



### **Employee to intimate employer of intent to opt for the concessional rate under section 115BAC for the purpose of withholding tax under section 192**

Putting to rest the dilemma of the employers, CBDT has clarified that withholding tax provisions on salary for FY 2020-21, will be applicable as per the new incentive scheme under section 115BAC, provided the employee opts for it and informs the employer of the same.

Pertinent to note that whereas section 192 provides for deduction of tax at source as per rates in force in Chapter II as defined under section 2(37), 115BAC has been inserted in Chapter XII, resulting in roving enquiries by employers of whether withholding tax be deducted of employees be deducted under the new lower tax incentive scheme or the existing tax regime. The clarification by the Board reads as under:

3. In order to avoid the genuine hardship in such cases, the Board, in exercise of powers conferred under section 119 of the Act, hereby clarifies that an employee, having income other than the income under the head "profit and gains of business or profession" and intending to opt for

the concessional rate under section 115BAC of the Act, may intimate the deductor, being his employer, of such intention for each previous year and upon such intimation, the deductor shall compute his total income, and make TDS thereon in accordance with the provisions of section 115BAC of the Act. If such intimation is not made by the employee, the employer shall make TDS without considering the provision of section 115BAC of the Act.

4. It is also clarified that the intimation so made to the deductor shall be only for the purposes of TDS during the previous year and cannot be modified during that year. However, the intimation would not amount to exercising option in terms of sub-section (5) of section 115BAC of the Act and the person shall be required to do so alongwith the return to be furnished under sub-section (1) of section 139 of the Act for that previous year. Thus, option at the time of filing of return of income under sub-section (1) of section 139 of the Act could be different from the intimation made by such employee to the employer for that previous year.
5. Further, in case of a person who has income under the head "profit and gains of business or profession" also, the option for taxation under section 115BAC of the Act once exercised for a

*previous year at the time of filing of return of income under sub-section (1) of section 139 of the Act cannot be changed for subsequent previous years except in certain circumstances.*

*Accordingly, the above clarification would apply to such person with a modification that the intimation to the employer in his case for subsequent previous years must not deviate from the option under section 115BAC of the Act once exercised in a previous year.*

**Source:**

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