



**Deductors/Collectors not to be in withholding tax default for transactions undertaken before laying of Finance Bill (2) 2019; subject to fulfillment of prescribed conditions**

The Finance Bill (No. 2) 2019 having passed on July 18, 2019, there have been instances of short deduction of tax at source on account of changes in surcharge rates since beginning of the financial year 2019-20 till that date. Addressing the hardship caused to the deductors and collectors in case of the transactions undertaken and completed before the enhanced rates of surcharge were announced, clarifications have been issued by CBDT that the deductors or collectors will not be deemed as assessee in default under section 201 of the Income-tax Act and no penalty shall be levied for short deduction of withholding tax, subject to satisfaction of certain conditions. Relevant excerpts from the circular are reproduced as under for ready reference:

4. *The above issue has been examined by the Board and in this regard, it is clarified a person responsible for deduction/collection of tax under any provision of the Income-tax Act will not be considered to be an assessee in default in respect of transactions where:*

- *such transaction has been completed and entire payment has been made to the deductee/payee on or before 5th July, 2019 and there is no subsequent transaction between the deductor/collector and the deductee/payee in the financial year 2019-20 from which the shortfall of tax could have been deducted/collected by the deductor/collector;*
  - *TDS has been deducted or TCS has been 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 in the account of Central Government by the deductor/collector on or before the due date of depositing the same;*
  - *TDS/TCS statement has been furnished by such person on before the due date of filing of the said statement.*
5. *However, if the person fails to fulfill any of the conditions as laid down above, such a person will, with respect to short deduction/collection, not be eligible for benefit provided under this circular.*
6. *Further, if the deductor/collector has deducted/collected shortfall of tax after 5th of July, 2019 from the transaction(s) made subsequently after the said date, interest, if any, for delay in*

*deduction/collection of such tax shall not be levied.*

7. *The above relaxation 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.*

### **Recap of Surcharge rates**

Recap of the revised rates of surcharge for the sake of brevity are as under:

<b>Income slab</b>	<b>Surcharge before the Act</b>	<b>Enhanced surcharge as provided by the Act</b>
Less than 50 lakh rupees	Nil	Nil
50 lakh rupees but less than 1 crore rupees	10%	10%
1 crore rupees but less than 2 crore rupees	15%	15%
2 crore rupees but less than 5 crore rupees	15%	25%
5 crore rupees and above	15%	37%

**Source:**

***CBDT Circular 8 of 2020 dated April 13, 2020***

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