

Assessment of Companies

19.1 General Introduction

There are many of companies which show book profits as per their profit and loss account prepared as per Schedule VI of the Companies Act, 1956 but do not pay any tax, since income computed under the provisions of the Income Tax Act, 1961 is either **negative or insufficient or nil**. The companies show nil profit as per the Income Tax Act, but however declare dividend to shareholders without paying any income tax. These companies are popularly called **zero-tax companies**. In order to bring such companies into income tax net, Minimum Alternate Tax provisions are introduced in Finance Act, 1998 and effective from 01.04.1998.

19.2 Section 115JB: Minimum Alternate Tax (MAT) – An overview

- ❖ This section **overrides other provisions** of Income Tax Act.
- ❖ **Section 115JB (5):** Starts with wording “**Save as otherwise provided in this section**”, hence all other provisions of this Act shall apply to book profit. i.e. Advance tax, TDS, Interest, surcharge etc.
- ❖ **Applicable to a company.**
Section 115JB is not applicable to a foreign company which is not having Permanent Establishment in India.
- ❖ **When applicable:** Tax payable under the normal tax provision (as per books of accounts) is **less than** 18.50%+SC+EC+SHEC of book profit.
- ❖ Book profit refers to **Net profit as per Schedule VI** of the companies Act, which is carried to balance sheet and shown in **shareholders fund**. Here the term net profit read as profit and loss appropriation a/c balance appear below the line.
- ❖ **Heads of income classification** is only for tax payable under the normal tax provision. From Schedule VI perspective, such classification does not exist. The principle of accrual concept is applied. Income of the year matched with expenses of the year and all the revenue of the entity should be booked in profit and loss account.
- ❖ **Section 115JAA:** The excess of tax paid, over and above normal tax, will be allowed as tax credit and permitted to be **carried forward for ten assessment years** succeeding the AY in which the credit become allowable. The excess of tax paid referred above shall be known as MAT credit.
- ❖ MAT credit **adjustment** can take place when normal tax is more than MAT, provided adequate MAT credit is available.
- ❖ Conversion of net profit into book profit is made by **adjustments** as permitted under law.
- ❖ MAT is applicable only in the year, in which **book profits exist**. So, **MAT is not applicable when a company reports loss.**
- ❖ **Section 211(2) of the Companies Act, 1956:** Certain companies like Insurance companies, Banking companies, Electricity companies etc., are allowed to prepare their profit and loss account in accordance with the form specified in or under the Act governing such class of companies. Hence an option is available to prepare its profit and loss accounts either in accordance with the provisions of Schedule VI of the Companies Act, 1956 **(or)** in accordance with the provisions of the Act governing such company.
- ❖ Any income accruing or arising to a company from **life insurance business would not be subject to MAT** provision. **{{Retrospective w.e.f. 2000-01}(Fin. Act, 2012)}**



Conversion of Net Profit into book profit						
❖		Net profit as per Schedule VI of the companies Act				XXX
India Rupees DEPosited in Rural Infra Long Term Profit D ⁵ ividend Fund						
❖ Addition:- Indian RupeesS DEPosited						
				+	-	
	1	I	Income tax paid / Payable	+		
			Note: Income tax includes (i) Dividend Distribution Tax/Tax on distributed income, (ii) Interest under this Act, (iii) Surcharge and (iv) cess. So, Security transaction tax, wealth tax, interest under other Act, penalty, fine, fringe benefit tax are not Considered.			
	2	R	Reserve transfer by whatever name called. Note: Reserve created u/s 35AC is not considered. Note: Reserve transfer restricted to the extent of depreciation on account of revaluation of assets.	+		
			Note: The book profits shall be increased by the amount standing in revaluation reserve relating to the revalued asset on the retirement or disposal of such asset , in case the same is not credited to the profit and loss account.{w.e.f. 01.04.2012}	+		
	3	S	Set aside amount for un-ascertained liability. Note: Actuarial valuation is treated as ascertained liability.	+		
	4	D	Dividend paid/proposed debited to profit & loss account	+		
	5	E	Expenditure in relation to section 10, 11, 12 except u/s 10(38)	+		
	6	P	Loss of subsidiary company if debited to Profit & loss a/c	+		
❖ Deductions:- Reliance Infra Long Term Profit						
	7	R	Reserve withdrawal credited to profit & loss.		-	
	8	I	Income in relation to section 10, 11, 12 except u/s 10(38)		-	
	9	L	Loss brought forward / business loss (or) Unabsorbed depreciation Whichever is lower. Note: Consider absolute value by ignoring sign.		-	
	10	T	Tonnage tax income		-	
	11	P	Profit of sick industrial unit		-	

Send an e-mail to quickinsightdt@gmail.com for sample chapters

❖ Addition and deduction:- D ^{Five}					
	12	D	Diminution in the value of asset and provision thereof. Ex: Provision for bad debts represents provision for diminution in value of asset.	+	
	13	D	Deferred tax liability	+	
	14	D	Deferred tax asset		-
	15	D	Depreciation including revaluation of an asset debited to profit & loss account	+	
	16	D	Depreciation excluding revaluation of an asset debited to profit & loss account		-
				XX	(XX) XXX
❖			Adjusted Book Profit		XXX

19.3 Section 115JF: Alternate Minimum Tax extended to all assessees {(w.e.f. 01.04.2012)}

- ❖ AMT is **applicable to** an individual, HUF, AOP, BOI whether incorporated or not, if **adjusted total income exceeds ₹ 20 lakhs**. Here in after referred as “specified assessee”.
- ❖ Where regular income tax payable under provisions of Income Tax Act, 1961 is less than alternate minimum tax payable, then specified assessee is liable to pay income tax on adjusted total income. AMT credit is similar to that of MAT credit.
- ❖ **When applicable:** Tax payable under the normal tax provision (as per books of accounts) is **less than** 18.50%+EC+SHEC of book profit.
- ❖ AMT **credit can be carried forward** for set-off up to a maximum period of 10 assessment years succeeding the assessment year in which the credit becomes allowable.
- ❖ **No interest** is entitled on such credit amount.
- ❖ All other provisions remain applicable to such specified assessee. Ex. Advance tax, interest u/s 234A, 234B, 234C, penalty, self assessment etc.

Pro forma Computation of Adjusted Total Income

(i)	Total income before giving effect under this chapter XII-BA	XXX
(ii)	Add: Chapter VI-A – income based deduction other than section 80P	XXX
(iii)	Add: Section 10AA deduction	<u>XXX</u>
(iv)	Adjusted total income	XXX

19.4 Section 179: Liability of directors of Private Company in liquidation {Amendment (Fin. Act, 2013)}

- ❖ Where “**tax due**” from the private company cannot be recovered, then, **every director** of the private company **at any time during** the relevant previous year shall be jointly and severally liable.
- ❖ The term tax due includes **(i) Penalty (ii) Interest (iii) Any other sum payable under the Act.**
- ❖ If director proves that the non-recovery cannot be attributable to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the company, then, provisions in this section will not get attracted.

