



⁹⁷[Deduction in respect of employment of new employees.

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 thirty per cent of additional employee cost incurred in the course of such business in the previous year, for three 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:

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](#);

(b) if the business is acquired by the assessee by way of transfer from any other person or as a result of any business reorganisation;

(c) unless the assessee furnishes alongwith 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 prescribed⁹⁸.

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:

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;

(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 two hundred and forty days during the previous year; or

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

⁹⁹[**Provided** that in the case of an assessee who is engaged in the business of manufacturing of apparel ¹[*or footwear or leather products*], the provisions of sub-clause (c) shall have effect as if for the words "two hundred and forty days", the words "one hundred and fifty days" had been substituted;]

Following second proviso shall be inserted after the existing proviso to clause (ii) of Explanation to section 80JJAA by the Finance Act, 2018, w.e.f. 1-4-2019 :

Provided further that where an employee is employed during the previous year for a period of less than two hundred and forty days or one hundred and fifty days, as the case may be, but is employed for a period of two hundred and forty days or one hundred and fifty 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.

(3) The provisions of this section, as they stood immediately prior to their amendment by the Finance Act, 2016, shall apply to an assessee eligible to claim any deduction for any assessment year commencing on or before the 1st day of April, 2016.]