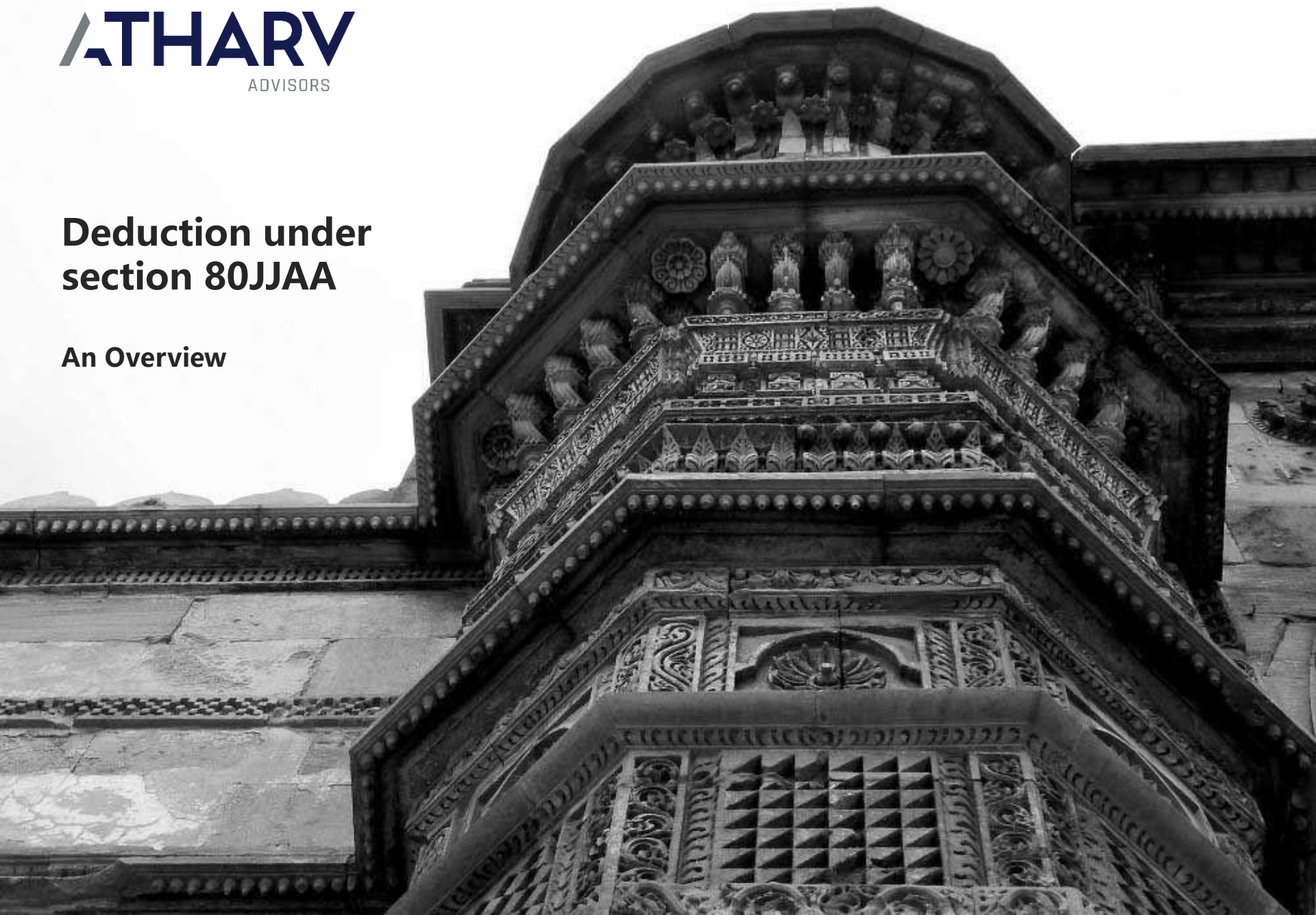


Deduction under section 80JJAA

An Overview



Section 80JJAA

A tax incentive for employment generation

- ❖ Section 80JJAA of the Income Tax Act, 1961 ('ITA') is a tax incentive which provides tax deduction from income from business of a company for the employment of new employees
- ❖ Section 80JJAA was introduced by Finance Act (No. 2) Act, 1998 with the intent of providing fiscal incentives to employers and encouraging them to create more employment opportunities
- ❖ Tax deduction under section 80JJAA is a much less talked and less popular, irrespective of the fact that this deduction, if claimed, can provide deduction **upto 90% of the expenses incurred towards salaries and wages paid to the new employees**
- ❖ Apart from achieving social objectives of employment generation, deduction under section 80JJAA actually gives incentive in the form of 'cashback' to the employer by lowering his tax outgo for generating new employment
- ❖ However, there are many conditions which the company needs to fulfil before any tax deduction is claimed under section 80JJAA to prevent abuse of the deduction and the company should claim the deduction in a fair manner



Who is eligible claim tax deduction ?

Particulars	Criteria
Who is eligible to claim?	❖ Can be claimed by any taxpayer (i.e., individual, HUF, firm, LLP, company): ▶ having income from business; ▶ liable for tax audit (under section 44AB); and ▶ there is increase in the number of employees compared to total employees employed as on the last day of the preceding year ❖ Business should not be formed by splitting up, reconstruction, re-organization of an existing business
What is the tax deduction available?	❖ 30% of additional employee cost for 3 consecutive years, including the year in which the employment is provided

Key Points

- ❖ Tax incentive is available even if there is addition of one new employee during the year. In other words, there is no requirement of joining of any minimum number of employees.
- ❖ Taxpayer having income from “profession” cannot claim tax deduction under this section

Case Study 1 – Eligibility to claim tax deduction

Particulars	Scenario A	Scenario B	Scenario C	Scenario D
Total no. of employees as on 1 April 2021	100	100	100	100
Add: No. of employees joined during the year	20	30	40	40
(Less): No. of employees left during the year	(25)	(30)	(30)	(30)
Total no. of employees as on 31 March 2022	95	100	110	110
Whether liable for tax audit?	Yes	Yes	No	Yes
Whether eligible for tax deduction u/s 80JJAA?	No (since there is no increase in employees as on 31.03.2022)	No (since there is no increase in employees as on 31.03.2022)	No (since company is not liable for tax audit)	Yes



Which employees are eligible ?

Particulars	Criteria
Who would qualify to be an “additional employee”?	❖ Tax deduction is available for salary payment made to “additional employees” employed during the year. Question arises that who should qualify as “additional employees”? ❖ “Additional employee” means - ▶ employees whose employment has the effect of increasing the total number of employees compared to the last day of the preceding year; ▶ employees whose total salary are less than Rs. 25,000 per month; ▶ employees employed for a period of more than 240 days during the year; ▶ employees who participate in the recognized provident fund; and ▶ employees whose EPS contribution is not paid by the Government

Key Points

- ❖ Where an employee is employed for a period of less than 240 days during the year, but is employed for 240 days in the immediately succeeding year, he shall be deemed to have been employed in the succeeding year
- ❖ Contractual or part-time employees do not participate in PF and hence salary paid to them shall not be eligible for tax deduction

What employee costs are eligible?

Particulars	Criteria
What employee costs are eligible?	❖ Any amount paid to an employee in lieu of his employment would qualify for employee costs ❖ This however excludes following - ▶ Employer's contribution to Pension Fund, Provident Fund or any other fund; ▶ Any lump sum payment at the time of (i) termination of service; or (ii) superannuation or (iii) voluntary retirement (like gratuity, severance pay, leave encashment, voluntary retrenchment benefits, commutation of pension, etc.) ❖ Employee costs paid in cash shall not be eligible for tax deduction
Reporting requirements	❖ A report from the accountant in Form No. 10DA needs to be mandatorily furnished 1 month before the due date of filing of income-tax return ▶ Form 10DA needs to be filed online on e-filing portal with digital signature (DSC)

Tax deduction under section 80JJAA is allowed even if the taxpayer opts for concessional tax of 22% or 15% under section 115BAA or 115BAB respectively

Case Study 2 – Calculation of additional employees

The Company has 100 employees as on 31 March 2021. During FY 2021-22, the company hired additional 50 employees, thereby increasing employee count to 150 employees as on 31 March 2022.

Details of 50 additional employees hired during FY 2021-22 and computation of tax deduction thereto is as below:

Additional employees	Monthly Salary	Employment period	Participation in EPF?	Mode of payment	Tax Deduction u/s 80JJAA
25	Rs. 24,000	250	Yes	Electronic	Rs. 16,20,000 (25 * Rs. 24,000 * 9 months * 30%)
5	Rs. 28,000	300	Yes	Electronic	Nil Salary > Rs. 25,000
10	Rs. 20,000	230	Yes	Electronic	Nil Employment period < 240 days (Refer Note)
6	Rs. 22,000	260	No	Electronic	Nil No participation in EPF
4	Rs. 10,000	270	Yes	Cash	Nil Salary payment in cash
Total tax deduction under section 80JJAA					Rs. 16,20,000

Note: Where the employees are employed for more than 240 days in the next year, they shall be eligible for deduction from the succeeding year.

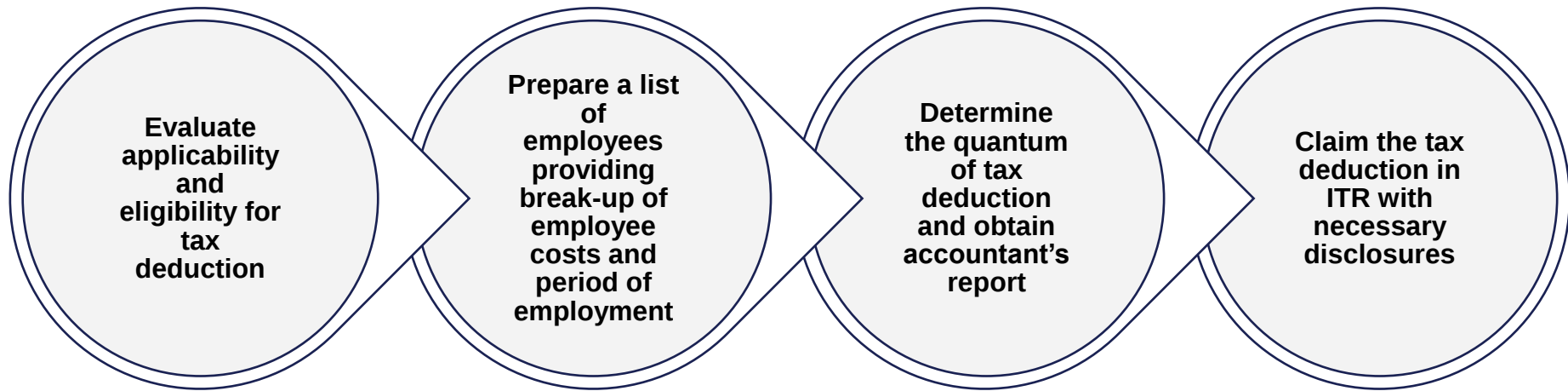
Out of 50 additional employees hired during FY 2021-22, salaries of only 25 employees are eligible for tax deduction under section 80JJAA, which comes to Rs. 16,20,000

Case Study 3 – Calculation of eligible employee costs

Particulars	Break-up of monthly CTC (in Rs.)	Eligible employee costs (in Rs.)
Basic salary	17,000	17,000
Bonus / Exgratia even if paid annually	2,000	2,000
Monthly allowances like house rent Allowances, conveyance allowance, leave travel allowance, special allowance, etc.	3,000	3,000
Reimbursements like medical or telephone reimbursements, etc.	2,500	2,500
Employer's contribution to EPS and EPF	2,000	-
Payment at the time of termination of service like gratuity, severance pay, leave encashment, voluntary retrenchment benefits, commutation of pension, etc.	5,000	-
Total	31,500	24,500

While the total monthly CTC of an employee comes to Rs. 31,500, still salary paid to the employee would be eligible for tax deduction under section 80JJAA to the extent of Rs. 24,500

Way forward...



Note that the accountant's report in Form No. 10DA needs to be filed 1 month before the due date of filing of income-tax return



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