



**The Chamber of  
Tax Consultants**  
Mumbai | Delhi

President  
Vipul K. Choksi

Hon. Jt. Secretaries  
Ketan L. Vajani | Haresh P. Kenia

Vice President  
Anish M. Thacker

Treasurer  
Parag S. Ved

Imm. Past President  
Hinesh R. Doshi

Date: 9<sup>th</sup> April, 2020

To,

1. Smt. Nirmala Sitharaman,  
Hon'ble Finance Minister,  
Government of India,  
North Block,  
Delhi 110001.
2. Shri Ajay Bhushan Prasad Pandey  
Hon'ble Revenue Secretary,  
Central Board of Direct Taxes (CBDT)  
North Block,  
Delhi 110001.
3. Shri Pramod Chandra Mody  
Chairman CBDT  
Central Board of Direct Taxes (CBDT)  
North Block,  
Delhi 110001.

Respected Madam / Sirs,

**Ref:** Clarification for deduction of tax at source on Salaries consequent to option of lower tax rate under section 115BAC of the Income-tax Act, 1961 ('the Act') without claiming any exemption or deduction.

1. The Chamber of Tax Consultants (CTC), Mumbai was established in 1926. CTC is one of the oldest (about 93 years) voluntary non-profit making



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organizations in Mumbai formed with the object of educating and updating its members on Tax and other laws. It has a robust membership strength of about 4000 professionals comprising of Advocates, Chartered Accountants and Tax Practitioners.

**2. We have received representations from our fellow members regarding the Clarification for deduction of tax at source on Salaries consequent to option of lower tax rate under section 115BAC of the Income-tax Act, 1961 ('the Act') without claiming any exemption or deduction.**

As per section 115BAC as recently introduced by the Finance Act 2020, an option is available to **every individual** and HUF to opt for a lower rate of tax, provided the individual or HUF does not claim the specified exemptions and deductions (including standard deduction). The individual and HUF as the case may be can opt for the lower rate of tax at the time of filing the return of income.

It is worth noting that employers are required to deduct tax at source under section 192 of the Act on a monthly basis considering the rates in force. In the above context, it is pertinent to note that while the option is available to the individuals to opt for the lower tax rate at the time of filing the return of income, there is no corresponding amendment or guidance available in Chapter XVII-B for the employers as to whether the Tax Deduction at Source (TDS) is to be done at the old rates or as per the new rates (if the employee opts for the same).

**3. The existing rates in force as per Part III of Schedule 1 to the Finance Act, 2020 are not altered. On a bare reading and literal interpretation of section 2(9) read with first proviso and eleventh proviso thereof, it**



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appears that the employer does not have an option to deduct the tax at source at the lower rate as prescribed under section 115BAC of the Act. Section 2(9) of the Finance Act 2020, provides that tax under section 192 of the Act shall be deducted at the rates in force stated in Part III i.e. the normal rate applicable to an individual and not at the rates as specified in section 115BAC of the Act. The first proviso to section 2(9) of the Finance Act, 2020 provides that the liability to pay advance tax in respect of income to which Chapter XII applies (Section 115BAC falls in Chapter XII), shall be computed in accordance with the rate specified in the relevant section. Further, the eleventh proviso to section 2(9) of the Finance Act, 2020 provides that surcharge is to be included in advance tax computed in accordance with the section 115BAC. Therefore, while a reference to section 115BAC is provided in the provisions relating to computation of advance tax, no such reference is provided for TDS provisions.

This has created a dilemma for the employers for applying the TDS provisions on salary payments to their employees. Moreover, a combined reading of the above provisions suggests that the employer has to deduct tax at source at the old rates only.

4. In the light of the above discussion, considering the above dilemma being created, it is imperative that a clarification be issued at the earliest and the employer be required to obtain a declaration in the beginning of the year itself as to whether the employee would like to opt for new rates of tax specified in section 115BAC by forgoing the exemptions and deductions and in case of such employees who opt for new tax rates, the employer be required to deduct tax at source as per the new tax rates.



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**Further, considering the fact that the employers are required to deduct tax at source from the upcoming salary payments for the month of April 2020, it is crucial that the above clarification is issued at the earliest before the last week of April 2020.**

We look forward to your kind intervention and taking up our request for kind consideration.

Thanking you,

Sincerely,

For The Chamber of Tax Consultants

Sd/-

Shri Vipul K. Choksi  
President

Sd/-

Shri Mahendra Sanghvi  
Chairman  
Law and Representation Committee