

# **PROFITS OR GAINS OF BUSINESS OR** **PROFESSION**

**NANET JOY**  
**ASSISTANT PROFESSOR**  
**ST. ALOYSIUS COLLEGE, ELTHURUTHU**

# BUSINESS



- The purchase and sale of manufacture of a commodity with a view to make profit.
- It includes any trade, commerce or manufacture or any adventure or concern in the nature of trade, commerce or manufacture.

# PROFESSION



- The activities for earning livelihood which require intellectual skill or manual skill.
- Eg. Work of lawyer, doctor, auditor.....

# PROFITS OF BUSINESS OR PROFESSION

(Sections 28 to 44)

## **PROFITS OF BUSINESS OR PROFESSION (SECTION 28)**

The following incomes are chargeable under this head.

- 1. Business or Professional Income:-** Profits or gains from any business or profession, which was carried on by the assessee at any time during the previous year, are assessed under this head. All revenue profits arising from business or profession are taxable.
- 2. Sale of an import license or receipt of any exports incentive :-** Income derived from sale of an import license or any export incentive received such as cash compensatory support or drawback of duty or any other export incentive. Cash balance received or receivable by any person against exports under any scheme of government of India.
- 3. Any duty of custom or excise:-** Repayment of any customs or excise duty to any person against exports is taxable.
- 4. Profit earned from illegal business :-** The income earned from any business whether legal or illegal is taxable.
- 5. Income of a trade association :-** Income derived by any trade association or professional association or any other similar association from specific services rendered to its members. For example, Income earned by the Chambers of Industries from the conference organized by them.
- 6. Speculative transactions :-** Any income from speculative transactions like buying and selling of shares without giving or taking actual physical delivery. An eligible transaction in respect of trading in derivatives referred to in section 2(aa) of the Securities Contract (Regulation) Act 1956 carried out in a recognized stock exchange shall not be called as speculative transaction.
- 7. The value of any benefit or perquisite :-** The value of any benefit or perquisite, whether convertible into money or not, arising from the business or from the profession such as gifts received in the course of business.
- 8. Interest, salary, bonus, commission or remuneration received by a partner:-** Any interest, salary, bonus, commission or remuneration received by a partner of a partnership firm from the partnership firm.



**9. Sum received under key man life insurance policy :-** Any sum received under key man life insurance policy including bonus on such policy if such sum is not to be taxed as salary income.

**10. Compensation:-** Any amount received by a person who is in charge of the management of an affair of an Indian company or any other company for agreeing to the termination or modification or relinquishment of his management powers or authority.

**11.** Any sum whether received or receivable in cash or in kind, by reason of any capital asset (other than land or goodwill or financial instrument) being demolished, destroyed, discarded or transferred is taxable under this head provided the expenditure on such capital asset has been allowed as deduction under section 35AD.

Apart from the above, any income, which is in the nature of business income or professional income, will be chargeable to tax under this head.



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## **IMPORTANT RULES REGARDING ASSESSMENT**

The following are the important rules regarding business income or professional income.

- 1. Business carried on by assessee:-** Business / profession must be carried on by the assessee in the relevant previous year. It is immaterial whether the assessee is doing the business or work himself or through some of his employees or agents.
- 2. Tax is charged on aggregate income from all business / professions:-** Tax is charged on aggregate income from all business/professions. The net result of each business or profession carried on by the assessee is calculated separately and then the results of all these business are added and tax is levied on this total amount.
- 3. Speculation Business:-** Profit or loss on speculation business carried on by assessee is to be kept separately. Loss incurred in speculation business can be set off only against speculation profit and not against other business profit.  
Derivative trading in commodities is not to be treated as speculative transaction [Section 43(5)] [W.e.f. A.Y. 2014-15]
- 4. Expenses for earning income are allowed as deductions:-** The general rule of determining taxable business or professional income is that from the gross income or gross receipts or gross sales, expenses incurred for earning that income would be allowed as a deduction.
- 5. Expenses incurred prior to setting of the business will not be allowed:-** Expenses will be allowed as a deduction from gross receipts only if they have been incurred in the relevant previous year. Expenses incurred before setting of the business will not be allowed except where specifically provided by law.

Section 29 says that the profit under this head is calculated in accordance with the provisions contained in sections 30 to Section 43 D.

### **EXPRESSLY ALLOWED DEDUCTIONS (Section 30-37)**

Section 30 to 37; deal with various expenses, which will be allowed as a deduction in getting the amount of taxable business or professional income. These deductions are given below.

#### **Rent, rates, taxes, repairs and insurance for buildings (Section-30)**

The following deductions shall be allowed in respect of rent, rates, taxes, repairs and insurance for premises, used for the purposes of the business or profession,

- a) If the premises are occupied by the assessee as a tenant, the full amount of rent paid for such premises. If he has undertaken to bear the cost of repairs to the premises, the amount paid on account of such repairs also allowed as a deduction.
- b) If the assessee is himself the owner of premises, the amount paid by him on account of current repairs to the premises is only allowed as deduction. In this case rent will not be allowed to deduct from the business income.
- c) Any amount paid on account of land revenue, local rates or municipal taxes are also allowed as a deduction.
- d) The amount of any premium paid in respect of insurance against risk of damage or destruction of the premises is also allowed.

(Capital expenditure incurred on repair/current repairs shall not be allowed as deduction).

#### **Repairs and insurance of machinery, plant and furniture (Section-31)**

Any expenditure incurred by way of repairs and insurance of machinery, plant and furniture used for the purpose of business or profession will be allowed as deduction.

1. The amount paid on account of current repairs thereto.
2. The amount of any premium paid in respect of insurance against the risk of damage or destruction thereto.
3. Capital expenditure incurred on repair/current repairs shall not be allowed as deduction






### ***Depreciation on Fixed Assets (Section-32)***

Depreciation is allowed as a deduction on fixed assets used for the purpose of business on the value as per income tax records. The following are the conditions for claiming depreciation as a deduction: -

- The concerned assets must be owned either wholly or partly by the assessee.
- The assets must be used for the assessee's business or profession
- The asset must be used during the relevant previous year.

Under the Income Tax Act, depreciation is allowed on the written down value of the asset as per the income tax records. The amount of depreciation calculated under these rules is very different from the depreciation calculated under the provisions of the Companies Act, 1956. Generally, a company provides for depreciation in its books of accounts as per the Companies Act and makes suitable adjustments for the difference in depreciation while computing its taxable income.





***The rules for claiming depreciation are as follows: -***

1. Depreciation is allowed, not on individual assets, but on a block of assets put together collectively. **Block of assets** means a group of assets which comprises
  1. Tangible assets like building, machinery, plant or furniture and
  2. Intangible assets like know-how, patents, copyrights, trade marks, licenses, franchises or any other business or commercial rights of similar nature.

***Block of assets***

Under Income Tax, depreciation is calculated on the basis of 'block of assets'. 'Block of assets' means a group of assets falling within a class of assets, in respect of which the same % of depreciation rate has been prescribed. e.g. all machinery having rate of depreciation as 25% will form one block of asset, machinery having 40% rate of depreciation will form another 'block of asset' and so on.

***The rate of depreciation is prescribed for block of assets under the Income Tax Act.***

If the asset has been purchased and put to use for less than 180 days then only half depreciation is allowed on that asset and not full. In other words in order to claim 100 per cent depreciation the asset must be purchased and put to use prior to 30th September of the relevant previous year.(Explained in the last part of this chapter)