

Set Off and Carry Forward of Loss under Income Tax Act, 1961

SET OFF AND CARRY FORWARD OF LOSS

The adjustment of losses against profit in a particular year is called **SET OFF**. Losses which are not set off against profit of a year can be carried forward to next year and set off against profit of such year and it is called **carry forward of loss**.

Different ways to set off losses

As we have already discussed set off of losses means adjustment of losses against profit in a particular year. It can be done in different ways i.e.

- Intra-head set off of losses.
- Inter-head set off of losses.

Intra-head Set off of losses

The losses from one source of income can be set off against profit from another source of income falling under the same head of income. For example losses of Business X can be set off against profit of business Y. In the given example common head of income is “Business” and losses from one business is set off against profit from another business.

Exceptions to Intra-head set off of losses

> Losses of **Speculation business** can only be set off against profit of Speculation business NOT against any other business.

> Losses from a **business specified in section 35AD** of Income Tax can only be set off against profit of business specified in section 35AD of Income Tax NOT against any other business.

> **LTCL** can only be set off against LTCG NOT against STCG. However **STCL** can be set off against both i.e. LTSG and STCG.

> Losses from the **business of owing and maintaining horse-race** can only be set off against profit from owing and maintaining horse-race.

> Losses from **crosswords games or lotteries or puzzles or card games** etc. can only be set off against income from same business.

Inter-head Set off of losses

Once the Intra-head set off of losses is done, the taxpayer can also set off his remaining losses against other source of income. For example loss from House Property can be set off against Salary.

Exceptions to Inter-head set off of losses

- > Before inter-head set off of losses, taxpayer **should make Intra-head adjustment**
- > No business loss can be set off against salary.
- > Losses from **house property** will only be allowed to set off against any other source of income **upto Rs. 200000 (Two Lakh)**.
- > Losses of **Speculation business** can only be set off against profit of Speculation business NOT against any other income.
- > Losses from a **business specified in section 35AD** of Income Tax can only be set off against profit of business specified in section 35AD of Income Tax NOT against any other income.
- > LTCL can only be set off against LTCG NOT against STCG. However STCL can be set off against both i.e. LTSG and STCG but capital losses cannot be set off against any other income.
- > Losses from the **business of owing and maintaining horse-race** can only be set off against profit from owing and maintaining horse-race NOT against any other income.
- > Losses from **crosswords games or lotteries or puzzles or card games etc.** can only be set off against income from same business NOT against any other income.

Carry forward of losses

Head of loss	Condition for Carry forward	Maximum years for which loss can be forwarded	Head against which loss can be set off
House property	No conditions	8 years after the assessment year	House property
Speculative business	Return should be filed on or before due date It is not necessary to continue business in future	4 years after the assessment year	Speculation business
Business specified in section 35AD	Return should be filed on or before due date It is not necessary to continue business in future	No limit	Business specified in section 35 AD
Capital Losses	NO conditions	8 years after the assessment year	LTCL should be set off against LTCG STCL can be set off against LTCG or STCG
Losses from owing and maintaining horse-race	No condition	4 years after the assessment year	Income from owing and maintaining horse-race

What is speculation business ??

As per Section 43 (5) of the Income Tax Act, Speculative transaction is a transaction where a contract for the purchase or the sale of any commodity, including stocks and shares is periodically or is ultimately **settled otherwise than by the actual delivery or transfer of the commodity or scrip.**

What are businesses specified in section 35AD ??

- Laying as well as operating a **cross country natural gas/crude/petroleum pipeline network for distribution** on or after 1st April 2007.
- **Cold chain facility** on or after 1st April 2009.
- **Warehousing facility for storing of agricultural product** on or after 1st April 2009.
- **Building as well as operating a hotel of two star and above** on or after 1st April 2010.
- **Building as well as operating a hospital of 100 beds and above** for patients on or after 1st April 2010.
- Building as well as developing a **housing facility for slum** on or after 1st April 2010.
- Building as well as developing a **housing facility for affordable housing** on or after 1st April 2011.
- **Production of fertilizer** in India on or after 1st April 2011.
- **Warehousing facility for storing of sugar** on or after 1st April 2012.
- Setting up as well as operating an **inland container depot** on or after 1st April 2012.
- Bee keeping as well as **production of honey and beeswax** on or after 1st April 2012.
- Laying as well as operating a **slurry pipeline for transportation of iron ore** on or after 1st April 2014.
- Setting up as well as operating a **semi-conductor wafer fabrication manufacturing unit** on or after 1st April 2014.
- **Maintaining and operating a new infrastructure facility** on or after 1st April 2017.

Source : Taxguru