TAXATION OF DIVIDENDS UNDER INCOME TAX ACT , 1961

Any income by way of dividends referred to in section 115-0 shall be exempt from income tax

Indian Company

Foreign Company

Indian Company
All Dividend ***exempt from tax in the hands of the shareholders*** but the company is liable to pay Dividend Distribution tax, except in case of dividend referred to in clause 2(22)(e).

Foreign Company
All Dividend received from foreign company *are liable to tax* in the hands of the shareholders

Five category of distributions are treated as deemed dividend.

SECTION 115-0(1): TAX ON DISTRIBUTED PROFITS OF DOMESTIC COMPANIES

In addition to the income-tax on total income of a domestic company for any assessment year :-

- any amount declared, distributed or paid by such company
- by way of dividends (whether interim or otherwise).
- whether out of current or accumulated profits

shall be charged to dividend distribution tax @ 15%.

Payable even if no income tax is payable by a domestic company on its total income

DDT should be paid to the credit of the Central Government within fourteen days from the date of

- declaration of any dividend: or
- distribution of any dividend; or
- payment of any dividend,

whichever is earlier.

No deduction shall be allowed to the company or a shareholder for DDT or any expense on dividend income

“Dividends" for Section 115 O are as referred in of section 2 (22) except sub - clause (e) thereof

No DDT on SEZ company – developing, developing & operating, developing, operating & maintaining

SECTION 115-0 (IA) - Credit for dividend received from subsidiary

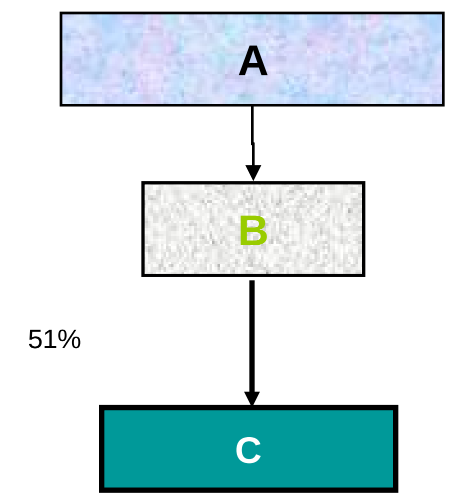
To mitigate cascading effect of DDT, relief is provided that dividend received by a company which is liable to DDT shall be reduced by dividend (for same FY) which satisfies the following conditions :-

Conditions

Received from its subsidiary

Subsidiary has paid DDT on such dividend

Hold Co is not a subsidiary of another co.



Company shall be subsidiary for reduction where another company holds more than half in nominal value of the equity share capital of the company. Further, same amount of dividend shall be taken into account for reduction only once .

DDT – Certain other Notes

Interest payable for non-payment of tax by domestic companies	Simple interest @ 1% for every month or part thereof where the entire DDT payable is not paid within prescribed time from period beginning on the date immediately ,after the last date on which such tax was payable and ending with the date on which tax ax is actually paid. .
Company is deemed to be in default	Principal *officer* and company deemed to be an assesses in default for non payment of DDT as per the provision of this Section.
Section 271 (c): penalty	If any person fails to pay the whole or any part of the tax as required under section 115-0, then such person shall be liable to pay a penalty of a sum equivalent to the amount of tax he has failed to pay.
Section276 (b) prosecution	If any person fails to pay the whole or any part of the tax as required under section 115-0, then such person shall be punishable with rigorous imprisonment for a term which shall not be less than 3 months, but which may extend to 7 years and with fine.

Loans & advances (other than in ordinary course of business) by closely held company deemed as dividend

Payor	Payment by a company not being a company in which public are substantially interested
Nature of Payment	of any sum by way of loan or advance
	Beneficial shareholder of not less than 10% of voting power
	to any concern in which such a shareholder is a member or a partner and in which he has a substantial interest
	to any person on behalf of or for the individual benefit of such a shareholder

Treated as dividend to the extent to which the company possesses accumulated profits

Distribution of Accumulated profits to Shareholders entailing release of assets of the company is treated as dividend (Section 2(22)(a))

Extent	Treated as dividend to the extent to which the company possesses accumulated profits , whether capitalized or not
COA in shareholders hands	Cost of acquisition in hands of shareholders is cost of assets in the hands of the company
Calculation of dividend	Dividend amount is calculated based on MV of the asset on date of distribution

Distribution by a company of debentures, debenture-stock etc. deemed as dividend - (Section 2(22)(b))

Payor	Distribution by a company
Nature of Payment 1	debentures, debenture-stock, or deposit certificates in any form, whether with or without interest
Recipient 1	Shareholders
Nature of Payment 2	Bonus shares
Recipient 2	Preference shareholders

Treated as dividend to the extent to which the company possesses accumulated profits , whether capitalized or not

SECTION 2(22)(c) and (d) : DISTRIBUTION OF ASSETS ON LIQUIDATION/REDUCTION OF CAPITAL

.	.
Case 1	
Payor	Distribution by a company in liquidation
What is paid	Assets
Case 2	
Payor	Distribution by a company on reduction of capital
What is paid	Distribution in any form

Treated as dividend to the extent to which the company possesses accumulated profits , - In case of company in liquidation, profits immediately before its liquidation, whether capitalized or not

All profits upto the date of distribution or payment. Except for 2(22)(c) wherein all profits upto the date of liquidation.

Exceptions – Dividend shall not include

Advance or loan made by money lending company in the ordinary course of business

Dividend offset against loan which is deemed dividend under section 2(22)(e).

Buy back of shares in accordance with the provisions of section 77A of the Companies Act,

Distribution under clause (c) or clause (d) of section 2(22) in respect of preference shares who are not entitled to participate in the surplus assets in the event of liquidation.

Any distribution of shares pursuant to a demerger by the resulting company to the shareholders of the demerged company