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## **Section 80JJAA of the Income Tax Act, 1961**

### **Deductions & Applicability**

**Section 80JJAA of the Income Tax Act, 1961, is a provision that provides a deduction to businesses for additional employment of new employees. The section encourages employers to generate employment opportunities and hire more employees. It is beneficial to all sectors but most beneficial to industries that are labour intensive.**

The Finance Act, 2016 has amended the provisions of section 80JJAA of the Income-tax Act, 1961 (Act) to provide for an additional deduction of additional employee cost incurred by the taxpayer subject to fulfillment of certain conditions.

**Here are the key features of Section 80JJAA:**

#### **Applicability:**

- ✚ This section applies to corporate and non-corporate and is also available to eligible taxpayers engaged in the business of manufacturing, production, or development.
- ✚ This section applies to any assessee to whom section 44AB applies i.e. applicable to a person who is required to get his account audited by a Chartered Accountant.
- ✚ Deduction is allowed where the gross total income of an assessee, includes any profits and gains derived from business.
- ✚ Therefore, the deduction is not available to an assessee carrying on any profession.
- ✚ It is also applicable to non-resident carrying on business in India

#### **Eligibility Criteria:**

To claim the deduction under Section 80JJAA, businesses need to fulfill the following conditions:

- ✓ Any taxpayer whose gross total income includes any profits or gains from business and is liable to get his accounts audited u/s 44AB of the Act
- ✓ The business should be set up after the 1st day of April 2016 but before the 1st day of April 2021.
- ✓ The business should have employed additional employees in the previous year.
- ✓ The new employees must be employed for at least 240 days in the previous year.
- ✓ The new employees' monthly wages should not exceed Rs. 25,000 per month.
- ✓ You need to file an ITR within the due date and submit a CA report in Form 10DA.
- ✓ It should have employed at least 10 employees in the previous year.



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**It is important to note that deduction under Section 80JJAA is not available for businesses engaged in the service sector. If you are running a production-based business that meets the mentioned criteria, you can apply for the 80JJAA deductions.**

- ✓ The business is not formed by splitting up, or the reconstruction, of an existing business. The business is not acquired by the taxpayer by way of transfer from other person or by business reorganization Unless the taxpayer provides a report by a Chartered Accountant in form 10DA.
- ✓ However, this deduction shall be allowed if the business is re-established, reconstructed, or revived by the taxpayer under the following conditions: Any natural calamity like flood, typhoon, earthquakes, cyclone Riot or civil disturbance Accidental fire or explosion Action by an enemy.

### **Deduction Amount:**

The deduction allowed under Section 80JJAA is 30% of the additional employee cost incurred during 3 assessment years including the previous year in which such employment is done. The additional employee cost is the total emoluments paid or payable to the new employees during the relevant period.

### **In case of Newly formed business units**

A deduction is available in the previous year in which the business has been established and employment is provided and in every subsequent previous year in which employment has been provided.

### **In case of Existing Business units**

A deduction is available in the previous year in which employment has been provided.

The additional employee cost shall be nil if there is no increase in the number of employees from the total number of employees employed as on the last day of the preceding year.

If the new employees are engaged in the Financial Year 2022-23, then Normal Salary expenses would continue to be allowed under the Profile & Loss as expenses. Additionally, 30% of the additional employee's salary for Financial Year 2022-23, 2023-24 and 2024-25 as additional deductions.

The same quantum of deduction in the subsequent two years i.e. FY 2023-24 and FY 2024-25 will be fixed at the amount of deduction claimed in FY 2022-23. The employer cannot get additional benefit /deduction due to an increment in the employee's salary.



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### Meaning of additional employee under section 80JJAA:

It means an employee employed during the previous year. But it doesn't include the following employees:

- ✓ Whose salary is more than Rs. 25,000 per month
- ✓ Who is employed for a period of less than 240 days (150 days in case of business of manufacturing of footwear or leather products.)
- ✓ Who doesn't participate in recognized provident fund To whom contribution is paid by the Government.

### Additional Employees are not included, if

- ✓ An employee for whom the entire contribution is paid by the Government under the Employees' Pension Scheme notified in accordance with the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952
- ✓ Additional employees recruited to fill the existing vacancies who left the organisation shall not be considered as new employment opportunity creation.

### Meaning of additional employee cost under section 80JJAA:

It includes all emoluments paid or payable to an employee during the previous year.

In the case of existing business, this cost will be NIL if:-

- 1) There is no increase in the total number of employees as compared to the total number of employees employed in the last year.
- 2) Emoluments NOT paid through account payee cheque or account payee bank draft or by use of electronic clearing system.

### Meaning of emoluments: under section 80JJAA

It includes all the sums paid or payable to the employee during employment but does not include:

- ✓ Contributions payable by the employer to any pension fund, provident fund, etc.
- ✓ Sums paid to the employee at the time of termination of service/ voluntary retirement such as gratuity, leave encashment, voluntary retrenchment benefits and the like.

### Form 10DA for claiming deduction under section 80JJAA:

It contains a report to be filed by a Chartered Accountant that contains the details of the taxpayer and the amount of deduction that is claimed by the taxpayer. It is filed along with the return of income to be filed by the taxpayer. It must be submitted online on the Income Tax website. A Digital Signature Certificate (DSC) is mandatory to file this form.



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**Bare Act provisions of Section 80JJAA Deduction in respect of employment of new employees**

**Section 80JJAA**

- (1) Where the gross total income of an assessee to whom section 44AB applies, includes any profits and gains derived from business, there shall, subject to the conditions specified in sub-section (2), be allowed a deduction of an amount equal to 30% of additional employee cost incurred in the course of such business in the previous year, for 3 assessment years including the assessment year relevant to the previous year in which such employment is provided.
- (2) No deduction under sub-section (1) shall be allowed, —
  - (a) If the business is formed by splitting up, or the reconstruction, of an existing business:
  - (b) Provided that nothing contained in this clause shall apply in respect of a business which is formed as a result of re-establishment, reconstruction or revival by the assessee of the business in the circumstances and within the period specified in section 33B;
  - (c) 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;
  - (d) Unless the assessee furnishes along with the return of income the report of the accountant, as defined in the Explanation to section 288 giving such particulars in the report as may be prescribed.

**Explanation.**

For the purposes of this section—

- (i) **“Additional employee cost”** means the total emoluments paid or payable to additional employees employed during the previous year. Provided that in the case of an existing business, the additional employee cost shall be nil, if—
  - (a) There is no increase in the number of employees from the total number of employees employed as on the last day of the preceding year;
  - (b) Emoluments are paid otherwise than by an account payee cheque or account payee bank draft or by use of electronic clearing system through a bank account or through such other electronic mode as may be prescribed. Provided further that in the first year of a new business, emoluments paid or payable to employees employed during that previous year shall be deemed to be the additional employee cost.



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(ii) **“Additional employee”** means an employee who has been employed during the previous year and whose employment has the effect of increasing the total number of employees employed by the employer as on the last day of the preceding year, but does not include—

(a) An employee whose total emoluments are more than twenty-five thousand rupees per month; or

(b) An employee for whom the entire contribution is paid by the Government under the Employees’ Pension Scheme notified in accordance with the provisions of the Employees’ Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952); or

(c) An employee employed for a period of less than 240 during the previous year; or

(d) An employee who does not participate in the recognised provident fund:

**Provided** that in the case of an assessee who is engaged in the business of manufacturing of apparel or footwear or leather products, the provisions of sub-clause (c) shall have effect as if for the words “240”, the words “150” had been substituted:

**Provided further** that where an employee is employed during the previous year for a period of less than 240 days or 190 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.

(iii) **“Emoluments”** means any sum paid or payable to an employee in lieu of his employment by whatever name called, but does not include—

(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 for the time being in force; and

(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 and the like.



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**Form 10DA under Section 80JJAA**

**INCOME-TAX RULES, 1962**

<sup>1</sup>[FORM NO. 10DA

[See rule 19AB]

**Report under section 80JJAA of the Income-tax Act, 1961**

1. I/We\* have examined the accounts and records of \_\_\_\_\_ (Name and address of the assessee with Permanent Account Number/Aadhaar number) engaged in the business of \_\_\_\_\_ during the year ended on 31st day of March \_\_\_\_\_.

2. I/We\* certify that the deduction to be claimed by the assessee under sub-section (1) of section 80JJAA of Income-tax Act, 1961, in respect of the assessment year \_\_\_\_\_ is Rs. \_\_\_\_\_ determined on the basis of additional employee cost incurred in the case of said business by the assessee. The said amount has been worked out on the basis of details given in Annexure to this form.

Place: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
(Signature and Stamp/Seal of the Accountant)

Name of the Signatory \_\_\_\_\_

Full Address \_\_\_\_\_

Membership No. \_\_\_\_\_

**Notes:**

- \*Delete whichever is not applicable.
- This report is to be given by a chartered accountant within the meaning of the Chartered Accountants Act, 1949 who holds a valid certificate of practice under section 6(1) of that Act and is not a person referred to in clause (a) or clause (b) of the Explanation below sub-section (2) of section 288.
- Where any of the matter stated in this report is answered in the negative or with a qualification, the report shall state the reasons therefor.

**ANNEXURE**

(See paragraph 2 of Form No. 10DA)

1.	Name of the assessee	
2.	Address of the assessee	
3.	Permanent Account Number/ Aadhaar number of the assessee	
4.	Assessment Year	
5.	Additional employee cost incurred	
	(I) In case of an existing business,-	
	(a) number of employee as on the last day of the immediately preceding year.	

<sup>1</sup> Substituted by the IT (Fifteenth Amendment) Rules, 2019, w.e.f 18-12-2019.



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		(b)	number of employee employed during the previous year.		
		(c)	number of additional employees*, the emoluments of whom is eligible for deduction under section 80JJAA,-		
		(i)	employed during the previous year,	c(i)	
		(ii)	employed during the immediately preceding year	c(ii)	
		(iii)	Total [c(i)+c(ii)]		c(iii)
		(d)	Total amount of emoluments ** paid or payable to additional employee entitled for deduction u/s 80JJAA in respect of,-		
		(i)	additional employee referred in (c)(i)	d(i)	
		(ii)	additional employee referred in ( c)(ii)	d(ii)	
		(iii)	Total amount # [d(i)+d(ii)]		d(iii)
		(e)	The amount of deduction eligible u/s 80JJAA in respect of payments for the emoluments paid or payable to the additional employee in respect of,-		
		(i)	the previous year [30% of the amount computed in (d)(iii)]	e(i)	
		(ii)	the immediately preceding year to the previous year	e(ii)	
		(iii)	the year prior to the immediately preceding previous year	e(iii)	
		(iv)	Total [e(i)+e(ii)+ e(iii)]#		e(iv)
	II	In case of a new business, 30% of emoluments **paid or payable to additional employees employed during the first year of business, #.			
6		Remarks.]			

### Notes

1. \* "additional employee" means an employee who has been employed during the previous year or in the immediately preceding year, as the case may be, but does not include,—

- (a) an employee whose total emoluments are more than twenty-five thousand rupees per month; or
- (b) an employee for whom the entire contribution is paid by the Government under the Employees' Pension Scheme notified in accordance with the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952); or
- (c) an employee employed for a period of less than two hundred and forty days (one hundred and fifty days in case of an assessee engaged in business of manufacturing of apparel or footwear or leather products) during the previous year; or
- (d) an employee who does not participate in the recognised provident fund.

2. \*\* "emoluments" means any sum paid or payable to an employee in lieu of his employment by whatever name called, but does not include—

- (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 for the time being in force; and
- (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, leaves encashment, voluntary retrenchment benefits, commutation of pension and the like.

3. # The amount shall not include the emoluments, paid otherwise than by an account payee cheque or account payee bank draft or by way of a electronic clearing system through a bank account or through such other prescribed electronic mode.]