



Discussion on New Tax Regime Vis-à-vis Old Tax Regime

Speaker : Talluri Rajendra Prasad (RP)

Date: 9th May 2023

Agenda

Part A: General Issues relating to Individuals, HUFs, AOPs, BOIs, AJP

Part B: Schemes in Detail

1. Provisions of Sec 115BAC
2. Provisions of Sec 115BA
3. Provisions of Sec 115BAA
4. Provisions of Sec 115BAB
5. Provisions of Sec 115BAD
6. Provisions of Sec 115BAE



General Issues relating to Individuals, HUFs, AOPs, BOIs, AJP

Issue # 1: Who are eligible for the new scheme given U/S 115BAC?

Individuals and HUFs are eligible for the Alternative Tax Regime prescribed U/S 115BAC;

However, w.e.f AY 2024-25 onwards, AOPs, BOIs, AJPs are also eligible. [Other than Co-Operative Societies].

Note: There is a separate scheme for co-operative societies and hence they are excluded from the scope of Sec 115BAC.

Issue # 2: What is the default scheme where no option is exercised?

The Regular Tax Scheme shall be the default scheme till the AY 2023-24;

W.E.F AY 2024-25 onwards, the Alternative Tax Regime shall be the default scheme.

Issue # 3: Whether the option is to be chosen every PY? [Explained w.r.t AY 2024-25]

Where the assessee is **not having** business / profession income, **then fresh option is required every year** along with return of income U/S 139(1). [If silent, then the default scheme is applicable.]

In the case of assesses having Business / Profession income, they can avail the benefit of **old scheme** by exercising the option U/S 115BAC(6) **before filing the return of income U/S 139(1)**. The option once chosen shall apply to subsequent assessment years. The option once chosen can be withdrawn only once for a previous year (other than the PY in which it was exercised) and thereafter the person shall never be eligible to exercise the option of availing the benefit of regular tax regime.

Issue # 4: What would be the cut off point for switching between the schemes?

The cut off point is to be examined on a case to case basis.

However, where the blocked incentives are more than Rs 3,75,000/-, the tax liability under old / regular scheme would be lower. [This is the General rule for incomes ranging between Rs 15 lakhs to Rs 5 Crores.]

Likewise, the tax liability would be lower in the case of Alternative Tax Regime where the income is more than Rs 5 Crores for AY 2024-25. [Since the surcharge is capped at 25% under the new scheme of taxation.]

Issue # 5: Whether this choice is available even at the time of filing the updated return U/S 139(8A)?

As the option is to be exercised on or before the due date for filing the return of income specified U/S 139(1), it can be inferred that the option to choose is not available w.r.t the updated return filed U/S 139(8A). In such cases, the default scheme would be applicable.

Issue # 6: How would the employer will effect TDS U/S 192 during the FY 2023-24 and subsequent financial years? [Circular 4 / 2023 dated 05.04.2023]

A deductor, being an employer, **shall seek information** from each of its employees having income under section 192 of the Act regarding their intended tax regime and each such employee shall intimate the same to the deductor, being his employer, regarding his intended tax regime for each year and upon intimation, the deductor shall compute his total income, and deduct tax at source thereon according to the option exercised.

If intimation is not made by the employee, it shall be presumed that the employee continues to be in the default tax regime and has not exercised the option to opt out of the new tax regime. Accordingly, in such a case, the employer shall deduct tax at source, on income under section 192 of the Act, in accordance with the rates provided under sub-section (1A) of section 115BAC of the Act.

It is also clarified that the intimation would not amount to exercising option in terms of sub-section (6) of section 115BAC of the Act and the person shall be required to do so separately in accordance with the provisions of the sub-section.

Issue # 7: Amendments made by the Fin Act, 2023 in the New Scheme of taxation

The slabs under the new scheme is reduced to 6 from the existing 7 slabs. [Earlier the interval is Rs 2.50 lakhs and the same is made as Rs 3.00 lakhs] [25% rate is disappeared];

Alternative Tax Regime is made as the default scheme;

Maximum Surcharge capped at 25% in the case of Alternative Tax Regime;

The 100% tax rebate U/S 87A is extended to Rs 7 lakhs for those opting for the new scheme; [Only for Resident Individuals]

The scheme of partial integration of non-agricultural income with agricultural income is extended to Resident (Individuals and HUFs) even under the new scheme;

The list of Blocked incentives is pruned.

- [Standard Deduction U/S 16(ia) against the salary income or Standard Deduction U/S 57(iia) against the family pension is available even under the Alternative Tax Regime]
- The Central Government's contribution to Agniveer Corpus Fund is available as deduction U/S 80CCH(2) w.e.f AY 2023-24.

Note that one can claim deduction U/S 80CCD(2); 80JJAA even under the new scheme. [Er's cont to NPS; Deduction w.r.t new employees] [The above list is in addition to this existing list]

Tax rates as per Sec 115BAC(1A) [AY 2024-25]

<i>No. Sl.</i>	<i>Total income</i>	<i>Rate of tax</i>
<i>(1)</i>	<i>(2)</i>	<i>(3)</i>
1.	Upto Rs. 3,00,000	Nil
2.	From Rs. 3,00,001 to Rs. 6,00,000	5 per cent.
3.	From Rs. 6,00,001 to Rs.9,00,000	10 per cent.
4.	From Rs. 9,00,001 to Rs. 12,00,000	15 per cent.
5.	From Rs. 12,00,001 to Rs. 15,00,000	20 per cent.
6.	Above Rs. 15,00,000	30 per cent.

These rates are applicable unless opted out as per Sec 115BAC(6); These rates are for general incomes; For special incomes, say, LTCG, Casual income, etc,. Special rates are applicable

Tax rates as per the Regular Scheme [AY 2024-25]

(I) In the case of every individual other than the individual referred to in items (II) and (III) of this Paragraph or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, not being a case to which any other Paragraph of this Part applies,—

Rates of income-tax

(1) where the total income does not exceed Rs. 2,50,000	Nil;
(2) where the total income exceeds Rs. 2,50,000 but does not exceed Rs. 5,00,000	5 per cent. of the amount by which the total income exceeds Rs. 2,50,000;
(3) where the total income exceeds Rs. 5,00,000 but does not exceed Rs. 10,00,000	Rs. 12,500 <i>plus</i> 20 per cent. of the amount by which the total income exceeds Rs. 5,00,000;
(4) where the total income exceeds Rs. 10,00,000	Rs. 1,12,500 <i>plus</i> 30 per cent. of the amount by which the total income exceeds Rs.10,00,000.

(II) In the case of every individual, being a resident in India, who is of the age of sixty years or more but less than eighty years at any time during the previous year,—

Rates of income-tax

(1) where the total income does not exceed Rs. 3,00,000	Nil;
(2) where the total income exceeds Rs. 3,00,000 but does not exceed Rs. 5,00,000	5 per cent. of the amount by which the total income exceeds Rs.3,00,000;
(3) where the total income exceeds Rs. 5,00,000 but does not exceed Rs. 10,00,000	Rs. 10,000 <i>plus</i> 20 per cent. of the amount by which the total income exceeds Rs. 5,00,000;
(4) where the total income exceeds Rs. 10,00,000	Rs. 1,10,000 <i>plus</i> 30 per cent. of the amount by which the total income exceeds Rs.10,00,000.

(III) In the case of every individual, being a resident in India, who is of the age of eighty years or more at any time during the previous year,—

Rates of income-tax

(1) where the total income does not exceed Rs. 5,00,000	Nil.
(2) where the total income exceeds Rs. 5,00,000 but does not exceed Rs. 10,00,000	20 per cent. of the amount by which the total income exceeds Rs. 5,00,000;
(3) where the total income exceeds Rs.10,00,000	Rs. 1,00,000 <i>plus</i> 30 per cent. of the amount by which the total income exceeds Rs. 10,00,000.



Schemes in detail [Provisions of Sec 115BAC]

Sec 115BAC: Tax on income of individuals and HUF

Sec 115BAC(1A): Rates of taxes

Sec 115BAC(2): List of Blocked incentives

Sec 115BAC(3): B/F Losses and Unabsorbed Depreciation attributed to Blocked incentives is deemed to have been given effect to; [One time relief is available for adjusting the block of assets as on 01.04.2023 for the purposes of adjusting the unabsorbed depreciation arising on account of blocked incentives]

Sec 115BAC(4): Units located in IFSC can still claim deduction U/S 80LA

Sec 115BAC(5) and (6): Manner of exercising of option.

Sec 115BAC: Tax on income of individuals and HUF [Contd...]

Sec 115BAC(2): List of Blocked incentives:

For the purposes of Sec 115BAC(1A), the total income of the person referred to therein, shall be computed—

without any exemption or deduction under the provisions of clause (5) or clause (13A) or prescribed under clause (14) (other than those as may be prescribed for this purpose) or clause (17) or clause (32), of section 10 or section 10AA or clause (ii) or clause (iii) of section 16 or clause (b) of section 24 [in respect of the property referred to in sub-section (2) of section 23] or clause (iia) of sub-section (1) of section 32 or section 32AD or section 33AB or section 33ABA or sub-clause (ii) or sub-clause (iia) or sub-clause (iii) of sub-section (1) or sub-section (2AA) of section 35 or section 35AD or section 35CCC or under any of the provisions of Chapter VI-A other than the provisions of sub-section (2) of section 80CCD or sub-section (2) of section 80CCH or section 80JJAA.

Sec 115BAC: Tax on income of individuals & HUF [Contd...] **Sec 115BAC(2): List of Blocked incentives**

Sec 10(5): LTA

Sec 10(13A): HRA

Sec 10(14): Special allowances [However, exemption is available w.r.t Travelling / Transfer / Conveyance Allowance for official purposes; Transport Allowance of Rs 3,200 per month granted to physically disabled person]

Sec 10(17): Allowances to MPs and MLAs

Sec 10(32): Exemption up to Rs 1500 w.r.t clubbing of income of a minor child

Sec 10AA: SEZ Deduction

Sec 17(2) read with Rule 3(7)(iii): Exemption of perquisite in respect of free food and non-alcoholic beverage (i.e Rs 50 per meal) provided through paid voucher

Sec 16(ia): Standard deduction against salary income [Restriction only up to AY 2023-24]

Sec 16(ii): Entertainment Allowance Deduction

Sec 16(iii): Professional Tax Deduction

Sec 24(b): Interest on housing loan in the case of one or two self occupied properties

Sec 32(1)(iia): Additional depreciation

Sec 32AD: Investment Allowance in the case of Back ward Area

Sec 33AB: Tea / Coffee / Rubber Development Account

Sec 33ABA: Site Restoration Fund

Sec 35(1)(ii): Donation towards Scientific research

Sec 35(1)(iia): Donations to approved company towards scientific research

Sec 35(1)(iii): Donations towards research in social sciences or statistical research

Sec 35(2AA): Donation to National Laboratory or IIT

Sec 35AD: Investment Linked Incentive

Sec 35CCC: Agriculture Extension Project

Sec 57(iia): Deduction against family pension [Restriction only up to AY 2023-24]

Chapter VIA deductions {Other than Sec 80CCD(2), Sec 80CCH(2), 80JJAA} {80CCD(2): Employer's contribution to NPS; 80CCH(2): CG's contribution to Agniveer Scheme; 80JJAA: Deduction w.r.t newly recruited employees}

Sec 115BAC: Tax on income of individuals and HUF [Contd...]

AMT provisions are not applicable;

Adjustment of Losses: The total income of the assessee is calculated without adjusting the brought forward loss / additional depreciation / both from any earlier year (if such loss / additional depreciation) pertains to any deductions under the aforesaid sections.

Moreover, any loss under the head 'Income From House Property' cannot be set off with any other income under any other head of income.

The rate in the case of normal depreciation is capped at 40%.



Schemes in detail [Provisions of Sec 115BA; 115BAA and 115BAB]

Provisions of Sec 115BA; 115BAA and 115BAB Summarized

Particulars	Sec 115BA	Sec 115BAA	Sec 115BAB
Who is eligible?	Domestic Companies	Domestic Companies	New Domestic Manufacturing companies
From which AY it is available	AY 2017-18	AY 2020-21	AY 2020-21
Tax Rate	25%	22%	15%
Surcharge	Applicable Surcharge [7% or 12%]	10%	10%
Whether Marginal Relief is available	Yes	No	No
HEC	4%	4%	4%
Specific Activity required to avail this scheme	Manufacture or production of goods	-	Manufacture or production of goods
Date of set up and registration	On or after 01.03.2016	-	On or after 01.10.2019
Date of commencement of manufacture	Not specified	-	On or before 31.03.2024
Incentives available	Few Incentives not available	Few Incentives not available	Few Incentives not available
Deductions under sections 10AA, 32(1)(ia), 32AD, 33AB, 33ABA, 35(1)(ii)/(ia)/(iii), 35(2AA) / 35(2AB), 35AD, 35CCC, 35CCD, whether available	Not available [Even deductions U/S 32AC and 35AD are not available]	Not available	Not available
Chapter VIA deductions [80C to 80U]	Deduction under 80G, 80GGA, 80GGB, 80JJAA are available. Other deductions are not available.	Deduction U/S 80JJAA, 80LA(1A) and 80M are available. No other deduction is available.	Deduction U/S 80JJAA and 80M are available. No other deduction is available.
For which year the option of adopting alternative tax regime can be exercised	For the first assessment year of the domestic company (if it is not availed in the first year, it cannot be opted for the second or subsequent years).	For the AY 2020-21 or any subsequent year (if it is not availed for the AY 2020-21, the assessee can opt for it in any subsequent year).	For the first assessment year of the domestic company (if it is not availed in the first year, it cannot be opted for the second or subsequent years).
Due date of exercise of option	On or before the due date of furnishing of first return of income [Form 10 IB]	On or before the due date of furnishing of return of income of the year in which the assessee wants to opt for Alternative Tax Regime.	On or before the due date of furnishing of first return of income [Form 10 ID]
After exercise of the option, it is possible to withdraw for the same or any other subsequent year	No. [However, one can shift to the tax regime of Sec 115BAA]	No	No
Whether provisions of MAT applicable	Yes	No	No
Whether brought forward MAT Credit available after availing the alternative tax regime	Yes	No	No

Sec 115BAB: Additional Points

The following businesses are not eligible;

- Development of computer software in any form or in any media;
- Mining;
- Conversion of marble blocks or similar items into slabs;
- Bottling of gas into cylinder;
- Printing of books or Production of cinematograph film; or
- Any other business as may be notified by the Central Government in this behalf.

The Company does not use any building previously used as a hotel or a convention centre, as the case may be, in respect of which deduction under section 80-ID has been claimed and allowed.

SDT provisions are applicable, if the aggregate value of SDTs exceed Rs 20 Crore. The adjustment made by the AO consequent to invocation of SDT provisions is taxable at 30%.

Tax Rates

Income from manufacture or production of Article or Thing	15%
Income from non-manufacturing activities (if no specific rate is prescribed)	22%
STCG (From transfer of depreciable assets)	15%
STCG (From transfer of non-depreciable assets)	22%
Excess profit added by AO consequent to invocation of Sec 115BAB(6) [i.e SDT TP adjustment]	30%
Special incomes covered under Chapter XII [Sec 110 to 115BBJ]	As prescribed under the Act

Notes

32AC: Investment in plant and machinery

35(2AB): In house R&D deduction

35AC: Expenditure on eligible projects and schemes

35AD: Investment linked incentives

35CCC: Expenditure on agricultural extension project

35CCD: Expenditure on skill development project

80G: Donations

80GGA: Donations for Scientific Research or Rural Development

80GGB: Contributions given by companies to political parties

80JJAA: Deduction in respect of employment of new employees

80LA: Deductions in respect of certain incomes of Offshore Banking Units and IFSC

80M: Deduction in respect of certain inter corporate dividends

Snapshot of Provisions of Sec 115BAD and 115BAE

Particulars	Sec 115BAD	Sec 115BAE
Who is eligible?	Resident Co-Operative Society	New Resident Manufacturing Co-operative Society
From which AY it is available	AY 2021-22	AY 2024-25
Tax Rate	22%	15%
Surcharge	10%	10%
Whether Marginal Relief is available	No	No
HEC	4%	4%
Specific Activity required to avail this scheme	-	Manufacture or production of goods
Date of set up and registration	-	On or after 01.04.2023
Date of commencement of manufacture	-	On or before 31.03.2024
Incentives available	Few Incentives not available	Few Incentives not available
Deductions under sections 10AA, 32(1)(iia), 32AD, 33AB, 33ABA, 35(1)(ii)/(iia)/(iii), 35(2AA) / 35(2AB), 35AD, 35CCC, 35CCD, whether available	Not available	Not available
Chapter VIA deductions [80C to 80U]	Deductions U/S 80JJAA, 80LA(1A) are available. No other deduction is available.	Deduction U/S 80JJAA is available. No other deduction is available.
Whether brought forward loss pertaining to above deductions / exemptions can be set off and carried forward	No	No
For which year the option of adopting alternative tax regime can be exercised	For the AY 2021-22 or any subsequent year (if it is not availed for the AY 2021-22, the assessee can opt for it in any subsequent year).	For the first assessment year of the co-operative society (if it is not availed in the first year, it cannot be opted for the second or subsequent years).
Due date of exercise of option	On or before the due date of furnishing of return of income of the year in which the assessee wants to opt for Alternative Tax Regime. [Form 10 IF]	On or before the due date of furnishing of first return of income [Form is yet to be notified.]
After exercise of the option, it is possible to withdraw for the same or any other subsequent year	No	No
Whether provisions of AMT applicable	No	No
Whether brought forward AMT Credit available after availing the alternative tax regime	No	No

Examples [Courtesy: Taxman]

X (61 Years) is a business man. His business income for the AY 2024-25 is estimated at Rs 43,60,000 (after calculating additional depreciation of Rs 257,000). He annually contributes Rs 150,000 towards PPF. Interest on Fixed Deposit is Rs 80,000/-. Till the AY 2023-24, he has opted for the Alternative Tax Regime by exercising the option available U/S 115BAC(5). Can he change the option for the AY 2024-25?

Sol:

Particulars	Regular Tax Regime (Rs/-)	Alternative Tax Regime (Rs/-)
Business income (Addl Depn is not available for Alt Tax Regime)	43,60,000	46,17,000
FD Interest	80,000	80,000
G T I	44,40,000	46,97,000
Less:		
80C	150,000	-
80TTB	50,000	-
Taxable Income	42,40,000	46,97,000
Income Tax	10,82,000	11,09,100
Add: HEC	43,280	44,364
Tax Liability	11,25,280	11,53,460

Examples [Courtesy: Taxman]

X (32 Years) and Y (29 Years) give the following information for the AY 2024-25. Calculate the tax liability.

Particulars	X (Rs/-)	Y (Rs/-)
Salary income / rental income / business income / FD interest (Computed without claiming incentives given below)	Rs 5.70 Crores	Rs 6.20 Crores
Additional depreciation / LTC exemption / HRA / Chapter VIA	Rs 6 Lakhs	Rs 70 lakhs

Examples [Courtesy: Taxman]

Sol:

Particulars	X (Rs/-)		Y (Rs/-)	
	Old Scheme	New Scheme	Old Scheme	New Scheme
Income	5.70 Crores	5.70 Crores	6.20 Crores	6.20 Crores
Less: Incentives	6 lakhs	Nil	70 lakhs	Nil
Net income	5.64 Crores	5.70 Crores	5.50 Crores	6.20 Crores
Tax Liability				
Income Tax	167,32,500	168,00,000	163,12,500	183,00,000
Surcharge: 37% old scheme; 25% new scheme	61,91,025	42,00,000	60,35,625	45,75,000
Tax plus surcharge	229,23,525	210,00,000	223,48,125	228,75,000
HEC @ 4%	916,941	840,000	893,925	915,000
TOTAL TAXES	238,40,470	218,40,000	232,42,050	237,90,000



Talluri Rajendra Prasad, fondly known as RP in his professional & personal circles and the founder member of the firm TRP & CO, is a member of Institute of Chartered Accountants of India and Institute of Cost & Works Accountants of India. He has 17+ years of post-qualification experience in both direct and indirect tax laws.

He is one of the most distinguished faculties for Direct Tax Laws and Indirect Tax Laws. He contributed several articles on Taxation in leading journals which included magazines of ICAI, Taxmann publications, Student news letters, journals of IFA (International Fiscal Association). He is a visiting faculty at ICAI and ICWAI, Hyderabad, Vijayawada, Bangalore.

He has addressed 180+ seminars at South India Forums on direct and indirect tax laws covering the aspects like GAAR, POEM, TP Provisions, PE, GST Audit, GST Annual Returns, GST impact on Health Care Industry, etc.,

He is a regular trainer for Income Tax officers, Assistant and Deputy Commissioners of IT Department, GST Department and C&AG Department, Practicing Chartered Accountants.

In his previous assignments, he has worked as a Financial Controller for the World's Largest Tobacco Trading Company. He was also instrumental in implementing Zero Based Budget (ZBB) created on Activity Based Concept in Microsoft which was incidentally rated as the "ICON Budget". The subtlety of the budgets drawn has been immensely admired and adopted within the company.

He is currently practicing the profession through the firm TRP & CO. in Hyderabad. His areas of practice included representation before the CIT-A, ITAT, CESTAT, Settlement Commission on the tax matters involving direct tax laws and GST.

He can be reached at 'rpdynamic@gmail.com' or askrpsir@gmail.com and on +91-98495-79413 / 9963 250 500.

Rajendra Prasad Talluri (RP),
B.Com; CA; Grad CWA,
rpdynamic@gmail.com, +91-98495-79413.

TRP & CO



Thank You

Rajendra Prasad Talluri (RP), TRP & CO
B.Com; CA; Grad CWA,
rpdynamic@gmail.com, +91-98495-79413.

Example # 1:

X (61 Years) is a business man. His business income for the AY 2024-25 is estimated at Rs 43,60,000 (after calculating additional depreciation of Rs 257,000). He annually contributes Rs 150,000 towards PPF. Interest on Fixed Deposit is Rs 80,000/-. Till the AY 2023-24, he has opted for the Alternative Tax Regime by exercising the option available U/S 115BAC(5). Can he change the option for the AY 2024-25?

Sol:

Particulars	Regular Tax Regime (Rs/-)	Alternative Tax Regime (Rs/-)
Business income (Addl Depn is not available for Alt Tax Regime)	43,60,000	46,17,000
FD Interest	80,000	80,000
G T I	44,40,000	46,97,000
Less:		
80C	150,000	-
80TTB	50,000	-
Taxable Income	42,40,000	46,97,000
Income Tax	10,82,000	11,09,100
Add: HEC	43,280	44,364
Tax Liability	11,25,280	11,53,460

Tax liability is lower under the regular tax regime. X, is, therefore, advised to opt for the regular tax scheme.

Note: Taxes on Rs 10 lakhs = Rs 112,500 [110,000 for resident senior citizens) under old scheme

Taxes on Rs 15 lakhs = Rs 150,000 under new scheme.

Example # 2:

X (32 Years) and Y (29 Years) give the following information for the AY 2024-25. Calculate the tax liability.

Particulars	X (Rs/-)	Y (Rs/-)
Salary income / rental income / business income / FD interest (Computed without claiming incentives given below)	Rs 5.70 Crores	Rs 6.20 Crores
Additional depreciation / LTC exemption / HRA / Chapter VIA	Rs 6 Lakhs	Rs 70 lakhs

Sol:

Particulars	X (Rs/-)		Y (Rs/-)	
	Old Scheme	New Scheme	Old Scheme	New Scheme
Income	5.70 Crores	5.70 Crores	6.20 Crores	6.20 Crores
Less: Incentives	6 lakhs	Nil	70 lakhs	Nil
Net income	5.64 Crores	5.70 Crores	5.50 Crores	6.20 Crores
Tax Liability				
Income Tax	167,32,500	168,00,000	163,12,500	183,00,000
Surcharge: 37% old scheme; 25% new scheme	61,91,025	42,00,000	60,35,625	45,75,000
Tax plus surcharge	229,23,525	210,00,000	223,48,125	228,75,000
HEC @ 4%	916,941	840,000	893,925	915,000
TOTAL TAXES	238,40,470	218,40,000	232,42,050	237,90,000