Budget 2012: Alternate Minimum Tax (AMT) on all persons other than companies

The Finance Act, 2011 introduced a new Chapter XII-BA titled "Special Provisions relating to certain Limited Liability Partnerships" w.e.f. April 01, 2012 to tax certain LLPs differently. Under this Chapter, LLPs were made subject to Alternate Minimum Tax ("AMT") @18.5%, in line with Minimum Alternate Tax ("MAT") in case of companies.

However, no such tax is levied on the other form of business organisations such as partnership firms, sole proprietorship, association of persons, etc.

In order to widen **the tax base vis-a-vis profit linked deductions**, it is ***proposed in the Budget 2012 to amend above provisions regarding AMT*** contained in Chapter XII-BA to provide that ***a person other than a company***, who has claimed deduction under any section (other than section 80P) included in Chapter VI-A under the heading **"C – Deductions in respect of certain incomes" or under section 10AA**, shall be liable to pay AMT. Therefore now Chapter XII-BA brings into its ambit even the partnership firms, sole proprietorship, HUFs, association of persons, etc.

However the applicability of AMT is quite restricted compared to MAT in case of companies. This is by view of the fact that the tax base in case of AMT would be the Adjusted Total Income computed under Section 115JC(2) and not Book Profit as in case of Companies.

Adjusted Total income is the Total Income before giving effect to the provisions of Chapter XII-BA as increased by -

- Deductions claimed under Chapter VI-A (C), that is, income based deductions claimed under Sections like 80IA, 80IAB, 80IB, 80IC, 80ID, 80IE and 80JJA and
- Deductions claimed under Section 10AA, that is, deduction available to SEZ Units

Therefore, unlike company, other persons would not be liable to pay AMT on exempt incomes like Long term capital gain under section 10(38), etc.

Further according to the amendment in Budget 2012, ***the provisions of AMT shall not apply*** to an individual or a Hindu undivided family or an association of persons or a body of individuals (whether incorporated or not) or an artificial juridical person referred to in section 2(31)(vii), ***if the adjusted total income of such person does not exceed twenty lakh rupees.***

These amendments with respect to AMT will take effect from 1st April, 2013 and will, accordingly, apply in relation to the assessment year 2013-14 and subsequent assessment years.

Comparison between MAT and AMT

	MAT	AMT
Applicability	MAT is applicable to companies	AMT is applicable to all assesses other than companies
Chapter and Section of Taxability	Chapter XII-B, Section 115JB	Chapter XII-BA, Section 115JC
Tax Base	Taxable on Book Profits	Taxable on Adjusted Total Income
Meaning of Tax Base	Book Profit means the Net Profit as shown in the Profit & Loss Account as increased/decreased by certain items specified under Explanation to Section 115JB	**Adjusted Total income** means the total income computed under normal provisions of the Income Tax Act as increased by the deductions claimed, if any, under Chapter VI-A (C) or Section 10AA
Trigger Point	Companies are required to pay MAT on **book profits** subject to certain adjustments if the income tax payable on the total income, computed under the Income Tax Act, is less	Assesses are required to pay AMT, if tax payable on **Total Income** is less than 18% of **Adjusted Total income**
Rate of Tax	MAT rate – 18% + surcharge @ 5% if book profit exceeds Rs. 1 crore + Education Cess @ 3%	AMT rate – 18.5% + Education Cess @3% *Effective rate – 19.05%*

	Effective Rate (including surcharge) - 19.5%	
Tax Credit	MAT paying companies can claim the credit for 10 assessment years starting from the year in which the credit becomes allowable	AMT paying persons (other than companies) can claim credit for 10 assessment years starting from the year in which the credit becomes allowable
Exempt Income	Companies are not liable to pay MAT on income exempt under Section 10 except Sub section(38)	Persons other than companies are not liable to pay AMT on incomes exempt from tax Except 10 AA
Long Term Capital gain	Liable under Section 10(38)	Not liable
Depreciation difference between book and income tax	Liable	Not liable
Carried forward Losses and depreciation	Losses or depreciation whichever is lower only can be adjusted	Can be fully adjusted

Conclusion: Though the Budget 2012 seeks to levy AMT on all persons other than companies, due to the restricted applicability of AMT compared to companies as stated above, the burden of AMT would be quite less to these persons and would affect only persons taking the benefit of the deductions claimed under Chapter VI-A (C) and Section 10AA.

Further, if we look at LLPs per se, so far as AMT is concerned, LLPs are now at par with Partnerships, proprietorships. However, the benefits of LLPs over companies still stand out urging and making it attractive for various businesses to form or convert their business into LLPs. As the accounts of companies are prepared as required under statutory provisions uniformly on accrual basis as per the accepted accounting principles so it is possible to levy tax based on book profit, while in case of other form of assesses there is no statutory requirements to prepare accounts in compliance with any law, therefore it is not possible to levy tax based profit declared in books of accounts of the company.