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SETOFF AND CARRY FORWARD

Inter source/Intra head adjustment

According to section 70, losses incurred by the assessee in respect of one source shall be set off against income from any other source under **the same head of income**, since the income under each head is to be computed by grouping together the net result of the activities of all the sources covered by that head.

Eg: loss from one house property can be set off with income of another house property, loss from one business (textiles) can be set off against any other business say printing in the same year as both these sources fall under one head of income.

Exceptions to inter-source set off-

(a) Long term capital loss: Long term capital loss can be set off only against LTCG and not STCG. However, STCL is allowed to be set off against both STCG and LTCG.

(b) Loss from speculation business: Loss from speculation business can be set off only against the profits of any other speculation business and not against any other business or professional income. However, losses from other business can be adjusted against profits from speculation business.

(c) Loss from the activity of owning and maintaining race horses: Loss from activity of owning and maintaining race horses cannot be set off against income from any other source other than the activity of owning and maintaining race horses.

(d) No loss can be set off against income from winnings from lotteries, crossword puzzles, race including horse race, card game, and any other game of any sort or from gambling or betting of any form or nature. Further, loss from gambling etc. cannot be set off against other sources of income, neither can be carried forward.

(e) Loss from specified business under section 35AD shall not be set off against profits if any from non-specified business – Section 73A.

(f) Loss from an exempted source cannot be set-off against profits from a taxable source of income. For example, share of loss from a partnership firm cannot be set off against business income, since share of income of the firm is exempt under section 10(2A).

Note - With effect from April 1, 2018, the long-term capital gain exceeding Rs 1,00,000 arising on sale of equity shares or units of equity-oriented fund or unit of business trust on which STT is paid

- in respect of equity shares, both at the time of acquisition and sale and

- in respect of units of equity-oriented fund or unit of business trust, at the time of sale

is taxable under section 112A @10%. Long-term capital loss on sale of such shares/units can, therefore, be set-off and carried forward for set-off against long-term capital gains by virtue of section 70(3) and section 74.

B>Inter-head adjustment

Loss under one head of income can be adjusted or set off against income under another head i.e. Where the net result of the computation under any head of income (other than 'Capital Gains') is a loss, the assessee can set off such loss against his income assessable under any other head including capital gains.

Exceptions to inter-head set off -

(a) Loss under Capital Gains: Where the net result of the computation under the head 'Capital Gains' is a loss, such capital loss cannot be set off against income under any other head.

(b) Loss from speculation business & loss from the activity of owning and maintaining race horses cannot be set off against income under any other head.

(c) Where the net result of the computation under the head "Profits and gains of Business or Profession" is a loss, such loss cannot be set off against income under the head 'Salaries'. However, set off of business loss against any other head of income is allowed.

(d) No loss can be set off against income from winnings from lotteries, crossword puzzles, race including horse race, card game, and any other game of any sort or from gambling or betting of any form or nature.

(e) Loss from specified business under section 35AD cannot be set off against any other income.

(f) Where the net result of the computation under the head "Income from house property" is a loss and the assessee has income assessable under any other head of income, the amount of such loss exceeding Rs. 2 lakhs would not be allowable to be set-off against income under the other head. In other words, the maximum loss from house property which can be set-off against income from any other head is Rs. 2 lakhs. [Included by Finance Act, 2017]

C> Carry forward and set off of brought forward losses

Many times it may happen that after making intra-head and inter-head adjustments, still the loss remains unadjusted. Such **unadjusted loss** can be ***carried forward to next year for adjustment*** against subsequent year/s income. Separate provisions have been framed under the Income-tax Act for carry forward of loss under different heads of income. *(You can set off as how is most beneficial to the assessee)*

Section	Nature of Loss	Number of years from the end of the relevant AY for carry forward of losses	Income against which the brought forward loss can be set off
71B	Loss from House Property	8 Assessment Years	Income from House property
72	Unabsorbed business loss	8 Assessment Years	Profits and gains from business or profession
73	Loss from speculation business	4 Assessment Years	Income from speculation business
73A	Loss from specified business under section 35AD	**Indefinite period**	Profit from any specified business
74	Long term capital loss	8 Assessment Years	Long term capital gain
	Short term capital loss	8 Assessment Years	Short term/ Long term capital gain
74A	Loss from the activity of owning and maintaining race horses	4 Assessment Years	Income from the activity of owning and maintaining race horses
	Unabsorbed depreciation	**Indefinite period**	Any head of income

An assessee must file his income tax return within the time allowed under section 139(1) in order to carry forward and set off a loss. Non-filing of a return of loss disentitles the assessee from carrying forward the loss sustained by him. However, this condition does not apply to a loss from house property carried forward under section 71B and unabsorbed depreciation carried forward under section 32(2).

Types of Losses	Intra Head Adjustment	Inter Head Adjustment	Carry Forwarded	Brought Forward Losses to be Set off against	Time Limit to carry forward	Mandatory filing of return of income
Loss from House Property	Allowed	Allowed, upto Maximum of Rs. 2,00,000 from AY 2018-19	Allowed	Income from House Property	8 Years	No
Loss from Speculative Business	Only against Speculative business income	Not Allowed	Allowed	Income from Speculative Business	4 Years	Yes
Loss from Specified Business	Only against Specified business income	Not Allowed	Allowed	Income from Specified Business	Unlimited	Yes
Other Business Losses	Allowed	Allowed, except from Salary Income	Allowed	Income from Normal Business		Yes
Short Term Capital Loss	Only against STCG & LTCG	Not Allowed	Allowed	STCG & LTCG	8 Years	Yes
Long Term Capital Loss	Only against LTCG	Not Allowed	Allowed	LTCG	8 Years	Yes
Loss from Owing & Maintaining Race Horses	Only against income from Owning & Maintaining Race Horses	Not Allowed	Allowed	Income from Owning & Maintaining Race Horses	4 Years	Yes
Other Loss under 'Other Sources'	Allowed	Allowed	Not Allowed	N/A	N/A	N/A
Loss from Salary	Loss from Salary Not Possible					

Profit and losses are two sides of a coin. Losses, of course, are hard to digest. However, the Income-tax law in India does provide taxpayers some benefits of incurring losses too. The law contains provisions for set-off and carry forward of losses which are discussed in detail in this article.

Set off of losses

Set off of losses means adjusting the losses against the profit or income of that particular year. Losses that are **not set off** against income in the **same year** can be carried forward to the subsequent years for set off against income of those years. A set-off could be an intra-head set-off or an inter-head set-off.

1. **What is Intra head adjustment?**

It means loss from **one source of income** can be set off against income from **another source** but in **the same head of income**.

For example, loss from one business, **say textiles**, can be set off against income from any other business**, say printing**, in the same year as both these sources of income fall under **one head** of income (Income from business). Therefore, loss in one business may be set off against the profit from another business in the same year.

2. **What is Inter head adjustment?**

It means loss under one head of income can be set off against income from another head of income but in the same year.

For example**, loss from the head business** can be set off against **income from other sources**.

3. **Are there any exceptions to Inter/Intra head adjustments?**

Yes, there are exceptions to Inter/Intra head adjustments, i.e. the loss from the following head/sources of incomes cannot be set off against income from another head/sources of income.

i. Speculative business loss can be set off against speculative business income only.

ii. Specified business loss (u/s 35AD i.e., 100 beds hospital, cold storage facilities etc.,) can be set off against specified business income only.

iii. Long term capital loss can be set off against long term capital gain only.

iv. Loss from owning & maintaining race horses can be set off against income from owning & maintaining race horses.

v. Short term capital loss can be set off against Short term capital gain and Long term capital gain only.

vi. Loss from business cannot be set off against salary income.

4. Do we need to file an Income tax return within the due date in order to gain the benefit of carryforward of losses?

Yes, in order to carry forward the losses of the current assessment year, it is mandatory to file Income Tax Return within the due date i.e., 31st July, 31st Oct, 30th Nov as the case may be.

However, the provisions apply only in case of losses of the current assessment year and not on the brought forward losses of previous assessment years, which are still unutilized and required to be carried forward. **Also, the losses are allowed to be set off against the income, even if the return is filed after the due date.**

For Example: If a person has Losses of Rs. 1,00,000 brought forwarded from AY 2017-18 and incur losses of Rs. 6,00,000 in current AY 2019-20 and he filed his return of income after the due date of return filing then he is allowed to carry forward Rs. 1,00,000 pertaining to loss of AY 2017-18 but he is not allowed to carry forward the current year loss of Rs. ***6,00,000*** *however****, he can set off this loss from the eligible income*** *in the current AY only.*

5. Are there any exceptions to the above question?

Yes, **House Property loss & Unabsorbed Depreciation** can be carried forward even if a return is filed after the due date.

6. Can the Brought forward loss be adjusted against Presumptive Income.

In case a person has brought forward losses from the business or profession and in the current assessment year the person files the return of income declaring his income under presumptive scheme specified u/s 44AD or 44ADA or 44AE then he is allowed to set off the brought forward losses from the presumptive income.

In such a case the person is required to file return of income under form ITR-3 declaring his income on presumptive basis under table 61 to 64 of “Part A P & L” of the form and declaring the brought forward losses under “Schedule-CYLA”.