



Certificate Course of Filing of Returns

Today's Content - Income from 'Profits and Gains of Business or Profession' **(Sections 28 to 44D)**

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- 1.1 Basis of Charge
 - 1.2 Important rules regarding assessment of PGBP
 - 1.3 Computation of Profits of Business or profession
 - 1.4 Deductions expressly allowed
 - 1.5 Expenses expressly disallowed
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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**.

To judge a transaction as business transaction, following points should be considered -

- 1. Nature of commodity
- 2. Nature of transaction (Whether incidental to a business or not)
- 3. Intention of the related party
- 4. Duration of transaction
- 5. Effort 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.

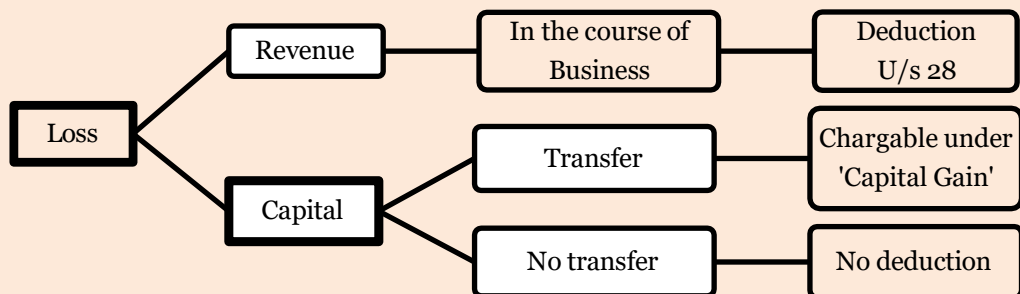
As the rules for the assessment of business, profession or vocation are the same, there is no importance of making any distinction between them for income tax purposes.

Sec. 28 : Basis of Charge :

Income from PGBP

The following 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;

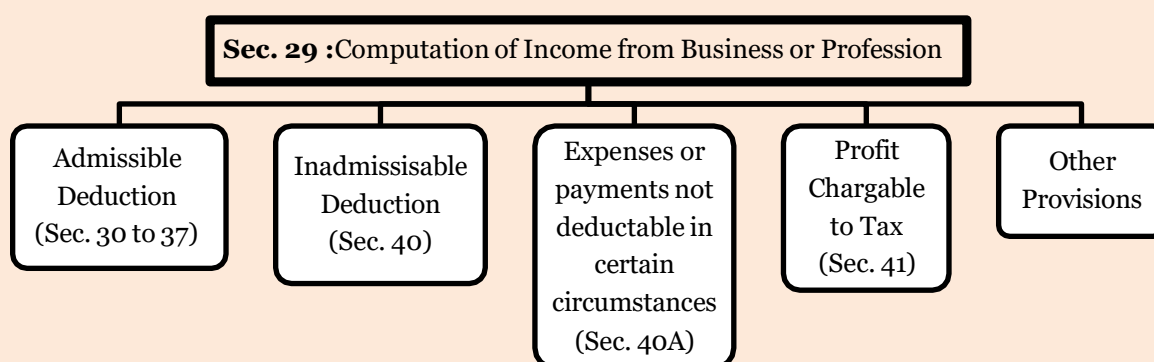


- ii) **Any Compensation due to or received by an agent :** Any compensation or other payment due to or received by an agent, managing the whole or substantially the whole of the affairs of any person, at the termination his management or modification of the terms and conditions relating thereto.
- iii) **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 :

According to 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.



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.

Proforma for computation of Income under the head PGBP

	Particulars	Rs.	Rs.
	Profit as per P & L A/c		xxx
Add :	i) Expenses or losses disallowed but charged in P & L A/c	xxx	
	ii) Incomes taxable as business income but not credited to the P & L A/c	xxx	
	iii) Expenses in excess of the allowed amount charged to P & L A/c	xxx	
	iv) Under valuation of closing stock or over valuation of opening stock	xxx	xxx
Deduct	i) Expenses or losses allowed but not debited to P & L A/c	xxx	
	ii) Incomes not taxable as business income but credited to the P & L A/c	xxx	
	iii) Income exempt from tax but credited in P & L A/c	xxx	
	iv) Over valuation of closing stock and under valuation of opening stock	xxx	xxx
	Taxable income from Business		xxx

Deductions Expressly Allowed (Sec. 30 to 37)

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.

Sec. 32 : Depreciation :

Difference between Depreciation under Accounting Rules and Taxation Rules

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 Asset	Depreciation is charged on Block of asset.
4.	On the basis of number of days asset used.	50% of normal Depreciation (If asset is used below 180 days) or Normal Depreciation.
5.	Only on Tangible Asset.	Tangible and Intangible asset.
6.	Life of the asset.	Prescribed rate.

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).

Block of Assets :

1. Falls under the same category.
2. On which same rate of depreciation is applied.

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.

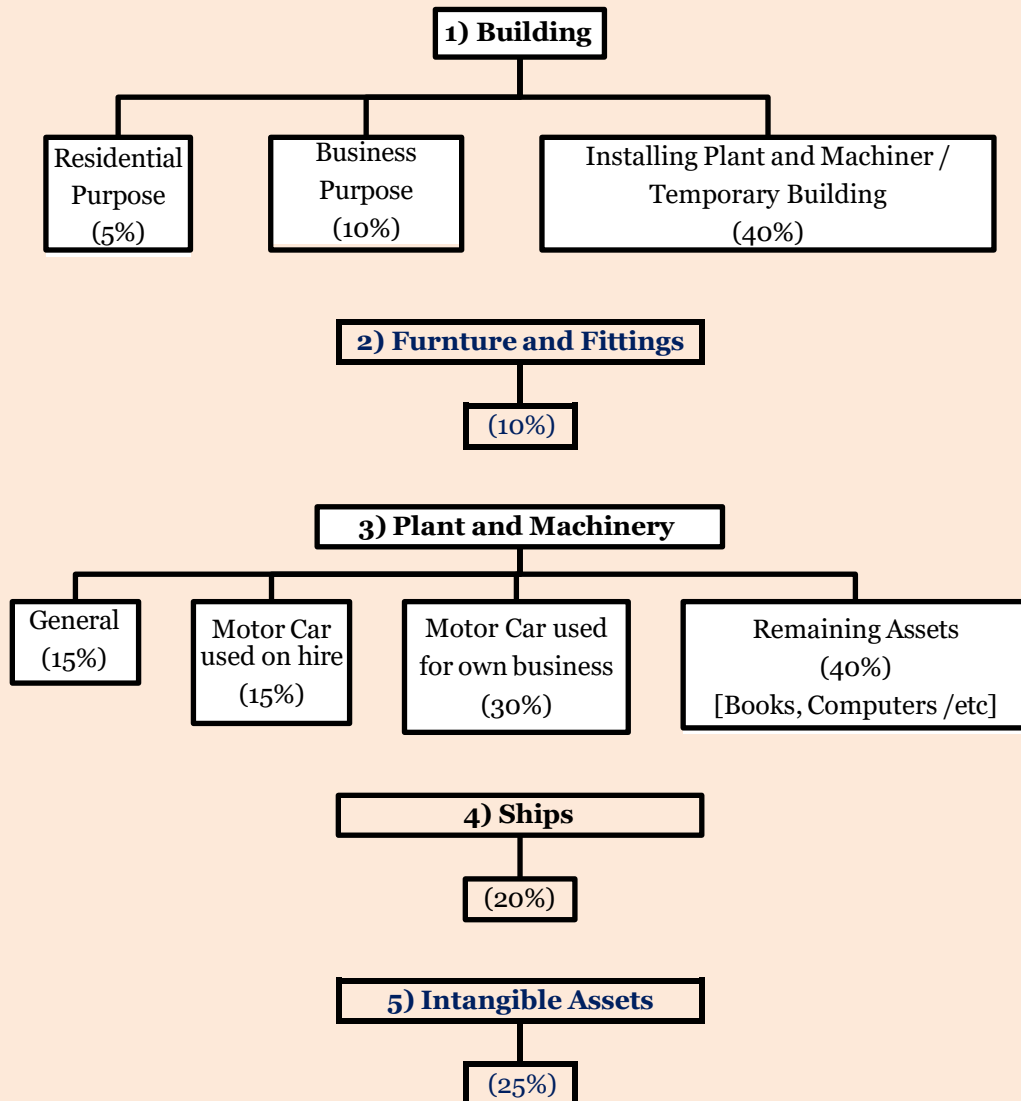
50% of normal Depreciation :

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.

Format for computation of Depreciation :

	Opening WDV of block	xxx
Add	Actual Cost of asset acquired during P.Y.	xxx
Less	Money payable in respect of asset sold / discarded / damaged, etc.	xxx
	WDV for Depreciation	xxx
Less	Depreciation at prescribed rate	xxx
	Closing WDV	xxx

Rates of depreciation prescribed under IT Act :



Sec. 33AB : Tea, Coffee and Rubber Development Account

- The assessee should deposit in special account with the **National Bank for Agricultural and rural Development**.
- The deposit should be made within a period of six months from the end of the PY or before furnishing the return of his income, whichever is earlier.
- Limit** : Sum equal to deposited or **40% of profits** of such business (before making deduction under this section and before setting off brought forward business losses), whichever is less.
- Utilization of funds** : Must be used in the same previous year in which it is withdrawn.

Sec 33ABA : Site Restoration Fund :

Deduction will be allowed in respect of prospecting, extraction or production of petroleum or natural gas in India. It is necessary that, agreement with central government.

- The assessee should deposit in special account with the **State Bank of India**.
- The deposit should be before the end of the previous year.

- c) **Limit** : Sum equal to deposited or **20% of profits** of such business (before making deduction under this section and before setting off brought forward business losses), whichever is less.

Sec. 37 : General Deduction (Residuary section) :

Conditions should be fulfilled –

- a) Expenses not covered under section 30 to 36.
- b) Revenue nature expenditure.
- c) Not of capital nature
- d) Not of personal nature
- e) Expenses incurred for running of business / profession.
- f) Expenditure shall be made during the previous year.

Explanation 1 : Expenditure incurred on protection money, hafta, bribes, etc. will not be allowed.

Explanation 2 : Expenditure incurred on CSR activities will not be allowed.

Examples of expenses allowed :

- 1. Expenses incurred in the purchase, manufacture and sale of goods.
- 2. Expenses incurred on day to day running of the business.
- 3. Expenses incurred on breach of contract.
- 4. Amount of Value Added Tax / GST, excise duty, professional tax.
- 5. Compensation paid for retrenchment of undesirable employee.
- 6. Contribution made to provident fund.
- 7. Commission paid for securing orders.
- 8. Compensation paid to employees due to accident on duty.
- 9. Royalties paid for mines.
- 10. Insurance premium paid for policy of its employees for compensation during work.
- 11. Compulsory subscription to an association.
- 12. Legal expenses for – normal course of business, to avoid business liability, defend for title of his assets, terminate a disadvantageous trading relationship, and resist a winding-up petition by some shareholders.
- 13. Annual listing fee paid to stock exchange.
- 14. Expenditure on inauguration ceremony.

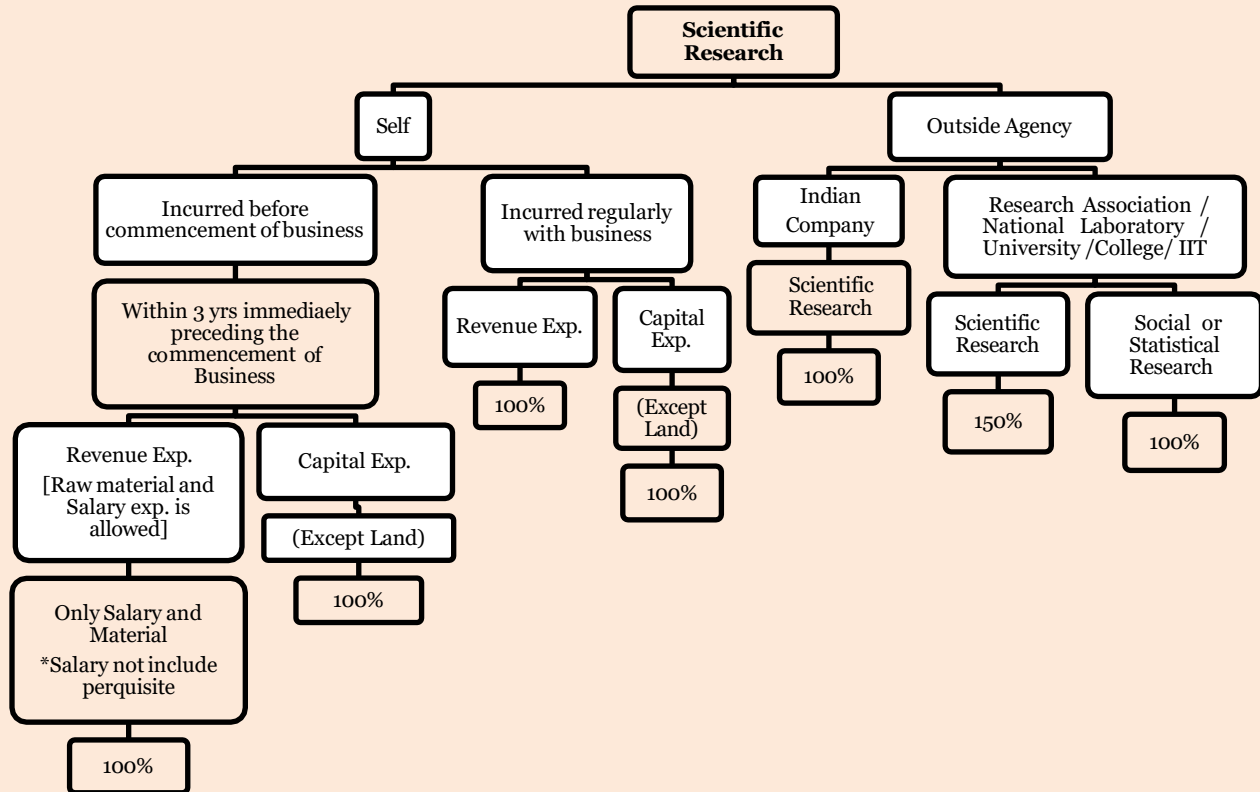
Sec 34 : Conditions for depreciation allowance and development rebate [Omitted w.e.f. **1.4.1988**].

Section 35 : Expenditure on Scientific Research :

- a) **Scientific Research** : It means activities for the extension of knowledge in the fields of natural or applied science including agriculture, animal husbandry or fisheries.
- b) **Scientific Research Expenditure** : It means expenditure incurred on scientific research would include all expenditure incurred for the prosecution or the provision of facilities for the prosecution of scientific research but **does not include any expenditure incurred in the acquisition of right in or arising out of scientific research.**

A summary of weighted deduction u/s 35

Section	Expenditure incurred / contribution made	Deduction (As a % of contribution made)
35(1)(i)	Revenue Exp. Incurred on scientific research related to the assessee's business	100%
35(1)(ii)	Research Association for scientific research	150%
35(1)(ia)	Company for scientific research	100%
35(1)(iii)	Research Association for research in social science or statistical research	100%
35(1)(iv)	Capital expenditure (Other than expenditure on land)	100%
35(2AB)	Expenditure on in-house research (Except land and building)	150%



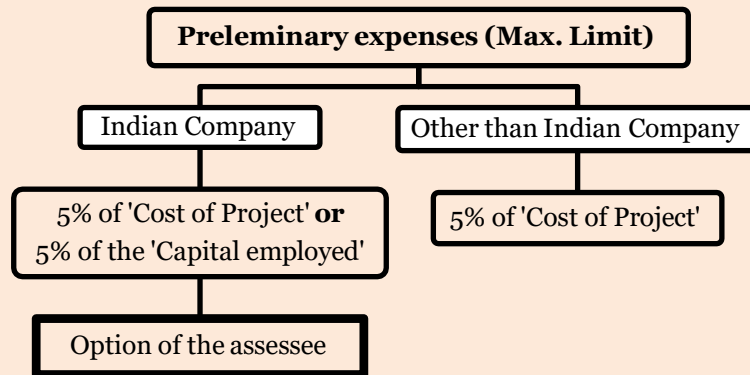
In-house Research : A deduction of an amount equal to **150%** of expenditure (excluding land or building) shall be allowed.

Sec. 35D : Amortization (paying off) of Preliminary Expenses :

Preliminary expenses includes –

1. Preparation of feasibility report,
2. Preparation of project report
3. Conducting market survey.
4. Legal charges for drafting any agreement.
5. Printing charges for the Memorandum and Articles of Association.
6. Fees paid for registering the company.
7. Expenses regarding issue of shares or debentures e.g. underwriting commission, brokerage, typing, printing, advertisement of prospectus etc.

Deduction : Deduction is allowed is **1/5 of such expenditure** for each of the five successive previous year beginning with the previous year in which the **business is commences**.



Sec. 35DD : Expenditure for amalgamation or demerger of an undertaking :

Allowed deduction of **20%** of such expenditure for each of **five** successive previous years beginning with the year in which amalgamation or demerger takes place.

Section 35DDA : Expenditure on voluntary retirement :

Allowed deduction of **20%** of such expenditure for each of **five** successive previous years beginning with the year in which the expenditure was incurred.

Sec. 35 AD : Expenditure on Specified Business :

- 100% expenditure of capital nature is allowed [**Excluding land, goodwill, financial instrument**]
- **Deduction** is allowed in the year in which business is commenced –
 - a) Expenditure incurred prior to commencement of its operations.
 - b) The amount is capitalised in the books of accounts on the date of commencement of its operations.
- Payment of **Rs. 10,000 in a day** should not be made in cash.

Businesses :-

1. Setting up and operating of cold chain facility.

Cold chain facility means a chain of facilities for storage or transportation of:

- a) Agriculture and forest produce,
 - b) Meat and meat products,
 - c) Poultry
 - d) Marine and dairy products
 - e) Products of horticulture, floriculture and apiculture
 - f) Processed food items.
2. Warehousing facility – for storage of agricultural produce.
 3. Laying and operating of petroleum oil pipeline.
 4. At least one hundred beds hospital.
 5. Building for slum redevelopment or rehabilitation framed by Central or State Government.

6. Housing project under a scheme for affordable housing framed by Central or State Government.
7. Two-star or above category hotel.
8. Production of fertilizer in India.
9. Inland container depot / container freight station.
10. Bee-keeping and production of honey and beeswax.
11. Warehousing facility for storage of sugar.
12. Infrastructure facility – toll road, bridge, water supply, water treatment, irrigation project, sanitation, port, airport, etc.
13. Semiconductor wafer fabrication manufacturing unit.

Sec. 36 : Other deduction :

1. Insurance premium paid for stock which is used for purpose of business / profession.
2. Insurance premium for cattle, Paid by federal milk co-operative society.
3. Insurance premium paid (**any mode other than cash**) for the **health** of employees.
4. Bonus or commission to employee. (**On actual payment basis**)
5. **Interest paid on borrowed capital** for purpose of business / profession (**On actual payment basis**). No deduction of 'interest paid' for acquisition of asset from the date of borrowing till the date of 'put to use'. (It would be added to cost of asset).
6. Discount on **Zero Coupon Bond** allowed as deduction on pro-rata basis.
7. **Bad debts** – The debt should be incidental to the business.
8. Loss regarding animals (Not for stock in trade) – allowed as deduction. [**Cost of animal – carcasses of animals**]
9. Employers contribution to provident Fund – only Recognized provident fund or approved superannuation fund. [**Subject to Sec. 43B**]
10. Employees contribution to provident fund or superannuation fund etc. [**Subject to Sec. 43B**].
11. Approved gratuity fund. [**Subject to Sec. 43B**].
12. Expenditure on family planning (Only when assessee is company) : Capital expenditure = 5 equal installments; Revenue expenditure – in the same previous year.
13. Entertainment expenses, advertisement expenses (Except section 37(2B) i.e. advertisement in political party).
14. Security Transaction Tax (STT).

Sec. 40(a) : Expenses not allowed in any circumstances :

1. Expenditure on advertisement in any souvenir, etc. published by a political party.
2. Payments outside India, in India to a non resident or a foreign company on which TDS is not deducted and has not paid on or before the due date specified.
3. Payment to residents – on which TDS has not been deducted or before the due date of filing the return of income – 30% of such sum shall not allowed as deduction.
4. **Wealth tax** : Wealth tax chargeable under the Wealth Tax Act shall not be allowed as deduction.
5. **Tax on Profits and Gains** : Any sum paid on account of any tax levied on the profits and gains of any business or profession shall not be allowed as a deduction.

6. Contribution to unrecognized provident fund.

Sec. 40A : Expenses not deductible in certain circumstances :

1. Excessive payment to relatives.
2. **Payment in Cash :** Payment made to a person in a day is made exceeding Rs. 10,000 other than account payee cheque, bank draft or use of electric clearing system, it will be disallowed. **Entire amount will be disallowed.**

Exception : Where payment is made for plying, hiring or leasing goods carriages, the limit of disallowance shall be exceeding Rs. 35,000.

Sec. 43B : Deductions allowable only on actual payment :

1. Any sum payable by the assessee by way of tax, duty, cess or fee.
2. Any sum payable by him as an employer by way of contribution to any provident fund, superannuation fund or gratuity fund or any other fund for the welfare of employees.

Certain Allowable Losses

Losses which are directly incidental to the business or profession of the assessee are allowable. Following are some examples of such losses.

1) Robbery or Dacoity : Loss caused by robbery or **dacoity is not deductible**. But, if it is incidental to business it will be allowed as a deduction and this depends upon the specific circumstances and conditions. For example, if cash is sent for disbursement at different centers by a sugar factory in rural area, it is incidental to business and is, therefore, allowed. Any loss due to robbery in a bank will be allowed as the bank is under an obligation to maintain some cash outside the strong room for payments.

2) Embezzlement (Misappropriation), Theft, etc. : The loss of money due to embezzlement by an employee handling the funds of the business while discharging his official duties is allowed as deduction. When an employee goes to bank to deposit the cash and he takes away the money for his own use, even then, the loss is allowable. Theft by a cashier, who is in charge of cash, is also an allowable loss. A theft committed either by an employee or by someone else by breaking open into the business premises after office hours, is also allowable.

3) Loss due to Non-recovery of Advances : If it is the practice in a business to give advance money to the suppliers and if the supplier neither supplies the order nor refunds the advance money, the loss sustained by the assessee is incidental to business and is, therefore, allowable.

- 4) Penalty paid for **infraction of law** is not allowed.

Illustration 1 :

Mr. Amitabh prepared the following profit and loss account of his cloth shop for the year ended 31st March, 2019. Find out his income from business for the AY 2019-20.

Profit and Loss Account			
(For the year ended 31 st March, 2019)			
Particulars	Rs.	Particulars	Rs.
Salaries and wages	33,000	Gross Profit	3,34,725
Rent, etc.	1,600	Gifts received from relatives	275
Household expenses	82,000		
Income Tax	900		
Advertisement	800		

Postage expenses	600		
Gifts to relatives	900		
Fire Insurance Premium	400		
Life Insurance Premium	2,100		
Bad Debts Reserve	800		
Audit Fees	400		
Net profit	2,11,500		
Total	3,35,000	Total	3,35,000

Solution :

Computation of Income from PGBP

A.Y. : 2019-20

	Particulars	Rs.	Rs.
	Profit as per P & L A/c		2,11,500
Add :	Household expenses	82,000	
	Income Tax	900	
	Gifts to relatives	900	
	Life Insurance Premium	2,100	
	Bad Debts Reserve	800	86,700
			2,98,200
Less	Gifts received from relatives	275	275
	Taxable income from Business		2,97,925

Illustration 2 : Given below is the Profit and Loss Account of a Timber Merchant for the year ended 31st March, 2019. Compute total income for the AY 2019-20.

Profit and Loss Account

(For the year ended 31st March, 2019)

Particulars	Rs	Particulars	Rs
Opening Stock	25,000	Sales	6,00,000
Purchases	2,50,000	Rent for Property	15,000
Wages	1,00,000	Closing Stock	35,000
Audit Fees	1,000		
Repairs (House Property)	2,000		
General Charges	1,500		
Commission for raising loan	1,000		
Bad debts Reserve	500		
Bad debts	2,000		
Interest on capital	10,500		
Contribution to Staff Welfare Fund	2,500		
Provision for Income Tax	1,500		
Depreciation (Allowable)	2,500		
Net Profit	2,50,000		
Total	6,50,000	Total	6,50,000

Solution :

Computation of Income from Business

	Particulars	Rs.	Rs.
	Profit as per P & L A/c		2,50,000
Add :	Repairs (House Property)	2,000	
	Bad debts Reserve	500	
	Interest on capital	10,500	
	Contribution to Staff Welfare Fund	2,500	
	Provision for Income Tax	1,500	17,000
			2,67,000
Less	Rent for Property		15,000
	Taxable income from Business		2,52,000



