STATUTORY COMPARISON / MAP-DEFF9D16F220

Residual business expenditure: commercial nexus does not override exclusions

RETAINED | RENUMBERED

1961 ACT / 37 - GENERAL

Section 37(1) permits residual revenue expenditure incurred wholly and exclusively for business, with illegal-purpose and CSR exclusions; section 37(2B) bars political-party publication advertising.

2025 ACT / 34 - GENERAL CONDITIONS FOR ALLOWABLE DEDUCTIONS

Section 34(1) retains the residual test, section 34(2) consolidates exclusions and section 34(3) particularises unlawful-purpose expenditure.

READING CHRONOLOGY

01 Operative provisions / 02 Change analysis / 03 Transition / 04 Compliance / 05 Disputes / 06 Expert Commentary

02 PRECISE CHANGE ANALYSIS

The old sections 30-36 exclusion is recross-referenced in new 34(1) to sections 28-33,44-49,51,52; this is not an unrestricted alternative to specific deductions. Old Explanations 1 and 2 and section 37(2B) become 34(2)(a)-(c). Old Explanation 3(i)-(iv) becomes 34(3)(a)-(d), including notified-law settlement payments. The old deeming phrase 'shall be deemed to have always included' is not repeated; that textual change does not decide liabilities for saved old-law periods.

03 TRANSITION AND EFFECTIVE DATES

Old-law expenditure disputes remain governed by their applicable text and section 536 savings. A settlement expenditure claim requires identification of the notified law; the statutory category must not be read as a ban on every commercial settlement.

04 COMPLIANCE IMPACT

Classify the expenditure under specific provisions before using the residual deduction. For benefits or perquisites, assess the recipient's governing conduct rules as well as the payer's business purpose.

05 ASSESSMENT AND LITIGATION IMPACT

Evidence that spending increased business does not answer a statutory prohibition. Equally, a disallowance for settlement requires the notified-law element in section 34(3)(d), and the CSR exclusion in this residual provision does not itself resolve eligibility under another specific provision.

06 AKHB EXPERT COMMENTARY

Commercial expediency addresses only one part of the deduction inquiry. The residual provision first excludes capital, personal and specifically governed expenditure, then denies categories which Parliament removes from business-purpose treatment. The benefit-or-perquisite limb is particularly exacting because the legal defect may lie in the recipient's acceptance. A reasoned claim or disallowance must identify that governing norm and its breach; generic descriptions such as 'promotional' or 'penal' do not complete the statutory analysis.

STATUTORY SOURCES AND PINPOINTS

Income-tax Act, 1961 - General - 37 - General

Income-tax Act, 2025 - General conditions for allowable deductions - 34 - General conditions for allowable deductions

Income-tax Act, 2025 - Repeal and savings - 536(2)(b)-(c): accrued positions and legacy proceedings; 536(3): earlier-year references where applicable

SOURCE AND ANALYTICAL SCOPE

Whole sections 37 and 34. Referenced deduction sections, recipient conduct laws and settlement notifications have not been independently analysed in this note. Based on CBDT statutory text cached 5 October 2026, consolidation labelled as amended by Finance Act 2026. Corresponding 2025 source page was opened live on 18 October 2026; this is not a Gazette-to-consolidation audit.

Status labels describe the analysed provision and may coexist: a provision can be renumbered and substantively changed. Retained does not certify every surrounding rule or notification. Commentary is separate from the legislation.

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