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TAX PROVISIONS RELATING TO NEW INDUSTRIAL UNDERTAKING, INFRASTRUCTURE AND BACKWARD AREAS

Special tax provisions relating to tax concessions and tax holiday are made in Income Tax Act to promote export, industrial development in backward areas and infrastructure activities. These special provisions are discussed below under the following heads –

- (1) Provisions relating to New Industrial Undertaking
- (2) Provisions relating to Infrastructure Sector
- (3) Provisions relating to Backward areas.

Detailed study of above provisions are given here :

I. PROVISIONS FOR DEDUCTION FOR PROFIT EARNED BY NEW INDUSTRIAL AND COMMERCIAL UNDERTAKINGS

A new industrial undertaking is provided two types of tax incentives under income tax Act except normal allowances and deductions allowable to each industry either new or existing –

Special allowances and deductions under the head income from business

The following additional deductions are provided to a new industrial undertaking besides normal deductions :

1. Additional depreciation on new plant and machinery– An additional depreciation is allowable apart from normal depreciation on new machinery or plant acquired during the previous year if some conditions are satisfied. An assessee engaged in the business of Manufacture / production of any article or thing can claim additional depreciation. Main points are as under regarding additional depreciation–

- (1) **Eligibility of Additional Depreciation**– Any plant and machinery which has been acquired or installed during the previous year by an assessee is qualified for additional depreciation.
- (2) **Rate of additional depreciation**– Additional depreciation shall be available @ 20 percent of the actual cost. If, the assets is put to use for less than 180 days in the year in which it is acquired, the rate of additional depreciation will be 10%.

Deduction in respect of profits and gains from new Industrial undertakings- Sec. 80-IB

Where the gross total income of an assessee includes any profits and gains derived from any business (List given ahead) shall be allowed in computing the total income of the assessee, a deduction from such profits and gains of an amount equal to such percentage and for such number of assessment years as discussed ahead.

□ Conditions

This section applies to any industrial undertaking which fulfils all the following conditions, namely :-

- (i) It is not formed by splitting up, or the reconstruction, of a business already in existence :
- (ii) It is not formed by the transfer to a new business of machinery or plant previously used for any purpose ;
- (iii) It manufactures or produces any article or thing, not being any article or thing specified in the list in the Eleventh Schedule, or operates one or more cold storage plant or plants, in any part of India (This condition will not be applicable in case of small scale industry).
- (iv) In case where the industrial undertaking manufactures or produces articles or things, the undertaking employs ten or more workers in a manufacturing process carried on with the aid of power, or employs twenty or more workers in a manufacturing process carried on without the aid of power.

Table : Eligible undertakings and Rates of deduction under section 80-IB

Undertaking	Period in which production started or starts	Company (Rate and period of deduction on profits)	Other assessee (Rate and period of deduction on profits)
1. Scientific research and development company	1.4.2000 to 31.3.2007	First 10 years 100%	N.A.
2. Production or refining of mineral oil	1.4.1997 or onwards	100% for 7 years	100% for 7 years
3. Housing project	1.10.98 to 31.3.2007	100% of profit	100% of profit
4. Integrated business of handling, storage and transportation of food grains.	on or after 1.4.2001	5 years - 100% next 5 years 30%	First 5 years 100% next 5 years 25%
5. Agro processing industry	From the A.Y. 2005-06 and onwards	5 years 100% 5 years 30%	5 years 100% 5 years 25%
6. Hopsital located any where except metro cities	1.4.08 to 31.3.13	First 5 years 100%	First five years 100%

II. Provisions Relating to Infrastructure sector

Roads, Airports, Water supply, Power supply telecommunications, Natural Gas etc. are infrastructure activities to encourage these activities a special deduction is provided to assessee relating to profit of such activities for 10 to 15 years.

Deduction available under section 80-IA is available in respect of the profits of the following infrastructure undertakings-

(1) **Undertakings engaged in infrastructure development**

- An enterprise carrying on the business of any infrastructure facility shall be entitled if it fulfils all the following conditions, namely :-
 - (a) It is owned by a company registered in India or by a consortium of such companies or by an authority or a board or a corporation or any other body established or constituted under any Central or State Act.
 - (b) It has entered into an agreement with the Central Government or a State Government or a local authority or any other statutory body for
 - (i) developing,
 - (ii) maintaining and operating, or
 - (iii) developing, maintaining and operating a new infrastructure facility.
- 'Infrastructure facility' means-
 - (i) A road including toll road, bridge, rail system or any other public facility of a similar nature ;
 - (ii) A highway project including housing or other activities being an integral part of the highway project ; and
 - (iii) A water supply project, irrigation project, sanitation and sewerage system ; or solid waste management system.
 - (iv) A port, airport, inland water way or inland port.
- If has started or starts operating and maintaining the infrastructure facility on or after 1.4.1995
- Amount of deduction- 100% for 10 consecutive years
Any 10 consecutive years out 15 in which undertaking starts functioning.

(2) **Tele-communication services**

Any undertaking which has started or starts providing tele-communication services whether basic or cellular, including radio paging, domestic satellite service or network of trunking and electronic data interchange services at any time on or after the 1st day of April, 1995 but before the 31st day of March, 2005 shall be allowed deduction u/s under this section as under for 10 assessment year, with 15 year of commencement of services.

First five years	-	100% of profits
Next five years	-	30% of profits.

(3) **Industrial Park**

Any undertaking which develops, develops and operates or maintains and operates an industrial park notified by the Central Government in accordance with the scheme framed and notified by that Government for the period between 1.4.1997 to

31.3.11 shall be allowed deduction under this section as under-

10 Consecutive years -	100% of profits
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(out of 15 years from the year in which undertaking starts functioning)

(4) Power undertakings

An industrial undertaking which-

- (a) Is set up in any part of India for the generation or generation and distribution of power if it begins to generate power at any time during the period between 1.4.1993 to 31.3.2017.
- (b) Starts transmission or distribution by laying a network of new transmission or distribution lines at any time during the period between 1.4.99 to 31.3.2017.
- (c) The benefit of deduction shall also be available to an undertaking which undertakes substantial renovation and modernisation of the existing transmission or distribution lines between 1.4.2004 and 31.3.2017.

The quantum of deduction will be 100% of profits for 10 out of 15 years beginning from the year in which undertaking starts functioning or such renovation and modernisation takes place.

(5) Laying and operating cross-country natural gas distribution network

Any undertaking carrying on the business of laying and operating cross-country natural gas distribution network, including gas pipelines and storage facilities being an integral part of the network, shall be eligible for deduction under the said section if the following conditions are satisfied-

- (1) It is owned by a company registered in India or by a consortium of such companies or by an authority or a board or a corporation established or constituted under any Central or State Act.
- (2) It has been approved by the Petroleum and Natural Gas Regulatory Board and notified by the Central Government.
- (3) One-third of its total pipeline capacity is available for use on common carrier basis by any person other than the assessee or an associated person.
- (4) It starts functioning on or after April 1, 2007.

□ **Conditions allowing the deduction-** Deduction under the section (80IA) shall be allowed if the undertaking fulfils all the following conditions, namely-

- (1) It is not formed by splitting up, or the reconstruction, of a business already in existence.
- (2) It is not formed by the transfer to a new business of machinery or plant previously used for any purpose.
- (3) Where the assessee is a person other than a company or a co-operative society, the deduction under this section from profits and gains derived from an industrial undertaking shall not be admissible unless the accounts of the industrial undertaking for the previous year relevant to the assessment year for which the deduction is claimed have been audited by a chartered accountant and the assessee furnishes, along with his return of income, the report of such audit in the prescribed form (10CCB) duly signed and verified by such accountant.

- (4) Where any amount of profits and gains of an industrial undertaking or of an enterprise in the case of an assessee is claimed and allowed under this section for any assessment year, deduction to the extent of such profits and gains shall not be allowed under any other provisions of this Chapter.

III. Provisions