

## FSIA E-circular dt. 21.5.2013

(Special **30% Bonus** ( Additional Deduction ) for employing more “Blue Collar Workers” in your Factory (Section 80JJAA )

### **Faridabad Small Industries Association**

*The face of Modern Indian MSMEs*

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### **Integrated Association of Micro, Small & Medium Enterprises of India**

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Rajive Chawla  
President, FSIA



Sangeet Kr Gupta  
Hon. Consultant, FSIA

Dear FSIA Members,

**Do you know that if you are a large employer , you can get 30% Bonus ( Additional Deduction ) for “additional” wages paid ( Section 80JJAA )**



#### **Short Summary**

- If your factory has more than 100 workers, and you employ additional workers in any year ( Minimum increase required = 10% )
- Then you get 30% extra Deduction. ( Whatever extra wages you pay )
- And you get this for next 3 years.
- “Contractor employees” are not covered here.
- Government incentives factories to employ more people, “formally” and “directly”
- Those of you who can use this, do use.

Note : In this year’s Budget, the Government has specifically inserted the words “in the factory”. Apparently, this has been done to avoid giving this rebate on the administrative, and non-factory staff salary. This amendment is w.e.f. AY 2014-15.

### **Other CONDITIONS:-**

1. The assessee must be an Indian company.
2. It must derive profit from an industrial undertaking engaged in the manufacture or production of article or things.
3. The industrial undertaking should not be formed by the splitting up or reconstruction of an existing undertaking or amalgamation with another industrial undertaking.
4. A report of a Chartered Accountant must be filed with the return of income.



### **HOW MUCH DEDUCTION:-**

30% of additional wages paid to the new regular workmen employed by the assessee in the previous year for three assessment year including the assessment year in which such employment is provided.

### **Meaning of “additional wages”:-**

1. **In the case of a new industrial undertaking –**  
‘Additional wages’ means the wages paid to the new regular workmen in excess of 100 workmen employed during the previous year.
2. **In case of an existing Industrial undertaking –**  
Meaning of ‘Additional wages’ is same of a new industry, but one more thing is to be noted that the additional wages shall not be NIL if the increase in the number of regular workmen employed during the previous year is less than 10% of existing number of workmen employed as on the last day of the preceding year.

### **Meaning of “regular workmen”:-**

It does not include –

1. A casual workmen
2. A workmen employed through contract labour
3. A workmen employed for less than 300 days during the previous year,

### **Meaning of “workmen”–**

Same as Industrial Disputes Act, 1947.

### **Notes:-**

1. This is a lesser used section. Many people don’t know about it.
2. The parliament has used three types of words at different places in the language of section, viz. (I) applying the rule of literal interpretation, we have to very careful while interpreting the language.
3. The language of section is not properly worded. It admits different interpretations; hence different authors have also made different calculations.
4. The deduction under this section is in addition of wages allowable to the assessee while computing income taxable under section 28.

Intrepretations and Clarifications on this matter in the case of

M/s Texas Instruments (India) Pvt. Ltd., vs DCIT, Bangalore (ITA No.1/Bang/2011)

**Regarding Education or Category of Workmen :**

This includes all workers and engineers who are not in “supervisory” or “managerial” role.

This thus included employees who had joined as engineers in their respective fields such as Systems Engineers, Test Engineer, Software Design Engineer, IC Design Engineer, Lead Engineer etc., deduction was claimed in respect of engineers who were not in the category of supervisory control;

**Concept of 300 working days**

Deduction u/s 80JJAA which was available in three yearly installments would be available only if the employees had worked for not less than 300 days in each of the years.

This case was pertaining to AY 05-06, so, the AO concluded that in AY 2005-06, deduction would be available only in r/o the wages paid to the following employees:

- (i) the new workmen employed during the FY relevant for the current AY and who have worked for at least 300 days during the year;
- (ii) the new workmen employed during the FY relevant for AY 2004-05 and who have worked for more than 300 days during this year; and
- (iii) the new workmen employed during the FY relevant for AY 2003-04 who have worked for more than 300 days during this year.



**CBDT Circular on this Topic**

Form 10DA, CBDT's Circular No.772 dated 23.12.1998 - clearly state that the new regular workmen must be in employment for at least 300 days to be eligible for deduction;

**Example of Transactions, where it will not be allowed**

- If an assessee merely employs the workmen in March 2013, and then removes them in June 2013, then this tax incentive will not be given.
- Workmen are recruited and retrenched by an employer assessee in order to merely reach the required percentage of newly employed workmen.

**Doctrine of Liberal Construction**

“Section 80JJAA was introduced to facilitate generation of new employment opportunities. An incentive was therefore offered to assessee giving employment to a specified minimum number of employees. The interpretation of the section should be in a manner which promotes the objective sought to be achieved and not frustrate it. Being a beneficial provision, it must be liberally construed. These were the guidelines given by the Supreme Court while dealing with deduction under section 80J in the case of Bajaj Tempo v CIT 196 ITR 188. The section is to be interpreted in a purposive manner”.

## Human Resource Management



### Case of workers who join after 5<sup>th</sup> June in an year

For a person to be a "new regular workman" he must have been in the first place a "regular workman". He could be a "regular workman" only if he has worked for 300 days in any year. If an employee has been recruited after 5th June of a financial year, he may not be regarded as a "regular workman" for that year as the criteria of employment for the minimum number of days would not be satisfied. This should not, prevent him from being regarded as a "regular workman" in the next year provided he has worked for more than 300 days in that year.

Having become a "regular workman" in the next year, the wages paid to him would then qualify for deduction. The deduction should be available for 3 consecutive assessment years from the year in which he becomes a "regular workman".

Note : As a final decision in this case dated 2011, the ITAT had given credence to the points of the assessee and reverted the case back to the CIT(A) for fresh consideration

### FSIA Notes

The object of s. 80JJA is indisputably to encourage employment in the organized sector. Target is to give more appointments and also to give long term employment.

### For queries, suggestions and feedback , you can e-mail us

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## Some Last Date Reminders

Event Date	Act	Applicable Form	Obligation
15/05/2013	Income Tax	Return 24Q, 26Q, 27Q & 27EQ	Filing of TDS/TCS returns for Mar Quarter by ALL Deductors including Govt.
15/05/2013	Provident Fund	Electronic Challan cum Return (ECR)	E-Payment of PF for Apr( Cheque to be cleared by 20th)
21/05/2013	ESI	ESI Challan	Payment of ESI of Apr
21/05/2013	M-VAT	MVAT Challan	Payment of VAT & WCT TDS under MVAT for Apr
21/05/2013	M-VAT	Form 231-235 & CST 1	Submission of MVAT return for Apr.
21/05/2013	D-VAT	DVAT-20 & Central	Deposit of VAT & CST for Apr
22/05/2013	D-VAT	DVAT – 43	Issue of DVAT certificate for deduction made in Apr
27/05/2013	D-VAT	Dvat – 51	DVAT-51 Filing for ALL quarters of 2011-12
28/05/2013	D-VAT	16 & 1 & Ack	Physical Return of VAT & CST for Apr
30/05/2013	Income Tax	Form 16A/ 27D	<b>Issue of TDS/TCS certificate for Mar quarter.</b> >> Important, pls remember, that now the TDS have to be compulsorily downloaded from the Govt TDS website
31/05/2013	Income Tax	Form 16	Issue of <b>TDS certificate to Employees</b> >> for employees Form 16 also, the Part A of the Form 16 is to be downloaded from Govt website

Event Date	Act	Applicable Form	Obligation
06/06/2013	Service Tax	Challan No.GAR-7	Payment of Service Tax for month ending May for corporate assesses making E-PAYMENT
07/06/2013	Income Tax	Challan No.ITNS-281	Payment of TDS/TCS deducted/collected in May
10/06/2013	Excise	ER-2	Return for EOUs for May
10/06/2013	Excise	ER-6	Return by units paying duty > 1 crore (CENVAT + PLA) for May
15/06/2013	Provident Fund	Electronic Challan cum Return (ECR)	E-Payment of PF for May ( Cheque to be cleared by 20th)
21/06/2013	ESI	ESI Challan	Payment of ESI of May
21/06/2013	M-VAT	MVAT Challan	Payment of VAT & WCT TDS under MVAT for May
21/06/2013	D-VAT	DVAT-20 & Central	Deposit of VAT & CST Tax for May
21/06/2013	M-VAT	Form 231-235 & CST 1	Submission of MVAT return for May
22/06/2013	D-VAT	DVAT - 43	Issue of DVAT Certificate for deduction made in May
30/06/2013	Income Tax	Form No. 26QAA	Return by Banks for interest upto Rs.5000 for Mar Quarter
30/06/2013	D-VAT	Dvat - 51	DVAT-51 Filing for ALL quarters of 2011-12

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