

Provisions applicable to Company — Amalgamation/Demerger

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Depreciation in the year of amalgamation/demerger

Depreciation to amalgamated company and amalgamating company in the year of amalgamation and depreciation to demerged company and the resulting company in the year of demerger shall be apportioned in the ratio of the number of days for which the assets were used (Sec. 32) (5th provision).

Actual Cost

Actual cost of the capital asset transferred to amalgamated/resulting company shall be the actual cost in the hands of the amalgamating/demerged company provided it does not exceed WDV of such assets in the hands of the demerged company.

Written Down Value

- WDV in the hands of amalgamated company shall be the WDV of the block of assets in the hands of the amalgamating company less depreciation allowed in the year of amalgamation.
- WDV in the hands of the resulting company shall be the WDV of transferred assets as per books of the demerged company immediately before demerger.
- WDV in the hands of the demerged company shall be the WDV of the block of assets before demerger less book value of assets transferred to the resulting company.
- Deduction claimed under Section 33AC (Reserve for shipping business) would not be withdrawn on sale or transfer of a ship in any scheme of demerger.

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- Transfer of patent rights or copyrights (Sec. 35A) or transfer of licence to operate telecommunication services (Sec. 35ABB) or transfer of business for prospecting etc. mineral oil (Sec. 42) in a scheme of amalgamation/demerger will not be treated as either sale or transfer.
- The deductions hitherto granted to amalgamating/demerged company relating to patent rights and copyrights (Sec. 35A) / Expenditure on know-how (Sec.35AB) / Licence fees to operate telecommunication services (Sec. 35ABB) / Preliminary expenses (Sec. 35D) / expenditure for prospecting etc., for certain minerals (Sec. 35E) / business for prospecting etc., for mineral oil (Sec. 42) would be available for balance period to the amalgamated/resulting company.

Provisions applicable to Shareholders

- Gains arising on transfer of shares of amalgamating company in exchange of shares of amalgamated company, being an Indian Company is exempt from tax.
- Acquisition of shares of the resulting company by the shareholders in demerger will not be taxed either as Capital Gain or deemed dividend.
- Cost of acquisition of shares of :
 - ❖ The amalgamated company will be the cost incurred for acquiring shares of amalgamating company.

The resulting company will be the :

- ❖ Original cost of shares of demerged company X net book value of assets transferred to resulting company/ net worth of the demerged company before demerger (net worth is equal to Paidup Share Capital + General Reserve as per books).
- ❖ The demerged company will be the original cost of shares of demerged company – cost of shares of the resulting company as computed above.

Thank You