

# Tax Flash News

28 June 2023

## CBDT amends rules in relation to new default tax regime

The Finance Act, 2023, introduced a new tax regime, where income-tax of specified person would be computed at the prescribed<sup>1</sup> rates without considering prescribed exemptions/ deductions. The new regime is a default tax regime effective from tax year 2023-24. It is applicable to specified persons like individuals, Hindu undivided families, associations of persons (other than cooperative societies), bodies of individuals (incorporated or unincorporated), and artificial juridical persons. In case the specified person opts for the old tax regime, it could do so by exercising in the prescribed manner.

In this regard, the Central Board of Direct Taxes (CBDT), vide Notification<sup>2</sup>, amended the Income tax Rules, 1962 (Rules) in relation to new tax regime and introduced a new Form 10-IEA to be filed by a taxpayer (having business income) intending to opt for the old tax regime.

The details of the notification are summarised as follows:

- **Amendment to Rule 2BB:** A taxpayer whose income is chargeable to tax under the default tax regime<sup>3</sup> shall be allowed to claim exemptions<sup>4</sup> such as allowance granted to meet cost of travel on tour or transfer, to meet ordinary daily charges on living on account of absence from normal place of duty, conveyance allowance in performance of duties and transport allowance granted to employees with disability, etc.

- **Amendment to Rule 3:** A taxpayer whose income is chargeable to tax under the default tax regime<sup>3</sup> shall not be allowed to claim exemption<sup>5</sup> on free food and non-alcoholic beverage provided by the employer through paid voucher.
- **Amendment to Rule 5 – Depreciation<sup>6</sup>** allowance is restricted to 40 per cent for any block of assets in case of specified taxpayers who have opted for concessional tax regime<sup>7</sup> or new tax regime<sup>8</sup>.

Further where income is chargeable to tax under Section 115BAC(1A), the written down value of the block of asset as on the 1 April 2023 shall be increased by such depreciation which is attributable to Section 32(1)(ii)<sup>9</sup> and which is not allowed to be set off under Section 115BAC<sup>10</sup> if both the following conditions are satisfied, namely: -

- the taxpayer has not exercised option under Section 115BAC(5) for any previous year relevant to the assessment year beginning on or before the 1 April 2023; and

<sup>1</sup> Sub-section (1A) of Section 115BAC of the Income-tax Act, 1961 (the Act)

<sup>2</sup> Notification No. 43/2023/F. No. 370142/15/2023-TPL dated 21 June 2023

<sup>3</sup> income is chargeable to tax under sub-section (1A) of section 115BAC of the Act

<sup>4</sup> Rule 2BB- sub-clauses (a) to (c) of sub-rule (1) and at serial no. 11 of the Table below sub-rule (2) of the Rules

<sup>5</sup> Sub-rule (7), in clause (iii) of Rule 3 of the Rules

<sup>6</sup> Under clause (ii) of sub-section (1) of Section 32

<sup>7</sup> Under Section 115BA(4) by domestic manufacturing company or under Section 115BAA(5) by domestic company or under Section 115BAB(7) by new domestic manufacturing company

<sup>8</sup> An individual or a Hindu undivided family which has exercised option under Section 115BAC(5); or an individual or a Hindu undivided family, or an association of persons (other than a co-operative society) or a body of individuals, whether incorporated or not, or an artificial juridical person referred to in sub-clause (vii) of clause (31) of Section 2 whose income is chargeable to tax under Section 115BAC(1A)

<sup>9</sup> In the case of any new machinery or plant (other than ships and aircraft), which has been acquired and installed after the 31st day of March, 2005, by an assessee engaged in the business of manufacture or production of any article or thing or in the business of generation, transmission or distribution of power

<sup>10</sup> Sub-clause (a) of clause (ii) of sub-section (2) of Section 115BAC

- there is a depreciation allowance in respect of a block of assets which has not been given full effect to prior to the assessment year beginning on the 1 April 2024, and is attributable to the provisions of Section 32(1)(iia).
- A new Rule 21AGA was inserted to cover the following:
  - In the case of specified person<sup>11</sup> having income from business or profession, Form 10-IEA is to be filed on or before the due date<sup>12</sup> of filing the return of income, for opting the old tax regime<sup>13</sup>.
  - In the case of specified person not having income from business or profession wishing to opt for old tax regime, shall do so while filing the return of income<sup>14</sup> (i.e. Form 10-IEA not required to be filed to opt for old tax regime);
  - The withdrawal of option under the old tax regime<sup>15</sup> shall also be in Form No. 10-IEA.
  - Such Form No. 10-IEA should be furnished electronically under a digital signature or a electronic verification code.
  - The procedure for furnishing of Form No. 10-IEA, the data structure and the manner of generation of electronic verification code shall be specified by the Principal Director General of Income tax (Systems) or Director General of Income tax (Systems).
  - The information to be provided in the Form 10-IEA addressing to the Assessing Officer are name, PAN number, Status of the person<sup>16</sup>, Assessment year for which the form is being furnished, whether opting out of or re-entering the regime<sup>17</sup>, whether having any Unit in International Financial Services Centre<sup>18</sup>, etc.

<sup>11</sup> Individuals, Hindu undivided families, associations of persons (other than cooperative societies), bodies of individuals (incorporated or unincorporated), and artificial juridical persons

<sup>12</sup> Sub section (1) of 139 of the Act

<sup>13</sup> Sub section (6) of 115BAC of the Act

<sup>14</sup> Sub section (1) of 139 of the Act

<sup>15</sup> Proviso to sub-section (6) of section 115BAC of the Act

<sup>16</sup> referred to in sub-section(1A) of section 115BAC of the Act

<sup>17</sup> provided under subsection (1A) of section 115BAC of the Act

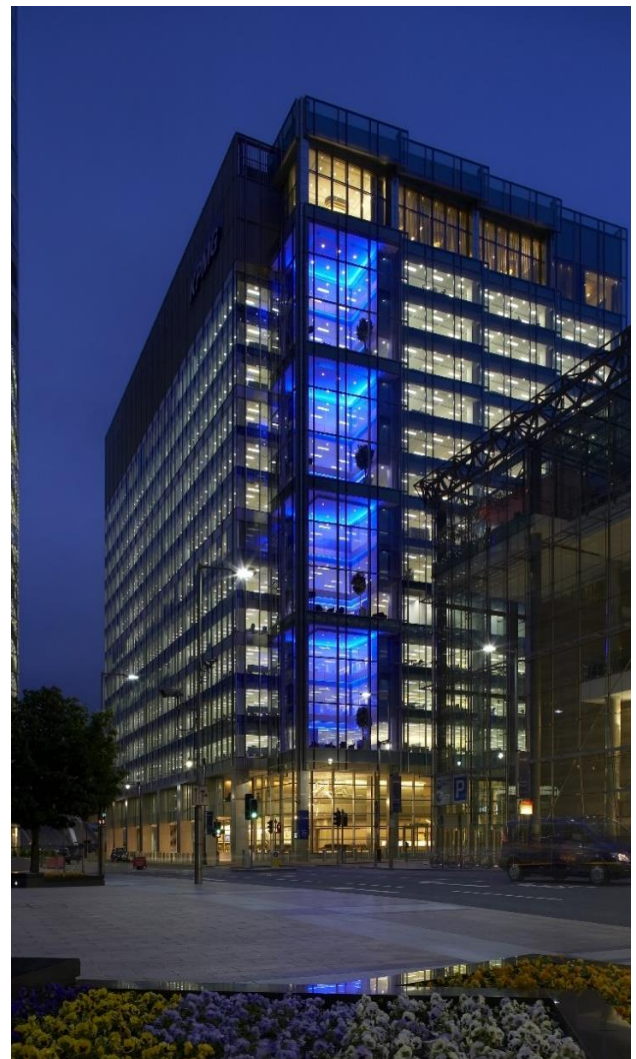
<sup>18</sup> as referred to in subsection (1A) of section 80LA

## Our comments

Effective FY 2023-24, as new tax regime is the default tax regime, individuals with business income and wishing to opt for old tax regime, would have once in a lifetime option to opt and switch to old tax regime. Subsequently, once new tax regime is opted (post opting for old tax regime), such individual cannot opt for old tax regime again. This is unlike the individuals who have non-business income wherein they can switch between the two tax regimes according to their preference at the time of filing the return of income on a year-on-year basis.

In case of individuals having business income, opting for or withdrawing from old tax regime, are required to exercise the option by filing new Form No. 10-IEA. For non-business income individuals, Form 10-IEA is not required to be filed and the choice is to be made in the return of income to be filed, within prescribed due dates under Section 139(1) of the Income-tax Act, 1961.

For certain specified taxpayers who have opted for concessional tax regime or new tax regime, depreciation allowance is restricted to 40 per cent for any block of assets.



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