

## EMPLOYERS ARE REQUIRED TO TAKE DECLARATION FROM EMPLOYEES REGARDING HIS INTENTION TO OPT FOR OPTIONAL TAX REGIME U/S 115BAC OF INCOME-TAX ACT.

### ❖ Section 115BAC of Income-tax Act:

Inserted by the Finance Act, 2020 w.e.f. the assessment year 2021-22, an individual or HUF have the option to pay tax in respect of his total income at concessional tax rates subject to the condition that certain exemption, deduction, setoff of loss and additional depreciation shall not be allowed. Individual or a HUF may exercise this option at the time of filing his return for each year. Individual or HUF having business income, option once exercised shall be valid for that year and subsequent years.

### ❖ Concern regarding TDS Deduction by Employer:

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 employee, would opt for taxation u/s 115BAC or not.

*How to deduct TDS on Employee salaries after applicability of optional tax regime U/S 115BAC?*

### ❖ Clarification Issued by Income Tax Department:

- A. Employee having income other than the income under the head "profit and gains of business or profession" intending to opt for the concessional rate under section 115BAC, may intimate his employer, of such intention for each year and upon such intimation, employer shall compute TDS on his total income in accordance with section 115BAC. If such intimation is not made by the employee, the employer shall make TDS without considering section 115BAC.
- B. Intimation so made by employee shall be only for the purposes of TDS during the year and cannot be modified during that year.
- C. The intimation would not amount to exercising option as required at the time of furnishing of return. Employee shall be required to do so at the time of filing his income tax return for that previous year.
- D. Employee also having income under the head "profit and gains of business or profession" this option for taxation once exercised for a previous year at the time of filing of return, cannot be changed for subsequent years except in certain circumstances. Thus, intimation to employer in this case for subsequent years must not deviate from the option once exercised in a year.

*(Source: Circular C1 of 2020 dated April 13 ,2020)*

### Section 115BAC of Income-tax Act in detail:

On certain conditions, an individual or HUF have the option to pay tax in respect of the total income at following rates:

Total Income (Rs.)	Tax Rate (Optional)*	Existing Tax Rate*
Upto 2,50,000	NIL	NIL
2,50,001 – 5,00,000	5%	5% (NIL up to Rs. 3,00,000 for Senior Citizen and Rs. 5,00,000 for Super Senior Citizen)
5,00,001 – 7,50,000	10%	20%
7,50,001 – 10,00,000	15%	20%
10,00,001 – 12,50,000	20%	30%
12,50,001 – 15,00,000	25%	30%
Above 15,00,000	30%	30%

\*Excluding surcharge and cess.

**Key Points:**

- If new tax regime is opted by Individual or HUF, most of perquisites, deductions and exemptions are not being allowed to be setoff with income.
- In case, individual or HUF not opted for above rates, taxes will be payable as per existing slab rates.
- Individual & HUF not having Business Income: Option shall be exercised for every previous year.
- Individual & HUF having Business Income: Option once exercised shall be valid for that previous year and subsequent years.
- Loss under the head income from house property for rented house shall not be allowed to be set off under any other head and would be allowed to be carried forward.

**Not eligible to avail following Deductions / Allowances /perquisites:**

- Leave Travel Concession u/s 10 (5)
- House Rent Allowance u/s 10 (13A)
- Some of the allowance u/s 10 (14)
- Allowances to MPs/MLAs u/s 10 (17)
- Allowance for income of minor u/s 10 (32)
- Standard deduction, deduction for entertainment allowance and employment/professional tax u/s 16
- Free food and beverage through vouchers provided to the employee
- Deduction from family pension u/s 57 (iia)
- Interest u/s 24 in respect of self-occupied or vacant property referred to in section 23(2)
- Any deduction under chapter VIA (like u/s 80C, 80CCC, 80CCD, 80D, 80DD, 80DDB, 80E, 80EE, 80EEA, 80EEB, 80G, 80GG, 80GGA, 80GGC, 80IA, 80-IAB, 80-IAC, 80-IB, 80-IBA, etc)
- Exemption for SEZ unit u/s 10AA
- Additional depreciation u/s 32 (1) (iia)
- Deductions u/s 32AD, 33AB, 33ABA
- Various deduction for donation for or expenditure on scientific research u/s 35
- Deduction u/s 35AD or u/s 35CCC
- Set off of loss or depreciation attributable to any of the deductions referred above
- provisions relating to AMT shall not apply to such individual or HUF having business income. Also not eligible to carry forward and set off of AMT credit

**Eligible to avail following Deductions/ Allowances:**

- Deduction u/s 80CCD(2): Employer contribution on account of employee in notified pension scheme.
- Deduction u/s 80JJAA: For new employment
- Transport Allowance granted to a divyang employee to meet expenditure for the purpose of commuting between place of residence and place of duty
- Conveyance Allowance granted to meet the expenditure on conveyance in performance of duties of an office;
- Any Allowance granted to meet the cost of travel on tour or on transfer;
- Daily Allowance to meet the ordinary daily charges incurred by an employee on account of absence from his normal place of duty.

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