

(NAME AND YEAR OF ALL BUSINESS ALREADY WRITTEN IN NOTEBOOK)

OTHER CONDITIONS FOR 35AD

Specified business should be new business, exception-

- ✓ 20% old machinery is permitted
- ✓ Second-hand imported machinery is treated as new if –

(i) Such P&M was never used in India.

(ii) Such P&M is imported into India from any other Country.

(iii) No deduction of depreciation in respect of such P&M allowed to any assessee previously.

Payment exceeding 10,000 to be made through a/c payee cheque, a/c payee bank draft, use of ECS or through prescribed electronic modes to qualify for deduction u/s 35AD

Expenditure incurred prior to the commencement of operation, shall be allowed as deduction during the year of commencement of specified business, if the amount is capitalized in the books of account of the assessee on the date of commencement of operation.

No deduction u/s 10AA or Chapter VI-A is allowed in respect of an expenditure for which deduction is claimed u/s 35AD.

Asset to be used only for specified business for 8 years. If such asset is used for any other purpose, deduction claimed and allowed u/s 35AD in respect of such asset *less* depreciation allowable under section 32, would be deemed to be the business income of the assessee of the P.Y. in which the asset is so used.

Any sum received or receivable on account of any capital asset, in respect of which deduction has been allowed u/s 35AD, being demolished, destroyed, discarded, or transferred shall be treated as income of the assessee and chargeable to income tax under the head "Profits and gains of business or profession"

AMORTISATION OF PRELIMINARY EXPENSES [Section 35D]

APPLICABILITY OF 35 D

Indian companies and other resident non-corporate taxpayers for the establishment of business concerns or the expansion of the business of existing concerns.

in the case of new companies, to expenses incurred before the commencement of the business or in the case of extension of an existing undertaking, to expenses incurred till the extension is completed or till the setting up a new unit.

Amortised over a period of 5 successive PYs

Maximum Expenditure allowed to be amortized:

In case of Indian Company

Higher of the following:

- (a) 5% of the Capital Employed,
- or
- (b) 5% of the Cost of project

‘Cost of the project’ means: Actual cost of the fixed assets shown in the books as on the last day of the previous year.

“Capital Employed” means: Issued share capital + Debentures + Long-term borrowings (7 years or more) as on the last day of the previous year

Eligible expenses

- (a) the preparation of feasibility report / project report
- (b) conducting market survey or any other business survey
- (c) engineering services relating to the business;
- (d) legal charges for drafting any agreement between the assessee and any other person for any purpose relating to the setting up to conduct the business of assessee.

Where the assessee is a company, in addition to the above, expenditure incurred:

- (a) drafting of MOA/AOA of the company and on its printing
- (b) registration fees
- (c) in connection with the issue for public subscription of the shares or debentures of the company, being underwriting commission, brokerage and charges for drafting, printing and advertisement of the prospectus

Other Assessee

5% of the cost of the project

AMORTISATION OF EXPENSES FOR AMALGAMATION/DEMERGER [Section 35DD]

ELIGIBLE ASSESSE- An Indian company,
Deduction equal - one-fifth of such expenditure for 5 successive P.Y.

AMORTISATION OF EXPENDITURE INCURRED UNDER VOLUNTARY RETIREMENT SCHEME [Section 35DDA]

Applicable to –
An assessee incurred VRS expenditure in any previous year

Allowable is-
1/5 of the amount paid for that previous year,
and the balance in four equal installments in the four immediately succeeding previous years.

In case of
Amalgamation/Demerger/succession of business the benefit of deduction will be available to the New Company for the balance period including the year in which such event takes place.

Particulars	Section [33AB]	[Section 33ABA]
Business	Growing & Manufacturing Tea or Coffee or Rubber in India	Prospecting for or extraction/production of petroleum or natural gas or both in India as per agreement with CG
A/c in which amounts to be deposited	(i) Special Account with NABARD or (ii) Deposit account (framed as per scheme of Board)	(i) Special account opened with SBI or (ii) Site Restoration Account, opened in accordance with relevant scheme
Time Limit for Deposit	six months from the end of PY or before due date of ROI whichever is earlier	Before the end of the PY
Amount of Deduction	Lower of the following: (i) Amount Deposited or, (ii) 40% of the profits of such business before deduction u/s 33AB	Lower of the following: (i) Amount Deposited (ii) 20% of the profits of such business before deduction u/s 33ABA

Withdrawal from account:**During continuation of business:**

If the amount so withdrawn is not utilised for the specified purpose in the same previous year then the amount not so utilised shall be treated as income of the year.

On closure of business [Section 33AB]:

Apart from the specified purpose(s) of scheme, the amount deposited may be withdrawn in the following circumstances: -

Case	Tax Treatment
Closure of business	Fully taxable
Dissolution of firm	Fully taxable
Death of the tax payer	Not taxable
Partition of Hindu Undivided Family	Not taxable
Liquidation of company	Not taxable

On closure of business [Section 33ABA]:

the amount so withdrawn from the account as reduced by the amount, if any, payable to the Central Government by way of profit or production share shall be deemed to be the profits and gains of business or profession of that previous year

Expenditure for obtaining licence to operate telecommunication services [Section 35ABB]

DEDUCTION FOR:

capital expenditure incurred for acquiring any right to operate telecommunication services and for which payment has actually been made

in equal annual installments over the relevant previous years.

“Relevant previous years” means:

Before the commencement of the business: previous years beginning with the previous year in which such business commenced

In any other case: year in which the licence fee is actually paid

TRANSFER OF SUCH LICENCE

Transferred in full- loss (Sales < WDV) allowed as business loss [Full] in respect of the previous year in which the licence is transferred.

part is transferred and Sales value < WDV than balance shall be allowed as deduction during the remaining number of PYs.

whole or any part is transferred and Sales > WDV then amount to the extent of deduction already allowed in PYs shall be treated as PGBP. **Excess is taxable as CG**

Transferred in a scheme of amalgamation or demerger The amalgamated company or resulting company (being Indian company) shall be entitled to claim deduction for the residual period as if the amalgamating or demerged company had not transferred the licence.

Expenditure for obtaining right to use Spectrum for Telecommunication Services [Section 35ABA]:

Capital expenditure incurred and payment has actually been made (paid basis), deduction will be allowed in **equal annual installments over the relevant previous years.**

Contributions for Rural Development Program [Section 35CCA]

Payment to:

association or institution, having the objective of undertaking programmes of rural development.

association or institution training persons for implementing rural development programme

Payment to a National Rural Development Fund set up and notified by the Central Government

Payments made to “National Urban Poverty Eradication Fund” (NUPEF) set up and notified by the Central Government.

1. Assessee has to furnish a certificate from such association
2. Deduction for the sum paid shall not be denied if the approval granted has been withdrawn

Deduction for exp. on notified Agriculture Extension Project [Sec 35CCC]



100% of such expenditure (not being expenditure in the nature of cost of any land or building) is allowed

Deduction for expenditure on notified Skill Development Project [Sec 35CCD]



100% of such expenditure (not being expenditure in the nature of cost of any land or building) is allowed only to a **company**

Section 41 – DEEMED INCOME/PROFITS CHARGEABLE TO TAX

Section 41(1): **Recovery against any deduction**

A. Conditions:

1. deduction is allowed in any assessment year in respect of loss, expenditure or trading liability incurred by the assessee and
2. subsequently during any previous year such assessee has obtained, any amount in respect of such loss or expenditure or some benefit in respect of such trading liability by way of remission or cessation thereof,

B. Treatment: the amount obtained shall be deemed to be PGBP as the income of that previous year.

C. Tax Points: If benefit has been obtained by the successor in business, It shall be taxable in the hands of successor.

Section 41(2) – Balancing Charges

Section 41(3) – Any amount realised on transfer of an asset used for scientific research is taxable as business income to the extent of deduction allowed u/s 35 in the year in which the transfer takes place.

Section 41(4) – Any amount recovered by the assessee against bad debt earlier allowed as deduction shall be taxed as income in the year in which it is received.

Section 41(4A) - The withdrawal from special reserve created and maintained under section 36 will be deemed to be profits and gains of business and charged accordingly in the year of withdrawal. Even if the business is closed, it will be deemed to be in existence for this purpose.

Actual cost in certain special situations [Explanations to section 43(1)]

CASES

Asset used for business after it ceases to be used for scientific research:

Inventory converted into capital asset and used for business or profession:

Asset is acquired by way of gift or inheritance:

Asset acquired at higher price from any other person using the asset for his business or profession with a view to claim depreciation on enhanced cost & reduce tax liability

Re-acquisition of asset

Acquisition of asset previously owned by any person to whom such asset is given on lease, hire or otherwise

Building used for private purpose subsequently brought into business use.

Capitalization of interest paid or payable in connection with acquisition of an asset

Asset acquired subject to levy of excise duty or customs duty in respect of which credit is availed.

subsidy or grant or reimbursement by Government or any statutory authority or any other person

Asset is acquired outside India by an assessee, being a non-resident and such asset is brought by him to India

Capital asset on which deduction is allowable under section 35AD

ACTUAL COST

NIL

FMV of such inventory as on the date of its conversion into capital asset

Actual cost to the previous owner minus depreciation allowable to the assessee as if asset was the only asset in the relevant block of assets

Actual cost to be determined by AO with prior approval of Joint Commissioner.

WDV at the time of original transfer or price paid for reacquiring the asset whichever is less.

The WDV of the asset to the transferor at the time of transfer to the assessee.

The cost of purchase or construction of the building as reduced by the notional depreciation calculated up to the year of bringing the asset to business use

Interest on loan borrowed relating to the period after the asset is first put to use shall never form part of actual cost.

duty in respect in respect of which a claim of credit has been made & allowed under Central Excise Rules shall not form part of the actual cost..

So much. of the cost as is relatable to such subsidy or grant or reimbursement shall not form part of the actual cost. If subsidy is not directly relatable to the asset acquired, but subsidy is with reference to the assets then the subsidy shall be proportionately reduced from the actual cost of the assets with reference to which subsidy has been granted.

Actual cost as reduced by amount of depreciation calculated (as if asset was used in India since the date of acquisition)

Nil

TAXABILITY IN CASE OF COMPOSITE INCOME

Rule	Nature of composite income	Business income (Taxable)	Agricultural Income (Exempt)
7A	Income from sale of rubber products derived from rubber plants grown by the seller in India	35%	65%
7B	Income from sale of coffee		
	- grown and cured by the seller in India	25%	75%
	- grown, cured, roasted and grounded by the seller in India	40%	60%
8	Income from sale of tea grown and manufactured by the seller in India	40%	60%

Method of Accounting [Section 145]

1. For income under PGPB and IOS the computation shall be as per **cash or accrual system of accounting**.
2. The assessee is required to follow **income computation and disclosure standards** as may be notified by the CG.
3. If the accounts of the assessee are correct and complete, but the method of accounting is such (in the opinion of the AO) the correct profits cannot be derived there from then the AO may make the **assessment u/s 144**.

Method of accounting in certain cases [Section 145A]

For the purpose of determining the income chargeable under the head "Profits and gains of business or profession",—

- i. The valuation of inventory shall be made at lower of actual cost or net realisable value computed in accordance with the income computation and disclosure standards notified under sub-section (2) of section 145;
- ii. The valuation of purchase and sale of goods or services and of inventory shall be adjusted to include the amount of any tax, duty, cess or fee (by whatever name called) actually paid or incurred by the assessee to bring the goods or services to the place of its location and condition as on the date of valuation;
- iii. The inventory being securities not listed on a recognised stock exchange, or listed but not quoted on a recognised stock exchange with regularity from time to time, shall be valued at actual cost initially recognised in accordance with notified ICDSs;
- iv. The inventory being securities other than those referred to in clause (iii), shall be valued at lower of actual cost or net realisable value in accordance with the notified ICDSs Provided that the inventory being securities held by a scheduled bank or public financial institution shall be valued in accordance with the notified ICDSs after taking into account the extant guidelines issued by the Reserve Bank of India in this regard:

Taxability of certain income [Section 145B]

1. Interest received by assessee on any compensation/enhanced compensation, shall be deemed to be income of PY in which it is received (Refer IFOS).
2. Any claim for escalation of price in a contract/export incentives shall be deemed to be the income of PY in which reasonable certainty of its realisation is achieved.
3. Assistance in the form of subsidy/grant/cash incentive/duty drawback/ waiver/concession be deemed to be the income of the PY in which it is received

Special Provision in case of income of Public Financial Institutions, Public companies etc. [Section 43D]

1. In the case of –

public financial institution or
scheduled bank or
co-operative bank other than primary agricultural credit society or a primary cooperative
agricultural and rural development bank or
State financial corporation or
State industrial investment corporation
such class of non-banking financial companies as may be notified by the Central Government in the Official
Gazette in this behalf

the income by way of interest on such categories of bad and doubtful debts, as may be prescribed having regard to the guidelines issued by the Reserve Bank of India in relation to such debts,

2. In the case of a public company,

The income by way of interest in relation to such categories of bad and doubtful debts as may be prescribed having regard to the guidelines issued by the National Housing Bank established under the National Housing Bank Act, 1987 in relation to such debts,

shall be chargeable to tax in the previous year in which it is credited to the profit and loss account by the said institutions or public company for that year

or

in the previous in which it is actually received by it, whichever is earlier.