

Circular No. 1 /2016

*Government of India
Ministry of Finance
Department of Revenue
Central Board of Direct Taxes*

North Block, New Delhi, the 13th February, 2016

Subject: Clarification of the term 'initial assessment year in section, 80IA (5) of the Income-tax Act, 1961

Section 80IA of the Income-tax Act, 1961 ('Act'), as substituted by the Finance Act, 1999 with effect from 01.04.2000, provides for deduction of an amount equal to 100 % of the profits and gains derived by an undertaking or enterprise from an eligible business (as referred to in sub-section (4) of that section) in accordance with the prescribed provisions. Sub-section (2) of section 80IA further provides that the aforesaid deduction can be claimed by the assessee, at his option, for any ten consecutive assessment years out of fifteen years (twenty years in certain cases) beginning from the year in which the undertaking commences operation, begins development or starts providing services etc. as stipulated therein. Sub-section (5) of section 80IA further provides as under

"Notwithstanding anything contained in any other provision of this Act, the profits and gains of an eligible business to which the provisions of sub-section (1) apply shall, for the purposes of determining the quantum of deduction under that sub-section for the assessment year immediately succeeding the initial assessment year or any subsequent assessment year, be computed as if such eligible business were the only source of income of the assessee during the previous year relevant to the initial assessment year and to every subsequent assessment year up to and including the assessment year for which the determination is to be made".

In the above sub-section, which prescribes the manner of determining the quantum of deduction, a reference has been made to the term 'initial assessment year'. It has been represented that some Assessing Officers are interpreting the term 'initial assessment year'

as the year in which the eligible business/ manufacturing activity had commenced and are considering such first year of commencement/operation etc. Itself as the first year for granting deduction, ignoring the clear mandate provided under sub-section (2) which allows a choice to the assessee for deciding the year from which it desires to claim deduction out of the applicable slab of fifteen (or twenty) years.

The matter has been examined by the Board. It is abundantly clear from sub-section (2) that an assessee who is eligible to claim deduction u/s MA has the option to choose the initial/ first year from which it may desire the claim of deduction for ten consecutive years, out of a slab of fifteen (or twenty) years, as prescribed under that sub-section. it is hereby clarified that once such initial assessment year has been opted for by the assessee, he shall be entitled to claim deduction u/s 801A for ten consecutive years beginning from the year in respect of which he has exercised such option subject to the fulfillment of conditions prescribed in the section. Hence, the term 'initial assessment year' would mean the first year opted for by the assessee for claiming deduction u/s 801A. However, the total number of years for claiming deduction should not transgress the prescribed slab of fifteen or twenty years, as the case may be and the period of claim should be availed in continuity.

The Assessing Officers are, therefore, directed to allow deduction u/s 801A in accordance with this clarification and after being satisfied that all the prescribed conditions applicable in a particular case are duly satisfied. Pending litigation on allowability of deduction u/s 80 IA shall also not be pursued to the extent it relates to interpreting 'initial assessment year' as mentioned in sub-section (5) of that section for which the Standing Counsels/DRs be suitably instructed.

The above be brought to the notice of all Assessing Officers concerned,

The impact of the above circular is illustrated with an example in the next post.

T G Suresh

X Ltd in an eligible assessee for claiming deduction u/s 80 IA. It commenced operations from AY 10 -11. The profits/losses for the AY 10 – 11 to AY 13 14 are as under :

AY 10 11	LOSS 100 LACS
AY 11 12	LOSS 200 LACS
AY 12 13	LOSS 400 LACS
AY 13 14	PROFIT 700 LACS

All the losses have been set off with other business income / IOS in respective Asst. years.

The company wants to claim 80 IA from AY 13 14. (wants to choose AY 13 14 as the initial asst. year)

AY	INCOME/LOSS (In lacs)		80 IA (at present done in most cases)	Impact of the circular
AY 10 11	Loss 100	Not opted	-	
AY 11 12	Loss 200	Not opted	-	
AY 12 13	Loss 400	Not opted	-	
AY 13 14	Profit 700	Chosen as Initial Asst. year	700-100-200-400 = nil	700 *

- No need to adjust the loss as AY 13 14 is opted as first year for claiming 80 IA.

For further clarifications mail tgs@sandbca.com