



# Draft of Proposed Notification under Section 115JG (1) of the Income-tax Act, 1961 issued in respect of conversion of Indian Branch of Foreign Bank into Indian Subsidiary company; Comments/suggestions of Stakeholders sought on Draft Notification by 30th November, 2017.

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The Finance Act, 2012 inserted a new Chapter XII-BB consisting of Section 115JG in the Income-tax Act, 1961 (the Act) which contains "Special provisions relating to conversion of Indian Branch of a Foreign Bank into a Subsidiary Company". Section 115JG of the Act, *inter alia*, provides that in case the conversion of Indian Branch of foreign bank fulfils the conditions notified by the Central Government, the capital gains arising from such conversion shall not be chargeable to tax and the provision relating to unabsorbed depreciation, set-off or carry forward and set-off of losses, tax credit in respect of tax paid on deemed income relating to certain companies and the computation of income in case of foreign company and Indian subsidiary shall apply with such modification, exception etc. as may be specified in the notification.

The Reserve Bank of India (RBI) released the "Scheme for setting-up of wholly owned subsidiaries (WOS) by foreign bank in India" (the Scheme) on 6th November, 2013. The Scheme, *inter alia*, provides the procedure for conversion of existing branches of Foreign Bank in WOS. A Foreign Bank is required to set-up a WOS in India and the Indian Branch shall amalgamate with WOS as per the Amalgamation Scheme approved by the shareholder of Foreign Bank and WOS which is sanctioned by the RBI.

In view of the above, it is proposed to issue Notification under Section 115JG(1) of the Act specifying the conditions to be fulfilled by the conversion and also specifying modifications, exceptions, in applicability of certain provisions of the Act to such conversion. In order to have wider consultations in this matter, the draft of proposed Notification has been uploaded on the website [www.incometaxindia.gov.in](http://www.incometaxindia.gov.in). The stakeholders are requested to send their comments/suggestions on the Draft Notification by 30.11.2017 to the email address [dirtpl2@nic.in](mailto:dirtpl2@nic.in).

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**DSM/SBS/KA**

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