

100% OF NET PROFIT FROM THE BUSINESS OF AFFORDABLE HOUSING PROJECT. 80IBA

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1. The contents of this article are for information purposes only. You need to take proper advise for any particular project so that there remains no technical clutch.
2. Brief Introduction
The Pradhan Mantri Awas Yojana (PMAY) scheme on which interest subsidy to the home buyers is also available.
3. For Builders / Promoters
There are incentives/exemptions/deductions in direct as well in indirect taxes..Here we restricts to section 80IAB.
4. Quantum of deduction
 - a) Deduction of 100% of net profit from the business of developing and building a housing project.
 - b) Kindly note that mat and mat credit is applicable on companies, Partnership firm
5. Who can take the benefit of deduction:-
Any assessee which includes an individual, HUF, AOP, BOI, firm, company or any other person.
6. Terms & Conditions for getting deduction u/s 80IBA
 - a) Only on Affordable Housing Project approved by the competent authority
 - b) Above project should be start after the 1st day of June, 2016, but on or before the 31st day of March, 2021
 - c) The project is approved by the competent authority after 01-06-2016 but on or before 31- 03-2021.
 - d) Above project must be completed within a period of five years from the date of approval by the competent authority.(earlier it was 3 years, but now it is 5 years w.e.f.01/04/2018.)
 - e) The carpet area of the shops and other commercial establishments included in the housing project does not exceed three per cent of the aggregate carpet area.
 - f) If Project is Approved Prior to 1st September, 2019 then the following conditions should be satisfied:-
 - i. If the Location of project is within cities of Chennai, Delhi, Kolkata or Mumbai
 1. Area of plot of land on which project is situated should not less than 1,000 square metres.
 2. Carpet area of the residential unit should not to exceed 30 square metres
 3. Project Utilization of Floor area ratio should not be less than 90% permissible under rules made by Government or local authority
 - ii. If the Location of project is any other place
 1. Area of plot of land on which project is situated should not less than 2,000 square metres.
 2. Carpet area of the residential unit should not to exceed 60 square metres
 3. Project Utilization of Floor area ratio should not be less than 80% permissible under rules made by Government or local authority

- g) If Project is Approved Prior On or After to 1st September, 2019 then the following conditions should be satisfied:-
- i. If the Location of project is within the metropolitan cities of Bengaluru, Chennai, Delhi National Capital Region (limited to Delhi, Noida, Greater Noida, Ghaziabad, Gurugram, Faridabad), Hyderabad, Kolkata and Mumbai (whole of Mumbai Metropolitan Region)
 - 1. Area of plot of land on which project is situated should not less than 1,000 square metres.
 - 2. Carpet area of the residential unit should not to exceed 60 square metres
 - 3. Project Utilization of Floor area ratio should not be less than 90% permissible under rules made by Government or local authority
 - ii. If the Location of project is any other place
 - 1. Area of plot of land on which project is situated should not less than 2,000 square metres.
 - 2. Carpet area of the residential unit should not to exceed 90 square metres
 - 3. Project Utilization of Floor area ratio should not be less than 80% permissible under rules made by Government or local authority
 - h) if the housing project is approved on or after 1st September, 2019 THEN The stamp duty value of a residential unit in the housing project does not exceed forty-five lakh rupees.
 - i) Where a residential unit in the housing project is allotted to an individual, no other residential unit in the housing project shall be allotted to the individual or the spouse or the minor children of such individual.
 - j) The project is the only housing project on the plot of land.
 - k) The assessee should maintain separate books of account in respect of such housing project.
 - l) The provisions of this section shall not apply to any assessee who executes the housing project as a works-contract awarded by any person (including the Central Government or the State Government).
 - m) Separate books of accounts is to be maintained, so as to ensure that correct profits are ascertained.
 - n) If the housing project is not completed within the stipulated period specified under this section, (i.e. five years), in respect of which a deduction has been claimed and allowed under this section, then the total amount of deduction so claimed and allowed in one or more previous years, shall be deemed to be the income of the assessee chargeable under the head "Profits and gains of business or profession" of the previous year in which the period for completion so expires.

7. Explanation:-

- a) For the purpose of this section, “housing project” means a project consisting predominantly of residential units with such other facilities and amenities as the competent authority may approve subject to the provisions of this section.
- b) “Residential unit” means an independent housing unit with separate facilities for living, cooking and sanitary requirements, distinctly separated from other residential units within the building, which is directly accessible from an outer door or through an interior door in a shared hallway and not by walking through the living space of another household.
- c) Where the approval in respect of a housing project is obtained more than once for time to time amendment, the project shall be deemed to have been approved on the date on which the building plan of such housing project was first approved by the competent authority;
- d) Different Housing projects approved differently then the treatment of each project is separate,
- e) The project shall be deemed to have been completed when a certificate of completion of project as a whole is obtained in writing from the competent authority. For your kind attention a decision in brief is given below which was held in the case of Pr.CIT V Shaurya infrastructure, Gujrat high Court, dated 06/12/2016, wherein the Building Use (BU) permission was applied prior to 31/03/2012, i.e. within stipulated time by the developer, however the local authority by whatever reasons, actually granted and issued BU permission on 02/04/2012.i.e. after stipulated time. In this case, on appreciation of evidence and considering the material facts, the Gujrat high court allowed the deduction u/s80IB(10). Further, in case of ITO V Saket Corporation, Divisional bench of Gujrat High Court (2015), only 20 units out of total 43 units were completed before stipulated time and hence, Divisional bench of Gujrat High Court, allowed proportionate deduction u/s 80IB(10) only for 20 units.
- f) For the purpose of this section “competent authority” means the authority empowered to approve the building plan by or under any law for the time being in force.
- g) For the purposes of this section, “carpet area” shall have the same meaning as assigned to it in clause (k) of section 2 of the Real Estate (Regulation and Development) Act, 2016 (16 of 2016).
- h) As per (k) of section 2 of the Real Estate (Regulation and Development) Act, 2016 (16 of 2016) carpet area means ‘the net usable floor area of an apartment, excluding the area covered by the external walls, areas under services shafts, exclusive balcony or verandah area and exclusive open terrace area, but includes the area covered by the internal partition walls of the apartment’. In simple words, anything inside the outer walls of an apartment is nothing but is a carpet area.
- i) For the purpose of this section, “residential unit” means an independent housing unit with separate facilities for living, cooking and sanitary requirements, distinctly separated from other residential units within the building, which is directly accessible from an outer door or through an interior door in a shared hallway and not by walking through the living space of another household.

- j) “floor area ratio” means the quotient obtained by dividing the total covered area of plinth area on all the floors by the area of the plot of land.
- k) Where any amount of profits and gains derived from the business of developing and building housing projects is claimed and allowed under this section for any assessment year, deduction to the extent of such profit and gains shall not be allowed under any other provisions of this Act.