TiE Chennai TiE Essentials

Session-13

Income Tax Basics

Session 12 Recap:

Income Tax Basic Compliances:

- ✓ PAN
- ✓ TAN
- ✓ TAX AUDITS
- ✓ TDS
- ✓ IT RETURNS
- ✓ ADVANCE TAX
- ✓ TAX RATES

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- ✓ Maintenance of Books of Accounts
- ✓ Tax Audit
- ✓ Calculation of Profit
- ✓ Form 26 AS
- ✓ Expenses Allowed/Disallowed

1. Section 44AA: Maintenance of Books of Accounts

Person carrying on business / profession whose **total income exceeds Rs. 1,20,000** in any one of the three years immediately preceding the previous year or **gross receipts exceeds Rs. 10,00,000** in any one of the three years immediately preceding the previous year.

In case of in case of individual or HUF provisions are applicable in case **total income exceeds Rs. 2,50,000** in any one of the three years immediately preceding the previous year or **total gross receipts exceeds Rs. 25,00,000** in any one of the three years immediately preceding the previous year.

In case of newly set up business, the person is required to maintain books of accounts if his total income or gross receipts is likely to exceed Rs. 1,20,000 or Rs. 10,00,000 respectively.

However **the limits of Rs.1,20,000 should be increased toRs. 1,50,000** for **professions notified in rule 6F**. In case of in case of individual or HUF provisions are applicable in case total income or gross receipts exceeds Rs. 2,50,000 or Rs. 25,00,000.

Professions notified in rule 6F :

Person carrying on legal, medical, engineering or architectural profession or the profession of accountancy or technical consultancy or interior decoration or authorized representative or film artist

Booksto be maintained:

- Cash book;

- Ledger;
- Journal;
- Carbon copy of bills and receipts issued by the person in relation to sums exceeding Rs.25;
- Original bills and receipts issued by the person in respect of expenditure incurred in relation to sums exceeding Rs.50.

A person carrying on medical profession shall, in addition to the books of account and other documents specified above, keep and maintain the following, namely :—

- a daily case register in Form No. 3C;
- an inventory [under broad heads,] as on the first and the last day of the previous year, of the stock of drugs, medicines and other consumable accessories used for the purpose of his profession.

<u>Place of maintenance of books of accounts:</u>

The books of account and other documents specified above shall be kept and maintained by the person at the **place where he is carrying on the profession** or, where the profession is carried on in more places than one, at the **principal place of his profession** and maintained for a **period of six years from the end of the relevant assessment year.**

2. **Section 44AB: Tax Audit (Compulsory Audit)**

- Person carrying on business and total sales, turnover or gross receipts has **exceeds Rs.1 crore** in any previous year.
- Person carrying on profession and gross receipts has **exceeds Rs. 50 Lakhs** in any previous year.

3. Form 26 AS

Form 26AS is an annual statement which has details of the tax credited against the PAN of a tax payer. This form can be accessed from the **Income Tax Department's e-filing portal (https://incometaxindiaefiling.gov.in)** by a tax payer using his/her Permanent Account Number (PAN). You can refer to your Form 26AS for details of your income (on which taxes have been deducted) as well as the taxes that have been paid by or on your behalf by the deductor (could be your employer, bank etc.) to the government treasury.This form also has income tax directly paid by you – as advance tax or self assessment tax.

Along with a **new format, effective from June 1, 2020**, the Form 26AS will now contain information regarding **tax refunds and demands** (if any) against your name. These changes were notified by the government via a notification dated May 28, 2020.

The government introduced **section 285BB in the Income-tax Act, 1961** via Finance Act 2020 and inserted a **new Rule, 114- I** via a notification dated May 28, 2020 for making changes in Form 26AS.

The old Form contained information only about details of tax deducted at source (TDS) against your PAN, tax collected at source (TCS) on your PAN and details of other taxes paid. The new Form 26AS has two parts: Part A and Part B.

Part A of the Form contains general information about the tax payer against the following fields:

1. Permanent Account Number
2. **Aadhaar Number**
3. Name
4. Date of Birth/Incorporation
5. **Mobile number**
6. **Email address**
7. Address

Part B of the Form contains the following information:

1. Information relating to tax deducted or collected at source
2. **Information relating to specified financial transactions (SFT)**
3. Information relating to payment of taxes
4. Information relating to demand and refund
5. **Information relating to pending proceedings**
6. **Information relating to completed proceedings**
7. **Any other information in relation to sub-rule (2) of rule 114-I**

**The new information addedin the new format is bolded*

Other information in relation to sub-rule (2) of rule 114-I

India has signed agreements with many countries to share/exchange information about tax-payers income/asset details in other countries. Any such information received by the Indian Government from the Government of a foreign State would be reflected in the Form 26AS. Besides this, the Government has now mandated charitable and scientific research institutions which receive donations or contributions to furnish a statement of such donations or contributions received to the income-tax authority. The same will also be reflected in Form 26AS.

Precautions

While preparing your ITR you must tally the income details and tax deducted shown in the Form 26AS with the details as per your records. If there is a mismatch in either the quantum of income or the TDS then this should be brought to the notice of the deductor who would have to revise the TDS return basis which the entry in your 26AS will get rectified.

This exercise is required to avoid any enquiry from the tax department in case of a mismatch between your return and the Form 26AS.The reasons for mismatch could be amount of tax deducted from salary is not correctly reported by the employer, TDS deduction is reported in wrong section, incorrect PAN being punched in the TDS return by the deductor or even as a result of an incorrect PAN inadvertently being given by you to the deductor.

4. Allowable Expenditure (Sections 30 to 36)

- Actual expenditure incurred towards rent, rates, taxes, repairs (excluding capital expenditure) and insurance for premises.
- Actual expenditure incurred towardsrepairs (excluding capital expenditure) and insurance of machinery, plant and furniture.
- Depreciation on tangible and intangible assets is allowed at prescribed percentage on WDV method for each block of asset. Provided that where an asset is acquired by the assessee during the previous year and is put to use for a period of less than 180 days in that previous year, the deduction in respect of such asset shall be restricted to 50% of the amount calculated at the percentage prescribed for an asset.
- Revenue expenditure on scientific research pertaining to business of assessee is allowed as deduction (Subject to certain conditions).
- An Indian company can amortize certain preliminary expenses (up to maximum of 5% of cost of the project or capital employed, whichever is more). Qualifying preliminary expenditure is allowable in each of 5 successive years beginning with the previous year in which the extension of undertaking is completed or the new unit commences production or operation.
- Non-corporate taxpayers can amortize certain preliminary expenses (up to maximum of 5% of cost of the project). Qualifying preliminary expenditure is allowable in each of 5 successive years beginning with the previous year in which the extension of undertaking is completed or the new unit commences production or operation.

- Expenditure incurred under Voluntary Retirement Scheme (VRS) is allowed as deduction. Each payment under VRS is allowed as deduction in five equal installments in 5 previous years.
- Actual expenditure incurred towards insurance premium covering risk of damage or destruction of stocks/stores, insurance premium covering life of cattle owned by a member of co-operative society engaged in supplying milk to federal milk co-operative society and medical insurance premium paid by any mode other than cash, to insure employee's health under (a) scheme framed by GIC of India and approved by Central Government; or (b) scheme framed by any other insurer and approved by IRDA is allowed as deduction.
- Bonus or commission paid to employees which would not have been payable as profit or dividend if it had not been paid as bonus or commission.
- Interest paid in respect of capital borrowed for the purposes of the business or profession shall be allowed as deduction. However, if capital is borrowed for acquiring an asset, then interest for any period beginning from the date on which capital was borrowed till the date on which asset was first put to use, shall not be allowed as deduction but the same can be included in the cost of asset and can claim depreciation on it.
- Any contribution made by employer to Provident Fund/Superannuation Fund/Gratuity Fund/Welfare Fund will be allowed as expenses only if it is paid within the due date of filing return of Income.
- Actual bad debts which have been written off from books of accounts will be allowed as deduction. Provided the amount of debt or part thereof has been taken into account in computing the income of assessee.

- Securities Transaction Tax paid/Commodities Transaction Tax paid is allowed as deduction incurred if corresponding income is included as income under the head profits and gains of business or profession.
- Actual amount received by the employer from employee for contribution towards Provident Fund, Employee State Insurance Fund, etc., if credited to the employee's account in relevant fund on or before due date specified under relevant Act then that expense will be allowed as expense.

Section 37- Generally Allowed.

Section 37 is a residuary Section. Hence this section covers only those items of business expenditure which are not covered by the specific sections i.e. Sections 30 to 36 of the Act,1961.

Conditions to be satisfied for allowance under section 37(1);

- Such expenditure should not be covered by the provisions of Sections 30 to 36 of the Act;
- Expenditure should not be of Capital nature;
- The expenditure should have been incurred during previous year under consideration;
- The expenditure should not be of personal nature;
- The expenditure should have incurred wholly for business or profession.

Few illustrative lists of expenses allowable and disallowable under this section as per the court's judgement are as follows:

Expenses	Allowable/ Not Allowable
Regulation fees paid to Municipal Authority	✕
Payment of Protection Money to Rowdies & Police	✕
Refundable Deposit	✕
Penalty paid by assessee a share broker, for excess utilization limits to NSE	✓
Foreign Tour Expenditure of Wife	✓
Share Issue Expenses other than IPO,FPO and Rights shares	✓
Fees paid to ROC for bringing change in MOA or AOA and increasing authorized capital	✕
Payment of bank charges related towards bank guarantee required for purchase of machinery	✕
Hire charges paid towards Plant & Machinery and Furniture	✓
Expenses relating to Corporate Social Responsibility	✕
Consultation charges paid by the assessee in connection with the expansion of assessee existing project	✓
Expenditure incurred on project report for setting up a new unit	✕
Travelling and incidental expenditure in finalization of project for existing business	✓
Expenditure incurred towards abandoned project	✕
Advertisement in souvenirs of political parties	✕
Keyman Insurance Policy	✓

5. Disallowances

- As per Section 40(b) of the act, following sum paid by a partnership firm to its partners shall not be allowed to be deducted:

1) Salary, bonus, commission or remuneration paid to non-working partners;
2) Remuneration or interest paid to the partners is not in accordance with the terms of the partnership deed;
3) Remuneration or interest to partners is in accordance with the terms of the partnership deed but relates to any period prior to the date of the deed;
4) Interest to partners is in accordance with the terms of the partnership deed but exceeds 12% per annum;
5) Remuneration to partners is in accordance with the terms of the partnership deed but exceeds the following permissible limit:
a) On first Rs. 3 Lakhs of book profit or in case of loss – Rs. 1,50,000 or 90% of book profit, whichever is more;
b) On the balance of the book profit – 60% of book profit

- As per section 40(ba) of the act, Interest, salary, bonus, commission or remuneration paid by Association of Persons or Body of Individuals to its members shall not be allowed as deduction.
- Any payment to related parties (relatives, directors, partner, member of HUF/AOP, person who has substantial interest in business of the taxpayer, etc.) in respect of any expenditure shall be disallowed to the extent such expenditure is considered excessive or unreasonable by the Assessing Officer having regard to its fair market value.
- An expenditure, which is otherwise deductible under any provision of the Act, shall be disallowed if payment has been made otherwise than by account payee cheque/bank draft or use of electronic clearing system

through a bank account or through other prescribed electronic mode of payment and it exceeds Rs. 10,000 (Rs. 35,000 in case of payment made for plying, hiring or leasing goods carriages) in a day.

- Gratuity actually paid (or payable) during the year and contribution to approved gratuity fund is allowed as deduction.

6. Expenses deductible on actual payment basis – Section 43B

The following expenses shall be allowed as deduction if such expenditure is actually paid on or before the due date of filing of return of income:-

Section	Particulars
43B(a)	Any Tax, Duty, Cess or Fees under any Law
43B(b)	Any contribution made by employer to Provident Fund/Superannuation Fund/Gratuity Fund/Welfare Fund
43B(c)	Bonus or Commission paid to employees which would not have been payable as profit or dividend
43B(d)	Interest on Loan or Borrowings from Public Financial Institutions/State Financial Institutions etc.
43B(da)	Interest on loan from a deposit taking NBFC or systemically important non-deposit taking NBFC
43B(e)	Interest on loan or advance from bank
43B(f)	Payment of Leave Encashment
43B(g)	Sum payable to the Indian Railways for the use of railway assets.