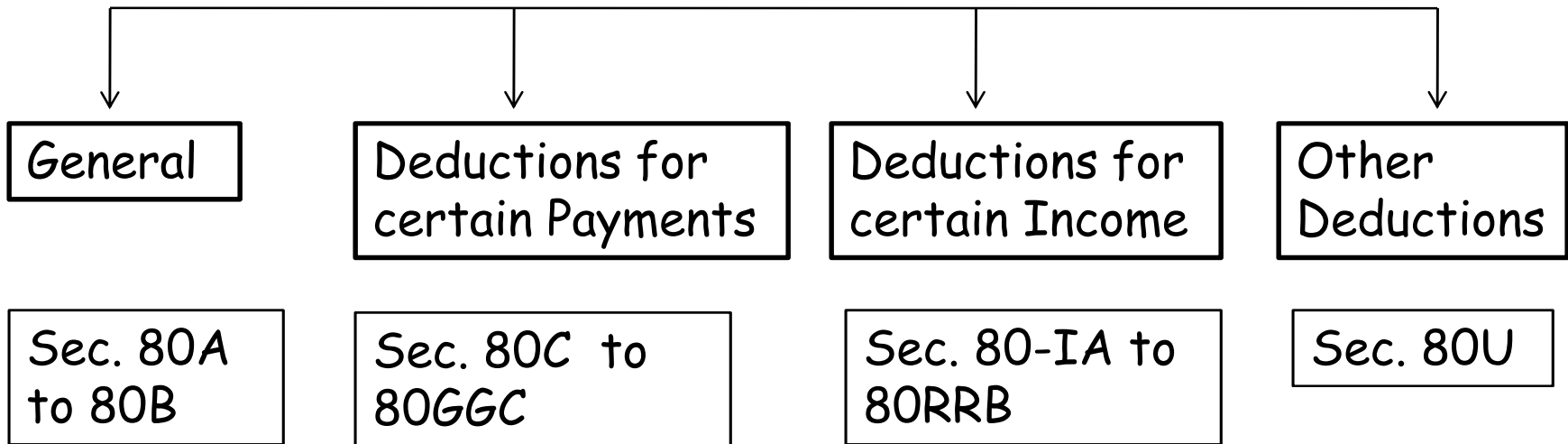


# DEDUCTIONS FROM GTI & TAX LIABILITY

CHAPTER VIA  
Sec 80A to Sec 80U



# Deductions

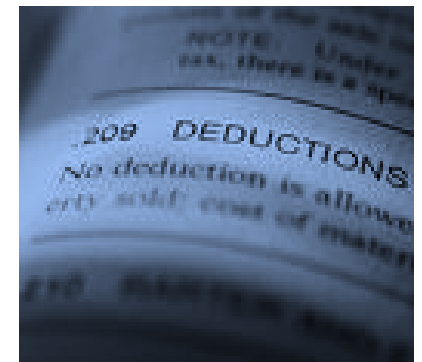


# General principles

- ✓ Gross total income means the total income computed in accordance with the provisions of Income Tax Act, before making any deduction under this Chapter.
- ✓ Deductions cannot be claimed from the following incomes included in GTI :
  1. LT CG
  2. STCG taxable u/s. 111A
  3. Casual incomes like winnings from lotteries, horse races etc.
  4. Income referred to in Section 68 to 69D

# General principles

- ✓ Deductions u/s 80C to 80U cannot exceed GTI as reduced by the above incomes.
- ✓ Unclaimed deductions cannot be c/fd.
- ✓ Deductions in respect of certain incomes (Section 80IA to 80RRB) shall be allowed only to the extent of such income included in GTI.



## Sec. 80C Investment in LIC, PF etc

✓ Who are eligible ?

- Individual

- HUF

# Eligible Investments

Eligible items of contribution and deposit	Conditions
LIP	<ul style="list-style-type: none"> <li>✓ Self, spouse, children/</li> <li>✓ Member of the family.</li> <li>✓ Policy terminated within 2 years 'add to Income'</li> </ul>
Non-commutable deferred annuity	Self, spouse, children
Deduction from an individual's salary, payable by government	Amount not to exceed 1/5th of salary.
Contribution to SPF , RPF	

# Eligible Investments

Eligible items of contribution and deposit	Conditions
Contribution to PPF	<ul style="list-style-type: none"> <li>✓ Self, spouse, children/</li> <li>✓ Member of the family.</li> </ul>
Contribution to an approved Superannuation Fund	
<ul style="list-style-type: none"> <li>✓ NSC VIII Issues</li> <li>✓ Accrued Interest on NSC VIII issues</li> </ul>	<ul style="list-style-type: none"> <li>✓ Self, spouse, children/</li> <li>✓ Member of the family.</li> </ul>
ULIP of UTI / LIC Mutual Fund u/s 10(23D)	If terminated within 5 years, 'add to income'

# Eligible Investments

Annuity plan of LIC / other insurer	
Notified E.L.S.S. of a Mutual Fund/UTI	
Notified Pension Fund of any Mutual Fund/UTI	
✓ Subscription to Home Loan A/c Scheme of NHB ✓ Accrued Interest	



# Eligible Investments

Subscription to deposit scheme of:

- Public sector Cos. providing long-term finance for construction or purchase of houses in India for residential purpose. E.g. HDFC
- Any authority satisfying the need for housing accommodation and development of town and cities. E.g. MHADA.

Tuition Fees to an Indian Institution for full time education

Deduction in respect of any two children

# Eligible Investments

Repayment of housing loan + stamp duty + registration fees.	If HP is transferred within 5 years, 'add to income'
Subscription to Equity Shares or Debentures forming part of any "Eligible issue of capital"	Lock-in-period of 3 years Shares should be original subscription & not purchased from the market.
Term Deposit for 5 years or more with Scheduled Bank	Under a notified Scheme

# Eligible Investments

Notified NABARD Bonds	
Payment under the Senior Citizen Savings Scheme, Rules 2004.	<ul style="list-style-type: none"><li>• Lock-in-period of 5 years</li><li>• N.A. to withdrawal of principal by the nominees or legal heirs of an assessee on death of assessee.</li></ul>
Term Deposit for 5 years or more with P.O.	<ul style="list-style-type: none"><li>• Lock-in-period of 5 years</li><li>• N.A. to withdrawal of principal by the nominees or legal heir of an assessee on death of assessee.</li></ul>

# Conditions



- ✓ Deductions only on actual payment.
- ✓ Insurance premium deduction only upto
  - ✓ 20% of Capital Sum Assured (for policies issued till 31.03.2012)
  - ✓ 10% of Capital Sum Assured (for policies issued after 31.03.2012)
- ✓ Exception  
*Contract for deferred annuity.*

# Conditions



- ✓ Max Deduction Rs. 1,00,000.
- ✓ (Increased to 1,50,000 from AY 2015-16)

# Issues in 80C

- Source of Investments?
  - Need not be out of Taxable Income  
CIT v. Pursottam Sa [2009] 318 ITR 286 (ALL.)
- A discretionary trust would be regarded as an individual and hence entitled to deduction u/s. 80C  
CIT v. Saurin S. Zaveri [2002] 257 ITR 160 (Mad.)
- Premia paid by assessee's wife out of her income, included in terms of section 64(1)(iv) in hands of assessee, should be treated as having been paid by assessee and deduction in terms of section 80C allowed thereon to assessee  
CIT v. V.S. Chelliah [1984] 147 ITR 590 (Mad.)

# Issues in 80C

- 80C and clubbing?
- 80C and foreign investments by NR?
- Fresh claim for 80C in assessment?
- Tuition fees paid by HUF?
- Whether EET or EEE or ETE?

# Sec. 80D Health Insurance Premium



✓ Who are eligible ?

Individual

HUF

✓ Eligible payments for an Individual:

- *Premium in respect of Mediclaim Insurance policy. (by any mode other than cash)*
- *Contribution to CG or other notified health scheme (by any mode other than cash)*
- *payment on account of preventive health check-up (by any mode including cash)*



# Sec. 80D Health Insurance Premium



- ✓ Eligible payments for HUF:
  - *Premium in respect of Medclaim Insurance policy. (by any mode other than cash)*
  - *In case of individual - payments for self, spouse and dependent children and parents whether dependent or not.*
  - *In case of HUF- payments for any member of the family*

# Sec. 80D Health Insurance Premium

## Limits for Individual:

Payments for	Maximum Deduction	Maximum deduction if senior citizen
Self, spouse, dependent children	Rs. 15,000	Rs. 20,000
Parents (Whether dependent / not)	Rs. 15,000	Rs. 20,000

Maximum deduction for preventive health check up is Rs. 5000/-

## Sec. 80D Health Insurance Premium

Limits for HUF:

Maximum Rs. 15,000/-

Where premium is paid for senior citizen - maximum is Rs. 20,000/-

For the purposes of this sub-section, "senior citizen" means an individual resident in India who is of the age of sixty years or more at any time during the relevant previous year.

## Sec. 80G Donation



Eligible assessee: All categories of persons.

✓ CASH or KIND?????



No deduction shall be allowed under this section in respect of donation of any sum exceeding ten thousand rupees unless such sum is paid by any mode other than cash.

# Sec. 80G Donation



- ✓ Donations only to Specified funds/institutions.
- ✓ Donations can be classified into 4 categories.

- (A) 100 % deduction without qualifying limit
- (B) 50 % deduction without qualifying limit
- (C) 100 % deduction with qualifying limit
- (D) 50 % deduction with qualifying limit

# Sec. 80G Donation



- ✓ For (C) & (D) categories,
- ✓ Aggregate Limit = 10% of Adjusted GTI.
- ✓ Adjusted GTI =  
G.T.I.  
less
  - (i) LTCG.
  - (ii) Deductions u/s. 80C to 80U except 80G.
  - (iii) STCG liable to tax u/s. 111A.

Deductions for certain income

Section 80IA to Section 80RRB

# Deductions in respect of certain incomes

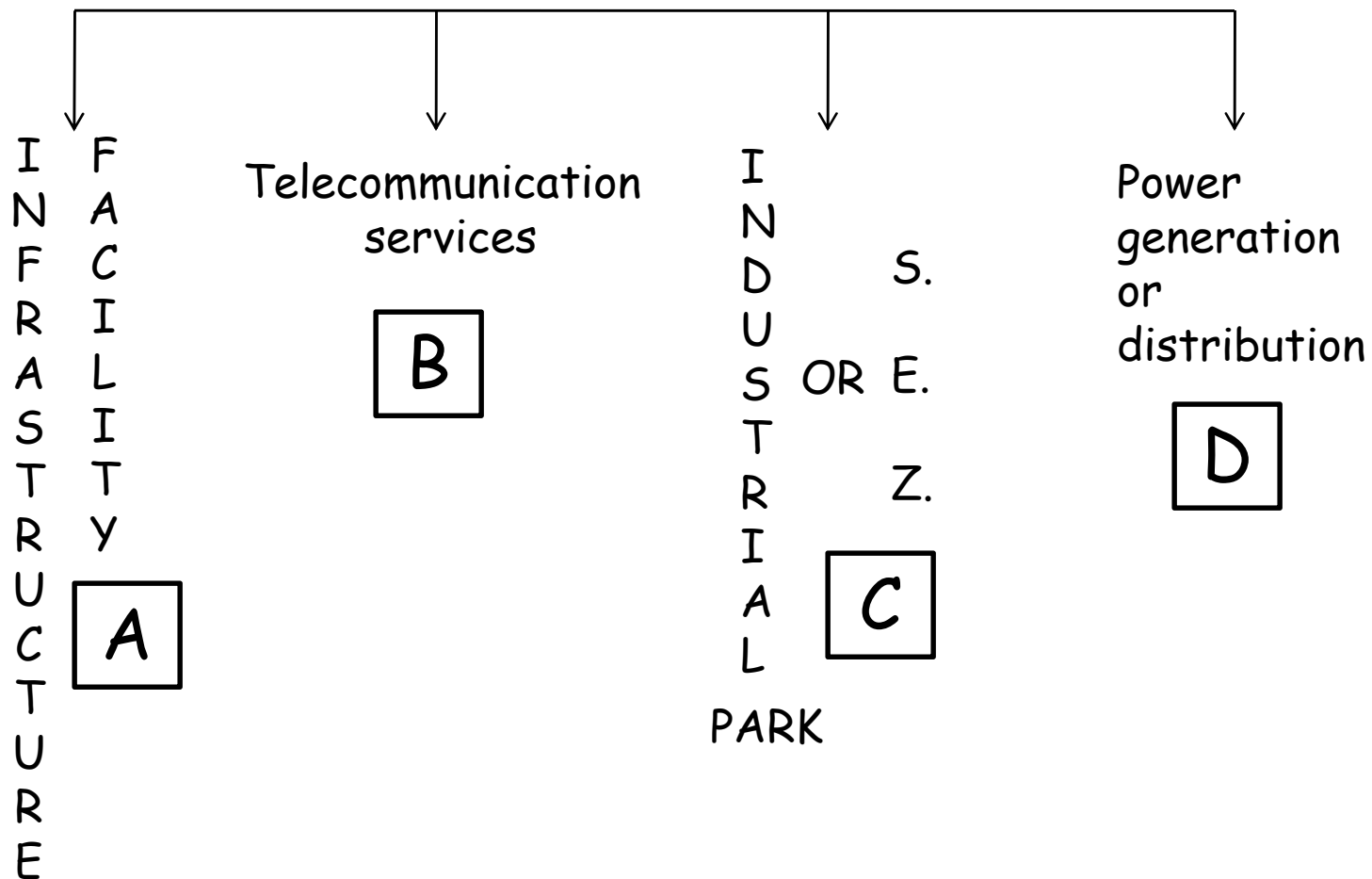
## General Principles:

- If an assessee fails to claim deduction u/s 10A, 10AA, 10B, or under Section 80IA to 80 RRB in his return of income then, no deduction under those sections shall be allowed to him. [Section 80A(5)].
- RETURN OF INCOME - Return of income to be submitted on / before due date u/s 139(1). If return is not submitted or return is submitted belatedly, deduction under section 80IA, 80IAB, 80IB, 80IC, 80ID and 80IE is not available. [Section 80AC]



# 80IA

Deduction for Industrial undertakings or enterprises engaged in infrastructure development, etc.



# A. Infrastructure facility

## CONDITIONS

1. Develop /maintain + operate / develop + maintain + operate infrastructure facility.

What is then, infrastructure facility?

- a. road, bridge or rail system.
- b. highway project including housing & other activities.
- c. water supply project, water treatment system, irrigation project, sanitation and sewerage system or solid waste management system.
- d. a port, airport, inland waterway or inland port or navigational channel in the sea.



## CONDITIONS

2. Should be owned by a company registered in India, or consortium of such companies or any body, board or corporation constituted under state / central Act.
3. Agreement with Central / State govt. / local authority / statutory body.
4. Starts operating & maintaining facility on/after 1.4.95.

## AMOUNT OF DEDUCTION

*100% of profits for 10 consecutive years.*

- ✓ Starting from which year?
- ✓ Initial A.Y.
- ✓ i.e. any year out of 15 years (for port, airport etc.), 20 years in case of other businesses.
- ✓ 15/20 years starting from the year of development and commencement of operation & maintenance.
- ✓ Starting year can be any out of 15 /20 years but deduction only for 10 consecutive years not falling beyond the 15<sup>th</sup>/20<sup>th</sup> A.Y.

# AMOUNT OF DEDUCTION

Suppose a company begins to operate an infrastructure facility (a toll road), during the P.Y. 2009-10. Which year can be the initial A.Y.?

Anything between A.Y. 2010-11 & A.Y. 2029-30.



## OTHER PROVISIONS

1. Assessee to furnish audit report electronically.
2. Double deduction ~~Rule 122P???~~ not possible.
3. Profit to be calculated as if that business is the only source of income during the year.

*What is the implication of this provision??*

# For example,

There are 2 businesses, business A & B. Business A is eligible for deduction u/s 80 IA; business B is not.

P.Y.	Business A	Business B	Deduction
2005-06	(-) 50,000	(+) 1,20,000	Nil
2006-07	(+) 30,000	(+) 1,40,000	30,000
2007-08	(+) 60,000	(+) 1,00,000	60,000
2008-09	(-) 40,000	(+) 1,00,000	Nil
2009-10	(+) 60,000	(+) 1,00,000	20,000

# OTHER PROVISIONS



4. AO can recompute profit.  
WHEN ?





## OTHER PROVISIONS

Eg - Transfer between 2 businesses:

MTC Ltd. carries on business 'A' (eligible for deduction u/s 80 IA) & business 'B' (not eligible). During the year, it transfers some goods for Rs. 40,000 (market value Rs. 30,000) from business A to B.

AO can adopt Rs. 30,000 as the transfer price for the purpose of computing deduction for profits of business A.

## OTHER PROVISIONS



Transfer to another person:

- ✓ Business transaction so arranged that
- ✓ Taxpayer earns extraordinary profits in the eligible business.
- ✓ What can AO do?
- ✓ While calculating deduction u/s. 80IA, he will calculate profits that may be considered to be reasonable.

# Transfer Pricing

- For the purpose of Section 80IA(8) and 80IA(10), if the transaction is a specified domestic transaction u/s. 92BA, then market price or the reasonable profit shall be calculated as per the arm's length price as defined in clause (ii) of section 92F

# Transfer Pricing

- 92BA. "Specified domestic transaction" in case of an assessee means any of the following transactions, not being an international transaction, namely:—
  - (i) .....
  - (ii) .....
  - (iii) any transfer of goods or services referred to in sub-section (8) of section 80-IA;
  - (iv) any business transacted between the assessee and other person as referred to in sub-section (10) of section 80-IA;
  - (v) any transaction, referred to in any other section under Chapter VI-A or section 10AA, to which provisions of sub-section (8) or sub-section (10) of section 80-IA are applicable; or
  - (vi) .....
- and where the aggregate of such transactions entered into by the assessee in the previous year exceeds a sum of five crore rupees.

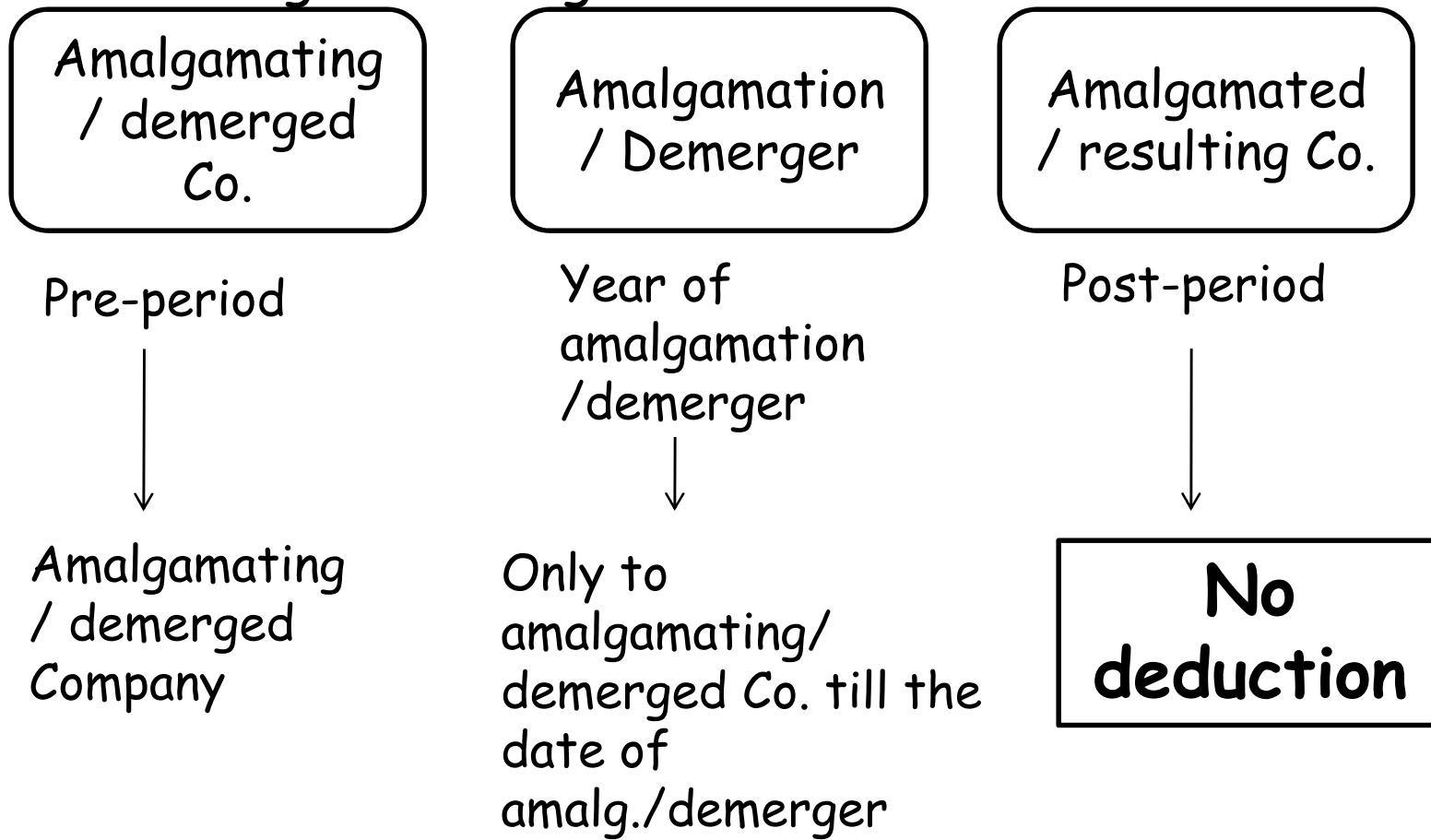
# Implications of Transfer Pricing

- Rigorous documentation requirement as per Rule 10D.
- Submission of Report in Form 3CEB.
- Due Date - 30th November.
- Benchmarking vis a vis comparables
- Penal Provisions for non compliances
- Reference to TPO
- Draft Assessment order and reference to DRP
- APA not applicable
- Safe Harbour Rules not applicabe

# OTHER PROVISIONS



## 5. Demerger / amalgamation.



## OTHER PROVISIONS

6. Transfer of undertaking:
  - ✓ Developer enterprise transfers to another enterprise for the purpose of operating & maintaining the facility.
  - ✓ Deduction would be available to transferee enterprise.

## Housing & other development activities which are integral part of highway project

✓ Quantum of deduction is different

✓ This provision is applicable when—

1. Housing or other activities are an integral part of the highway project.
2. Profits are computed in prescribed manner.





## Housing and other development activities which are integral part of highway project

What is the consequence of the above?

If such profit is transferred to Special Reserve Account &

such amount is actually utilised for highway project excluding housing & other activities

before the expiry of 3 years following the P.Y. in which such amount was transferred

**THEN, SUCH PROFITS SHALL NOT BE CHARGEABLE TO TAX.**



## Housing and other development activities which are integral part of highway project

What if the amount from the reserve is not utilised before the period of 3 years?

- ✓ Shall be chargeable to tax
- ✓ as income of the year of transfer to reserve.



# Housing and other development activities which are integral part of highway project

## CALCULATION OF PROFITS:

If the profits can be calculated as per regularly followed method of accounting	Profit calculated as per provisions of the Act
Any other case	Profit calculated as per percentage of completion activities

Form 10CCC from a C.A.

*Widening of an existing road by constructing additional lanes as a part of a highway project by an undertaking = New infrastructure facility.*

*However, simply relaying of an existing Road  $\neq$  new infrastructure facility - Circular No. 4/2010, dated 18-5-2010.*

# Telecommunication Services



## CONDITIONS

1.No splitting up or the reconstruction of an already existing business.

**EXCEPTIONS:** flood, typhoon, hurricane etc.

2.Old plant / machinery not to be used in formation of new business.

Allowed upto 20% of total value of plant & machinery.

Imported machinery = New machinery

WHEN ???

used outside India by any person other than assessee & no depreciation on it has been claimed in India.

# Telecommunication Services

## CONDITIONS

3. Time limit of commencement of activity—  
any time after March 31, 1995 but before March 31,  
2005.



# AMOUNT OF DEDUCTION



Enterprises	% of deduction	Period
Owned by a company or any other person	100	For 1 <sup>st</sup> 5 years
	30	For next 5 years

Initial A.Y.= Any year upto 15 years.

✓ Other provisions same as above.

To brush up—

1. Audit report
2. Double deduction is not available
3. Computation of profit
4. Recomputation of profit by the Assessing Officer
5. Consequences of merger / amalgamation

# Industrial Park or SEZ



## CONDITIONS

1. Develops / maintain + operate/ develop + maintain + operate notified Industrial Park or SEZ.
2. Time limit of commencement of activity—

<b>Industrial Park</b>	<b>1<sup>st</sup> April 1997 to 31<sup>st</sup> Mar 2011</b>
<b>SEZ</b>	<b>1<sup>st</sup> April 1997 to 31<sup>st</sup> Mar 2006</b>

## AMOUNT OF DEDUCTION

100% of profits for 10 consecutive years.

Initial A.Y.= Any year upto 15 years.

✓ Other provisions same as above.



Industrial park developed on or after 1.4.1999 / SEZ developed on or after 1.4.2001 .

operation & maintenance transferred to another undertaking (i.e., transferee undertaking - deduction to be allowed to such transferee undertaking for the remaining period.



# Power generation / distribution



## CONDITIONS

1. New undertaking (not formed by splitting up of existing business etc).

### EXCEPTION :

Re-establishment, reconstruction or revival of the business due to flood, tycoon etc

2. Old plant / machinery not to be used in formation of new business.

Allowed upto 20% of total value of plant & machinery.  
(Remember the exception of imported machinery)

EXCEPTION : Splitting up, reconstruction etc of STATE ELECTRICITY BOARDS & transfer of previously used plant /machinery by STATE ELECTRICITY BOARDS.

# Power generation / distribution

## CONDITIONS

### 3. Time limit of commencement of activity—

Generation / generation + distribution	1 <sup>st</sup> April 1993 to 31 <sup>st</sup> Mar 2017
Transmission / distribution (new transmission/distribution lines)	1 <sup>st</sup> April 1999 to 31 <sup>st</sup> Mar 2017
Substantial renovation & modernization of existing lines	1 <sup>st</sup> April 2004 to 31 <sup>st</sup> Mar 2017

- ✓ Substantial renovation = Increase in the book value of plant and machinery
- ✓ by 50 per cent
- ✓ as compared to book value of such plant and machinery on April 1, 2004.

# Power generation / distribution

## CONDITIONS

4. *For undertaking set-up for reconstruction or revival of a power generating plant:*
  - a. Owned by an Indian company.
  - b. Indian company formed before 30.11.05 with majority equity participation by public sector companies for the purpose of enforcing the security interest of the lenders to the company owning the power generating plant.
  - c. Indian company notified before 31.12.2005 by the Central Govt.
  - d. Such undertaking begins to generate or transmit or distribute power before 31-3-2012.

# AMOUNT OF DEDUCTION

100% of profits for 10 consecutive years.

Initial A.Y.= Any year upto 15 years.

✓ Other provisions same as above.

*Deduction under various clauses of Sec. 80IA shall not be allowed to a person who executes a works contract awarded by any person (including the Central or State Government).*

[Explanation to Sec. 80IA] (w.r.e.f. A.Y. 2000-01)

**Why the provision???**

# 80IAB

Deductions in respect of profits and gains by an undertaking or enterprise engaged in development of SEZ

Conditions:

1. Deduction to whom? -  
Developer of a special economic zone.
2. Profits from such business are included in GTI.
3. SEZ is notified on or after April 1, 2005.
4. Audit of books of A/cs.
5. Return within due date.



# Amount of deduction

- ✓ 100% of the profits
- ✓ for any 10 consecutive A.Y.s
- ✓ out of 15 years
- ✓ beginning from the year of notification.

- ✓ What will happen in case of transfer / amalgamation/demerger ?
- ✓ Allowed to transferee company / amalgamated/resulting company.
- ✓ Other provision same as section 80 IA.



# 80IB

## Which undertakings?

A

INDUSTRIAL  
UNDERTAKING

B

INDUSTRIAL  
RESEARCH

C

MINERAL  
OILS / NATURAL GAS

D

HOUSING  
PROJECTS

E

FRUITS,  
VEGETABLES,  
FOODGRAINS

F

HOSPITAL

# Industrial Undertaking

## CONDITIONS

1. Splitting/reconstruction.
2. Transfer of machinery.
3. Should not manufacture /produce articles specified in the Eleventh Schedule.

## 2 EXCEPTIONS

- Small-scale undertakings or an undertakings in a backward State can manufacture any goods/article.
- From A.Y. 2005-06, an industrial undertaking in the State of Jammu and Kashmir should not manufacture or produce cigarettes / cigars, distilled and brewed alcoholic drinks, aerated branded beverages and their concentrate

# Industrial Undertaking

## CONDITIONS

### 4. Time limit of commencement of activity—

Manufacture any article or operate cold storage plant	1 <sup>st</sup> Apr 1991 - 31 <sup>st</sup> Mar 1995
Small scale industrial undertaking	1 <sup>st</sup> Apr 1991 - 31 <sup>st</sup> Mar 2002

Can Be Extended by the Central Govt.



# Industrial Undertaking

Time limit of commencement of activity in case of special undertakings

Located in industrially backward state specified in 8th schedule	1st Apr 1993 - 31st Mar 2004
J & K	1st Apr 1993 - 31st Mar 2012
Set up in a notified backward district of category 'A' or 'B'	1st Oct 1994 - 31st Mar 2004
Industrial undertaking deriving profit from the business of setting up and operating cold chain facility for agricultural produce	1st Apr 1999 - 31st Mar 2004

5. It should employ 10 (with the aid of power)/20 workers (without the aid of power)

	Small scale industrial undertaking	Set up in an industrially backward state	Set up in Category A notified district	Set up in Category B notified district	Cold chain facility for agricultural produce	Any other
Company owner	30 % for 1 <sup>st</sup> 10 years	100 % for 1 <sup>st</sup> 5 years  30 % for next 5 years	100 % for 1 <sup>st</sup> 5 years  30 % for next 5 years	100 % for 1 <sup>st</sup> 3 years  30 % for next 5 years	100 % for 1 <sup>st</sup> 5 years  30 % for next 5 years	30 % for 1 <sup>st</sup> 10 years
Co-op Soc owner	25 % for 1 <sup>st</sup> 12 years	100 % for 1 <sup>st</sup> 5 years  25 % for next 7 years	100 % for 1 <sup>st</sup> 5 years  25 % for next 7 years	100 % for 1 <sup>st</sup> 3 years  25 % for next 7 years	100 % for 1 <sup>st</sup> 5 years  25 % for next 7 years	25 % for 1 <sup>st</sup> 12 years
Any other person Owner	25 % for 1 <sup>st</sup> 10 years	100 % for 1 <sup>st</sup> 5 years  25 % for next 5 years	100 % for 1 <sup>st</sup> 5 years  25 % for next 5 years	100 % for 1 <sup>st</sup> 3 years  25 % for next 5 years	100 % for 1 <sup>st</sup> 5 years  25 % for next 5 years	25 % for 1 <sup>st</sup> 10 years

# Companies engaged in industrial research

## Conditions

1. Company registered in India.
2. Main object - Scientific & industrial research & development.
3. Approved by Secretary, Department of Scientific and Industrial Research- at any time after 31<sup>st</sup> Mar 2000 but before 1<sup>st</sup> Apr 2007.

*Deduction= 100% of profits for 1<sup>st</sup> 10 years,  
beginning with initial A.Y.*

✓ Other provisions same as 80-IAB.

# Mineral Oils or Natural Gas



## Conditions

1. New undertaking.
2. Transfer of machinery.
3. Time limit for commencement of activity—

	Commencing commercial production of mineral oil	Refining of mineral oil
Mineral Oil	After 31st March 1997(1)	After Sep 30 <sup>th</sup> , 1998 but before 1 <sup>st</sup> April, 2012
Natural Gas	After 31st March 2009 (2)	-

# Mineral Oils

- (1) No deduction shall be available in respect of commercial production of mineral oil, to blocks licensed under a contract awarded after 31.3.2011 under the NELP announced by the government.
- (2) All blocks licensed under a single contract of New Exploration Licensing Policy = 'single' undertaking.

Deduction??

100% for 1<sup>st</sup> 7 years commencing with

the year of commencement of commercial production of mineral oil / natural gas or refining of mineral oil.



# Developing and building housing projects

## CONDITIONS

1. Project approved by a local authority before March 31, 2008.
2. Size of the plot of land = minimum 1 acre.
3. Commence activity after September 30, 1998 and complete construction
  - a. *On or before 31.03.2008 (if approval is granted before 1.4.2004).*
  - b. *On or before 31.03.2009 (if approval is granted during 2004-05).*
  - c. *within 5 years from the end of the financial year in which the housing project is first approved, if approval is granted on or after 1.4.2005.*

# Developing and building housing projects

- Conditions regarding size of plot & time limit N.A.
- WHEN??
- Housing project as per notified CG/ SG scheme for reconstruction or redevelopment of existing buildings in slum areas.

# Developing and building housing projects

## CONDITIONS

4. Built-up area of shops and other commercial establishments included in the housing project = maximum 3% of the aggregate built - up area of the housing project or 5,000 sq. ft., whichever is more.
5. Restriction on built-up area of each residential unit

Location	Area
Within Delhi& Mumbai	1000 sq. ft
Within 25 kms from the local limits of Delhi& Mumbai	1000 sq. ft
Any other place	1500 sq. ft

# Developing and building housing projects

## CONDITIONS

6. Not more than one residential unit in the housing project is allotted to any person other than an individual.
7. Where one unit is allotted to an individual, no other residential unit in the housing project is allotted to :
  - Individual / spouse / minor child.
  - the HUF where such individual is the karta.
  - any person representing any of the above.

# Developing and building housing projects

Deduction??

100% of profit derived from the project.

✓ Other provisions same as 80-IAB.

No deduction shall be allowed under this sub-section to a person who executes a works contract awarded by any person (including the Central or State Government). [Explanation to Sec. 80IB(10)]

# Processing, preservation and packaging of fruits or vegetables or integrated handling, storage and transportation of food grains

3 types of businesses covered

Integrated business of handling, storage and transportation of food grains

Processing, preservation and packaging of meat and meat products / poultry / marine / dairy products

Processing, preservation and packaging of fruits or vegetables.

New business after 31<sup>st</sup> March 2001.

New business after 31<sup>st</sup> March 2009.

New business after 31<sup>st</sup> March 2001.

# Processing, preservation and packaging of fruits or vegetables or integrated handling, storage and transportation of food grains

Enterprise	Deduction
Owned by a company	100 % for 1 <sup>st</sup> 5 years 30 % for next 5 years
Owned by any other person	100 % for 1 <sup>st</sup> 5 years 25 % for next 5 years

# Operating and maintaining a hospital

## Rural Area

### Conditions

1. Operating and maintaining a hospital in a rural area.
2. Constructed - 1<sup>st</sup> Oct. 2004 to 31<sup>st</sup> Mar. 2008.
3. Atleast 100 beds for patients.

## Any other Area

### Conditions

1. Operating and maintaining a hospital located anywhere in India other than excluded area.
2. Constructed & starts functioning - 1<sup>st</sup> Apr. 2008 to 31<sup>st</sup> Mar. 2013.
3. Atleast 100 beds for patients.



# Operating and maintaining a hospital

Rural Area

Conditions

4. Construction as per regulation of local authority.
5. Audit report.

Any other Area

Conditions

4. Construction as per regulation of local authority.
5. Audit report.
6. 'Excluded area'

# Operating and maintaining a hospital

Rural Area

100% for 1<sup>st</sup> 5 years  
beginning from initial  
A.Y.

Initial A.Y. = begins to  
provide medical services.

✓ Other provisions same.

Any other Area

100% for 1<sup>st</sup> 5 years  
beginning from initial  
A.Y.

Initial A.Y. = Business  
starts functioning.

✓ Other provisions same.

# Tax Holiday For The States Of Himachal Pradesh, Uttaranchal, Sikkim And North-Eastern States Undertakings

Located in—  
Export Processing Zone  
Integrated Infrastructure  
Development Center  
Industrial estate or park  
Software Technology Park  
Industrial areas  
Theme park

Manufacture / produce any article /  
thing, other than in the 13<sup>th</sup>  
Schedule (namely, tobacco, aerated  
beverages, pollution causing paper  
and paper products, etc.),

Located anywhere in these  
states

Manufacture / produce article  
/ thing specified in the 14<sup>th</sup>  
Schedule.

**Tax holiday for the states of Himachal Pradesh, Uttarakhand, Sikkim and North-eastern states**

**CONDITIONS FOR NEW UNDERTAKING:**

Splitting/reconstruction. (Exception - flood, typhoon, hurricane or other conversion of nature, riots etc)

Transfer of machinery.

## Tax Holiday for the states of Himachal Pradesh, Uttaranchal, Sikkim and North-Eastern States

### CONDITIONS FOR EXISTING UNDERTAKING:

Undertake substantial expansion.

Substantial expansion = Addition of at least 50% in the book value of Plant & Machinery as on the 1<sup>st</sup> day of the P.Y. of expansion.

## Tax Holiday for the states of Himachal Pradesh, Uttaranchal, Sikkim and North-Eastern States

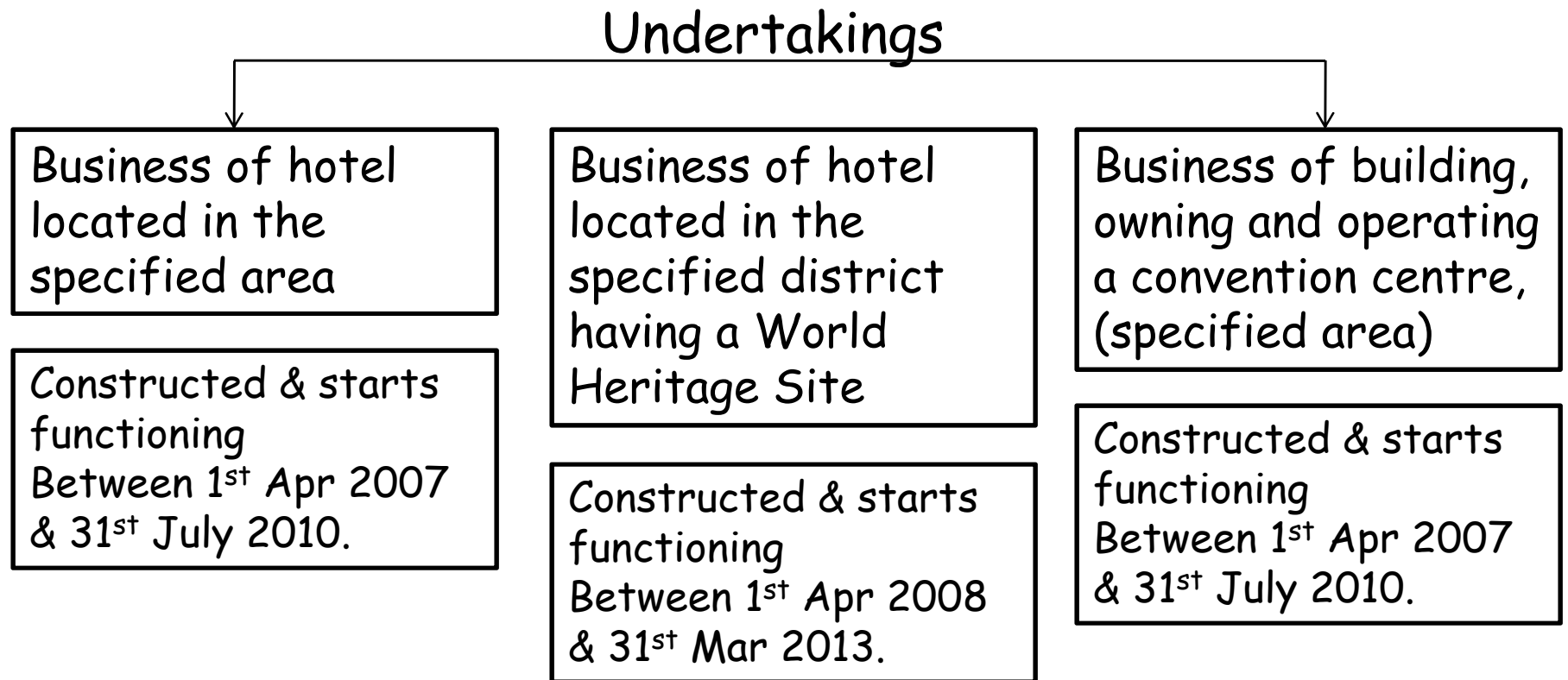
State	Time limit
Himachal Pradesh & Uttaranchal	7 <sup>th</sup> Jan 2003 to 31 <sup>st</sup> Mar 2012
Sikkim	23 <sup>rd</sup> Dec 2002 to 31 <sup>st</sup> Mar 2007
North-Eastern States (i.e. Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland & Tripura)	24 <sup>th</sup> Dec 1997 to 31 <sup>st</sup> Mar 2007

## Tax Holiday for the states of Himachal Pradesh, Uttarakhand, Sikkim and North-Eastern States

State	Deduction
Himachal Pradesh & Uttarakhand	100% for 1 <sup>st</sup> 5 years 25% for next 5 years (company - 30%)
Sikkim & N.E. states	100% for 1 <sup>st</sup> 10 years

# 80ID

## Tax holiday for hotels and convention centres in specified area






# Hotels and convention centres in specified area

## CONDITIONS

1. Splitting/reconstruction.
  2. Not formed by the transfer to a new business of building previously used as a hotel / convention centre.
  3. Transfer of machinery.
- ✓ Other provisions same as above.

# Hotels and convention centres in specified area

Convention Centre = As in 80 IB.

Hotel = 

or 



as classified by the Central Government.

## Hotels and convention centres in specified area

Deduction = 100% for 1<sup>st</sup> 5 years, beginning with initial A.Y.

Initial A.Y. = hotel starts functioning or  
convention centre starts commercial  
operation.

# 80IE

## Deduction in respect of certain undertakings in North-Eastern States

### CONDITIONS

1. Between 1<sup>st</sup> Apr 2007 & 31<sup>st</sup> Mar 2017
  - ✓ begins manufacture or production of goods or
  - ✓ undertakes substantial expansion or
  - ✓ begun to provide eligible services.
- ✓ No deduction : Manufacture of tobacco, pan masala, plastic carry bags of less than 20 microns or goods produced by petroleum oil and gas refineries.



# 80IE

## Deduction in respect of certain undertakings in North-Eastern States

### CONDITIONS

#### ✓ Any business?

Only Eligible business - hotel (2 star or above), adventure and leisure sports (including ropeways), nursing home (25 beds or more), old age homes, vocational training institutes (such as hotel management, catering entrepreneurship development, nursing and paramedical, civil aviation related training, fashion designing and industrial training), IT related training centres, IT hardware units and bio-technology.



# 80IE

## Deduction in respect of certain undertakings in North-Eastern States

### CONDITIONS

2. Above activities to take place only in N.E. states- Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim and Tripura.
3. For new undertaking:
  - ✓ Splitting up/ reconstruction (exceptions flood, typhoon, hurricane etc)
  - ✓ Transfer of machinery.
4. Existing undertaking - substantial expansion (Addition of at least 25%)
5. Submit return within due date u/s 139(1).

# 80IE

Deduction in respect of certain undertakings in North-Eastern States

Deduction = 100% for 1<sup>st</sup> 10 years, beginning with initial A.Y.

Initial A.Y. = begins to manufacture/produce article or things or completes substantial expansion.

✓ Other provisions:

- a. No double deduction u/s 10A, 10AA, 10B, 10BA, 80C to 80U. No deduction under this section where the total period of deduction under sections 10C, second proviso to 80-IB (4), 80-IC and 80-IE exceeds 10 assessment years.
- b. Audit report.
- c. Computation of profits.
- d. Recomputation of profits.



# Sec 80 JJA - Deduction in respect of profits from the business of processing of biodegradable waste

or organic manure. Available to whom:

Any assessee,

Profits derived from the business of collecting, processing / treating of biodegradable waste

for

generating power

producing bio-fertilizers / bio-pesticides / other biological agents / bio-gas or

making pellets or briquettes for fuel





## **Sec 80 JJA - Deduction in respect of profits from the business of processing of biodegradable waste**

Amount of Deduction

100% of the profits derived from the above mentioned activities

for a period of five consecutive A.Y.s

beginning with the A.Y. of the P.Y. of commencement†.



## Sec 80 JJAA - Deduction in respect of employment of new workmen

To encourage employment

### Conditions:

- ✓ Taxpayer - Indian company.
- ✓ Manufacture or production of article or thing.
- ✓ Not formed by splitting up /reconstruction / amalgamation.
- ✓ Report from CA.



# Sec 80 JJAA - Deduction in respect of employment of new workmen

## Amount of Deduction-

New Factory



30 % of additional wages  
paid to new regular workmen  
employed during the P.Y.  
is deductible for 3 A.Y.s

beginning with A.Y. of the P.Y. in which regular workmen  
in excess of 100 workmen are first employed.

## Sec 80 JJAA - Deduction in respect of employment of new workmen



Additional wages?

Wages paid to new workmen in excess of 100 workmen employed during the previous year.

Workman does not include—

a person who is in Air Force, Military or Navy or who is in police force.

a person employed in managerial or administrative capacity or

a person employed in a supervisory capacity & drawing wages more than Rs. 1600 p.m.

## Sec 80 JJAA - Deduction in respect of employment of new workmen

'Regular Workman' does not include -

a casual workman; or

a workman employed through contract labour; or

any other workman employed for a period of less than 300 days during the previous year.

The aforesaid deduction is available over and above the expenditure on wages or salary, which is otherwise allowable as business expenditure to the company.



# Sec 80 JJAA - Deduction in respect of employment of new workmen

## Amount of Deduction

### Existing Factory



The aforesaid deduction

only if the increase in the number of regular workmen employed during the year is

not less than 10 per cent of existing number in such factory as on the last day of the preceding year.

## Special provisions in respect of newly established units in Special Economic Zone : [Section 10AA]

### Conditions :

1. The assessee is an 'entrepreneur' as defined in SEZ Act, 2005.
2. The unit in Special Economic Zone begins to manufacture or produce articles or things or provide services during the financial year 2005 - 06 or any subsequent year.
3. The assessee has exported goods or provided services out of India from the Special Economic Zone by land, sea, air or by any other mode, whether physical or otherwise.

**Special provisions in respect of newly established units in Special Economic Zone**  
**: [Section 10AA]**

**Amount of deduction :**

Deduction depends upon quantum of profit derived from export of articles or things or services (including computer software). It is calculated as under -

Profit of the business of the undertaking x Export turnover / Total turnover of the business carried on by the undertaking.



**Special provisions in respect of newly established units in Special Economic Zone**  
**: [Section 10AA]**

**Explanation 1.—For the purposes of this section,—**

**"export turnover" means the consideration in respect of export by the undertaking, of articles or things or services received in, or brought into, India by the assessee but does not include freight, telecommunication charges or insurance attributable to the delivery of the articles or things outside India or expenses, if any, incurred in foreign exchange in rendering of services (including computer software) outside India;**

**Special provisions in respect of newly established units in Special Economic Zone**  
**: [Section 10AA]**

**Explanation 2.—For the removal of doubts, it is hereby declared that the profits and gains derived from on site development of computer software (including services for development of software) outside India shall be deemed to be the profits and gains derived from the export of computer software outside India.**

**The first year of deduction shall be the year in which the undertaking begins to manufacture or produce such articles or things or provide services, as the case may be.**

**Amount of deduction shall be as follows:**

**Deduction for First 5 years :** 100 per cent of profits and gains calculated as per above formula.

**Deduction for Next 5 years :** 50 per cent of profits and gains calculated as per above formula.

**Deduction for Next 5 years :** An amount debited to the Profit and Loss A/c. and credited to "Special Economic Zone Reinvestment Allowance Reserve A/c." subject to maximum of 50% of profit and gains calculated as per above formula.; shall be allowed as deduction.

## Utilisation of Special Reserve

The above reserve should be utilized for acquiring new machinery or plant. The time limit for utilization of reserve is 3 years.

Until the acquisition of new machinery or plant the reserve can be used for any business purpose but not for Distribution of dividend or profits, Remittance outside India as profits etc.

If the above reserve is misutilised, amount misutilised shall be taxable as income of the year in which it is misutilised.

If the reserve is not utilised within 3 years, the amount not utilised shall be taxable as income of the year immediately following the period of three years.

### Other conditions :

1. It is not formed by splitting up or the reconstruction of a business already in existence.
2. It is not formed by transfer to a new business of machinery or plant previously used for any purpose. (previously used machinery upto 20% of total value of machinery is allowed). Imported machinery shall be regarded as new machinery only.
3. The assessee should obtain before the due date of filing of return, a report in prescribed form certifying that the deduction has been correctly claimed in accordance with the provisions of section 10AA and report is to be electronically uploaded.

## Other Restrictions :

1. During these 10 years, depreciation is deemed to have been allowed on the assets. Written down value would be accordingly reduced.
2. No deduction u/s 80IA or 80IB shall be allowed in respect of such industrial undertaking after the expiry of tax holiday period.

# Issues in 10AA

- The investment or expenses incurred to earn income from an unit, from which deduction is available under sections 80-IB or 10AA, do not merit disallowance under section 14A.

Meditap Specialities (P.) Ltd. v. ACIT[2012] 53 SOT 190 (Mum.)

- Loss of non-eligible unit was not to be set off against profit of eligible unit before a deduction under section 10AA could be allowed to eligible unit.

CIT v. Schmetz India (P.) Ltd.[2012] 211 Taxman 59 (Bom.)

# Issues in 10AA

- Effect of disallowances:
- Ultimate profit of the assessee as computed even after making disallowance u/s. 40(a)(ia) would qualify for deduction as provided under section 80IB.
- ITO v. Keval Construction [2013] 354 ITR 13 (Guj.)
- Above decision followed even for 10AA.
- Virtusa (India) (P.) Ltd. v. Dy. CIT [2014] 41 Taxmann.com 244(Hyd.)
- However, in case of TP adjustments u/s. 92C(3), no deduction is allowable u/s. 10AA or 80IA etc. for the increased profit due to TP adjustment because of specific provisions of Section 92C(4).



## Alternate Minimum Tax

- Applicability:
- AMT provisions apply to a person who has claimed any deduction under—
  - (a) any section (other than section 80P) included in Chapter VI-A under the heading "C.—Deductions in respect of certain incomes"; or
  - (b) section 10AA or
  - (c) section 35AD
- AMT provisions shall not apply to an individual or a Hindu undivided family or an AOP or a BOI or an artificial juridical person, if the adjusted total income of such person does not exceed twenty lakh rupees.

## Alternate Minimum Tax

- Basis for computation of adjusted total income = Total income as per normal provisions
- Only 3 additions:
  - ✓ Deductions in respect of certain incomes claimed under section 80-IA to 80RRB of Chapter VI-A (other than S.80P)
  - ✓ Deduction claimed u/s 10AA
  - ✓ deduction claimed, if any, under section 35AD as reduced by the amount of notional depreciation u/s. 32 in respect of the assets on which the deduction u/s 35AD is claimed.
- All other provisions of the Act applicable even if tax charged under this section. E.g. Interest u/s. 234B/C for default or deferment of advance tax.

## Alternate Minimum Tax

- Compare:
- 18.5% of Adjusted Total Income (A) &
- tax on total income computed as per regular provisions (B) ,
- If  $(A) > (B)$ ,
- Adjusted total income = deemed to be the total income and
- tax payable on it = 18.5% thereof + surcharge (as applicable) + Ecess @ 2% & SHECess @ 1%.

## Tax credit to be c



- Credit is allowed if tax is paid under AMT provisions.
- Credit in respect of what??
- AMT - tax payable under normal provisions
- Credit allowed to be c/fd & set-off in a year when tax is payable as per normal provisions
- Maximum period of c/fd = 10 years
- Maximum set-off = Tax on total income under normal provisions - AMT for that year.

## Tax credit to be c



- No interest shall be allowed on the amount of tax credit available under section 115JD.
- $\uparrow / \downarrow$  in the amount of regular income tax or AMT =  $\uparrow / \downarrow$  in the amount of tax credit so allowable.
- Report from C.A. on / before due date u/s 139(1).

Thank You