Minimum Alternate Tax 115 JB
of
Income Tax Act, 1961

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Introduction

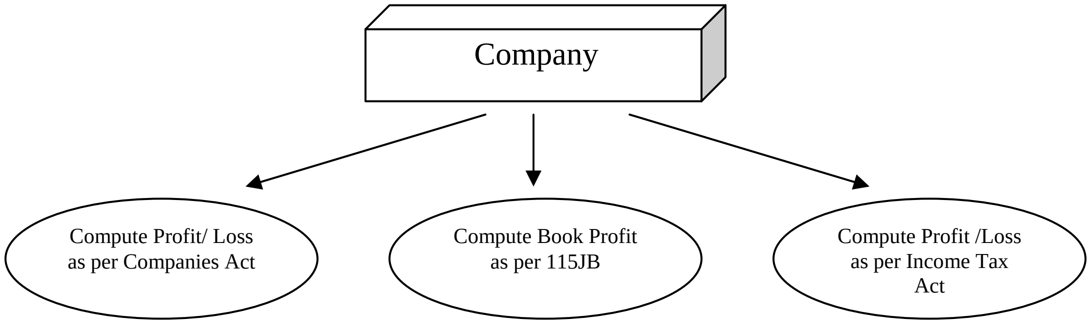
The concept of Minimum Alternate Tax (MAT) was introduced in the direct tax system to make sure that companies having large profits and declaring substantial dividends to shareholders but who were not contributing to the Govt. by way of corporate tax, by taking advantage of the various incentives and exemptions provided in the Income-tax Act, pay a fixed percentage of book profit as minimum alternate tax

Normally, a company is liable to pay tax on the income computed in accordance with the provisions of the income tax Act, but the profit and loss account of the company is prepared as per provisions of the Companies Act. There were large number of companies who had book profits as per their profit and loss account but were not paying any tax because income computed as per provisions of the income tax act was either nil or negative or insignificant. In such case, although the companies were showing book profits and declaring dividends to the shareholders, they were not paying any income tax. These companies are popularly known as *Zero Tax companies*.

In order to bring such companies under the income tax act net, section 115JA was introduced w.e.f assessment year 1997-98. According to this section, if the taxable income of a company computed under this Act, in respect of previous year 1996-97 and onwards is less than 30 % of its book profits, the total income of such company is chargeable to tax for the relevant previous year shall be deemed to an amount equal to 30 % of such book profits.

The Finance Act, 2000, inserted section 115JB of the Income-tax Act, 1961, with effect from 1-4-2001, i.e., from the assessment year 2001-02 providing for levy of Minimum Alternate Tax on companies. Section 115JB conceptually differs from erstwhile section 115JA, which provided for MAT on companies, so far as it does not deem any part or the whole of book profit as total income. However, the new provision of section 115JB provides that if tax payable on total income is less than 7.5% of book profit, the tax payable under this provision shall be 7.5% of book profit.

The Finance Act, 2009 changes increased the MAT rate form 10% to 15% which will result in higher cash outflow for Zero Tax companies. At a time, when most industries are facing credit crunch, imposing higher tax, for which credit may be available in future, seems to be out of sync with the finance minister's claim that this Budget is the first stimulus for the economy. Besides the rate hike, the base for MAT has also been raised. Till now, any decline in the value of assets could be netted off to arrive at the base for calculating MAT. Not any more. Now, any diminution in the value of assets will have to be added back to the book profit, which serves as the base.



Computation of Book Profit

In case of a company, it has been provided that where 15% of Book Profit exceeds tax on total income, the book profit shall be deemed to be the total income of the company & the tax payable on such income shall be 15% thereof. Surcharge 10% (in case of Foreign company it will be 2.5%) will be levied if book profit exceeds One crore, Education cess @ 3% shall be added on the aggregate of tax & surcharge.

For the purpose of computation of Book Profit, company has to prepare its Profit & Loss account as per normal provisions of the companies Act & following accounting policies & Accounting standards applicable to the company. In case where company is following different financial year then the previous year then also company has to prepare Profit & Loss account following the above mentioned provisions.

Book profit means the net profit as **shown in the profit and loss account** for the relevant previous year as **increased by**:

1. the amount of income-tax paid or payable, the amount of Income tax includes any interest; dividend distribution tax, surcharge, education cess; or
2. the amount of deferred tax & the provision thereof;
3. the amounts carried to any reserves, [other than a reserve specified under section 33AC;] or
4. the amount set aside to provisions made for meeting liabilities, other than ascertained liabilities; or
5. the amount by way of provision for losses of subsidiary companies; or
6. the amount of dividends paid or proposed ; or
7. the amount of expenditure relatable to any income to which section 10, other than section 10(23G) or section 10A or section 10B or section 11 or section 12 apply ; or
8. the amount of depreciation, (Inserted by Finance Act,2006 ,w.e.f. 01-04-2007)

Further the following shall be reduced from the Net Profit as per Profit & Loss Account:

1. the amount withdrawn from any reserve or provision if such amount is credited to profit & Loss account; or
2. the amount of income (exempt) to which any of the provisions of section 10, other than section 10(23G) or section 10A or section 10B or section 11 or section 12 apply, if any such amount is credited to the profit and loss account; or
3. the amount of depreciation debited to the profit and loss account (excluding the depreciation on account of revaluation of assets); or
4. the amount withdrawn from revaluation reserve and credited to the profit and loss account, to the extent it does not exceed the amount of depreciation on account of revaluation of assets; or
5. the amount of loss brought forward or unabsorbed depreciation, whichever is less as per books of account;

   Explanation .For the purposes of this clause,

   (a) the loss shall not include depreciation;
   (b) the provisions of this clause shall not apply if the amount of loss brought forward or unabsorbed depreciation is nil; or
   * the amount of profits eligible for deduction under Section 80HHC, 8OHHE, 80HHF

6. the amount of profit of a sick industrial company for the years commencing from the year in which the said company has become sick Industrial company under the relevant act & ending with the year in which the entire net worth of such company becomes equal to or exceeds the accumulated losses; or
7. the amount of deferred tax credited to Profit & Loss account.

Format of Computation of Tax u/s 115JB

The following table summaries the provisions of computation of book profit & the tax u/s 115JB.

Step I		**Net Profit as per Companies Act**	**X X X X**
		Add: Additions as per section 115JB	X X X
		Sub Total--------------------	X X X X
		Less: Deductions as per section 115JB	X X X

		Book Profit	**XXXX**
	A	Compute Tax @ 15% of Book Profit	**XXX**
Step II		**Total Income as per Income tax provisions**	X X X X
	B	Compute tax on Total Income as per normal provisions of Income tax	X X X
	C	Higher of A or B shall be Tax Payable u/s 115JB	X X X
		Add: Surcharge @ 10% or 2.5% for Domestic or foreign company respectively **	X X X
		Sub Total-----------------	X X X X
		Add: Education & Higher & secondary Education cess @ 3%	X X X
		Total Tax, Surcharge & Cess Payable	**XXXX**

A numerical illustration:-

ABC Ltd. had its computed total income at Rs.100 lakhs and its book profit as computed under section 115JB is Rs.600 lakhs. In such an event, the following would be the calculation of MAT tax liability under section 115JB for assessment year 2010-2011 as discussed above
Answer:

	Particulars	**As per Normal Provisions IT**	**As per Section 115JB**
	Total Income or Book Profit	Rs. 100 Lakhs	Rs. 600 Lakhs
	Tax Liability 30% or 15%	**Rs. 30 Lakhs**	**Rs. 90 Lakhs**
	Add Surcharge 10%	Rs. 3 Lakhs	Rs. 9 Lakhs
	Sub Total------	Rs. 33 Lakhs	Rs. 99 Lakhs
	Add. Edu. Cess & S& H Edu. Cess @ 3%	Rs. 0.99 Lakhs	Rs. 2.97 Lakhs

	Total Tax	Rs. 33.99 Lakhs	Rs. 101.97 Lakhs
	Income Tax Payable by Assessee	**NA**	**Rs. 101.97 Lakhs**

MAT Credit :-
As per section 115JAA, MAT credit can be carried forward for set-off against regular tax payable during the subsequent years subject to certain conditions, as under:-

1. If MAT is paid u/s 115JA its credit can be carried forward and utilized Five assessment year immediately succeeding the assessment year in which tax credit becomes allowable under sub-section (1) of section 115JAA.
2. If MAT is paid u/s 115JB its credit can be carried forward and utilized Seven assessment year immediately succeeding the assessment year in which tax credit becomes allowable under sub-section (1A) of section 115JAA. (Inserted by Finance Act,2006 ,w.e.f. 01-04-2007)
3. The credit allowed will not bear any interest.

A numerical illustration:-

A.Y.	**1**	**2006-07**	**2007-08**	**2008-09**	**2009-10**	**2010-11**	**2011-12**
Normal tax liability	2	100	120	150	180	200	225
Tax liability u/s. 115JB	3	300	90	110	200	150	175
Tax payable by the assessee [Higher of (2) and (3)]	4	**300**	**120**	**150**	**200**	**200**	**225**
Additional tax liability (4) - (2)	5	200	NIL	NIL	20	NIL	NIL
Credit u/s. 115JAA utilised	6	-	30 #	40	-	50	50
Credit available for carry forward	7	200	170	130	150	100	50*

Even though credit of 200 is available, only 30 can be utilised so that the tax payable by the assessee does not go below the amount computed u/s. 115JB.

* Out of the credit of 50, 30 is belonging to A.Y. 2006-07 and 20 belongs to A.Y. 2009-10. In view of provisions of sub-section (3) of section 115JAA the credit of 30 will not be allowable after A.Y. 2011-12 and would accordingly lapse. However, credit of 20 pertaining to A.Y. 2009-10 would be allowed to be carried forward till A.Y. 2014-15.

Special Provision for Certain Companies:-

Special provisions were set in the statute to provide complete tax holiday for newly established undertakings in FTZ, EHTP, STP (Section 10A) and for newly established 100% export-oriented undertakings (Section 10B). This complete tax holiday is available for first 10 AYs. Units covered under Section 10A and Section 10 B was immune from the levy of MAT. Also income accrued or arising after 31st March 2005 from any business / services set up in SEZ was exempted from levy of MAT.

Payment of Advance tax:-
All companies are liable for payment of advance tax having regard to the provisions contained in new section 115JB. Consequently, the provisions of sections 234B and 234C for interest on defaults in payment of advance tax and deferment of advance tax would also be applicable where facts of the case warrant

Procedure for Income Tax Return :-
Every company to which this section applies, shall furnish a report in the prescribed form (Form 29B) from an accountant as defined in the Explanation below sub-section (2) of Section 288, certifying that the book profit has been computed in accordance with the provisions of this section along with the return of income filed under sub-section (1) of Section 139 or along with the return of income furnished in response to a notice under clause (i) of sub-section (1) of section 142.

Accounting Treatment of MAT is done as per Guidance Note on Accounting for Credit available in Respect of Minimum Alternate Tax under the Income Tax Act, 1961.