

TAX FLASH NEWS

15 April 2020

CBDT issues clarification regarding short deduction or collection of tax due to increase in rates of surcharge by the Finance (No.2) Act, 2019

The Finance (No.2) Act, 2019 enhanced the rate of surcharge applicable from the 1 April 2019 for Financial Year (FY) 2019-20. Thus, the taxpayer was required to compute the tax liability after taking into account the enhanced rates of surcharge. Further, tax under various provisions of the Income-tax Act, 1961 (the Act) was required to be deducted/collected after taking into account the enhanced rate of surcharge.

Various cases have been noticed by the government wherein deductors/collectors were held to be an assessee in default for short deduction/collection of tax. In these cases, the final transaction was done before laying of the Finance (No.2) Bill, 2019 in the Parliament, i.e. 5 July 2019.

On 13 April 2020, the Central Board of Direct Taxes (CBDT) has issued a Circular¹ clarifying that a person responsible for deduction/collection of tax under any provision of the Act will not be considered to be an 'assessee in default' in respect of the following transactions where:

- Such transaction has been completed and entire payment has been made to the deductee/payee on or before 5 July 2019 and there is no subsequent transaction between the deductor/collector and the deductee/payee in the FY 2019-20 from which the shortfall of tax could have been deducted/collected by the deductor/collector.
- Tax has been deducted or collected by such deductor/collector on such sum as per the rates in force as per the provisions prior to the enactment of the Act.
- Such tax deducted or collected has been deposited by the deductor/collector on or before the due date of deposit.

- TDS/TCS statement has been furnished by such person on or before the due date of filing of the said statement.

Benefit under this circular would not be available if the person fails to fulfill any of the above conditions.

No interest for delay in deduction/collection of tax shall be levied if the deductor or collector has deducted/collected shortfall of tax after 5 July 2019 from the transaction(s) made subsequently after the said date.

The above relaxations does not absolve the deductee/payee to pay proper tax including enhanced surcharge by advance tax or self-assessment tax and file return of income after paying such tax.

Our comments

This is a welcome Circular and it will provide relief to the taxpayers especially where they have been treated as an 'assessee in default' for lower deduction or collection of tax due to increase in rates of surcharge by the Finance (No.2) Act, 2019.

To avail this relief, certain conditions have been provided in the Circular. Non-fulfillment of such conditions may result into denial of such relief.

¹ CBDT Circular No. 8/2020, dated 13 April 2020

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