

4

CHAPTER

PERSONS COVERED AND NOT COVERED BY SECTION 44AB

Under section 44AB of the Income-tax Act, 1961, it is obligatory for certain specified persons, carrying on business or profession to get their accounts audited by an 'accountant' and submit a copy of the 'audit report' in prescribed form (Form No. 3CA or 3CB) and such further prescribed particulars (in Form No. 3CD) on or before the 'specified date'.

In this context, the following table clearly explains the applicability or otherwise of the so-called 'tax audit' under section 44AB in respect of different categories of 'persons', viz.,

Sl. No.	Persons carrying on business or profession	Applicability of audit under section 44AB
1	Persons carrying on any business (other than those covered under the provisions of sections 44AD, 44AE, 44BB and 44BBB).	Where 'total sales' or 'total turnover' or 'gross receipts' exceed ₹ 1 crore (with effect from 1.4.2013). Prior to amendment by the Finance Act, 2012, the limit was ₹ 60 lakhs.
2.	Persons carrying on any profession	Where 'gross receipts' in profession exceed ₹ 50 lakhs (with effect from 1.4.2017) in any previous year, section 44AB will be applicable. Prior to amendment by the Finance Act, 2016, the limit was ₹ 25 lakhs.
3.	Persons carrying on any profession covered under the provisions of section 44ADA	If the person claims his income from such profession to be lower than the profits and gains deemed under section 44ADA to be the profits and gains of his business and his income exceeds the maximum amount which is not chargeable to income-tax in any previous year.

Sl. No.	Persons carrying on business or profession	Applicability of audit under section 44AB
4.	Persons carrying on the business under section 44AD.	Section 44AB(e) (as amended by the Finance Act, 2016, with effect from 1.4.2017) provides for compulsory audit in case of business persons who have opted for presumptive taxation under section 44AD. Accordingly, in case of a person carrying on 'eligible business' under section 44AD (if the provisions of sub-section (4) of section 44AD are applicable in his case and his income exceeds the maximum amount which is not chargeable to income-tax in any previous year), the provisions of section 44AB will be applicable.
5.	Persons carrying on the business of plying, hiring or leasing goods carriages, if profits and gains from such business are deemed to be profits and gains under section 44AE.	If the person claims his income from such business to be lower than the profits and gains deemed under section 44AE to be the profits and gains of his business.
6.	Persons carrying on the business of retail trade, if profits and gains from such business are deemed to be profits and gains under section 44AF.	If the person claims his income from such business to be lower than the profits and gains deemed under section 44AF to be the profit and gains of his business. However, this section shall not be applicable from assessment year beginning from 1.4.2011.
7.	Persons who are non-residents, carrying on the business of exploration, etc. of mineral oils, if profits and gains from such business are deemed to be profits and gains under section 44BB.	If the person claims his income from such business to be lower than the profits and gains deemed under section 44BB to be the profits and gains of his business.
8.	Persons, being foreign companies engaged in the business of civil construction, etc. in certain turnkey projects, if profits and gains from such business are deemed to be profits and gains under section 44BBB.	If the person claims his income from such business to be lower than the profits and gains deemed under section 44BBB to be the profits and gains of his business.

Sl. No.	Persons carrying on business or profession	Applicability of audit under section 44AB
9.	Persons, being non-residents, carrying on business of operation of aircrafts, who derive only income referred to in section 44BBA.	Section 44AB will not be applicable to those assesseees who derive income in the nature referred to in section 44BBA and therefore such assesseees need not get their accounts audited under section 44AB (second proviso to section 44AB).
10.	Persons, being non-residents, carrying on business of operation of ships, who derive only income referred to in section 44B.	Section 44AB will not be applicable to those assesseees who derive income in the nature referred to in section 44B and therefore such assesseees need not get accounts audited under section 44AB (second proviso to section 44AB).
11.	Persons carrying on business other than those mentioned above. (All other businesses)	Section 44AB will be applicable in case where 'total sales', 'total turnover' or 'gross receipts' in business exceed ₹ 1 crore in any previous year.
12.	Persons who do not carry on any business or profession	<ol style="list-style-type: none"> 1. Under section 44AB of the Income-tax Act, 1961, it is obligatory only for certain specified persons, who are carrying on business or profession to get their accounts audited by an 'accountant'. 2. In this context, any person who does not carry on business or profession need not get his accounts audited under Section 44AB.
13.	Persons whose incomes are exempt from tax	<ol style="list-style-type: none"> 1. Certain assesseees (like a charitable trust or a co-operative society or a research association) may avail various exemptions of income under different sections of the Income-tax Act, 1961. 2. A trust or association or institution carrying on business may enjoy exemptions, as the case may be, under section 10(21), 10(23A), 10(23B), or section 10(23BB) or section 10(23C) or section 11. Similarly, a co-operative society carrying on business may enjoy deduction under section 80P. 3. Even though the income of such entities may be exempt, if their turnover in business exceeds ₹ 1 crore, they should also get their accounts audited under section 44AB.

Sl. No.	Persons carrying on business or profession	Applicability of audit under section 44AB
		<ol style="list-style-type: none"> 4. This is because neither section 44AB nor any other provisions of the Act stipulate exemption from the compulsory tax audit (under section 44AB) to any person whose income is exempt from tax. 5. In other words, persons who are covered by the Income-tax Act, but whose income is otherwise exempt under the said Act, are required to get their accounts audited under section 44AB. Thus, a charitable trust, a research association or a co-operative society carrying on business will have to get their accounts audited if its sales, turnover or gross receipts in business exceed ₹ 1 crore even if their income is exempt under the Income-tax Act.
14.	Persons whose income is below 'taxable limit'	<ol style="list-style-type: none"> 1. Even if the income of a person is below the taxable limit, as laid down in the relevant Finance Act of a particular year, he will still have to get his accounts audited and furnish such report under section 44AB, if his turnover in business exceeds ₹ 1 crore (₹ 50 lakhs in case of profession) 2. This is mainly because the object of audit under section 44AB is only to assist the Assessing Officer in computing the total income of an assessee in accordance with different provisions of the Act.
15.	Non-resident Indians (NRIs)	<ol style="list-style-type: none"> 1. Section 44AB does not make any distinction between a 'resident' and a 'non-resident' and therefore section 44AB is applicable to NRIs also. 2. In this context, a non-resident assessee is also required to get his accounts audited, if his global business sales or turnover or gross receipts exceed the 'specified limits'. 3. However, tax audit in case of non-residents would be confined only to the India operations carried out by the non-resident assessee. This is because a non-resident is chargeable to income tax in India only in respect of income accruing or arising or received in India.