Department of Applied Economics and Commerce

Patna University, Patna

Corporate tax planning and management (COMEC-1)

M.com Semester IV

Unit- II

Business may be defined as an economic activity involving regular production or purchase and distribution of goods and services with the object of earning profits. Manufacturing, trade, transportation, insurance, banking and mining are business activities. when we decides to set up a new business, before setting –up a new business has to consider many factors like nature and size of business, location of business, form of business organization, the amount of capital, and risk bearing capacity etc. Form of business organization from the point of view of stability, case of operation, legal formalities and other points of management.

Now a day's everybody has to consider the tax effect on the following points:

1. Location of business,
2. Nature of business,
3. Form of business organization, and
4. Capital structure.

❖ Location of business

Many factors affect the location of a new business. On the basis of location of business, the following tax benefits are available under the income tax act 1961:-

1. **Special provision in respect of newly established units in Special Economic Zones- Sec-10AA**

Under the provisions of this section the following points are consider:

- First of all we consider who is entitled to deduction, an assesses, being an entrepreneur as referred to in Section 2(F) of the Special Economic Zones Act, 2005 and undertaking begins to manufacturing or producing eligible articles or things or computer software during the previous year relevant to *any assessment year commencing on or after the 1st April 2006, and before 1st April 2020. New* undertaking is not formed by splitting up or the reconstruction of a business already in existence. It is not formed by the transfer to a new business of a machinery or plant (not exceeding 20% of total value) previously used for any purpose.
- Quantum of deduction- the income of newly established organizations in Special Economic Zone is exempt for fifteen years up to specified limit. these are as follows:

a. 100% of Profits and gains derived from the export of such articles or things or from services for five initial assessment years.

b. 50% of such profits and gains for further five assessment years.

c. For the next five consecutive assessment years, 50% of such profits and gains or the amount debited to P & L A/c and credited to the 'Special Economic Zone Re-investment Allowance Reserve Account', whichever is less.

The amount credited to the Reserve Account should be utilized for acquiring plant & machinery within three years.

2 special category states

Deduction in respect o profit and gains of certain undertaking and enterprises in certain special category states [sec 80 –IC]

The income of that undertaking is deducted which are established in special category states. *The following conditions should be satisfied –*

1. The industrial undertaking is not formed by splitting up, or the reconstruction, of a business already in existence.
2. The industrial undertaking should be set up Himachal Pradesh, or Uttarakhand.
3. It should manufacture any article but other than those given in the Thirteenth Schedule if it is situated in the industrial zone of the relevant State. In other remaining area, it can manufacture any article given in the Fourteenth Schedule.
4. Deduction is available in the case of new industrial undertaking or in the case of completion of substantial expansion of an existing undertaking. These activities should take place in the case of in the case of Himachal Pradesh or Uttarakhand during January 7, 2003 and March 31, 2012.
5. Deduction should be claimed in the return of income. Return of income should be submitted on or before the due date of submission of return of income. Books of account should be audited and audit report should be submitted electronically.

- **Under this provision the deduction is allowed for ten years up to specified limit.** It is 100% for the first 5 years and 30% in the case of companies or 25% in the case of other assesses for the next 5 years].

3. North Eastern states

Deduction in respect o profit and gains of certain undertaking in North Eastern states [sec 80 –IE]

- The income of that undertaking is deducted which are established in North Eastern states. *The following conditions should be satisfied –*

1. It has during the period beginning on 1.4.2007 and ending before 1.4.2017 begun or begins in any of the North-Eastern States
2. It is not formed by splitting up, or the reconstruction, of a business already in existence
3. It is not formed by the transfer to a new business of machinery or plant previously used for any purpose.
4. Deduction under this section is not available in respect of manufacture or production of tobacco, pan masala, plastic carry bags or less than 20 microns or goods produced by petroleum oil and gas refineries.
5. Deduction should be claimed in the Return of Income.

Quantum and Period of Deduction under Section 80-IE:

100% of the profits derived from such business for ten consecutive assessment years commencing with the initial assessment year.

North eastern state is **Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland Sikkim, and Tripura.**

- ❖ Form of business organization,

The form of business organizations is an important tool of tax planning. There are different forms of organizations having different tax incidences at a given level of operation. The form of business organizations may be **sole proprietorship, partnership, Joint Stock Company, co-operative society, etc.**

There are different tax treatments under different forms of ownership. Individuals and HUFs are assessed at a slab system while a company is assessed at a flat rate with no exemption limit. Taxation of a firm does not have a particular shape as part of the income attributable to interest and salary to partner may be taxed at normal rates relating to such partner and the remaining part is taxed at a flat rate as for companies. These forms of ownership are also allowed different tax concessions and rebates under tax laws. The best form of business organization from tax point of view is one of which attracts the minimum tax liability.

Comparative study of partnership firm and company in relation to tax liability

The following factors are to be considered from tax point of view of partnership firm and company which attract minimum tax liability:

1. **Interest:** A company is allowed to pay interest on loan taken from its shareholders, at the rate it deems fit. On the other hand, a firm can deduct interest on loan maximum at 12% p.a. on loan taken from partners.
2. **Tax-free income:** A company cannot deduct it tax liabilities by deducting amount u/s 80-IA, or 80-IB, because interest to share holders and salary to employees has to be paid. But a firm may arrange that no interest on capital or loan shall be paid. It will reduce tax liability of the firm as well as of partners.
3. Capital expenditure on family planning: a company may deduct Capital expenditure on family planning in five annual equal installments commencing from the previous year in which the expenditure is incurred. But a firm can claim depreciation on the asset acquired u/s 32. It will increase the tax liability of the firm.
4. Remuneration: a company can pay remuneration to its employees as it deems fit and it is deductible. But a firm is entitled to a deduction for remuneration to its working partners as prescribed u/s 40(b). It may increase the tax liability of the firm.
5. Withdrawal of capital: In a company, a shareholder can sell its shares and get withdraw his capital. The benefit of indexation will be available to the shareholders. But in partnership firm, a partner can leave the firm but he will not get the benefit of indexation on the amount invested in the firm. This will increase his tax liability.

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