

➤ Summary diagram of section-35

Section Name	Nature of Expenditure	Deduction Allowed
• 35(1)(i)	Research exp. for scientific research • Before commencement 3 yr before (Raw materials & salary) • After commencement All revenue exp.	100%
• 35(1)(ii)	Donation to specified institute.	100% 100%
• 35(1)(iia)	Sum paid to specified company for scientific research	100%
• 35(1)(iii)	Donation to specified institute (social science or statistical research)	100%
• 35(1)(iv)	Capital expenditure for scientific research • Before commencement (3 year before all exp.)	100%

Remarks

		• After commencement (All exp. except land	
•	35(2AA)	Sum paid to IIT etc for research	100%
•	35(2AB)	Expenditure in In- house research, except	100%
•	35CCC	Expenditure on agricultural extension	100%
•	35CCD	Expenditure on skill development	100%
•	37(2B)	Expenditure on advertisement in the magazine of political party	Disallowed
•	35DD	Expenditure related to amalgamation	Allowed in 5 equal installments
•	35DDA	Expenditure related to VRS	Allowed in 5 equal installments

Remarks

Chapter PGBP

Amendments in Section 35 Deductions:

- Section 35(1)(ii) = 150% **100%** of any sum paid.....
- Section 35(2AA) = 150% **100%** of sum paid.....
- Section 35(2AB) = 150% **100%** of the expenditure.....
- Section 35(CCC) = 150% **100%** of such expenditure.....
- Section 35(CCD) = 150% **100%** of such expenditure.....
- Section 35AD = Deduction available to assessee carrying on the following
"Specified Business" **if he so OPTS**

Section 35(1A) New Inserted Research Institution or Research Company Prepares and files a Statement

(1A) Notwithstanding anything contained in sub-section (1), the research association, university, college or other institution referred to in clause (ii) or clause (iii) or the company referred to in clause (iia) of sub-section (1) shall not be entitled to deduction under the respective clauses of the said sub-section, unless such research association, university, college or other institution or company--

- (i) prepares such statement for such period as may be prescribed and deliver or cause to be delivered to the said prescribed income-tax authority or the person authorised by such authority such statement in such form, verified in such manner, setting forth such particulars and within such time, as may be prescribed:**

Provided that such research association, university, college or other

CRUX

**Without filing
of Statement**

"No Deduction"

institution or the company may also deliver to the prescribed authority a correction statement for rectification of any mistake or to add, delete or update the information furnished in the statement delivered under this sub-section in such form and verified in such manner as may be prescribed; and

- (ii) furnishes to the donor, a certificate specifying the amount of donation in such manner, containing such particulars and within such time from the date of receipt of sum, as may be prescribed.”.

Insertion of new section 234G: Fee for default relating to statement or certificate

1) Without prejudice to the provisions of this Act, where

(a) the research association, university, college or other institution referred to in clause (ii) or clause (iii) or the company referred to in clause (ia) of sub-section (1) of section 35 fails to deliver or cause to be delivered a statement within the time prescribed under clause (i), or furnish a certificate prescribed under clause (ii) of sub-section (1A) of that section; or

(b) the institution or fund fails to deliver or cause to be delivered a statement within the time prescribed under clause (viii) of sub-section (5) of section 80G, or furnish a certificate prescribed under clause (ix) of the said sub-section

it shall be liable to pay, by way of fee, a sum of two hundred rupees for every day during which the failure continues.

(1) The amount of fee referred to in sub-section (1) shall,—

(a) not exceed the amount in respect of which the failure referred to therein has occurred;

fee=200/-
p day

MAX = Failure
Amount

- (b) *be paid before delivering or causing to be delivered the statement or before furnishing the certificate referred to in sub-section (1)*

Insertion of new section 271K: Penalty for failure to furnish statements, etc..

Without prejudice to the provisions of this Act, the Assessing Officer may direct that a sum **not less than ten thousand rupees** but which may extend to one lakh rupees shall be paid by way of penalty by—

- (i) *the research association, university, college or other institution referred to in clause (ii) or clause (iii) or the company referred to in clause (iia), of sub-section (1) of section 35, if it fails to deliver or cause to be delivered a statement within the time prescribed under clause (i), or furnish a certificate prescribed under clause (ii) of sub-section (1A) of that section; or*
- (ii) *the institution or fund, if it fails to deliver or cause to be delivered a statement within the time prescribed under clause (viii) of sub-section (5) of section 80G, or furnish a certificate prescribed under clause (ix) of the said sub-section.”.*

Handwritten note in a red box:
₹ 10,000 - min
₹ 1,00,000 - max

Analysis & Example: [We will Discuss in Amendment Class]



Section 43CA: Special provision for full value of consideration for transfer of assets other than capital assets in certain cases

Where the consideration received or accruing as a result of the transfer by an assessee of an asset (other than a capital asset), being land or building or both, is less than the value adopted or assessed or assessable by any authority of a State Government for the purpose of payment of stamp duty in respect of such transfer, the value so adopted or assessed or assessable shall, for the purposes of computing profits and gains from transfer of such asset, be deemed to be the full value of the consideration received or accruing as a result of such transfer:

Provided that where the value adopted or assessed or assessable by the authority for the purpose of payment of stamp duty does not exceed one hundred and **TEN** [~~five~~] per cent of the consideration received or accruing as a result of the transfer, the consideration so received or accruing as a result of the transfer shall, for the purposes of computing profits and gains from transfer of such asset, be deemed to be the full value of the consideration.

Note: Consequently, even section 50C and section 56(2)(x), are amended on a similar basis, and provides for a ten percent tolerance limit.

Analysis & Example: [We will Discuss in Amendment Class]

In some cases 20% will consider instead of 10% .

➤ Section 35AD: Deduction for essential business:

Sec 35AD IS "OPTIONAL"

S.No	Business	% of Deduction
1.	Setting up and operating a cold chain facility	100%
2.	Setting up and operating a warehousing facility for agricultural produce	100%
3.	Laying and operating cross country pipeline for distribution of petroleum oil, natural gas.	100%
4.	Building and operating a hotel of 2 star or above.	100%
5.	Building and operating a hospital with minimum 100 patient beds	100%
6.	Developing and building a housing project under slum development scheme.	100%
7.	Developing and building a housing project under affordable housing scheme.	100%
8.	Production of Fertilizers in India	100%
9.	Setting up and operating inland container depot or container freight station.	100%
10.	Bee Keeping and production of bee's honey and wax.	100%
11.	Setting up and operating a warehousing facility for sugar	100%

Remarks

- | | | |
|-----|--|------|
| 12. | Laying and operating a slurry pipeline for transportation of Iron ore. | 100% |
| 13. | Setting up and operating a semi conductor wafer fabrication manufacturing unit. | 100% |
| 14. | Developing or maintaining and operating or developing, maintaining and operating a new infrastructure facility | 100% |

Conditions / Focus Area

- Plant and machinery should be **New.**
Exception : (i) Imported old P&M (P&M on which dep. not claimed under IT Act.
(ii) 20% of total P&M can be old.
- If assessee is in the business of Laying cross country pipeline then some portion of pipeline should be made available for use of others on common carrier basis
- Deduction allowed on all capital expenses **except** (a) Land (b) Goodwill (c) Financial Instruments
Further, any expenditure in respect of which payment or aggregate of payment made to a person of an amount **exceeding ₹ 10,000 in a day** otherwise than by a/c payee cheque or an a/c payee DD or use of ECS through a bank A/c **would not be eligible** for deduction

Remarks

4. Depreciation not allowed if deduction claimed u/s 35AD.
5. Loss of specified business can be carried forward indefinitely. As per FA 2016 assessee has to file ROI upto due date of ROI for c/f of losses.
6. If asset (on which deduction claimed u/s 35AD is allowed) sold, then the entire sales price shall be taxable as PGBP. (section 28)
7. Loss of specified business can be set off only against specified business income irrespective of whether the latter is eligible for deduction u/s 35AD.
8. If deduction u/s 35AD is claimed then deduction u/s 80IA to 80RRB and 10AA deduction shall not be allowed.
9. In case of Hotel (2 star or more) if assessee transfers operation to another person, then assessee shall be deemed to be carrying on the specified business.
10. Infrastructure facility means:
 - (i) A road including toll road, a bridge or a rail system.
 - (ii) A highway project including housing or other activities being an integral part of the highway project.
 - (iii) A port, airport inland, waterway, inland port or navigational channel in the sea.
 - (iv) Water supply project, water treatment system, irrigation project, sanitation and sewage system or solid waste management system.

Remarks