

# TAX FLASH NEWS

14 April 2020



## Clarification regarding adoption of concessional rates under the optional tax regime at the time of deduction of tax at source by employer

The Finance Act 2020 has inserted a new section 115BAC, wherein an individual gets an option to choose between the existing tax rates and the new tax regime (concessional tax rates without considering prescribed exemptions/ deductions).

However, given the introduction of this new Section 115BAC, there had been a lack of clarity on whether employer can consider the new tax regime at the time of withholding taxes from salary.

In order to address such queries, the Central Board of Direct Taxes (CBDT) vide Circular No.C1 of 2020 issued a clarification that an employer, based on intimation received from the individual employee, should compute the tax deduction at source (TDS) by considering the provision of Section 115BAC, as applicable.

### Key points of the clarifications issued by CBDT

As per the Finance Act, 2020, new optional tax regime is provided for individuals and HUF with modified tax slabs and rates prescribed in that section<sup>1</sup>. On satisfaction of prescribed conditions, an individual or HUF may opt to compute tax in respect of total income (without considering prescribed exemptions/ deductions), while filing his/ her India tax return<sup>2</sup> as per the new slab rates, instead of the existing tax regime.

- It is worth noting that every employer responsible for payment of salary is required to withhold tax<sup>3</sup> on such salary paid to their employees on the basis of

the rates<sup>4</sup> in force for the financial year (FY) in which the payment is made. The rates for deducting income tax<sup>5</sup> from income chargeable under the head 'Salaries' is the existing tax rates. Given this, there has been a lack of clarity on whether employer can consider the new tax regime at the time of withholding taxes.

- In this regard, CBDT has clarified that a taxpayer having income<sup>6</sup> may intimate his/ her employer regarding the intention of opting for new tax regime (at concessional rates without considering prescribed exemptions/ deductions). Such intimation once made by employee cannot be modified during the relevant FY. Consequently, the employer would have to compute the total income and deduct TDS as per new tax regime<sup>7</sup>.
- In case the employee does not make any intimation to the employer, then the employer would be required to compute total income and deduct TDS as per old tax regime<sup>8</sup>.
- The intimation to employer would not amount to exercising the option in terms of section 115BAC(5) of the Act. Thus, the option at the time of filing his return may be different from the intimation made by the employee to his employer for that particular FY.

<sup>1</sup> Section 115BAC – Please refer the budget bulletin (<https://home.kpmg/content/dam/kpmg/in/pdf/2020/02/india-union-budget-2020.pdf>) (page no: 18) for details of the said section.

<sup>2</sup> Section 139(1) of the Income-tax Act, 1961

<sup>3</sup> Section 192 of the Act

<sup>4</sup> Paragraph A of Part III of the First Schedule to the Finance Act 2020

<sup>5</sup> Section 192 of the Act

<sup>6</sup> Other than income under the head, "Profit and Gains of business or profession"

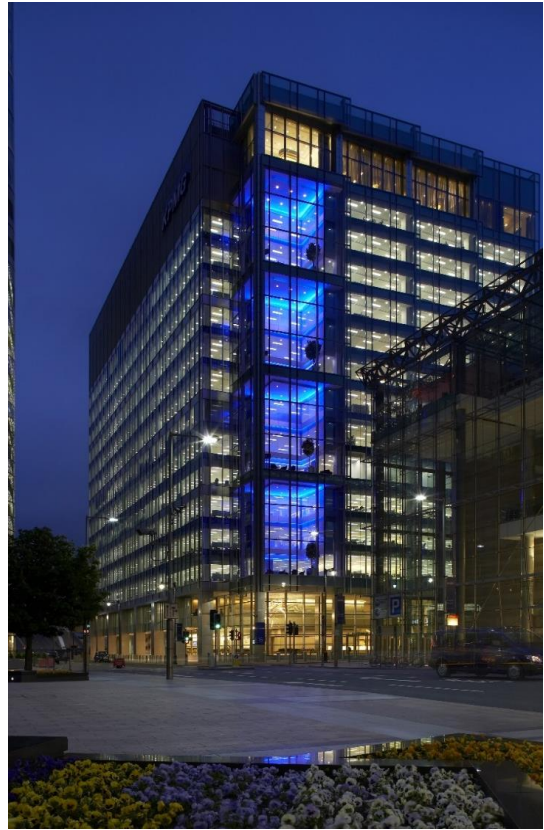
<sup>7</sup> Under Section 115BAC

<sup>8</sup> Paragraph A of Part III of the First Schedule to the Finance Act 2020

- Further, in case of taxpayer having business income, option once exercised would be applicable for all subsequent FYs<sup>9</sup> and such taxpayers would have to intimate to the employer, as applicable, and the intimation once made cannot be changed for subsequent FYs (except under prescribed circumstances).

### Our comments

The clarifications issued by CBDT clears the ambiguity on the role of employer with respect to application of the new tax regime while computing TDS on salary. This will also mitigate any inconvenience and hardships for employees to claim refunds of excess taxes withheld (if any). Accordingly, in case of employees who intimate the employer to opt for new tax rates, the employer would be required to deduct TDS as per the new tax rates.



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<sup>9</sup> Except where such person ceases to have any business income

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