

## CHAPTER – SECTORIAL DEDUCTION

Particulars	35(1)(i)(iv):100%	35(2AB): 200%
Type of assessee	Any	Companies
Type of business	Any	Business of bio technology
Pre commencement expenditure		
❖ Revenue	✓ u/s 35(1) (only salary & purchase of material)	× But allowed as deduction u/s 35(1)(i)
❖ Capital	✓ u/s 35(1)(iv) (except land)	× But allowed as deduction u/s 35(1)(iv)
Post Commencement expenditure		
❖ Revenue	✓ u/s 35(1)(i)	✓
❖ Capital	✓ u/s 35(1)(iv) (except land)	✓ (except land & building)
Depreciation on assets	×	✓ ×
Approval & agreement	Not required	Research & development should be approved by prescribed authority & agreement with the prescribed authority for co-operation in such research & development facility and for audit of accounts maintained for such facility.
Other points	<ul style="list-style-type: none"> <li>❖ Not necessary to carry out research himself. If research is carried out by some other for this business of the assessee, payment made to such other person will be treated as expenditure on research</li> <li>❖ The set off and carry forward of unabsorbed research capital expenditure is in the same manner as that of depreciation</li> </ul>	<ul style="list-style-type: none"> <li>❖ Deduction also allowed for expenditure incurred on clinical drug trails &amp; obtaining approval from regulatory authority &amp; filing application for patent</li> </ul>

### Scientific Research Asset ceases to be used for Scientific Research

Sold without using for the purpose of business

Sold after using for the purpose of business

## CHAPTER – SECTORIAL DEDUCTION

a. Section 41(3) shall apply:

Least of i. Sale price or

ii. Deduction allowed u/s 35(1)(iv)

shall be taxable as P/G/B/P

b. Capital gain shall arise if sale price exceeds the cost of asset

- a. Exp. 1 to section 43(1) shall apply. Actual cost shall be taken as NIL.
- b. Section 43(6) & section 50 shall apply to the sale of asset, for the purpose of computation of capital gains.

Particulars	Section 35DD – Expenditure in case of Amalgamation / Demerger	Section 35DDA – VRS Compensation Expenditure	Section 35D – Preliminary Expenses	Section 35E – Expenditure on prospecting for minerals
Assesses covered	Indian company	All assesses	<ul style="list-style-type: none"> <li>❖ Indian company or</li> <li>❖ A person other than company should be resident</li> </ul>	
Qualifying expenditure	Incurs any expenditure for the purposes of amalgamation or demerger of an undertaking	Incurs any expenditure by way of payment of any sum to an employee in connection with his voluntary retirement in accordance with any scheme of retirement	<u>For all assess mentioned above</u> <ul style="list-style-type: none"> <li>❖ Preparation of feasibility report &amp; project report</li> <li>❖ Market &amp; other survey (includes advertisement and sales promotion)</li> <li>❖ Engineering services</li> <li>❖ Legal charges for drafting agreement at the time of setting up business</li> </ul>	Wholly and exclusively on any operations relating to <ul style="list-style-type: none"> <li>❖ Prospecting for any mineral or</li> <li>❖ Group of associated minerals as specified or</li> <li>❖ On the development of a mine or other natural deposit of any such mineral or group of</li> </ul>

## CHAPTER – SECTORIAL DEDUCTION

			<p>For Indian company:</p> <ul style="list-style-type: none"> <li>❖ Legal charges, ROC fees for registering company, memorandum, article or altering memorandum for enhancing authorized capital in relation to new business or extension of business</li> <li>❖ Expenses on public issue of shares and debentures (e.g.: underwriting commission, advertisement of prospectus etc.)</li> </ul>	<p>associated minerals. But excludes expenditure on:</p> <ul style="list-style-type: none"> <li>❖ Acquisition of site/deposit source of minerals or group of associated mineral or right associated over it</li> <li>❖ Of capital nature in respect of any building, plant or machinery or which depreciation u/s 32 is admissible</li> </ul> <p>Less:</p> <ul style="list-style-type: none"> <li>❖ Any portion thereof met directly or indirectly by any other person or authority or</li> <li>❖ Any sale, salvage insurance realized</li> </ul>
Quantum	1/5 <sup>th</sup> of qualifying expenditure	1/5 <sup>th</sup> of qualifying expenditure	<p>1/5<sup>th</sup> of 1 OR WHICHEVER IS LOWER</p> <p>Indian cos:</p> <ol style="list-style-type: none"> <li>1. 5% of cost project Or 5% of capital employed XXX</li> <li>2. Actual expenditure XXX</li> </ol> <p>Others:</p> <ol style="list-style-type: none"> <li>1. 5% of cost of project</li> </ol>	<p>LOWER OF:</p> <p>1/10<sup>th</sup> of qualifying expenditure OR</p> <p>Income from commercial exploitation (ALL MINES)</p> <p>(If the profit in a particular previous year is not sufficient to adjust the deduction (1/10) fully then the balance amount shall be added to next year's amortised amount (1/10). This method of claiming the deduction</p>

## CHAPTER – SECTORIAL DEDUCTION

Particulars	Section 35DD – Expenditure in case of Amalgamation / Demerger	Section 35DDA – VRS Compensation Expenditure	Section 35D – Preliminary Expenses	Section 35E – Expenditure on prospecting for minerals
			2 actual expenditure	Shall be continued till 10 <sup>th</sup> year from commencement of commercial production. If the expenditure cannot be fully adjusted within the period of 10 year as defined above then the balance amount shall lapse.
Deduction starts from	Years of amalgamation or demerger	Year of actual payment or part payment	Year of commencement of production or operation	Year of commencement of commercial production
Pre-commencement expenditure & its limit	NA		No limit however, to be incurred for the purpose of business & allowed in the year of commencement of business	Any one or more of the four years immediately preceding that year & allowed in the year of commercial production
Amalgamation demerger	Allowed to amalgamation company or resulting company entitled to deduction for remaining instalment from the year of such amalgamation or demerger			
Deduction under other provision?	No deduction shall be available under any other provision of this Act			

## CHAPTER – SECTORIAL DEDUCTION

Section 35AD: **Deduction** in respect of

**Capital expenditure on**

**Specified Business (SB)**

**When ??**

**CONSEQUENCES OF CLAIMING DEDUCTION**

**INELIGIBLE CAPITAL EXPENDITURE**

**CONDITIONS:**

List of 13 specified businesses (Note 2.)

LOSS U/S 35 AD

**LAND**

SB not set up by splitting up/reconstruction of business already in use

SB not set up by transfer of second hand machinery

-setoff only against income from specified business  
-Time limit for c/f:  
INDEFINITE PERIOD

**GOODWILL**

**FINANCIAL INSTRUMENT**

No deduction shall be allowed under any other provision of this Act i.e. 10AA, Chapter VIA, Section 32

Expection:

1. Second hand machinery allowed up to 20% of total value
2. Imported second hand machinery is allowed provided no depreciation is allowed earlier

The loss shall be allowed to be carried forward only if ROI filed on/before due date u/s 139(1)  
FA 2016

Pre-commencement

Post commencement

Allowed in the PY in which the business commences operation + if the amount is capitalized in the BOA on the date of commencement

Allowed in the PY in which it is incurred

(7A) Time LIMIT for holding asset for specified business only: 8 years beginning with the PY in which the asset is acquired or constructed.  
(7B) CONSEQUENCES of using asset for purpose other than the specified business during the period specified in sub-section (7A) Otherwise than by destruction/demolition/discarding/sale/transfer:  
Following shall be considered as deemed income of the assessee under PGBP during the **continue on next page.....**

## CHAPTER – SECTORIAL DEDUCTION

PY in which the asset is so otherwise used:

Total amount of deduction allowed & claimed earlier XXX

Less: depreciation allowable (XXX)

PGBP XXX

(7C) Nothing contained in (7B) shall apply to sick industrial company.

28(vii): Any sum received or receivable, in cash or in kind, on account of any capital asset (other than land, goodwill or financial instrument) being demolished, destroyed, discarded or transferred on which deduction was allowed earlier u/s 35AD shall be chargeable to tax under the head PGBP

**“5 SPECIFIED BUSINESS” FOR WHICH DEDUCTION = 150% On or after 01.04.2012  
(Before 01.04.2012 Deduction = 100%)**

Business Type	Date of commencement of Business
1. Setting up & operating <b>COLD CHAIN FACILITY</b>	01.04.2009
2. Setting & operating a <b>WAREHOUSE FACILITY</b> for storage of agricultural produce	01.04.2009
3. Building & operating anywhere in India <b>HOSPITAL</b> (with at least 100 beds)	01.04.2009
4. Developing & building a <b>HOUSING</b> project under a scheme for affordable housing framed by CG/SG	01.04.2009
5. production of <b>FERTILIZER</b> in India	01.04.2009

**“OTHER’S” FOR WHICH DEDUCTION = 100%**

## CHAPTER – SECTORIAL DEDUCTION

Business Type	Date of commencement of Business
1. Laying and operating a <b>CROSS-COUNTRY NATURAL GAS OR CRUDE OR PETROLEUM OIL PIPELINE</b> network for distribution, including storage facilities being an integral part of such network	01.04.2007 01.04.2009
2. Building and operating anywhere in India a <b>HOTEL OF 2 STAR OR ABOVE</b> category (applicable from the assessment year 2011-12)	01.04.2010
3. Developing and building a <b>HOUSING</b> project under a scheme for <b>slum redevelopment or rehabilitation</b> framed by CG/SG (applicable from the assessment year 2011-12)	01.04.2010
4. Setting up and operating an <b>INLAND CONTAINER DEPOT OR A CONTAINER FREIGHT STATION</b>	01.04.2012
5. <b>BEE-KEEPING</b> and production of honey and bees wax	01.04.2012
6. Setting up and operating a <b>WARE-HOUSING</b> facility for storage of sugar	01.04.2012
7. Laying and operating a <b>SLURRY PIPELINE</b> for the transportation of iron ore	01.04.2014
8. Setting up and operating a <b>SEMI-CONDUCTOR WAFER FABRICATION MANUFACTURING UNIT</b>	01.04.2014

## CHAPTER – SECTORIAL DEDUCTION

### Section 40A(3): Payments Otherwise than by an Account Payee Cheque or Account Payee bank

FOR?	+	WHEN?	+	LIMIT?	+	MODE?	=	EFFECT?
EXPENDITURE		Payments made to a person in a DAY		>Rs. 10,000		By OTHER THAN Account Payee Cheque drawn on Bank OR ACCOUNT PAYEE Bank Draft or electronic mode		NO DEDUCTION
Section 40A (3A):								
Expenditure claimed as deduction on accrual basis in a P.Y.		Payments made to the person in a SUBSEQUENT YEAR		>Rs. 10,000		By OTHER THAN Account Payee Cheque drawn on Bank OR ACCOUNT PAYEE Bank Draft or electronic mode		Deemed to be profits & gains of business OR profession & chargeable to tax in subsequent year

Lost in case of plying, hiring or leasing goods carriages: > Rs. 35,000

### Rule 6DD: Exception – Cases Where Cash payments Exceeding's Rs. 20,000/Rs.35,000 are allowed

#### 1. PAYMENT TO GOVERNMENT



## CHAPTER – SECTORIAL DEDUCTION

---

2. **BANK CLOSED:** Payment made on a day on which the banks are closed either on account of HOLIDAY or STRIKE; (to be proved that payment could not be made on a working day)
3. **NO BANK SERVICE:** Payment made in a village or town which on such day is not served by any bank, to any person who ordinarily resides, or is carrying on any business, profession or vocation, in such village or town.
4. **PAYMENTS TO SPECIFIED PAYEES:** Banking Co., RBI, SBI, Subsidiary bank, co-operative bank, land mortgage bank, any primary agricultural credit society or any primary credit society or the LIC.
5. **PAYMENTS BY CERTAIN MODES:**
  - a. Any letter of credit arrangements
  - b. Email or telegraphic transfer
  - c. A book adjustment between banks
  - d. A bill of exchange made payable only to a bank
  - e. Electronic clearing system
  - f. A credit card
  - g. A debit card
6. **PAYMENT BY AN AUTHORIZED DEALER OR A MONEY CHANGER** against purchase of foreign currency or travellers cheques in the normal course of his business.
7. **PAYMENT TO COTTAGE INDUSTRY** for produce without the aid of power.
8. **ADJUSTMENT** against the amount of any liability incurred by the payee for any goods supplied or services rendered by the assessee to such payee.
9. **PAYMENT ON TEMPORARY POSTING OF EMPLOYEE after deducting tax from salary u/s 192:**
  - a. Continuous posting for 15 days or more at other than normal place of duty or ship.
  - b. He does not maintain any account at other than normal place of duty or ship.
10. **PAYMENTS TO AGENT:** Who is required to make payment in cash for goods or services on behalf of such person?

## CHAPTER – SECTORIAL DEDUCTION

---

### 11. PAYMENT TO THE CULIVATOR, GROWER OR PRODUCERS OF:

- a. Agricultural of forest produce
- b. Produce of animal husbandry
- c. Dairy or poultry farming
- d. Fish or fish products
- e. Products of horticulture or apiculture

#### CLARIFICATION:

- a. The expression 'fish/fish products' includes 'other marine products such as shrimp, prawn, cuttlefish, squid, crabs, lobster, etc.'
- b. The expression 'producers' includes besides the fishermen any headman of the fishermen, who sorts the catch of fish brought to traders, exporters etc. but does not include a person who is not proved to be a producer of these goods and is only a trader, broker or any other middleman by whatever name called.

### 12. TERMINAL BENEFIT TO EMPLOYEES OR LEGAL HEIRS: not exceeding Rs. 50,000 in aggregate.