Employers to take declarations in April 2023 beginning of the year from employees whether they wish to enter into New Scheme/Old Scheme [Sec 115BAC of ITA'61 – Sec 202 of ITA'25]

By: Vivek Jalan

FCA, LL.M (Constitutional Law), LL. B, MBA (International Trade), B. Com (H)
Team Tax Connect

A lot has already been discussed and deliberated on whether employees should opt for new scheme or old scheme of taxation. Now its action time for employers who have to start deduction TDS when they make payments to employees in the April and thereafter. CBDT's Circular 04 has cast a liability on the employer, as always, to obtain a declaration from employees on the computation of their income for the FY 2023-24 so as to estimate the monthly TDS amount. Once, the employer asks, then its duty is over and it is the employee's duty to declare whether for FY 2023-24 he/she wishes to go into the new scheme or old scheme. Incase he/she wishes to go with the old scheme, then he/she would have to declare the amount which he/she wishes to claim as deductions like that for HRA/80C/80D/etc. The further issues as well as their answers are as follows –

A. Incase the employee does not declare anything, then what do employers do? The answer is that the employers have to assume that employee wishes to go with the new scheme and apply TDS as such. It is to be noted that the new scheme is now the "default" scheme.

B. At the end of the year, when filing the return, the employee can switch to the old scheme also and compute its tax liability accordingly. It is to be noted that employees can enter and exit in the two schemes every year.

C. A theoretical question may be asked i.e. incase the employers applies TDS according to the new scheme and the employee actually files the return under the old scheme and finally the tax liability under the old scheme is more than the new scheme, would the employer be liable in that case? While as said, this question is not pratically possible, but even hypothetically we do not feel that there would be any liability of the employer in this scenario.

LET'S DISCUSS FURTHER!

OUR OFFICES:

MUMBAI

1st Floor, AJ House, Marol Maroshi Rd, Gamdevi, Marol, Andheri East, Mumbai, Maharashtra 400059

Contact Person: Prashant Kumar Jha
Email: prashant.jha@taxconnect.co.in

BENGALURU

Go Spaze, B Narayana Pura, Pura, Mahadevapura, Outer Ring Road, Near HDFC Bank, Karnataka -560016

Contact Person: Tarun Singh Bhadouria
Email: tarun.bhadouria@taxconnect.co.in

DELHI

D-32, Second Floor, Main Vikas Marg, Laxmi Nagar, Delhi – 110092

Contact Person: Poonam Khemka
Email: Poonam.khemka@taxconnect.co.in

KOLKATA

6, Netaji Subhas Road, 3rd Floor, Royal Exchange Building, Kolkata – 700001

Contact Person: Sandeep Mandal
Email: Sandeep.mandal@taxconnect.co.in

KOLKATA

R No 119; 1st Floor; Diamond Arcade; 1/72, Cal Jessore Road, Kolkata – 700055

Contact Person: Uttam Kumar Singh
Email: uttam.singh@taxconnect.co.in

DUBAI

Azizi Feirouz, 803, 8th Floor, AL Furjan, Opposite Discovery Pavillion, Dubai

Contact Person: Rohit Sharma
Email: rohit.sharma@taxconnect.co.in

Disclaimer:

This publication is for private circulation only. Views expressed herein are of the Tax Connect team and are based on the information, explanation, and documents available on Government portal platforms. Tax Connect or any of its employees do not accept any liability whatsoever direct or indirect that may arise from the use of the information contained herein. No matter contained herein may be reproduced without prior consent of Tax Connect. While this e-article has been prepared based on published/other publicly available information considered reliable, we do not accept any liability for the accuracy of its contents.