

Tax Audit Series - Version 4.0

Chapter 9 – Clauses 18 to 20



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Namaste

In Chapter - 9 of this series, we would discuss the Particulars of Form 3CD Clauses 18 to 20.

Clause 18: Depreciation allowable

This clause requires details of depreciation allowable under the Income Tax Act. Hence non-depreciable assets are not to be disclosed in this clause. The auditor should examine disclosure of the following:

(a) Description of asset/block of assets.

- ‘BLOCK OF ASSETS’, means a group of assets falling within a class of assets comprising –Both Tangible and Intangible assets.
- It is very important to identify the block to which the asset of the assessee pertains and the tax auditor needs to review the nature and usage of the asset to ascertain the correct depreciation rate.
- Auditor should take care that land value of a flat/immovable property is not included in the value of building.
- Ensure opening value of block is matched with closing value of block in income tax return / Form CD Clause 18 of previous assessment year.
- In case the tax auditor doesn’t agree with the classification of block or rate adopted by assessee, then he needs to disclose such fact in his report and draw the attention.

(b) Rate of depreciation.

- Once the classification has been ascertained and checked properly, check the rates of depreciation applicable to each block as per the Income-tax Rules, 1962.

(c) Actual cost or written down value, as the case may be.

- Actual cost of assets should be determined as per the provisions of section 43(1) of the Act and also ensure the compliance of AS – 10.
- For determining actual cost, any expenditure incurred for acquisition of any asset or part thereof in respect of which a payment or aggregate of payments made to a person in a day, otherwise than by an account payee cheque drawn on a bank or an account payee bank draft or use of electronic clearing system through a bank account, exceeds Rs. 10000/- should be ignored / adjusted in terms of 2nd Proviso to section 43(1) inserted w.e.f. AY 2018-19.
- Obtain the copy of Income Tax Return for preceding previous year from the management to ensure the opening WDV of Block of Assets is same as closing WDV

Tax Audit Series - Version 4.0

Chapter 9 – Clauses 18 to 20



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of previous year. The same should also be verified from previous year tax audit report, if audit was conducted in previous year.

(ca) This sub-clause has been substituted w.e.f. 5.3.2024.

- In this sub-clause adjustment of unabsorbed additional depreciation due to companies opting for section 115BAA was, which is for domestic companies which provides option to pay tax at concessional rate of 22% (plus surcharge and cess) was there for AY 2020-21 only.
- Then section 115BAC and 115BAD were substituted, giving similar option for Individuals/HUF and Co-operative Societies respectively for adjustment of unabsorbed additional depreciation due to opting for these sections. The same was also applicable for AY 2021-22 only
- From AY 2024-25 S. 115BAC has been made default regime for individuals, HUF, AOP & BOI. Hence, as the unabsorbed depreciation is not allowed to be set off, if assessee opts to be in new tax regime, the adjustment of the said unabsorbed additional depreciation is allowed by increase in the block). The said adjustment would be allowed for AY 2024-25 only.

(cb) This sub-clause has been inserted w.e.f. 1.4.2021.

- Adjustment made to WDV of Intangible asset due to excluding value of goodwill of a business or profession is to be disclosed.
- Goodwill not being a depreciable asset w.e.f. AY 2021-22, the adjustment to opening WDV of goodwill was required to be made through this sub-clause to arrive at the adjusted opening WDV.

(cc) *Adjusted WDV*

- The adjusted value of WDV is disclosed here after adjustments in clause 18 (ca) & (cb)

(d) *Additions/deductions during the year with dates & adjustments*

- Obtain list of fixed assets purchased during the previous year along with dates of addition as certified by the management and verify the same.
- Where any addition was made, the date on which the asset was put to use is to be reported. Please see that date of addition and date of asset put to use could be different dates and the same should be disclosed accordingly in this sub-clause.
- Actual cost of addition should be reduced by:
 - a) Portion of cost met directly or indirectly by any other person

Tax Audit Series - Version 4.0

Chapter 9 – Clauses 18 to 20



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b) Amount paid exceeding Rs. 10000/- per person per day by other than account payee cheque/draft or ECS or other electronic modes prescribed.

- Obtain list of deductions during the year to assets along with their dates of deduction.
- In respect of deductions, the sale value of the assets disposed of along with dates should be mentioned.
- Borrowing cost of specific borrowing for qualifying asset should also be adjusted to the cost in terms of ICDS IX (Borrowing Costs) read with section 36(1)(iii) and Explanation 8 to section 43(1).
- Check whether there is any adjustment on account of Foreign Exchange Fluctuation / Subsidy / Grant or Other Reimbursements by whatever name called.

(e) *Depreciation allowable.*

- It means depreciation allowable under the Income Tax Act, 1961 and the rules framed thereunder.
- Depreciation is allowed to the assessee u/s 32(1) whether or not he has claimed the deduction of the same. The Tax Auditor should verify the amount of depreciation claimed by the assessee.
- In order to be eligible for depreciation following conditions are necessary:
 - The Asset should be wholly or partly owned by the Assessee.
 - The Asset should be used for the purpose of business or profession.
- Ensure that additional depreciation (for assessee other than in new regimes) is charged as per conditions prescribed in section 32(1)(iia).
- Also ensure where asset is used for less than 180 days in previous year only 50% of the depreciation is charged.

(f) *Written down value at the end of the year.*

- Disclose the closing WDV after adjustments and depreciation during the year.

Clause 19 - Amounts admissible under sections:

32AC,	32AD	33AB	33ABA
35(1)(i)	35(1)(ii)	35(1)(iia)	35(1)(iii)
35(1)(iv)	35(2AA)	35(2AB)	35ABA
35ABB	35AC	35AD	35CCA
35CCB	35CCC	35CCD	35D
35DD	35DDA	35E	Any other relevant section

Tax Audit Series - Version 4.0

Chapter 9 – Clauses 18 to 20



CA. PRAMOD JAIN
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- Please note that 'section 35ABA' and 'any other relevant section' is inserted by the IT (Fourth Amendment) Rules, w.e.f. 5-3-2024
- Clause 19 is applicable to the assessee who claims deduction under any of the above sections. This clause requires the tax auditor to report the amount of deduction admissible to the assessee under certain sections as mentioned therein. The details of amount debited to the P&L A/c and amount admissible as deduction under each section are required to be given.
- The amount covered by these sections are generally debited to P&L A/c. However, deduction under certain sections is also based on the capital expenditure on assets/deposits maintained with designated accounts for specified purposes. These are treated as assets & not debited to P&L A/c. In such case, the ensure it is stated either NIL/NA under the second column of the table in which amount admissible is to be mentioned.
- Though section 35ABA is applicable from AY 2017-18, yet its reporting is made applicable from AY 2024-25.
- While reporting under Clause 19 and certifying various deductions, the Tax Auditor should verify the documentary records in support of the various deductions claimed and also conditions of allowability of various deductions.

Following is the requirement that respective Auditor need to go through:

- Verify the payments/contributions made under above sections with the supporting
- Verify the admissibility of deduction with reference to compliance of the conditions mentioned in the respective sections.
- Verify the amount claimed as deduction and amount debited/not debited to P&L A/c
- Check whether the necessary approval from the prescribed Authorities have been obtained, wherever required
- In case of expenditure on fixed Asset, whether the same has been claimed as deduction under any section. If deduction is claimed on such assets, then depreciation on the same cannot be claimed.
- Check that in case the condition under relevant sections is not fulfilled, then they are treated as deemed profits & gains of business and are taxable in certain cases. In such case, report the same under Clause 24 of Form 3CD.

Clause 20

Clause 20(a) - Any sum paid to an employee as bonus or commission for services rendered, where such sum was otherwise payable to him as profits or dividend. [Section 36(1)(ii)].

Tax Audit Series - Version 4.0

Chapter 9 – Clauses 18 to 20



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- Bonus and commission to employees as per their employment terms is deductible expenditure as these are contractual payments but indirect distribution of dividend/profits in the name of bonus/commission is not deductible expense as the assessee claims expenditure to reduce his income and income tax, hence its disallowed.
- Auditor should carefully examine the bonus and commission paid to employees with their terms of contract of those employees/ directors and need not to check of those who are independent directors.
- Normal bonus and commission to employees as per their employment terms is not to be reported in this clause.

Clause 20(b) - Details of contributions received from employees for various funds as referred to in section 36(1)(va)

- Section 36(i)(va) of the Act permits deduction of any sum received by the assessee from any of his employees (like contributions to any provident fund or superannuation fund or ESI Fund or any other Fund for employees' welfare), if it is credited by the assessee to the account of the employees in the relevant statutory fund on or before the due date.
- The ESIC for a month was to be deposited upto 21st of the next month. However, the same has changed to 15th of next month w.e.f. June 2017.
- The PF must be deposited upto 15th of the next month.
- It is pertinent to note that only employees' contribution is to be reported in this clause and not the employer's.
- The tax auditor should get a list from the assessee where all the contributions received from employees are deposited.
- He should take challans of deposition of contribution as the date and amount on challan is the actual date and actual amount for deposition of the contribution.
- Generally, contribution received from employees are treated as liability and credited to that liability account, so auditor should scrutinize these accounts and compare this with actual contribution deposited.
- Disclosure of the following is to be made:
 - Nature of Fund
 - Sum received from employees
 - Due date of payment
 - Actual amount paid
 - Actual date of payment to concerned authorities
- Due date of payment is the due date as per the relevant law under which sum is received from the employees.

Tax Audit Series - Version 4.0

Chapter 9 – Clauses 18 to 20



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I hope this document is of use to you. I thank *CA. Shreya Jain* in assisting me to compile this part of the series. Your suggestions and comments would be highly appreciated.

Best Regards

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EARLIER CHAPTERS

<i>Chapter No.</i>	<i>Title</i>	<i>Link</i>
1	Applicability	http://lunawat.com/Uploaded_Files/Attachments/F_20303.pdf
2	Turnover	http://lunawat.com/Uploaded_Files/Attachments/F_20304.pdf
3	Audit Report Format	http://lunawat.com/Uploaded_Files/Attachments/F_20305.pdf
4	Clauses 1 to 8A	http://lunawat.com/Uploaded_Files/Attachments/F_20307.pdf
5	Clauses 9 to 12	http://lunawat.com/Uploaded_Files/Attachments/F_20309.pdf
6	Clause 13	http://lunawat.com/Uploaded_Files/Attachments/F_20321.pdf
7	Clauses 14 to 15	http://lunawat.com/Uploaded_Files/Attachments/F_20322.pdf
8	Clauses 16 to 17	http://lunawat.com/Uploaded_Files/Attachments/F_20325.pdf

(Disclaimer: Though full efforts have been made to state the interpretations correctly, yet the author is not responsible / liable for any loss or damage caused to anyone due to any mistake / error / omission)

ABOUT CA. PRAMOD JAIN

He is a commerce graduate [B. Com (H)] from Shri Ram College of Commerce (SRCC). He is a fellow member of the Institute of Chartered Accountants of India (FCA). He is a fellow member of the Institute of Companies Secretaries of India (FCS). He is a fellow member of the Institute of Cost Accountants of India (FCMA). He is a Bachelor of Law (LL. B). He is qualified as an Information System Auditor [DISA (ICAI)]. He is also a member of All India Management Association (MIMA). He is also an Insolvency Professional (IP). He has also passed the Certificate Course on CSR of ICAI. He has also passed the Proficiency Self-

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Assessment Test for Independent Director's Databank. He has passed certification course NCFM of National Stock Exchange of India (NSE). He has also done certification course CAAT and post qualification certificate course on Valuation of ICAI.

He is elected as Central Council Member of ICAI for 2 consecutive terms from 2019 to 2025. Apart from being member in more than 25 committees / groups / directorates of ICAI, and other Bodies he is / was:

- Chairman of Accounting Standards Board (ASB) of ICAI for 3 years from 2022 to 2025
- Deputy Convenor of Centre for Audit Quality Directorate (CAQD) for 2024-25
- Convenor - Members & Students (Grievances Handling & e-Sahayata) Directorate for 2023-24
- Chairman of Accounting & Finance Services Sectional Committee SSD-12 under the Services Sector Division Council (SSDC) of Bureau of Indian Standards (BIS) for 2023-24
- Chairman of Expert Advisory Committee (EAC) of ICAI for Year 2022-23
- Co-Chairman of Corporate Affairs Committee of PHDCCI for the year 2022-23
- Chairman of Committee on International Taxation (CITAX) of ICAI for 2021-22
- Chairman of Taxation Audit Quality Review Board (TAQRB) of ICAI for 2021-22.
- Member of Quality Review Board (QRB) for 2 terms from 2020 to 2026.
- Member of the SME Implementation Group (SMEIG) of IFRS Foundation, UK for 3 years from 2023 to 2026.
- Chairman of Valuation Standards Board (VSB) of ICAI for the year 2020-21.
- Chairman of CSR Committee of ICAI for year 2020-21.
- Vice-Chairman of Committee on MSME & Start-up of ICAI for the year 2021-22.
- Vice-Chairman of Women Members Empowerment Committee (WMEC) of ICAI for 2021-22.
- Vice-Chairman of Direct Tax Committee (DTC) of ICAI for 2 years from 2019 to 2021.
- Vice-Chairman of Committee on International Taxation (CITAX) of ICAI for 2019-20.
- Member of ICAI Disciplinary Committee for the year 2020-21.

He is the conceptualizer of the portal www.expertspanel.in which is a one stop solution for all professional queries which has given more than 36500 answers since its launch in mid of year 2018.

He has delivered more than 1800 lectures and articles on various topics of Income Tax, Corporate Laws, LLP, Audits, Peer Review, Quality Review, etc. at more than 200 forums throughout the country. Most of his presentations and articles since 2013 are available for free download from www.lunawat.com and from 2018 at www.expertspanel.in also.

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He is Senior Partner of M/s LUNAWAT & CO., Chartered Accountants. He is president, founder convener and member of various Boards, Directorate, Committees, Study Circles, etc. of ICAI, ICSI and other prestigious bodies and associations. He has been a Technical Reviewer with Financial Reporting Review Board (FRRB) and Quality Review Board (QRB) and Peer Reviewer with Peer Review Board (PRB).

He has authored books on “Chartered Accountant’s Documentation and Compliance for Audits and Reviews”, *Limited liability Partnership – A Complete Resource Book*”, “Chartered Accountant’s Documentation and Compliance for Audits and Reviews”, “Importance of LLP after Companies Act, 2013”, “Chartered Accountant’s Documentation and compliance under Companies Act 2013, Peer Review and Quality Review”, “Limited Liability Partnership – Law, Procedures and Taxation”, “Documentation for Chartered Accountants”, “Limited Liability Partnership – Law and Procedures with Ready Reckoner”, “Fringe Benefit Tax & Banking Cash Transaction Tax”, “Documentation for Audits” and “Accounting Standards and CARO”.

He has written various articles on taxation, company law and audit in various journals. He has vast practical experience in income tax, audit, corporate laws and LLP.