Startup tax holiday

Startup Series #2

With a view to provide an impetus to start-ups and facilitate their growth in the initial phase of their business, a deduction of 100% of the profits and gains derived by an eligible start-up from an eligible business is allowed for 3 consecutive years out of the first 10 years.

In continuation to our ***'Startup Series'****, we would now look at the tax holiday provided to recognized startups under section 80-IAC of the Income Tax Act, 1961 and the conditions to be satisfied to claim the same in* ***#2*** *of the Series.*

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Tax Holiday & conditions specified

Whether Assessee is eligible Startup*?

Yes

Whether engaged in eligible business**?

Yes

Whether all other the conditions are satisfied?

Yes

100% deduction allowed on profits and gains from eligible business for 3 consecutive years out of first 10 years at the choice of the assessee, under Section 80-IAC.

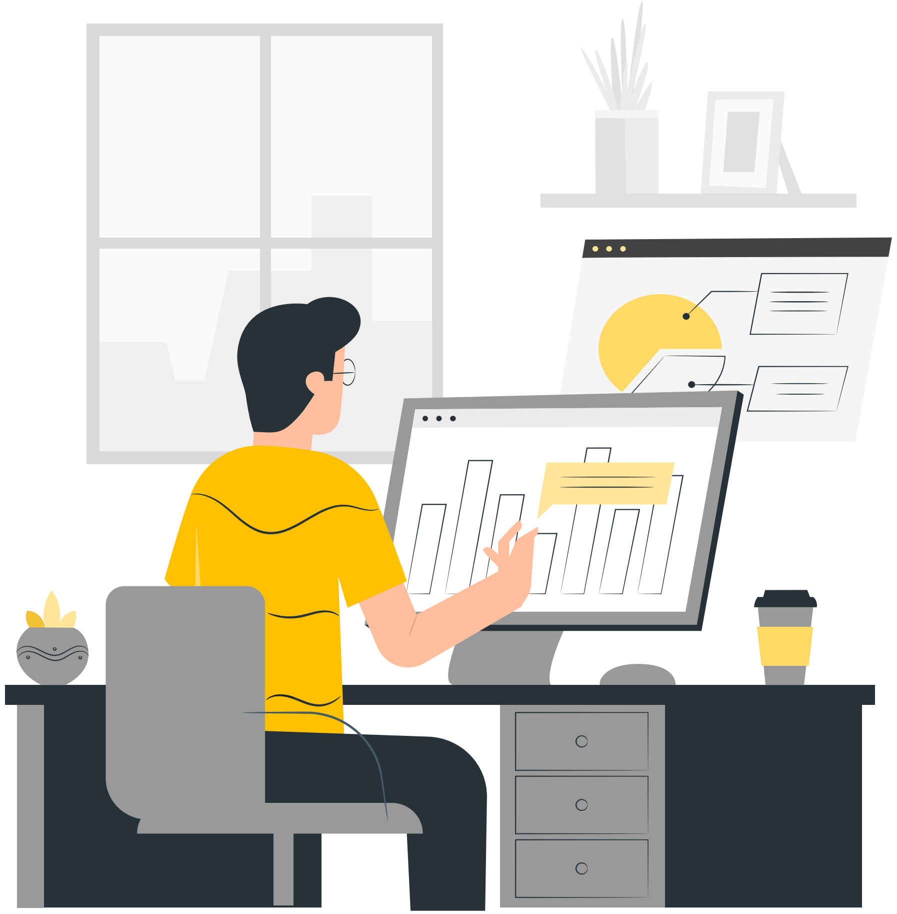
*** Eligible Startup:**

- Should be a private company or an LLP incorporated between 01 April 2016 and 31 March 2022. Partnership Firm is not an ‘eligible start-up’,
- Turnover should not exceed Rs. 100 crores in the year in which deduction is claimed.
- Application in Form-1 should be filed with Inter-Ministerial Board of Certification (IMB) and certificate of eligible business should be issued by IMB.

**** Eligible Business:**

Business carried out by an eligible start-up engaged in innovation, development or improvement of products or processes or services or a scalable business model with a high potential of employment generation or wealth creation.

Other Conditions (1/2)



Plant & Machinery

Entity should not be formed by transfer of Plant & Machinery (‘P&M’) which was previously used for any purpose. The condition would be deemed to have been satisfied in the following cases:

- In case such P&M is used outside India by some other entity and was not at any time used in India and such P&M is imported into India and depreciation was not earlier allowed on such P&M.
- If the total value of old P&M transfer does not exceed 20% of total value of all the P&M used in such new business.

Reconstruction of business

Entity is not formed by splitting up or reconstructing a business already in existence.

However, if the Startup is formed as a result of reconstruction or revival of business affected due to flood, or riot etc., the deduction under Section 80-IAC shall be available.

Other Conditions (2/2)

Computation of deduction

Deduction under Section 80-IAC should be computed assuming that the eligible business were the only source of income of the assessee.

Tax Audit

Books of accounts should be audited and the audit report should be submitted along with the return of income in Form 10CCB.

Deduction not allowed under other section

Where any amount of income is claimed as deduction under Section 80-IAC, then deduction to such extent shall not be allowed under any other provisions.

Illustration of deduction under normal vs concessional tax regime

Situation 1 : Concessional tax rate under Section 115BAA is not opted for.

Particulars	Amount
Tax payable under normal provisions	
Profits and gains from business	12 crores
Less: 80-IAC (tax holiday benefit)	12 crores
Net total income	-
Tax rate (30% * 1.12 *1.04)	34.944%
Tax payable	**-**
Tax payable under MAT provisions	
Book profits for MAT purposes	12 crores
MAT rate (15% * 1.12 * 1.04)	17.472%
Minimum alternate tax payable **	**2.10 crores**

Situation 2 : Concessional tax rate under Section 115BAA is opted for.

Particulars	Amount
Tax payable under normal provisions	
Profits and gains from business	12 crores
Less: 80-IAC (tax holiday benefit) @@	-
Net total income	12 crores
Tax rate (25% * 1.10 *1.04)	25.168%
Tax payable	**3.02 crores**
Tax payable under MAT provisions	
Not applicable	

** There is no exemption on MAT to an entity claiming 80-IAC benefit. However, the entity is entitled to claim credit of MAT paid (over and above the normal tax liability) in the subsequent year(s). The MAT credit can be carried forward and utilized for a period of 15 years, subject to conditions specified in Section 115JAA of the Income Tax Act.

@@ Company shall **not be eligible** to claim deduction under Section 80-IAC since it has opted for concessional tax regime under Section 115BAA.

Tax rates applicable to companies & LLPs

Type	Taxable income <= 1 crs		Taxable income > 1 crs		Taxable income > 10crs	
	Normal	MAT / AMT	Normal	MAT / AMT	Normal	MAT / AMT
Domestic Company: Turnover <= Rs. 400 crores in preceding previous year	26%	15.6%	27.82%	16.692%	29.12%	17.472%
Domestic Company: Turnover > Rs. 400 crores in preceding previous year	31.2%	15.6%	33.384%	16.692%	34.944%	17.472%
Domestic Company: Opting for Section 115BAA @	25.168%	NA	25.168%	NA	25.168%	NA
Domestic Company: Option for Section 115BAB @	17.16%	NA	17.16%	NA	17.16%	NA
LLP	31.2%	19.24%	34.944%	21.5488%	34.944%	21.5488%

@ Subject to satisfaction of conditions prescribed. A company which is opting for concessional tax rate under Section 115BAA / 115BAB of the Income Tax Act, 1961 shall not be eligible to claim startup tax holiday.

Stay tuned for more updates on Startups!

In case you have missed the previous alerts, click on the hyperlinks to refer the same.

- #1 [Startup recognition]
- #2 **Tax holiday benefit**
- #3 **Taxability of share premium**
- #4 **Taxability of ESOPs**
- #5 **Carry forward of losses in case of change in shareholding**
- #6 **Capital gains exemption on investment in startups**
- #7 **Exchange control provisions**
- #8 **Labor law relaxations**
- #9 **Startup India Seed Fund**
- #10 **Other regulatory provisions / benefits**

THANK YOU

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