

## 19. TAXATION OF SHARES TRANSACTIONS (IN CASE OF BUSINESS)

In Equity Trading with respect to Listed Shares, Investors mainly do either of these below mentioned things or all of them like:

1. Intraday- Buying and selling shares on the same day
2. Delivery based- Buying shares & holding them for a certain time period
3. Doing Futures and Options Trading.

### Taxation of Intraday based transaction

#### CLASSIFICATION UNDER THE RELEVANT HEAD & TAX RATES

When you buy and sell shares on the same day, it is termed “**Intraday**” and it is treated as “**Speculative transaction**” under Income tax laws and therefore, it is classified as “**Speculative Business**”. Any income from business is taxable under the head “**Profit and Gains from Business or Profession**”.

#### Computation of Turnover (to decide AUDIT & other compliances)

Turnover computation in Intraday is different from an ordinary business. Like, when you sell 5 pens of Rs. 50, the turnover is Rs. 250 but turnover of intraday is not calculated in this manner.

Turnover of Intraday is calculated on the basis of “**aggregate sum of absolute differences of positive and negative amounts**”

Here is an easy example with two entries explaining the same

Turnover Calculation for "Intraday"				
Particulars	Buy Value	Sell Value	Profit/Loss	Turnover
HDFCBANK	100,000.00	90,000.00	(10,000.00)	10,000.00
ITC	100,000.00	105,000.00	5,000.00	5,000.00
	<b>2,00,000.00</b>	<b>195,000.00</b>	<b>(5,000.00)</b>	<b>15,000.00</b>

#### Claim of Expenses-

In case of Intraday , Yes, you can claim expenditure that you have incurred to carry on the business like broker commission, demat charges, depreciation on fixed assets that you use to carry on this business, rent (if you're operating through a place where you pay rent), payment to professional consultants if you have taken their services, payment for any subscription which aids you in doing F&O business. You cannot take benefit of any expenditure which is not relatable to doing business of intraday

## **SET OFF AND CARRY FORWARD OF LOSSES**

As discussed earlier, Intraday business is treated as a speculative business and the income tax law allows losses of speculative business to be set off only with gains of speculative business.

Further, losses of speculative business which are not set off are allowed to be carried forward for four assessment years only immediately following the assessment year in which the loss was first computed.

## **Taxation of Delivery based transaction**

### **CLASSIFICATION UNDER THE RELEVANT HEAD & TAX RATES**

**When you buy shares and hold them, the shares are delivered to your demat account and hence, it is termed as “delivery transaction”.** Now, when you sell these shares which were delivered to you, you will either classify this income as a business/profession income or as classify it under the head “capital gains” depending on your intent of holding these shares. **If you’re a trade, you need to classify them under the head business/profession but if you’re an investor, you need to classify them under the head “capital gains”.**

Intention is very important for the classification because if you are keeping it as an investment, it is treated as “capital assets” & therefore, any gains accruing through it is classified under the head “capital gains”. Under capital gains, you have to further see if you have to classify them as “short term” or “long term” which depends on the holding period.

If you hold them for less than 12 months before selling, listed equity shares and equity oriented mutual funds are treated as “short term capital assets” and the gains are classified as “short term capital gains” while if you hold them for more than 12 months and then sell, they are treated as “long term capital assets” and the gains are classified as “long term capital gains”.

Having said that, in majority of the situations, it is beneficial for investors to classify them under the head “capital gains” as a special tax rate of 15% is applicable on short term capital gains and a tax rate of 10% is applicable on long term capital gains (after giving the exemption benefit of one lakh rupees of long term capital gain every financial year) which are much lower if compared with an investor/trader who falls into the tax slab of 30% as income from business/profession is taxable at slab rates of the taxpayer.

On these long-term capital assets, indexation benefit is not given while calculating gains.

Further, one cannot change the classification every year from business or profession to capital gains and vice-versa as per circular 06/2016. Any stance that an investor/trader has once taken cannot be changed in the subsequent years.

### **Computation of Turnover (to decide AUDIT & other compliances)**

#### **A. Delivery based transaction where the intent is to treat it like a “business” (Trader)**

Turnover in this case is calculated like any other normal transaction i.e. by multiplying total no. of shares sold with sale price per share.

Purchase price too is calculated like any other normal transaction i.e. by multiplying total no. of shares bought with purchase price per share.

#### **B. Delivery based transaction where the intent is to treat it like a “capital asset” (Investor)**

Turnover in this case is calculated like any other normal transaction i.e. by multiplying total no. of shares sold with sale price per share.

Purchase price too is calculated like any other normal transaction i.e. by multiplying total no. of shares bought with purchase price per share.

Although, for all long term listed equity shares or equity oriented mutual funds bought up to 31st January



2018, purchase price will be higher of actual cost of acquisition or fair market value as on 31st January 2018 whichever is higher. This concept is called “grandfathering” brought in Finance act, 2018

### **Claim of Expenses-**

#### **A. Can you claim expenditure from income in case of delivery based transaction where the intent is to treat it like a “business”?**

Yes, you can claim expenditure that you have incurred to carry on the business like broker commission, demat charges, depreciation on fixed assets that you use to carry on this business, rent (if you’re operating through a place where you pay rent), payment to professional consultants if you have taken their services, payment for any subscription which aids you in doing this business. You cannot take benefit of any expenditure which is not relatable to doing business of trading in shares.

#### **B. Can you claim expenditure from income in case of delivery based transaction where the intent is to treat it like a “capital asset”?**

In case of delivery based transaction where the intent is to treat it like a “capital asset”, Expenditure which are wholly and exclusively incurred to carry out the transaction will be deductible except for securities transaction tax. Also, any expense of indirect nature will not be allowed.

### **SET OFF AND CARRY FORWARD OF LOSSES**

#### **1. Delivery based transaction where the intent is to treat it like a “business”**

In case of delivery-based transaction when treated as a business, it is treated as normal business transaction and setting off of normal business loss is allowed with any other income except:

- Incomes under the head “salary”.
- Gains of speculative business.
- Gains from businesses specified under section 35AD.

If the losses are not set off completely, these business losses can be carried forward for eight assessment years immediately following the assessment year in which the loss was first computed and, in those years, they are eligible to be set off with incomes earned under the business or profession head except for speculation business or section 35AD business.

#### **2. Delivery based transaction where the intent is to treat it like a “capital asset”**

While setting off, short term capital loss can be set off with both short term capital gains or long-term capital gains while long term capital loss can be set off only any long-term capital gains.

These losses can be carried forward for eight assessment years immediately following the assessment year in which the loss was first computed

## **Taxation of Futures and Options**

Taxation of Futures and Options is simple but there has always been a lot of confusion around it. Let’s unfold them step by step.

To start with, Income from F&O is considered as “business income” and not “capital gains income”. Hence, it is taxable at the slab rates.

Another doubt that generally comes is if it is a speculative business or a normal business. It is treated as a “normal business income” as per income tax laws.

### Computation of Turnover (to decide AUDIT & other compliances)

Turnover computation in F&O is different from an ordinary business & there have been some changes to it recently.

For Futures, the turnover is calculated by adding absolute values of profit or loss made from each trade.

For Options, premium received on sale of options is also to be included in the turnover additionally. However, where the premium received is included for determining net profit, the amount of premium shall not be included in the turnover. It means premium will not be considered if the transactions are squared off. It will be considered if there is physical settlement.

Turnover Calculation for "Options"				
Particulars	Buy Value	Sell Value	Profit/Loss	Turnover
BANKNIFTY2130435200CE	100,000.00	80,000.00	(20,000.00)	20,000.00
BANKNIFTY2130435200PE	100,000.00	105,000.00	5,000.00	5,000.00
		<b>185,000.00</b>	<b>(15,000.00)</b>	<b>25,000.00</b>

Turnover Calculation for "Futures"				
Particulars	Buy Value	Sell Value	Profit/Loss	Turnover
BANKNIFTY21APRFUT	100,000.00	80,000.00	(20,000.00)	20,000.00
BANKNIFTY21FEBFUT	100,000.00	110,000.00	10,000.00	10,000.00
		<b>-190,000.00</b>	<b>(10,000.00)</b>	<b>30,000.00</b>

### Claim of Expenses-

Yes, you can claim expenditure that you have incurred to carry on F&O business like broker commission, demat charges, depreciation on fixed assets that you use to carry on this business, rent (if you're operating through a place where you pay rent), payment to professional consultants if you have taken their services, payment for any subscription which aids you in doing F&O business.

You cannot take benefit of any expenditure which is not relatable to doing F&O business.

### SET OFF AND CARRY FORWARD OF LOSSES

In case of F&O, it is business, it is treated as normal business transaction and setting off of normal business loss is allowed with any other income except:

- Incomes under the head "salary".
- Gains of speculative business.
- Gains from businesses specified under section 35AD.

If the losses are not set off completely, these business losses can be carried forward for eight assessment years immediately following the assessment year in which the loss was first computed and, in those years, they are eligible to be set off with incomes earned under the business or profession head except for speculation business or section 35AD business.