

11: Asset (on which deduction claimed u/s 35AD) should be exclusively used for specified business for min. **8 years from the year of acquisition.**

If it is used for non-specified business within 8 years then following shall be taxable under PGBP.

	Amount of deduction claimed u/s 35 AD earlier	xxx
(-)	Depreciation that would have been allowable if sec. 35AD not there	(xxx)
	PGBP	<u>xxx</u>

NOTES

The above amendment is not applicable if co. becomes sick industrial company.

If asset is transferred from specified business to non-specified business **within 8 years** then Actual cost for non-specified business shall be

	Cost of such asset	xxx
	Less: Depreciation allowable if such asset used for non- specified business from acquisition	(xxx)
		<u>xxx</u>

Remarks

➤ Section - 35ABB & 35ABA: Telecommunication Services.

As provision contained in section 35ABB, shall apply as if for the word "License" the word "spectrum" has been substituted.

Deduction is allowed from year of commencement of business or payment of license fees, whichever is later, till PY in which license expires.

Sale of part license		Sale of whole license
SP is less than unamortized cost	SP is more than unamortized cost	SP is less than unamortized cost
Deduction u/s 35ABB will be unamortized fee - SP	Least taxable as P&BP	Deduction u/s 35ABB will be
Residual Period	a) SP - unamortized fee b) Deduction allowed till date	in year of transfer Unamortized license fee - SP

FOCUS AREA :

1. No further deduction is available in year of transfer or in any subsequent year.
2. Capital gain shall arise if SP is more than actual cost of license.
3. Depreciation is not allowed u/s 32.

Remarks

•) Section - 35D: Amortisation of certain Preliminary Expenses.

1. **Expenditure** on specified purposes **eligible** for amortization are expenses incurred for:
 - a.) Preparation of feasibility report and project report
 - b.) Market and other survey
 - c.) Expenses on public issue of shares and debentures
 - d.) Engineering services
 - e.) Legal charges for drafting agreement.
 - f.) Legal charges for drafting and printing of Articles and Memorandum of Association
 - g.) Legal fees for registering the company
2. Deduction allowed to **resident assessee** who incurs preliminary expenses **before commencement of business** or after commencement for **extension** or for **setting up a new unit.**
3. Where the aggregate amount of expenditure **exceeds 5%** of -
 - a.) "Cost of project" (in case of **non-corporate assessee**)
 - b.) In case of a **Indian company**, "capital employed in the business of the company" or the "cost of project" at the option of the company.
Excess shall be **ignored** for purpose of computing deduction allowable u/s 35D.

➤ Section 35E: Expenditure on Prospecting of Minerals

1. **Eligible Assessee** : Engaged in **prospecting & extraction & production** of minerals like coal, limestone, iron, gold, zinc etc.
2. Such expenditure should be incurred during the year of commercial production and 4 years immediately preceding that year.
3. Deduction allowed over a period of **10 years from the year in which commercial purpose started**.
4. This deduction is restricted to income from P&BP of mines.
5. Deduction not allowed on expenses incurred for acquisition of mines /sites or building, P&M, furniture on which depreciation is allowed.

➤ Section 36: Specific Deduction

- a.) **Insurance premium** on stocks.
- b.) **Insurance on health** of employees paid by any mode **other than cash**
- c.) **Bonus or commission** paid to employees (other than payable as profits) subject to section 43B.
- d.) **Interest on borrowed capital**, if amount of loan has been used for the purpose of business (if loan is for extension, then interest shall be disallowed).
- e.) **Discount** on issue of zero coupon bonds shall be allowed to pro-rata basis.

Remarks

f.) Sec. 36(1)(iv)/(v) Employer's contribution for the benefit of the Employee.

(SPF)	Statutory Provident Fund	• Unrecognized
(RPF)	Recognized Provident Fund	Provident Fund (URPF)
(ASF)	Approved Superannuation Fund	• Unapproved superannuation fund (UASF)
(AGIF)	Approved Gratuity Fund	• Unapproved Gratuity Fund (UAGIF)
(AF)	Any another fund as per law.	• Any other fund (OUF)
	↓	↓
	Allowed as Deduction (Subject to section 43B)	Not Allowed

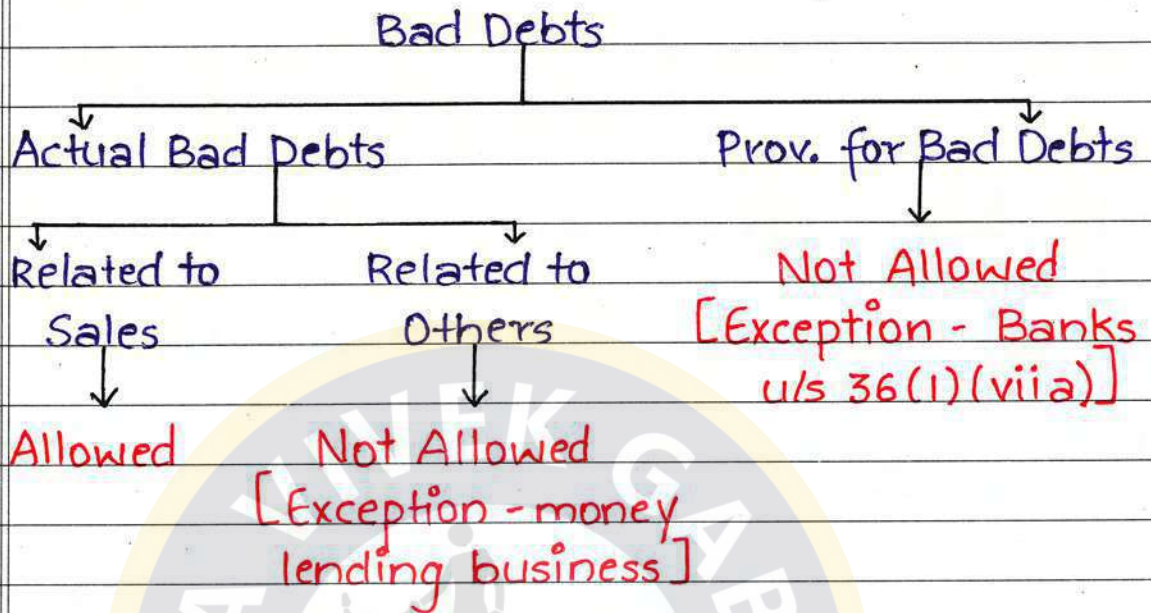
g.) Sec. 36(1)(iva) : Employer contribution towards Pension Scheme referred u/s 80CCD. Deduction allowed to employer (subject to section 43B)

(i) Actual Contribution 10% of salary (Basic + DA(Terms))] → LESS

h.) Employees contribution is deemed as income when received and allowed as deduction when the same is paid on or before due date of fund and also allowed if it is paid by due date of return.

(i) Animal which are held otherwise as SIT died, then Actual Cost (-) sale proceeds is allowed as

(j) deduction.
Sec. 36(1)(vii)



NOTES

Bad-Debts should be written off in the books of Alc's of assessee in the P.Y in which deduction is claimed.

The debt should have been taken into account for computing income for P.Y or earlier P.Y.

No need to prove that the debts have become bad.

Sec. 41(4): Bad- Debts Recovery

Where deduction has been allowed in respect of bad- debts, recovery shall be taxable as PGBP in the year of recovery. This shall apply even if the business or profession is not in existence in the previous year in which recovery made

1. **Example:**

Bad-Debts = 200000

↓
Allowed by A.O
180,000

↓
Disallowed by A.O
20,000

Recovery of Bad debts during PY 18-19 = 182000

Taxable Amount = Recovery - Disallowed earlier
1,62,000 = 1,82,000 - 20,000

2: Firm claims Bad-Debts - Firm Dissolved - Partner recovered Bad-Debts

Section 41(4) Not Applicable because it is applying only if assessee who claims the bad-debts and assessee who recover is same. [Supreme Court Judgement]

k.) Section 36(1)(viiia) : Provision for bad debts of banks

↓
Indian Banks

↓
8.5% of GII
(Before this deduction)

+

10% of aggregate avg.
Advance made by rural
branches

↓
Foreign Banks (FB)

• Public Financial Institutions (PFI)

• State Financial Corporation (SFC)

• State Industrial Investment Corporation

• Non-Banking Financial Co. (NBFC)

↓
5% of GII

(Before this Deduction)

Remarks

NOTES:

No deduction is allowed for actual bad debts u/s 36(1)(vii)

Actual Bad debts should be debited to Prov. for Bad debts Alc.

If provision for bad debts is less than actual bad debts, then remaining bad debts allowed u/s 36(1)(vii)

Assessee should maintain only one account in respect of provision for bad and doubtful debts and such account shall relate to all types of advances including advances made by rural and urban branches.

l.) Revenue expenditure on family planning shall be allowed as deduction only to company and capital expenditure incurred by company on family planning shall be allowed as deduction equally over a period of 5 years.

m.) STT paid shall be allowed as deduction, if such income is included in PGBP.

n.) FA 2013 introduced Commodities Transaction Tax @ 0.01% which is levied on taxable commodities transactions entered into recognized association. The same is allowed as deduction. A taxable commodities transaction is transaction of sale of commodity derivatives for commodity, except agricultural commodity. CTT paid shall be allowed as deduction.

o.) Amount of expenditure incurred by co-operative society for purchase of sugarcane at price fixed by central government **allowable as deduction.**

•) Section 37(1): General clause for Deduction

Expenditure **other than** specifically allowed in **Sec. 30 to 36** shall be **allowed** as deduction provided

- It is **not capital expense or personal expenditure** and incurred.
- Wholly and **exclusively** for the **purpose of business** and profession of assessee.

Example: Salary of employee not being salary of proprietor, Advertisement expenses, telephone expenses, expenses incurred for training employees etc.

FOCUS AREA

Particulars	Allowed/Disallowed
• Corporate social responsibility(CSR) expenses → It is not treated as business expense	Not Allowed
• Advertisement in brochure, souvenir, newspaper, pamphlet published by political parties	Not Allowed
• Gift to employee	Allowed
• Customary expenses	Allowed
• Dividend and DDT	Not Allowed

Remarks

<ul style="list-style-type: none"> Provision for loss of subsidiary, Provision for deferred tax, Provision for diminution of value of asset, Provision for un-ascertain liability 	<p>Not Allowed</p>
<ul style="list-style-type: none"> Share / Debentures issue expenses Expenditure incurred → I.P.O → F.P.O → Right shares 	<p>Capital Expenses Not Allowed</p>
<ul style="list-style-type: none"> → Buy back of shares → Bonus shares → Debenture of loan issue expenses 	<p>Revenue Expenses Allowed</p>
<ul style="list-style-type: none"> Freebies (gifts, cash travel facility provided by Pharmaceutical co. to doctors - Illegal Expenses 	<p>Not Allowed</p>
<ul style="list-style-type: none"> Interest on loan taken for payment of income tax 	<p>Not Allowed</p>
<ul style="list-style-type: none"> Tax audit fees or litigation exp. in relation to income tax cases 	<p>Allowed</p>
<ul style="list-style-type: none"> Premium paid by the firm on the keyman insurance policy of a partner. 	<p>Allowed</p>

Remarks