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Section 115-O: Tax on Distributed Profits of Domestic Companies

- The Domestic Company shall, in addition to the income tax chargeable in respect of its total income, be liable to pay additional income tax on any amount
  - declared, distributed or paid
  - by such company
  - by way of dividend **(whether interim or otherwise),**
  - whether out of current or accumulated profits.

- Such dividend distribution tax shall be payable @ 15% plus surcharge @ 5% plus education cess @ 2% plus SHES @ 1% of amount so declared, distributed or paid.

- The amount referred to in Sec. 115-O (as above) i.e. dividend to be distributed
  - shall be reduced by
  - the amount of dividend, if any, received by the domestic company during the financial year, if;
    - such dividend is received from its subsidiary; and
    - the subsidiary has paid tax which is payable under this section on such dividend (inserted by the F.A., 2012 w.e.f. 01.07.2012)

✓ **Section 115–O of the Act provides that dividend liable for DDT in case of a company is to be reduced by an amount of dividend received from its subsidiary after payment of DDT if the company is not a subsidiary of any other company. This removes the cascading effect of DDT.**

✓ However, that the same amount of dividend shall not be taken into account for reduction more than once.

✓ A company shall be called a subsidiary of another company, if such other company, holds more than 50% of nominal value of equity share capital of the company.

✓ The holding company should **not be** a subsidiary of any other company i.e. **benefit u/s 115-O (1A) is available only to the ultimate holding company**. But ultimate holding company can claim the benefit on dividend received from multiple subsidiary companies.

✓ Dividend received from other type of subsidiaries i.e. subsidiaries having Controlling composition of board; sub-subsidiaries, joint venture, etc. **shall not qualify** benefit u/s 115-O (1A).

✓ The expression ‘dividend’ shall have the same meaning as is given in clause (22) of Section 2, **but shall not** include sub-clause (e) of clause (22) of Section 2.

✓ Dividend u/s 2(22)(e) is not covered by this Chapter and the same shall be taxable in the hands of the shareholder and the company **shall not pay tax on such dividend**.

Due Date :

- The principal officer of the domestic company and the company shall be liable to pay the tax on the dividend distribution profit within 14 days from the date of declaration or distribution or payment of any dividend, whichever is earlier.

- The tax on the dividend distribution profit shall be payable **whether or not** the domestic company is liable to pay income tax on its total income computed in accordance with the provision of this Act.

- The tax on dividend distribution profit shall be treated as the final payment of the tax in respect of the amount declared, distributed or paid as dividends and no further credit shall be claimed by the company or by any other person in respect of the amount so paid.

- The company or the shareholder shall not be allowed any deduction in respect of the amount which has been charged to tax or the tax thereon under Sec. 115-O(1).

- The interpretation of this clause is that no deduction shall be allowed to the shareholder under any provision of the Income tax Act, 1961 in respect of any expenditure which he has incurred on collection or earning of the dividend (Sec. 14A). No deduction shall be allowed to the company under any provision of the Income Tax Act, 1961 in respect of the dividend so paid or tax thereon.

- The distributed profit on which tax is paid u/s 115-O(1) shall be exempted in the hands of share holder u/s 10(34).

- The tax on distributed profits shall be payable by domestic company whether or not such profit is distributed out of current year profit or accumulated profit.

- Dividend received from a foreign company is not covered by Sec.115-O and shall not be exempted in the hands of shareholders u/s 10(34). Such dividend is taxable in the hands of shareholder at the normal tax rates.

- Dividend on both preference shares and equity shares shall be considered.

Sec. 115-O(6)

Exemptions for Companies Developing, Operating or Maintaining SEZ

- No tax on distributed profits shall be chargeable in respect of the total income of an undertaking or enterprise engaged in developing or developing and operating or developing, operating and maintaining a Special Economic Zone for any assessment year on any amount declared, distributed or paid by such Developer or enterprise, by way of dividends (whether interim or otherwise) on or after the 1st day of April, 2005 out of the current income either in the hands of the Developer or enterprise or the person receiving such dividend.
- **The provision of this sub-section is eliminated with effect from 1-6-2011.**
- **Accordingly dividend distribution tax is chargeable on amount declared, distributed by way of dividend by the said undertaking or enterprise after 1-6-2011.**