

Sub: TAXATION I Sem IV

Set Off and Carry Forward of Losses

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.

- a. An intra-head set-off
- b. An inter-head set-off

a. Intra-head Set Off

The losses from one source of income can be set off against income from another source under the same head of income.

For eg: Loss from Business A can be set off against profit from Business B, where Business A is one source and Business B is another source and the common head of income is “Business”.

Exceptions to an intra-head set off:

1. Losses from a Speculative business will only be set off against the profit of the speculative business. One cannot adjust the losses of speculative business with the income from any other business or profession.
2. Loss from an activity of owning and maintaining race-horses will be set off only against the profit from an activity of owning and maintaining race-horses.
3. Long-term capital loss will only be adjusted towards long-term capital gains. However, a short-term capital loss can be set off against both long-term capital gains and short-term capital gain.
4. Losses from a specified business will be set off only against profit of specified businesses. But the losses from any other businesses or profession can be set off against profits from the specified businesses.

b. Inter-head Set Off

After the intra-head adjustments, the taxpayers can set off remaining losses against income from other heads.

Eg. Loss from house property can be set off against salary income

Given below are few more such instances of an inter-head set off of losses:

1. Loss from House property can be set off against income under any head
2. Business loss other than speculative business can be set off against any head of income except income from salary.

One needs to also note that the following losses can't be set off against any other head of income:

- a. Speculative Business loss
- b. Specified business loss
- c. Capital Losses
- d. Losses from an activity of owning and maintaining race-horses

Carry forward of losses

After making the appropriate and permissible intra-head and inter-head adjustments, there could still be unadjusted losses. These unadjusted losses can be carried forward to future years for adjustments against income of these years. The rules as regards carry forward differ slightly for different heads of income. These have been discussed here:

Losses from House Property :

- Can be carry forward up to next 8 assessment years from the assessment year in which the loss was incurred
- Can be adjusted only against Income from house property
- Can be carried forward even if the return of income for the loss year is belatedly filed.

Losses from Non-speculative Business (regular business) loss :

- Can be carry forward up to next 8 assessment years from the assessment year in which the loss was incurred
- Can be adjusted only against Income from business or profession
- Not necessary to continue the business at the time of set off in future years
- Cannot be carried forward if the return is not filed within the original due date.

Speculative Business Loss :

- Can be carry forward up to next 4 assessment years from the assessment year in which the loss was incurred
- Can be adjusted only against Income from speculative business
- Cannot be carried forward if the return is not filed within the original due date.
- Not necessary to continue the business at the time of set off in future years

Specified Business Loss under 35AD :

- No time limit to carry forward the losses from the specified business under 35AD
- Not necessary to continue the business at the time of set off in future years
- Cannot be carried forward if the return is not filed within the original due date
- Can be adjusted only against Income from specified business under 35AD

Capital Losses :

- Can be carry forward up to next 8 assessment years from the assessment year in which the loss was incurred
- Long-term capital losses can be adjusted only against long-term capital gains.
- Short-term capital losses can be set off against long-term capital gains as well as short-term capital gains
- Cannot be carried forward if the return is not filed within the original due date

Losses from owning and maintaining race-horses :

- Can be carry forward up to next 4 assessment years from the assessment year in which the loss was incurred
- Cannot be carried forward if the return is not filed within the original due date
- Can only be set off against income from owning and maintaining race-horses only

Points to note:

1. A taxpayer incurring a loss from a source, income from which is otherwise exempt from tax, cannot set off these losses against profit from any taxable source of Income
2. Losses cannot be set off against casual income i.e. crossword puzzles, winning from lotteries, races, card games, betting etc.

❖ Procedure for Carry forward and set-off of losses:

- The process of setting off of losses and their carry forward may be covered in the following Steps:

Step 1.

Determination of loss under each respective source of income after claiming exemptions, if any under such head of income

Step 2.

Inter source adjustment of losses wherever allowed u/s 70 (intra head)

Step 3.

Inter head adjustment wherever allowed, where such losses are not fully set off u/s 71

Step 4.

Carry forward of losses wherever allowed, where such losses are partly/ fully not set off under step 2 & 3

Tabular Summary for adjustments of loss

<i>Incomes</i>	<i>Salary</i>	<i>House Property</i>	<i>Non Speculative Business</i>	<i>Speculative Business</i>	<i>LTCG</i>	<i>STCG</i>	<i>Owning & maintenance of race horses</i>	<i>Others</i>
<i>Loss under the head House Property</i>	<i>Yes</i>	<i>Yes</i>	<i>Yes</i>	<i>Yes</i>	<i>Yes</i>	<i>Yes</i>	<i>Yes</i>	<i>Yes</i>
<i>Speculative business loss</i>	<i>No</i>	<i>No</i>	<i>No</i>	<i>Yes</i>	<i>No</i>	<i>No</i>	<i>No</i>	<i>No</i>
<i>Other business or professional loss</i>	<i>No</i>	<i>Yes</i>	<i>Yes</i>	<i>Yes</i>	<i>Yes</i>	<i>Yes</i>	<i>Yes</i>	<i>Yes</i>
<i>Long term capital loss</i>	<i>No</i>	<i>No</i>	<i>No</i>	<i>No</i>	<i>Yes</i>	<i>No</i>	<i>No</i>	<i>No</i>
<i>Short term capital loss</i>	<i>No</i>	<i>No</i>	<i>No</i>	<i>No</i>	<i>Yes</i>	<i>Yes</i>	<i>No</i>	<i>No</i>
<i>Loss from owning and maintenance of race horses</i>	<i>No</i>	<i>No</i>	<i>No</i>	<i>No</i>	<i>No</i>	<i>No</i>	<i>Yes</i>	<i>No</i>

Remarks:-

“Yes” denotes loss can be adjusted with respective income.

“No” denotes loss cannot be adjusted with respective income.

❖ Carry forward and Set-off of brought forward losses

If a loss cannot be set off either under the same head or under the different heads because of absence or inadequacy of the income of the same year, it may be carried forward and set off against the income of the subsequent year.

However, the loss so carried forward can be set-off only against same head of income, i.e. the benefit of “inter-source’ adjustment is lost.

<u>Section</u>	<u>Nature of loss to be carried forward</u>	<u>Income against which the brought forward loss can be set off in subsequent years.</u>	<u>Maximum permissible period [from the end of the relevant assessment year] for carry forward of losses</u>
71B	Unabsorbed loss from house property	Income from House Property	8 assessment years
72	Unabsorbed business loss (non- speculative)	Profit and gains from business or profession (non- speculative)	8 assessment years
73	Loss from speculation business	Income from speculation business	4 assessment years
73A	Loss from specified business under section 35AD	Profit from specified business under section 35AD	Indefinite period
74	Long-term capital loss	Long-term capital gains	8 assessment years
74	Short-term capital loss	Short/Long-term capital gains	8 assessment years
74A	Loss from the activity of owning and	Income from the activity of owing and maintaining	4 assessment years

	maintaining race horses	race horses.	
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Remarks:

Past year losses can be set-off against income from that respective head of income (Inter head adjustment is not possible)
