Planning Your Income Tax

A Guide for Business Entities

Prepared by

Shiv & Associates
Chartered Accountants

Introduction

The start of this new Financial Year 2020-21 has been marred by the disruptions caused amidst Covid-19 pandemic. Businesses across the sectors have been severely impacted by the lockdown. However, with restrictions easing up, economic activities are resuming again. As we hope for things to become normal, we are sharing a small guide for business entities to plan their Income Tax.

In the Finance Act, 2020, the Government of India has introduced a new tax regime, giving individuals and HUFs an option to pay taxes at a lower rate. The government also lowered the tax rates on companies. These options, however, comes with the condition of giving up various deductions and exemptions available under the Income Tax Act. In this document, we have analysed different rates of tax options applicable for different business entities and which should one opt for. We also give you brief about applicability of tax audit, MAT provisions and change in taxation of dividends. For taxpayers purpose, efforts have been made to provide all the information in a simpler and easy to understand language.

Applicable Income Tax Rates

Old and Reduced Tax Rates

A business can be primarily constituted as sole-proprietorship, HUF, partnership, limited liability partnership (LLP) or as a Company. Tax rates and availability of option to pay taxes at reduced rates varies based upon its constitution. These have been discussed in upcoming pages.

Taxability of Business	Existing Income Tax Rates	New Reduced Rates
Sole Proprietorship	As per individual slab rate	Reduced rates under 'New Tax Regime'
HUF	As per slab rate	Reduced rates under 'New Tax Regime'
Partnership (including LLP)	Taxed at Flat 30%.	No reduced tax rates available.
Domestic Companies	Taxed at 30%/ 25%.	Option to pay taxes at reduced rate of 22%/ 15%
Foreign Companies	Taxed at 40%.	No reduced tax rate available.

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Applicable Income Tax Rates

Individuals & HUFs

Finance Act, 2020 introduced 'New Tax Regime' by inserting Section 115BAC. As per the new Section, individuals and HUFs have the **option** of paying taxes at a lower rate from Financial Year 2020-21 (Assessment Year 2021-22), if they do not avail deductions and exemptions available under the Income Tax Act. This can help businesses and their owners to reduce their tax burden.

Income Tax Slab Rates under the New Tax Regime are as under:

Tax Slab	Existing	New Tax Regime
Up to Rs. 2.5 lakhs	Nil (No change)	
Rs.2.5 lakhs – 5 lakhs	5% (No change)	
Rs. 5 lakhs – 7.5 lakhs	20%	10%
Rs. 7.5 lakhs – 10 lakhs	20%	15%
Rs. 10 lakhs – 12.5 lakhs	30%	20%
Rs. 12.5 lakhs – 15 lakhs	30%	25%
Above Rs. 15 lakhs	30% (No change)	

Additional Surcharge on Income Tax, where Taxable Income is

Income (in Rs.)	50 lakhs-1 crore	1 crore- 2 crore	2 crore- 5 crore	> 5 crore
Rate of surcharge	10%	15%	25%	37%

Further, Health and Education Cess @ 4% applicable on total tax value.

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Applicable Income Tax Rates
Partnership Firms (including LLPs)

There are no reduced tax rates available for partnership firms and they are taxed at Flat Rate of 30%.

However, partners of partnership firms interest and remuneration paid to working partners are allowed as expense in the hands of partnership firms and taxed as income in partner's hand. Such individual partners can avail reduced tax rates under 'New Tax Regime'. Hence, benefit of 'New Tax Regime' is indirectly available under partnership firms as well.

For availing remuneration and interest as expense, following conditions should be satisfied:

- Remuneration should be to a working partner
- Payment of remuneration and interest is authorized by partnership deed
- Amount or manner of computing remuneration is defined in partnership deed
- Remuneration does not exceed:

On the first Rs. 3,00,000 of book profits or in case of a loss	Rs. 1,50,000 or 90% of the book profit (whichever is higher)
On the balance of book profits	60% of book profit

Additional surcharge of 12% shall be applicable on income tax amount, where total income exceeds Rs. 1 crore.

Further, Health and Education Cess @ 4% applicable on total tax value.

Applicable Income Tax Rates

Domestic Companies

With the purpose to boost economy, special tax rates of 22% has been introduced last year for domestic companies through Section 115BAA, on the condition of giving up various deductions and exemptions available in Income Tax Act. Surcharge of 10% and Health and education cess of 4% is also applicable, taking the effective rate of tax to 25.168%.

A comparison of effective tax rate under existing and old tax regime has been provided below:

Domestic Company	Effective Tax Rates			
Turnover in FY 2018-19	Upto Rs. 400 crore		> Rs. 400 crore	
Tax Regime	Existing Rate	New Regime	Existing Rate	New Regime
Taxable Income: Upto Rs. 1 crore	26%	25.17%	31.20%	25.17%
Taxable Income: Rs. 1 crore- Rs. 10 crore	27.82%	25.17%	33.38	25.17%
Taxable Income: > Rs. 10 crore	29.12%	25.17%	34.94	25.17%

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Applicable Income Tax Rates
New Domestic Manufacturing Companies

Along with Section 115BAA, a new Section 115BAB was also introduced with the intent to make India a global manufacturing hub. The section provides a concessional tax rate of 15% (Effective Rate of 17.16%) for new companies engaged in manufacturing.

To avail these concessional rates, following conditions must be satisfied:

- Company is incorporated on or after 1st October, 2019
- Commencement of manufacturing on or before 31st March, 2023.
- Not formed by splitting up or re-construction of an existing business.
- Total value of second hand Plant & Machinery (except imported) does not exceed 20% of total Plant & Machinery.
- Does not use building earlier used as a Hotel or Convention Centre.
- The company is only engaged in:
  - Manufacture of an article or thing.
  - Research in relation to such manufacture or production
  - Distribution of such article or thing

- The company is not engaged in the following businesses:
  - Software Development
  - Mining
  - Conversion of marble blocks or similar materials into slabs
  - Bottling of gas into cylinders
  - Printing of books
  - Production of cinematograph films

MAKE IN INDIA

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New Tax Regime

Deductions/ Exemptions Not Allowed

For availing reduced tax rates under New Tax Regime, taxpayer need to surrender the following exemptions and deductions:

- Section 10AA of the Act relating to SEZ.
- Additional depreciation allowance under Section 32(1)(iia) of the Act.
- Section 32AD of the Act – Deduction for investment in new plant and machinery in notified backward States.
- Section 33AB of the Act – Tea/ coffee/ rubber development allowance.
- Section 33ABA of the Act– Site restoration fund.
- Sections 35(1) (ii), (iia),(iii) and 35(2AA), (2AB) of the Act – certain scientific research expenditure.
- Section 35AD of the Act – Deduction in respect of expenditure on specified business.
- Section 35CCC of the Act – Expenditure on agricultural extension project.
- Section 35CCD of the Act – Expenditure on skill development project.
- Deduction under Chapter VIA including Section 80C, 80CCD, 80D, 80TTA However, Deduction u/s 80JJAA shall be allowed.
- Deductions in respect of certain incomes under Section 80IA/80IB/80IC etc.
- 80G- Donations

Any carried forward loss or unabsorbed depreciation pertaining to above Sections shall also not be allowed to be set off.

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New Tax Regime
Minimum Alternate Tax

The concept of Minimum Alternate Tax (MAT) was introduced in Finance Act, 1996 to limit the tax exemptions availed by the companies. Under MAT, the companies are required to pay a minimum percentage of 'book profit' as tax, irrespective of taxable income. The additional tax paid under MAT, over and above normal rate to tax, is allowed to be carried forward as MAT credit.

The rate of MAT for FY 2019-20 is 15% (earlier 18.5%) + Health and Education Cess + Surcharge (if applicable)

However, if the companies are opting for New Tax Regime, then provisions of MAT are not applicable. This means that:

- Such companies are not required to pay MAT
- Any MAT credit available to such companies shall lapse.

Hence, for companies have MAT credit, it might be advisable for them to first utilize such credit and then opt for New Tax Regime in subsequent years.

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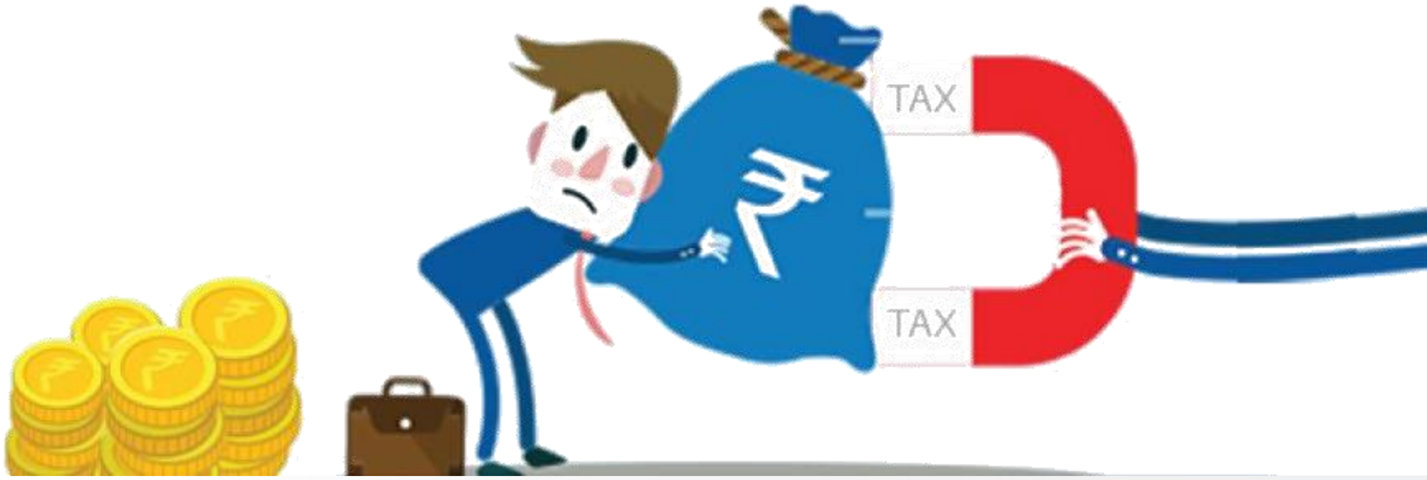
New vs Old Tax Regime

Option for Business Entities



It is entirely upon the businesses if they want to pay their taxes as per the New Tax Regime or on basis of the old structure. It is important to carefully analyse both the structures, before opting for one.

- A business entity has the option to opt for New Tax Regime in any Assessment Year i.e. they can opt for it in current year or for any period in future.
- Option once opted can not be reversed i.e. the business entity shall continue to be taxed under New Tax Regime for all subsequent years.

Factors required to be carefully analysed while opting for a tax structure includes:

- Current effective tax rate applicable on taxpayer.
- Exemptions and deductions currently available
- Exemptions and deductions expected to be available in future
- Availability of MAT credit

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New vs Old Tax Regime

Comparative Analysis- Individuals & HUFs

An individual/ HUF/ partner in partnership firm can save more than Rs. 60,000 by opting for New Tax Regime. However, in certain circumstances, New Tax Regime can result in higher tax liability. A comparative analysis of tax amount payable under Old and New Regime at various levels of Income and deductions opted for is provided below:

Income	**Tax Payable under Old Regime**			**Tax Payable under New Regime**
	NIL Deduction	Rs. 1,50,000 Deduction	Rs. 2,50,000 Deduction	
5,00,000	NIL	NIL	NIL	NIL
6,50,000	42,500	NIL	NIL	27,500
7,50,000	62,500	32,500	NIL	37,500
10,00,000	1,12,500	82,500	62,500	75,000
12,50,000	1,87,500	1,42,500	1,12,500	1,25,000
15,00,000	2,62,500	2,17,500	1,87,500	1,87,500
17,50,000	3,37,500	2,92,500	2,62,500	2,62,500
20,00,000	4,12,500	3,67,500	3,37,500	3,37,500
25,00,000	5,62,500	5,17,500	4,87,500	4,87,500

Note:

1. Health and Education Cess @ 4% not included above

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Audit under Income Tax Act

Change in Applicability

Finance Act, 2020 increased the Tax Audit limit to Rs. 5 crore for certain eligible businesses. The limits for Tax Audit for FY 2019-20 are as following:

Income from Business

- < Rs. 1 crore — Not Applicable *
- < Rs. 2 crore
  - Presumptive Income u/s 44AD — Not Applicable
  - Not Opted for Section 44AD — Applicable
- < Rs. 5 crore
  - Cash Receipts & Payments ≤ 5% — Not Applicable
  - Other Cases — Applicable
- > Rs. 5 crore — Applicable

Income from Profession

- < Rs. 50 lakhs
  - Presumptive Income u/s 44ADA — Not Applicable
  - Not Opted for Section 44ADA — Applicable
- > Rs. 50 lakhs — Applicable

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Audit under Income Tax Act

Important Points

***Audit Applicability in Specific Cases**

In specific cases, where turnover of a business in less than Rs. 1 crore, tax audit shall still be applicable, if in earlier years return of income was filed under presumptive taxation (Section 44AD) and in current period, the profit declared is less than presumptive profit under Section 44AD.

Prescribed Forms

Where the entity accounts are audited under any law (for example, Companies or Societies), report from Chartered Accountant is required in Form 3CA and 3CD.

In all other cases, audit report in Form 3CB and 3CD is required to be submitted

Due Date

Due date of filing Tax Audit Report is 1 month before the due date of filing of Income Tax Return. Thus for F.Y. 2020-21, Tax Audit Report due date is 31 Oct, 2020 and for F.Y. 2020-21, it is 30 Sept, 2020.

Penalty on Non-Filing

0.5% of total sales, upto a maximum of Rs. 1,50,000

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Dividend Distribution Tax

Change in Provisions

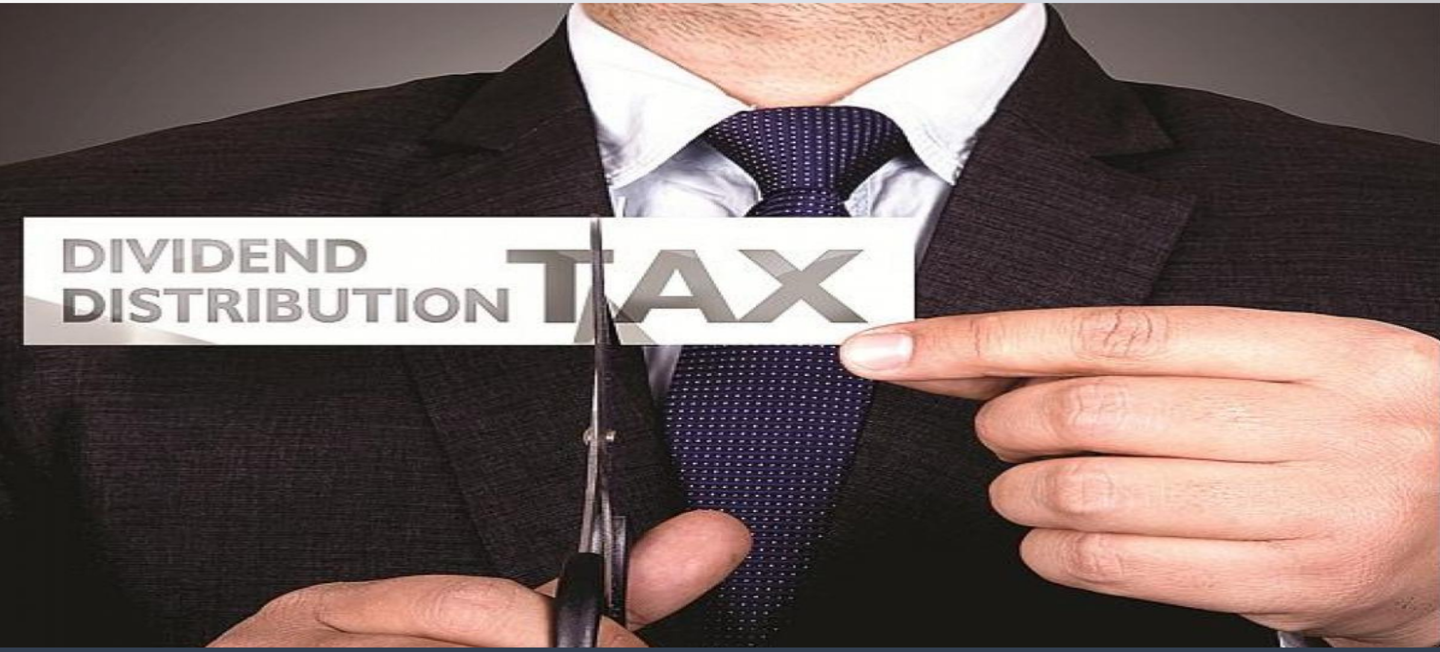
Finance Act, 2020 introduced major changes in taxation of dividend.

Till March 31, 2020:

- Dividend taxable in the hands of the companies by levy of Dividend Distribution Tax at effective rate of 20.56%.
- Such dividend income were exempt in the hands of receiver up to Rs. 10 lakh in a Financial Year. Beyond Rs. 10 lakh, dividend was taxed @ 10% (plus cess and surcharge, as applicable).

For Apr 1, 2020 onwards:

- Dividend taxable in the hands of receiver as per the tax rates applicable to them
- Companies no longer required to pay Dividend Distribution Tax
- Companies now required to deduct TDS @ 10% (7.5% for the period from 14th May 20 to 31st Mar 21) on dividends in excess of Rs. 5,000.



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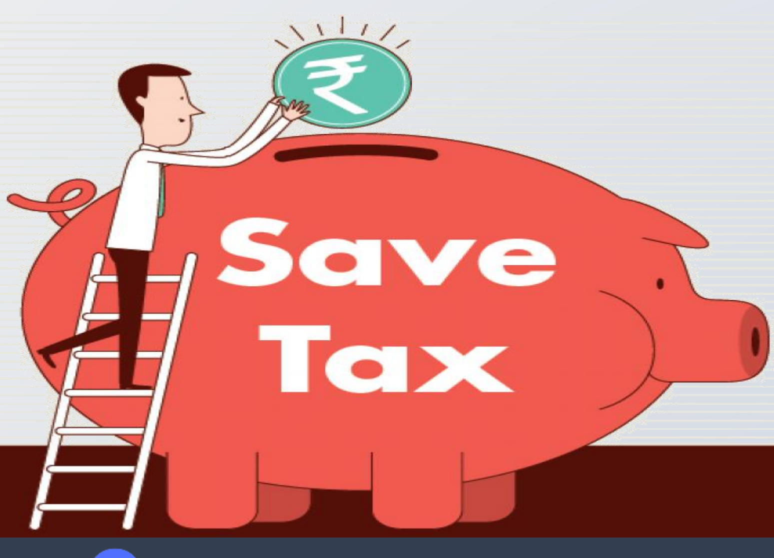
To Conclude

- With an ever increasing surveillance and use of technology, tax evasion is no longer an option.

- However, taxpayers can take benefit of New Tax Regime to save their tax liability. Since the option is non-revocable, it is important to carefully analyse the implications before opting for New Tax Regime.

- Concessional tax rate of 15% for new manufacturing companies can act as a major booster for ‘Make in India’ initiative. Considering the Covid-19 environment and disruption caused to supply chain, the existing businesses can consider setting up their manufacturing unit for raw materials, instead of depending on imports.

- Abolition of Dividend Distribution Tax can be beneficial for small taxpayers, but may increase liability for taxpayers in higher tax bracket.



How We can Contribute

- As Shiv & Associates, we can assist you in determining your tax liability under both new and old tax regime.

- We can guide you in evaluating both the options and choosing one, best suited to your needs.

- We can help you to plan your taxes to minimise your tax liability as well as ensuring 100% compliance of the statutory provisions.

- Our team ensures completion of tax audit in a diligent and timely manner, to avoid any hassles in future.

- We can also assist you regarding tax compliances, pending refunds and demand notices.

THANK YOU

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