

FOREIGN TAX CREDIT

- (1) An assessee, being a resident shall be allowed a credit for the amount of any foreign tax paid by him in a country outside India in the year in which the income corresponding to such tax has been assessed to tax in India.
- (2) **Foreign Tax Credit ('FTC')** shall be allowed if as per DTAA, foreign income is taxable in India as well as foreign country. If there is no DTAA, then FTC shall be allowed as per section 91.
- (3) FTC shall be available against the amount of tax, surcharge and cess payable under the Act **but not in respect of any sum payable by way of interest, fee or penalty.**
- (4) **No FTC** shall be available in respect of any amount of **foreign tax which is disputed** by the assessee.
- (5) The credit of foreign tax shall be given effect to in the following manner:
 - (i) **the credit shall be the lower of the tax payable under the Act on such income and the foreign tax paid on such income.** If foreign income is ₹ 10,00,000 on which tax is deducted in foreign country is ₹4,00,000 and tax on such income in India is ₹3,00,000, then FTC shall be allowed for ₹3,00,000 and not ₹4,00,000.
 - (ii) **the credit shall be determined by conversion of the currency of payment of foreign tax at the telegraphic transfer buying rate on the last day of the month immediately preceding the month in which such tax has been paid or deducted. (Therefore, if the tax was deducted in foreign country say on 10th Feb., 2023, then such tax shall be converted into Indian currency by applying TTBR of foreign currency on 31.1.2023)**
- (6) In a case where any tax is payable under MAT/ AMT, the credit of foreign tax shall be allowed against such MAT/ AMT in the same manner as is allowable against tax payable under the normal provisions of the Act.
- (7) MAT Credit/ AMT Credit shall be **reduced by** the following:

FTC available against MAT/ AMT MINUS FTC available against tax under the normal provisions

Illustration:

Particulars	Normal provision of the Act ₹	MAT/AMT ₹
Tax liability	200	500

FTC admissible/allowable	200	260
Balance tax payment	N.A.	240

MAT/AMT credit to be carried forward as under:

	₹
Tax liability as per MAT/AMT (A)	500
Tax liability as per normal provision of law (B)	200
MAT/AMT credit available (A-B=C)	300
Less: Excess foreign tax credit (300-200) (D)	60
Actual MAT/AMT credit allowed to be c/f (C-D)	240

SECTION 155(14A): RECTIFICATION ON SETTLEMENT OF DISPUTE OF FTC

- Where in the assessment for any previous year
- credit for income-tax paid in any country outside India has not been given
- on the ground that the payment of such tax was under dispute,
- and if **subsequently such dispute is settled;**
- and the **assessee, within 6 months** from the end of the month in which the dispute is settled,
- **furnishes to the Assessing Officer evidence of settlement of dispute and evidence of payment of such tax** along with an undertaking that no credit in respect of such amount has directly or indirectly been claimed or shall be claimed for any other assessment year,
- the **Assessing Officer shall amend the order** of assessment and the provisions of section 154 shall apply thereto.

It may be noted that **the credit of tax which was under dispute shall be allowed for the year in which such income is offered to tax or assessed to tax in India.**

Illustration

For assessment year 2019-20, tax was deducted in foreign country of ₹ 3,00,000 on foreign income of ₹ 10,00,000. There was a dispute on the allowability of this tax of ₹ 3,00,000, therefore, Assessing Officer did not allow credits of such FTC while making assessment under section 143(3) which was completed in 15.03.2021. The dispute is finally settled on 01.01.2021 and it is established that assessee is entitled to FTC of ₹ 3,00,000.

Now, Assessing Officer shall amend his order under section 143(3) and allow credit of FTC of ₹ 3,00,000 if:

- Assessee by 31.07.2022 furnishes to the Assessing Officer evidence of settlement of dispute and evidence of payment of FTC of ₹ 3,00,000
- Assessee also furnishes an undertaking that credit for the FTC has not been claimed and will not be claimed in any other assessment year.
- Assessee also proves that income of ₹ 10,00,000 on which FTC has been claimed has been offered to tax in Assessment Year 2019-20.

Assessing Officer shall amend his order under section 143(3) for assessing year 2019-20 and give credit of FTC in assessment year 2019-20 and amendment order shall be passed by Assessing Officer by 31.03.2025