

PROFITS AND GAINS OF BUSINESS OR PROFESSION (SEC 28-44)

DEFINITION:

BUSINESS: as per sec 2(13) “business means any trade, commerce or manufacture or any adventure or concern in the nature of trade, commerce or manufacture”.

Profession: as per section 2(36) the word profession implies “professed attainments in special knowledge as distinguished from mere skill, special knowledge which is to be acquired only after patient study and application”.

Speculation Business: as per sec 43(5) “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 scrips”

Important rules governing the assessment of profits and gains from business or profession:

1. Business is carried on by the Assessee.
2. Tax is levied on the aggregate of all business or professional income earned by the assessee
3. Profit and losses of speculative business carried on by the assessee are kept separate.
4. Taint of illegality is immaterial.
5. The business or profession may be carried on by the assessee for any time during the previous year.
6. Not only legal ownership but also the beneficial ownership is considered for tax.
7. No tax on notional profit
8. If expenses incurred before setting up of business, they are not admissible. However, they are amortized as per section 35D

AMORTISATION OF PRELIMINARY EXPENSES sec 35D:

preliminary expenses mean expenses incurred before the commencement of business. the amortization is allowed in 5 equal instalments against the profits of the assessee over a period of 5 years. The maximum limit is 5% of the cost of the project.

In case of an Indian company, it is 5% of the capital employed or 5% cost of the project whichever is less

Eg: preliminary expenses shown in the profit and loss account is 25,000 , cost of the project is 4,00,000 and capital employed is 3,00,000 . while deducting expense from business income the method followed is , calculate 5% on cost of project i.e. 5% on 4,00,00 is equal to 20,000 and 5% of capital employed i.e. 5% on 3,00,000 is equal to 15000 (whichever is less so it is $15000/5=3000$. therefore 3000 is permissible expenses which is to be shown in the account.

9. Where expenditure is incurred in one year but its benefit is extend beyond one year, the deduction will not be spread over those years. The expenditure will be allowed to be deducted in the year in which it is incurred.
10. Sums previously allowed as deduction are taxable if recovered during the p.y.
11. cash assistance received from the government for the purpose of encouraging more exports is a trading receipts
12. Conversion of agricultural land into building sites and sale of such land at more profits, surplus so received is a business Income.
13. Dharmada (donation or offering made for charity) collected from customers is not taxed as it is not trading receipt
14. Profit from sale of import entitlements obtained under Export promotion scheme is taxable as business income
15. If a professional sportsman receives an award ,it is his professional income. such award if it is received by nonprofessional then it is not taxable.

Format for the computation of professional Income

Particulars	Amount	Amount
PROFESSIONAL RECEIPTS :		
1.....	Xxx	
2.....	XXX	
		XXXX
Less: PROFESSIONAL EXPENSES		
1.....	XXX	
2.....	XXX	XXXX
		XXXXXX
Add: DEEMED INCOME:		
1.Cash credit	Xxx	
2.unexplained money	Xxx	
3.unexplained investment	Xxx	
4.unexplained expenditure	xxxx	xxxx
		xxxxxxx
TAXABLE PROFESSIONAL INCOME		

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10.

PARTICULARS	AMOUNT	AMOUNT
PROFESSIONAL RECEIPTS:		
Consultation fees	10,000	
Visiting fees	20,000	
Present from patients	2,000	32000
Less: Professional Expenses		
Depreciation on car (4,500	
30,000x15/100)	8,000	
Salaries	1,000	
Establishment expenses	600	
Depreciation on Surgical		
equipment	480	14,580
(4,000x15/100)		
Depreciation on Books		17,420
(1,200x40/100)		
Taxable Professional Income		

Note: Rate of Depreciation on book is 40% .

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9.

PARTICULARS	AMOUNT	AMOUNT
PROFESSIONAL RECEIPTS:		
Visiting fees	5,35,000	
Consultation fees	10,00,000	
Sale of Medicines	35,000	
Honorarium from hospital	10,000	
Present from patients	5000	15,85,000
Less: Professional Expenses		
Clinic Rent	10,000	
Salaries	30,000	
Electricity	5,000	
Depreciation on Medical books (4,500x40/100)	1,800	
Audit Fees	5,000	
Depreciation on Surgical Equipment	3,000	
(20,000x15/100)	7,500	
Car expenses(10,000x3/4)	2,000	
Association fees	2,000	
Staff Welfare expenses	1,000	
Diwali expenses	35,000	
Cost of Medicines	4,500	1,06,800
Depreciation on car (40,000x15/100x3/4)		14,78,200
Taxable Professional Income		

Note: 1/4th of car is used for personal purpose , so only 3/4th is considered as a professional expenses

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15.

PARTICULARS	AMOUNT	AMOUNT
PROFESSIONAL RECEIPTS:		
Consultation fees(15000+1,80,000)	1,95,000	
Visiting fees	60,000	
Sale of Medicines	75,000	
Gifts & Presents	2,000	3,32,000
Less: Professional Expenses		
Clinic Rent	1,56,000	
(12000+1,20,000+24,000)	6,000	
Water & Electricity bill		
Depreciation on	17,000	
books(25000x40/100=10,000)	12,500	
(35000x40/100x50/100=7,000)		
Depreciation on Motor Car	18,000	
	7,000	
(2,000x15/100x50/100=18,750x2/3)	36,000	
Depreciation on Surgical	18,000	
Equipment	16,000	
(1,20,000x15/100)	65,000	3,51,500
Office expenses		
Staff salary		(19500)
Interest on Bank Loan		
Car Expenses (24,000x3/4=18,000)		
Purchase of Medicine		
Business Loss		

Note: 1. $\frac{1}{3}^{\text{rd}}$ of car is used for personal purpose. Therefore only $\frac{2}{3}^{\text{rd}}$ is considered as professional expenses

2 .Loan is taken for professional purpose. Therefore interest on Loan paid is taken as professional receipts.