

## THE TAXATION LAWS (AMENDMENT) BILL, 2019

Summary of the key clarifications and amendments in the Taxation Laws (Amendment) Bill, 2019:

### Lower Tax Rate of 22% to Domestic Companies – Section 115BAA

All companies can opt for lower tax rate of 22% (plus surcharge and education cess) under section 115BAA of the Income Tax Act, subject to fulfilment of prescribed conditions.

1. If such 115BAA company <sup>1</sup> does not fulfil the prescribed conditions for the relevant previous year, then such option to pay concessional tax will become invalid for that previous year and for all subsequent years *(proviso to sub-section 1)*.
2. In case of amalgamation or demerger, the successor company will be prohibited to set off any loss or depreciation, if such loss or depreciation is attributable to prohibited deduction or allowances. *(additional condition under section 115BAA (2))*.
3. A 115BAA company with unabsorbed depreciation attributable to specific deduction will make corresponding adjustment to the WDV of such block of asset as on 1st April 2019 in the prescribed manner, if such option is exercised for previous year relevant to the assessment year beginning on April 1, 2020. *(proviso is appended to 115BAA (3))*
4. The benefit to claim deduction under section 80LA, subject to prescribed conditions of Section 80LA of the Income Tax Act, to 115BAA Company having unit in International Financial Services Centre (IFSC). *(new sub-section 4)*
5. If a company opts for concessional tax regime of section 115BAB (i.e. 15%) but subsequently violates the conditions of the said provision, it may consider opting for regime of section 115BAA (22%) *(proviso to sub-section 5)*

### Lower Tax Rate of 15% to Domestic Manufacturing Companies – Section 115BAB

Newly formed manufacturing companies can opt for lower tax rate of 15% (plus surcharge and education cess) under Section 115BAB of the Income Tax Act, subject to fulfilment of prescribed conditions.

1. The income which is neither derived from nor incidental to manufacturing or production of an article or thing and in respect of which no specific rate of tax has been provided separately under Chapter XII Income Tax Act, such income shall be taxed at the rate of 22%. No deduction in respect of any expenditure shall be allowed in computing such income. *(new proviso to sub-section (1))*

<sup>1</sup> Company opting for lower tax rate of 22% under 115BAA is referred as '115BAA company'

2. Where the Specified Domestic transaction with Associate Enterprise is not at ALP, the excess over the ALP (determined by tax officer) will be taxed as 30%. *(2<sup>nd</sup> proviso to sub-section (1))*
3. Short Term Capital Gains from sale of non-depreciable asset will be taxed at 22%, concessional tax rate will not be available. *(3<sup>rd</sup> proviso to sub section (1))*
4. If a company which has opted for 15% tax rate as per section 115BAB does not satisfy the prescribed condition for the relevant previous year, then the option to pay concessional tax will become invalid for that previous year and for all subsequent years. *(4<sup>th</sup> proviso to sub section (1))*
5. The income derived from or incidental to manufacturing activities will be taxed at reduced rate of 15%.
6. The business of manufacture or production of any article or thing shall not include following business and thus, concessional tax rate of 15% will not be applicable to the business as under:
  - Development of computer software in any form or in any media;
  - Mining;
  - Conversion of marble blocks or similar items into slabs;
  - Bottling of gas into cylinder;
  - Printing of books or production of cinematograph film;
  - Any other business as may be notified by the Central Government in this behalf.
7. In case of amalgamation or demerger, the successor company will not be allowed to set off any loss or depreciation, if such loss or depreciation is attributable to prohibited deduction or allowances.
8. Amalgamated Company can opt for section 115BAB if the scheme of amalgamation is not falling within the purview of “Splitting or reconstruction of existing business”.
9. It has been clarified that only building previously used as hotel or convention centre in respect of which deduction u/s 80-ID has been claimed and allowed should not be used by the company who want to opt for section 115BAB (i.e. 15%).

### MAT Credit – Section 115JAA

MAT credit available with the company will lapse on opting for concessional tax under section 115BAA or 115BAB.

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