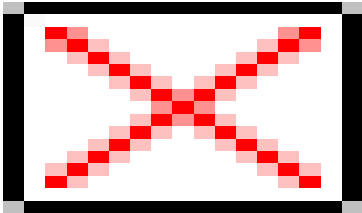


Minimum Alternate Tax/Alternate Minimum Tax and Compulsory Acquisition

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MAT/AMT

INCOME

Tax Department clarifies that MAT stands for Minimum Alternate Tax and AMT stands for Alternate Minimum Tax. Initially the concept of MAT was introduced for companies and progressively it has been made applicable to all other taxpayers in the form of AMT.

Objective

The objective of introduction of MAT was to bring into the tax net "zero tax companies" which, in spite of having earned substantial book profits and having paid handsome dividends, do not pay any tax due to various tax concessions and incentives provided under the Income-tax Law.

The provisions of AMT will apply to every non-corporate taxpayer who has claimed (i) deduction under section 80H to 80RRB (except 80P), (ii) deduction under section 35AD and (iii) deduction under section 10AA.

When MAT/AMT is payable?

MAT is payable when tax payable on the Total income is less than tax calculated at 15% on book profit as computed under section 115JB of the Income Tax Act, 1961.

The provisions of AMT (Section 115JC) shall apply to an individual or a Hindu undivided family or an association of persons or a body of individuals (whether incorporated or not) or an artificial juridical person only if the adjusted total income of such person exceeds Rs.20,00,000(Section 115JEE) and AMT is payable when the tax payable under normal provisions is less than taxpayable on adjusted total Income @18.5%.

How taxable income is arrived

In order to arrive at book profit for MAT - certain adjustment as is given in section 115JB(2) are to be given effect. There is a room of confusion/ lack of clarity in the case of company who prepare accounts in accordance with Schedule III of the Companies Act 2013, and in due compliance with accounting standard .

In the case of AMT, the adjusted total Income is arrived by adding to the total income calculated under normal provisions of the Income Tax Act, amount of deduction claimed under section 80H to 80RRB (other than 80P), under section 35AD and exemption claimed under Section 10AA.

Issue of MAT/AMT in Compulsory acquisition under RFCTLAAR Act, 2013)

In the minds of taxpayer, a dilemma arises on correct treatment of amount received on compulsory acquisition of property owned by assessee. As known, Section 96 of the Right to Fair Compensation and Transparency in Land Acquisition and Rehabilitation and Settlement Act, 2013(RFCTLAAR Act, 2013) provides exemption to all compulsory acquisitions.

The Income Tax Department also issued a circular (Numbered 36/2016 dated 25/10/2016) categorically clarifying that every award or agreement which has been exempted from levy of Income Tax vide section 96 of RFCTLAAR Act, 2013 shall also not be taxable under the provisions of Income Tax Act, 1961 even if there is no specific provision for exemption of such compensation in Income Tax Act.

Now the question is on treatment of Income from compulsory acquisition on MAT/AMT calculation. Sections 115JB do not possess a specific enabling clause for the deduction of income from compulsory acquisition.

While analysing the provisions of 115JB that is for companies there is no provision to adjust or reduce the gain in books of account on account of compulsory acquisition to arrive MAT profit.

A company which has no activity other than compulsory acquisition forced to pay income tax on compulsory acquisition which we can argue that against the section 96 of compulsory acquisition.

Let us go through an example -

A company purchased land for Rs. 1 crore in 2001 and by compulsory acquisition govt took over the property for Rs.3.01 crore in 2022.

Now there will not be capital gain tax if indexation is applied, but if you are claiming exemption on account of compulsory acquisition there will be 2 crore book profit. Imagine company has no activity other than 1 lakh administrative expenses.

So now the question whether company has to pay 15 percent of 2 crore as MAT?

Now being there is ambiguity in taxability under MAT, we have to refer to the objective of the section. It clearly laid down that "the objective of introduction of MAT is to bring into the tax net "zero tax companies" which, in spite of having earned substantial book profits and having paid handsome dividends, do not pay any tax due to various tax concessions and incentives provided under the Income-tax Law." That is, intention is to Tax Company which is not paying tax due to various tax concessions and incentives provided under Income Tax Act. The exemption from tax on compulsory acquisition is on account of section 96 of RFCTLAAR Act, 2013, not under Income Tax Law.

The intention behind implementation of MAT is not to tax exemption given under **RECTLAAR Act**

but, as stated above, the objective of introduction of MAT is to bring into the tax net, companies which, in spite of having substantial book profits do not pay any tax due to various tax concessions and incentives provided under the **Income-tax Law**.

So in our opinion, MAT will not be applicable on book profit on account of compulsory acquisition which is eligible for exemption under RECTLAAR Act.

It is highly beneficial for the taxpayers and department if a clarification on the matter is issued at the earliest to remove unintended vacuum that has spread its wings on the matter discussed.

[The views expressed are strictly personal.]

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