

Gokhale & Sathe, Chartered Accountants

Highlights of Taxation Laws (Amendment) Ordinance 2019:

Taxation Laws (Amendment) Ordinance 2019 has been promulgated by the President today on 20th September 2019, granting much needed incentives to the corporates. Major highlights of the ordinance are as under:

◆ **Reduction in tax rate applicable to certain domestic companies (Section 115BAA)**

From AY 2020-21 onwards, a reduced tax rate of 22% can be availed at the option of domestic companies, if following conditions are fulfilled:

- The total income of a domestic company must be computed -
 - ◇ without claiming following deductions/exemption u/s Sec10AA relating to SEZ or Additional depreciation allowance under Sec 32(1)(iia) or u/s 32AD relating to deduction for investment in new plant and machinery in notified backward states or u/s 33AB being Tea/Coffee/rubber development allowance or u/s 33ABA relating to Site restoration fund or u/s 35 (1)(ii), (iia), (iii) or Sec 35(2AA), (2AB) relating to certain scientific research expenditure or u/s Sec 35AD or u/s 35CCC relating to Expenditure on agricultural extension project or u/s 35CCD relating to Expenditure on skill development project or any Deductions under Part C of Chapter VIA excluding deduction u/s 80JJAA
 - ◇ without set off of any loss carried forward from earlier year if such loss is attributable to any of the deduction mentioned above and it will be deemed that allowance of setoff of such loss has been given. This means that such loss cannot be set-off against income of the future years as well.
 - ◇ By claiming depreciation as may be prescribed.
- The return of income for the first year which the option u/s 115BAA is exercised, is filed within the due date u/s 139(1)

It must however be noted that once the option u/s 115BAA is exercised, the same will have to be followed for future years as well. Hence even for subsequent years, the above mentioned deductions/exemptions cannot be availed.

◆ **Reduction in tax rate applicable to certain domestic manufacturing companies (Section 115BAB)**

From AY 2020-21 onwards, a reduced tax rate of 15% can be availed at the option of domestic manufacturing companies, if following conditions are fulfilled:

- The company has been set up and registered on or after 01st October, 2019 other than by way of splitting-up or reconstruction of an already existing business. Such restriction, however, will not apply to company formed by way of re-establishment, reconstruction or revival as referred to in section 33B.
- The company is engaged in business of manufacture or production of any article or thing or research in relation to such article or thing manufactured or produced by it or distribution of such article or thing manufactured or produced by it.

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Highlights of Taxation Laws (Amendment) Ordinance 2019:

- o The total income of domestic manufacturing companies must be computed –
 - ◇ machinery in notified backward states or u/s 33AB being Tea/Coffee/rubber development allowance or u/s 33ABA relating to Site restoration fund or u/s 35 (1)(ii), (ia), (iii) or Sec 35(2AA), (2AB) relating to certain scientific research expenditure or u/s Sec 35AD or u/s 35CCC relating to Expenditure on agricultural extension project or u/s 35CCD relating to Expenditure on skill development project or any Deductions under Part C of Chapter VIA excluding deduction u/s 80JJAA
 - ◇ without set off of any loss carried forward from earlier year if such loss is attributable to any of the deduction mentioned above and it will be deemed that allowance of setoff of such loss has been given. This means that such loss cannot be set-off against income of the future years as well.
 - ◇ By claiming depreciation as may be prescribed.
- o The return of income for the first year which the option u/s 115BAB is exercised, is filed within the due date u/s 139(1)

However, similar to section 115BAA, once the option u/s 115BAB is exercised, the same will have to be followed for future years as well. Hence even for subsequent years, the above mentioned deductions/exemptions cannot be availed. Further, to prevent misuse of the incentive under the section, it has been provided that if, the tax officer is of the view that transactions of the company are being so arranged to result in more than ordinary profits, provisions of domestic transfer pricing shall be applicable.

- ◆ **MAT applicable to companies not opting for reduced rate u/s 115BAA and section 115BAB is reduced from 18.5 percent to 15 percent**

An amendment has been made in section 115 JB to provide that where the option u/s 115BAA or u/s 115BAB as the case may be, is not exercised, then rate of MAT under section 115JB shall be 15 percent instead of 18.5 percent

- ◆ **No Buy-Back Tax if public announcement of buy-back of listed shares is made before 5th July, 2019**

A proviso has been introduced in section 115QA to provide that the section shall not be applicable to buy back of shares of listed companies where the public announcement has been made before July 5, 2019 in accordance with the provisions of SEBI (buy Back of Securities) Regulations 2018.



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chartered accountants

Head Office

304/308/309, Udyog Mandir No.1
Bhagoji Keer Marg,
Mahim, Mumbai – 400016.
Phone: +91 22 43484242
E-mail: office@gokhalesathe.in
Website: www.gokhalesathe.in