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MAT & AMT

Minimum Alternate Tax (MAT) is levied on **COMPANIES** as per section 115JB of the Income Tax Act, 1961.
And
Alternate Minimum Tax (AMT) is levied on Limited Liability Partnerships (LLPs) as per section 115JC.

SECTION 115JB
MINIMUM ALTERNATE TAX on COMPANIES

It is provided that in case of company (DOMESTIC OR FOREIGN), if the income-tax payable on the total income computed under the Income-tax Act, is **less than 18.5% of its book profit**, such book profit shall be deemed to be the total income of the assessee and

- The tax payable by the assessee on such total income shall be
  - ☞ the amount of income-tax at the rate of 18.5%
  - ☞ add surcharge, if applicable, i.e., 5% for domestic companies and 2% for foreign companies, where the total income exceeds Rs. 1 crore and
  - ☞ education cess @2% and secondary and higher education cess@1% shall be added on the aggregate of income-tax and surcharge

Under section 115JB (1),

- a **COMPANY** is required to pay a Minimum Alternate Tax (MAT)
- at the rate of **18.5% on its book profit**,
- If the Income Tax Payable on the total income, as computed under the Income Tax Act is **less than** such **Minimum Tax**.

The book profit of a company

- under section 115JB for the purposes of computing MAT
- is determined
- as net profit as per **Profit And Loss Account**
- With Upward and Downward Adjustments as specified in the section.

Note :

- Section 115JB(2) requires every company to prepare its profit and loss account for the relevant previous year in accordance with the provisions of parts II and III of Schedule VI to the Companies Act, 1956.

- The net profit as shown in the profit and loss account prepared as per section 115JB (2) has to be increased or decreased by the adjustment given in Explanation 1 to section 115JB to arrive at the "book profits" for levy of minimum alternative tax.
- The Ministry of Corporate Affairs revised Schedule VI to the Companies Act, 1956 on 28th February, 2011 pertaining to the preparation of balance sheet and profit and loss account under the Companies Act, 1956.
- The revised Schedule VI would be applicable for the balance sheet and profit and loss account to be prepared for the financial year commencing on or after 01.04.2011 i.e. F.Y. 2011-12.
- **However, no corresponding amendment has been made so far in section 115JB to give effect to the above revision**.
- Therefore, the problems relating to minimum alternative tax under this chapter are worked out as per the existing provisions of section 115JB.

Calculating Book Profit

For the purposes of this section, "book profit" means the net profit as shown in the profit and loss account for the relevant previous year,

As Increased by the following amounts debited to Profit and Loss Account;

1. Income-tax paid or payable, and the provision thereof, including
   - ☞ any tax on distributed profits under section 115-O or on distributed income under section 115R,
   - ☞ any interest charged under this Act,
   - ☞ surcharge, if any, as levied by the Central Acts from time to time,
   - ☞ Education Cess on income-tax, if any, as levied by the Central Acts from time to time; and
   - ☞ Secondary and Higher Education Cess on income-tax, if any, as levied by the Central Acts from time to time.
2. Transfer to Reserves (Other than Section 33AC – w.e.f. AY 2003-2004)
3. Amount set aside to meet unascertained liabilities,
4. Provision for losses of Subsidiaries,
5. Dividends Proposed or Paid,
6. Expenditure relatable to Income (eligible for deduction from Book Profit) exempt under section 10 or 11 or 12,
7. Amount of depreciation, including amount of depreciation on Re-valued amount of Fixed Asset,
8. Amount of deferred tax and the provision thereof,
9. Amount or amounts set aside as provision for diminution in the value of any asset.

Amounts to be Reduced

Such Net Profit, as increased, shall be reduced by the following amounts:

Only, if credited to the Profit and Loss Account: -

1. Amount withdrawn from reserves created
2. Income exempt under section 10 [**other than 10(38)**] or 11 or 12,
3. Amount of Deferred Tax
4. Amount withdrawn from Revaluation Reserve to the extent it does not exceed the depreciation on re-valued amount of Fixed Asset charged to Profit and Loss Account
5. Amount of depreciation, excluding amount of depreciation on Re-valued amount of Fixed Asset,
6. Lower of the following: -
   a. Brought Forward Loss (as per Books) – Loss does not include Depreciation,
   b. Unabsorbed Depreciation (as per Books),
7. Amount of Profits of Sick Industrial Company, during the period of sickness.

Section 115JAA
Set-off of credit of tax paid under section 115JB

Further the amount of tax paid under the said section i.e. u/s 115JB(1)

- is allowed
- to be carried forward and set off
- against tax payable
- up to the **10th Assessment Year**
- immediately succeeding the assessment year in which the tax credit becomes allowable
- under the provisions of **section 115JAA.**

(1) This section provides that where tax is paid in any assessment year in relation to the **DEEMED INCOME** under section 115JB(1), the excess of tax so paid over and above the tax payable under the other provisions of the Income-tax Act, **will be allowed as tax credit in the subsequent years.**

(2) The tax credit is, therefore, the **difference between the tax paid under section 115JB (1) and the tax payable on the total income** computed in accordance with the other provisions of the Act.

(3) The tax credit shall be **allowed to be set off** in a year in which tax becomes payable on the total income computed in accordance with provisions of the Act other than section 115JB.

(4) This tax credit is **allowed to be carried forward for ten assessment years** succeeding the assessment year in which the credit became allowable.

(5) Such credit is allowed to be set off against the tax payable on the total income in an assessment year in which the tax is computed in accordance with the provisions of the Act, other than 115JB, to the extent of excess of such tax payable over the tax payable on book profits in that year.

(6) In case of conversion of a **private company or unlisted public company into an LLP**, the tax credit under section 115JAA for MAT paid by the company under section 115JB **would not be allowed to the successor LLP**.

Alternate Minimum Tax for certain Limited Liability Partnerships

- The LLP has features of both a body corporate, as well as a traditional partnership.
- The Income-tax Act provides for the **same taxation regime** for a limited liability partnership as is applicable to a partnership firm.

When the AMT is Applicable?

Where the regular income-tax payable for a previous year by a limited liability partnership is

- ☞ less than the AMT payable for such previous year,
- ☞ the adjusted total income shall be deemed to be the total income of the limited liability partnership for such previous year and
- ☞ It shall be liable to pay income-tax on such total income at the rate of 18.5 per cent.

A Limited Liability Partnership, being treated as a firm for taxation, has the following tax advantage over a company under the Income-tax Act:

- it is **not subject to** Minimum Alternate Tax;
- it is **not subject to** Dividend Distribution Tax; and
- It is **not subject to** surcharge.

A new Chapter XII-BA containing special provisions relating to certain limited liability partnerships has been inserted in the Act**.**

As per the provisions of new Chapter XII-BA,

- where the regular income-tax payable
- for a previous year
- by a Limited Liability Partnership
- is **less than** the Alternate Minimum Tax
- payable for such previous year,
  then
- the **Adjusted Total Income** shall be deemed to be the **Total Income** of such limited liability partnership and
- it shall be liable to pay income-tax on such total income
- at the rate of **18.5%.**

For the purpose of the above,

- "**Adjusted Total Income**" shall be the total income
  - before giving effect to this newly inserted Chapter XII-BA
  - **as increased**
  - by the deductions claimed
    - o under any section included in Chapter VI-A under the heading C : "Deductions in respect of certain incomes"
      and
    - o deduction claimed under section 10AA;

- "**Alternate Minimum Tax"** shall be the amount of tax computed on **Adjusted Total Income** at a rate of 18.5%
  And
- "**Regular Income-Tax**" shall be the income-tax payable for a previous year by a limited liability partnership on its total income in accordance with the provisions of the Act **other than the provisions of this newly inserted Chapter XII-BA.**

- It is further provided that the credit for tax (tax credit) paid by a limited liability partnership under this newly inserted Chapter XII-BA shall be allowed to the extent of the excess of the alternate minimum tax paid over the regular income-tax.

- This **tax credit shall be allowed to be carried forward up to 10th assessment year** immediately succeeding the assessment year for which such credit becomes allowable.

- It shall be **allowed to be set off** for an assessment year in which the regular income-tax **exceeds** the alternate minimum tax to the extent of the excess of the regular income-tax over the alternate minimum tax.

Applicability

- This amendment take effect from 1st April, 2012 and will, accordingly, apply in relation to the assessment year 2012-13 and subsequent years.

Tax Credit for AMT u/s 115JD

- The credit for tax paid by a limited liability partnership under section 115JC shall be allowed to it in accordance with the provisions of this section.
- The tax credit of an assessment year to be allowed shall be the excess of AMT paid over the regular income-tax payable of that year.
- No interest shall be payable on tax credit allowed.
- The amount of tax credit shall be carried forward and set off. But such carry forward shall not be allowed beyond the tenth assessment year immediately succeeding the assessment year for which tax credit becomes allowable.
- In any assessment year in which the regular income-tax exceeds the AMT, the tax credit shall be allowed to be set off to the extent of the excess of regular income-tax over the AMT and the balance of the tax credit, if any, shall be carried forward.
- If the amount of regular income-tax or the alternate minimum tax is reduced or increased as a result of any order passed under this Act, the amount of tax credit allowed under the section 115JC shall also be varied accordingly.