

# TAX FLASH NEWS

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## CBDT notifies rule for computation of tax relief when there is an increase in book profits due to Advance Pricing Adjustment/secondary adjustments

### Executive summary

The Finance Act, 2021 introduced a new set of provisions for computation of Minimum Alternate Tax (MAT) i.e. Section 115JB(2D) of the Income-tax Act, 1961. It provides that where there is an increase in book profit of the previous year due to income of past year or years included on account of-

- an Advance Pricing Agreement (APA) entered into by the taxpayer under Section 92CC or
- secondary adjustment required to be made under Section 92CE,

the Assessing Officer, on an application made to him in this behalf by the taxpayer, recompute the book profit of the past year or years and tax payable by the taxpayer during the previous year under Section 115JB(1), in such manner as may be prescribed.

Hence, as mentioned in Section 115JB(2D) of the Act, the Central Board of Direct Taxes (CBDT) has issued a Notification<sup>1</sup> prescribing a new Rule 10RB for computation of tax relief when there is an increase in book profits due to APA/secondary adjustments provided under Section 115JB(2D).

### CBDT Notification

For the purposes of Section 115JB(2D), the tax payable by the taxpayer under Section 115JB(1) shall be reduced by the following amount:

<sup>1</sup> CBDT Notification No. 92/2021, dated 10 August 2021

(A-B) – (D-C)	
A	Tax payable by the company on the book profit of the previous year including the past income
B	Tax payable by the company on the book profit of the previous year after reducing the book profit with the past income
C	Aggregate of tax payable by the company on the original book profit of those past year or years to which the past income belongs
D	Aggregate of tax payable by the company on the book profit of past year or years, referred to in item C, after increasing the book profit with the relevant past income of such year or years

If the computed value of [(A-B) - (D-C)] in the formula is negative, its value shall be deemed to be zero.

### Some of the key points for consideration:

- For the purposes of the above, the past income shall be the amount of income of past year or years included in the book profit or the previous year on account of an APA entered into by the taxpayer under Section 92CC or on account of secondary adjustment required to be made under Section 92CE.
- The value of amount 'A', in the formula shall be deemed to be zero, if there is no tax payable under Section 115JB(1) on the book profit of that previous year including the past income.

- The value of amount 'B' in the formula shall be deemed to be zero, if there is no tax payable under Section 115JB(1) on the book profit of that previous year after reducing the book profit with the past income.
- For the purposes of calculation of amount 'C' in the formula, if in any past year or years there is no tax payable under Section 115JB(1) on the book profit of that year or years, the tax payable for that year or years shall be deemed to be zero.
- For the purposes of calculation of amount 'D' in the formula, if in any past year or years there is no tax payable under Section 115JB(1) on the book profit of that year or years after increasing the book profit with the relevant past income of such year or years, the tax payable for that year or years shall be deemed to be zero.
- On application of the above provision, the tax credit allowed to the taxpayer under Section 115JAA shall be reduced by the amount which is equal to the amount of reduction that has been allowed under the above provision.
- The taxpayer shall make a claim for relief under Section 115JB(2D) in Form No. 3CEEA electronically by uploading signed printout of said Form in the manner specified as the case may be.
- Form No.3CEEA shall be verified by the person who is authorised to verify the return of income of the taxpayer under Section 140.
- The Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems) will specify the procedure for filing of the Form No. 3CEEA.
- CBDT has notified Form No 3CEEA for furnishing particulars for re-computation for any adjustment on account of income of past year(s) included in books of account of previous year by a company on account of secondary adjustment under Section 92CE or on account of an APA entered under Section 92CC.

## Our comments

The aforesaid Rule shall alleviate the anomaly that would be faced by the taxpayers, while filing their Return of Income or application(s) before the Assessing Officer, claiming adjustment on account of past year(s) book-profits arising out of secondary adjustments or APA negotiations.

The formulary approach ensures that the MAT payable on past income, for the previous year (in which transfer pricing adjustment is made in the books of accounts) does not surpass the MAT payable on book profits of respective previous year(s), after including transfer pricing adjustment, therein.

The said Rules should, not only enable rationalization of the book profits under MAT vis-à-vis taxable income as per Return of Income, but also should reduce ambiguity and reasons for disputes, for taxpayers, while claiming MAT relief.



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