MINIMUM ALTERNATIVE TAX IN INDIA: A COMPARATIVE STUDY WITH DIRECT TAX CODE.

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Abstract: *"When an existing rules have to be replaced with new code, the changes must be dramatic and path breaking." If proposed DTC implemented, it will become the new Income Tax Act, replacing the existing five decades old IT Act of 1961. The presumptive income concept is used in many jurisdictions though the economic basis differs as we move from one country to another country. The aim of DTC is to eliminate distortions in the tax structure, to introduce moderate levels of taxation, to expand the tax base, to improve tax compliance, to simplify the tax language and lower tax litigations. On behalf of achieving these objectives some alterations in the provisions required. Even tax management is a value-maximizing activity, given that the benefit is only realized in the long run and can be uncertain.*

Proposed DTC bill has 319 sections and 22 schedules. There are 298 sections and 14 schedules in existing IT Act. ***The proposed Direct Tax Code is a combination of major tax relief and removal of most tax-exempted benefits. It is expected to usher in a new tax regime of transparency and greater compliance.*** *Every tax offenses under the Code will be punishable by imprisonment and also with fine, when one who commits fraud by unfair means. Defaulters punishable by one hand and on the other hand it proposes to punish tax consultants who help in tax evasion.*

Key Words: *DTC, MAT, Tax Planning, Income Tax, Assets Based Tax.*

1. INTRODUCTION:

"MAT is Mandatory for companies both in existing and DTC".

The **Direct Taxes Code** (**DTC**) is said to replace the existing Indian Income Tax Act, 1961. "When an existing rules have to be replaced with new code, the changes must be dramatic and path breaking" - Union Finance Minister Pranab Mukherjee conveyed to all taxpayers when he introduced the draft Direct Tax Code. The new IT Act was to be come into force from April 1, 2011, but not implemented. Finally, Indian Finance Minister was confirmed that the new Direct Taxes Code (DTC) will be implemented on April 1 2012, which is in the process of being reformed, will also be tabled in the parliament in the current year, but still it is in purview with 5 years of discussing the issue, and the Goods and Services Tax (GST) was introduced on 1st July 2017. If passed, it will become the new Income Tax Act, replacing the existing four decades old IT Act of 1961.

The aim of DTC is to eliminate distortions in the tax structure, to introduce moderate levels of taxation, to expand the tax base, to improve tax compliance, to simplify the tax language and lower tax litigations. As per the basic information/analysis, it shows that most of these objectives are achievable by altering of some provisions. Even tax management is a value-maximizing activity, given that the benefit is only realized in the long run and can be uncertain. The Direct Taxes Code (DTC) is slowly being put to deeper scrutiny. As some of the changes may be ushered in with good intention, but drafting leaves the door open for needless litigation. MAT was calculated as a percentage of book profit. The percentage was changed and revised from time to time to match the changing circumstances.

2. LITERATURE REVIEW:

Singh R P & Rampuria C K Minimum Alternate Tax (MAT), in the layman's point of view, is the minimum amount of tax that a company has to pay, even if it is not liable to pay any tax as per the normal tax computation. In this article author has argued that application of MAT on profitable companies results in a higher tax outflow than what would have been payable under normal computation and as a result the retained earnings available for investment activities goes down. Author has also stated, while arguing for abolition of MAT, that the so-called zero tax companies (who have to pay MAT) are amongst the largest contributors to the national exchequer.

Anil H & Harish D M says that the insertion of Explanation 1 (j) provides that where the amount standing in the revaluation reserve on the sale of the revalued asset, has not been credited to the Profit and loss account, such amount shall be added to the net profit for the purposes of computation of book profit. The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances.

Clausing K A and Lahav Y (2011) Under a formulary apportionment system of taxing multinational corporate income, U.S. tax liabilities would be based on the product of a multinational firms worldwide income and the fraction of their real activities that occur in the United States – typically, an average of asset, payroll, and sales shares. This analysis utilizes financial reporting data for 50 large U.S. multinational firms to analyze how tax payments would change under a possible formulary system, updating Shackelford and Slemrod (1998). Our time period is 2005–2007 instead of 1989–1993.

Crane S (1990) this paper examines the effect of marginal tax rates on income tax evasion using data from the California Tax Amnesty Program. After correcting for the selectivity bias, we find that evaders respond to higher tax rates by increasing their evasion activity. We also find that individuals with higher levels of income tend to evade more.

Ronald C F, John H G, and Young J C (1989) Do tax amnesties generate revenue that would not otherwise be collected? Will tax amnesties provide continuing future revenue gains? And is an amnesty appropriate in the transition to a new tax enforcement regime? It appears that amnesties are not particularly effective in identifying tax evaders, so that any long-term revenue gains are likely to be small. But amnesties are appropriate in easing the transition to enhanced enforcement and seem to generate immediate revenue efficiently.

Jamese L (1990) a national sample of individual tax return is employed to investigate whether the dollar amount of IRA contributions is related to the marginal tax rate. Taxpayers residing in low-tax states are found report smaller IRA deductions on average than residents of high-tax states. This simple evidence of a positive tax rate effect on IRA contributions is confirmed by econometric estimation using an instrumental variable approach to identify the tax rate impact on contributions. An important implication of the paper is that private saving is positively related to the net rate of return.

Domar and Musgrave (1944) such a tax would reduce risk-taking only given that the tax treatment of losses is punitively asymmetric. Otherwise, a tax on profits might induce decision makers to increase pre-tax risk positions in order to restore the after-tax positions they had in absence of the tax. Note also that ex post increases in the generosity of the tax treatment of losses is a form of taxpayer bail-out.

From the above papers the following research gap can be identified. The above analysis of paper shows us direction for further research. i.e., the most of the research already done in the area of MAT are very conceptual in nature and could not show any empirical study in Indian scenario. And hence the study concentrates on analyzing provisions and impact of MAT on government revenue. Finally the study concluded with comparison of existing provision of MAT and upcoming provision of MAT under DTC.

The paper highlights the issues on -

- To know the provisions of MAT under upcoming Direct Tax Code.
- To understand the changes between an existing MAT provision and MAT under DTC.
- To compare the MAT provision in different situation and in different period.
- Applicability of imposing MAT on company assessees' in proper payment of tax.

3. RATE OF MAT:

It is provided that in case of company (domestic or foreign) , if the income-tax payable on the total income computed under the Income-tax Act, is less than 18.5% of its book profit, such book profit shall be deemed to be the total income of the assessee and the tax payable by the assessee on such total income shall be the amount of income-tax at the rate of 18% (add surcharge, if applicable, i.e. 7.5% for domestic companies and 2.5% for foreign companies, where the total income exceeds Rs.1 crore) and Education cess @2% and secondary and higher education cess@1% shall be added on the aggregate of income-tax and surcharge.

The rate at which MAT is charged has been increasing since its inception. Following table shows the rates of MAT since it was introduced for the first time:-

Assessment Year	Rate of MAT (% of Book Profit)
2001-02	7.5
2002-03	7.5
2003-04	7.5

2004-05	7.5
2005-06	7.5
2006-07	7.5
2007-08	10
2008-09	10
2009-10	10
2010-11	15
2011-12	18
2012-13	18.5
2013-14	18.5
2014-15	18.5
2015-16	18.5
2016-17	18.5

Table-1: MAT Rate in India

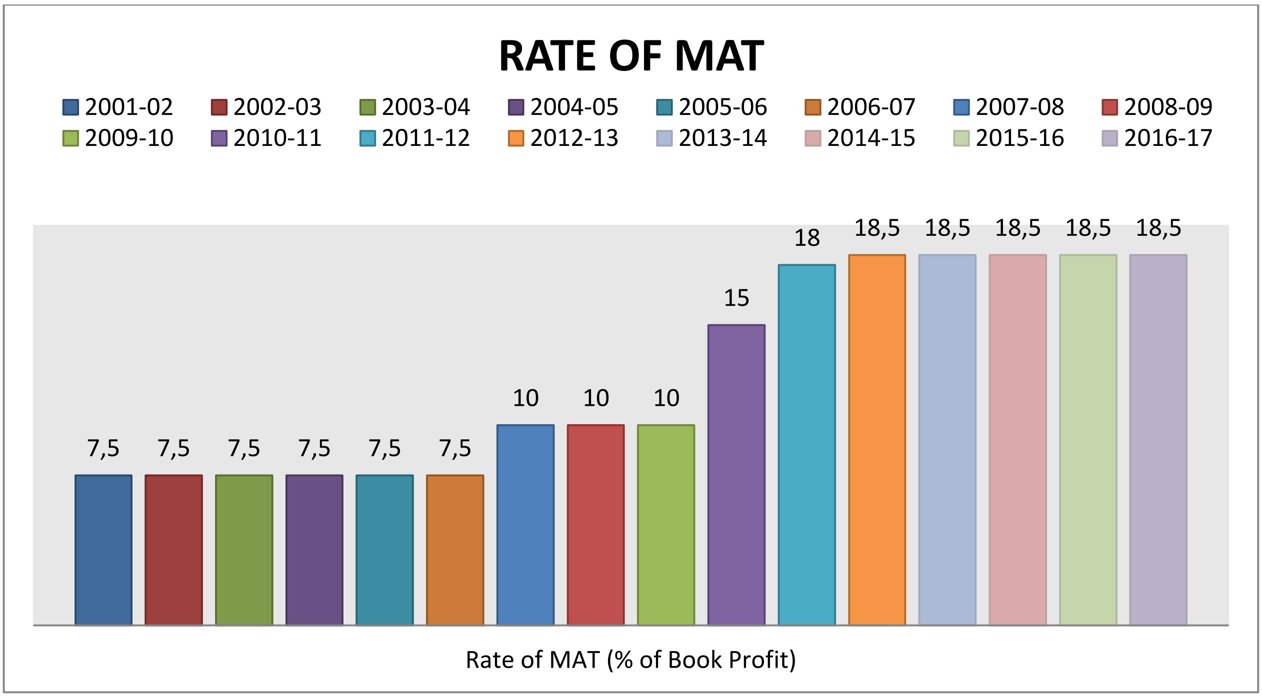

Figure-1: Percentage of MAT rate in India

4. Existing I T Provision:

As per the present provisions in the Income Tax Act the minimum alternate tax is payable at the rate of 18.5% of the book profits of the company. Sec 115 JB provides that such book profit shall be deemed to be the total income of the assessee and the tax payable by the assessee on such total income shall be the amount of income-tax at the rate of 15%. For calculating the book profits the assessee is required to prepare its profit and loss account in accordance with the provisions of part II and III of Schedule of Companies Act, 1956.

5. Direct Tax Code Provision:

The Direct Tax Code (DTC) provided for the computation of MAT on the basis of "value of gross assets" of the company proposing to replace the age old practice of basing the MAT on book profits. It has been proposed in the DTC that the "value of gross assets" will be the aggregate of the value of gross block of fixed assets of the company, the value of capital works in progress of the company, the book value of all other assets of the company.
Another major problem is the definition of the value of gross assets which also include non revenue generating items like capital work in progress, thereby distorting the tax base. **The newly crafted Minimum Alternate Tax (MAT) is a case in point. Ever since Rajiv Gandhi unleashed the book profits tax on India Inc. in 1987, it has generated controversies galore and kept all the courts busy interpreting the intention and scope of the provision.**

6. Direct Tax Code (DTC) and MAT:

"People will pay less tax, but evasion will be difficult".

Proposed DTC bill has 319 sections and 22 schedules. There are 298 sections and 14 schedules in existing IT Act. For the purpose of dividends the company uses book profit which is calculated as per the Companies Act.

Because of this difference, there were many companies which had book profits as per their profit and loss account but were not paying any tax because income computed in accordance with the Income Tax Act provisions was either nil or negative. Although the companies were showing book profits and declaring dividends to the shareholders, they were not paying any income tax. Such companies are often termed as Zero Tax Companies.

Minimum Alternate Tax is the tax paid by the companies even when they have zero or negative income as per the income tax provisions. The companies pay tax on the income calculated as per the provisions of the Income Tax Act. Many a times the incentives and exemptions provided for in the Income Tax Act are used in such a way that the income of the companies come out to be negative or insignificant. **The proposed Direct Tax Code is a combination of major tax relief and removal of most tax-exempted benefits. It is expected to usher in a new tax regime of transparency and greater compliance.** For the corporate world, the proposed reduction in the tax rate to 25 per cent from the existing 30 per cent is certainly good news and will help lowering the tax burden of Indian companies in a big way. But at the same time the Tax Code proposes to do away with many exemptions that help lowering the tax.

The **Direct Taxes Code (DTC)** itself an opportunity to do some out-of-box thinking and challenge established. One such area is planning for Minimum Alternate Tax (MAT) and Dividend Distribution Tax (DDT). MAT is being marginally increased to 20% (from the existing 19.93%) on book profits. The code proposes to treat capital gains as business income. Losses would be allowed to be carried forward indefinitely. To compensate the decline in surcharge, the Minimum Alternative Tax (MAT) rate has been increased to 18.5 percent from 18 percent.

7. MAT under DTC:
Highlights of the Direct Taxes Code bill on MAT

- **Corporate Tax to remain at 30 per cent but without surcharge and cess.**
- **MAT to be 20 per cent of book profit, up from 18.5 per cent.**
- **However, many provisions in Income Tax Act will be a part of DTC as well.**

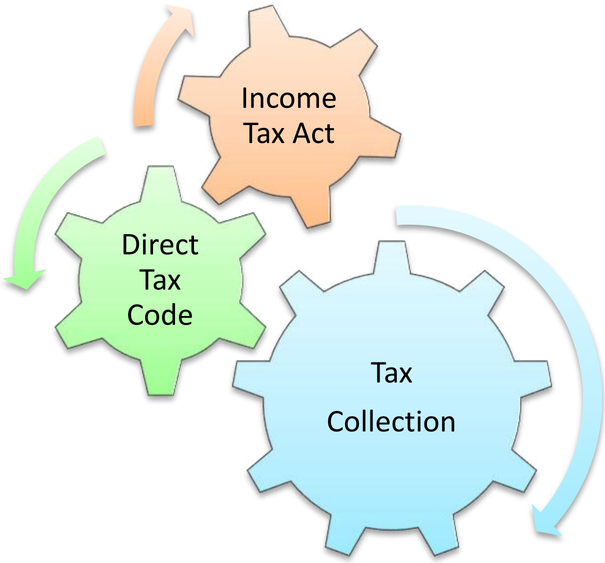

Figure-2: Tax Collection under ITA and DTC

Most tax analysts had expected that MAT rate could see an even steeper hike in the DTC regime as the policy in recent years has been to align the MAT rate with the corporate tax rate. The extant 18% MAT rate turns out to be 20% due to the surcharge and cess. But not exactly overjoyed with the information that the corporate tax rate in the new regime would be 30% sans most exemptions, instead of 25% proposed in the original draft of the direct taxes code (DTC). More and more companies would now start paying MAT as the rate differential between it and corporate tax has narrowed down. Also, there is little space left for most companies to claim exemptions, except some in specified infrastructure industries.

The Tax Code is good and valuable in giving relief to tax payers and it will also make life miserable for those who evade tax (Tax Evasion) through fraudulent means. It proposes that every tax offenses under the Code will be punishable by imprisonment and also with fine, when one who commits fraud by unfair means. Defaulters punishable by one hand and on the other hand it proposes to punish tax consultants who help in tax evasion. It gives more powers and protection to Income Tax officials in case of court proceedings on matters relating to tax offences. In general, the effect of tax rules can be either to increase or lighten the after-tax cost of certain types of conduct, depending on the structure of the rules.

8. FINDINGS:

- First, tax planning can be complex and opaque. This possibly allows for managerial opportunism.
- Tax planning involves significant uncertainty, and may not immediately benefit a company's performance.
- The government had dropped its controversial plan to levy MAT on the value of gross assets in the revised discussion paper. The retention of book profits as the MAT base would be a relief to corporate, especially infrastructure players and those in capital-intensive businesses.
- Expected to provide the government with the ammunition to raise MAT rate steeply from 18% at present to even 25% – the corporate tax rate prescribed in the original DTC draft. So, if the DTC Bill has proposed a 20% MAT sans any surcharge.
- An effective tax risk mitigation capability including the business relationship with the applicable tax jurisdictions.
- The economic rationale of "assets-based tax" is that it serves as an incentive for efficiency. If that be so then the normal tax itself should serve the purpose.

9. CONCLUSION:

The **Direct Taxes Code** (**DTC**) is said to replace the existing Indian Income Tax Act, 1961. The effectiveness of any tax schedules and scheme depends on its comprehension and acceptance. The economic rationale of "assets-based tax" is that it serves as an incentive for efficiency. If that be so then the normal tax itself should serve the purpose. It tries to understand the changes between an existing MAT provision and MAT under DTC. It explains the comparison between the MAT provision in different situation and in different period. The scope of this study has been limited to understanding the awareness and perception about MAT in different streams engaged in the business world. Another set of issues is to ensure transparency and quality of administration in the tax area. It is to sum up that DTC reinstates Book Profit as the basis of calculating MAT and even the aggregate rate is applicable under DTC for MAT.

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