

CBDT notifies rules for computing relief from additional MAT liability resulting from secondary adjustments and adjustments pursuant to APA (1/2)

Summary

Taxpayers were facing hardships due to incremental minimum alternate tax (MAT) arising from incremental income required to be recorded pursuant to Advance Pricing Agreement (APA), or due to a secondary adjustment. In this regard, relief was granted vide the Finance Act, 2021, wherein, the taxpayer, impacted due to secondary adjustments/APA related adjustments for past year(s), can make an application under a prescribed form to recompute the book profits and, consequently, MAT liability.

The Central Board of Direct Taxes (CBDT) has notified Rule 10RB in the Income-tax Rules, 1962, governing the computation mechanism for aforementioned relief. Also, such notification prescribes Form No. 3CEEA, which is required to be filed by the taxpayer with the tax officer to claim such relief.

Background

- A 'primary adjustment' is an enhancement to the transfer price, which is executed/accepted by the taxpayer in either of the following cases: (i) suo-moto; (ii) made by the tax officer; (iii) determined by an APA; (iv) as per Safe Harbour Rules; or (v) arising as a result of a mutual agreement procedure.
- Primary adjustments exceeding INR 1 crore (for assessment years commencing on or before 1 April 2016) are required to be recorded in books of accounts to reflect the actual allocation of profits, consistent with the transfer price determined under the 'primary adjustment'. Such book adjustments are termed as 'secondary adjustments'.
- Other than the 'secondary adjustment' arising due to APA, there may be instances where the value of the primary adjustment, pursuant to the APA, falls below the exemption threshold of INR 1 crore, however, the terms of the APA mandate the taxpayer to record the same in the books of accounts.
- The adjustments in the books of accounts in the above cases are typically made at a later point in time, which may be a couple of years after the closure of the financial year (FY) to which the primary adjustment pertains. In such situations, the books of accounts are adjusted in the year in which such event occurs, leading to incremental book profits and MAT liability on such adjustment.

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Relief provided by insertion of Rule 10RB

- Rule 10RB provides relief to the extent of the **incremental component of the MAT liability on account of timing difference of recording past income** (i.e., the amount of secondary adjustment or adjustment pursuant to the APA) in the current year, which is computed as the difference between:
 - increased MAT liability due to inclusion of the past income in the book profit of the current year
 - less**
 - increased MAT liability of the year(s) to which the past income pertains, had it been included in the book profits of such year(s).
- Taxpayers can claim the aforementioned relief by electronically filing Form No. 3CEEA.

Illustration

On signing the APA during FY 2020-21, a taxpayer is accounting for a past income (i.e., secondary adjustment) pertaining to FY 2018-19 of INR 5 crore in books of accounts for FY 2020-21. In such a situation, the relief of increased MAT liability during FY 2020-21 will be computed as amounts **(A-B)-(D-C)**, where:

Amt.	MAT liability for:	Remarks
A	FY 2020-21 on its book profit, including past income	Amount (A-B) denotes the increased MAT liability during FY 2020-21 on account of inclusion of past income (i.e., the secondary adjustment of INR 5 crore)
B	FY 2020-21 on its book profit after reducing the past income	
C	FY 2018-19 on its book profit	Amount (D-C) denotes the increased MAT liability for FY 2018-19, had this secondary adjustment of INR 5 crore been accounted for in that year itself
D	FY 2018-19 on the book profit plus the past income	

The relief amount i.e., the value of (A-B)-(D-C), will be reduced from the MAT tax liability of the current year (i.e. FY 2020-21). If the value of (A-B)-(D-C) in the formula is negative, then the relief value shall be deemed to be zero.