

CBDT condones the delay in filing Form 10-IC for AY 20-21

Vide Circular No. 6/ 2022, dated 17-03-2022

What does the law say –

- Section 115BAA of the Income-tax Act, 1961 was inserted by the Taxation Laws (Amendment) Act, 2019 w.e.f. April 01, 2020 for Domestic Companies to pay **concessional tax at the rate of 22%, effectively 25.168%** including surcharge and cess from the earlier 27.82% while not claiming certain deductions.
- MAT provisions are also not applicable on such domestic companies by virtue of new sub-section (5A) in Section 115JB of the Act.
- The option once exercised shall apply to subsequent assessment years.
- Form 10-IC is mandatorily to be filed to avail the benefit.

Practical deficiencies that led to genuine hardships to the assessee –

- Many Companies have either **not submitted form 10-IC or submitted after filing the due date of ITR.**
- **Selecting the preferred option in ITR form** opting for concessional tax rate of 22% for taxation u/s 115BAA of the Act **is not sufficient and Form 10-IC is mandatorily to be submitted** on or before the due date of filing of return of income u/s 139(1) of the Act to ensure that the benefit of concessional rate is not denied.
- Form 10-IC filing date has not been made a mandatory field in ITR-6 form.
- **There is not a single check in ITR form to cross check whether Form 10- IC is filled or not when the company is opting for Section 115BAA in its return of income.**

Following implications as per 143(1)(a) received -

- **Tax calculated @ 30% instead of 25%:** As per Finance Act, 2021, companies having total turnover not exceeding 400 crore during previous year 2018- 19 shall be taxed at 25%. But, in intimation order of companies who opted for Section 115BAA but failed to furnish Form 10- IC within the prescribed time limit, it was noticed that not only benefit of 22% was denied but benefit of 25% is also not considered and tax is levied at 30%.
- **MAT provisions made applicable and applied erroneously:** In intimation orders received, MAT is also calculated with the given information in the ITR form whereas, while opting

for Section 115BAA in ITR form, the option to fill MAT schedule is disabled due to which the companies could not fill the necessary information relating to additions and deletions to be made to ascertain the Book Profits for calculating MAT. This resulted in MAT payable wrongly calculated in 143(1)(a).

Due to all above difficulties in the system of ITR form and this being the first year of filing of this form, many representations are filed with CBDT requesting to condone the delay in filing the Form 10-IC for AY 2020- 21 to avoid the genuine hardship to the domestic companies in exercising the option u/s 115BAA of the Act.

What benefit does the Circular provide-?

Finally, on March 17, 2022, Central Board of Direct Taxes (CBDT), in exercise of the powers conferred under section 119(2)(b) of the Act issued Circular No. 6/ 2022 directing that:

The **delay in filing of Form 10-IC as per Rule 21AE of the Rules for the previous year relevant to A.Y 2020-21 is condoned** in cases where the following conditions are satisfied:

- i) The **return of income** for AY 2020-21 has been **filed on or before the due date** specified under section 139(1) of the Act;
- ii) The assessee company has **opted for taxation u/s 115BAA of the Act in (e) of "Filing Status" in "Part A-GEN" of the Form of Return of Income ITR-6** and
- (iii) **Form 10-IC is filed electronically on or before June 30, 2022** or 3 months from the end of the month in which this Circular is issued, whichever is later.