

➤ Section - 40(a)(i): TDS not deducted on payment to NR, expense disallowed

Interest, Royalty, fees other sum chargeable under Income Tax Act.

Paid or payable to Non-Resident or Foreign Co. and tax is deductible on same.

↓ TDS has not been deducted

OR

↓ After deduction, it has not been paid before due date u/s 139(1)

100% Expenditure shall be disallowed

NOTE: Expenditure shall be allowed as deduction when tax has been paid in subsequent year.

➤ Section - 40(a)(ia): TDS not deducted on payment to Resident, expense disallowed

Any sum payable to a resident on which tax is deductible at source under Chapter XVII-B

Payable to resident and tax is deductible on same.

↓ TDS has not been deducted

OR

↓ After deduction, it has not been paid before due date u/s 139(1)

Remarks

30% of such expenditure shall be disallowed.

FOCUS AREA

- 30% of such sum shall be allowed in subsequent year when such amount is paid after due date specified in section 139(1)
- It shall not be considered as default if resident payee has furnished return and included such amount in his income and paid tax on same.
- Deductor has to furnish a certificate to this effect from a CA in the prescribed form.
- Salary, non-compete fees and Director sitting fee is not covered in this section i.e allowed even if TDS has not been deducted.

➤ Section 40(a)(iii)

Salary payable outside India to Resident or non-resident and TDS has not deducted or has not been paid shall be disallowed.

➤ Section 40(a)(v)

Tax paid on perquisite (exempt u/s 10(10CC) by employer shall not be allowed as deduction.

➤ Section 40(b): Payment of Interest, Salary, bonus commission / remuneration by firm to its partner

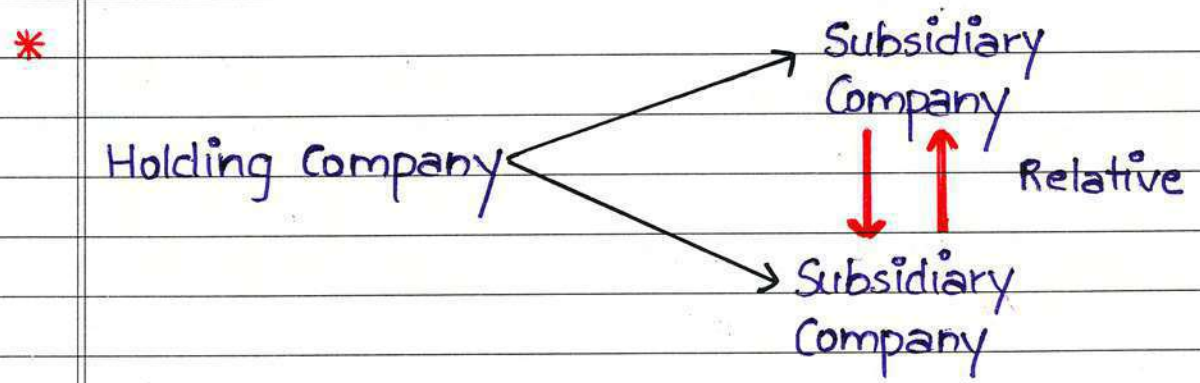
1. Payment of salary, bonus or commission shall be allowed only if it is paid to a working partner

2. Partnership deed shall specify the amount or lay down the manner of quantifying remuneration, only then its admissible as deduction.
3. Partnership deed should not provide for remuneration and interest from retrospective effect.
4. The payment of interest shall not exceed @ 12% p.a simple interest. Interest paid and interest received cannot be netted off.
5. Remuneration shall not exceed the following amount (any amount in excess shall be disallowed)

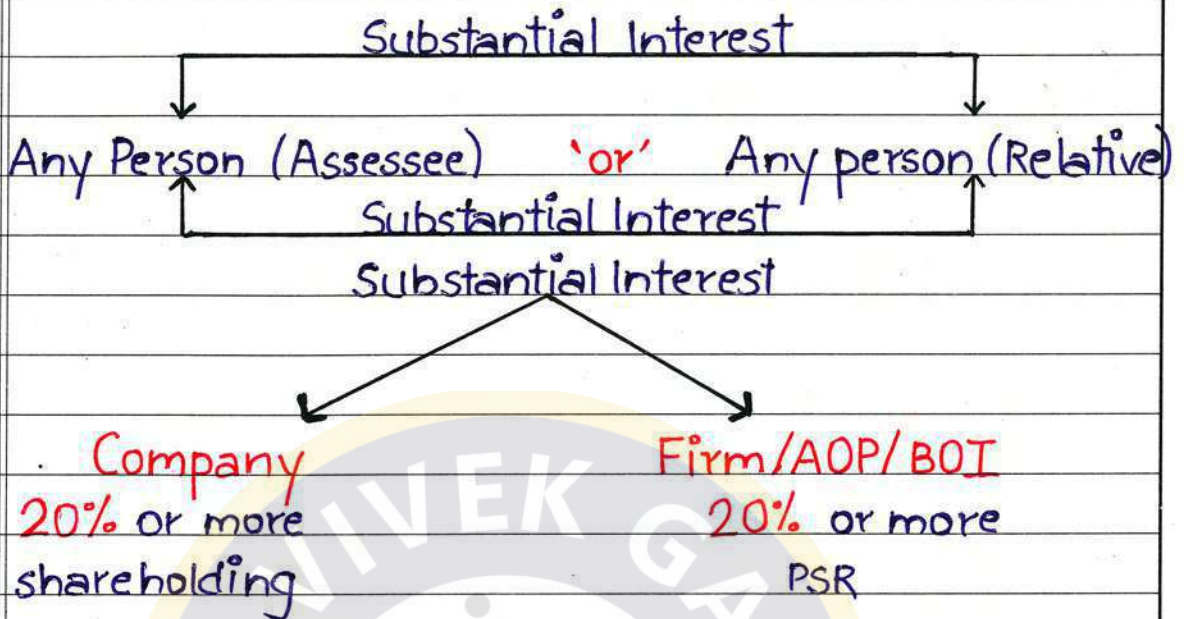
AMOUNT OF BOOK PROFITS	SALARY ALLOWED
On First 3,00,000 B.P or in case of Loss.	Higher of ₹ 1,50,000 or 90% of B.P.
On balance of book profits	At the rate of 60%.

➤ Section 40A(2): Payment to Specified Persons

Assessing officer may disallow payment made to * relative if in his opinion it is in excess of the FMV. (Fair Market Value)



Remarks



•> Section - 41(1) : Recovery of exp./Remission of Liability

Expense or loss which was allowed as deduction and has been subsequently received. Amount so received shall be **deemed as income** when received even if business is not in existence. If successor is continuing business, the amount so received shall be deemed as income of successor.

•> Section 40A(3) and Section 40A(3A) Payment made otherwise than by Account Payee Cheque.

Payment exceeding **₹ 10,000 or ₹ 35000** (in case of payment to a transporter engaged in plying, hiring, transporting etc.) in a **single day** by a assessee will be allowed as a deduction **only when** payment is made by account payee cheque or

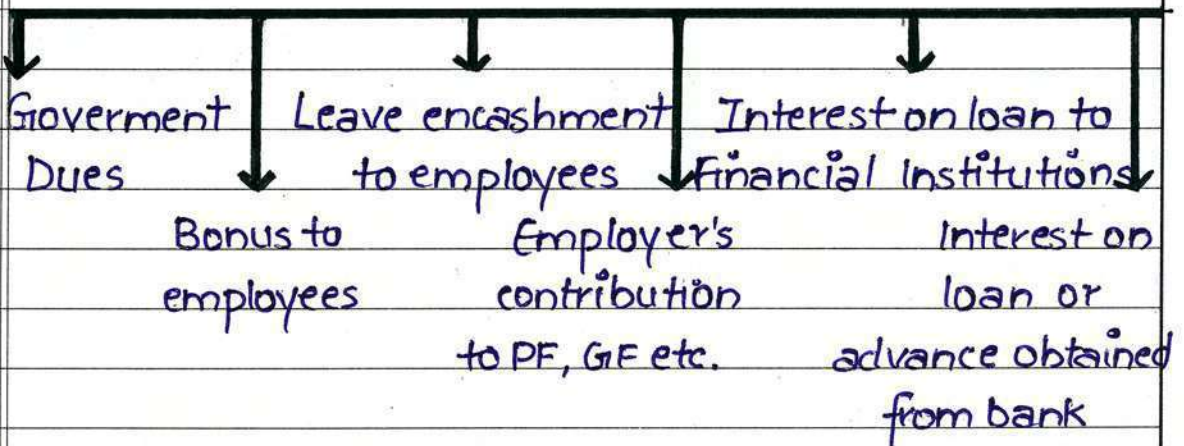
Remarks

account payee demand draft.
 2. Section 40A(3A) : Expense allowed in any prior year and then in subsequent year, the expense was paid **otherwise than** by account payee cheque will be taxable in subsequent years.

Exceptions to above

- Payment is made to **bank** or financial institutions, Government.
- Amount is required to be paid under required law.
- Any payment on a banking **holiday**.
- Payment of **gratuity**/retrenchment compensation to an employee or his legal heir upto **₹ 50,000**
- Payment in a **village** not served by a Bank.
- Book Adjustment
- Payment for purchase of **agriculture produce**, Poultry farm produce, Dairy items, cottage industry (working without aid of power).

Section - 43B: Deduction on actual payment basis.



The above mentioned is allowed as deduction **only** when amount is actually paid.

Remarks

If the amount is paid till due date of return, then it is allowed in same previous year to which it relates.

•> Section - 43 CB: Income from construction and service contracts

The profits and gains arising from a construction contract or a service contract shall be computed on the basis of percentage of completion method (POCM) in accordance with the notified ICDS. However, the profits and gains arising from a service contract shall be computed on the basis of:

- | | Method | Condition |
|----|---------------------------|---|
| 1: | Project completion Method | → If the duration of the contract is not more than 90 days. |
| 2: | Straight Line Method | → If the contract involves indeterminate number of acts over a specific period of time. |

- For the purpose of percentage of completion method project completion method or straight line Method
- (i) The contract revenue shall include retention money.
- (ii) The contract cost shall not be reduced by any incidental income in the nature of interest,

Remarks

dividend or capital gains.

➤ Section - 43AA: Taxation of Foreign exchange Fluctuation

- 1: Subject to the provisions of section 43A, any gain or loss arising on account of any change in foreign exchange rates shall be treated as income or loss, as the case may be, and such gain or loss shall be computed in accordance with the income computation and disclosure standards notified under sub-section (2) of section 145.
- 2: For the purpose of sub-section (1), gain or loss arising on account of the effects of change in foreign exchange rates shall be in respect of all foreign currency transactions, including those relating to –
 - (i) Monetary items and non-monetary items;
 - (ii) Translation of financial statements of foreign operations;
 - (iii) Forward exchange contracts
 - (iv) Foreign currency translation reserves.

➤ Section 44AA: Compulsory maintenance of Books of accounts.

CASE-A Specified/Notified Profession

In case of specified profession, if gross receipt is more than ₹ 150000 in all 3 years preceding the previous year or likely to exceed if the profession

is newly setup then, assessee is required to maintain books of accounts, **otherwise** he is required to maintain such books of accounts or documents from which AO is able to complete the assessment.

* Specified Professions

- | | | |
|--|-----------------------|--------------------------|
| 1. Accountancy | 2. Legal | 3. Medical |
| 4. Film Artist | 5. Engineering | 6. Technical Consultancy |
| 7. Company Secretary | 8. Interior Decorator | 9. Architectural |
| 10. Any other profession which may be notified by CBDT | | |

* Specified Books

1. Cash Book
2. Journal
3. Ledgers
4. Carbon copies of bill exceeding ₹ 25/-
5. Original bill for expenditure exceeding ₹ 50/-

CASE-B Other Assessee (Business)

In case of **other assessee**, if **PGBP** is **more than ₹ 1,20,000** or **Total Sales / Gross receipt** is **more than 10,00,000** in **any of the 3 years** preceding the previous year or likely to exceeding in case of newly set up business / profession, then assessee required to maintain any books of accounts or documents from which AO is able to complete the assessment **otherwise** the assessee is not required to maintain any books of accounts. **However**, in case of **Individual and HUF**, limit will be **₹ 250000** for total income for business or profession and

₹ 25,00,000 for Turnover or Gross Receipts.

NOTE: As per sec. 271A, If the assessee fails to maintain books of accounts as per Sec. 44AA then penalty of ₹ 25000 may attract

➤ Section 44AB: Compulsory audit of books of A/c's

Tax audit is compulsory in following cases:-

- Business** - If T/O > ₹ 1 crore during the P.Y. [10 cr in some cases]
- Profession** - If Gross receipts > ₹ 50 Lakhs during the P.Y.
- If assessee covered by Sec. 44AD or Sec. 44ADA and assessee claimed income less than 8% / 6% or 50% and his total income is more than basic exemption
- If assessee covered by Sec. 44AE, 44BB, 44BBB and assessee claimed income less than PGBP deemed under those sections.

NOTE

Audit can be done by CA + COP

Due date 30 September of A.Y.

Penalty u/s 271B if assessee fails to get A/c's audited

- | | |
|--|--------|
| (i) 0.5% of Turnover or Gross receipts |] Less |
| (ii) ₹ 1,50,000 | |

➤ Section - 44 Presumptive Taxation

/ Section - 44AD Presumptive Taxation of Business.

Eligible Assessee :

- Individual
- HUF

Section 44AB: Audit of accounts of certain persons carrying on business or profession

Amendment 1 in Section 44AB:

The following proviso shall be inserted, namely;

'Provided that in the case of a person whose--

- (a) aggregate of all amounts received including amount received for sales, turnover or gross receipts during the previous year, in cash, does **NOT EXCEED FIVE PER CENT.** of the said amount; and
- (b) aggregate of all payments made including amount incurred for expenditure, in cash, during the previous year does **NOT EXCEED FIVE PER CENT.** of the said payment,

this clause shall have effect as if for the words "one crore rupees", the words "TEN CRORE RUPEES" had been substituted; or;

Amendment 2 in Section 44AB:

in the Explanation, in clause (ii), - Further, to enable pre-filing of returns in case of persons having income from business or profession, it is required that the tax audit report may be furnished by the said assesseees at least one month prior to the due date of filing of return of income.

It means, as the due date for furnishing return of income U/s 139(1) is made as 31st October of relevant assessment year, the due date for submission of audit report under this section will be 30th September of relevant of assessment year.

Focus AREA :- Threshold limit not applicable for IS |urpose :- Sec 194A|194C|194H|194I & 194J
[Limit of ₹ 5cr | 5N A in case of IND | WF)