

F. No. 370142/13/2020-TPL
Government of India
Ministry of Finance
Department of Revenue
Central Board of Direct Taxes

New Delhi, April 13, 2020

Clarification in respect of option under section 115BAC of the Income-tax Act, 1961

Section 115BAC of the Income-tax Act, 1961 (the Act), inserted by the Finance Act, 2020 wef the assessment year 2021-22, *inter alia*, provides that a person, being an individual or a Hindu undivided family having income other than income from business or profession", may exercise option in respect of a previous year to be taxed under the said section 115BAC alongwith his return of income to be furnished under sub-section (1) of section 139 of the Act for each year. The concessional rate provided under section 115BAC of the Act is subject to the condition that the total income shall be computed without specified exemption or deduction, set-off of loss and additional depreciation.

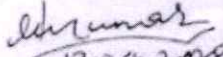
2. Representations expressing concern regarding tax to be deducted at source (TDS) has been received stating that as the option is required to be exercised at the time of filing of return, the deductor, being an employer, would not know if the person, being an employee, would opt for taxation under section 115BAC of the Act or not. Hence, there is lack of clarity regarding whether the provisions of section 115BAC of the Act are to be considered at the time of deducting tax.

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.


13.04.2020
(Niraj Kumar)

Deputy Secretary (TPL)-I

Copy to the:

1. PS/ OSD to FM/ PS/OSD to MoS(F).
2. PS to the Finance Secretary.
3. Chairman and Members, CBDT.
4. Joint Secretaries/ CsIT/ Directors/ Deputy Secretaries/ Under Secretaries, CBDT.
5. C&AG of India (30 copies).
6. JS & Legal Adviser, Ministry of Law & Justice, New Delhi.
7. Institute of Chartered Accountants of India.
8. CIT (M&TP). Official Spokesperson of CBDT.
9. Principal DGIT (Systems) for uploading on official website.

F. No.370142/06/2023-TPL
Government of India
Ministry of Finance
Department of Revenue
Central Board of Direct Taxes
(TPL Division)

Dated: 5th April, 2023

Sub: Clarification regarding deduction of TDS under section 192 read with sub-section (1A) of section 115BAC of the Income-tax Act, 1961 - reg.

Vide Finance Act, 2023, sub-section (1A) has been inserted in section 115BAC of the Income-tax Act, 1961 (the Act) 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 (1A) of section 115BAC, subject to certain conditions, including the condition that the person does not avail of specified exemptions and deductions.

2. 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.


3. 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.

4. 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.

5. 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 (1A) of section 115BAC of the Act.


6. 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.

7. 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.


Vipul Agarwal
Director(TPL-I)

Copy to the:

1. PS/ OSD to FM/ PS/OSD to MoS(F).
2. PS to the Finance Secretary.
3. Chairman and Members, CBDT.
4. Joint Secretaries/ CsIT/ Directors/ Deputy Secretaries/ Under Secretaries, CBDT.
5. C&AG of India (30 copies).
6. JS & Legal Adviser, Ministry of Law & Justice, New Delhi.
7. Institute of Chartered Accountants of India.
8. CIT (M&TP), Official Spokesperson of CBDT.
9. Principal DGIT (Systems) for uploading on departmental website.


Vipul Agarwal
Director(TPL-I)