



**The CBDT Clarifies in Regard to Deduction
of TDS under Section 192 to be Read with
Section 115BAC, Sub-Section (1A) of the
Income Tax Act, 1961**

On 05th April 2023, the Central Board of Indirect Taxes (CBDT) issued a notification in regard to the clarification of TDS under Section 192 to be read with Section 115BAC, Sub-Section (1A) of the Income Tax Act, 1961.

This Circular is in the suspension of Circular No. Cl of 2020 issued on 13th April 2020 and shall be applicable for TDS during the financial year 2023-24 and the subsequent year.

The notification states the following -

- It states that under the Finance Act of 2023, sub-section (1A) has been included in section 115BAC, which contains provisions pertaining to the "income tax payable in respect of the total income of a person" under the Income-tax Act of 1961 to provide for a new tax regime commencing on or after 01st April 2024.
- It states that this regime shall apply to an individual, Hindu Undivided Family (HUF), organisation of persons [other than a cooperative society], the body of individuals, whether or not incorporated, or an artificial legal person. Under this system, the income tax on the person's total income is estimated at the rates indicated in sub-section (1A) of section 115BAC, subject to specific requirements, including that the person does not take advantage of specific exclusions and deductions.
- It states that a person not having income from a business or profession can exercise an option to opt out of this regime under sub-section (6) of section 115BAC of the Act.
- It states that representations have been received expressing concerns about TDS on a person's salary income under section 192, which deals with 'TDS on Salary' as the detector, being an employer, would not know whether the person, being an employee, would opt out of taxation under sub-section (1A) of section 115BAC of the Act or not.

- It is directed 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 that each such employee shall intimate the same to the 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.
- In case of 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.
- It is further clarified that the intimation does not constitute exercising an option under section 115BAC of the Act; the person must do so separately in line with the provisions of the sub-section.



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