CHAPTER THIRTY-FOUR

Alternative tax regime

Alternative tax regime available under different sections

531. The table given below highlights alternative tax regime presently available to different assessees –

	SECTION 115BA	*SECTION 115BAA*	*SECTION 115BAB*	*SECTION 115BAC*	*SECTION 115BAD*
To whom available	Existing domestic company	Domestic company	New domestic manufacturing company	Individual/HUF	Resident co-operative society
From which assessment year available	2017-18	2020-21	2020-21	2021-22	2021-22
Tax rate	25%	22%	15%	*See* para 547	22%
Surcharge	Applicable surcharge (7%/12%)	10%	10%	Applicable surcharge (10%/15%/25%/37%)	10%
Whether marginal relief available in case of surcharge	Yes	No	No	Yes	No
HEC	4%	4%	4%	4%	4%
Any specific activity required to avail alternative tax regime	Manufacture/production of goods	No	Manufacture/ production of goods	No	No
Date of set-up and registration	On or after March 1, 2016	–	On or after October 1, 2019	–	–
Date of commencement of manufacture	Not specified	–	On or before March 31, 2023	–	–
Incentives available	A few incentives not available	A few incentives not available	A few incentives not available	A few incentives not available	A few incentives not available
Deduction under sections 10AA, 32(1)(*iia*), 32AD, 33AB, 33ABA, 35(1)(*ii*)/(*iia*)/(*iii*), 35(2AA)/(2AB), 35AD, 35CCC, 35CCD, whether available	Not available (even deduction under sections 32AC and 35AC, not available)	Not available	Not available	Not available [however, sections 35(2AB) and 35CCD are otherwise not applicable in the case of individual/HUF]	Not available [however, sections 35(2AB) and 35CCD are otherwise not applicable in the case of co-operative society]
Deduction under Chapter VI-A (*i.e.*, sections 80C to 80U), whether available	■ Deduction is available under sections 80G, 80GGA, 80GGB and 80JJAA. ■ No other deduction is available	■ Deduction is available under sections 80JJAA, 80LA(1A) and 80M. ■ No other deduction is available under Chapter VI-A†	■ Deduction is available under sections 80JJAA and 80M. ■ No other deduction is available under Chapter VI-A†	■ Deduction is available under sections 80CCD(2) (*i.e.*, employer's contribution towards NPS), 80JJAA and 80LA(1A)	■ Deduction is available under sections 80JJAA and 80LA(1A). ■ No other deduction is available under Chapter VI-A

† However, for the assessment year 2020-21, deduction is available under sections 80G, 80GGA and 80GGB.

	SECTION 115BA	SECTION 115BAA	SECTION 115BAB	SECTION 115BAC	SECTION 115BAD
	under Chapter VI-A			■ No other deduction is available under Chapter VI-A	
Deduction/exemption under sections 10(*5*)/(*13A*)/(*14*)/(*17*)/(*32*), 16, 24(*b*) and 57(*iia*), whether available	–	–	–	Not available [however, deduction under section 24(*b*) pertaining to let out property/deemed to be let out property is available]	–
Whether brought forward loss pertaining to above deductions/exemptions can be set off and carried forward	No	No (even if it arises because of operation of section 72A)	No (even if it arises because of operation of section 72A)	No (even current year's house property loss cannot be set off against any other income)	No
For which year the option of adopting alternative tax regime can be exercised	For the first assessment year of the domestic company (if it is not availed in the first year, it cannot be opted for the second or subsequent years)	For the assessment year 2020-21 or any subsequent year (if it is not availed for the assessment year 2020-21, the assessee can opt for it in any subsequent year)	For the first assessment year of the domestic company (if it is not availed in the first year, it cannot be opted for the second or subsequent years)	For the assessment year 2021-22 or any subsequent year (if it is not availed for the assessment year 2021-22, the assessee can opt for it in any subsequent year)	For the assessment year 2021-22 or any subsequent year (if it is not availed for the assessment year 2021-22, the assessee can opt for it in any subsequent year)
Due date of exercise of goods of option	On or before the due date of furnishing of first return of income [Form No. 10-IB]	On or before the due date of furnishing of return of income of the year in which the assessee wants to opt for lower tax regime [Form No. 10-IC]	On or before the due date of furnishing of first return of income [Form No. 10-ID]	On or before the due date of furnishing of return of income of the year in which the assessee wants to opt for lower tax regime	On or before the due date of furnishing of return of income of the year in which the assessee wants to opt for lower tax regime
After exercising option, is it possible to withdraw for the same or any other subsequent year	No (however, one can shift to the tax regime of section 115BAA)	No	No	*Assessee not having any business or profession income* - Fresh option is required every year *Assessee having income from business/ profession - See* Note	No
Whether provisions of minimum alternate tax (MAT) or alternate minimum tax (AMT) applicable for the assessment year for which the assessee has opted for the alternative tax regime under these sections	Yes, applicable	Not applicable	Not applicable	Not applicable	Not applicable
Whether brought forward MAT/AMT credit available after availing alternative tax regime	*Yes*	*No*	*No*	*No*	*No*

Notes - It cannot be withdrawn in any subsequent year (except when he does not have any income from business/profession).

PART A

ALTERNATIVE TAX REGIME FOR EXISTING MANUFACTURING DOMESTIC COMPANIES UNDER SECTION 115BA

Manufacturing domestic companies under section 115BA

532. Section 115BA has been inserted with effect from the assessment year 2017-18.

532.1 ***Conditions*** - The following conditions should be satisfied in order to avail the benefit of lower tax rate under section 115BA –

1. The assessee is a domestic company.

2. The company is not engaged in any business other than the business of manufacture or production of any article or thing and research in relation to (or distribution of) such article or thing manufactured or produced by it.

3. The company has been set-up and registered on or after March 1, 2016.

4. Total income of the company is computed without claiming additional depreciation and deduction under sections 10AA, 32AC, 32AD, 33AB, 33ABA, 35(1)(*ii*)/(*iia*)/(*iii*)/35(2AA)/(2AB), 35AC, 35AD, 35CCC, 35CCD, sections 80H to 80TT (not being section 80JJAA).

5. Total income of the company is calculated after claiming depreciation (rate cannot be more than 40 per cent) and without adjusting brought forward loss from any earlier year (if such loss pertains to any deduction under the aforesaid sections). Moreover, such loss will not be carried forward.

532.2 ***Option*** - If the above conditions are satisfied, the company has an option to pay tax at the rate of 25 per cent [+ SC + HEC] [if such company has other incomes which are taxable under other provisions of Chapter XII (*i.e.*, sections 110 to 115BBG), then tax on such other incomes will be calculated as per the rate(s) specified by these sections and balance amount of income will be taxable under section 115BA at the rate of 25 per cent]. This option shall be exercised on or before the due date for furnishing the first of the returns of income, which the company is required to furnish under the Act. This option should be exercised by electronically furnishing Form No. 10-IB (under digital signature). Once the company has exercised the option for any previous year, it cannot be subsequently withdrawn for the same or any other previous year.

However, a company (which has already opted for section 115BA) can switch over to section 115BAA. After such switchover, the assessee can claim the benefit of section 115BAA (and section 115BA will not be applicable). For the provisions of section 115BAA, *see* para 533.

532.2-P1 *X Ltd. is a manufacturing company. It was incorporated on April 1, 2016. It opted for alternative tax regime under section 115BA on September 30, 2017 by uploading Form No. 10-IB. It is engaged in manufacture of cosmetic items for domestic market. It gives the following information pertaining to the assessment year 2020-21 –*

	Rs.
Total income (computed after taking all incentives and exemptions) (out of which Rs. 1,00,000 is long-term capital gain and Rs. 50,000 is lottery winnings)	*20,60,000*
Incentives claimed as deduction under sections 32AC, 32AD, 35AC, 35AD, 35CCC	*2,17,000*
Deduction claimed under section 80JJAA	*10,00,000*
Book profit calculated under section 115JB	*30,40,000*

Determine the amount of tax for the assessment year 2020-21.

SOLUTION :

	Rs.
Tax computation under section 115BA	
Total income as computed above	20,60,000
Add: Incentives claimed as deduction under sections 32AC, 32AD, 35AC, 35AD, 35CCC	2,17,000
Add: Deduction claimed under section 80JJAA (no adjustment required)	*Nil*
Total income (as adjusted for the purpose of section 115BA)	22,77,000

	Rs.
Tax computation	
Long-term capital gain (20% of Rs. 1,00,000)	20,000
Winnings from lottery (30% of Rs. 50,000)	15,000
Balance income (25% of Rs. 21,27,000)	5,31,750
Total (*a*)	5,66,750
Minimum alternate tax	
Book profit	33,40,000
Tax on book profit (15% of Rs. 30,40,000) (*b*)	4,56,000
Tax payable, *i.e.*, [(*a*) or (*b*), whichever is more]	5,66,750
Add: Health and education cess	22,670
Tax liability (rounded off)	5,89,420

PART B

ALTERNATIVE TAX REGIME FOR DOMESTIC COMPANIES UNDER SECTION 115BAA

Tax on income of certain domestic companies

533. Taxation Laws (Amendment) Act, 2019 has inserted section 115BAA with effect from the assessment year 2020-21.

Conditions and restrictions

534. The following conditions should be satisfied in order to avail the benefit of lower tax rate under section 115BAA –

■ *Domestic company* - The assessee is a domestic company. It may be a public limited company or private limited company or listed company or unlisted company. There is no restriction on the amount of annual turnover. Shareholders of the company may be resident or non-resident. Such company may be controlled by a domestic entity or a foreign entity. It may be a company newly incorporated or an existing domestic company. There is no restriction on formation of such company. For instance, if a sole proprietary concern is converted into a company (or a firm is converted into a company), the converted company will be qualified for the purpose of this section.

■ *A few incentives - Not available* - Total income of the company is computed without claiming additional depreciation under section 32(1)(*iia*) and deduction under sections 10AA, 32AD, 33AB, 33ABA, 35(1)(*ii*)/(*iia*)/(*iii*)/35(2AA)/(2AB), 35AD, 35CCC, 35CCD, sections 80C to 80U (not being sections 80JJAA or 80LA or 80M)†.

■ *Adjustment of losses* - The total income of the company is calculated without adjusting brought forward loss (and/or depreciation) from any earlier year (if such loss/depreciation pertains to any deduction under the aforesaid sections). If by virtue of deeming provisions of section 72A, the aforesaid company has any brought forward loss (and/or depreciation) pertaining to the aforesaid sections, such brought forward loss/depreciation cannot be set off.

■ *Adjustment of depreciated value of block of assets* - Brought forward loss/depreciation, as mentioned above, shall be deemed to have been given full effect to and no further deduction for such loss/depreciation shall be allowed for any subsequent year. Where, however, unadjusted additional depreciation in respect of a block of assets has not been given full effect to prior to the assessment year 2020-21, corresponding adjustment shall be made to the written down value of such block as on April 1, 2019 in the prescribed manner (if option is exercised for the lower tax regime under section 115BAA for the assessment year 2020-21).

† However, deduction is available under sections 80G, 80GGA and 80GGB for the assessment year 2020-21.

■ *Depreciation* - Total income of the company is calculated after claiming depreciation (other than additional depreciation) in such manner as may be prescribed.

Tax rate

535. If the aforesaid conditions are satisfied, income of the company will be taxable at the rate of 22 per cent (+SC+HEC). If such company has other incomes which are taxable under other provisions of Chapter XII (*i.e.*, sections 110 to 115BBG but other than sections 115BA and 115BAB), then tax on such other incomes will be calculated as per the rate(s) specified by these sections and balance amount of income will be taxable under section 115BAA at the rate of 22 per cent.

■ *Surcharge and education cess* - In the case of a domestic company whose income is taxable under section 115BAB, income-tax computed at the rates given above shall be increased by surcharge at the rate of 10 per cent of income-tax (irrespective of quantum of income). Health and education cess is applicable at the rate of 4 per cent of income-tax and surcharge.

Option

536. The aforesaid lower rate is applicable if the option is exercised in Form No. 10-IC on or before the due date of submission of return of income as given under section 139(1). This option can be exercised for any previous year relevant to the assessment year 2020-21 (or any subsequent year). However, once the company has exercised the option for any previous year, it cannot be subsequently withdrawn for the same or any other previous year.

The following points should be noted –

1. If a company after opting for the concessional tax regime of section 115BAA, fails to satisfy the above conditions in a subsequent year, the option becomes invalid in respect of the year in which default is committed in subsequent years. Consequently, in such cases it will be assumed that the company has not exercised the option of lower tax regime under section 115BAA in the year in which default is committed and subsequent years.

2. A domestic company (which has exercised the option for lower tax regime under section 115BAB and the option has become invalid due the violation of conditions of that section) may exercise option under section 115BAA.

MAT not applicable

537. If a domestic company has exercised the option under section 115BAA, the provisions of minimum alternate tax under section 115JB are not applicable. Moreover, the benefit of adjustment of brought forward tax credit (*i.e.*, MAT credit) under section 115JAA(2A)/(4) shall not be available.

Case studies

538. The following case studies are given to have better understanding of section 115BAA –

538-P1 *X Ltd., an Indian company, is in operation in different industries since 1975. Its annual turnover is more than Rs. 500 crore since 2005. It wants to opt for lower tax regime under section 115BAA with effect from the assessment year 2020-21. The following information is noted from the records of the company –*

	Rs.
Business income of the previous year 2019-20 before claiming depreciation and before claiming the following deductions and incentives—	*31,80,90,000*
Deductions/incentives which are otherwise available	
Deduction available under sections 32AD, 33AB, 33ABA, 35AD, 35CCC, 35CCD	*10,55,000*
Revenue expenditure on scientific research [deduction available under section 35(1)(i)]	*21,00,000*
Capital expenditure on scientific research [deduction available under section 35(1)(iv)]	*10,00,000*

	Rs.
Contribution given to research associations/undertakings [deduction available under section 35(1)(ii)/(iia)/(iii)]	*30,00,000*
Contribution to a National Laboratory [deduction available under section 35(2AA)]	*19,00,000*
Revenue expenditure on in-house research facility [expenditure : Rs. 10,00,000, weighted deduction available @ 150 per cent under section 35(2AB)]	*15,00,000*
Capital expenditure on in-house research facility [expenditure : Rs. 8,00,000, weighted deduction available @ 150 per cent under section 35(2AB)]	*12,00,000*
Deduction under section 35AD pertaining to a new fertilizer plant set up during April 2019 (income before depreciation is Rs. 11,00,000 and the same is deductible under section 35AD) (if deduction under section 35AD is not taken, X Ltd. can claim normal depreciation of Rs. 7,00,000)	*11,00,000*
Deduction available under section 80JJAA	*14,00,000*
Deduction under sections 80G, 80GGA and 80GGB	*85,000*
Deduction available under sections 80C to 80U (but other than sections given above)	*21,10,000*
Brought forward losses under section 72	*3,05,60,200*
Brought forward losses under section 73A (pertaining to specified business under section 35AD)	*2,30,000*

Additional information pertaining to depreciable assets –

1. X Ltd. has brought forward unabsorbed normal depreciation pertaining to assessment year 2019-20 : Rs. 40,00,000.

2. Further, X Ltd. has brought forward unabsorbed additional depreciation pertaining to the assessment year 2019-20 : Rs. 8,00,000.

3. Depreciated value of the block of assets (depreciation rate : 15 per cent) on April 1, 2019 is Rs. 5,26,00,000 (it is computed after deducting the aforesaid brought forward unadjusted normal and additional depreciation). Depreciation for the assessment year 2020-21 is computed as follows –

	Rs.
Depreciated value of the block on April 1, 2019	*5,26,00,000*
Add: New machinery purchased and put to use on July 10, 2019	*90,00,000*
Written down value of the block on March 31, 2019	*6,16,00,000*

If company does not opt for the lower tax regime of section 115BAB, it is eligible for normal depreciation at the rate of 15 per cent on Rs. 6,16,00,000 and additional depreciation at the rate of 20 per cent on Rs. 90,00,000. Besides, the company can also claim additional depreciation on new plant and machinery of Rs. 1,70,00,000 purchased during January 2019 (10 per cent was claimed last year, 10 per cent of actual cost is claimed as depreciation for the current year).

4. Further, X Ltd. wants to claim depreciation on the following –

- *Motor cars purchased during September 2019. Actual cost is Rs. 40,33,000. Normal depreciation rate is 30 per cent.*
- *Trucks and buses purchased during September 2019. Actual cost is Rs. 1,80,00,000. Normal depreciation rate is 45 per cent.*

5. Capital expenditure on scientific research is otherwise eligible for normal depreciation @ 15 per cent and additional depreciation @ 20 per cent.

Find out the tax liability for the assessment year 2020-21. X Ltd. has long-term capital gain of Rs. 80,000 from transfer of an old painting. Besides, it got interest of Rs. 5,17,000 on income-tax refund received during the previous year 2019-20 (refund, however, pertains to the assessment year 2011-12). Capital gain, income-tax refund and interest on income-tax refund are not included in the table given above.

SOLUTION :

X Ltd. wants to opt for the lower tax regime of section 115BAA. Depreciation under section 32 will be calculated as follows –

	Block 1 (15%)	*Block 2 (30%)*	*Block 3 (45%)*
	Rs.	*Rs.*	*Rs.*
Depreciated value of the block on April 1, 2019 (Rs. 5,26,00,000 + brought forward unabsorbed additional depreciation pertaining to the assessment year prior the assessment year 2020-21 : Rs. 8,00,000)	5,34,00,000	*Nil*	*Nil*
Add: Cost of new assets	90,00,000	40,33,000	1,80,00,000
Written down value of the block on March 31, 2020	6,24,00,000	40,33,000	1,80,00,000
Normal depreciation for the assessment year 2020-21	93,60,000	12,09,900	81,00,000
Additional depreciation for new machinery purchased during the current year	*Nil*	–	–
Additional depreciation for new machinery purchased during January 2019	*Nil*	–	–
Brought forward unadjusted normal depreciation pertaining to the assessment year 2019-20	40,00,000	–	–
Brought forward unabsorbed additional depreciation pertaining to earlier years	*Nil*	–	–
Available depreciation for the assessment year 2020-21	1,33,60,000	12,09,900	81,00,000

Computation of income of X Ltd. within the parameters of section 115BAA –

	Rs.
Income	31,80,90,000
Less : Deductions/incentives which are available even if one opts for section 115BAA –	
Normal depreciation on plant and machinery (Rs. 1,33,60,000 + Rs. 12,09,900 + 81,00,000)	2,26,69,900
Deduction available under sections 32AD, 33AB, 33ABA, 35AD, 35CCC, 35CCD (not available)	*Nil*
Revenue expenditure on scientific research [deduction available under section 35(1)(*i*)] (available)	21,00,000
Capital expenditure on scientific research [deduction is available under section 35(1)(*iv*), read with section 35(2)]	10,00,000
Contribution given to research associations/undertakings [deduction not available under section 35(1)(*ii*)/(*iia*)/(*iii*)] [deduction may be claimed under section 37(1) if relevant conditions are satisfied]	*Nil*
Contribution to a National Laboratory [deduction not available under section 35(2AA)] [deduction may be claimed under section 37(1) if relevant conditions are satisfied]	*Nil*
Revenue expenditure on in-house research facility [weighted deduction under section 35(2AB) not available; however, deduction is available @ 100% under section 35(1)(*i*)]	10,00,000
Capital expenditure on in-house research facility [weighted deduction under section 35(2AB) not available; however, deduction is available under section 35(1)(*iv*)] (100% of Rs. 8,00,000)	8,00,000
Deduction under section 35AD pertaining to a new fertilizer plant set up during April 2019 (normal depreciation can be claimed, deduction under section 35AD not available)	7,00,000
Deduction available under section 80JJAA	14,00,000
Deduction under sections 80G, 80GGA and 80GGB (available only for the assessment year 2020-21)	85,000
Deduction under sections 80C to 80U (but other than above sections) (not available)	*Nil*
Brought forward losses under section 72	3,05,60,200
Brought forward losses under section 73A (pertaining to specified business under section 35AD) (not available)	*Nil*
Business income	25,77,74,900

Computation of income and tax liability –

	Rs.
Business income	25,77,74,900
Long-term capital gain	80,000
Income from other sources (interest on income-tax refund)	5,17,000
Net income	25,83,71,900
Income-tax (20% of long-term capital gain + 22% of other incomes)	5,68,40,218
Surcharge (10% of income-tax)	56,84,022
Income-tax and surcharge	6,25,24,240
Add: Health and education cess	25,00,970
Tax liability (rounded off)	6,50,25,210

538-P2 *X Ltd. has a manufacturing unit in Meghalaya. It is eligible for 100 per cent deduction under section 80-IE up to the assessment year 2021-22. Projected taxable income and book profit from manufacturing activity of the company for different years is as follows –*

Previous year	Assessment year	Taxable income before deduction under section 80-IE Rs.	Book profit Rs.
2019-20	*2020-21*	*50,00,000*	*65,00,000*
2020-21	*2021-22*	*40,00,000*	*1,09,50,156*
2021-22	*2022-23*	*65,00,000*	*86,33,333*
2022-23	*2023-24*	*48,00,000*	*88,80,000*
2023-24	*2024-25*	*88,50,000*	*93,73,333*

Discuss whether (or not) X Ltd. should opt for lower tax regime of section 115BAA from the assessment year 2020-21 onwards. Annual turnover of the company is not more than Rs. 100 crore. Normal corporate tax applicable for the company is 25 per cent (not 30 per cent). X Ltd. has MAT credit available (cumulative amount up to the assessment year 2019-20 is Rs. 9,00,000).

SOLUTION :

	Normal tax under existing provisions			*Tax liability under new regime of section 115BAA*** Rs.*
	Normal tax Rs.*	*Minimum alternate tax** Rs.*	*Tax payable Rs.*	
Assessment year 2020-21	*Nil*	10,14,000	10,14,000	12,58,400
Assessment year 2021-22	*Nil*	18,27,800	18,27,800	10,06,720
Assessment year 2022-23	16,90,000	13,46,800	16,90,000	16,35,920
Assessment year 2023-24	12,48,000	13,85,280	13,85,280	12,08,064
Assessment year 2024-25	23,01,000	14,62,240	23,01,000	22,27,368

*Corporate tax rate : 25%, health and education cess : 4%.
**MAT : 15%, surcharge : 7% (applicable for the assessment year 2021-22), health and education cess : 4%.
***Tax under section 115BAA : 22%, surcharge : 10%, health and education cess : 4%.

Tax liability of X Ltd. if it opts for lower tax regime of section 115BAA from the assessment year 2020-21 (or from a subsequent year) –

	AY 2020-21 Rs.	*AY 2021-22 Rs.*	*AY 2022-23 Rs.*	*AY 2023-24 Rs.*	*AY 2024-25 Rs.*	*Total Rs.*
Tax liability if lower tax regime of section 115BAA is opted from the assessment year 2020-21 (without adjusting MAT credit)	12,58,400	10,06,720	16,35,920	12,08,064	22,27,368	73,36,472