

SET OFF AND CARRY FORWARD OF LOSSES

SET OFF:

- Set off refers to adjustment of the loss of current year with the profit of the current year.
- It consists of
 - Inter source adjustments.
 - Inter head adjustments.



CARRY FORWARD:

- It means to take the excess losses of the current year to the next years and then adjust with the profits of those coming years.

SECTION 70: INTER SOURCE ADJUSTMENT

Loss from one source of income can be adjusted against another source of income, both the sources being under the same head.

Example 1: Loss from one house property can be set off against another property.

Example 2: Loss from one business can be set off against another business.

Exceptions:

- A. Long term capital loss cannot be set off against short term loss.
- B. Loss in speculation business cannot be set off against normal business loss.
- C. Loss from owning and maintenance of horse races business can only be set off against that activity.
- D. A loss in any specified business under sec 35AD can be set off only against specified business.

SECTION 71: INTER HEAD ADJUSTMENT

Loss under one head of income can be adjusted against another head of income.

Exceptions:

- A. Loss under the **PGBP** cannot be set off against under the head **Salaries**.
- B. Loss from **capital gains** cannot be set off against **any other** heads.
- C. The **maximum loss from house property** which can be set off against any income from any other head is **Rs. 2,00,000/-**
- D. Speculation losses, specified business losses, horse racing losses **cannot** be set off against any other heads.

SPECIAL CASES:

❖ **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.
- Can be carried forward up to 8 assessment years

❖ **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.

❖ Losses from normal business:

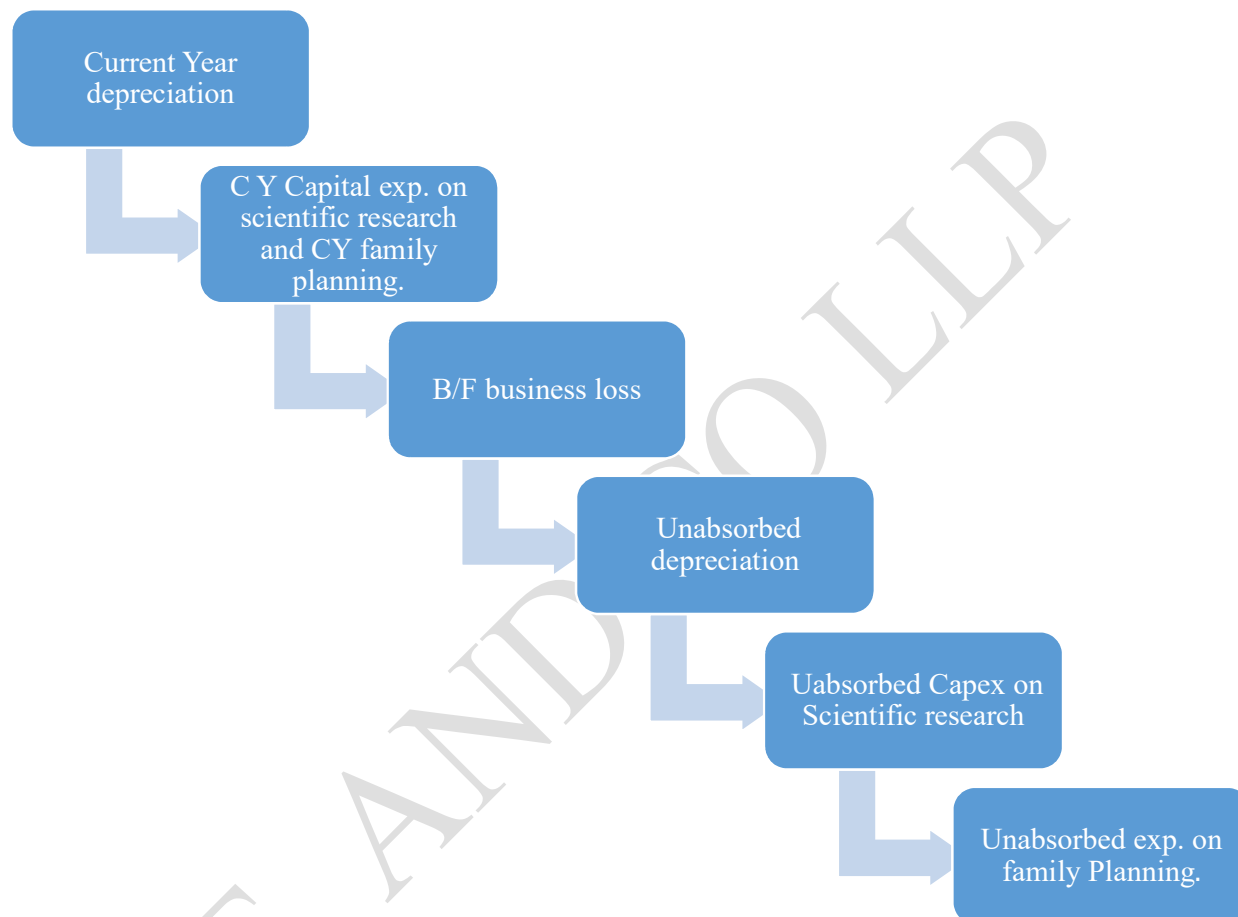
- Can be carry forward up to next 8 assessment years from the assessment year in which the loss was incurred
- Can be adjusted only against income from business or profession
- Not necessary to continue the business at the time of set off in future years
- Cannot be carried forward if the return is not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

❖ Unabsorbed depreciation:

- Unabsorbed Depreciation is that amount of unutilized depreciation which the assessee will not be able to claim as an expense due to lack of sufficient profit in P&L Account.

- Such unabsorbed depreciation can be set off against any heads of income and the remaining balance can be carried off till for any number of periods.

Order of set off of business losses from business income:



FAQ's:

1. In case of change in the constitution of business, can the loss be carried forward by the reconstituted entity?

A. In certain cases of reconstitution of the business like amalgamation, demerger, conversion of proprietary firm into



company or conversion of partnership firm into company, etc., the reconstituted entity is entitled to carry forward the unadjusted loss of predecessor entity.

2. Are there any special provisions in case of carry forward of loss in case of a partnership firm if any partner of the firm retires?

A. In such a case, the share of loss attributable to the outgoing partner cannot be carried forward by the firm.

3. If income from any source is exempt, then can loss from such source be adjusted against any other taxable income?

A. If income from a particular source is exempt from tax, then loss from such source cannot be set off against any other income which is chargeable to tax.

4. Are there any special provisions in case of carry forward and set off of loss in case of a company in which public are not substantially interested?

A. Where a change in shareholding has taken place in a previous year in the case of a company, not being a company in which the public are substantially interested, no loss incurred in any year prior to the previous year shall be carried forward and set off against the income of the previous year.