taxsutra All rights reserved

INCOME-TAX ACT, 2025

D: Profits and gains of business or profession

Section 35 - Amounts not deductible in certain circumstances.

Irrespective of any other provision of Chapter IV-D, the following amounts shall not be allowed as deduction in computing the income chargeable under the head “Profits and gains of business or profession”:—

(a) any amount on account of––

(i) tax paid on income; or

(ii) tax paid by employer referred to in Schedule III (Table: Sl. No. 10); or

(iii) tax paid in any other country for which relief is eligible under section 159 or 160,

and shall include any surcharge or cess on such tax, by whatever name called;

b) (i) 30% of any sum payable to a resident, on which tax is deductible at source under Chapter XIX-B and during the tax year, such tax has not been deducted or, after deduction, has not been paid up to the due date specified in section 263(1), so, however, that—

(A) where in respect of any such sum, tax is deducted in any subsequent year, or is deducted during the tax year but paid after the due date specified in section 263(1), 30% of such sum shall be allowed as a deduction in computing the income of the tax year, in which such tax has been paid;

(B) where the assessee is required to and fails to deduct whole or any part of the tax under Chapter XIX-B on any such sum but he is not deemed to be an assessee in default under section 398(2), then for the purposes of this sub-clause, the assessee shall be deemed to have deducted and paid the tax on such sum on the date on which the return has been filed by the payee referred to in section 398(2);

(ii) any interest, royalty, fees for technical services or other sum chargeable under this Act which is payable––

A) outside India; or

B) in India to a non-resident (which is not a company) or to a foreign company,

on which tax is deductible at source under Chapter XIX-B and during the tax year, such tax, has not been deducted or after deduction, has not been paid up to the due date specified in section 263(1), so, however, that ––

(I) Where in respect of any such sum, tax is deducted in any subsequent year, or is deducted during the tax year but paid after the due date specified in section 263(1), such sum shall be allowed as a deduction in computing the income of the tax year, in which such tax has been paid;

(II) where the assessee is required to and fails to deduct whole or any part of the tax under Chapter XIX-B on any such sum but he is not deemed to be an assessee in default under section 398(2), then for the purposes of this sub-clause the assessee shall be deemed to have deducted and paid the tax on such sum on the date on which the return has been filed by the payee as referred to in section 398(2);

(iii) any payment to a provident or other fund established for the benefit of employees of the assessee, unless the assessee has made effective arrangements to secure that tax shall be deducted at source under Chapter XIX-B from any payments made from the fund which are chargeable to tax under the head “Salaries”;

Downloaded by @weboapps.com at 29/11/26 01:50pm

taxsutra All rights reserved

(c) any payment chargeable under the head “Salaries”, payable outside India or to a non-resident on which tax is deductible at source under Chapter XIX-B and such tax has not been deducted or, after deduction, has not been paid;

(d) any amount––

(i) paid by way of royalty, licence fee, service fee, privilege fee, service charge or any other fee or charge, by whatever name called, which is levied exclusively on; or

(ii) which is appropriated, directly or indirectly, from,

a State Government undertaking by the State Government;

(e) the expenditure incurred by a firm, assessable as such––

(i) in the nature of salary, bonus, commission or remuneration, by whatever name called (herein referred as remuneration) to a partner, who is not a working partner; or

(ii) on the remuneration to a working partner, and interest to any partner, if it is––

(A) not authorised by the partnership deed applicable for the period for which such remuneration or interest is paid; or

(B) authorised by and is as per the terms of partnership deed but relates to the period prior to the date of such partnership deed, or which was not authorised by the earlier partnership deed; or

(iii) on the aggregate remuneration to all working partners as authorised by the partnership deed, exceeding the amount computed as under:––

(A) on the first ₹600000 of the book profit or in case of a loss, ₹300000 or at the rate of 90% of the book profit, whichever is higher;

(B) on the balance of the book profit, at the rate of 60%; or

(iv) on interest to any partner as authorised by the partnership deed, exceeding 12% simple interest per annum, so, however, that—

(A) where an individual is a partner in a firm, on behalf, or for the benefit, of any other person (such partner and the other person being herein referred to as “partner in a representative capacity” and “person so represented”, respectively),—

(I) interest paid by the firm to such individual otherwise than as partner in a representative capacity, shall not be taken into account for the purposes of this clause;

(II) interest paid by the firm to such individual as partner in a representative capacity and interest paid by the firm to the person so represented shall be taken into account for the purposes of this clause;

(B) where an individual is a partner in a firm otherwise than as partner in a representative capacity, interest paid by the firm to such individual shall not be taken into account for the purposes of this clause, if such interest is received by him on behalf, or for the benefit, of any other person;

(v) in this clause––

(A) “book profit” means the net profit, as shown in the profit and loss account for the relevant tax year, computed as per Chapter IV-D as increased by the aggregate amount of the remuneration to all the partners of the firm, if such amount has been deducted while computing the net profit;

(B) “working partner” means an individual who is actively engaged in conducting the affairs of the business or profession of the firm of which he is a partner;

Downloaded by @weboapps.com at 29/11/26 01:50pm

taxsutra All rights reserved

(f) the expenditure incurred by an association of persons or a body of individuals (other than a company, or a co-operative society or society registered under the Societies Registration Act, 1860, or under any law corresponding to that Act in force in any part of India) in the nature of interest, salary, bonus, commission or remuneration, by whatever name called, made to a member of such association or body, provided that—

(i) where the interest has been paid by the association or the body to its member and such member has also paid interest to the association or the body, then only such excess interest, if any, paid by the association or body shall not be allowed under this clause;

(ii) where an individual is a member of an association or a body on behalf, or for benefit of any other person, such member and any other person shall be referred as “representative member” and “person so represented”, respectively, then, the provisions of this clause––

(A) shall not be applicable in respect of interest paid to or received from, such individual otherwise than in his capacity as a representative member;

(B) shall be applicable in respect of interest paid to or received from, an individual in his capacity as a representative member and, the person so represented;

(C) shall not be applicable in respect of interest paid to a member, otherwise than as representative member, on behalf or for the benefit of any other person.

Downloaded by @weboapps.com at 29/11/26 01:50pm