



INSERTING SECTION 115BAC, THE NEW TAX RATE MAY BECOME THE HARD WEAPON IN THE HANDS OF THE DEPARTMENT

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The Proposal for the payment of “Alternative Tax” under the Alternative Tax Regime by virtue of newly inserted section 115BAC w.e.f. the Assessment Year 2021-22 has become little hardship to the Tax payers restricted to the Individual and HUF enlighten the six tax slabs listed hereunder in comparison to the existing three tiers Tax slabs.

Income Criteria	Existing Slab	New Slab
Income upto 5 lacs	NIL	NIL
Income Rs.5,00,001/- to Rs.7,50,000/-	20%	10%
Income Rs.7,50,001/- to Rs.10,00,000/-	20%	15%
Income Rs.10,00,001/- to Rs.12,50,000/-	30%	20%
Income Rs.12,50,001/- to Rs.15,00,000/-	30%	25%
Income over Rs.15,00,00/-	30%	30%

The Individual and HUF having income derived from business shall exercise such option which will become beneficial to the long run but once exercised will prevail in the subsequent Assessment Year. Such limited option may be withdrawn by the assessee only once where it was exercised by the Individual or HUF having business income for the previous year other than the previous year in which it is exercised and thereafter such Individual and HUF can never be eligible to exercise such option save and except such assessee’s income has been ceased from business but relaxation has been exercised to such individual and HUF who has no income from business and right to opt for every previous year and may change for the subsequent Assessment years as the assessee deem fit for the time being in force reserving the absolute right and liberty to opt out after end of the said Financial Year.

Such Individual and HUF opting for concessional rate not eligible for various exemptions and/or deductions as part of conditions for concessional rate:

According to the condition embedded under section 115BAC, the individual or HUF opting for taxation under the newly inserted section 115BAC of the Act shall not be entitled to the following exemptions/ deductions:

Leave travel concession as contained U/s 10(5);

House Rent Allowance as contained U/s 10(13A);

Specified Allowances U/s 10(14);

As regards Specified Allowances it has to remove exemption under Rule 3 in respect of free food and beverage through vouchers provided to the employee, being the person exercising option under the proposed section, by the employer but the following allowances will be allowed U/s 10(14) of the Act

- Transport Allowance granted to a divyang employee to meet expenditure for the purpose of travelling from the place of residence to the place of duty;
- Conveyance Allowance granted to meet the expenditure on conveyance in performance of duties of an office;
- Any Allowance granted to meet the cost of travel on tour or on transfer;

- d. Daily Allowance to meet the ordinary daily charges incurred by an employee on account of absence from his normal place of duty.

Allowances to MPs/MLAs U/s 10(17);

Allowance due to clubbing of Income U/s 10(32);

Exemption for SEZ unit U/s 10AA;

For the case of Salaried persons Standard deduction, Deduction on account of entertainment allowance and Profession tax as contained U/s 16;

Interest on house building loan U/s 24 in respect of self-occupied or vacant property referred to section 23(2) being Loss under the head income from house property for rented house will not be allowed to be set off under any other head and would be allowed to be carried forward as per existing law;

Additional depreciation under clause (iia) of section 32(1);

Deductions for Investment in new plant or machinery in notified backward areas as eligible U/s 32AD under the existing law; Deduction for amount deposited in Tea/ Coffee/ Rubber deployment account under section 33AB; Deduction for amount deposited in Site Restoration Fund under section 33ABA;

Various deductions for donation for or expenditure on Scientific Research contained in section 35(1)(ii) or (iia) or(iii) or section 35(2AA);

Deduction in respect of expenditure on specified business under section 35AD or Deduction in respect of agricultural extension project under section 35CCC;

Deduction from family pension under clause (iia) of section 57;

Any deduction under chapter VIA (like section 80C, 80CCC, 80CCD, 80D, 80DD, 80DDB, 80E, 80EE, 80EEA, 80EEB, 80G, 80GG, 80GGA, 80GGC, 80IA, 80-IAB, 80-IAC, 80-IB, 80-IBA, etc). However, deduction under sub-section (2) of section 80CCD (employer contribution on account of employee in notified pension scheme) and section 80JJAA (for new employment) can be claimed.

Set off of Loss or depreciation not permitted:

- a) The income of such taxpayer is to be computed without set off of any loss carried forward or depreciation from any earlier assessment year if such loss or depreciation is attributable to any of the deductions referred to in para above. Likewise the income of such taxpayer is to be computed in case of loss under the head house property without any set off of such loss with any other head of income.
- b) The loss or depreciation shall be deemed to have been given full effect and no further deduction for such loss or depreciation shall be allowed for any subsequent year. However where there is a depreciation allowance in respect of a block of asset which has not been given full effect to prior to the assessment year beginning on 1st April, 2021, corresponding adjustment shall be made to the written down value of such block of assets as on 1st April, 2020 in the prescribed manner, if the option is exercised for a previous year relevant to the assessment year beginning on 1st April, 2021;

Unit in the International Financial Services Centre:

If the individual or HUF has a Unit in the International Financial Services Centre [section 2(zc) of the Special Economic Zones Act, 2005], as referred to in section 80LA(1A), the deduction under section 80LA shall be available to such Unit subject to the fulfilment of the conditions contained in that section.

Alternate Minimum Tax (AMT) shall not apply:

It has been proposed to amend section 115JC so as to provide that the provisions relating to Alternate Minimum Tax (AMT) shall not apply to such individual or HUF having business income.

Carry forward and set off of AMT credit not permitted:

It has also been proposed to amend section 115JD so as to provide that the provisions relating to carry forward and set off of AMT credit, if any, shall not apply to such individual or HUF having business income.

However to avail the reverse weapon for that particular year it is settled that the Individual or HUF if invest under the following manner then the tax become similar as per new rate chart And if such investment exceeds such parameter as per tabulated form hereunder such Individual/HUF may enjoy tax as usual.

Income Criteria	Existing Slab Exemption/Deductions	New Slab
Income upto 5 lacs	NIL	NIL
Income Rs.5,00,001/- to Rs.7,50,000/-	20% (Income less Rs.5,00,000) /2	10%
Income Rs.7,50,001/- to Rs.10,00,000/-	20% (Income less Rs.7,50,000) /4 Plus Rs.1,25,000/-	15%
Income Rs.10,00,001/- to Rs.11,87,500/-	30% Same as above i.e. Rs.1,87,500/-	15%
Income Rs.11,87,501/- to Rs.12,50,000/-	30% (Income less Rs.11,87,500)/3 Plus Rs.1,87,500/-	20%
Income Rs.12,50,001/- to Rs.15,00,000/-	30% (Income less Rs.12,50,000) x.05/0.3 Plus Rs.2,08,333/-	25%
Income over Rs.15,00,00/-	30%	30%

Hence the Tax payer has to determine with absolute consideration based on their past investment and capacity to invest in future whether opt for the new regime or not.