

Note – Alternate minimum tax (AMT) on all persons other than companies

Vide the Finance Bill, 2012, the heading of Chapter XII-BA regarding alternate minimum tax (AMT), in respect of persons other than a company, has been substituted by the words '*Persons other than a company*', in place of the words '*Limited liability partnerships*'.

As per amendment of the aforesaid Chapter, provisions of AMT have been made applicable to all persons other than companies, except in case where the adjusted total income of such person does not exceed Rs.20 lakhs.

In order to properly understand the scope of the aforesaid amendment, the relevant part of the Memorandum, explaining the provisions relating to Direct Taxes, is reproduced as follows :

Alternate Minimum Tax (AMT) on all persons other than companies

Under the existing provisions of the Income-tax Act, Minimum Alternate Tax (MAT) and Alternate Minimum Tax (AMT) are levied on companies and limited liability partnerships (LLPs) respectively. However, no such tax is levied on the other form of business organisations such as partnership firms, sole proprietorship, association of persons, etc.

In order to widen the tax base vis-à-vis profit linked deductions, it is proposed to amend provisions regarding AMT contained in Chapter XII-BA in the Income-tax Act to provide that a person other than a company, who has claimed deduction under any section (other than section 80P) included in Chapter VI-A under the heading “C – Deductions in respect of certain incomes” or under section 10AA, shall be liable to pay AMT.

Under the proposed amendments, where the regular income-tax payable for a previous year by a person (other than a company) is less than the alternate minimum tax payable for such previous year, the adjusted total income shall be deemed to be the total income of such person and he shall be liable to pay income-tax on such total income at the rate of eighteen and one-half per cent.

For the purpose of the above,

- (i) “adjusted total income” shall be the total income before giving effect to provisions of Chapter XII-BA as increased by the deductions claimed under any section (other than section 80P) included in Chapter VI-A under the heading “C – Deductions in respect of certain incomes” and deduction claimed under section 10AA;*
- (ii) “alternate minimum tax:” shall be the amount of tax computed on adjusted total income at a rate of eighteen and one half per cent; and*
- (iii) “regular income-tax” shall be the income-tax payable for a previous year by a person other than a company on his total income in accordance with the provisions of the Act other than the provisions of Chapter XII-BA.*

It is further provided that the provisions of AMT under Chapter XII-BA shall not apply to an individual or a Hindu undivided family or an association of persons or a body of individuals (whether incorporated or not) or an artificial juridical person referred to in section 2(31)(vii) if the adjusted total income of such person does not exceed twenty lakh rupees.

It is also provided that the credit for tax (tax credit) paid by a person on account of AMT under Chapter XII-BA shall be allowed to the extent of the excess of the AMT paid over the regular income-tax. This tax credit shall be allowed to be carried forward up to the tenth assessment year immediately succeeding the assessment year for which such credit becomes allowable. It shall be allowed to be set off for an assessment year in which the regular income-tax exceeds the AMT to the extent of the excess of the regular income-tax over the AMT.

Consequential amendments are also proposed to the provisions of section 140A relating to self-assessment, section 234A relating to interest for defaults in furnishing return of income, section 234B relating to interest for defaults in payment of advance tax and section 234C relating to interest for deferment of advance tax.

These amendments will take effect from 1st April, 2013 and will, accordingly, apply in relation to the assessment year 2013-14 and subsequent assessment years. [Emphasis added]

From the aforesaid part of the Memorandum, it is quite clear that the aforesaid AMT provisions will apply only in case of a person other than a company, who has claimed deduction under any section (Other than section 80P), included in Chapter VI-A, under the heading 'C – Deductions in respect of certain incomes' or under section 10AA. The sections included in the aforesaid Part C of Chapter VI-A are like sections 80HHC, 80-IA, 80-IB, 80-O, 80-Q, 80-R, etc. It may also be stated here that the deduction under the aforesaid sections relate to profits and gains of business or profession and accordingly, the same do not apply in case of a person having income from salaries, house property, capital gains and other sources.

In view of the aforesaid reasons, only a person who claims any deduction under any of the sections of Part C of Chapter VI-A or section 10AA, may be liable to pay AMT.
