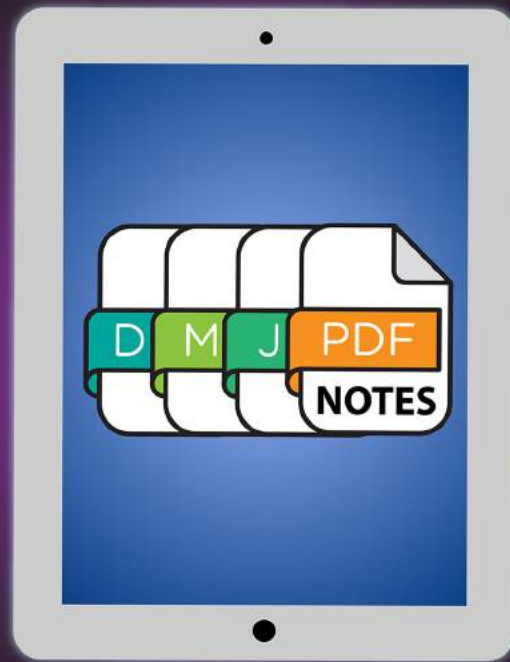




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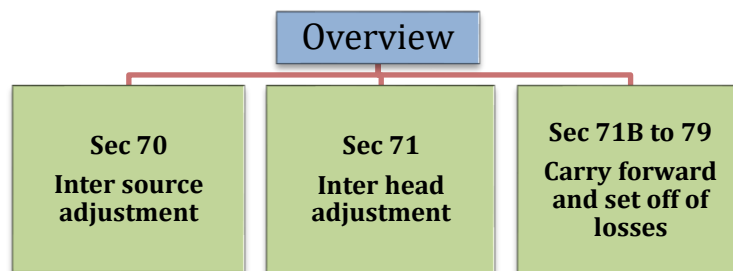
CA Inter

Direct Taxes



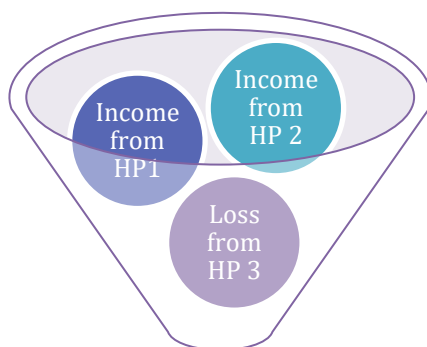
Paper-4A

Set off and carry forward of losses

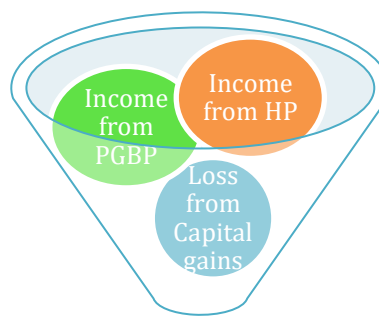


Sec 70 & Sec 71 – Inter source and Inter head set off

- For computation of Gross Total Income (GTI), income from various sources is computed under the five heads of income and aggregated. If certain source(s) or certain head(s) have negative income (i.e. loss) then such loss needs to be adjusted with income of another source(s) or head(s). Set off means adjustment of loss from one source or one head against income from another source or another head.



Sec 70 - Set off of losses from sources covered under same head. Also called Intra head set off



Sec 71 - Set off of losses from sources covered under different head. Also called Inter head set off

- Loss which could not be adjusted shall be carried forward to next year subject to certain conditions and exceptions.
- Sec 71 will be applicable after application of sec. 70.
- Losses which cannot be carried forward should be adjusted first
- Sec. 70 and 71 are mandatory i.e. there is no choice or option whether to set off the loss or not.
- From the clubbed income, one can set off the losses

<u>Exceptions to sec.70</u>			<u>Exceptions to sec.71</u>		
Long term capital loss can be set off only against long term capital gain. short-term capital loss can be set off against any capital gains			Loss under the head 'Capital gains' cannot be set off against income under any other head.		
Loss of a speculation business can be set off only against the profits of a speculation business.			Loss from speculation business cannot be set off against any other income except profits of speculation business.		
Loss of a specified business covered u/s 35AD can be set off only against the profits of other specified business.			Loss of a specified business covered u/s 35AD cannot be set off against income taxable under other head.		
Loss incurred in activity of owning and maintaining race-horses can be set off against income from such activity only			Loss due to activity of owning and maintaining race-horses cannot be set off against any other income except profit from activity of owning and maintaining race-horses		
Loss from a source, income of which is exempt u/s 10, cannot be set off against any income			Loss in excess of Rs.2,00,000 under the head 'Income from house property' cannot be set off with income under other heads of income.		
No loss can be set off against casual income			Loss under the head "Profits and gains of business or profession" cannot be set off from income under the head "Salaries"		
			Loss from a source, income of which is exempt u/s 10, cannot be set off against any income		
			No loss can be set off against casual income		
<u>Sec 70</u> - Loss from any normal business can be set off against income from specified business or income from speculation business.					
<u>Sec 71-</u> Loss under any other head can be set of against income under above exceptions. For e.g. business loss, shall be allowed to be set off against income under the head 'Capital gains', Loss under 'House property' can be set off against any business income including specified business or speculation business.					

* CARRY FORWARD OF LOSS

Section	Loss under the head	Carried forward and set off against	Period for which carry-forward shall be allowed	file return of income on or before time specified u/s 139(1)	own the same house or continue the same business to carry forward
71B	House property	House property	8 assessment years	No.	No.

72	PGBP other than speculation loss	PGBP other than speculation loss	8 assessment years	Yes	No.
32(2)	Unabsorbed depreciation	Any income other than salaries & casual income	Indefinite period	No	No.
73	speculation business	speculation business	4 assessment years	Yes	No.
73A	specified business covered u/s 35AD	specified business covered u/s 35AD	Indefinite period	Yes	No.
74	Long term Capital loss	Long term Capital gains	8 assessment years	Yes	NA
	Short term Capital loss	Any capital gain	8 assessment years	Yes	NA
74A	Activity of owning and maintaining race-horses	Activity of owning and maintaining race-horses	4 assessment years	Yes	Such Activity must be carried on in the previous year in which set off is claimed

- Loss of assessee claiming deduction u/s 35AD in respect of specified business can be set-off against profit of another specified business u/s 73A irrespective of being eligible u/s 35AD.

Points to remember

Sec 41(5)

- Where any part of loss (not being a speculation loss), which arose during the previous year remains unabsorbed in the previous year in which business ceased to exist
- Such loss shall be allowed to be carried forward for any number of years (without restriction of 8 years) against income chargeable to tax u/s 41(1); (3); (4); (4A).
- Such loss can be set off even if the return of loss is not submitted in time

Sec 72

- The business losses can be carried forward, even the business in respect of which the loss was originally computed, is not carried on during the previous year.
- Unabsorbed depreciation, unabsorbed scientific research expenditure and unabsorbed family planning expenditure are not covered by sec. 72. Such losses can be carried forward for any number of years.
- In case of insufficient profit, losses shall be set off in the following order:
 - a) Current year's depreciation [Sec. 32(1)], capital expenditure on scientific research [Sec. 35(1)] and capital expenditure on family planning [Sec. 36(1)(ix)];
 - b) Brought forward business or profession losses [Sec. 72(1)],

- c) Unabsorbed depreciation [Sec. 32(2)], unabsorbed expenditure on family planning [Sec. 36(1)(ix)], unabsorbed capital expenditure on scientific research [Sec. 35(4)]

Sec 73

- Speculative transaction means a transaction in which contract for purchase and sale of any commodity including stock and shares, is periodically or ultimately settled otherwise than by the actual delivery or transfer of the commodity or scripts.
- where any part of the business of a company consists of purchase and sale of shares of other companies,
- such company shall be deemed to be carrying on speculation business to the extent of purchase and sale of shares.
- However, this rule is not applicable in case of companies -
 - a) of which gross total income mainly consists of income which is chargeable under the head "Income from house property", "Capital gains", and "Income from other sources"; or
 - b) of which principal business is the business of trading in shares or banking or granting of loans and advances.
- Notes: Above explanation covers only transactions of purchase and sale of shares. Debentures, units of UTI or of Mutual Funds are not covered by this explanation.

Sec 74A

- Sec. 74A states only about losses from activity of owning and maintaining race horses, other race animals are governed by sec. 72.

