

New Section 80JJAA Deduction for Salaries paid to New Employees

Section 80JJAA

Employ More – Save More

A benefit missed out by many

Attention Businessmen,

YOU CAN GET TAX BENEFITS FOR PAYING SALARY TO YOUR NEW EMPLOYEES!!

How?

Read below!

You must be wondering why a tax article is addressed to you! Well, the reason is that you are doing quite a bit for our nation by generating employment in a country like India which is right now facing an acute job crisis.

The Government of India, to promote employment generation activities, had introduced Section 80JJAA under Chp. VIA of Income Tax Act, 1961 which allows for deduction in respect of employment of new employees. Section 80JJAA enables an employer to enjoy tax sops or you can say – “cashback” for payment of salaries to new employees employed by him. These sops were first introduced in the year 2016 but were limited only to some specific assesseees. Later on the section was amended through various Finance acts to ultimately allow almost every business to enjoy benefits or rather deduction under this section.

Now, the problem is, many of you including many professionals are unaware of this deduction. Many may know about it but are ignorant of the same as this is a newly added section and a little complicated when compared with common deductions such as 80C/80D/80G etc.

To give you a glimpse of what you can save in terms of your Tax Liability, let's say you have hired 1 accountant in April 2019 with a net salary of Rs 2,00,000 per year. Then, as per calculations under this section, you are eligible for a deduction of Rs 60,000 each for 3 years starting from FY 2019-20 from your total income. This means, if you are a company taxed at 25%, you will end up saving Rs 15,000 in your final tax liability for 3 years.

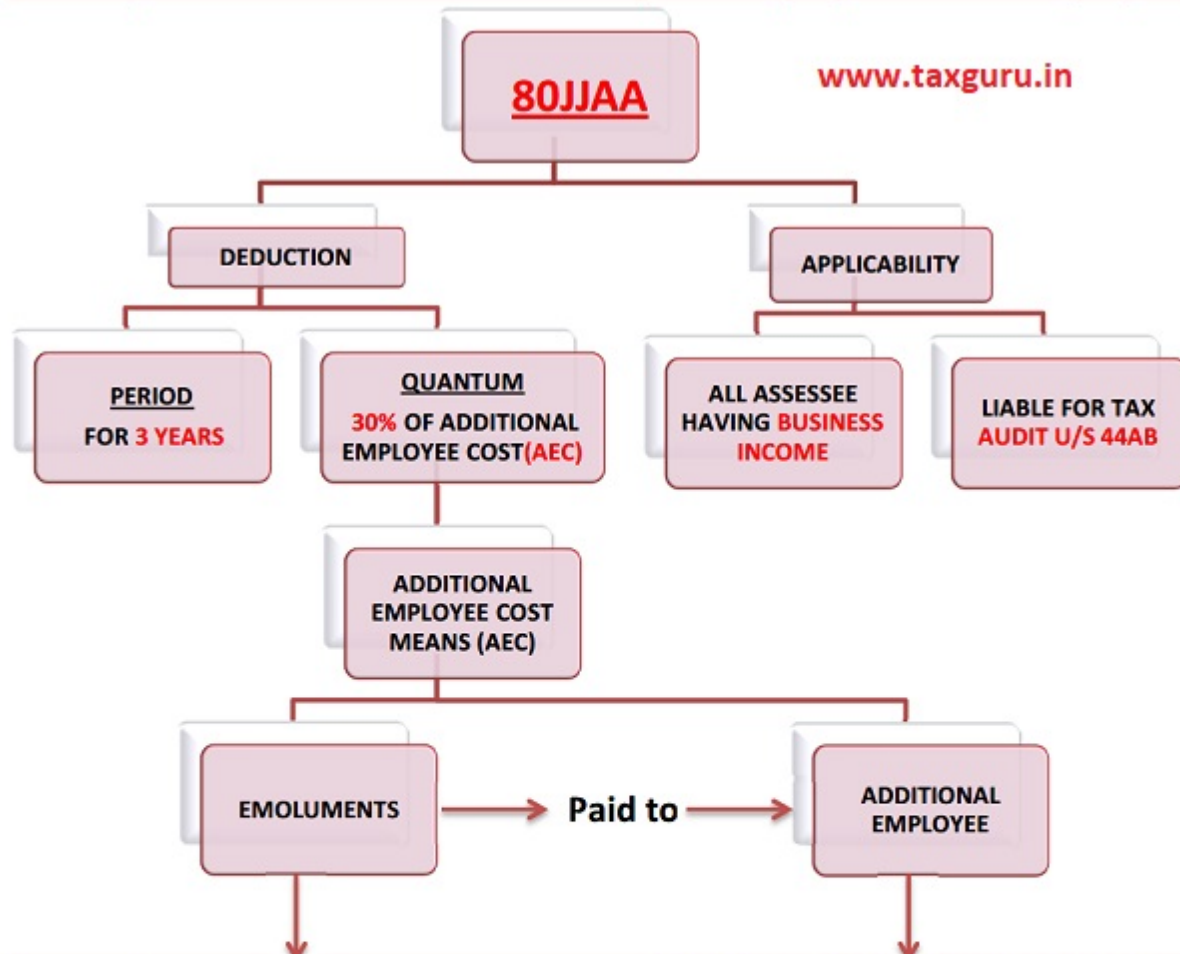
Hence, by paying a salary of Rs 2,00,000, you save Tax of Rs 45,000 (approx.).

A RUN-DOWN TABLE OF DEDUCTION UNDER SECTION 80JJAA

| | | | |
|---------------------------------------|--|--|--|
| APPLICABILITY | Any assessee having income from business and liable for tax audit u/s 44AB | | |
| DEDUCTION | QUANTUM | 30% of <u>additional employee cost</u> incurred during the previous year in course of business | |
| | PERIOD OF DEDUCTION | Deduction is available for <u>3 assessment years</u> starting from the year in which the employment is provided. | |
| ADDITIONAL EMPLOYEE COST (AEC) | MEANING | “Additional Employee Cost” (AEC) = Total <u>Emoluments</u> paid or payable to Additional | |
| | | Employees employed during the previous year | |
| | OTHER POINTS | <u>In case of Existing Business:</u> AEC = 0 (NIL), IF- 1. There is no increase in number of Employees from total number of employees employed as on last day of the preceding year, OR 2. Emoluments are paid otherwise than by – Account payee cheque OR – Account payee bank draft OR – ECS through a bank account. | <u>In case of First Year of Business:</u> AEC = All Emoluments Paid/payable to employees employed during that first year. |
| ADDITIONAL EMPLOYEE | INCLUDE | An employee who has been employed during the previous year & whose employment has the effect of increasing the total number of employees employed as on the last day of the preceding year | |
| | EXCLUDE | (a) an employee whose total emoluments are more than INR 25000 per month; or (b) an employee for whom the entire contribution is paid by the Government under the Employees’ Pension Scheme | |

| | | |
|---------------------|---|---|
| | | <p>notified in accordance with the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952); or</p> <p>(c) an employee employed for a period of less than 240 days during the previous year [150 days in the case of an assessee who is engaged in the business of manufacturing of apparel or footwear or leather products]; or</p> <p>(d) an employee who does not participate in the recognised provident fund</p> |
| | OTHER POINTS | Where an employee is employed during the previous year for a period of less than 240 days or 150 days, as the case may be, but is employed for a period of 240 days or 150 days, as the case may be, in the immediately succeeding year, he shall be deemed to have been employed in the succeeding year and the provisions of this section shall apply accordingly |
| EMOLUMENTS | INCLUDE | Any sum paid or payable to an employee in lieu of his employment e.g. salary, bonus etc. |
| | EXCLUDE | <p>(a) any contribution paid or payable by the employer to any pension fund or provident fund or any other fund for the benefit of the employee under any law; and</p> <p>(b) any lump-sum payment paid or payable to an employee at the time of termination of his service or superannuation or voluntary retirement, such as gratuity, severance pay, leave encashment, voluntary retrenchment benefits, commutation of pension etc.</p> |
| NO DEDUCTION | <p>(a) if the business is formed by splitting up, or the reconstruction, of an existing business; or</p> <p>(b) if the business is acquired by the assessee by way of transfer from any other person or as a result of any business re-organisation; or</p> <p>(c) unless the assessee furnishes alongwith the return of income the report of the chartered accountant, as defined in the Explanation to section 288 i.e.</p> | |

Summary of Section 80JJAA- Deduction in respect of employment of new employees



| | | |
|----------------|--|--|
| Meaning | Salary paid/payable to an employee | Employee employed during the current year due to which net total number of employees has been increased from last year |
| Exclude | Pension/such other contributions by the Assessee for benefit of employee | Employee with Salary > Rs. 25000 per month |
| | Lump-sum payments at the time of retirement/superannuation | Employee Employed < 240 days* |
| | | An employee for whom entire Pension contribution is paid by the Government |
| | | An employee who does not participate in the Recognised provident fund (EPF) |

*where an employee is employed < 240 days in Current year, but is employed > 240 days in the immediately succeeding year, he shall be deemed to have been employed in the succeeding year and the provisions of this section shall apply accordingly.

No Deduction :-

- a) if the business is formed by splitting up, or the reconstruction, of an existing business; OR
- b) if the business is acquired by way of transfer from any other person or as a result of any business reorganisation; OR
- c) unless the assessee furnishes alongwith the ITR, a report by a **CA in Form 10DA** electronically.

Frequently Asked Questions (FAQ) & other examples on Section 80JJAA:-

Q.1 I'm a Doctor who has started a clinic this year and hired 2 compounders, am I eligible for deduction u/s 80JJAA?

Ans:- No. since this section is applicable only to tax payers having income from Business and not income from any Profession.

Q.2 I am a trader showing business profits at 8% under presumptive taxation scheme u/s 44AD. Am I eligible for any deduction u/s 80JJAA?

Ans:- No. Since this section is applicable only for Assessee liable for Tax audit u/s 44AB.

Q.3 A Businessman (Tax Audit Eligible), appointed 10 employees on the first day of the year 2019-20 having a salary of Rs 10000 pm. How much total deduction is allowed to Mr. A?

Ans:- Deduction u/s 80JJAA
= 30% of Additional Employee Cost (AEC)
= 30%*(Salary Pm*No of month employed*No of Additional Employees)
=30%*(10000*12m*10)
= Rs. 360000

This deduction is allowed for 3 years i.e. Rs 360000 in each FY 2019-20, 2020-21 & 2021-22.

Q.4 A Businessman (Tax Audit Eligible), Appointed 10 new employees with per month salary as follows:-

a. Basic = 10000

b. HRA = 4000

c. Conveyance = 1000

d. Employer Contribution to PF = Rs 1250

However, He paid salary of 11 months only i.e. up to February, till 31st March of the year. March salary was later credited in the month of April next year.

Calculate the Deduction u/s 80JJAA.

Ans:- Deduction u/s 80JJAA

= 30% of Additional Employee cost

= 30%*Total Emoluments

(Paid+Payable)*Additional Employees

= 30%*((Basic+HRA+Conveyance)*no of months employed)*New employees

= 30%*((10000+4000+1000)*12)*10

= Rs 540000.

Employer's contribution to PF/PPF is not to be taken into account while calculating AEC u/s 80JJAA.

Q.5 M/s XYZ, Manufacturer having Turnover of 10 Crores in PY 19-20. As on 31st March 2019, there were 50 employees in total from which 5 Employees retired on 5th May, 2019. On 1st June 2019, the firm recruits 15 employees. M/s XYZ pays equal emoluments to the newly appointed employees as follows:

– Salary =15000 Per Month

– Bonus & Incentives = 2000 Per Month

– Other Perquisites = 5000 Per Month Calculate Additional Employee Cost & Deduction as per section 80JJAA for Ay 2020-21.

Ans:- Total Employees as on the last day of the Previous year i.e. as on 31/03/2019 = 50.

Additional Employee = Employee employed during the current year due to which net total number of employees has been increased from last year.

= Total Employees on last day of the previous year (on 31/03/2019) + New Employees appointed on 1st June – Employees left/retired on 5th May

$$= 50 + 15 - 5$$

= 10 Employees

Additional Employee Cost (AEC)

= Total Emoluments * Additional Employees

$$= (15000+2000+5000)*10 \text{ Employees} * 10 \text{ Months}$$

$$= 22,00,000$$

Deduction u/s 80JJAA

= 30% of Additional Employee Cost

$$= 30\% \text{ of } 2200000$$

$$= 660000/-$$

Q.6 Zed having Trading Business, eligible for Tax Audit. Assessee having 30 Employees as on 31st March 2018. He recruited 3 new Employees in June In August 2018, 3 Employees of Mr Zed resigned. All new Employees were paid a salary of Rs 6000 per month.

How much Deduction is allowed to Mr Zed.?

Ans:- Additional Employee = Employee employed during the current year due to which net total number of employees has been increased from last year.

30 Employees (as on the last date of Previous Year) + 3 Employees Recruited
– 3 Employees Resigned

Net Total Employees = 30 Employees

Deduction U/S 80JJAA is Nil, as there is no increase in the total no. of employees in the current year as compared to the previous year.

Q.7 A has a trading business (Tax Audit Eligible), Appointed 10 employees (5 clerks & 5 other staff on first day having a salary of Rs 10000 pm. He paid cash salary to all the new clerks while the new staff were paid salary through ECS. How much deduction is allowed to Mr A for PY 2019-20?

Ans:- No Deduction will be allowed u/s 80JJAA, as cash salary is not allowed to be considered while calculating the deduction u/s 80JJAA.

Only following Payment methods are allowed –

– Account payee cheque OR

- Account payee bank draft OR
- Electronic clearing system through a bank account

Q.8 In the above example, how much deduction is allowed to Mr A for PY 2019-20, if the business is a new business?

Ans:- Deduction = $30 \times (5000 \times 10 \times 12 \text{ Months})$
 = 180000

In the case of 1st year of Business all the emoluments paid to their employees are eligible for the deduction without considering the fact that whether those payments are made in cash or any other mode.

Q.9 X appointed a clerk on 1st July 2019. He paid following salary to him (in '000)-

| Jul | Aug | Sep | Oct | Nov | Dec | Jan | Feb | Mar |
|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| 32 | 20 | 20 | 40 | 20 | 20 | 10 | 20 | 25 |

Calculate the deduction u/s 80JJAA for PY 2018-19?

Ans:- Total Salary paid to the clerk
 = $(32+20+20+40+20+20+10+20+25) = \text{Rs } 2,07,000.$

Avg Monthly Salary = $207000/9 = \text{Rs } 23,000.$

Hence, the new clerk can be treated as an Additional Employee.

Total Deduction u/s 80JJAA = $30\% \times \text{AEC}$
 = $30\% \times (\text{Rs } 207000)$
 = 62,100

Q.10 Assessee appoints a new accountant with a monthly salary of RS 15000 (payable via an account payee cheque). He worked for more than 240 days. This accountant does not participate in Employees Provident fund Act. Is Assessee eligible for deduction u/s 80JJAA for salary paid to accountant?

Ans:- No, as the accountant does not participate in the Recognized Provident fund, he cannot be considered as an "Additional Employee".

Q.11 Mr. X appointed a new clerk on 1st January 2019. Employee is a member of recognized provident fund and is provided a salary of Rs 10000 pm. Whether Mr. X is eligible for any deduction u/s 80JJAA for PY 2018-19, PY 2019-20 and so on?

Ans:- Since, clerk was appointed on 1st January 2019, the criteria for 240 days is not fulfilled for FY 2018-19, hence Mr X is not eligible for the deduction in PY 2018-19. But, if that employee continues his employment for the next year i.e in PY 2019-20 for more than 240 days than it would be assumed that the employee is appointed in PY2019-20 for the purpose of deduction of 80JJAA & Mr. X Will be eligible for deduction from PY2019-20.

Deduction u/s 80JJAA for PY 2018-19 = 0

Deduction u/s 80JJAA for PY 2019-20

= 30%*(10000*12) = Rs 36,000.

This Rs 36,000 deduction would be allowed for 2 more years i.e. for PY 2020-21 & PY 2021-22.

Form 10DA – Report by Chartered Accountant:–

Blank Form link – <https://www.incometaxindia.gov.in/forms/income-tax%20rules/103120000000007823.pdf>

Who will file – A Chartered Accountant authorized by you

How to File – Electronically through Authorised representative CA Login

When to File– Before/along with the filing of return of Income u/s 139(1) & Tax Audit Report u/s 44AB

Grey Areas and unanswered issues –

1. What if an Employee leaves the organisation in the next year i.e. after the first year in which exemption is taken for emoluments paid to him?
2. Does the threshold limit of 240/150 days include any leaves taken in between?
3. Whether monthly emoluments are to be calculated for every 30 days of employment or for every calendar month?
4. Whether incentives paid for a particular month taking an employee's emoluments beyond Rs 25,000 would lead to such an employee not being an Additional an employee for that particular month? Alternatively, whether such employee will not qualify as an additional employee at all?

5. How to estimate AEC for Advance Tax and other calculations done before 31st March? (As before completion of 240 days in the financial year, it is not known whether they will qualify as additional employees).

6. Whether an employee treated as an additional employee during a Financial Year can again be counted as an additional employee during any other Financial Year?

7. Whether New Partner's salary can be included in calculation of an Additional Employee cost for a Firm?

8. If the intention of this section is to incentivize employment generation, why professionals are left out?

9. What if the employee does not have a UAM no. for PF registration at the start of his employment but gets the same after a few months, whether these employees can be treated as new employees?

What if the Assessee is not liable to Tax audit u/s 44AB in year 2 and/or year 3 of exemption?

10. In case where employees have joined as well as a few old employees left the Business, how the Assessee will calculate the Additional employee cost?

11. For ex- Say 100 Employees were employed at start of the year. 15 Employees joined during the period Apr to Jun of the financial year. 10 Employees left on 01st Jan of the financial year. All employees joined as well as left have a different salary structure, but all satisfy the Rs 25000 condition. Net employee strength as on 31st march is $100+15-10=105$ employees. Hence, here net new employees = $(105-100) = 5$. Therefore, section allows deduction of Additional Employee cost of only 5 new employees out of 10. But the question is how to select these 5 employees – on period of service basis, on salary basis, or any other criteria beneficial to the assessee?

Conclusion:-

This section is one of the few deductions in Income Tax where the Government has allowed a deduction to business persons without any threshold. But, like we read above, this comes with a lot of complicated conditions and with a lot of confusion and unanswered questions. Keeping aside the same, this section definitely gives you a good way to save your tax if you were not aware of the same till date. Even government knows the importance of this section and the requirement of employment generation in the economy, this is very evident by the fact that the new optional and concessional tax regime for taxpayers has removed most of the exemptions

but has not touched section 80JJAA under the Finance Budget 2020. Nonetheless, I request you all to use the benefit of this section but only after proper understanding of the provisions and in consultation with your tax consultant. Hope this article has helped you to save some of your income tax liability.

Sources: TaxGuru