

# Computation of Total Income, Tax Liability and Filing of Return of Companies

## Lesson 2

### KEY CONCEPTS

- Indian Company ■ Domestic Company ■ Foreign Company ■ Widely held Companies ■ Closely held Company
- Residential Status of Company ■ Place of Effective Management (POEM) ■ Book Profits ■ Minimum Alternate Tax (MAT)
- MAT Credit ■ Filing of Return ■ Verification of Return of Income

### Learning Objectives

#### To understand the:

- What are the constitutional provisions for Companies with regard to Income tax?
- The provisions related to Tax Incidence on Companies
- Determining the Residential Status of Companies
- Guiding Principles for determining the Place of Effective Management (POEM)
- Scope of Total Income of Companies
- Computation of Book Profits
- The provisions of Minimum Alternate Tax 'MAT', Applicability and Computation
- The provision related to MAT credit
- Computation of total income and tax liability as per the normal provisions of the Income Tax Act, 1961 including MAT
- Computation of total income and tax liability as per concessional tax regime u/s 115BAA or 115BAA as the case may be
- Filing of Income Tax Return
- Verification of Income Tax Return

### Lesson Outline

- Background
- Tax Incidence on Companies
- Corporate Tax Rate
- Minimum Alternate Tax 'MAT'
- Meaning of Book Profit
- MAT Credit
- Filing of Income Tax Return
- Verification of Income Tax Return
- Lesson Round-Up
- Test Yourself
- List of Further Readings
- Other References

**REGULATORY FRAMEWORK**

<b>Sections</b>	<b>Income-tax Act, 1961</b>
Section 2(17)	Meaning of the term 'Company'
Section 2(26)	Indian Company
Section 2(22A)	Domestic Company
Section 2(23A)	Foreign Company
Section 2(18)	Company in which the public are substantially interested
Section 6(3)	Residential Status of Company
Section 115BA	Tax on Income of certain manufacturing Domestic Companies
Section 115BAA	Tax on Income of certain Domestic Companies
Section 115BAB	Tax on Income of new manufacturing Domestic Companies
Section 115JB	Minimum Alternate Tax
Section 115JB(2)	Meaning of Book Profit
Section 115JAA	MAT Credit
Section 139(1)	Due Date of Filing of Income Tax Return
Section 139(4)	Belated Return
Section 139(5)	Revised Return
Section 139(6)	Particulars to be furnished along with return of Income in case of an assessee engaged in Business or Profession
Section 139(9)	Defective Return
Section 139(8A)	Updated Return
Section 140B	Tax on Updated Return
Section 234A	Interest for Default in furnishing Return of Income
Section 234F	Fee for default in Furnishing Return of Income
Section 140	Verification of Income Tax Return
<b>Rules</b>	<b>Income Tax Rules, 1962</b>
Rule 27	Prescribed arrangements for declaration and payment of dividends within India
Rule 12AA	Person prescribed for verification of Return of Income

**BACKGROUND**

Before we begin to examine and understand the taxability and tax incidence on companies, we must understand the meaning of company and its types that are in existence today's scenario post the Companies Act, 2013.

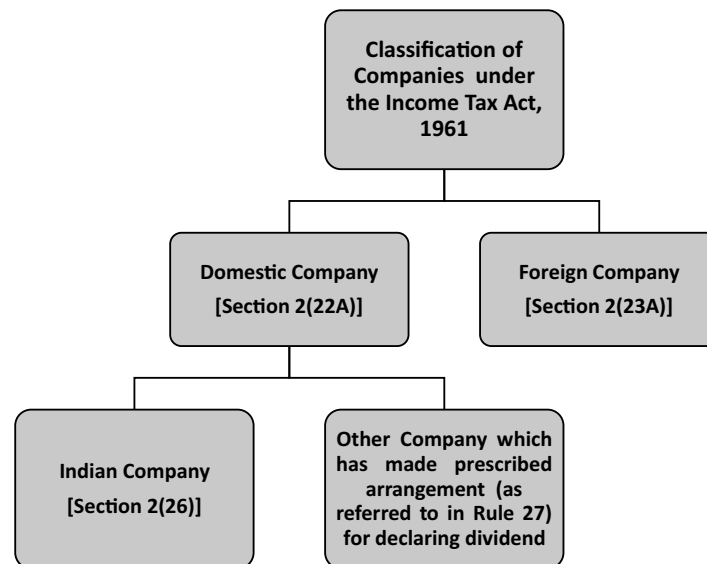
**MEANING OF 'COMPANY'**

The expression "Company" has a much more extensive definition under the Income-Tax Act, 1961. The company is appraised as a 'Person' for all matter under the Income-Tax Act, 1961 [Section 2(31)(iii)].

**Meaning of Company [Section 2(17) of the Income-tax Act, 1961]**

- (i) any Indian company, or
- (ii) any body corporate incorporated by or under the laws of a country outside India, or
- (iii) any institution, association or body which is or was assessable or was assessed as a company for any assessment year under the Indian Income-tax Act, 1922 or which is or was assessable or was assessed under this Act as a company for any assessment year commencing on or before the 1st day of April, 1970, or
- (iv) any institution, association or body, whether incorporated or not and whether Indian or Non-Indian, which is declared by general or special order of the Board to be a company:

Provided that such institution, association or body shall be deemed to be a company only for such assessment year or assessment years (whether commencing before the 1st day of April, 1971 or on or after that date) as may be specified in the declaration.

**Domestic Company [Section 2(22A)]**

Domestic company means:

- i) an Indian Company; or
- ii) any other Company, which in respect of its income liable to tax under the Act, has made prescribed arrangements for the declaration and payment, within India, of the dividends (including dividends on preference shares) payable out of such income.

From this definition, it is clear that –

- I. All Indian companies are domestic companies while
- II. All domestic companies need not necessarily be Indian companies. In other words, a non-Indian company would be considered as a domestic company if it makes the prescribed arrangements for the declaration and payment of dividends in India on which tax is deductible under Section 194.

#### **Prescribed arrangements for declaration and payment of dividends within India [Rule 27]**

The arrangements to be made by a company for the declaration and payment of dividends (including dividends on preference shares) within India shall be as follows:

- a. **The share-register of the company for all shareholders shall be regularly maintained at its principal place of business within India** in respect of any assessment year from a date not later than the first day of April of such year;
- b. The **general meeting** for passing the accounts of the previous year relevant to the assessment year and for declaring any dividends in respect thereof shall be **held only at a place within India**;
- c. The **dividends declared**, if any, shall be **payable only within India** to all shareholders.

#### **Indian Company [Section 2(26)]**

Section 2(26) of the Income-tax Act, 1961 defines the expression 'Indian Company' as a company formed and registered under the Companies Act, 2013 and the registered office or the principal office should be in India and it also includes:

- a) a company formed and registered under any law relating to companies formerly in force in any part of India [other than Jammu and Kashmir, and the Union Territories specified in (d) below];
- b) any corporation established by or under a Central, State or Provincial Act;
- c) any institution, association or body which is declared by the Board to be a company under Section 2(17) of the Income-tax Act, 1961;
- d) in the case of any of the Union Territories of Dadra and Nagar Haveli, Goa, Daman and Diu and Pondicherry, a company formed and registered under any law for the time being in force in that Union Territory.

Therefore, a Company, Corporation, Institution, Association or Body will be treated as an Indian Company only if its registered office or principal office, as the case may be, is in India.

#### **Foreign Company [Section 2(23A)]**

Foreign company means a company which is not a domestic company.

However, all non-Indian companies are not necessarily foreign companies. If a non-Indian company has made the prescribed arrangements for declaration and payments of dividends within India, such a non-Indian company must be treated as a "domestic company" and not as a "foreign company".

#### **Company in which public are substantially interested (A widely-held company)**

Domestic Companies are further classified into the following categories:

- Companies in which public are substantially interested - Widely-held Companies
- Companies in which public are not substantially interested - Closely held Companies

**Section 2(18)** of the Income-tax Act defines the expression “**Company in which the public are substantially interested**”. A company is said to be one in which public are substantially interested in the following cases:

<b>A Company owned by Government / RBI</b>	If it is a company owned by the Government (either central or state but not foreign) or the Reserve Bank of India or in which not less than 40 per cent of the shares, whether singly or taken together, are held by the Government or the Reserve Bank of India or a corporation owned by the Reserve Bank of India; or
<b>Section 8 Company</b>	If it is a company which is registered under Section 8 of the Companies Act, 2013; or
<b>A company having no share capital declared by CBDT</b>	If it is a company, having no share capital and if, having regard to its objects, the nature and composition of its membership and other relevant considerations, it is declared by an order of the Board (CBDT) to be a company in which the public are substantially interested. However, such a company shall be deemed to be one in which the public are substantially interested only for the assessment year(s) as may be specified in the declaration; or
<b>Nidhi/ Mutual Benefit Society</b>	If it is mutual benefit finance a company which carries on, as its principal business, the business of acceptance of deposits from its members and which is declared by the Central Government under Section 406 of the Companies Act, 2013 to be a Nidhi or Mutual Benefit Society; or
<b>A company owned by Co-operative Society</b>	If it is a company in which shares, (not being shares entitled to a fixed rate of dividend whether with or without a further right to participate in profits, i.e., preference shares) carrying not less than 50 per cent of the voting power have been allotted unconditionally to or acquired unconditionally by, and are throughout the relevant previous year beneficially held by, one or more cooperative societies; or
<b>Listed Company</b>	If it is a company which is not a private company as defined in Companies Act, and equity shares of the company (not being shares entitled to a fixed rate of dividend whether with or without a further right to participate in the profits, i.e., preference shares) were, as on the last day of the relevant previous year, listed in a recognised stock exchange in India;
<b>Public Company owned by Govt. and/ or public limited Company</b>	If it is a company which is not a private company within the meaning of the Companies Act, and the shares in the company (not being shares entitled to a fixed rate of dividend whether with or without a further right to participate in profits) carrying not less than 50 per cent (40 per cent in case of an industrial company) of the voting power have been allotted unconditionally to, or acquired unconditionally by, and were throughout the relevant accounting year beneficially held by (a) the Government, or (b) a corporation established by a Central or State or Provincial Act, or (c) any company in which the public are substantially interested or a wholly owned subsidiary company.

**Note: Industrial Company** means an Indian company where business consists mainly in the construction of ships or in the manufacture or processing of goods or in mining or in the generation or distribution of electricity or any other form of power.

It may be noted that, a public company under the Companies Act, need not necessarily fall within the meaning of a company in which the public are substantially interested under the Income-tax Act, 1961 because a public

company under the Companies Act, may be considered as one in which the public are not substantially interested under the Income-tax Act, 1961 after considering the nature and extent of shareholding.

**Illustration 1:**

State with reason whether in the following cases Companies are widely held or closely held:

(a) The shares of ABC Private Limited are held as follows:

i	A corporation owned by RBI	15 %
ii	Central Govt.	18%
iii	R.B.I.	10%
iv	Mr. Raman	28%
v	Mr. Bhuvan	27%

(b) 85% equity shares of Progressive Private Limited were held by the public and its affairs during the relevant previous year were controlled by seven persons.

**Solution:**

(a) Shares held by Govt., RBI and Corporation owned by RBI =  $18\%+10\%+15\% = 43\%$ .

As shares held by CG along with RBI are more than 40%, therefore, ABC Pvt. Ltd. is a Govt. Participating company. Hence it is a company in which Public is substantially interested, i.e., widely held.

(b) As none of the criteria mentioned in Section 2(18) are met in case of Progressive Pvt. Ltd. (such as Govt. Participating, Section 8 Company or Nidhi etc.) therefore, it is a closely held company.

### Closely Held Company

A Company in which the public is not substantially interested is known as a closely held Company.

The distinction between a closely held and widely held company is significant from the following viewpoints.

- (i) Section 2(22) (e), which deems certain payments as dividend, is applicable only to the shareholders of a closely-held company; and
- (ii) A closely held company is allowed to carry forward its business losses only if the conditions specified in Section 79 are satisfied.

### TAX INCIDENCE ON COMPANIES

The incidence of Income tax depends upon the residential status of a company in India during the relevant previous year. A Company may be either resident or non-resident in India, i.e., company cannot be ordinary or not-ordinary resident.

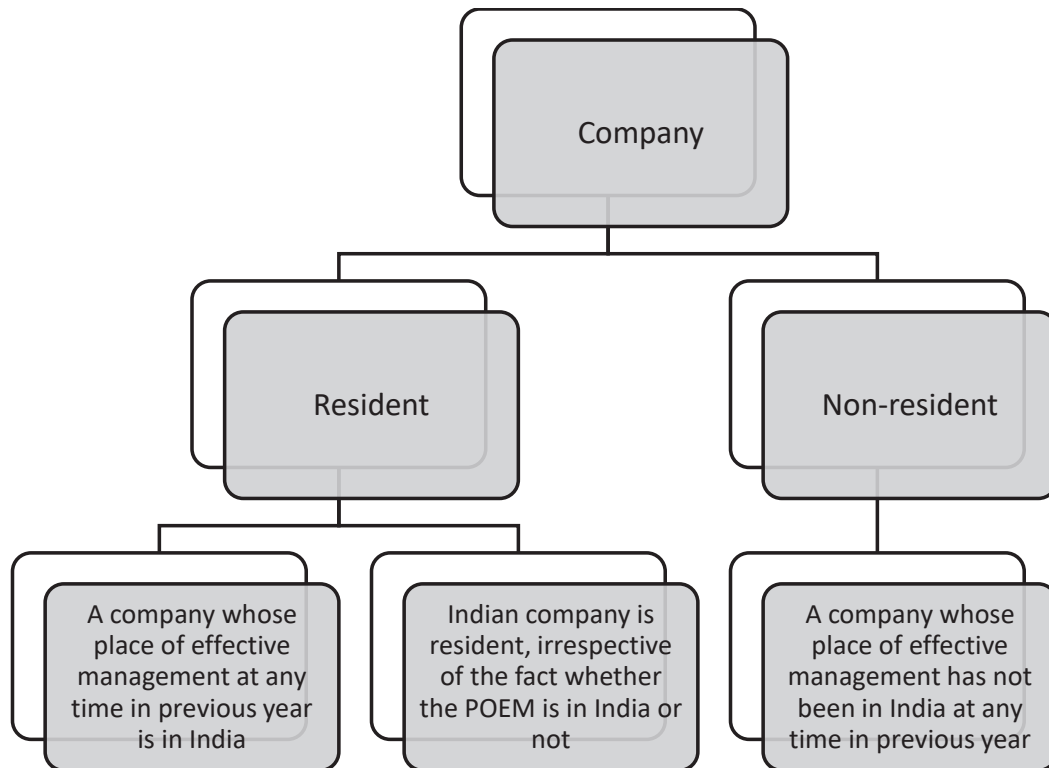
According to Section 6(3) of the Act, a company is said to be resident in India (resident company) in any previous year, if:

- (i) It is an Indian company; or
- (ii) Its place of effective management, (POEM), in that year, is in India.

If any of the above two tests is satisfied the company would be a resident company in India during that previous year.

A foreign company is resident in India if its Place of Effective Management (POEM) during the previous year is in India. For this purpose, the Place of Effective Management means a place where Key management and commercial decisions that are necessary for the conduct of the business of an entity as a whole are, in substance are made.

Accordingly, all Indian companies are always resident in India regardless of the place of its place of effective management. However, in the case of a foreign company the place of effective management is the basis on which the company's residential status is determinable.



**Note:** Vide Circular No 08 of 2017 dated 23rd February, 2017, it has been clarified that the POEM provisions shall not apply to a company having turnover or gross receipts of Rs. 50 crore or less in a financial year. So, in those cases, the criteria for determining the residential status would be Control and Management of the affairs.

Please refer details: [https://www.incometaxindia.gov.in/communications/circular/circular25\\_2017.pdf](https://www.incometaxindia.gov.in/communications/circular/circular25_2017.pdf)

### Guiding Principles for determining Place of Effective Management [POEM]

The process of determination of POEM would be primarily based on the fact as to whether or not the company is engaged in active business outside India. The PoEM concept is one of substance over form and since “residence” is to be determined for each year, POEM will also be required to be determined on year to year basis. An entity may have more than one place of management, but it can have only one place of effective management at any point of time.

The test of PoEM is based on whether the entity is earning only passive income and its operations are so structured that it is present or active in a country without paying applicable taxes. Thus, a company having key managerial people stationed in India with substantial asset base in India and selling goods through a subsidiary

may yet claim that it has no PE in India and being incorporated outside India, it could end up paying very little tax. The concept of PoEM thus examines whether the company is in fact a tax resident of a foreign state with substantial operations outside India or whether the incorporation or having different places of business is only a device to evade tax by being a non-resident.

As per the PoEM guidelines, a company shall be said to be engaged in “active business outside India” if the passive income is not more than 50% of its total income and

- (i) less than 50% of its total assets are situated in India; and
- (ii) less than 50% of total number of employees are situated in India or are resident in India; and
- (iii) the payroll expenses incurred on such employees is less than 50% of its total payroll expenditure.

**Explanation:** For the aforesaid purpose:

The income shall be	As computed for tax purpose in accordance with the laws of the country of incorporation; or as per books of account, where the laws of the country of incorporation do not require such a computation.
The value of assets	<ul style="list-style-type: none"> <li>● In case of an individually depreciable asset, shall be the average of its value for tax purposes in the country of incorporation of the company at the beginning and at end of the previous year; and</li> <li>● In case of a pool of fixed assets being treated as a block for depreciation, shall be the average of its value for tax purposes in the country of incorporation of the company at the beginning and at end of the year;</li> <li>● In case of any other asset, shall be its value as per books of account.</li> </ul>
The number of employees	the number of employees shall be the average of the number of employees as at the beginning and at the end of the year and shall include persons, who though not employed directly by the company, perform tasks similar to those performed by the employees.
Pay roll	the term “pay roll” shall include the cost of salaries, wages, bonus and all other employee compensation including related pension and social costs borne by the employer.
Head Office	<p>“Head Office” of a company would be the place where the company senior management and their direct support staff are located or, if they are located at more than one location, the place where they are primarily or predominantly located.</p> <p>A company head office is not necessarily the same as the place where the majority of its employees work or where its board typically meets.</p>
Passive income	<p>“Passive income” of a company shall be aggregate of, income from the transactions where both the purchase and sale of goods is from / to its associated enterprises; and income by way of royalty, dividend, capital gains, interest or rental income.</p> <p>Note : any income by way of interest shall not be considered to be passive income in case of a company which is engaged in the business of banking or is a public financial institution, and its activities are regulated as such under the applicable laws of the country of incorporation.</p>

Senior Management	<p>“Senior Management” in respect of a company means the person or persons who are generally responsible for developing and formulating key strategies and policies for the company and for ensuring or overseeing the execution and implementation of those strategies on a regular and on- going basis. While designation may vary, these persons may include :</p> <ul style="list-style-type: none"> <li>(i) Managing Director or Chief Executive Officer;</li> <li>(ii) Financial Director or Chief Financial Officer;</li> <li>(iii) Chief Operating Officer; and</li> </ul> <p>The heads of various divisions or departments.</p>
-------------------	--

The conditions of having earned passive income of less than 50% and having less than 50% of assets, employees and payroll expenses have to be satisfied cumulatively. Thus, merely because say 95% of the income of a company is from royalty but 90% of its assets are outside India, it need not be scrutinized for PoEM since other conditions are not met. The company would be engaged in active business outside India. The idea is to identify such companies who may be trying to evade taxes by merely having incorporation or a set of directors operating from outside India while in substance it is carrying out activity in India and earning incomes which should be subject to tax in India.

The place of effective management in case of a company engaged in active business outside India shall be presumed to be outside India if the majority meetings of the board of directors of the company are held outside India. However, it is established that the Board of directors of the company are standing aside and not exercising their powers of management and such powers are being exercised by either the holding company or any other person (s) resident in India, then the place of effective management shall be considered to be in India. For the purpose of determining whether the company is engaged in active business outside India, the average of the data of the previous year and two years prior to that shall be taken into account. In case the company has been in existence for a shorter period, then data of such period shall be considered.

The determination of POEM would be a two stage process as follows:

**First Stage:** Identification or ascertaining the person or persons who actually make the key management and commercial decision for conduct of the company business as a whole.

**Second Stage:** Determination of place where these decisions are in fact being made.

**Note:** The place where these management decisions are taken would be more important than the place where such decisions are implemented. For the purpose of determination of POEM it is the substance which would be conclusive rather than the form.

### Some of the guiding principles for determining the POEM

- (a) The location where a company’s Board regularly meets and makes decisions may be the company place of effective management provided, the Board retains and exercises its authority to govern the company; and in substance, make the key management and commercial decisions necessary for the conduct of the company business as a whole. Mere formal holding of board meetings at a place would by itself not be conclusive for determination of POEM being located at that place.

**Note :** A company’s board may delegate some or all of its authority to one or more committees such as an executive committee consisting of key members of senior management. In these situations, the location where the members of the executive committee are based and where that committee develops and formulates the key strategies and policies for mere formal approval by the full board will often be considered to be the company’s place of effective management.

- (b) The location of a company's head office will be a very important factor in the determination of the company's place of effective management because it often represents the place where key company decisions are made. The following points need to be considered for determining the location of the head office of the company:

If the company's senior management and their support staff are based in a single location and that location is held out to the public as the company's principal place of business or headquarters then that location is the place where head office is located. If the company is more decentralized (for example where various members of senior management may operate, from time to time, at office located in the various countries) then the company's head office would be the location where these senior managers:

- i. are primarily or predominantly based; or
- ii. normally return to following travel to other locations; or
- iii. meet when formulating or deciding key strategies and policies for the company as a whole.

In situations where the senior management is so decentralised that it is not possible to determine the company's head office with a reasonable degree of certainty, the location of a company's head office would not be of much relevance in determining that company's place of effective management.

- (c) The use of modern technology impacts the place of effective management in many ways. It is no longer necessary for the persons taking decision to be physically present at a particular location. Therefore, physical location of board meeting or executive committee meeting or meeting of senior management may not be where the key decisions are in substance being made. In such cases the place where the directors or the persons taking the decisions or majority of them usually reside may also be a relevant factor. It may be clarified that day-to-day routine operational decisions undertaken by junior and middle management shall not be relevant for the purpose of determination of POEM.

If the above factors do not lead to clear identification of POEM then the following secondary factors can be considered:

- i. Place where main and substantial activity of the company is carried out; or
- ii. Place where the accounting records of the company are kept.

The determination of POEM is to be based on all relevant facts related to the management and control of the company, and is not to be determined on the basis of isolated facts that by itself do not establish effective management, as illustrated by the following examples:

- i. The fact that a foreign company is completely owned by an Indian company will not be conclusive evidence that the conditions for establishing POEM in India have been satisfied.
- ii. The fact that there exists a Permanent Establishment of a foreign entity in India would itself not be conclusive evidence that the conditions for establishing POEM in India have been satisfied.
- iii. The fact that one or some of the Directors of a foreign company reside in India will not be conclusive evidence that the conditions for establishing POEM in India have been satisfied.
- iv. The fact of, local management being situated in India in respect of activities carried out by a foreign company in India will not, by itself, be conclusive evidence that the conditions for establishing POEM have been satisfied.

- v. The existence in India of support functions that are preparatory and auxiliary in character will not be conclusive evidence that the conditions for establishing POEM in India have been satisfied.
- vi. The place where day to day, operational decisions are taken would not be PoEM.

Further, based on the facts and circumstances if it is determined that during the previous year the POEM is in India and also outside India then POEM shall be presumed to be in India if it has been mainly /predominantly in India.

**Example 1:** M/s A Co. is a sourcing entity for an Indian multinational group, incorporated in Country X as a wholly owned subsidiary of B Co., an Indian company. The company's only assets comprise its warehouses and the stock stored within them, all of which are located in Country X. Additionally, all of its employees are based in Country X. . The average income wise breakup of the company's total income for three years is:

- i. 30% of income is from transaction where purchases are made from parties which are non-associated enterprises and sold to associated enterprises;
- ii. 30% of income is from transaction where purchases are made from associated enterprises and sold to associated enterprises;
- iii. 30% of income is from transaction where purchases are made from associated enterprises and sold to non-associated enterprises; and
- iv. 10% of the income is by way of interest.

**Interpretation:** In this case passive income is 40% of the total income of the company. The passive income consists of :

- i. 30% income from the transaction where both purchase and sale is from/to associated enterprises; and
- ii. 10% income from interest.

Hence, M/s A Co. satisfies the first requirement of the test of active business outside India. Since no assets or employees of M/s A Co. are in India the other requirements of the test are also satisfied, accordingly the company is engaged in active business outside India.

**Example 2:** With other facts remaining same as that in Example 1, with the sole variation being that M/s A Co. has total 50 employees. 47 employees, managing the warehouse, storekeeping and accounts of the company, are located in country X. The Managing Director (MD), Chief Executive Officer (CEO) and sales head are resident in India. The total annual payroll expenditure on these 50 employees is Rs. 5 crore, out of which, the annual payroll expenditure in respect of MD, CEO and sales head is of Rs. 3 crore.

**Interpretation:** Although the first limb of active business test is satisfied by A Co. as only 40% of its total income is passive in nature. Further, more than 50% of the employees are also situated outside India. All the assets are situated outside India. However, the payroll expenditure in respect of the MD, the CEO and the sales head being employees resident in India exceeds 50% of the total payroll expenditure. Therefore, A Co. is not engaged in active business outside India.

**Example 3:** The basic facts are same as in Example 1. Further facts are that all the directors of the A Co. are Indian residents. During the relevant previous year 5 meetings of the Board of Directors are held of which two were held in India and 3 outside India with two in country X and one in country Y.

**Interpretation:** A Co. is engaged in active business outside India as the facts indicated in Example 1 establish. The majority of board meetings have been held outside India. Therefore, the POEM of A Co. shall be presumed to be outside India.

**Example 4:** The facts are same as in Example 1 but it is established by the Assessing Officer that although A Co.'s senior management team signs all the contracts, for all the contracts above Rs. 10 lakh the A Co. must submit its recommendation to B Co. and B Co. makes the decision whether or not the contract may be accepted. It is also seen that during the previous year more than 99% of the contracts are above Rs. 10 lakh and over past years also the same trend in respect of value contribution of contracts above Rs. 10 lakh is seen.

**Interpretation:** These facts suggest that the effective management of the A Co. may have been usurped by the parent company B Co. Therefore, PoEM of A Co. may in such cases be not presumed to be outside India even though A Co. is engaged in active business outside India and majority of board meeting are held outside India.

**For Detailed POEM Guidelines:**

<http://www.incometaxindia.gov.in/news/circular06/2017.pdf>

### SCOPE OF TOTAL INCOME OF COMPANIES

According to Section 5(1) of the Act, the total income of any previous year of a resident company would consist of:

- (i) Income received or deemed to be received in India during the previous year by or on behalf of such company;
- (ii) Income which accrues or arises or is deemed to accrue or arise to it in India during the previous year;
- (iii) Income which accrues or arises to it outside India during the previous year.

Under Section 5(2) of the Act, the total income of any previous year of **non-resident company** would consist of:

- (i) Income received or deemed to be received in India in the previous year by or on behalf of such company;
- (ii) Income which accrues or arises or is deemed to accrue or arise to it in India during the previous year.

### CORPORATE TAX RATES

Domestic Company	Assessment Year 2026-27
<p><b>Where it has opted for Section 115BA [other than those opted under section 115BAA and section 115BAB]</b></p> <p>[This regime shall be available only for the manufacturing companies in corporate in India on or after 01-03-2016.]</p>	25%
<p><b>Where it opted for Section 115BAA</b></p> <p>[This benefit shall be available when total income of the company is computed without claiming specified deductions, incentives, exemptions and additional depreciation available under the Income-tax Act.]</p>	22%

Domestic Company	Assessment Year 2026-27
<b>Where it opted for Section 115BAB</b> [This regime shall be available only for the manufacturing companies incorporated in India on or after 01-10-2019 & commences manufacture of article or thing before 31.3.2024). Hence, old companies will not be able to take the benefit of this section.]	15%
<b>Where it has not opted for Section 115BAA and the Total Turnover or Gross receipts of the company in the previous year 2023-24 does not exceeds 400 crore rupees</b>	25%
Any other domestic company	30%
<b>Foreign Company</b> - Royalty received from Government or an Indian concern in pursuance of an agreement made with the Indian concern after March 31, 1961, but before April 1, 1976, or fees for rendering technical services in pursuance of an agreement made after February 29, 1964 but before April 1, 1976 and where such agreement has, in either case, been approved by the Central Government	50%
<b>Foreign Company</b> – Any other income	35%

**Add:**

**(a) Surcharge:**

Type of Company	10 Crores > Total Income > 1 Crore	Total Income > 10 Crore*
Domestic Company	7%	12%
Foreign Company	2%	5%
Company opting for taxability under Section 115BAA / 115BAB	Flat 10% irrespective of amount of total income	

\*Note: Where income exceeds Rs. 10 crore, the total amount payable as income-tax and surcharge shall not exceed total amount payable as income-tax on total income of Rs. 10 crore by more than the amount of income that exceeds Rs. 10 crore.

**(b) Health and Education Cess:** The amount of income-tax and the applicable surcharge, shall be further increased by health and education cess calculated at the rate of 4% of such income-tax and surcharge.

Domestic companies have to pay tax at the specified rate on profit earned during the previous year. Generally the tax rate applicable on domestic companies is 30%. It is 25% if the total turnover or gross receipt does not exceed Rs. 400 crore during the preceding previous year.

In addition to the above tax rate, there are three other sections i.e. Section 115BA / 115BAA / 115BAB of the Income tax Act, 1961. Domestic Companies have the option to choose to pay tax in any of these sections only on fulfillment of certain conditions. The conditions are appended below:

Criteria	Tax on Income of certain manufacturing Domestic Companies [Section 115BA]	Tax on income of certain Domestic Companies [Section 115BAA]	Tax on Income of new manufacturing Domestic Companies [Section 115BAB]
<b>Tax Rates</b>	25% + SC as applicable + HEC @ 4%	22% + SC @ 10% + HEC @ 4	15% + SC @ 10% + HEC @ 4%
<b>Set-up and engaged</b>	Company has been set-up & registered on or after 01-03-2016 and engaged in business of manufacture/production of any article/thing and research in relation to, or distribution of, such article or thing manufactured	Applicable on Domestic Companies	<ul style="list-style-type: none"> <li>● Company should be set-up as a domestic company engaged in manufacturing / production of any article and include research or distribution of such article. The company has been set-up and registered on or after 1st Oct 2019 and must commence manufacturing on or before 31st March, 2024.</li> <li>● Is not formed by splitting up or reconstruction of business already in existence (exception provided for undertaking formed as a result of reestablishment, reconstruction or revival of business referred to in section 33B of the Act).</li> <li>● Does not use any building previously used as a hotel or convention centre, as the case may be, in respect of which deduction under section 80-ID has been claimed and allowed.</li> </ul>

<p><b>Following Deduction not allowed while calculating total Income</b></p>	<ul style="list-style-type: none"> <li>● Section 10AA: Deduction from special economic zone unit.</li> <li>● Section 32AD: Investment allowance towards new plant and machinery made in notified backward areas.</li> <li>● Section 33AB: Deduction for Tea, Coffee and Rubber manufacturing.</li> <li>● Section 33ABA: Deposits made by companies engaged in production or extraction of petroleum and natural gas in India towards the site restoration fund.</li> <li>● Deduction under section 35(1) (ii)(ia)(iii) or 35(2AA) (2AB)</li> <li>● Section 35AD: Capital expenditure by any specified business.</li> <li>● Section 35CCC: Expenditure on an agriculture extension project.</li> <li>● Section 35CCD: Expenditure on skill development project</li> <li>● Section 80C to 80U (profit based) other than u/s 80JJAA or 80M.</li> <li>● Additional depreciation u/s 32.</li> </ul>	<ul style="list-style-type: none"> <li>● Section 10AA: Deduction from special economic zone unit.</li> <li>● Section 32AD: Investment allowance towards new plant and machinery made in notified backward areas.</li> <li>● Section 33AB: Deduction for Tea, Coffee and Rubber manufacturing.</li> <li>● Section 33ABA: Deposits made by companies engaged in production or extraction of petroleum and natural gas in India towards the site restoration fund.</li> <li>● Deduction under section 35(1)(ii)(ia)(iii) or 35(2AA)(2AB) .</li> <li>● Section 35AD: Capital expenditure by any specified business.</li> <li>● Section 35CCC: Expenditure on an agriculture extension project.</li> <li>● Section 35CCD: Expenditure on skill development project</li> <li>● Section 80C to 80U (profit based) other than u/s 80JJAA or 80M.</li> <li>● Additional depreciation u/s 32.</li> </ul>	<ul style="list-style-type: none"> <li>● Section 10AA: Deduction from special economic zone unit.</li> <li>● Section 32AD: Investment allowance towards new plant and machinery made in notified backward areas.</li> <li>● Section 33AB: Deduction for Tea, Coffee and Rubber manufacturing.</li> <li>● Section 33ABA: Deposits made by companies engaged in production or extraction of petroleum and natural gas in India towards the site restoration fund.</li> <li>● Deduction under section 35(1)(ii)(ia)(iii) or 35(2AA)(2AB) .</li> <li>● Section 35AD: Capital expenditure by any specified business.</li> <li>● Section 35CCC: Expenditure on an agriculture extension project.</li> <li>● Section 35CCD: Expenditure on skill development project.</li> <li>● Section 80C to 80U (profit based) other than u/s 80JJAA or 80M.</li> <li>● Additional depreciation u/s 32.</li> </ul>
--	--	--	---

<b>Set-off of loss</b>	No set off of any loss c/f from any earlier AY if such loss is attributable to any of the deductions referred above	No set off of any loss c/f from any earlier AY if such loss is attributable to any of the deductions referred above	No set off of any loss c/f from any earlier AY if such loss is attributable to any of the deductions referred above.
<b>MAT</b>	Applicable	Not Applicable	Not Applicable
<b>Availability of set-off of MAT credit brought forward from earlier years</b>	Applicable	No brought forward MAT credit	No brought forward MAT credit available
<b>Exercise of Options</b>	This Option has to be exercised upto due date of income tax return filing.	This Option has to be exercised upto due date of income tax return filing.	This Option has to be exercised upto due date of income tax return filing.
<b>Opt-out options</b>	Company cannot opt out once this option has been exercised ,except when the company choose to opt for Section 115BAA.	Company exercises the option under Section 115BAA for a given assessment year, it cannot withdraw it for the same or subsequent assessment years.	Company exercises the option under Section 115BAB for a given assessment year, it cannot withdraw it for the same or subsequent assessment years.

### MINIMUM ALTERNATE TAX (MAT)

At times it may happen that a taxpayer, being a company, may have generated income during the year, but by taking the advantage of various provisions of Income-tax Law (like exemptions, deductions, depreciation, etc.), it may have reduced its tax liability or may not have paid any tax at all. Due to increase in the number of zero taxpaying companies, MAT was introduced. 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. Since the introduction of MAT, several changes have been introduced in the provisions of MAT and today it is levied on companies as per the provisions of section 115JB.

#### MAT Applicability

If the income tax payable by a company on its total income as computed under the normal provisions of the Income Tax Act in respect of any previous year relevant to the assessment year, is less than 15% of such book profit plus surcharge plus health and education cess, then such book profit shall be treated as total income of the company and the tax payable for the relevant previous year **shall be deemed to be 15%** (add surcharge and cess) of such book profit. This non- absolute provision will override any other provision of the Income-tax Act.

**Note:** MAT is levied at the rate of 9% (plus surcharge and cess as applicable) in case of a company, being a unit of an International Financial Services Centre and deriving its income solely in convertible foreign exchange.

**MAT is applicable to:**

- companies, including foreign companies with a permanent establishment (PE) or business connection in India.
- Companies in SEZ are not exempt from MAT (w.e.f. AY 2020-21).
- It does not apply to certain foreign companies (e.g., those not having a PE in India and covered under special exemptions).

**MAT provision shall not apply to:**

- (i) any income arising to a company from life insurance business.
- (ii) Domestic Company who has exercised the option referred to under sections 115BAA or 115BAB.
- (iii) a foreign company resident of a country with which India has a Double Taxation Avoidance Agreement (DTAA) and such company does not have a permanent establishment in India.
- (iv) the foreign company is a resident of a country with which India does not have an agreement (DTAA) and such company is not required to seek registration under any law for the time being in force relating to companies.
- (v) a foreign company, whose total income comprises of profits and gains arising from business referred to in section 44B, 44BB, 44BBA, or 44BBB and such income has been offered to tax at the rates specified in those sections.

**MEANING OF BOOK PROFITS**

As per Explanation 1 to section 115JB(2) “book profit” for the purposes of section 115JB means net profit as shown in the statement of profit and loss prepared in accordance with Schedule III to the Companies Act, 2013 as increased and decreased by certain items prescribed in this regard. The items to be increased and decreased are as follows:

Computation of Book Profits (Table A)	Amount
Net profit as per statement of profit and loss prepared in accordance with Schedule III to the Companies Act, 2013	
<b>Add: Following items (if they are debited to the statement of profit and loss)</b>	
Income-tax paid/payable and the provision thereof	
Amounts carried to any reserves by whatever name called (Other than reserve specified under Section 33AC)	
Provisions for unascertained liabilities	
Provisions for losses of subsidiary companies	
Dividends paid/proposed	
Expenditure related to incomes which are exempt under section 10 [other than section 10(38)] section 11 and section 12	

Computation of Book Profits (Table A)	Amount
The amount or amounts of expenditure relatable to, income, being share of the taxpayer in the income of an association of persons or body of individuals, on which no income-tax is payable in accordance with the provisions of section 86	
The amount or amounts of expenditure relatable to income accruing or arising to a taxpayer being a foreign company, from: <ul style="list-style-type: none"> <li>(a) the capital gains arising on transactions in securities; or</li> <li>(b) the interest, dividend royalty or fees for technical services chargeable to tax at the rate or rates specified in Chapter XII</li> </ul> if the income-tax payable on above income is less than the rate of MAT	
The amount representing notional loss on transfer of a capital asset, being share or a special purpose vehicle to a business trust in exchange of units allotted by that trust referred to in clause (xvii) of section 47 or the amount representing notional loss resulting from any change in carrying amount of said units or the amount of loss on transfer of units referred to in clause (xvii) of section 47	
Expenditure relatable to income by way of royalty in respect of patent chargeable to tax under section 115BBF	
Amount of depreciation debited to P & L A/c	
Deferred tax and the provision thereof	
Provision for diminution in the value of any asset	
The amount standing in revaluation reserve relating to revalued asset on the retirement or disposal of such an asset if not credited to statement of profit and loss	
The amount of gain on transfer of units referred to in clause (xvii) of section 47 computed by taking into account the cost of the shares exchanged with units referred to in the said clause or the carrying amount of the shares at the time of exchange where such shares are carried at a value other than the cost through statement of profit and loss as the case may be	
<b>Less: Following items (if they are credited to the statement of profit and loss)</b>	
Amount withdrawn from any reserve or provision if credited to P&L account	
Incomes which are exempt under section 10 [other than section 10(38)] section 11 and section 12	
Amount of depreciation debited to statement of profit and loss (excluding the depreciation on revaluation of assets)	
Amount withdrawn from revaluation reserve and credited to statement of profit and loss to the extent it does not exceed the amount of depreciation on revaluation of assets	

<b>Computation of Book Profits (Table A)</b>	<b>Amount</b>
The amount of income, being the share of the taxpayer in the income of an association of persons or body of individuals, on which no income-tax is payable in accordance with the provisions of section 86, if any such amount is credited to the statement of profit and loss	
The amount of income accruing or arising to a taxpayer being a foreign company, from: <ul style="list-style-type: none"> <li>(a) the capital gains arising on transactions in securities; or</li> <li>(b) the interest, dividend royalty or fees for technical services chargeable to tax at the rate or rates specified in Chapter XII</li> </ul> if such income is credited to the statement of profit and loss and the income-tax payable on above income is less than the rate of MAT.	
The amount (if any, credited to the statement of profit and loss) representing <ul style="list-style-type: none"> <li>(a) notional gain on transfer of a capital asset, being share of a special purpose vehicle to a business trust in exchange of units allotted by that trust referred to in clause (xvii) of section 47; or</li> <li>(b) notional gain resulting from any change in carrying amount of said units; or</li> <li>(c) gain on transfer of units referred to in clause (xvii) of section 7,</li> </ul> The amount representing notional gain on transfer of units referred to in clause (xvii) of section 47 computed by taking into account the cost of the shares exchanged with units referred to in the said clause or the carrying amount of the shares at the time of exchange where such shares are carried at a value other than the cost through statement of profit and loss, as the case may be.	
Income by way of royalty in respect of patent chargeable to tax under section 115BBF	
Aggregate amount of unabsorbed depreciation and loss brought forward in case of: <ul style="list-style-type: none"> <li>a) A company and its subsidiary and the subsidiary of such subsidiary, where, the Tribunal, on an application moved by the Central Government under Section 241 of the Companies Act, 2013 has suspended the Board of Directors of such company and has appointed new directors who are nominated by the Central Government under Section 242 of the said Act;</li> </ul> A company against whom an application for corporate insolvency resolution process has been admitted by the Adjudicating Authority under Section 7 or Section 9 or Section 10 of the Insolvency and Bankruptcy Code, 2016	
Amount of brought forward loss or unabsorbed depreciation, whichever is less as per books of account (in case of a company other than the company undergoing insolvency proceedings)	
Profits of a sick industrial company till its net worth becomes zero/positive	
Deferred tax, if credited to statement of profit and loss	
<b>Book profit to be used to compute MAT</b>	

The amount of Income-tax shall include:

- i. Any interest charged under this Act;
- ii. Surcharge, if any, as levied by the Central Acts from time-to-time;
- iii. Education Cess on Income-tax, if any, as levied by the Central Acts from time-to-time; and
- iv. Secondary and Higher Education Cess on Income-tax, if any, as levied by the Central Acts from time-to-time.

Withdrawals made from reserves created or provisions made on or after the 1-4-1997, shall be deducted only if the book profit of the year of creation of such reserve has been increased by the amount transferred to such reserve or provisions (out of which the said amount was withdrawn).

### Meaning of book profit for Indian Accounting Standards (Ind AS) compliant companies

- (1) As per newly inserted section 115JB(2A) by the Finance Act, 2017, "book profit" for Ind AS compliant company for the purpose of section 115JB means the book profit as computed in accordance with Explanation 1 to section 115JB(2) as mentioned above:-
  - (a) increased by all amounts credited to other comprehensive income (OCI) in the statement of profit and loss that will not be re-classified to profit or loss;
  - (b) decreased by all amounts debited to other comprehensive income (OCI) in the statement of profit and loss that will not be re-classified to profit or loss;
  - (c) increased by all amounts or aggregate of amounts debited to the statement of profit and loss on distribution of non-cash assets to shareholders in a demerger of companies in accordance with Appendix A of Ind AS 10; and
  - (d) decreased by all amounts or aggregate of amounts credited to the statement of profit and loss on distribution of non-cash assets to shareholders in a demerger of companies in accordance with Appendix A of Ind AS 10.
- (2) Any item credited/debited to OCI that will not re-classified to profit or loss should be ignored for the purpose of computing book profit if that item is:
  - i. Revaluation surplus for fixed assets and intangible assets under Ind AS 16 and Ind AS 38; or
  - ii. Gains or losses from investments in equity instruments measured at fair value through other comprehensive income (FVTOCI) as per Ind AS 109.

But, the book profit of the previous year in which the asset or investment as referred to in above points (i) and (ii) is retired, disposed, realised or otherwise transferred shall be increased or decreased by the amounts of above points (i) and (ii) to the extent relatable to the disposed asset or investment.

- (3) In the case of a resulting company, where the assets and liabilities of the undertaking or undertakings being received by it are recorded at values different from values appearing in the books of account of the demerged company immediately before demerger, any change in such value shall be ignored for the purpose of computation of book profit of the resulting company.

So, for the computation of book profit of an Ind AS compliant company, may proceed as follows:

Particulars	Amount
Book profit as computed in Table A	
Adjustments as mentioned in point (3) above	

Particulars	Amount
Adjustments for revaluation gain/loss for fixed assets & intangible assets in the year of their disposal or transfer	
Adjustments for gains or losses from investments in equity instruments measured at FVTOCI in the year if their disposal or transfer	
Adjustments for any other OCI items that will not be re-classified to profit or loss	
Book profit to be used to compute MAT	

**MAT CREDIT [SECTION 115JAA]**

MAT Credit for taxes paid as per Section 115JB in earlier years (in which MAT liability was more than tax liability as per normal provisions of the Act) is available in the Assessment year in which Tax payable on the total income computed under the normal provisions of this Act is more than tax payable u/s 115JB for that Assessment year.

MAT Credit to be set off in an AY = Regular Income tax payable - Minimum alternate tax as per section 115JB

**Circular No. 24/\*2017 Dated 25th July, 2017**

**Clarifications on computation of book profit for the purposes of levy of Minimum Alternate Tax (MAT) under section 115JB of the Income-tax Act, 1961 for Indian Accounting Standards (Ind AS) compliant companies.**

Central Government notified the Indian Accounting Standards (Ind AS) which are converged with International Financial Reporting Standards (IFRS) vide Companies (Indian Accounting Standards) Rules, 2015. Consequently, the Finance Act, 2017, has amended the provisions of section 115JB of the Income-tax Act, 1961 ('the Act') for Ind AS compliant companies w.e.f. 1st day of April, 2017 (A.Y. 2017-18).

The Central Board of Direct Taxes ('the Board') has received representations from various stakeholders seeking clarifications on certain issues arising therefrom. The matter was referred to an expert committee. The Committee after duly considering the representations from stakeholders has recommended issuance of clarifications by way of FAQs for these issues.

The matter has been considered by the Board and the following clarifications are issued:

**Question 1: The profit for the period may include Marked to market (MTM) gains/ losses on account of fair value adjustments on various financial instruments recognised through profit or loss (FVTPL). A situation may arise where the losses on account of fair value adjustments could be added back in view of clause (i) of Explanation 1 to section 115JB(2) of the Act. Whether the losses on such instruments require any adjustment for computing book profits for the purposes of MAT?**

Answer: Since MTM gains recognised through profit or loss on FVTPL classified financial instruments are included in book profits for MAT computation, it is clarified that MTM losses on such instruments recognised through profit or loss shall not require any adjustments as provided under clause (i) of Explanation 1 to section 115JB(2) of the Act. However, in case of provision for diminution/ impairment in value of assets other than FVTPL financial instruments, the existing adjustment of clause (i) of Explanation 1 to section 115JB (2) of the Act shall apply.

It is further clarified that for financial instruments where gains and losses are recognised through

Other Comprehensive income (OCI), the amended provisions of MAT shall continue to apply.

**Question 2: For the purposes of section 115JB of the Act, what shall be the starting point for computing Book profits for Ind AS compliant companies? Whether Profit before other comprehensive income [Item number XIII in Part 2 (Statement of Profit and Loss) of Division II of Schedule III to the Companies Act 2013] or Total Comprehensive Income (including other comprehensive income) [Item number XV in Part 2 (Statement of Profit and Loss) of Division II of Schedule III to the Companies Act 2013] shall be the starting point?**

Answer: Starting point for computing Book profits for Ind AS compliant companies shall be Profit before other comprehensive income [Item number XIII in Part 2 (Statement of Profit and Loss) of Division II of Schedule III to the Companies Act 2013].

**Question 3: As per Explanation to Section 115 JB (2C) of the Act, the convergence date is defined as the first day of the first Indian Accounting standards reporting period as defined in Ind AS 101. The Memorandum explaining the provisions of the Finance Bill 2017 mentions that the adjustment as on the last day of the comparative period is to be considered. It may be clarified as to what would be the appropriate manner for computation of transition amount on convergence date, 1st April i.e. at the start of the day or at the end of the day?**

Answer: In the first year of adoption of Ind AS, the companies would prepare Ind AS financial statement for reporting year with a comparative financial statement for immediately preceding year. As per Ind AS 101, a company would make all Ind AS adjustments on the opening date of the comparative financial year. The entity is also required to present an equity reconciliation between previous Indian GAAP and Ind AS amounts, both on the opening date of preceding year as well as on the closing date of the preceding year. The amounts as on start of the opening date of the first year of adoption should be considered for the purposes of computation of transition amount.

For example, companies which adopt Ind AS with effect from 1<sup>st</sup> day of April 2016 are required to prepare their financial statements for the year 2016-17 as per requirements of Ind AS. Such companies are also required to prepare an opening balance sheet as of 1<sup>st</sup> day of April 2015 and restate the financial statements for the comparative period 2015-16. In such a case, the first time adoption adjustments as of 31<sup>st</sup> day of March 2016 should be considered [i.e. the start of business on 1<sup>st</sup> day of April 2016 (or, equivalently, close of business on 31<sup>st</sup> day of March 2016)] for computation of MAT liability for previous year 2016-17 (Assessment year 2017-18) and thereafter.

**Question 4: As per Indian GAAP, proposed dividend was required to be recognized in the financial statements for the year for which it pertained to even though these were declared in the subsequent year. Section 115JB of the Act already provides for adjustments for dividend for computation of book profit. As per Ind AS, the amount of proposed dividend (including dividend distribution taxes) is required to be recognized in the year in which it has been declared rather than the year for which it pertains to. Accordingly, on transition to Ind AS, the amount of proposed dividend for FY 2015-16 which was recognized in profit and loss account in FY 2015-16 is required to be reversed and credited to Retained Earnings. For the computation of MAT, whether these balances would form part of the transition amount and thus be adjusted over a period of 5 years?**

Answer: Adjustment of proposed dividend (including dividend distribution taxes) shall not form part of the transition amount.

**Question 5: Under Ind AS, adjustments on the transition date may have a corresponding impact on deferred taxes. Should the deferred taxes on such amounts be considered for the purpose of transition amount?**

Answer: Any deferred taxes adjustments recorded on the transition date shall be ignored for the purpose of computing Transition Amount.

**Question 6:** As mentioned in Question No.1, clause (i) of Explanation 1 to Section 115JB(2) of the Act provides for adjustments for computation of book profit for *the amount or amounts set aside as provision for diminution in the value of any asset*. Convergence date adjustments may include adjustment for Provision for Bad and Doubtful Debts (Expected Credit Loss adjustment) at the time of transition. Whether these adjustments would form part of the transition amount referred to in section 115JB(2C) of the Act?

Answer: Adjustments relating to provision for diminution in the value of any assets other than the ones mentioned in Question Number 1 above, shall not be considered for the purpose of computation of the Transition Amount. Therefore, adjustments relating to provision for doubtful debts shall not be considered for the purpose of computation of the transition amount.

**Question 7:** Under Section 115 JB of the Act, transition amount has been defined as the amount or the aggregate of the amounts adjusted in the 'Other Equity' (excluding capital reserve and securities premium reserve) on the convergence date. Whether changes in share application money on reclassification to 'Other Equity' would form part of the Transition Amount?

Answer: Share application money pending allotment which is reclassified to Other Equity on transition date shall not be considered for the purpose of computing Transition Amount.

**Question 8:** Under Ind AS, Investments in preference share is considered to be a liability and the corresponding dividend expense is debited to Profit and loss account as interest cost. Should such interest expenses on preference shares be deducted for the purpose of MAT computation?

Answer: For the purpose of computation of MAT, profit/Transition Amount shall be increased by dividend/ interest on preference share (including dividend distribution taxes) whether presented as dividend or interest.

**Question 9:** How do we account for items such as equity component, if any, of financial instruments like Non-Convertible debentures (NCDs), Interest free loan etc. included in other equity as per Ind AS for the computation of transition amount under MAT?

Answer: Items such as equity component of financial instruments like NCD's, Interest free loan etc. would be included in the Transition Amount.

**Question 10:** Where revaluation/ fair value adjustments have been made to items of Property, Plant & Equipment (PPE) under Ind AS, as per section 115JB of the Act, the book profit of the previous year in which the items of PPE are retired, disposed or realised shall be increased or decreased, as the case may be, by the revaluation amount relatable to such items of PPE. Whether the revaluation amount to be considered for adjustment should be the gross amount of the revaluation or the amount after adjustment of the depreciation on the revaluation amount?

Answer: The book profit of the previous year in which the items of PPE are retired, disposed, realised or otherwise transferred shall be increased or decreased, as the case may be, by the revaluation amount after adjustment of the depreciation on the revaluation amount relatable to such asset. This has been explained by an illustration as under:

Particulars	Erstwhile Indian GAAP	Ind-AS (considering fair value/revaluation on adjustment on PPE)	Fair Value/Revaluation Adjustments and corresponding depreciation
WDV/Deemed Cost as on 1 April 2015	100	1000	900

Depreciation @ 10% for F.Y. 2015-16	10	100	90
WDV as on 1 April 2016	90	900	810
Depreciation @ 10% for F.Y. 2016-17	9	90	81
WDV as on 1 April 2017	81	810	729*
Sale value as on 1 April 2017	900	900	
Profit on sale credited to P&L	819	90	
Adjustment for MAT - revaluation amount after adjustment of the depreciation	0	729*	
Profit on sale to be considered for MAT	819	819	

**Question 11: How should adjustments for service concession arrangements be treated for the purpose of computation of book profit under MAT?**

Answer: Adjustments on account of Service Concession arrangements would be included in the Transition Amount and also on an ongoing basis.

**Question 12: Existing clause (iii) of explanation to section 115JB(2) of the Act provides for deduction of lower of the amount of loss brought forward or unabsorbed depreciation as per books of account for computation of book profits. In case where, on adjustment of transition amount, the losses as per books of account gets wiped off, whether deduction for the said amount would be available for assessment year 2017-2018 onwards?**

Answer: For assessment year 2017-2018, the deduction of lower of depreciation or losses shall be allowed based on the position as on 31 March 2016. For the subsequent periods, the position as per books of account drawn as per Ind AS shall be considered for computing lower of loss brought forward or unabsorbed depreciation.

**Question 13: How Capital Reserves or Securities Premium existing as per old Indian GAAP reclassified to Retained Earnings/ Other Reserves on Convergence date be treated for MAT purpose.**

Answer: The Capital Reserves or Securities Premium existing as on the convergence date as per the erstwhile Indian GAAP which are reclassified to Retained Earnings/ Other Reserves under Ind AS and vice versa, shall not be considered for the purposes of Transition Amount.

It is further clarified, that even after such reclassifications, the amount of revaluation reserve shall continue to be considered as revaluation reserve for the purposes of computation of book profit and shall also include transfer to any other reserves by whatever name called or capitalised.

**Question 14: Companies which follow accounting year other than March, 2017 ending for Companies Act purposes and are required to transition to Ind AS will have to prepare financial statements for MAT purposes for FY 2016-17 partly under Indian GAAP and partly under Ind AS. How should such companies compute MAT on transition to Ind AS?**

Answer: In view of second proviso to section 115JB (2) of the Act, companies will be required to follow Indian GAAP for the pre-convergence period and Ind AS for the balance period.

For example, a Company following December ending will be required to prepare, accounts for MAT purposes under Indian GAAP for 9 months upto December 2016 and under Ind AS for 3 months thereafter. The transition amount will be calculated with reference to 1<sup>st</sup> January, 2017.

### Concessional Rate of MAT for IFSC unit

In case of a company, being a unit in IFSC and deriving its income solely in convertible foreign exchange, the minimum alternate tax shall be chargeable at the rate of 9% instead of 15%.

#### Calculation of MAT for IFSC unit vis-a-vis other companies

Particulars	Standard MAT	IFSC MAT
Book Profit	₹ 10,00,00,000	₹ 10,00,00,000
MAT Rate	15%	9%
MAT Amount	₹ 1,50,00,000	₹ 90,00,000
Add: Cess @ 4%	₹ 6,00,000	₹ 3,60,000
Total MAT Payable	₹ 1,56,00,000	₹ 93,60,000

This shows a significant tax saving for IFSC units.

### Carried Forward of MAT Credit

Credit of MAT in respect of tax excess paid under Section 115JB will be available and it can be carried forward for **15 Assessment Years** succeeding the assessment year in which the credit became allowable.

The amount of MAT credit shall not be allowed to be carried forward to the subsequent year to the extent such credit relates to the difference between the amount of foreign tax credit (FTC) allowed against MAT and FTC allowable against the tax computed under regular provisions of the Act.

### MAT Provisions for Converted LLPs and Exemptions

- Companies converted to Limited Liability Partnerships (LLPs) are not eligible to claim MAT credit.
- MAT is not applicable to companies opting for tax regimes under Section 115BAA.

#### Illustration 2:

Number of years for which credit of MAT excess paid under section 115JB can be carried forward is –

- 7 Assessment years
- 8 Assessment years
- 15 Assessment years
- 9 Assessment years.

**Solution:** (c) 15 Assessment years

**Illustration 3:**

A domestic company ABC Ltd furnishes the following particulars for AY 2026-27 and solicits your advice on the application of section 115JB. You are also required to compute the total income and tax payable.

Particulars		Amount (Rs.)
	Profits as per P&L Account as per Companies Act, 2013	1,95,00,000
	This includes:	
a)	Excess realized on sale of land held as investment	30,00,000
b)	Depreciation on SLM basis	1,00,00,000
c)	Provision for losses of subsidiaries	60,00,000
	Depreciation allowable per Income Tax Rules, 1962	1,50,00,000
	STCG on sale of land mentioned above	40,00,000
	B/f losses	50,00,000
	Unabsorbed Depreciation	60,00,000

The Company has also represented to you that the excess realized on sale of land cannot form part of the book profits u/s 115 JB. You will have to deal with the issue assuming that the Co. is not required to comply with Ind. AS. The annual turnover of ABC Ltd. was INR 40 Crores.

**Solution:****Computation of Total Income**

Particulars		Amount (Rs.)	Amount (Rs.)
	Net Profit per P&L Account		1,95,00,000
<i>Less:</i>	Excess realized on sale of land (treated separately)		(30,00,000)
			1,65,00,000
<i>Add:</i>	Depreciation on SLM Basis	1,00,00,000	
	Provisions for losses of subsidiaries	60,00,000	
			1,60,00,000
	Total		3,25,00,000
<i>Less:</i>	Depreciation allowable per Income-tax Act		(1,50,00,000)
	Business Income		1,75,00,000

Less:	Set-off of B/F losses		(50,00,000)
	Net Business Income		1,25,00,000
	Capital Gains		40,00,000
	Total Income		1,65,00,000
Less:	Unabsorbed Depreciation		(60,00,000)
	Total Income per as Income-tax Act, 1961		1,05,00,000

**Computation of Book Profit u/s 115JB**

Particulars		Amount (Rs.)	Amount (Rs.)
	Net Profit per P&L Account		1,95,00,000
Add:	Depreciation on SLM Basis	1,00,00,000	
	Provisions for losses of subsidiaries	60,00,000	1,60,00,000
			3,55,00,000
Less:	Depreciation		(1,00,00,000)
	Business Income		2,55,00,000
Less:	B/f Business Loss as it's less than Unabsorbed Depreciation		(50,00,000)
	Book Profits		2,05,00,000

(a) Note that the profit on sale of land held as investment is not excluded from the P&L for purposes of computing the Book Profits.

(b) Note that the least of the B/f loss and the Unabsorbed Depreciation is reduced to compute Book Profits.

**Income Tax Liability under Normal Provisions**

Tax Liability @ 25% as the Turnover is < 400 Crores		26,25,000
Add:	Surcharge @ 7% as the Income is > 1 Cr.	1,83,750
	Total Tax Payable	28,08,750
Add:	Health and Education Cess @ 4%	1,12,350
	Total Income Tax Liability	29,21,100

Income Tax Liability per MAT Provisions		
15% of Book Profits		30,75,000
Add:	Surcharge @ 7% as the Income is > 1 Cr.	2,15,250
	Total Tax Payable	32,90,250
Add:	Health and Education Cess @ 4%	1,31,610
	Total Income Tax Liability	34,21,860

**Note:**

(a) Since 15% of book profits exceeds the tax payable per Income-tax Act, 1961, the book profit would be deemed to be the total income and the tax payable on such total income, which is INR 34,21,860 (rounded off) would become the liability for AY 2026-27 for the Company.

(b) With regards to the company's representation, in respect of the capital gains, whether liable for book profit tax u/s 115JB, it may be noted that since the excess realised on sale of land which was held as investment, has been included in the net profit computed per Sch. III of the Companies Act, 2013, it shall form part of Book Profits (Bombay HC Judgement in CIT vs. Veekay Lal Investment Co Pvt Ltd.).

**Illustration 4:**

Mona Ltd., a resident Co., earned a profit of INR 15,00,000/- after debit / credit of the following amounts:

**Items debited**

- Provisions for the losses of Subsidiaries; INR 70,000
- Provision for doubtful debts; INR 75,000
- Provision for Income Tax; INR 105,000
- Provision for Gratuity basis actuarial valuation; INR 200,000
- Depreciation; INR 360,000
- Interest to Financial Institution (unpaid before filing of return); INR 100,000
- Penalty for infraction of law; INR 50,000

**Items credited**

- Profits from unit(s) established in SEZ; INR 500,000
- Share in income of an AOP as a member; INR 175,000
- Long Term Capital Gains; INR 300,000

**Other Information**

- Depreciation includes INR 150,000 on account of revaluation of fixed assets
- Depreciation per Income Tax Rules is INR 280,000
- Balance of P&L Account on the assets side of B/S as on last day of p/y was INR 10,00,000; of which the unabsorbed depreciation was INR 400,000

- d) Capital Gains has been invested in specified assets u/s 54EC
- e) The AOP, of which the Co. is a member has paid the tax at maximum marginal rate
- f) Provision for Income Tax includes INR 45,000 as interest

You are required to compute the MAT u/s 115JB of the Income Tax Act, 1961 for AY 2026-27, assuming that the Co. is not required to comply with IND AS.

**Solution:**

**Computation of Book Profit u/s 115JB**

Particulars		Amount (Rs.)	Amount (Rs.)
	Net Profit per P&L Account		15,00,000
<i>Add:</i>	Provisions for subsidiaries' losses	70,000	
	Provision for doubtful debts	75,000	
	Provision for Income Tax	1,05,000	
	Depreciation	3,60,000	
			6,10,000
			21,10,000
<i>Less:</i>	Share in income of an AOP	1,75,000	
	Depreciation (excl. Reval. Amounts)	2,10,000	
	Unabsorbed Business Losses	4,00,000	
			(7,85,000)
	Book Profits		13,25,000
	MAT Liability @ 15%		19,87,50
<i>Add:</i>	Health and Education Cess @ 4%		7,950
	MAT Liability (rounded off)		20,6700

**Note:**

1. Interest to FI's / Banks which are unpaid prior to filing of return and penalties are not specified items u/s 115JB and hence not added back
2. Provision for Gratuity Liability based on actuarial valuation is an ascertained liability and hence should not be added back to ascertain book profits (CIT vs. Echjay Forgings P. Ltd.)

3. Capital Gains reflected in the P&L will form a part of the book profits even if the investments u/s 54EC have been made. Therefore, these cannot be reduced. (CIT vs. Veekaylal Investment Co. P. Ltd.)
4. Share of the AOP's income as a member is reduced as the AOP has already paid the tax at maximum marginal rate

**Illustration 5:**

The table below highlights and explains the modus of MAT Credit, and how it is utilised and carried forward.

MAT CREDIT UTILISATION AND C/F					
A.Y.	Normal Tax Liability	Liability (MAT)	Tax Payable	Credit utilised	Credit c/f
2014-15	100	300	300	-	200
2015-16	120	90	120	30	170
2016-17	150	110	150	40	130
2017-18	180	200	200	-	150
2018-19	200	190	200	10	140
2019-20	300	280	300	20	120
2020-21	250	230	250	20	100
2021-22	225	175	225	50	50
2022-23	250	240	250	10	40
2023-24	275	270	275	5	35
2024-25	350	315	350	35	0

**CASE LAW**

ABC (P) Ltd. is in the business of manufacturing Plastic. For the assessment year 2026-27, it paid tax@15% on its book profit computed under section 115JB. The Assessing Officer though satisfied that it is liable to pay book profit tax under section 115JB, wants to charge interest under sections 234B and 234C as no advance tax was paid during the financial year 2024-25. The company seeks your opinion on the proposed levy of interest.

**Solution :** The issue under consideration is whether interest under sections 234B and 234C can be levied where a company is assessed on the basis of its book profit under section 115JB.

The Supreme Court, in Joint CIT v. Rolta India Ltd. (2011) 330 ITR 470, observed that there is a specific provision in section 115JB(5) providing that all other provisions of the Income- tax Act, 1961 shall apply to every assessee, being a company, mentioned in that section. Section 115JB is a self-contained code pertaining to MAT, and by virtue of sub-section (5) thereof, the liability for payment of advance tax would be attracted.

According to section 207, tax shall be payable in advance during any financial year, in accordance with the provisions of sections 208 to 219 (both inclusive), in respect of the total income of the assessee which would be chargeable to tax for the assessment year immediately following that financial year.

Under section 115JB(1), where the tax payable on total income is less than 15% of “book profit” of a company, the “book profit” would be deemed to be the total income and tax would be payable at the rate of 15%.

Since in such cases, the book profit is deemed to be the total income, therefore, as per the provisions of section 207, tax shall be payable in **advance** in respect of such book profit (which is deemed to be the total income) also.

Therefore, if a company defaults in payment of advance tax in respect of tax payable under section 115JB, it would be liable to pay interest under sections 234B and 234C.

Therefore, even though ABC (P) Ltd. is assessed on the basis of its book profit under section 115JB for A.Y.2026-27, it is liable to pay advance tax. Since ABC (P) Ltd. has not paid any advance tax during the financial year 2024-25, the levy of interest under section 234B and 234C is valid.

## FILING OF RETURNS BY COMPANIES [SECTION 139]

### Compulsory Filing of Income Tax Return [Section 139(1)]

As per section 139(1) of the Income Tax Act, 1961, it is compulsory for companies to file a return of income or loss for every previous year of or before the due date in the prescribed form.

Due Date for Filing Income Tax Return for Companies		
Assessee		Due Date
(i)	Company	31st October of the Assessment Year
(ii)	Company who is required to furnish a report referred to in Section 92E	30th November of the Assessment Year

### Exemption from filing Income Tax Return by Foreign Companies in certain cases

In order to reduce the compliance burden of certain types of tax payers, the central government has been empowered to notify the class or classes of person who will be exempt from the filing of Income tax return subject to satisfying the certain conditions.

Accordingly, vide notification no. 49/2023 dated 14<sup>th</sup> July, 2023 exempted non-corporate non-resident and foreign company having income chargeable under income tax act, 1961 during the previous year from any investment set-up in an International Financial Services Center (IFSC) located in India from the requirement of furnishing a return of income u/s 139(1) from AY 2019-20 onwards.

### Conditions for claiming exemption for filing Income Tax Return

- Any income tax due on the said class of persons has been deducted at source and remitted to the central government by the investment fund at the rates in force and
- There is no other income during the previous year for which the said clause of person is otherwise liable for filing income tax return.

Further, the exemption from the requirement for filing the income tax return would not be available to such

notified class of person where a notice u/s 142(1) or section 148 or section 153C has been issued for filing the income tax return to such notified class of person.

### **Return of Loss [Section 139(3)]**

If any person who has sustained a loss in any previous year under the head “Profits and gains of business or profession” or under the head “Capital gains” and claims that the loss or any part thereof should be carried forward under sub-section (1) of section 72, or sub-section (2) of section 73, or sub-section (2) of section 73A or sub-section (1) or sub-section (3) of section 74, or sub-section (3) of section 74A, he may furnish, within the time allowed under sub-section (1), a return of loss in the prescribed form and verified in the prescribed manner and containing such other particulars as may be prescribed.

### **Compulsory Filing of Return of Loss for on or before the due date to carry forward and set-off certain losses**

As per the provision of section 80 of the Income Tax Act, 1961 it is mandatory to file return of loss on or before the due date specified u/s 139(1) in order to carry forward the following losses:

- Business Loss [Section 72(1)]
- Speculation Business Loss [Section 73(2)]
- Loss from specified business [Section 73A(2)]
- Loss under the head Capital Gains [Section 74(1)]
- Loss from the activity of owing and maintaining race horses [Section 74A(3)]

However, loss under the head house property under section 71B and unabsorbed depreciation u/s 32 can be carried forward for set-off even if the return of loss has not been filed before the due date.

### **Belated Return [Section 139(4)]**

Any person who has not furnished a return within the time allowed to him under sub-section (1), may furnish the return for any previous year at any time before:

- three months prior to the end of the relevant assessment year or
- before the completion of the assessment,

whichever is earlier.

### **Revised Return [Section 139(5)]**

If any person, having furnished a return under sub-section (1) or sub-section (4), discovers any omission or any wrong statement therein, he may furnish a revised return at any time before:

- three months prior to the end of the relevant assessment year or
- before the completion of the assessment,

whichever is earlier.

### **Particulars to be furnished along with return of Income in case of an assessee engaged in Business or Profession [Section 139(6)]**

The prescribed form of the returns shall, in the case of an assessee engaged in any business or profession, also require him to furnish the following:

the report of any audit referred to in section 44AB [Such tax audit report is required to be furnished one month prior to the due date of filing of return of Income u/s 139(1)]

- the particulars of the location and style of the principal place where he carries on the business or profession and all the branches thereof
- the names and addresses of his partners, if any, in such business or profession and,
- if he is a member of an association or body of individuals,
  - I. the names of the other members of the association or the body of individuals and the extent of the share of the assessee and
  - II. the shares of all such partners or the members, as the case may be, in the profits of the business or profession and any branches thereof.

### Defective Return [Section 139(9)]

Where the Assessing Officer considers that the return of income furnished by the assessee is defective, he may intimate the defect to the assessee and give him an opportunity to rectify the defect within a period of fifteen days from the date of such intimation or within such further period which, on an application made in this behalf, the Assessing Officer may, in his discretion, allow; and if the defect is not rectified within the said period of fifteen days or, as the case may be, the further period so allowed, then, notwithstanding anything contained in any other provision of this Act, the return shall be treated as an invalid return and the provisions of this Act shall apply as if the assessee had failed to furnish the return:

Provided that where the assessee rectifies the defect after the expiry of the said period of fifteen days or the further period allowed, but before the assessment is made, the Assessing Officer may condone the delay and treat the return as a valid return.

### Updated Return [Section 139(8A)]

1. **Option to Furnish Updated Return** Any person, whether or not he has furnished a return under sub-section (1) or sub-section (4) or sub-section (5), for an assessment year may furnish an **updated return of his income** or the income of any other person in respect of which he is assessable under this Act, for the previous year relevant to such assessment year at any time **within forty-eight months** from the end of the relevant assessment year.
2. **Non-applicability of the provision of Updated Return:** if the updated return:
  - a) is a return of a loss; or
  - b) has the effect of decreasing the total tax liability determined on the basis of return furnished under sub-section (1) or sub-section (4) or sub-section (5); or
  - c) results in refund or increases the refund due on the basis of return furnished under sub-section (1) or sub-section (4) or sub-section (5),

Provided further that a person shall not be eligible to furnish an updated return under this sub-section, where:

- a) a search has been initiated under section 132 or books of account or other documents or any assets are requisitioned under section 132A in the case of such person; or
- b) a survey has been conducted under section 133A, other than sub-section (2A) of that section, in the case of such person; or

- c) a notice has been issued to the effect that any money, bullion, jewellery or valuable article or thing, seized or requisitioned under section 132 or section 132A in the case of any other person belongs to such person; or
- d) a notice has been issued to the effect that any books of account or documents, seized or requisitioned under section 132 or section 132A in the case of any other person, pertain or pertain to, or any other information contained therein, relate to, such person,

for the assessment year relevant to the previous year in which such search is initiated or survey is conducted or requisition is made and any assessment year preceding such assessment year.

Provided also that no updated return shall be furnished by any person where any notice to show-cause under section 148A has been issued in his / her case after thirty-six months from the end of the relevant assessment year:

Provided also that the fourth proviso shall not apply where an order is passed under sub-section (3) of section 148A determining that it is not a fit case to issue notice under section 148

### 3. Circumstances in which updated return can not be Furnished:

- a) Where a person has furnished an updated return for the relevant assessment year or
- b) Where any proceeding for assessment, re-assessment, re-computation or revision of income is pending or has been completed for the relevant assessment year in his case.
- c) the Assessing Officer has information in respect of such person for the relevant assessment year in his possession under the Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976 or the Prohibition of Benami Property Transactions Act, 1988 or the Prevention of Money-laundering Act, 2002 or the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 and the same has been communicated to him, prior to the date of furnishing of return under this sub-section; or
- d) information for the relevant assessment year has been received under an agreement referred to in section 90 or section 90A in respect of such person and the same has been communicated to him, prior to the date of furnishing of return under this sub-section; or
- e) any prosecution proceedings under the Chapter XXII have been initiated for the relevant assessment year in respect of such person, prior to the date of furnishing of return under this sub-section; or
- f) he is such person or belongs to such class of persons, as may be notified by the Board in this regard

**Note:** If any person has sustained a loss in any previous year, he shall be allowed to furnish an updated return where such updated return is a return of income.

### Tax on Updated Return [Section 140B]

#### Where No Return of Income is Furnished earlier [Section 142B(1)]

Where no return of income under sub-section (1) or sub-section (4) of section 139 has been furnished by an assessee and tax is payable, on the basis of return to be furnished by such assessee under sub-section (8A) of section 139, after taking into account,

- (i) the amount of tax, if any, already paid as advance tax;

- (ii) any tax deducted or collected at source;
- (iii) any relief of tax claimed under section 89;
- (iv) any relief of tax or deduction of tax claimed under section 90 or section 91 on account of tax paid in a country outside India;
- (v) any relief of tax claimed under section 90A on account of tax paid in any specified territory outside India referred to in that section; and
- (vi) any tax credit claimed to be set off in accordance with the provisions of section 115JAA or section 115JD,

the assessee shall be liable to pay such tax together with interest and fee payable under any of the provisions of this Act for any delay in furnishing the return or any default or delay in payment of advance tax, along with the payment of additional income-tax computed in accordance with sub-section (3), before furnishing the return and the return shall be accompanied by proof of payment of such tax, additional income-tax, interest and fee.

### Where Return of Income is Furnished earlier [Section 142B(2)]

Where, return of income under sub-section (1) or sub-section (4) or sub-section (5) of section 139 (referred to as earlier return) has been furnished by an assessee and tax is payable on the basis of return to be furnished by such assessee under sub-section (8A) of section 139:

- (a) after taking into account
  - (i) the amount of relief or tax referred to in sub-section (1) of section 140A, the credit for which has been taken in the earlier return;
  - (ii) tax deducted or collected at source, in accordance with the provisions of Chapter XVII-B, on any income which is subject to such deduction or collection and which is taken into account in computing total income and which has not been included in the earlier return;
  - (iii) any relief of tax or deduction of tax claimed under section 90 or section 91 on account of tax paid in a country outside India on such income which has not been included in the earlier return;
  - (iv) any relief of tax claimed under section 90A on account of tax paid in any specified territory outside India referred to in that section on such income which has not been included in the earlier return;
  - (v) any tax credit claimed, to be set off in accordance with the provisions of section 115JAA or section 115JD, which has not been claimed in the earlier return; and
- (b) as increased by the amount of refund, if any, issued in respect of such earlier return,

the assessee shall be liable to pay such tax together with interest payable under any provision of this Act for any default or delay in payment of advance tax along with the payment of additional income-tax, as computed in accordance with sub-section (3), as reduced by the amount of interest paid under the provisions of this Act in the earlier return, before furnishing the return and the return shall be accompanied by proof of payment of such tax, additional income-tax, interest and fee.

### Additional Income Tax Payable at the time of Updated Return [Section 140B(3)]

Time of Furnishing updated Return	Additional Income Tax Payable
If such return is furnished after expiry of the time available under sub-section (4) or sub-section (5) of section 139 and before completion of the period of twelve months from the end of the relevant assessment year	25% of aggregate of tax and interest payable as determined

Time of Furnishing updated Return	Additional Income Tax Payable
if such return is furnished after the expiry of twelve months from the end of the relevant assessment year but before completion of the period of twenty-four months from the end of the relevant assessment year.	50% of aggregate of tax and interest payable as determined
If such return is furnished <b>after the expiry of twenty-four months</b> from the end of the relevant assessment year <b>but before completion of the period of thirty-six months</b> from the end of the relevant assessment year.	60% of aggregate of tax and interest payable as determined
If such return is furnished <b>after the expiry of thirty-six months</b> from the end of the relevant assessment year <b>but before completion of the period of forty-eight months</b> from the end of the relevant assessment year.	70% of aggregate of tax and interest payable as determined

Note: Computation of “additional income-tax”, tax shall include surcharge and cess on such tax.

#### Interest for Default in furnishing Return of Income [Section 234A]

Interest will be levied in case of failure to file Income tax return on or before the due date as specified above. Simple interest @ 1% per month or part of the month is payable for the period commencing from the date immediately following due date and ending on the following dates:

- Where the return is furnished after the due date – Interest will be levied till the date of furnishing the return of Income.
- Where no return is furnished - Interest will be levied till the date of completion of assessment.

The interest will be calculated on the amount of the tax on the total income as reduced by the amount of:

- advance tax, if any, paid;
- any tax deducted or collected at source;
- (iia) any relief of tax allowed under section 89;
- (iii) any relief of tax allowed under section 90 on account of tax paid in a country outside India;
- (iv) any relief of tax allowed under section 90A on account of tax paid in a specified territory outside India referred to in that section;
- (v) any deduction, from the Indian income-tax payable, allowed under section 91, on account of tax paid in a country outside India; and
- (vi) any tax credit allowed to be set off in accordance with the provisions of section 115JAA or section 115JD.

#### Fee for default in Furnishing Return of Income [Section 234F]

Where a person required to furnish a return of income under section 139, fails to do so within the time prescribed, he shall pay, by way of a fee, a sum of Rs. 5,000. However, the fee payable under this section shall not exceed one thousand rupees if the total income of the person does not exceed five lakh rupees.

**VERIFICATION OF RETURN OF INCOME IN CASE OF COMPANIES [SECTION 140]**

<b>Circumstances</b>	<b>Authorized Person</b>
In the situation not covered below	The Managing Director of the Company
Where for any unavoidable reason such managing director is not able to sign the return or where there is no managing director	<p>Any director of the company or any other person as may be prescribed for this purpose.</p> <p>The person prescribed for the verification of return of Income shall be the person appointed by the adjudicating authority i.e. National Company Law Tribunal for discharging the duties and functions of an interim resolution professional, a resolution professional, or a liquidator, as the case may be, under the Insolvency and Bankruptcy Code, 2016 and the rules and regulations made thereunder. [Rule 12AA of the Income Tax Rules]</p> <p><i>Note on Penalty Imposition Authority:</i> The Finance Act, 2025, mandates that any penalty imposed on or after the 1st day of April, 2025, under sections 271C, 271CA, 271D, 271DA, 271DB, and 271E (related to default in TDS/TCS compliance, etc.) shall be imposed by the Assessing Officer.</p>
Where the company is not resident in India	The Managing Director of accompany of any person who holds the valid power of attorney from such company to do so.
Where the company is being wound up under the order of court of otherwise	Liquidator
Where any person has been appointed as a receiver of any assets of the company	Liquidator
Where the management of the company has been taken over by the Central Government or any State Government under any law	The Principle officer of the company
Where an application for corporate insolvency resolution process has been admitted by the adjudicating authority under the Insolvency and Bankruptcy Code, 2016	Insolvency Professional appointed by such adjudicating authority

## LESSON ROUNDUP

- **'Indian Company'** as a company formed and registered under the Companies Act, 2013 and the registered office or the principal office should be in India and it also includes:
  1. a company formed and registered under any law relating to companies formerly in force in any part of India [other than Jammu and Kashmir, and the Union Territories specified in (4) below];
  2. any corporation established by or under a Central, State or Provincial Act;
  3. any institution, association or body which is declared by the Board to be a company under Section 2(17) of the Income-tax Act, 1961;
  4. in the case of any of the Union Territories of Dadra and Nagar Haveli, Goa, Daman and Diu and Pondicherry, a company formed and registered under any law for the time being in force in that Union Territory;
- **Domestic company** means an Indian company or any other company which, in respect of its income liable to tax under the Income Tax Act, has made the prescribed arrangements for the declaration and payment within India, of the dividends (including dividends on preference shares) payable out of such income.
- **Foreign company** as a company which is not a domestic company.
- Company in which the public is not substantially interested is known as a **closely held company**.
- According to Section 6(3) of the Act, a company is said to be resident in India (resident company) in any previous year, if It is an Indian company; or Its place of effective management, (POEM), in that year, is in India.
- The provision related to tax incidence on Companies as well as Tax Rates.
- **Minimum Alternate Tax** will be applicable If the income tax payable by a company on its total income as computed under the normal provisions of the Income Tax Act in respect of any previous year relevant to the assessment year, is less than 15% of such book profit plus surcharge plus health and education cess, then such book profit shall be treated as total income of the company and the tax payable for the relevant previous year shall be deemed to be 15% (add surcharge and cess) of such book profit. This non-absolute provision will override any other provision of the Income-tax Act.
- **Credit of MAT** in respect of tax excess paid under Section 115JB will be available and it can be carried forward for 15 Assessment Years succeeding the assessment year in which the credit became allowable.
- The Provisions related to due date of Filing of Return in case of Companies.
- The Provisions related to Belated Return, Revised Return, Defective Return etc.
- The Provisions related to Updated Returns, circumstances under which updated return can be filed, additional tax to be paid in case of filing of updated return, and the time limit is extended up to forty-eight months from the end of the relevant assessment year.
- Note that Sections 206AB and 206CCA, which mandated special rates for TDS and TCS in the case of non-filers of income tax returns, have been omitted by the Finance Act, 2025

**TEST YOURSELF**

*(These are meant for recapitulation only. Answers to these questions are not to be submitted for evaluation.)*

**Multiple Choice Questions “MCQs”**

1. Tax credit in respect of MAT paid as per section 115JB will be allowed only in the previous year in which the tax payable on the total income at the normal rate is –
  - (a) More than the tax payable under section 115JB
  - (b) Less than the tax payable under section 115JB
  - (c) Equal to the tax payable under section 115JB
  - (d) All of the above.

Answer: (a) More than the tax payable under section 115JB

2. Rate of MAT in case of a unit located in International Financial Service Centre
  - (a) 15%
  - (b) 9.5%
  - (c) 15.5%
  - (d) 9%

Answer: (d)

3. Metro Ltd., a domestic company, is assessed with a total income of Rs. 11.25 crore. The surcharge payable by the company shall be at the rate of –
  - (a) 2%
  - (b) 5%
  - (c) 10%
  - (d) 12%.

Answer: (d) 12%

4. Provisions of Section 115JB are applicable in case of –
  - (a) Domestic companies only
  - (b) Foreign companies only
  - (c) All companies
  - (d) Closely held companies.

Answer: (c) All companies.

5. For computing the Book Profit under section 115JB, which of the following is not added back to the profits?
  - (a) Income-Tax
  - (b) Provision for Tax

(c) Dividend Distribution Tax U/S 115-O

(d) Securities Transaction Tax

Answer: (d) Securities Transaction Tax

6. A domestic company whose turnover for the previous year 2021-22 Rs. 420 crores; for previous year 2023-24 Rs. 380 crore and for previous year 2024-25 Rs. 120 crores. Its total income (computed) for the assessment year 2026-27 is Rs. 30 crores. The rate of income tax applicable for such company (without cess) is:

(a) 30%

(b) 22%

(c) 15%

(d) 25%

Answer: (d) 25%

7. Provisions of Minimum Alternate Tax (MAT) are applicable to the companies which are:

(a) Indian companies

(b) Foreign companies in certain situations

(c) LLP

(a) (i) and (iii)                      (b) (i) and (ii)

(c) All the three                      (d) None of the above

Answer: (b)

8. At present, MAT Provisions are given in section of Income Tax Act, 1961

(a) 115J

(b) 115A

(c) 115JA

(d) 115JB

Answer: (d)

9. MAT provisions are applicable to

(a) Public Co

(b) Private company

(c) Domestic Co

(d) All companies

Answer: (d)

10. As per Explanation 1 to section 115JB(2) “book profit” for the purposes of section 115JB means net profit as shown in the statement of profit and loss prepared in accordance with of the Companies Act as increased and decreased by certain items prescribed in this regards

- (a) Schedule V
- (b) Schedule III
- (c) Schedule II
- (d) Schedule I

Answer: (b)

11. MAT Credit to be set off

- (a) Regular Income tax - Minimum alternate tax
- (b) Regular Income tax + Minimum alternate tax
- (c) Regular Income tax /Minimum alternate tax
- (c) Zero

Answer: (a)

12. Credit of MAT in respect of tax excess paid under Section 115JB will be available and it can be carried forward for \_\_\_\_\_

- (a) 15 Financial Year
- (b) 15 Assessment Year
- (c) 15 Calendar Year
- (d) 15 Year of Receipt

Answer: (b)

### Theoretical Questions

1. Explain the term “Return of Loss” under the Income Tax Act, 1961
2. State the loss which cannot be carried forward if the return has not been furnished within the time limit as specified u/s 139(1)
3. What is Updated Return? Who is eligible to file updated return?
4. What are the circumstances under which Updated Return cannot be filed?
5. What is the time-limit under which updated return can be filed? Also state the provision of additional tax be paid in case of filing the updated return?
6. Explain the concept of Minimum Alternate Tax (MAT) and carried forward provision with respect to MAT.
7. What is Book Profit for the purpose of computation of MAT?
8. Explain briefly the applicability of Section 115BAA and Section 115BAB of the Income Tax Act, 1961?
9. Define the Guiding Principles of Place of Effective Management?

10. How to Determine the residential status of Companies?
11. Explain the difference between Revised Return and Updated Return?
12. State Briefly the concept of Belated Return and Defective Return.
13. What is the due date of filing of return in case of Foreign Company?

#### Practical Questions

1. XYZ a company incorporated in the year 2015-16 purchased a new plant and machinery for Rs. 20 lakhs on 01.04.2025. The total Income of the company for the AY 2026-27 before allowing additional depreciation on new plant and machinery is Rs. 40 lakhs. XYZ has not opted for concessional tax regime u/s 115BAA or 115BA. Compute the tax liability of XYZ for the AY 2026-27 assuming the turnover for the previous year 2023-24 was Rs. 300 crore. Ignore the MAT provision.
2. The profits as per the statement of Profit and Loss account of ABC Limited, an Indian company for the year ended 31.03.2026 is Rs. 380 Lakhs arrived at after making the following adjustments:

Particulars	Rs. (In Lakhs)
Depreciation on Assets	200
Reserve for currency exchange fluctuation	100
Provision for Taxation	80
Proposed Dividend	240

#### Additional Information

- (a) Provision for tax includes Rs. 4 lakhs on interest payable on Income tax.
- (b) Depreciation includes Rs. 80 lakhs towards revaluation on Assets
- (c) Rs. 100 credited in P&L was drawn from revaluation reserve.
- (d) P&L balance in balance sheet at assets side shown as on 31.03.2025 was Rs. 60 lakhs which includes unabsorbed depreciation of Rs. 20 lakhs.

Compute the book profits u/s 115JB for the year ended 31.03.2026.

#### True and False

1. As per section 115JB(5A) MAT shall not apply to any income accruing or arising to a company from life insurance business referred to in section 115B. **(True)**
2. As per section 115JB(5A) MAT shall apply to any income accruing or arising to a company from life insurance business referred to in section 115B. **(False)**
3. If in any year the company pays liability as per MAT, then it is entitled to claim credit of MAT paid over and above the normal tax liability in the subsequent year(s). **(True)**



