

1. Advance tax means tax paid in the financial year immediately preceding the A.Y. (i.e. P.Y.)
2. Advance shall be calculated by estimating the current year income then applying tax rates. TDS / TCS & MAT credit shall be deducted to arrive at Advance tax liability.
3. Assessee is required to pay Advance tax if his liability for **advance tax is ₹ 10,000 or more.**

**Exceptions:** Resident Senior citizen not having income under the head "PGBP".

4. Due dates of Advance tax for **all Assessee**

Due Dates	Amount of Advance Tax
upto 15th June of P. Y.	upto 15 % of advance tax liability
upto 15th Sept of P. Y.	upto 45 % of advance tax liability
upto 15th Dec of P. Y.	upto 75 % of advance tax liability
upto 15th Mar of P. Y.	upto 100 % of advance tax liability

**Note:** Tax paid upto 31st March of P.Y. is treated as advance tax.

If Assessee opts for Sec 44AD/ADA (Presumptive PGBP) then **due date of Advance tax is 15th March of P.Y. (only one instalment).**

5. Payment of Advance Tax in pursuance of order of A.O (Section 210)

If Assessee has not paid or short paid the advance tax then A.O. may make order u/s 210 and ask assessee to pay advance tax in the installment/ installments due after the date of the order, A.O. can pass order upto last day of feb. of P.Y. The Assessing Officer shall compute the advance tax by taking:

- (i) the total assessed income of the latest PY for which assessment has been made or
- (ii) the total income declared in the return of income of any subsequent P.Y. (i.e. subsequent to the previous year for which assessment has been made)

**whichever is higher**

#	Sec 234A: Interest for delay in Return filing.		
	Tax as per ROI	x Rate	x Period
	[After Adjustment of TDS / TCS / Advance tax/ MAT credit / Relief (include relief u/s 89)]	[1% per month or part of a month ]	[from next day after due date of ROI till date of Actual return filling]
	i.e. Tax remaining unpaid on 1st April of A.Y.		
	Note : However as per supreme court decision in Dr. Pranoy Roy, credit will be given of self Assessment tax, if it is paid upto due date of return filing.		

#	Sec 234B: Interest for non / short payment of advance tax		
	This interest is not applicable if assessee paid 90% or more of Advance tax payable.		
	Advance Tax		
	Short paid	X Rate	x Period
	as per ROI	[1% per month or part of a month]	[from 1st April of A.Y. till Actual date of payment]
	Note : If there is change in income due to processing of return u/s 143(1) or Assessment, then tax as per 143(1) / Assessed tax shall be taken instead of tax as per ROI. [This is applicable only for interest u/s 234A & 234B]		

#	Sec 234C: Interest for deferment of Advance tax instalments		
	Deferred amount	x 1% per month or part of a month	x 3 months for all instalments except last instalment. [for last instalment, Int is applicable always for 1 month ] [16/3 → 31/3]

Notes:

1. Interest u/s 234C always calculated on tax as per ROI
2. No interest u/s 234C shall be levied if Assessee paid Advance tax upto 12 % in 1st instalment, upto 36 % in 2<sup>nd</sup> instalment.
3. Advance tax in case of capital gain & winnings  
Assessee is not able to estimate capital gains and winnings or income under PGBP

accrues first time, Dividend u/s 115BBDA so advance tax on such income shall be paid in remaining instalment by assessee after receipt of such income. If no instalment is due [income recd. during 16/3 to 31/3] then Advance tax shall be paid upto 31/3 of P.Y.

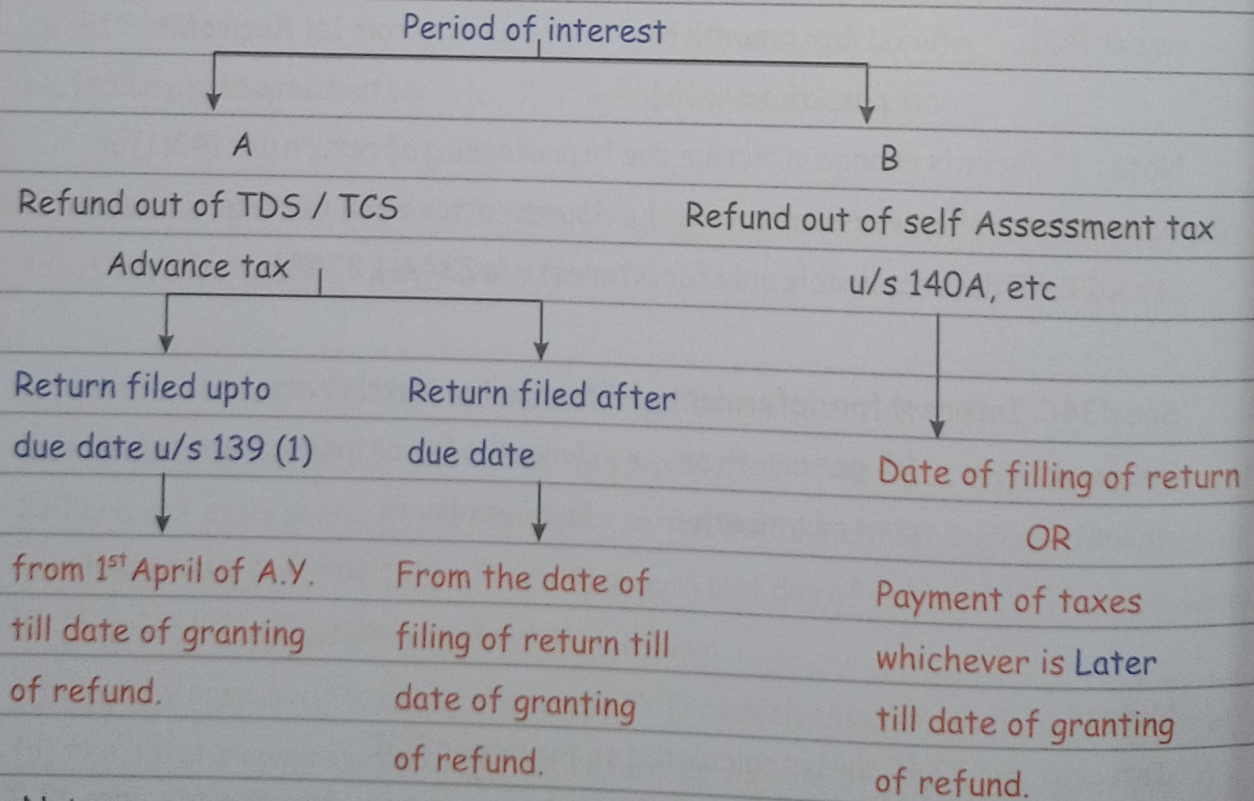
# Sec 234D: Interest on excess refund granted

If refund is granted u/s 143(1) & later on completion of assessment, if either **no refund is found due or the amount refunded is excess**, then the excess refund will have to be paid back by assessee along with int u/s 234D @ 0.5% per month **or part of a month on such excess refund.**

**Period:** From date of granting the refund till date of completion of assessment.

# Sec 244A: Interest on refund.

Simple interest @ 0.5% per month or part of the month will be paid by Dept. on the amount refunded.



Notes :

1. No interest under A & B, if refund is less than 10% of the tax determined u/s 143(1) or on a regular assessment.
2. Interest on refund is **taxable** under IFOS.

Dept can set off refund amount against tax payable after intimating assessee, If deductor deposit excess Tax to Govt, then he is entitled for refund and he is eligible for interest on such excess (Refund) @ 0.5% per month or part of the month from the date on which he claim the refund in prescribed from till the date on which refund is granted.

If refund is due to any other reason (except discussed above) then interest is calculated from the date of payment of tax, penalty till the date on which refund is granted.

#### # Sec 234E: Fee for default in furnishing TDS / TCS Statements

For delayed filing quarterly statement, assessee shall be liable to a mandatory fees of ₹200 per day during which default continues. The fees cannot exceed the amount of TDS deductible. The fees shall be paid before filing of quarterly statement.

#### # Sec 234F: Fee for default in furnishing return of income

Where a person, who is required to furnish a return of income under section 139, fails to do so within the prescribed time limit under section 139(1), he shall pay, by way of fee, a sum of

##### Return furnished

Upto 31 Dec. of A.Y. - ₹ 5,000

After 31 Dec. of A.Y. - ₹ 10,000

However, if the total income of the person does not exceeds ₹5 lakhs, the fees payable shall not exceed ₹ 1,000

#### # Sec 234G: Fee for default relating to statement or certificate

Where research association, university, college, institute, company referred u/s 35(1)(ii)/(iia)/(iii) or institution referred u/s 80G fails to deliver or cause to be delivered a statement (to IT Authority) within the time prescribed, or furnish a certificate within time prescribed (to doner), it shall be liable to pay, by way of fee, a sum of two hundred rupees for every day during which the failure continues.

In both cases (that is, section 35 and section 80G), the amount of fee shall (a) not exceed the amount in respect of which the failure referred to therein has occurred; (b) be paid before delivering or causing to be delivered the statement or before furnishing the certificate.

## # Section : 70 Intra head adjustment

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

### Exceptions:

1. Speculative business loss can be set off against only speculative business income.
2. Specified business loss (sec 35AD) can be set off against specified business income.
3. Long term capital loss (LTCL) can be set off against long term capital gains.
4. Loss from owning & maintaining race horses can be set off against income from owning & maintaining race horses.

## # Section 71: 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 previous year\***.

### Exceptions :-

1. Speculative business loss can be set off against only speculative business income.
2. Specified business loss (sec 35AD) can be set off against specified business income.
3. Long term capital loss (LTCL) can be set off against long term capital gain.
4. Loss from owning & maintaining race horses can be set off against owning & maintaining race horses income.
5. short term capital loss (STCL) can be set off only against STCG & LTCG .
6. Loss from Business cannot be set off against salary.

\* **For carry forward losses Inter-head adjustment Not Allowed**

## # Summary

### (i) Income From Salary

Loss not possible

### (ii) Income From House Property → Loss from HP.

a) Intra head adjustment

b) Inter head adjustment (Max 2,00,000 from AY 2018-19)

c) clf

- (iii) PGBP
- (i) Loss from speculative business
    - a) Set off against speculation business income
    - b) c/f
  - (ii) Loss from specified business
    - a) Set off against specified business income
    - b) c/f
  - (iii) Any other business loss
    - a) Intra head adjustment.
    - b) Inter head adjustment **except salary.**
    - c) c/f
- (iv) Capital Gain
- (i) STCL
    - a) Set off against STCG & LTCG
    - b) c/f
  - (ii) LTCL
    - a) Set off against LTCG
    - b) c/f
- (v) IFOS.
- (i) Loss from Owning & Maintaining race-horses
    - a) Set off against same income
    - b) c/f
  - (ii) Other loss under IFOS
    - a) Intra - head adjustment
    - b) Inter - head adjustment
    - c) **c/f Not Allowed**

Notes:

1. The maximum loss from house property which can be set-off against income from any other head is ₹2 lakhs.
2. It is to be remembered that once a particular loss is carried forward, it can be set off only against the income from the same head in the forthcoming assessment years.

# Carry Forward &amp; Set-off of Losses.

Section	Losses to be carried forward	Brought forward losses set off against	Time Limit	Mandatory filling of return on time
71B	Loss from HP	House Property income	8 years	No
72	Normal business Loss	Business income	8 years	Yes
73	Speculative business loss	Speculative business income	4 years	Yes
73A	Specified business loss	specified business income	Unlimited	Yes
74	Short term capital loss	STCG & LTCG	8 years	Yes
	Long term capital loss	LTCG	8 years	Yes
74A	Loss from owning & maintaining race horses	Income from owning & maintaining race horse	4 years	Yes
32(2)	Unabsorbed depreciation	Any income other than Salary	Unlimited	No

Notes:-

1. Whenever income is exempt then losses does not have any tax treatment means it should be ignored.
2. Loss from any lottery, card games, races, etc are **Not Eligible** for set off &c/f. & Losses cannot be set off against the income referred u/s 115BB i.e lottery income, crossword puzzles, income in TV show, etc.
3. B/f losses from a business can be set off even if such business is **Not continued**.
4. Order for set off of losses.
  - a. Current year depreciation
  - b. B/f loses from Business or profession
  - c. Unabsorbed depreciation
5. If there is income under any head & eligible losses under any other head, such loss shall be first set off against the income before set off & clf of losses (**CBDT circular**).
6. Set off of losses not permissible against unexplained income, investment, money etc, chargeable u/s 68 / 69 / 69A / 69B / 69C / 69D [Sec 115BBE].
7. Sec 79: Carry Forward and Set-Off of Losses in the case of certain companies  
Where a change in shareholding has taken place during the PY in the case of a closely held company, no loss incurred in any year prior to the PY shall be carried forward and set off against the income of the PY, unless on the last day of the PY, the shares of the company carrying not less than fifty-one per cent of the voting power were beneficially held by persons who beneficially held shares of the company carrying not less than fifty-one per cent of the voting power on the last day of the year or years in which the loss was incurred.  
Provided that even if the above condition is not satisfied in case of an eligible start up as referred to in section 80-IAC, the loss incurred in any year prior to the PY shall be allowed to be carried forward and set off against the income of the PY if all the shareholders of such company who held shares carrying voting power on the last day of the year or years in which the loss was incurred, continue to hold those shares on the last day of such PY and such loss has been incurred during the period of seven years beginning from the year in which such company is incorporated.

(Amended by FA 2019)



Following changes in shareholding shall not be considered as a change in shareholding for the purpose of Section 79.

- (i) where the change takes place consequent upon the **death of the shareholder.**
- (ii) where the change takes place by way of **gift of shares to any relative of the shareholder making the gift.**
- (iii) Any changes in shareholding of an Indian company which is a subsidiary of a foreign company as a result of **amalgamation or demerger of the foreign company** subject to the condition that 51% of the shareholders of the amalgamating or demerged foreign company continue to be the shareholders of the amalgamated or the resulting foreign company."
- (iv) Where a change in shareholding takes place in a previous year as a result to a resolution plan approved under the Insolvency and Bankruptcy Code, 2016, after affording a reasonable opportunity of being heard to the jurisdictional Principal Commissioner or Commissioner
- (v) to a company, and its subsidiary and the subsidiary of such subsidiary, where,
  - (i) the Tribunal, on an application moved by the CGu/s 241 of the Companies Act, 2013, has suspended the BOD's of such company and has appointed new directors nominated by the CG, u/s 242 of the said Act; and
  - (ii) a change in shareholding of such company, and its subsidiary and the subsidiary of such subsidiary, has taken place in a PY pursuant to a resolution plan approved by the Tribunal under section 242 of the Companies Act, 2013 after affording a reasonable opportunity of being heard to the jurisdictional Principal Commissioner or Commissioner.

#### Example-1

Loss Incurred by BB Pvt Ltd in PY 18-19 & earned income for PY 19-20

Equity Shareholding on 31/03/19      31/03/20

Mr A                                      34%                                      35%

Mr B                                      33%                                      33%

Mr C                                      33%                                      -

Mr D                                      -    32%

**Losses of PY 18-19 can be set against income of PY 19-20 because 51% or more equity shares held by same persons on 31/03/19 and 31/03/20.**

## Example-2

Loss Incurred by BB Pvt Ltd in PY 18-19 & earned income for PY 19-20

Equity Shareholding on 31/03/19 31/03/20

Mr A	34%	10%
Mr B	33%	10%
Mr C	33%	5%
Mr D	-	75%

Losses of PY 18-19 cannot be set against income of PY 19-20 because 51% or more equity shares not held by same persons on 31/03/19 and 31/03/20. However, if BB Pvt Ltd is eligible start-up as per section 80-IAC then losses of PY 18-19 can be set off because all the shareholders on 31/03/19 continue as shareholders on 31/03/20. (Assume loss incurred in first 7 years of incorporation)

## 8. In case of Amalgamation / Succession (sec 72 A).

	Case	Accumulated Business Losses	Can be Carried Forward By	Time Limit
1.	Amalgamation sec 2(1B)	Amalgamating Co.	Amalgamated Co.	Fresh period of 8 years
2.	Demerger Sec 2(19AA)	Demerged co.	Resulting co.	Remaining period of 8 years
3.	Conversion of Firm/ proprietary into co. Sec 47 (xiii)/(xiv)	Firm / proprietary concern	Successor co.	Fresh period of 8 years
4.	Unlisted co. into LLP Sec 47 (xiiib)	Unlisted co.	LLP	Fresh period of 8 years

Note:-

1. Unabsorbed depreciation can be carried forward by Amalgamated Co. / Resulting Co. / Successor Co. / LLP for unlimited period.

2. Only business losses (except speculative bus loss) can be c/f by successor.

# Section 72A: - Provision Relating to carry forward and set off of Accumulated losses and unabsorbed Depreciation in Amalgamation, Demerger, etc.

Applicability: This section applies where there has been an amalgamation of -

(i) a company owning an industrial undertaking or a ship or a hotel with another company; or

(ii) an amalgamation of a banking company with a specified bank; or

(iii) public sector companies engaged in the business of operation of aircrafts.

Conditions to be satisfied by Amalgamating Co.:-

(1) The Amalgamating Co. should have been engaged in the business for 3 years or more prior to the date of amalgamation.

Example:- A'tion takes place on 01.07.2018 then A'ting Co. should have started the business on or before 01.07.2015.

(2) The A'ing Co. should hold atleast 75% of the Book value of fixed Assets which it held two years prior to date of Amalgamation.

Conditions to be satisfied by Amalgamated Co. :-

(1) The A'ted Co. should continue the business of amalgamating Co. for the period of 5 years from the date of A'tion.

(2) The A'ted Co. should fulfil the prescribed conditions in case there is an A'tion of industrial Undertaking.

The prescribed conditions are as follows :-

The A'ted Co. shall achieve the level of production of at least 50% of installed capacity before the end of 4 years from the date of amalgamation and continue to maintain said minimum level of production till the end of 5 years from the date of A'tion. However, the central Govt on an application made by an A'ted Co. may relax the condition of achieving the level of production or period during which same is to be achieved or both in suitable cases having regard to the genuine efforts made by A'ted Co. to attain the prescribed level of production and circumstances preventing such efforts from achieving the same.

- (3) The A'ted Co. holds continuously for a minimum period of 5 years from the date of A'tion atleast 75% of BV of FA of amalgamating Co. acquired in scheme of A'tion. If, all the above conditions are fulfilled then the accumulated losses and unabsorbed depreciation shall be deemed to be of amalgamated Co. for the PY in which amalgamation was effected i.e. such accumulated losses can be carried forward for another 8 years.

#### # Section 72A :- Deemed Income

In case where any of the above conditions are not complied with, set off loss or allowance of depreciation made in any PY in the hands of A'ted Co. shall be deemed to be the income of the A'ted Co. chargeable to tax in the year in which such conditions are not complied with.

For the purpose of this section, Accumulated losses means Such losses of amalgamating Co. under the head PGBP (not being a speculation loss) which the A'ting Co. would have been entitled to c/f and set off u/s 72 if A'tion had not taken place.

#### Demerger

Allowability of carry forward and set-off of accumulated loss and unabsorbed dep. by resulting company in case of demerger: Where there has been a demerger of an undertaking,

-The accumulated loss and the unabsorbed depreciation directly relatable to the undertaking transferred by the demerged company to the resulting company shall be allowed to be carried forward and set off in the hands of the resulting company.

-If the accumulated loss or unabsorbed depreciation is not directly relatable to the undertaking, the same will be apportioned between the demerged company and the resulting company in the same proportion in which the value of the assets have been transferred.

Conditions for availing benefit under this section: The Central Government is empowered to notify such conditions as it considers necessary to ensure that the demerger or amalgamation is for genuine business purpose.

Industrial undertaking meaning

It means any undertaking which is engaged in -

- (i) the manufacture or processing of goods;
- (ii) the manufacture of computer software;
- (iii) the business of generation or distribution of electricity or any other form of power;
- (iv) providing telecommunication services, whether basic or cellular, including radio paging, domestic satellite service, network of trunking, broad band network and internet services.
- (v) mining;
- (vi) the construction of ships, aircraft or rail systems

# Sec 72AA : C/F and set-off of accumulated loss and unabsorbed depreciation allowance in scheme of amalgamation in certain cases where there has been an amalgamation of—

- (i) one or more banking company with any other banking institution under a scheme sanctioned and brought into force by the CG; or
- (ii) one or more corresponding new bank or banks with any other corresponding new bank under a scheme brought into force by the Central Government u/s 9 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 or u/s 9 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 or both, as the case may be; or
- (iii) one or more Government company or companies with any other Government company under a scheme sanctioned and brought into force by the CG u/s 16 of the General Insurance Business (Nationalisation) Act, 1972,