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   RESULTS & DISCUSSION

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- Bowersox, Donald J., Closs, David J., (1996), "Logistical Management." Tata McGraw, Hill, New Delhi.
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SCAN ON MINIMUM ALTERNATE TAX

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ABSTRACT

Section 115JB of the Income Tax Act, 1961 levies a special tax on certain companies popularly known as Minimum Alternate Tax (MAT). A large number of companies which were distributing dividends to their share holders based on book profits were not paying income tax by availing the deductions and exemptions available under the Income Tax Act while computing the taxable income under normal provisions. These companies are termed as Zero Tax companies. The collection of tax from such companies is known as Minimum Alternate Tax. In this article the author discussed about the method of computation of Book Profit for MAT calculation, MAT credit and Applicability of Minimum Alternate Tax to foreign companies.

KEYWORDS
Special Tax, Book Profit, Credit, Applicability.

INTRODUCTION

The Minimum Alternate Tax (MAT) was first introduced in section 80WA under the Finance Act, 1983. The section was omitted by the Finance Act, 1987. The MAT in the form of a tax on book profits in section 115J was introduced by the Finance Act, 1987 and was in force of three years. . MAT was re-introduced with the insertion of Section 115JA by the Finance Act, 1996. The Finance Act, 2000 inserted a new section 115 JB in the Income Tax, 1961 w.e.f. 1.4.2001 i.e., assessment year 2001-02. It levies a special tax on certain companies popularly known as MINIMUM ALTERNATE TAX. In the long history of 14 years of MAT so far, there have been plethora of legal cases involving various issues. These have primarily cropped up on account of poor drafting due to poor understanding of the accounting standards and revenues objective to maximize the tax collectible. Even though there has been continuous demand for the withdrawal of the provisions, the Government continues with the taxation of book profits. By including MAT provisions in the Direct Tax Code the Government shows its intention not to withdraw the provisions of taxing book profits of the companies.

Normally, a company is liable to pay tax on the income computed in accordance with the provisions of the income tax Act. The profit and loss account of the company is prepared as per Schedule VI of the Companies Act, 1956. A large number of companies which were distributing dividends to their share holders based on book profits were not paying income tax by availing the deductions available under the Income Tax Act while computing the taxable income under normal provisions. These companies are termed as as Zero Tax companies. In order to collect tax from such companies under the income tax act section 115JA was introduced with effect from assessment year 1997-98. According to section 115JB of the Income Tax Act that in case of a company, if the tax payable on the total income as computed under the Income tax act is less than 10% of its book profit, such book profit shall be deemed to be the total income of the company and the tax payable shall be eighteen point five percent (plus surcharge and education cess) of such book profit.

CORPORATE TAX LIABILITY

- In case of domestic company, Income Tax (IT) is @ 30% for Assessment Year (AY) 2010-11, 2011-12 and 2012-13. Surcharge (SC) if net income exceeds Rs. 1 crore, @ 7.5% and 5% of income-tax for AY 2011-12 and 2012-13 respectively (It was 10% for AY 2010-11)
- In case of foreign company, Income Tax (IT) is @ 40% for Assessment Year 2010-11, 2011-12 and 2012-13. Surcharge (SC) if net income exceeds Rs. 1 crore, @ 2.5% and 2 % of income-tax for the assessment year 2011-12 and 2012-13 respectively.
- Marginal relief is available where net income exceeds Rs. 1 crore.
- In addition, Education Cess (EC) is 2 per cent of income-tax and surcharge.
- Secondary and higher Education Cess (SHEC) is 1 per cent of income-tax and surcharge.

The following table shows the rates of Minimum Alternate Tax since its inception:

TABLE 1: RATE OF MINIMUM ALTERNATE TAX SINCE ITS INCEPTION

Assessment year	Rate of MAT (% of book profit)
2001-07	7.5
2007-10	10
2010-11	15
2011-12	18
2012-13	18.5

FIGURE 1: RATES OF MINIMUM ALTERNATE TAX SINCE ITS INCEPTION

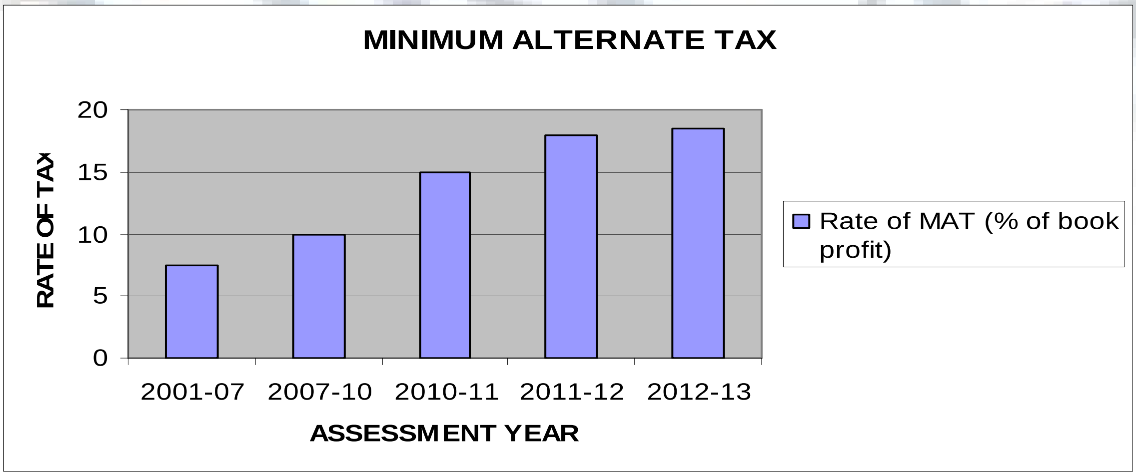

TABLE 2: RATE OF MINIMUM ALTERNATE TAX AS PERCENTAGE OF BOOK PROFIT FOR ASSESSMENT YEAR 2011-12

	If book profit does not exceed Rs. 1 crore			If book profit exceeds Rs. 1 crore			
	IT %	EC and SHEC	Total	IT	SC	EC and SHEC	Total
Domestic company	18	0.54	18.54	18	1.35	0.5805	19.9305
Foreign company	18	0.54	18.54	18	0.45	0.5535	19.0035

Marginal Relief - If book profit of a company exceeds Rs. 1 crore, the minimum alternate tax cannot exceed the following: (Rs. 15 lakh + Book profit – Rs. 1 crore) + EC + SHEC.

TABLE 3: RATE OF MINIMUM ALTERNATE TAX AS PERCENTAGE OF BOOK PROFIT FOR ASSESSMENT YEAR 2012-13

	If book profit does not exceed Rs. 1 crore			If book profit exceeds Rs. 1 crore			
	IT %	EC and SHEC	Total	IT	SC	EC and SHEC	Total
Domestic company	18.5	0.555	19.055	18.5	0.925	0.58275	20.00775
Foreign company	18.5	0.555	19.055	18.5	0.37	0.5661	19.4361

Marginal Relief – If book profit of a company for the assessment year 2012-13 exceeds Rs. 1 crore, the minimum alternate tax cannot exceed the following : (Rs. 18.5 lakh + book profit - Rs. 1 crore) + EC + SHEC.

TABLE 4: COMPUTATION OF BOOK PROFITS IN TABULAR FORM

Net profit as per profit and loss account **XXX**

Add: Increased by (if debited to profit and loss account)

i)	Tax paid/payable/provision for tax (includes dividend distribution tax. Any interest, surcharge, EC and SHEC (excluding wealth tax, Fringe Benefit Tax)	xxx
ii)	Amount credited to reserves by whatever name called, other than a reserve for shipping business u/s. 33AC	xxx
iii)	Provisions for unascertained liability	xxx
iv)	Provisions for losses of subsidiary companies	xxx
v)	Dividends paid/proposed	xxx
vi)	Expenditure related to any income to which section 10/11/12 apply {except 10 (38),]	xxx
vii)	The amount of depreciation	xxx
viii)	Deferred tax including the provision created (w.e.f. AY 2001-02)	xxx
ix)	Any amount set aside as diminution in value of assets (w.e.f. 2001-02)	xxx
		XXX

Less: Reduced by (if credited to profit and loss account)

i)	Amount / withdrawn, from any reserves/provisions	xxx
ii)	Exempt income under sections 10/11/12 {except 10 (38),]	xxx
iii)	Brought forward loss (other than depreciation) or unabsorbed depreciation whichever is less, as per books of accounts	xxx
iv)	No deduction in case either brought forward loss or unabsorbed depreciation is nil.	xxx
v)	Amount of deduction as computed under section 80HHC/80HHE/80HHF	xxx
vi)	Profits derived from sick industrial undertakings	xxx
vii)	Depreciation debited excluding depreciation on account of revaluation of asset.	xxx
viii)	Withdrawal from revaluation reserve to the extent it does not exceed the amount of depreciation on account of revaluation.	xxx
ix)	Profits of a Tonnage Tax Company (as per book)	xxx
x)	Income from business in/services rendered	xxx
BOOK PROFIT		**XXX**

TWO SET OF ACCOUNTS

- Every company required to compute tax both under the income tax and under section 115JB.
- Profit computed under the income tax is called regular profit and the tax under this method is called regular tax.
- Profit computed under section 115JB is called Book profit and the tax computed is called MAT.
- Every year a company required to compute the tax under the both methods and required to pay higher of those.

CREDIT OF TAX PAID UNDER MAT

A new tax credit scheme is introduced by which MAT paid can be carried forward for set-off against regular tax payable during the subsequent ten year period subject to certain conditions, as under:-

- When a company pays tax under MAT, the tax credit earned by it shall be an amount which is the difference between the amount payable under MAT and the regular tax. Regular tax in this case means the tax payable on the basis of normal computation of total income of the company.
- MAT credit will be allowed carry forward facility for a period of ten assessment[1] years immediately succeeding the assessment year in which MAT is paid.
- In the assessment year when regular tax becomes payable, the difference between the regular tax and the tax computed under MAT for that year will be set off against the MAT credit available.

IILUSTRATION

TABLE 5: COMPUTATION OF MAT CREDIT: (APPLICABLE WHEN ASSESSEE PAYS TAX ON BOOK PROFIT)

Step I	Tax on Book Profit
Step II	Tax on Total Income
Step III	Mat Credit = Step I- Step II
MAT credit can be availed in 10 Subsequent Assessment Years.	

TABLE 6: AVAILING MAT CREDIT: (APPLICABLE WHEN ASSESSEE PAID TAX ON TOTAL INCOME)

Step I	Tax on total income
Step II	Tax on Book profit
Step III	Difference of tax = Step I- Step II
Step IV	Availed MAT Credit = Actual MAT credit or Step 3 whichever is less
Step V	Net Tax payable = Tax on total income (Step I- Step IV)

[1] From the assessment year 2009-10. (Earlier from the assessment year 2006-07 seven years)

TABLE 7: CASE STUDY: I /YEAR 1

(Applicable when assessee paid tax on Book Profit): Total Income: Rs.3,00,000 & Book Proft: Rs.20,00,000

Step I	Tax on Book Profit = Rs.3,81,000
Step II	Tax on Total Income =Rs 92,700
Step III	Mat Credit = Step I- Step II = 2,88,300

TABLE 8: CASE STUDY: II/YEAR 2

Availing MAT Credit: Total Income Rs.7,00,000 & Book Profit: Rs.10,00,000

Step I	Tax on total income = Rs.2,16,300/-
Step II	Tax on Book profit = Rs.1,90,550/-
Step III	Difference of tax = Step I- Step II Rs.= (2,16,300- 1,90,550) = Rs.25,750/-
Step IV	Availed MAT Credit = Actual MAT credit or Step 3 whichever is less = 2,88,300 or 25,750 whichever is less = Rs.25,750/-
Step V	Net Tax payable = Tax on total income (Step I- Step IV) = 2,16,300 – 25,750 = Rs.,1,90,550/-
Step VI	Balanced of MAT Credit = 2,88,300 – 25,750 = Rs.2,62,550/-

TABLE 9: CASE STUDY: III/YEAR 3

Availing MAT Credit: Total Income: Rs.10,00,000 & Book Profit: Rs.8,00,000/-

Step I	Tax on total income = Rs.3,09,000/-
Step II	Tax on Book profit = Rs.1,52,440/-
Step III	Difference of tax = Step I- Step II Rs.= (3,09,000- 1,52,440) = Rs.1,56,560/-
Step IV	Availed MAT Credit = Actual MAT credit or Step 3 whichever is less = 2,62,550 or 1,56,560 whichever is less = Rs.1,56,560/-
Step V	Net Tax payable = Tax on total income (Step I- Step IV) = 3,09,000 – 1,56,560 = Rs.,1,52,440/-
Step VI	Balanced of MAT Credit = 2,62,550 – 1,56,560 = Rs. 1,05,990/-

APPLICABILITY OF MINIMUM ALTERNATE TAX TO FOREIGN COMPANIES

The Authority for Advance Ruling ("AAR") has delivered an important ruling in the case of *The Timken Company [2010] 193 Taxman 20(AAR-Delhi) holding* that the provisions of section 115JB of the Income-tax Act, 1961 ("the Act") levying Minimum Alternate Tax ("MAT") on the book profit of a company would not apply to a foreign company not having any physical presence in India. The AAR noted that there was no requirement for preparing the financial statements in accordance with the requirements of the Companies Act, which was a fundamental requirement for levy of MAT. Accordingly, the AAR ruled that MAT would not apply to a foreign company, which did not have any physical presence in India. However the MAT will be applicable to all foreign companies having permanent established in India, as they have to prepare their accounts as per Indian Companies Act, 1956.

CONCLUSION

The Direct Tax Code has proposed a tax on assets in the place of Minimum Alternate Tax as Tax on assets at the rate specified, and in the manner provided, here under.

On the value of the gross assets, as on the close of the financial year, of a banking company – 0.25 per cent

On the value of the gross assets, as on the close of the financial year, of any other company – 2 per cent

There was a lot of criticism that it will cripple heavy industries which require large amount investment in factory building and plant and machinery and will discourage the emergence of new industries. After considering the same, it has been decided to calculate MAT with reference to book profit and the same was included in the discussion paper. In the proposed Direct Taxes Code Bill, 2010 the carry forward of credit of MAT paid has been increased to 15 years from the present 10 years. This is a welcome change, even though it does not fulfill the wish of the corporate that the Minimum Alternate Tax is to be withdrawn altogether.

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