

Clarification regarding deduction of TDS under section 192 read with Section 115BAC(1A)

Vide Finance Act, 2023, sub-section (1A) has been inserted in section 115BAC to provide for a new tax regime with effect from the assessment year beginning on or after the 1st day of April, 2024. This regime applies to an individual or Hindu undivided family or association of persons (other than a cooperative society) or body of individuals, whether incorporated or not, or an artificial juridical person. Under this new regime, the income-tax in respect of the total income of the person shall be computed at the rates provided in sub-section (1 A) of section 115BAC, subject to certain conditions, including the condition that the person does not avail of specified exemptions and deductions.

The above-mentioned new tax regime is the default tax regime applicable to all persons mentioned above. However, under sub-section (6) of section 115BAC of the Act, a person may

exercise an option to opt out of this tax regime. A person not having income from business or profession can exercise this option every year.

Representations have been received expressing concerns regarding tax to be deducted at source (TDS) on salary income of a person under section 192 of the Act as the deductor, being an employer, would not know if the person, being an employee, would opt out from taxation under sub-section (1A) of section 115BAC of the Act or not.

In order to avoid the genuine hardship in such cases, the Board, in exercise of powers conferred under section 119 of the Act, hereby directs that **a deductor, being an employer, shall seek information from each of its employees having income under section 192 of the Act regarding their intended tax regime and each such employee shall intimate the same to the**

deductor, being his employer, regarding his intended tax regime for each year and upon intimation, the deductor shall compute his total income, and deduct tax at source thereon according to the option exercised.

If intimation is not made by the employee, it shall be presumed that the employee continues to be in the default tax regime and has not exercised the option to opt out of the new tax regime. Accordingly, in such a case, the employer shall deduct tax at source, on income under section 192 of the Act, in accordance with the rates provided under sub-section (IA) of section 115BAC of the Act.

It is also clarified that the intimation would not amount to exercising option in terms of sub-section (6) of section 115BAC of the Act and the person shall be required to do so separately in accordance with the provisions of the sub-section.

This circular is in supersession of Circular No. C1 of 2020 dated 13-04-2020 and shall be applicable for TDS during the financial year 2023-24 and subsequent years.

Source: CBDT Circular No. 04 of 2023 dated April 05, 2023



Contact Details

3rd Floor, MJ Tower,

55, Rajpur Road,

Dehradun - 248001

T: +91.135.2743283, +91.135.2747084

E: info@vkalra.com

W: vkalra.com

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