**Presumptive Taxation Scheme u/s 44AD**

To provide relief to small businessmen, the Income Tax Department has incorporated schemes in the Income Tax Law which exempt the assessees from maintaining proper books of accounts and getting them audited. These schemes, more commonly known as Presumptive Taxation Schemes are provided in Section 44AD of the Income Tax Act, 1961.

The **core text of law** of Section 44AD is reproduced below:

(1) Notwithstanding anything to the contrary contained in [sections 28](javascript:ShowMainContent('Act',%20'CMSID',%20'102120000000041571',%20'');) to [43C](javascript:ShowMainContent('Act',%20'CMSID',%20'102120000000041605',%20'');), in the case of an eligible assessee engaged in an eligible business, a sum equal to eight per cent of the total turnover or gross receipts of the assessee in the previous year on account of such business or, as the case may be, a sum higher than the aforesaid sum claimed to have been earned by the eligible assessee, shall be deemed to be the profits and gains of such business chargeable to tax under the head "Profits and gains of business or profession".

(2) Any deduction allowable under the provisions of [sections 30](javascript:ShowMainContent('Act',%20'CMSID',%20'102120000000041572',%20'');) to [38](javascript:ShowMainContent('Act',%20'CMSID',%20'102120000000041594',%20'');) shall, for the purposes of sub-section (1), be deemed to have been already given full effect to and no further deduction under those sections shall be allowed :

**Provided** that where the eligible assessee is a firm, the salary and interest paid to its partners shall be deducted from the income computed under sub-section (1) subject to the conditions and limits specified in clause (*b*) of [section 40](javascript:ShowMainContent('Act',%20'CMSID',%20'102120000000041634',%20'');).

(3) The written down value of any asset of an eligible business shall be deemed to have been calculated as if the eligible assessee had claimed and had been actually allowed the deduction in respect of the depreciation for each of the relevant assessment years.

(4) The provisions of Chapter XVII-C shall not apply to an eligible assessee in so far as they relate to the eligible business.

(5) Notwithstanding anything contained in the foregoing provisions of this section, an eligible assessee who claims that his profits and gains from the eligible business are lower than the profits and gains specified in sub-section (1) and whose total income exceeds the maximum amount which is not chargeable to income-tax, shall be required to keep and maintain such books of account and other documents as required under sub-section (2) of [section 44AA](javascript:ShowMainContent('Act',%20'CMSID',%20'102120000000041398',%20'');) and get them audited and furnish a report of such audit as required under [section 44AB](javascript:ShowMainContent('Act',%20'CMSID',%20'102120000000041399',%20'');).

(6) The provisions of this section, notwithstanding anything contained in the foregoing provisions, shall not apply to—

(*i*) a person carrying on profession as referred to in sub-section (1) of [section 44AA](javascript:ShowMainContent('Act',%20'CMSID',%20'102120000000041398',%20''););

(*ii*) a person earning income in the nature of commission or brokerage; or

(*iii*) a person carrying on any agency business.

*Explanation.*—For the purposes of this section,—

(*a*) "eligible assessee" means,—

 (*i*)  an individual, Hindu undivided family or a partnership firm, who is a resident, but not a limited liability partnership firm as defined under clause (*n*) of sub-section (1) of section 2 of the Limited Liability Partnership Act, 2008 (6 of 2009); and

(*ii*) who has not claimed deduction under any of the [sections 10A](javascript:ShowMainContent('Act',%20'CMSID',%20'102120000000040934',%20'');), [10AA](javascript:ShowMainContent('Act',%20'CMSID',%20'102120000000040935',%20'');), [10B](javascript:ShowMainContent('Act',%20'CMSID',%20'102120000000040936',%20'');), [10BA](javascript:ShowMainContent('Act',%20'CMSID',%20'102120000000040937',%20'');) or deduction under any provisions of Chapter VIA under the heading *"C. - Deductions in respect of certain incomes"* in the relevant assessment year;

(*b*) "eligible business" means,—

 (*i*) any business except the business of plying, hiring or leasing goods carriages referred to in [section 44AE](javascript:ShowMainContent('Act',%20'CMSID',%20'102120000000041606',%20'');); and

(*ii*) whose total turnover or gross receipts in the previous year does not exceed an amount of one crore rupees.

**Analysis of Section 44AD**

**Applicability:**

The scheme designed under Section 44AD is applicable to:

* An Individual
* A Hindu Undivided Family
* A Partnership Firm

(and not to Limited Liability Partnership Firms and Companies)

who is not engaged in the :

* Business of plying, hiring or leasing goods carriages referred to in Section 44AE
* Profession mentioned in Section 44AA i.e. legal, medical, engineering or architectural profession or the profession of accountancy or technical consultancy or interior decoration or any other profession as is notified by the Board in the Official Gazette
* Agency business
* Business where the income is in the nature of Commission and Brokerage

and whose turnover does not exceed One Crore Rupees.

Also, if the total income of the assessee falls below the maximum exemption limit, provisions of Section 44AD does not apply.

**Scheme of Computation of Income:**

In case of an assessee who is willing to opt for these provisions, income will be computed on an estimated basis. The rate of computation of income on an estimated basis is 8% of turnover or gross receipts of the eligible business for the previous year.

**Further Allowance/ Disallowance of Expenses:**

Income computed as per section 44AD (i.e., @ 8% of turnover or gross receipts of the eligible business, for the previous year) will be net income for the business covered under this scheme.

From the net income computed as above, an assessee is not permitted to claim any deduction under sections 30 to 38 (including depreciation or unabsorbed depreciation).

However, in case of **a partnership firm**, separate deduction from the net income computed as per presumptive taxation scheme in respect of remuneration and interest paid to its partners is allowed.

**Provisions relating to maintenance of books of account:**

The scheme gives a great relief to the assessee in respect of maintenance of books of account. An assessee, who adopts the provisions of section 44AD, is not required to maintain books of account as per section 44AA (applicable only for business covered by this section). Further, in respect of such business, the provisions of section 44AB (relating to audit) are also not applicable.

Thus, the scheme relieves the assessee from the maintenance of regular books of account. Apart from giving relief from maintenance of books of account, the scheme also relieves the assessee from audit of books of account.

**Declaration of Lower Income:**

If the assessee declares its business income lower than the prescribed limit of 8% and his total taxable income exceeds the maximum exemption limit, the benefits are no longer available. The assessee shall be required to maintain books as prescribed under section 44AA and also will have to get them audited under section 44AB.

**Declaration of Higher Income:**

As regards the declaration of higher income, i.e., declaring income above the prescribed rate of 8%, the scheme permits the assessee to declare at his option higher income (i.e., higher than 8%).

**Applicability of Advance Tax:**

A person adopting the Presumptive Taxation Scheme u/s 44AD is not liable to pay advance tax in respect of the business covered under section 44AD.

It is to be noted that the assessee whose total turnover crosses One Crore Rupees (or Sixty Lakh Rupees in case of professionals) mandatorily needs to comply with the provisions of Section 44AA and 44AB.

You can get in touch with us for all your queries and concerns in relation to above at [info@dcstax.in](http://www.dcstax.in) or visit us at [www.dcstax.in](http://www.dcstax.in)



**Dudhoria Consultancy Services Pvt. Ltd.**

56, Netaji Subhas Road, 4th Floor, Kolkata – 700001

E-mail us @ [info@dcstax.in](mailto:info@dcstax.in) / [taxdcs@gmail.com](mailto:taxdcs@gmail.com)