

Alternate Minimum Tax (A M T)

&

Minimum Alternate Tax (M A T)

VIEWS EXCHANGE C.A. STUDY CIRCLE – EIRC

By CA.K.K.Chhaparia

20th July 2013



**A.Y. 1984-85 out of top 23 → 12 CO's
did not
pay tax**

TAX EVASION



HISTORY – MAT and AMT

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Section 115 J

A.Y 88-89 to 91-92



Section 115 JA
Section 115JAA

A.Y. 97-98 to 01-02
A.Y. 97-98 to 01-02



Section 115 JB
Section 115JAA

A.Y. 01-02 to...
A.Y. 06-07 to ...



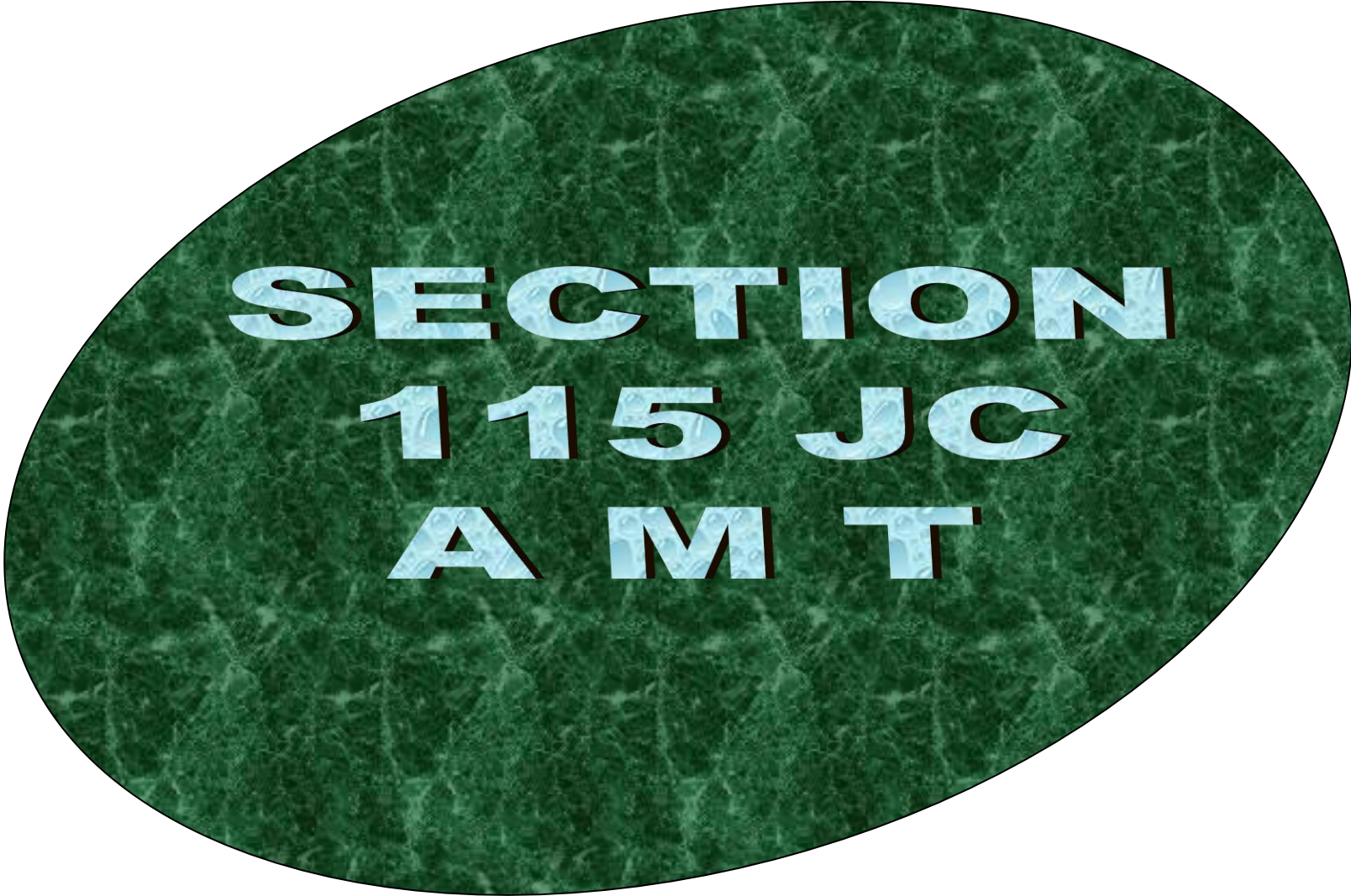
Section 115 JC

A.Y. 2012-13

History of A M T

Particulars	Assessment year 2012-13	Assessment year 2013-14 onwards
Limited Liability Partnership	Applicable	Applicable
Any other firm	Not applicable	Applicable
Individual, HUF, AOP, BOI, artificial juridical person	Not applicable	Applicable if adjusted T.I. > Rs.20 Lakh
Any other person (not being a company)	Not applicable	Applicable

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**SECTION
115 JCA
M T**

Chapter XII- BA (Special Provision)

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115 JC

Notwithstanding anything contained in this Act.

Applies to all **assesseees other than company**

If regular income tax payable < alternate minimum tax, then

Alternate Minimum tax = Adjusted T.I. * 18.5%

Adjusted Total income = T.I. + Deduction under Chapter VIA-C, 10AA

Save as otherwise provided in this Chapter, all other provisions of the Act shall apply to every assessee referred to in this chapter.

Section Hit by the Provisions of AMT

- **Section 10AA** **Newly established Units in Special Economic Zones**
- **Section 80-IA** **Infrastructure development**
- **Section 80-IAB** **Development of SEZ.**
- **Section 80 IB** **Certain industrial undertakings and enterprises .**
- **Section 80-IC** **Undertakings in certain special category states.**
- **Section 80-ID** **Hotel and convention centers in specified area.**
- **Section 80-IE** **Certain undertaking in North Eastern States.**
- **Section 80JJA** **Collection and processing of bio degradable waste.**
- **Section 80JJAA** **Employment of new workman.**
- **Section 80LA** **Offshore banking units and international financial service center.**
- **Section 80 QQB** **Certain royalty to authors of books.**
- **Section 80RRB** **Royalty on patents.**

Steps - A M T

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1. Find regular income tax liability of non-corporate assessee ignoring A.M.T.
2. Find Adjusted Total income (ATI)
 - Normal Total income
 - Add : Deduction claimed u/s 80HH to 80RRB or u/s 10AA
3. Find 18.5% of Adjusted Total Income
4. If amt computed under Step 1 is \geq amt under Step 3, then AMT will not apply.

However if amt under Step 3 $>$ amt in Step 1, then ATI will be the deemed total income & 18.5% (+SC+EC+SHEC) of ATI will be the deemed tax liability
5. The excess amount computed under Step 3 over amount in Step 1 will be available as AMT Credit.
6. When AMT becomes applicable, report under Form 29C needs to be obtained from a C.A.

Case study 1

Particulars	Amount (Rs.)
Net profit as per profit and loss account	67,60,000
Add : Disallowance u/s 37(1) & u/s 43B	10,000
Less : Deduction under section 10AA	(65,00,000)
Add : LTCG (on transfer of Equity Shares in Stock Exchange) – Rs.6,00,000	Exempt
Gross Total Income	2,70,000
Less : Deduction u/s 80G	(3,000)
Less : Deduction u/s 80-IB	(48,000)
Net Income	2,19,000

Solution to Case study 1

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Particulars	Amount (Rs.)
Tax computation under normal provisions	
Tax on income of Rs.2,19,000	1,900
Add : EC + SHEC	57
Total Tax Liability (A)	1,957
Computation of Adjusted Total Income (ATI)	
Net Income	2,19,000
Add : Deductions claimed u/s 80-IB	48,000
Add : Deductions claimed u/s 10AA	65,00,000
Adjusted Total Income	67,67,000
Computation of Alternate Minimum Tax (AMT)	
18.5% of Adjusted Total Income	12,51,895
Add : EC + SHEC	37,557
Alternate Minimum Tax (AMT) (B)	12,89,452
Tax Payable [(a) or (b), whichever is more] (rounded off)	12,89,450
Alternate Minimum Tax Credit	12,87,493

Other important points – A M T by CA.K.K.Chhaparia

- CA report -**Form 29C (Rule 40BA)**.
 - To be furnished before due date u/s 139(1). – **Section 115JC(3)**.
- AMT shall not apply if ATI(other than firm & LLP) < Rs. 20 Lacs – **Section 115JEE(2)**
- AMT Credit shall be allowed for the next ten consecutive years- **S.115JD**
 - AMT Credit shall vary consequent to assessment or appeal
 - No interest shall be payable on tax credit allowed.
 - Credit can be set off only in the year in which the Regular Tax payable exceeds the AMT

MAT Vs. AMT

Particulars	MAT	AMT
Assessee	Company	Other than Co. incl. LLP
Start point of calculation	Audited accounts	Total income as per assessee
Rate of Tax	18.5% of BP	18.5% of Adjusted TI
Impact on asst /disallowances	No impact on BP (generally)	Every addition shall impact – Sec 115JD(6)
Impact of b/fd loss	No impact (generally)	Impact TI, hence ATI
Exemption	No exemption	Rs.20 lacs in certain cases

FORM NO. 29C

[See rule 40BA]

Report under section 115JC of the Income-tax Act, 1961 for computing Adjusted Total Income and Alternate Minimum Tax of the person **other than a company**.

1. I/We* have examined the accounts and records of (name and address of the assessee with PAN) engaged in business of (nature of business) in order to arrive at the adjusted total income and the alternate minimum tax for the year ended on the 31st March,
2. (a) I/We* certify that the adjusted total income and the alternate minimum tax has been computed in accordance with the provisions of Chapter XII-BA of the Income-tax Act. The tax payable under section 115JC of the Income-tax Act in respect of the assessment year is Rs., which has been determined on the basis of the details in Annexure A to this Form.
3. In my/our* opinion and to the best of my/our* knowledge and according to the explanations given to me/us* the particulars given in the Annexure A are true and correct.

(Signature and Stamp/ Seal of the Signatory)

†Accountant

Place: Name of the Signatory:

Date: Full Address:

Membership No:

Annexure A

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Form 29C

1.	Name of the assessee			
2.	Address of assessee			
3.	Permanent Account Number			
4.	Assessment year			
5.	Total income of the assessee computed in the manner laid down in the Income-tax Act before giving effect to Chapter XII-BA of the Income-tax Act, 1961(43 of 1961)			
6.	Income-tax payable on total income referred to in Column 5 above			
7.	The amount of deduction claimed under any section (other than section 80P) included in Chapter VI-A under the heading "C. Deductions in respect of certain incomes"	Sl. No.	Section under which deduction claimed	Amount of deduction claimed
8.	The amount of deduction claimed under section 10AA			
9.	Adjusted total income of the assessee (5+7+8)			
10.	Minimum alternate tax (18.5% of adjusted total income computed in column 9 above)".			

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MAT

Minimum Alternate Tax

s.115JB & s.115JAA

s.115JB

- **115JB(1)** – if tax on TI of a company in any year commencing AY 2012-13 is less than **18.5%** of its **BP**, then such BP shall be deemed to be TI and **tax payable will be income tax @18.5%**
- **115JB(2)** – Every assessee shall prepare its p/l a/c in accordance with Part II of Schedule VI to Co. Act
 - **Proviso(1)** – accounting polices, standards, depreciation should be same as laid before AGM
 - **Proviso (2)** – where FY as per co accounts differ from PY
 - **Explanation (1)** defines Book Profit
 - **Explanation (2)** state that for the purpose of Expl (1), income tax shall incl DDT, interest, surcharge and cess
 - **Explanation (3)** for special types of companies

Power of AO regarding computation of Book Profit

- Landmark Supreme Court judgement in **Apollo Tyres 255 ITR 273**
- **Issues**
 - Capital expenses debited to p/l account
 - Personal expenses debited to p/l account
 - What if accounting standards are not followed
 - Change in depreciation/ arrears of depreciation

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INCOMETAX

RESERVE

**DIMINUTION IN
VALUE OF ASSET**

PROVISIONS

**REVALUATION
RESERVE**

PROV LOSS OF SUB

DIVIDEND

DEPRECIATION

**DEFERRED TAX &
PROVISION**

**EXP FOR EXEMPT
INCOME**

**B
O
O
K

P
R
O
F
-
I
T
S**



by CA K.K.Chhaparia
**B/FD LOSS
UNABSORBED
Depreciation**



**Revaluation Depn,
Revaluation res**



SICK CO.



u/s 10, 11,12

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Depreciation or Loss Implication

Assessment Year	Depreciation as per Books	Loss as per books excluding depreciation	Total (Rs.)	As computed by A.O.
1999-2000	42,25,696	94,88,756	1,37,14,452	42,25,696
2000-2001	44,42,777	1,30,33,168	1,74,75,945	44,42,777
2001-2002	44,53,565	(7,30,402)	37,23,163	Nil
2002-2003	19,93,456	22,84,195	42,77,651	19,93,456
	1,51,15,494	2,40,75,717	3,91,91,211	1,06,61,929

Carry Forward of MAT credit in case of Amalgamation

- Income Tax Act silent on the issue
- Genuine doubt about interpretation of law benefit to be given to the Assessee.
 - *CIT v. Vegetable Products Ltd.*, [1973] 88 ITR 192 (SC)
- In *SKOL Breweries Ltd. v. ACIT*, 28 ITAT India 998 (Mum.) ITA No. 313/Mum./07 A.Y. 2003-04 decision dated 15-5-2008 the Tribunal allowed set off of MAT credit of amalgamating company in the hands of the appellant assessee being the amalgamated company

Whether Sec 115JB applies on Foreign Company

Castleton Investment Ltd. (AAR New Delhi) 211 Taxman 282

- Assessee was a foreign Company incorporated under the law of Mauritius.
- Assessee earned LTCG on sale of shares
- Held
 - Co. u/s 2(17) of the IT Act includes a non-resident company
 - S.115JB does not make any distinction between resident/ NR co.
- View again confirmed in the case of ZD, In re* (AAR New Delhi) 29 taxmann.com 147

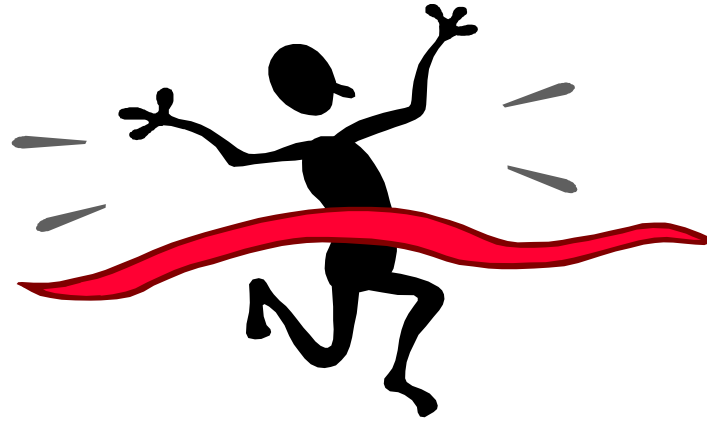
What if the Foreign Co. has no presence or permanent establishment in India

Timken Co., IN re (AAR New Delhi) 233 ITR 334

- Facts
 - Assessee was a foreign co. having no permanent place of business or presence in India
 - Claimed LTCG on sale of shares is exempt u/s 10(38)
 - Claimed not required to pay MAT on book profit u/s 115JB

- Held
 - A Non Resident Co. having no permanent place or presence in India not required to prepare b/a as per Sec 594 read with Sec 591 of the Co's Act
 - Hence Sec 115JB is **not** designed to be applicable in such a case

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तुम्हारे

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