

# Presumptive Taxation scheme

February 26, 2021

**In news :** The Union Budget 2021-22 proposed to exclude Limited liability partnerships (LLPs) from Presumptive Taxation

## About Presumptive Taxation scheme

A scheme for presumptive taxation was introduced under section 44ADA from the FY FY 2016-17

## Two types of taxation under the scheme

- **Section 44AD of Income Tax Act 1961:** It provides a relaxation to the taxpayers to declare income on a presumptive basis, which should not be less than 8% of the gross turnover or gross receipt during the financial year.
- 1. **Section 44ADA of Income Tax Act 1961:** It offers a scheme of presumptive taxation of profits and gains arising from professions mentioned under Section 44AA(1) of the Income Tax Act, 1961. The benefit of section 44ADA can be taken only by those specified professionals whose annual gross receipts are under Rs 50 lakh.

## More about Section 44ADA

### Scope & Purpose:

- Section 44ADA is a special provision for calculating the profits and gains of **small professionals** in certain circumstances.
- Section 44ADA was introduced to extend the scheme of simplified presumptive taxation to specified professionals.
- Under the presumptive scheme of taxation, profits are presumed at 50% of the gross receipts.

## **Assessee eligible for the Section 44ADA**

The following Indian assessee are eligible:

- Individuals
- Hindu undivided families (HUFs)
- Partnership firms (note that limited liability partnerships are not eligible)

## **Who is eligible for section 44ADA?**

Professionals mentioned under Section 44AA of the Income Tax Act, 1961, whose total gross receipts are less than Rs 50 lakh in a year are the eligible beneficiaries.

## **Eligible professionals under it**

Professionals engaged in the following professions are eligible:

- Interior decorations
- Technical consulting
- Engineering
- Accounting
- Legal
- Medical
- Architecture
- Other professionals, as mentioned below:
  - Movie artists includes a producer, editor, actor, director, music director, art director, dance director, cameraman, singer, lyricist, story writer, screenplay or dialogue writer and costume designers
  - Authorised representative means a person who represents another person for a fee before a tribunal or any authority constituted under any law.
  - It does not include an employee of the person so represented or a person who is carrying on the

profession of accountancy

### **What is the presumptive income offered?**

Higher of the following is offered as presumptive income:

50% of the total receipts from the profession

Income offered by the assessee from the profession

**Budget 2021 update:** Section 44ADA applied to all the assessees being residents in India. Now onwards, it applies only to the resident individual, Hindu Undivided Family (HUF) or a partnership firm, other than LLP.

### **More about Section 44AD**

- Sections 44AD was **introduced by the Finance Act, 1994 with effect from Assessment Year 1994-95**
- Under Section 44AD of presumptive taxation , **small taxpayers with less than 2 crore of turnover are not required to maintain books of accounts** and their profits are presumed to be 8% of their turnover.
- For availing benefit under this scheme, profits where income is credited digitally or through the bank will be considered as 6% as against 8% for cash receipts.
- If a taxpayer opts for presumptive taxation , he will not be allowed deduction for expenses u/s 30 to 38.

### **Who can file return under section 44AD?**

- Section 44AD of presumptive taxation can be opted for below mentioned assessees
  - Resident individuals, HUFs and Partnership firms who have not claimed exemptions under section 10A/ 10AA / 10B/ 10BA (deductions of profits derived from export of articles or things)
  - The firm or individuals gross receipts in the previous year should not be more than 2 crore ( or 5 crores subject to minimum criteria of digital

transaction of more than 95 % of total receipts and payments in budget 2020)

- Individuals or firms engaged in the business of plying / hiring goods carriages cannot adopt these provisions.
- Provided the firm or individual opting for presumptive taxation scheme have to declare minimum 8% profits or 6% in case of digital receipts )

### **Budget 2021 update:**

In an interesting move, a new condition has been added to presumptive income –

If you are opting for the presumptive scheme, you must-

- File presumptive scheme for at least 5 years in continuation.
- If you decide to show and file profits as per regular business (ITR-3) before the end of these 5 years, you will lose presumptive benefits and disallowed from presumptive taxation for the subsequent 5 years.

Please note that 5 years shall be counted starting the year in which you first file usual taxes for such business.

The government is discouraging taxpayers from misusing the scheme and constantly changing their options often. So if you opt for presumptive continue for 5 years and if you want to opt out, you'll be barred from resuming presumptive for a period of 5 years.