

**Key Amendments in Finance Bill- 2020- TDS / TCS Provisions {Only business impacting sections have been detailed}**

Below amendments are as of Finance Act 2020 passed in Lok Sabha on 23-Mar-2020

1. **TDS on Salaries (S.192)**- Salaries shall be subject to TDS as per the rates in force. Tax rates for Individuals and HUFs has been revised and made optional to get taxed under the new tax regime as per the new Section 115BAC, subject to fulfilment of certain conditions. From an employer perspective, the comparison of tax impact needs to be worked out and the same should be made available to the employees to enable them to select whichever is beneficial for them. However, we expect that CBDT shall clarify the implementation procedures from employer perspective for the purpose of TDS deduction, in the days to come. **W.e.f 1<sup>st</sup> Apr 2020**

Follow-up updated: CBDT vide Circular C1/2020 dt.13-Apr-2020 has clarified the methodology for deduction of TDS if employee opts for new tax regime under Sec.115BAC. Details analysis is available in this article – <http://www.vsnadvisors.co.in/usercss/115BAC.pdf>

2. **TDS on Perquisite through ESOP for an Eligible Start Up (S.191 & 192)** – ESOP is taxed in the hands of the Employee – both at the time of exercise of the option as a perquisite and also at the time of sale as Capital Gains. For the perquisite part, an amendment has been made wherein tax liability in the hands of employee shall arise, not at the time of exercise of the option, but within 14 days from **the earliest** of the occurrence of following events -
  - *after the expiry of forty-eight months from the end of the relevant assessment year; or*
  - *from the date of the sale of such specified security or sweat equity share by the assessee; or*
  - *from the date of the assessee ceasing to be the employee of the person.*

Hence, the TDS liability on Employer on such perquisite is also deferred as mentioned above. **W.e.f 1<sup>st</sup> Apr 2020**

3. **TDS on Dividends (S.194)**- The finance bill has removed the Dividend Distribution Tax on dividends in the hands of Corporates and they shall be taxable only in the hands of the recipients. Section 194 which regulates the TDS provision on Dividends paid has been amended in this regard to deduct TDS at 10%. However, if the shareholder is individual, there is a TDS threshold of Rs.5,000 beyond which TDS shall apply on such dividend provided the same is paid by any modes other than cash. **W.e.f 1<sup>st</sup> Apr 2020**
4. **Amendment to Sec 194C** – This section governs the TDS deductibility on any payments to contractors for carrying out any “work” in pursuance of a contract. In the last clause of the definition ‘work’ – “manufacturing or supplying a product according to the requirement / specification of a customer or its associate”. This amendment is to bring to the TDS net

for those contracts also where goods supplied by the customer's related parties are also included, so that the definition of 'work' has been extended. Definition of Associate is similar to the definition under Sec.40A(b), which is detailed below:

#### Definition of 'Associate'

Section - 40A, Income-tax Act, 1961 - FA, 2019	
(b) The persons referred to in clause (a) are the following, namely :—	
(i) where the assessee is an individual	any relative of the assessee;
(ii) where the assessee is a company, firm, association of persons or Hindu un- divided family	any director of the company, partner of the firm, or member of the association or family, or any relative of such director, partner or member;
(iii) any individual who has a substantial interest in the business or profession of the assessee, or any relative of such individual;	
(iv) a company, firm, association of persons or Hindu undivided family having a substantial interest in the business or profession of the assessee or any director, partner or member of such company, firm, association or family, or any relative of such director, partner or member <sup>29</sup> [or any other company carrying on business or profession in which the first mentioned company has substantial interest];	
(v) a company, firm, association of persons or Hindu undivided family of which a director, partner or member, as the case may be, has a substantial interest in the business or profession of the assessee; or any director, partner or member of such company, firm, association or family or any relative of such director, partner or member;	
(vi) any person who carries on a business or profession,—	
(A) where the assessee being an individual, or any relative of such assessee, has a substantial interest in the business or profession of that person; or	
(B) where the assessee being a company, firm, association of persons or Hindu undivided family, or any director of such company, partner of such firm or member of the association or family, or any relative of such director, partner or member, has a substantial interest in the business or profession of that person.	

**Amendment to Section 194J (Fee for Technical Services)** – The existing flat rate of 10% for professional/ technical services has been further divided in order to reduce ambiguities on applicability of Section 194C/194J for certain transactions. The amendment charges Fees for Technical Services\* at 2% TDS and other professional services at 10%. The question as to what constitutes a “professional” or “technical” service shall have to be determined on a case -to-case basis. **w.e.f 1st Apr 2020**

\* FTS other than in the nature of consideration for sale, distribution or exhibition of cinematographic films – *included subsequently in Finance Act 2020 passed in LS on 23-Mar-2020*

#### 5. Amendment to Section 194N – TDS on Cash withdrawals from Banks

*Amended subsequently in Finance Act 2020 passed in LS on 23-Mar-2020*

**W.e.f 1st July 2020** some modifications has been brought in for persons who has not filed ITRs and it has been time-barred for filing, for all of three years prior to the year in which such cash payment is made to the person –

- Threshold beyond which TDS under this section applies is Rs.20 Lakhs (instead of Rs.1Crore)

- TDS % = 2% where it exceeds Rs.20 Lakhs but does not exceed Rs.1 Crore; 5% where it exceeds Rs.1 Crore

## 6. New Sections 194K and 194O

- **Section 194K – Income from Units of Mutual Funds-** Any income earned from a mutual fund in excess of Rs. 5,000/- during a financial year shall be subject to TDS at 10%. **w.e.f 1<sup>st</sup> Apr 2020**
- **Section 194O – e-Commerce Operations-** Where a sale of goods/ provision of service is facilitated by an e-commerce operator, the e-commerce operator shall deduct tax at the rate of 1% at the time of time of payment or credit whichever is earlier. **w.e.f 1<sup>st</sup> October 2020**
  - For determining the value on which the TDS has to be deducted, the gross amount directly made by the purchaser to the e-commerce operator shall be deemed to be the value of the consideration on which TDS shall be deducted.
  - No deduction under this Section if the e-commerce participant, being an Individual / HUF furnishes PAN/ Aadhar to the e-commerce operator and the gross value of the supplies does not exceed Rs. 5 Lakh during the previous year.
  - No PAN cases- deduction @5%.
  - This TDS shall not apply for activities such as Advertisements or other similar services/sale through eCommerce operator.

## 7. Rate Reduction – Sec 194LC – Interest paid to Non-Resident/ Foreign Company

The present TDS rate of 5% has been reduced to 4%. *However, the corresponding section taxes the incomes of a Foreign company, Sec 115A, is not amended in this regard and that taxability of interest is still at 5%. An amendment can be expected subsequently.* **w.e.f 1<sup>st</sup> Apr 2020**

## 8. TCS Provisions – w.e.f 1<sup>st</sup> October 2020

- **TCS on SALE OF GOODS (206C)-** The “Seller” of goods (Other than Forex/Motor Vehicles) who receives any amount as consideration of value exceeding Rs. 50 Lakhs (either individually or in aggregate in a FY) other than goods being exported outside India, shall collect from the buyer, amount equal to **0.1% of the sale consideration exceeding Rs.50 Lakhs**. In case PAN/ Aadhar not provided, collection of tax @1%.

“**Seller**” is defined to be the person whose sales/ turnover/ gross receipts/ exceeds **Rs. 10 Crores** during the immediately preceding FY. Class of exempted persons will be notified by the Central Govt.

- **TCS on Sale of Foreign Exchange –** The Authorised Dealers are liable to collect from the buyer of the foreign exchange an amount equal to **5%** as income tax. This applies when the buyer remits out of India, an amount of **Rs. 7,50,000/-** or more

in aggregate during a financial year under the Liberalised Remittance Scheme of the RBI.

**9. Replacing Form 26AS**

The Finance Bill has deleted Sec.203AA which governs the issue of Form 26AS by the Tax authority to disclose the tax paid statements via TDS, TCS, Advance Tax, Self-Assessment Tax and Refunds.

A new section – Sec.285BB has been inserted and going forward a new statement shall be issued by the tax authority similar to the Statement of Financial Transactions (SFT) presently, with additional details along with Tax paid information.

The form and relevant rules shall be subsequently be announced. **w.e.f 1<sup>st</sup> June 2020**

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