he does not get legal title of the asset till he pays the last instalment. Lessee of a property is entitled to depreciation in respect of capital expenditure incurred on property. Possessor of an immovable property u/s 53A of Transfer of Property Act can claim depreciation.

Asset must be used for the purpose of business or profession during the previous year. As per sec. 38, if an asset is partly used for business or profession and partly used for personal purpose, then proportionate depreciation (as determined by the Assessing Officer) shall be allowed.

U/s 32(1)(iia) – Additional depreciation is applicable on all assessee engaged in the business of manufacture or production of any article or thing or in the business of generation, transmission or distribution of power.

An undertaking engaged in the business of generation or generation and distribution of power may charge depreciation (in respect of asset acquired after 31/3/1997) at its choice under:

Written-down value method as followed by all other assessee (usual); or  
Straight-line method at the prescribed rate in 'Appendix IA' of the Income Tax Rules on actual cost of asset (not the block value of asset)

## **Category of Asset : Five categories of asset.**

I. Building

II. Furniture and Fittings.

III. Machinery and Plant

IV. Ships

V. Intangible Asset (Know-how, Patents, Copyrights, Trademarks, Licenses, Franchises or Commercial rights). 1. Falls under the same category.

2. On which same rate of depreciation is applied.

## **Block of Assets :**

### **Conditions of Allowance of depreciation :**

There are two essential conditions :

1. Asset should be owned, wholly or partly by the assessee.

2. It should be used for the purpose of assessee's business or profession.

### **50% of normal Depreciation :**

If any asset is acquired and put to use not to excess of 180 days during same previous year then assessee can get the benefit of depreciation only 50% of normal depreciation

## Categories of Assets

## Depreciation

Motor Car used for own business	30%
Motor Car used on hire	15%
Installing Plant and Machinery/ Temporary Structure	40%
Building for the Residential Purpose	5%
Building for the Business Purpose	10%
Temporary Building	40%
Books, Computers/etc in General	15%
Plant and Machinery in General	15%
Plant and machinery on hire	15%
Motor Vehicles	30%
Books and Computers	40%
Ships	20%

However, such option shall be exercised before the due date of furnishing return of income. Further, it may be noted that once the option is exercised, it shall be applicable for all subsequent assessment year

**U/s 35- Scientific research means** any activity for the extension of knowledge in the fields of natural or applied science including agriculture, animal husbandry or fisheries [Sec. 43(4)] Such research can be categorized either as –

In-House research- Research done by the assessee himself (in connection with his business)

Research through outside institutions- Any sum paid to outside agencies, engaged in scientific research, to be used for scientific research.

U/s35CCA, Where an assessee incurs any expenditure by way of payment of any sum — to an association or institution, which has as its object the undertaking of any program of rural development, to be used for carrying out any program of rural development approved by the prescribed authority and the assessee furnishes a certificate from such association or institution.

to an association or institution, which has as its object the training of persons for implementing programs of rural development and the assessee furnishes a certificate from such association or institution; or,

the National fund for rural development; or,  
to the National Urban Poverty Eradication Fund set up and notified by the Central Government in this behalf, the assessee shall, be allowed a deduction of the amount of such expenditure incurred during the previous year.

**U/s 35CCC**, Where an assessee incurs any expenditure on notified agricultural extension project, such expenditure is fully U/s 35CCD, Where an assessee incurs any expenditure on notified agricultural extension project, such expenditure is fully U/s 35 D & Rule 6AB,

**Preliminary Expenses** are expenses incurred before starting an establishment for business, or extending a running business, or starting up a new unit. They are considered as capital expenditure and allowed as deduction during 5 years equally to an Indian company or any other resident as per Income-tax Act. List of Preliminary Expenses Allowed as deduction by Income Tax Act, 1961

## Examples of Preliminary Expenses

<b>All Assessee (including company)</b>	<b>Additional Expenses for Company</b>
<b>Preparation of project report;</b>	Drafting Expenses of MOA & AOA
<b>Preparation of feasibility report;</b>	Printing Expenses of MOA & AOA
<b>Conducting market survey or any other survey necessary for the business;</b>	Fees for registering company
<b>Engineering services related to the business.</b>	Expenses incurred for issue shares & debentures
<b>Legal charges for drafting any agreement</b>	

**U/s 35DDA, Amortization of expenditure** incurred under VRS allowed to all assessee who have incurred any expenditure, by way of compensation to employees in connection with their voluntary retirement

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1/5th of expenditure so paid for a period of 5 years commencing from the year in which such expenditure was paid.

U/s 35DD, Expenses on Amalgamation or Demerger- If an Indian Company incurred any expenditure on scheme of Amalgamation or Demerger with other company (can be foreign as well as Indian), then such expenditure shall be allowed for 5 years equally divided.

Donation U/s 35, to Approved Research Association is fully allowed as deduction.

Donation U/s 35CCA, by business entity to National funds for Rural development or Urban poverty eradication is fully allowed as deduction.

U/s 32AD, Additional Investment Allowance- Whenever a manufacturer, establishes a new factory in notified backward area of 4 states of Andhra Pradesh, Bihar, West Bengal and Telangana, during 2015-20, then 15% of such actual Cost is Deductible.

## **Section 36(1)**

1. Stock Insurance (any mode of payment)
2. Employee's Health Insurance (any bank mode)
3. Bonus and Commission to employee
4. Interest on Loan (taken for Business/Profession)
5. Discount on zero Coupon Bond
6. Employer's Contribution to RPF, SAF, (Approved), NPS, Gratuity Fund (Approved)
7. Employee's Contribution to PF, SAF, NPS, or other staff welfare fund.
8. Expense of acquisition of animal used in Business/Profession
9. Bad Debts u/s 36(1)(vii)
10. Expenses on family planning promotion
11. Securities Transaction Tax, Commodity Transaction Tax

## Disallowed Expenses

Following Expenses are not allowed while computing PGBP Income.

- U/s 40(a) TDS Default, not deducted or deducted but not deposited on:
  1.
    1. Interest, royalty, fees for technical services payable to a non-resident or outside India [Sec. 40(a)(i)].
    2. Any sum payable to a resident on which TDS provision is applicable [Sec. 40(a)(ia)]
    3. Income tax, Interest under Income tax.
    4. Penalty levied by under any law by Government/Local Authority.
    5. Any obligation of employee met by employer is disallowed for employer but exempted u/s 10 (10CC) for employee.
- U/s 38(2), Proportionate amount of expenses incurred for personal purpose in respect to asset used in Business/Profession as well as personal.
- U/s 40A(2), Revenue expense paid to specified person (relative), in excess of Market Value of Goods or Services received are disallowed.

- U/s 40A(3), Cash Payment made for revenue expenditure greater than ` 10,000 to a single person for a single bill, in a single day is fully disallowed as deduction. Otherwise than, any payment made through a/c payee cheque or draft, ECS, Prescribed banking mode (Rule 6ABBA) including debit/credit card, net/mobile banking are allowed even on exceeding ` 10,000.
- U/s 40A(3A), If cash received, “in respect any outstanding revenue expense which was previously claimed as expenditure in earlier years”, greater than 10,000 then it will be treated as income.
- U/s 40A(7), Employer’s contribution to Unapproved gratuity fund.
- U/s 40A(9), Employer’s contribution to NPS in excess of 10% of Salary. In this case, only excess amount is disallowed.

**Elaborating, the section 45(5A) applies if all the following conditions are fulfilled:**

- a. The assessee is an individual or an HUF;
- b. Capital gains arise to the assessee from transfer of a capital asset;
- c. The capital asset is a land or building or both;
- d. The transfer is made under a specified agreement;
- e. Such land or building or both are transferred to the developer by an individual or an HUF; and
- f. The assessee has not transferred his share in the project on or before the date of issue of the certificate of completion (“CC”) for the whole or part of the project as issued by the competent authority. If the aforesaid conditions are satisfied, then—
  - a. the full value of the consideration received or accruing as a result of the transfer of the capital asset shall be equal to

b. the stamp duty value of the above referred share in land or building or both on the date of issue of the completion certificate; plus

c. consideration received in cash, if any

d. the capital gains shall be chargeable to income tax as income of the previous year in which the above referred certificate of completion is issued by the competent authority.

Thus if the above conditions are satisfied, the capital gains shall be chargeable to income-tax as income of the previous year in which the certificate of completion for the whole or part of the project is issued by the competent authority and under such scenario the transfer is said to have taken place u/s 2(47)(v) in the year on execution of the Joint Development Agreement.

Mr. P & CO. a proprietorship firm prepared the Profit and loss account of his business for the year ended 31st March, 2025. Compute income from business for the AY 2025-26.

### **Profit and Loss Account for the year ended 31st March, 2025**

<b>Particulars</b>	<b>Rs.</b>	<b>Particulars</b>	<b>Rs.</b>
Opening Stock	3,35,000	Sales	21,87,000
Purchases	12,34,000	Closing Stock	5,03,000
Carriage	66,700		
Salaries and wages	33,000	Rebate	12,000
Rent, etc.	1,600	Gifts received from relatives	2,500
Household expenses	78,000	Gifts received from Clients	14,800
Income Tax	4,900		
Advertisement	800		
Postage expenses	600		
Gifts to relatives	900		
Fire Insurance Premium	400		
Self Life Insurance Premium	15,000		
Staff Life Insurance Premium	6,400		
Bad Debts Reserve	800		
Audit Fees	400		
Net Profit	7,39,800		
<b>Total</b>	<b>27,19,300</b>	<b>Total</b>	<b>27,19,300</b>

Particulars	Rs.	Rs.
Profit as per Profit & Loss A/c		7,39,800
Add : Household expenses	78,000	
Income Tax	4,900	
Gifts to relatives	900	
Self Life Insurance Premium	15,000	
Bad Debts Reserve	800	99,600
		8,39,400
Less Gifts received from relatives		2,500
<b>Taxable Profits from Business</b>		<b>8,36,900</b>

# QA Sessions