

# Tax Flash News

6 April 2023

## CBDT clarification on deduction of tax at source on salary under the default new tax regime

New tax regime (i.e. lower tax rates and different income slabs) was introduced during Budget 2020, wherein an individual gets an option to choose between the existing tax rates and the new tax regime (without considering prescribed exemptions/ deductions). This new tax regime was applicable to individuals, Hindu undivided families, associations of persons (other than cooperative societies), bodies of individuals (incorporated or unincorporated), and artificial juridical persons.

Further, the Finance Act, 2023, introduced certain changes under the new tax regime, wherein *inter-alia*, income-tax of a person would be computed at the rates prescribed<sup>1</sup> and that the new tax regime shall be the default tax regime effective tax year 2023-24. In case the individual opts for the old tax regime, the individual could do so by exercising in the prescribed manner.

It is worth noting that every employer responsible for payment of salary is required to withhold tax on such salary paid to their employees based on the rates in force for the tax year in which the payment is made. Given this, there has been a lack of clarity on whether employer should consider the new tax regime / old tax regime at the time of withholding taxes for tax years effective 2023-24.

In this regard, the Central Board of Direct Taxes (CBDT), vide Notification<sup>2</sup>, has clarified the following:

- The new tax regime is the default regime. However, a person (not having income from business or profession) may opt out of this tax regime by exercising an option<sup>3</sup> every year to get his taxes computed under old tax regime.

- Employer to seek information from each of its employees regarding their tax regime and the employees are required to intimate their intended tax regime to their employers for each year. Upon receipt of this information, the employer shall compute the employee's total income and deduct TDS according to the option exercised.
- 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 new tax regime<sup>4</sup> (proposed default tax regime).
- It is also clarified that such intimation provided by the employee would not amount to exercising of option<sup>5</sup> and he /she should be required to do so separately while filing the return of income<sup>6</sup> in accordance with the provision.
- This circular supersedes Circular No. C1 of 2020 dated 13 April 2020 and shall be applicable for TDS during the tax year 2023-24 and subsequent years.

### Our comments

The clarifications issued by CBDT clears the ambiguity and aims to resolve the concerns regarding deduction of TDS on salary income. Accordingly, the employer would be required to obtain a declaration in the beginning of the tax year (2023-24 and subsequent years) on the individual employee's intended tax regime. The employer would be required to deduct TDS as per the intended tax regime as intimated by the employee

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

<sup>2</sup> Circular No. 04 of 2023 dated 05 April 2023- F. No.370142/06/2023-TPL

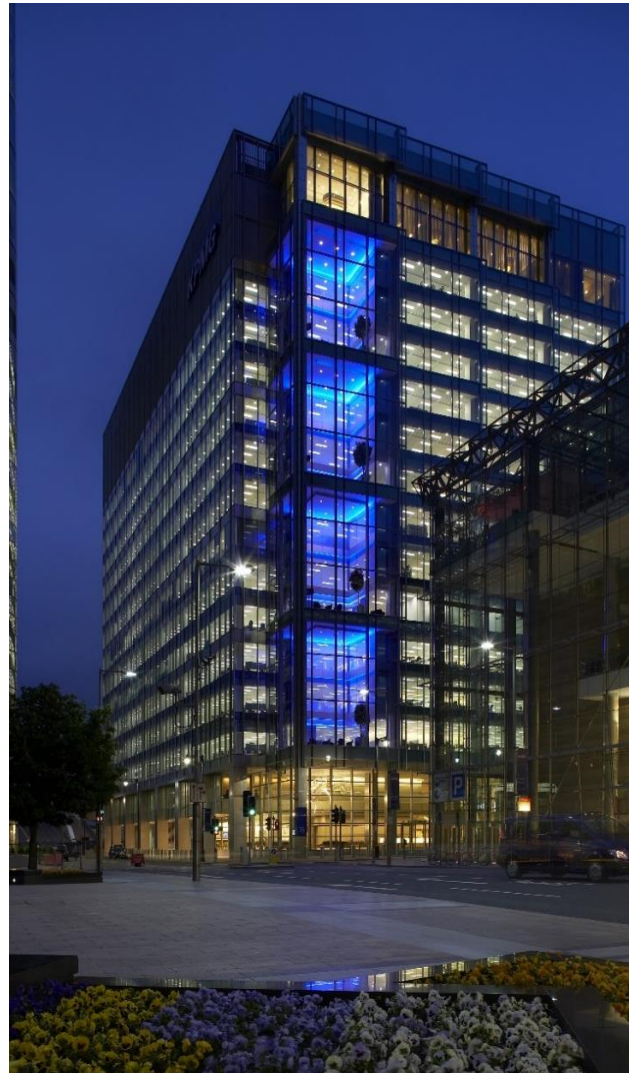
<sup>3</sup> Under sub-section (6) of Section 115BAC of the Act

<sup>4</sup> Under Section 192 of the Act read with rates as per Sub section (1A) of Section 115BAC of the Act

<sup>5</sup> under sub-section (6) of Section 115BAC of the Act

<sup>6</sup> Section 139(1) of the Act

or under default tax regime where intimation is not received from the employee. It is prudent that the employers and employees follow the guidelines provided in the circular for a smooth and compliant TDS process.



# KPMG in India addresses:

## Ahmedabad

Commerce House V, 9th Floor,  
902, Near Vodafone House, Corporate Road,  
Prahlad Nagar,  
Ahmedabad – 380 051.  
Tel: +91 79 4040 2200

## Bengaluru

Embassy Golf Links Business Park,  
Pebble Beach, 'B' Block,  
1st & 2nd Floor,  
Off Intermediate Ring Road, Bengaluru – 560071  
Tel: +91 80 6833 5000

## Chandigarh

SCO 22-23 (1st Floor),  
Sector 8C, Madhya Marg,  
Chandigarh – 160 009.  
Tel: +91 172 664 4000

## Chennai

KRM Towers, Ground Floor,  
1, 2 & 3 Floor, Harrington Road,  
Chetpet, Chennai – 600 031.  
Tel: +91 44 3914 5000

## Gurugram

Building No.10, 8th Floor,  
DLF Cyber City, Phase II,  
Gurugram, Haryana – 122 002.  
Tel: +91 124 307 4000

## Hyderabad

Salarpuria Knowledge City,  
6th Floor, Unit 3, Phase III,  
Sy No. 83/1, Plot No 2, Serilingampally  
Mandal,  
Ranga Reddy District,  
Hyderabad – 500 081.  
Tel: +91 40 6111 6000

## Jaipur

Regus Radiant Centre Pvt Ltd.,  
Level 6, Jaipur Centre Mall,  
B2 By pass Tonk Road,  
Jaipur – 302 018.  
Tel: +91 141 - 7103224

## Kochi

Syama Business Centre,  
3rd Floor, NH By Pass Road,  
Vytila, Kochi – 682 019.  
Tel: +91 484 302 5600

## Kolkata

Unit No. 604,  
6th Floor, Tower – 1,  
Godrej Waterside,  
Sector – V, Salt Lake,  
Kolkata – 700 091.  
Tel: +91 33 4403 4000

## Mumbai

2nd Floor, Block T2 (B Wing),  
Lodha Excelus, Apollo Mills Compound, N M  
Joshi Marg, Mahalaxmi, Mumbai- 400011  
Tel: +91 22 3989 6000

## Noida

Unit No. 501, 5th Floor,  
Advant Navis Business Park,  
Tower-A, Plot# 7, Sector 142,  
Expressway Noida,  
Gautam Budh Nagar,  
Noida – 201 305.  
Tel: +91 0120 386 8000

## Pune

9th floor, Business Plaza,  
Westin Hotel Campus, 36/3-B,  
Koregaon Park Annex,  
Mundhwa Road, Ghorpadi,  
Pune – 411 001.  
Tel: +91 20 6747 7000

## Vadodara

Ocean Building, 303, 3rd Floor,  
Beside Center Square Mall,  
Opp. Vadodara Central Mall,  
Dr. Vikram Sarabhai Marg,  
Vadodara – 390 023.  
Tel: +91 265 619 4200

## Vijayawada

Door No. 54-15-18E,  
Sai Odyssey,  
Gurunanak Nagar Road, NH 5,  
Opp. Executive Club, Vijayawada,  
Krishna District,  
Andhra Pradesh – 520 008.  
Tel: +91 0866 669 1000

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KPMG Assurance and Consulting Services LLP, Lodha Excelus, Apollo Mills Compound, N M Joshi Marg, Mahalaxmi, Mumbai - 400 011 Phone: +91 22 3989 6000, Fax: +91 22 3983 6000

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