

Tax treatment of foreign companies clarified

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The Central Board of Direct Taxes released a notification on 22 June under section 115JH of the Income Tax Act, 1961 (ITA), which provides tax consequences for foreign companies considered to be resident in India by virtue of the place of effective management (POEM) test. The notification provides the specifics for computation of income, treatment of unabsorbed depreciation and set off or carry forward of losses, etc. At the time the POEM test was introduced in the ITA for determination of tax residence of foreign companies, section 115JH was also introduced as a special provision in relation to tax treatment of foreign companies considered to be resident in India by virtue of the POEM test.

Among other things, this notification provides for: (1) written down value and brought-forward loss, (2) foreign tax credits, (3) conflict between provisions, (4) rate of tax, etc., for foreign companies determined to have POEM in India.

The business law digest is compiled by Nishith Desai Associates (NDA). NDA is a research-based international law firm with offices in Mumbai, New Delhi, Bengaluru, Singapore, Silicon Valley, Munich and New York. It specializes in strategic legal, regulatory and tax advice coupled with industry expertise in an integrated manner.