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TAXATION OF COMPANIES: MAT

Why MAT: Before inception of Minimum Alternate Tax (MAT) provisions, it was generally observed that number of companies were not paying any tax liability under the income tax provisions whereas they were declaring huge profits in their annual accounts presented to the shareholders. Thus a continuous demand was being raised, when the companies on one side declare profits and dividend why not they should also contribute tax to the exchequer. Keeping this demand in mind an alternative approach of income tax computation was formed which is known as Minimum Alternate Tax. The basis of application of MAT (as discussed in above lines) thus should be derived from the profits which are disclosed before the shareholders at annual general meeting.

Which assessee is covered by MAT: Every assessee being a company is covered under the provisions of Minimum Alternate Tax. Such assessee company may be an Indian Company or a Foreign Company, it may be even a Public Limited Company or a Private Limited Company. For more details or definitions, we may refer to section 2(17) & 2(26).

To understand it better one can use the following chart:

MAT Coverage

Companies Covered

1. Public Ltd.
2. Private Ltd.
3. Public Sector Companies
4. Foreign Companies (if they have taxable operations in India)
5. Banking Companies
6. General Insurance Companies
7. SEZ Developer Companies
8. Companies Operating in SEZ
9. Other Body Corporate

Companies Not Covered

1. Section 25 Companies of the Companies Act 1956
2. Companies eligible for deduction u/s 11 & 12 of the Income Tax Act 1961
3. Life Insurance Companies
4. Companies Having Income Totally Exempt u/s 10 [except section 10(38)]

When MAT is payable: It is payable when Normal Tax Liability is lower than the MAT tax liability.

What is Normal Tax Liability: It is the Income Tax Liability of a company calculated as per normal provision of the Income Tax Act, 1961.

How to Determine MAT Liability:

MAT Liability = Book Profits X 18.5% (plus SC+EC+SHEC)

The rate of MAT shall be further increased by surcharge (SC), education cess (EC) and secondary & higher education cess (SHEC) (as applicable from time to time). It should also be noted that surcharge shall apply only in case the 'book profits' amount exceed ₹ 1 Crore.

Q. Whether the terms 'Net Profit' and 'Book Profit' are same?

It is very relevant to note that MAT calculation is based on the Profit & Loss (P&L) Account presented by a company in its Annual General Meeting (AGM). However the Net Profit as appearing in such AGM P&L Account certainly forms the basis for computation of MAT but this amount requires certain adjustments (plus & minus both) to reach at the figure of 'Book Profits'. Thus Book Profit is the figure which is derived by way of making certain adjustments to the Net Profit.

Q What it the manner of calculating Book Profits?

As mentioned above and considering the Explanation 1 &2 to Section 115JB (2) the 'Book Profit' means the 'Net Profit' as shown in the Profit & Loss Account for the relevant previous year prepared as per Schedule VI to the Companies Act, 1956 and further adjusted with some specified **"Additions & Deductions"**. There are various clauses provided for such additions and deductions which have been discussed later.

Important: The list of additions and deductions is exclusive and which calculating book profits no other adjustment other than the specified additions & deductions shall be made.

ADDITIONS

[Explanation 1 to Section 115JB (2)]

Clause (a)	**Clause (b)**	**Clause (c)**	**Clause (d)**	**Clause (e)**	**Clause (f)**	**Clause (g)**	**Clause (h)**	**Clause (i)**	**Clause (j)**
Income tax paid/payable or provision thereof. <u>It also includes:</u> 1.Interest 2.Surcharge 3.EC/SHEC 4.CDT <u>But does not include:-</u> 1.Penalties 2.Fine 3.Wealth Tax 4. STT	Amount Transferred to any Reserve (May it be a general reserve or a special reserve)	Provisions for Unascertained Liability **e.g.** Provision for Gratuity which is not based on some actuarial valuation and just a lump sum provision.	Provision for Losses of Subsidiary Companies	Amount of Dividend paid or proposed (It including interim as well as final dividend both)	Expenditure pertaining to any income to which section 10 or 11/12 of the Income Tax Act applies. <u>Exception:</u> Section 10(38) i.e. Long Term Capital Loss pertaining to securities if debited to P&L is not be added.	Amount of Depreciation debited to P&L Account	Amount Of Deferred Tax Liability or Provision thereof	Provision for Diminution in Value of any asset. **e.g.** Provision for Bad and Doubtful Debts, Provision for Diminution in value of Investments etc.	The amount standing in the revaluation reserve relating to revalued asset on the retirement or disposal of revalued asset.

Notes to Additions:

1. If ‘Net Profit’ figure is “above the line net profit” (i.e. profit above P&L appropriation account) no adjustment will be required on account of amount transferred to reserves or dividend paid/proposed and CDT.
2. Expenditure pertaining to Section 10A (i.e. exemption provision in respect of units established in FTZ/STP etc.), 10AA (i.e. SEZ entrepreneurs& SEZ units) & Sec 10B (i.e. 100% E.O.U.) and businesses eligible for deduction under chapter VIA are not required to be added back in computation of book profits. Thus profits of 10A, 10AA & 10B, 80IA, 80IB undertakings are subject to MAT provisions as on date.
3. Wef AY 2012-13 the SEZ developers and SEZ undertakings have been specifically covered under the MAT provisions thus expenditures of a SEZ activity shall not be added in computation of “Book Profits”. Similarly income from SEZ activity shall also not be reduced in computation of “Book Profits”.
4. When expenditure pertaining to section 10 (except clause (38) thereof) are to be added and income items pertaining to section 10 (except clause (38) thereof) are required to be reduced this means that activities like farming, share in profits of an Indian partnership firm or LLP, dividend income from shares or mutual fund etc. are not subject to MAT even.

DEDUCTIONS

Clause (i)	**(ii)**	**(iia)**	**(iib)**	**(iii)**	**(vii)**	**(viii)**
Amount withdrawn from any reserve or provision	Amount of Income to which provision of Sec 10 or 11 /12 apply. Exception : 10(38) Income	Amount of depreciation debited to P&L a/c (excluding the depreciation of account of revaluation of Assets)	Amount withdrawn from revaluation reserve (to the extent it does not exceed the amount of depreciation on account of revaluation of assets)	Amount of Loss Brought Forward or Unabsorbed Depreciation whichever is less **as per books of account**.	Amount of profits of sick industrial company till its entire net worth becomes equal to or exceeds the accumulated losses.	Deferred Tax Assets (if credited to the P&L Account)

Notes to Deductions:

a) Section 10(38) income (i.e. long term capital gain from STT levied security transactions) is not reduced from Net Profit in computation of Book Profits, which means that such income is subject to MAT.

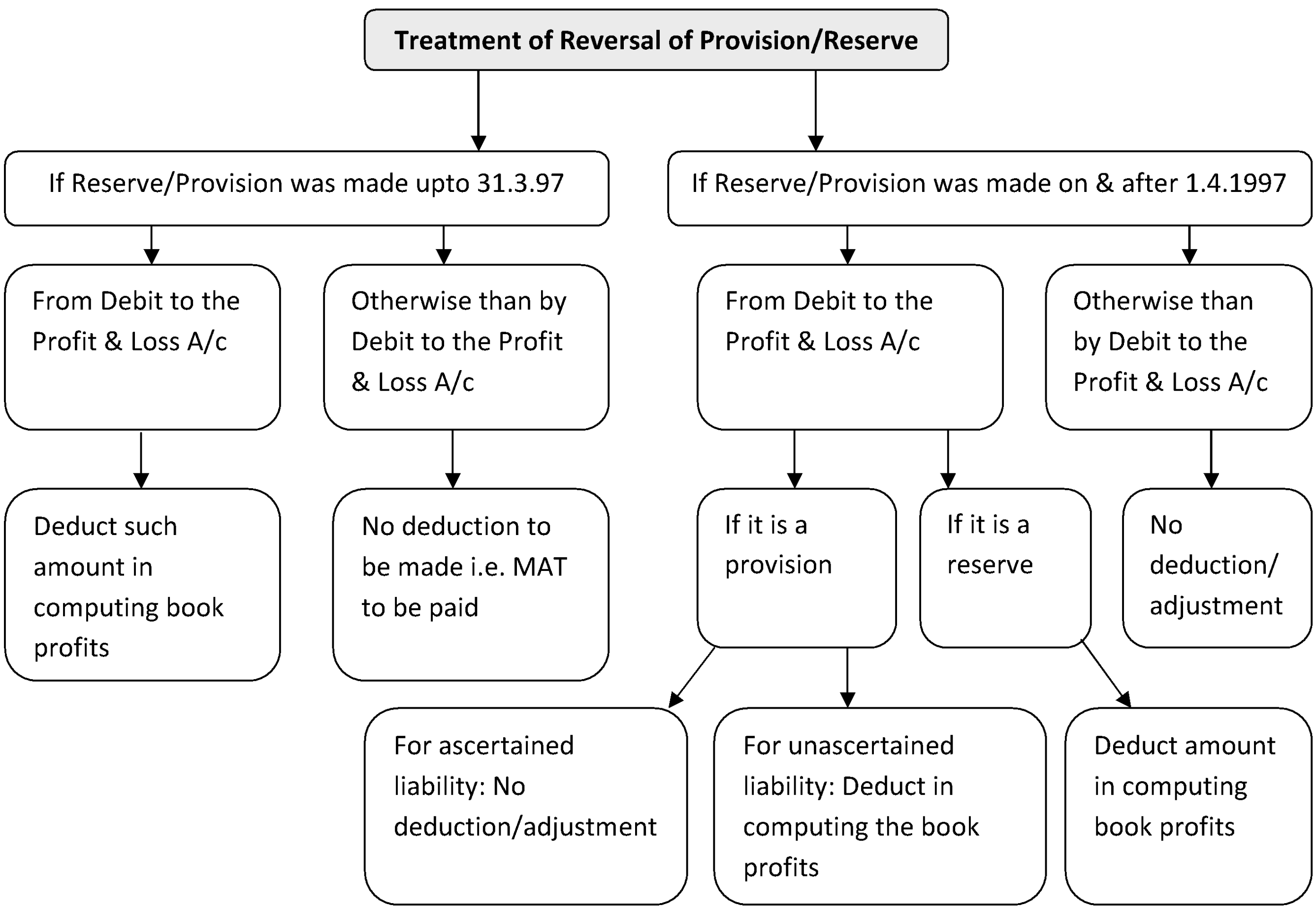
b) Similar to point a) the profits pertaining to Section 10A, 10AA& 10B undertakings are also not reduced in calculating book profits which means that such profits are also subject to MAT.

c) As per section 115VO the book profits or los derived from the activities of a tonnage tax company are also not subject to MAT.

e) The treatment of reversal of Reserved and Provisions can be understood with the help of following chart.

f) The profits eligible for deduction u/s 80IA/IB etc are also subject to MAT.

g) The deduction under clause (iii) above i.e. "unabsorbed depreciation or accumulated loss whichever is less as **books of accounts**" should be understood carefully. It is not unabsorbed depreciation or accumulated loss as per Income Tax Act. The accumulated losses computation in such case is also not restricted to 8 years period.



The provisions for ascertained liability (made on and after 1/4/1997) amount is not deducted in computing book profits because they must have not been added in enhancing book profits of the year in which such provision was created, thus now if they are reversed they will not be deducted from Net Profits.

However such concept of provision for ascertained or unascertained liability exists in MAT provisions only from 1st April 1997 thus for the purposes of understanding the author has classified them in pre and post 1st April 1997 category. There was no concept of ascertained or unascertained liability treatment prior to 1st April 1997 i.e. any transfer to provision whether for ascertained or unascertained liability was earlier added in computing book profits thus such amount if now being credited back to P&L account, certainly needs a deduction.

MAT CREDIT: SECTION 115JAA

Why MAT Credit: As per the concept of MAT, such minimum tax is payable when normal tax liability is lower than it (i.e. MAT), thus when a company pays MAT it means that it has paid the tax liability higher than the amount which is required to be paid as per the normal provisions of the law. Similarly in a future year there may a reverse scenario i.e. Normal Tax Liability may be higher than the MAT liability, thus in such succeeding year when the Normal Tax liability is higher than the MAT liability and in a preceding year the company has already paid Mat liability. An adjustment of prevision exceeds payment is acknowledged by way of the concept of MAT credit.

Thus there are two basic points which are needed to be learnt in the MAT credit theory:-

MAT CREDIT

Entitlement for MAT Credit	Adjustment of MAT Credit
The entitlement takes place in the year in which a company pays MAT tax liability which is higher than its Normal Tax Liability.	The adjustment of MAT credit is possible in the AY when a company pays the Normal Tax liability which is higher than the MAT liability (Provided it is entitled for MAT credit due to extra tax payment in a preceding AY).

Time Limit: MAT Credit can be claimed up to next 10 years succeeding the assessment years from the year in which the MAT credit is first determined.

Can MAT credit be adjusted in computing Advance Tax or Self Assessment Tax liability of a succeeding assessment year?

Yes (Section 140A & 210 both provides for the same).

It is pertinent to note that MAT credit amount may vary at a future date due to filing of a revised return by the assessee or due to their being an assessment, rectification, revision or appellate order.

OTHER IMPORTANT POINTS

1. When a company pays its tax liability as per the provisions of MAT it shall be deemed that the deductions which were permissible in computation of 'Normal Tax Liability' are actually allowed.

2. As per the Supreme Court verdict passed in case of **Apollo Tyre Industries Ltd**'s the Assessing Officer has no right to change or object the book profits reported by a company if:

   a) Such P&L account has been duly adopted by the shareholder's in its AGM

   b) The book profit has been calculated after considering the impact of all additions and deductions provided under Explanation 1 & 2 to Section 115JB (2).

For example if certain expenses pertaining to the Director of the company debited in the P&L account appear to be personal in nature are found by the Assessing Officer and thus he wishes to add them in computation of book profits calculation he can't do so because the list provided in the law is an exclusive list.

3. A company liable to MAT is equally required to follow the process of payment of Advance Tax because as per Section 115JB(5): "Save as otherwise provided in this section, all other provision of this Act shall apply to every assessee, being a company, mentioned in this section."

4. The unabsorbed expenses and accumulated losses for the period when a company is covered under provisions of MAT for payment of tax liability shall be allowed to be carried forward and set off against the computation of Normal Tax Liability of succeeding A.Ys.

5. As per Sec 115JAA(2A) no interest shall be payable by the Income Tax Department to the assessee for any MAT credit standing to its credit.

6. MAT liability shall be further enhanced by surcharge @ 5 % if the 'book profit' figure exceeds ₹1 Crore and where the book profits exceed ₹ 10 Crores the surcharges applicable shall be 10%. However no surcharge shall be applicable if the book profits are upto ₹ 1 crore. Whereas surcharge rates applicable in case of a foreign company shall be 2% and 5% respectively for book profits above ₹1 crore and ₹10 crores.

For the sake of convenience and easy understanding one may use the following format of P&L a/c to grasp the concept of MAT:-

(In the format attached below, adjustment 'YES' means if item is debited to the P&L a/c it should be added in computing the book profits and if the item is credited to the P&L a/c it should be reduced in computing the book profits. Similarly adjustment 'NO' means if the item is debited to the P&L a/c it is not required to be added in computing book profits and it the item is credited to the P&L a/c it is not required to be deducted in calculation of book profits.)

Profit & Loss Account of M/s _____________ Ltd/ (P) Ltd

Dr. **Cr.**

Item	Amt.	Adj. in Book Profits*	Item	Amt.	Adj. in Book Profits*
	₹			₹	
		YES / NO			YES / NO
			By Gross Profit		
Income Tax			Income/Profits from		
1) paid		YES	Section 10		YES
2) payable		YES	Section 10A		NO
3) provision		YES	Section 10AA		NO
			Section 10B		NO
Deferred Tax Liability		YES	Section 10(38)		NO
			Section 80IA/80IB etc.		NO
Interest as per Income Tax		YES	Relevant Shipping Income		YES
(234A/234B/234C/220(2))					
			Deferred Tax Asset		YES
Penalties under Income Tax		NO			
			Reversal of Provision		
Wealth Tax Liability		NO	a) Ascertained Liability		NO
			b) Unascertained Liability		YES
Provision for Liabilities:					

1) Ascertained Liabilities		**NO**	**Reversal of Reserve**		
2) Unascertained Liabilities		**YES**	**a) If made from P&L A/c**		**YES**
			b) If made out of P&L A/c		**NO**
Prov. For Diminution in		**YES**			
Value of Asset (e.g. Bad-debt Provision)			**Revaluation Reserve**		**YES**
			(Actual amount or Addl. Dep.		
Losses of Subsidiary/ies		**YES**	**Whichever is less)**		
Depreciation					
1) if no revaluation done		**NO**	**Profits of Sick Ind. Unit**		**YES**
2) if revaluation done		**YES**			
			Profits from Sale of a Capital		
Expenses/Losses pertaining			**Asset**		**NO**
to :-			**(e.g. section 111A or 112 gains)**		
Section 10		**YES**			
Section 10A		**NO**	**Income Tax Refund**		**NO**
Section 10AA		**NO**			
Section 10B		**NO**			
Section 10(38)		**NO**			
Section 80IA/80IB etc.		**NO**			
Relevant Shipping Activity		**YES**			
Losses from Sale of Capital Asset		**NO**			
Dividend paid/proposed		**YES**			
(final as well as interim)					
Corporate Dividend Tax		**YES**			
(CDT)					
Transfer to Reserves		**YES**			
Also add amount of standing in revaluation reserve relating to revalued asset on the retirement or disposal of such asset.					

Following additional points are also required to be considered while calculating book-profits for MAT purposes:-

- Book profits shall be further reduced by the amount of brought forward loss (as per books) or the unabsorbed depreciation (as per books) whichever is less. Thus if any of them is NIL then no adjustment shall be done in calculating the amount of Book Profits.
- In the case of revaluation of assets, we shall first add the full amount of depreciation in book profits computation and then the amount of depreciation without revaluation shall be reduced. In addition to the depreciation (without revaluation) we will also reduce the amount

transferred to profit and loss a/c by way of debit to the revaluation reserve provided such debit does not exceed the amount of additional depreciation.

- Income Tax Refund shown in credit side of P&L account is not required to be reduced in computation of book profit since the list of additions and reductions is exclusive but in the opinion of author if income tax refund could be routed through the Provision for Income Tax account then it will automatically get reduced and there is not prevention/restriction on such treatment.

COMPREHENSIVE EXAMPLE ON MAT:

M/s Jajoo Refractories Ltd. submits the following Profit & Loss a/c for your reference to determine the MAT liability payable by the company for the AY 2015-16:

Particulars	Amount (₹ In Lacs)	Particulars	Amount (₹ In Lacs)
Opening Stock	35	Sales	576
Purchases	265	Closing Stock	95
Direct Expenses	24		
Gross Profit c/d	347		
Total	**671**	**Total**	**671**
Staff Salary	26	Gross Profit b/d	347
Office Maintenance & General Office Expenses	56	Long Term Capital Gain (LTCG) from Sale of Unlisted Shares	12
Depreciation	40	Short Term Capital Gain (STCG) from sale of Listed Debentures	8
Wealth Tax (including penalty of ₹ 4 lacs)	19	Net Profit from 80IA Undertaking	23
Penalties paid under Sales Tax Provisions	6	LTCG u/s 10(38)	17
Provision for Gratuity & Leave Encashment	13	Revaluation Reserve	3
Provision for Bad Debts	10	Dividend Equalisation Reserve	19
Provision for Income Tax	60	Dividend received from Investments in Indian Companies	7
Interest u/s 234A/B/C	3	LTCG from sale of Equity Oriented Mutual Fund	34
Provision for Losses in Ajmera Refractories P. Ltd. (Subsidiary Co.)	12	Income from Liquid Mutual Funds	4
Short Term Capital Loss u/s 111A	11	Dividend received from Foreign Subsidiary	16
Transfer to General Reserve	18	Share in Profits of Overseas Partnership Firm	5
Dividend Proposed	20	Deferred Tax Asset	3
Dividend Distribution Tax Provision	4	Profits from SEZ Undertaking u/s 10AA	20
Net Profit	220		
Total	**518**	**Total**	**518**

Additional Information:

1. Direct expenses include bonus payment due of ₹ 4 lacs no paid till date.
2. Fixed asset worth ₹ 360 lacs were revalued at the beginning of the year to ₹ 400 lacs.
3. Provision for gratuity and leave encashment is made on the basis of expert advisory.
4. Value of opening and closing stock as per income tax is ₹ 37 lacs and ₹ 105 lacs respectively.
5. Office maintenance expenses include ₹ 2 lacs paid in case in one single day for an expenditure.

Computation of Book Profits of M/s Jajoo Refractories Ltd. u/s 115JB

	₹ In Lacs	**₹ In Lacs**
Net Profit as Per Profit & Loss A/c		220
Add:		
1. Depreciation (as per books but after revaluation)	40	
2. Provision for Bad Debts	10	
3. Provision for Income Tax	60	
4. Interest u/s 234A/B/C	3	
5. Provision for Losses in Ajmera Refractories P. Ltd.	12	
6. Transfer to General Reserve	18	
7. Dividend Proposed	20	
8. Dividend Distribution Tax Provision	4	
		167
Less:		
1. Revaluation Reserve credited to the Profit & Loss account (₹ 4 Crore or 3 Crore whichever is less)	3	
2. Dividend Equilisation Reserve	19	
3. Dividend from Investment in Indian Companies	7	
4. Income from Liquid Mutual Funds [Exempt u/s 10(35)]	4	
5. Deferred Tax Asset	3	
6. Depreciation without revaluation	36	
		(72)
Book Profits u/s 115JB		315

Minimum Alternate Tax Payable = ₹ 315 Lacs X 18.5% (MAT Rate) X 105% (Surcharge) X 103% (Education Cess& SHEC) = ₹ 63.02 Lacs

Working Notes:

1. Disallowance of expenditures under section 43B (e.g. bonus paid) or under section 40A(3) for cash payment, is not required to be added back in computation of book profits as list of items to be added in book profit computation is exclusive and there is no mentioning of the same in the list given in the law.
2. Since gratuity and leave encashment provisions are generally made on the basis of an expert advice thus they can be assumed as provisions for ascertained liability hence no adjustment (i.e. addition) is required to be made.
3. Wealth tax including penalty as well penalty paid under sales tax provisions are not required to be considered for book profits computation.
4. Value of stock for income tax purposes is irrelevant in computing book profit figure; same will be useful in normal tax liability computations.

5. Long term capital gain of any type including 10(38), short term capital gain, profits from 10AA (i.e. SEZ undertaking) and profits from 80IA undertaking are subject to MAT hence no deduction or addition done for the same. Similar will be the treatment for losses in such cases.
6. Deferred tax assets credited to the P&L a/c are required to be reduced in calculation of book profits.
7. Provision for Bad Debts is basically a provision for diminution in value of asset hence added in computation of book profits.

THINK & JUDGE

1. Companies operating in SEZ area are subject to MAT.
2. Company enjoying exemption of income under section 10 is exempt from paying MAT.
3. Long Term Capital Gain income of a company is subject to MAT.
4. Profit and Loss Account for the purposes of MAT could be prepared as per the provisions of the Companies Act 2013 only.
5. Companies covered under MAT are also subject to advance tax provisions.
6. MAT credit can be claimed from next assessment year, even if for next assessment year, MAT is payable by the company.
7. A company having its only industrial undertaking in SEZ area is subject to MAT tax liability.
8. Extra-ordinary items or prior period items debited in the P&L account of the company need no adjustment to be made for book profit computation.
9. Additional depreciation debited in the P&L account on account of revaluation of asset should be added in computation of book profits.
10. Depreciation debited in books of accounts is first added in computing the book profits, thereafter depreciation as per income tax provisions is reduced to arrive at the 'book profits' figure.
11. Dividend received from a foreign subsidiary of the Indian Holding Company can be subject to MAT.