CIRCULAR NO : 04 /2022

F.No. 275/192/2020-IT(B)
Government of India
Ministry of Finance
Department of Revenue
Central Board of Direct Taxes
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North Block, New Delhi
Dated the 15th March, 2022

SUBJECT: INCOME-TAX DEDUCTION FROM SALARIES DURING THE FINANCIAL YEAR 2021-22 UNDER SECTION 192 OF THE INCOME-TAX ACT, 1961.
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Reference is invited to Circular No. 20/2020 dated 03.12.2020 whereby the rates of deduction of income-tax from the payment of income under the head "Salaries" under Section 192 of the Income-tax Act, 1961 (hereinafter 'the Act'), during the financial year 2020-21, were intimated. The present Circular contains the rates of deduction of Income-tax from the payment of income chargeable under the head "Salaries" during the financial year 2021-22 and explains certain related provisions of the Act and Income-tax Rules, 1962 (hereinafter the Rules). All the sections and rules referred are of Income-tax Act, 1961 and Income-tax Rules, 1962 respectively unless otherwise specified. The relevant Acts, Rules, Forms and Notifications are available at the website of the Income Tax Department- *www.incometaxindia.gov.in.*

As per section 192 (1) of the Act, any person responsible for paying any income chargeable under the head "Salaries" shall, at the time of payment, deduct income-tax on the amount payable at the average rate of income-tax computed on the basis of the rates in force for the financial year in which the payment is made, on the estimated income of the assessee under the head of Salary income for that financial year.

The section also provides that a person responsible for paying any income chargeable under the head "Salaries" shall furnish to the person to whom such payment is made a statement giving correct and complete particulars of perquisites or profits in lieu of salary provided to him and the value thereof.

1. Definition of "salary", "perquisite" and "profit in lieu of salary" (section 17)

1.1 What is salary?

As per section 15 of the Act, the following incomes are chargeable to income-tax under the head "Salaries"—

(*a*) any salary due from an employer or a former employer to an assessee in the previous year, whether paid or not;

(*b*) any salary paid or allowed to him in the previous year by or on behalf of an employer or a former employer though not due or before it became due to him;

(*c*) any arrears of salary paid or allowed to him in the previous year by or on behalf of an employer or a former employer, if not charged to income-tax for any earlier previous year.

As per section 17 of the Act, Salary includes the following:

i) wages;

ii) any annuity or pension;

iii) any gratuity;

iv) any fees, commissions, perquisites or profits in lieu of or in addition to any salary or wages;

v) any advance of salary;

vi) any payment received by an employee in respect of any period of leave not availed of by him;

vii) the portion of the annual accretion to the balance at the credit of an employee participating in a recognised provident fund, to the extent to which it is chargeable to tax under rule 6 of Part A of the Fourth Schedule;

a) contributions made by the employer to the account of the employee in a recognized provident fund in excess of 12% of the salary of the employee, and

b) interest credited on the balance to the credit of the employee in so far as it is allowed at a rate exceeding such rate as may be fixed by Central Government by notification in the Official Gazette;

viii) the contribution made by the Central Government or any other employer to the account of the employee under the New Pension Scheme as notified vide Notification F.N.

5/7/2003- ECB&PR dated 22.12.2003 (enclosed as Annexure VII) referred to in section 80CCD (para 5.5.3 of this Circular);

ix) the aggregate of all sums that are comprised in the transferred balance as referred to in sub rule (2) of rule 11 of Part A of the Fourth schedule of the Act in case of an employee participating in a recognized provident fund, to the extent to which it is chargeable to tax under sub-rule (4) thereof.

It may be noted that, since salary includes pension, tax at source would have to be deducted from pension also, unless otherwise so required. However, no tax is required to be deducted from the commuted portion of pension to the extent exempt under section 10 (10A).

Family Pension is chargeable to tax under the head "Income from other sources" and not under the head "Salaries". Therefore, provisions of section 192 of the Act are not applicable. Hence, DDOs are not required to deduct TDS on family pension paid to person.

1.2 What is a Perquisite?

As per Section 17(2) of the Act, perquisites include:

i) The value of rent-free accommodation provided to the employee by his employer;

ii) The value of any concession in the matter of rent in respect of any accommodation provided to the employee by his employer;

iii) The value of any benefit or amenity granted or provided free of cost or at concessional rate in any of the following cases:

   a) By a company to an employee who is a director of such company;

   b) By a company to an employee who has a substantial interest in the company;

   c) By an employer (including a company) to an employee, who is not covered by (a) or (b) above and whose income under the head "Salaries" (whether due from or paid or allowed by, one or more employers), exclusive of the value of all benefits or amenities not provided for by way of monetary payment, exceeds Rs.50,000/-.

[What constitutes concession in the matter of rent have been prescribed in Explanations 1 to 4 below section 17(2)(ii) of the Act.]

iv) Any sum paid by the employer in respect of any obligation which would otherwise have been payable by the assessee.

v) Any sum payable by the employer, whether directly or through a fund, other than a recognized provident fund or an approved superannuation fund or other specified funds u/s 17, to effect an assurance on the life of an assessee or to effect a contract

for an annuity.

vi) The value of any specified security or sweat equity shares allotted or transferred, directly or indirectly, by the employer, or former employer, free of cost or at concessional rate to the employee. For this purpose,

(a) "specified security" means the securities as defined in section 2(h) of the Securities Contracts (Regulation) Act, 1956 and, where employees' stock option has been granted under any plan or scheme therefore, includes the securities offered under such plan or scheme;

(b) "sweat equity shares" means equity shares issued by a company to its employees or directors at a discount or for consideration other than cash for providing know-how or making available rights in the nature of intellectual property rights or value additions, by whatever name called;

(c) the value of any specified security or sweat equity shares shall be the fair market value of the specified security or sweat equity shares, as the case may be, on the date on which the option is exercised by the assessee as reduced by the amount actually paid by, or recovered from the assessee in respect of such security or shares;

(d) "fair market value" means the value determined in accordance with the method as may be prescribed (refer Rule 3(9) of the IT Rules);

(e) "option" means a right but not an obligation granted to an employee to apply for the specified security or sweat equity shares at a predetermined price;

(vii) the amount or the aggregate of amounts of any contribution made to the account of the assessee by the employer—

(a) in a recognised provident fund;

(b) in the scheme referred to in sub-section (1) of section 80CCD; and

(c) in an approved superannuation fund,

to the extent it exceeds seven lakh and fifty thousand rupees in a previous year;

(viia) the annual accretion by way of interest, dividend or any other amount of similar nature during the previous year to the balance at the credit of the fund or scheme referred to in clause (vii) above to the extent it relates to the contribution referred to in the said clause which is included in total income; and

(viii) the value of any other fringe benefit or amenity as prescribed in **Rule 3**.

1.3 What is profit in lieu of salary ?

As per Section 17(2) of the Act, 'Profits in lieu of salary' include:

I. the amount of any compensation due to or received by an assessee from his employer or former employer at or in connection with the termination of his employment or the modification of the terms and conditions relating thereto;

II. any payment (other than any payment referred to in clauses (10), (*10A*), (*10B*), (*11*), (*12*) (*13*) or (*13A*) of section 10) due to or received by an assessee from an employer or a former employer or from a provident or other fund, to the extent to which it does not consist of contributions by the assessee or interest on such contributions or any sum received under a Keyman insurance policy including the sum allocated by way of bonus on such policy.

"Keyman insurance policy" shall have the same meaning as assigned to it in section 10(*10D*);

III. any amount due to or received, whether in lump sum or otherwise, by any assessee from any person—

(A) before his joining any employment with that person; or

(B) after cessation of his employment with that person.

2. RATES OF INCOME-TAX AS PER FINANCE ACT, 2021

As per the Finance Act, 2021, the rates of income tax for the FY 2021-22 (i.e. Assessment Year 2022-23) are as follows:

2.1 Rates of tax

A. Normal Rates of tax: In the case of every individual other than the individuals referred to in para (B) and (C) below:

S. No	Total Income	Rate of tax
1	Where the total income does not exceed Rs. 2,50,000/-.	Nil;
2	Where the total income exceeds Rs. 2,50,000/- but does not exceed Rs. 5,00,000/-.	5 per cent of the amount by which the total income exceeds Rs. 2,50,000/-;
3	Where the total income exceeds Rs. 5,00,000/- but does not exceed Rs. 10,00,000/-.	Rs. 12,500/- plus 20 per cent of the amount by which the total income exceeds Rs. 5,00,000/-;
4	Where the total income exceeds Rs. 10,00,000/-.	Rs. 1,12,500/- plus 30 per cent of the amount by which the total income exceeds Rs. 10,00,000/-.

B. Rates of tax for every individual, being a resident in India, who is of the age of sixty years or more but less than eighty years at any time during the financial year:

Sl No	Total Income	Rate of tax
1	Where the total income does not exceed Rs. 3,00,000/-	Nil;
2	Where the total income exceeds Rs. 3,00,000 but does not exceed Rs. 5,00,000/-	5 per cent of the amount by which the total income exceeds Rs. 3,00,000/-;
3	Where the total income exceeds Rs. 5,00,000/- but does not exceed Rs. 10,00,000/-	Rs. 10,000/- plus 20 per cent of the amount by which the total income exceeds Rs. 5,00,000/-;
4	Where the total income exceeds Rs. 10,00,000/-	Rs. 1,10,000/- plus 30 per cent of the amount by which the total income exceeds Rs. 10,00,000/-

C. In case of every individual, being a resident in India, who is of the age of eighty years or more at any time during the financial year:

Sl No	Total Income	Rate of tax
1	Where the total income does not exceed Rs. 5,00,000/-	Nil;
2	Where the total income exceeds Rs. 5,00,000 but does not exceed Rs. 10,00,000/-	20 per cent of the amount by which the total income exceeds Rs. 5,00,000/-;
4	Where the total income exceeds Rs. 10,00,000/-	Rs. 1,00,000/- plus 30 per cent of the amount by which the total income exceeds Rs. 10,00,000/-.

2.2 Surcharge on Income-tax

The amount of Income-tax computed in accordance with the provisions of section 111A or section 112 or section 112A or the provisions of section 115BAC of the Income-tax Act, shall be increased by a surcharge for the purposes of the Union, calculated, in the case of every individual or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act 1961—

(a) having a total income (including the income by way of dividend or income under the provisions of section 111A and section 112A of the Income-tax Act) exceeding fifty lakh rupees but not exceeding one crore rupees, at the rate of ten per cent. of such income-tax;

(b) having a total income (including the income by way of dividend or income under the provisions of section 111A and section 112A of the Income-tax Act) exceeding one crore

rupees but not exceeding two crore rupees, at the rate of fifteen per cent. of such income-tax;

(c) having a total income (excluding the income by way of dividend or income under the provisions of section 111A and section 112A of the Income-tax Act) exceeding two crore rupees but not exceeding five crore rupees, at the rate of twenty-five per cent of such income-tax;

(d) having a total income (excluding the income by way of dividend or income under the provisions of section 111A and section 112A of the Income-tax Act) exceeding five crore rupees, at the rate of thirty-seven per cent of such income-tax; and

(e) having a total income (including the income by way of dividend or income under the provisions of section 111A and section 112A) exceeding two crore rupees, but is not covered under clauses (c) and (d), shall be applicable at the rate of fifteen per cent. of such income-tax:

Provided that in case where the total income includes any income by way of dividend or income chargeable under section 111A and section 112A of the Income-tax Act, the rate of surcharge on the amount of Income-tax computed in respect of that part of income shall not exceed fifteen per cent.:

Provided further that in the case of persons mentioned above having total income exceeding, —

(a) fifty lakh rupees but not exceeding one crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of fifty lakh rupees by more than the amount of income that exceeds fifty lakh rupees;

(b) one crore rupees but does not exceed two crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax and surcharge on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees;

(c) two crore rupees but does not exceed five crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax and surcharge on a total income of two crore rupees by more than the amount of income that exceeds two crore rupees;

(d) five crore rupees, the total amount payable as income-tax and surcharge on such income

shall not exceed the total amount payable as income-tax and surcharge on a total income of five crore rupees by more than the amount of income that exceeds five crore rupees.

2.3 Health and Education Cess

The amount of Income tax as increased by the applicable surcharge shall be further increased by an additional surcharge, for the purposes of Union, to be called "Health and Education Cess on Income-tax".

Health and Education Cess on Income-tax shall be levied at the rate of four percent of income tax including surcharge wherever applicable. No marginal relief shall be available in respect of such cess.

2.4 Concessional Rates of Tax u/s 115BAC

Section 115BAC of the Income-tax Act, 1961 was inserted by the Finance Act, 2020 w.e.f. Assessment Year 2021-22. The new section 115BAC provides that the income-tax payable in respect of the total income of a person, being an individual or a HUF, for any previous year relevant to the assessment year beginning on or after the 1st day of April, 2021, shall, at the option of such person, be computed at the concessional rates as given in table below:

Sl. No.	**Total Income**	**Rate of tax**
1	Up to Rs. 2,50,000	Nil
2	From Rs. 2,50,001 to Rs. 5,00,000	5 per cent
3	From Rs. 5,00,001 to Rs. 7,50,000	10 per cent
4	From Rs. 7,50,001 to Rs. 10,00,000	15 per cent
5	From Rs. 10,00,001 to Rs. 12,50,000	20 per cent
6	From Rs. 12,50,001 to Rs. 15,00,000	25 per cent
7	Above Rs. 15,00,000	30 percent

Such person is required to exercise the option in the prescribed manner along with the return of income to be furnished under section 139(1) of the Act for the previous year relevant to the assessment year. The concessional rates of tax provided under section 115BAC are subject to the condition that the total income of the individual or HUF shall be computed : -

a) Without any exemption or deduction specified under clause (i) of sub-section (2) of section 115BAC.

b) Without set off of any loss specified in clause (ii) of sub-section (2) of section 115BAC.

c) Without any exemption or deduction for allowances or perquisite, by whatever name called, provided under any other law for the time being in force, as specified in the clause (iv) of sub-section (2) of section 115BAC.

Further, surcharge on income-tax as contained in Para 2.2 shall be applicable in case of person opting for concessional tax regime. Where the person fails to satisfy the conditions contained in sub-section (2) in any previous year, the option shall become invalid in respect of the assessment year relevant to that previous year and other provisions of the Act shall apply, as if the option had not been exercised for the assessment year relevant to that previous year. Further, where the option is exercised under clause (i) of sub-section (5), in the event of failure to satisfy the conditions contained in sub-section (2), it shall become invalid for subsequent assessment years also and other provisions of the Act shall apply for those years accordingly.

The conditions specified in subsection (2) of section 115BAC is as follows:

For the purposes of sub-section (1), the total income of the individual or Hindu undivided family shall be computed—

(i) without any exemption or deduction under the provisions of clause (5) or clause (13A) or prescribed under clause (14) (other than those as may be prescribed for this purpose) or clause (17) or clause (32), of section 10 or section 10AA or section 16 or clause (b) of section 24 (in respect of the property referred to in sub-section (2) of section 23) or clause (iia) of sub-section (1) of section 32 or section 32AD or section 33AB or section 33ABA or sub-clause (ii) or sub-clause (iia) or sub-clause (iii) of sub-section (1) or sub-section (2AA) of section 35 or section 35AD or section 35CCC or clause (iia) of section 57 or under any of the provisions of Chapter VI-A other than the provisions of sub-section (2) of section 80CCD or section 80JJAA;

(ii) without set off of any loss,—

(a) carried forward or depreciation from any earlier assessment year, if such loss or depreciation is attributable to any of the deductions referred to in clause (i);

(b) under the head "Income from house property" with any other head of income;

(iii) by claiming the depreciation, if any, under any provision of section 32, except clause (iia) of sub-section (1) of the said section, determined in such manner as may be prescribed; and

(iv) without any exemption or deduction for allowances or perquisite, by whatever name called, provided under any other law for the time being in force.

Furthermore, in case of a person having income from business or profession, such person is required to exercise the option in prescribed manner on or before the due date specified under such-section (1) of section 139 of the Act for any previous year relevant to assessment year commencing on or after 01.04.2021 and such option once exercised shall apply to subsequent assessment years. However, in case of such persons, the option once exercised can be withdrawn only once and such person shall never be eligible to exercise the option again unless such person ceases to have income from business or profession.

3. SECTION 192 OF THE INCOME-TAX ACT, 1961: BROAD SCHEME OF TAX DEDUCTION AT SOURCE FROM "SALARIES"

3.1 Method of Tax Calculation

Every person who is responsible for paying any income chargeable under the head "Salaries" shall deduct income-tax on the estimated income of the assessee under the head "Salaries" for the financial year 2021-22. The income-tax is required to be calculated on the basis of the rates given in para 2 above, subject to the provisions related to requirement to furnish PAN or Aadhaar number, as the case may be, as per sec 206AA of the Act, and TDS u/s 192 shall be deducted at the time of each payment.

As per section 192(1C) of the Act, a person, being an eligible start-up referred to in section 80-IAC, responsible for paying any income to the assessee being perquisite of the nature specified in sub-clause (vi) of clause (2) of Section 17 in any previous year relevant to Assessment year 2021-22 and thereafter, shall deduct or pay, as the case may be, tax on such income within 14 days—

a) after the expiry of 48 months from end of the relevant assessment year; or
b) from the date of sale of such specified security or sweat equity share by the assessee; or
c) from the date of the assessee ceasing to be the employee of the person,

whichever is the earliest, on the basis of rates in force for the financial year in which the said specified security or sweat equity share is allotted or transferred.

Any employee intending to opt for the concessional rates of tax under section 115BAC of the Act, may intimate the deductor, being his employer, of such intention for each previous year and upon such intimation, the deductor shall compute his total income, and make TDS thereon in accordance with the provisions of section 115BAC. If such intimation is not made by the employee, the employer shall make TDS without considering the provision of section 115BAC of the Act. The intimation so made to the deductor shall be only for the purpose of TDS during the previous year and cannot be modified during that year. (CBDT Circular No. C1 of 2020 dated 13.04.2020)

No tax, however, will be required to be deducted at source in a case unless the estimated salary income including the value of perquisites is taxable after giving effect to the exemptions, deductions and relief as applicable. *(Some typical illustrations of computation of tax are given at **Annexure-I**).*

3.2 Payment of Tax on Perquisites by Employer

Perquisites are divided in two parts i.e. monetary perquisites and non-monetary perquisites. Monetary perquisites are taxable for all employees and non-monetary perquisites are taxable in the hands of specified employees. The following employees are deemed as specified employees:

1) A director-employee

2) An employee who has substantial interest (i.e. beneficial owner of equity shares carrying 20% or more voting power) in the employer-company

3) An employee whose monetary income under the salary exceeds Rs.50,000.

The taxable value of perquisites can be determined on the basis of specific rules for valuation of certain perquisites as laid down in Rule 3 of the Income-tax Rules

An option has been given to the employer to pay the tax on non-monetary perquisites given to an employee. The employer may, at its option, make payment of the tax on such perquisites himself without making any TDS from the salary of the employee. As per Section 10(10CC) of the Act, the tax paid on such non-monetary perquisites by the employer is exempt from tax in the hands of the employee. However, the employer will have to pay the tax at the time when such tax was otherwise deductible i.e. at the time of payment of income chargeable under the head "salaries" to the employee.

3.3 Computation of Average Income Tax

For the purpose of making the payment of tax on the payment of any income in the nature of non-monetary perquisites, mentioned in para 3.2 above, tax payable is to be determined by calculating the average rate of tax on the income chargeable under the head "salaries", including the value of perquisites for which tax has been paid by the employer himself.

Illustration:

The income chargeable under the head 'salaries" of an employee below sixty years of age during the Financial Year 2021-22, is Rs. 6,00,000/- (inclusive of all perquisites), out of which, Rs. 50,000/- is on account of non-monetary perquisites and the employer opts to pay the tax on such perquisites as per the provisions discussed in para 3.2 above.

STEPS:

Income Chargeable under the head -'Salaries" inclusive of all perquisites	Rs. 6,00,000/-
Tax as per normal rates on Total Salary (including Cess)	Rs. 33,800/-
Average Rate of Tax [(33, 800/6,00,000) X100]	5.63%

Tax payable on Rs.50,000/= (5.63% of 50,000)	Rs. 2815
Amount required to be deposited each month	Rs. 235= 2815/12

The tax so paid by the employer shall be deemed to be TDS made from the salary of the employee.

3.4 Salary from more than one employer

Section 192(2) deals with situations where an individual is working under more than one employer or has changed from one employer to another. It provides for deduction of tax at source by such employer (as the tax payer/employee may choose) from the aggregate salary of the employee, who is or has been in receipt of salary from more than one employer. The employee is now required to furnish to the present/chosen employer details of the income under the head "Salaries" due or received from the former/other employer and also tax deducted at source therefrom, **in writing and duly verified by him and by the former/other employer**. The present/chosen employer will be required to deduct tax at source on the aggregate amount of salary (including salary received from the former or other employer).

3.5 Relief When Salary Paid in Arrear or Advance

3.5.1 Section 89 of the Act provides for relief to an assessee to whom salary is being paid in arrear or advance as a result of which, his total income is assessed at a higher rate than that at which it would otherwise have been assessed. Such an assessee can make an application to the Assessing Officer who shall grant relief in the prescribed manner. Rule 21A of the Rules provide the manner for computation of such relief.

3.5.2 Under section 192(2A) where the assessee, being a Government servant or an employee in a company, co-operative society, local authority, university, institution, association or body is entitled to the relief under Section 89, he/she may furnish to the person responsible for making the payment referred to in Para (3.1), such particulars in **Form No. 10E** (Rule 21AA of the Income tax Rules) duly verified by him, and thereupon the person responsible, as aforesaid, shall compute the relief on the basis of such particulars and take the same into account in making the deduction under Para(3.1) above. Further, such assessee shall upload the aforesaid Form 10E electronically in the e-Filing portal along with the return of income.

3.5.3 Here "university" means a university established or incorporated by or under a Central, State or Provincial Act, and includes an institution declared under Section 3 of the

University Grants Commission Act, 1956 to be a university for the purpose of that Act.

3.5.4 With effect from 1/04/2010 (AY 2010-11), no such relief shall be granted in respect of any amount received or receivable by an assessee on his voluntary retirement or termination of his service, in accordance with any scheme or schemes of voluntary retirement or in the case of a public sector company referred to in section 10(10C)(i) (read with Rule 2BA), a scheme of voluntary separation, if an exemption in respect of any amount received or receivable on such voluntary retirement or termination of his service or voluntary separation has been claimed by the assessee under section 10(10C) in respect of such, or any other, assessment year.

3.6 Information regarding Income under any other head

Section 192(2B) enables a taxpayer to furnish particulars of income under any head other than "Salaries" (not being a loss under any such head other than the loss under the head — 'Income from house property') received by the taxpayer for the same financial year and of any tax deducted at source thereon. The particulars may now be furnished in a simple statement, which is properly signed and verified by the taxpayer in the manner as prescribed under Rule 26B(2) of the Rules and shall be annexed to the simple statement. The form of verification is reproduced as under:

I, (name of the assessee), do declare that what is stated above is true to the best of my information and belief.

It is reiterated that the DDO can take into account **loss only under the head "**Income from house property". Loss under any other head cannot be considered by the DDO for calculating the amount of tax to be deducted. It may be noted that loss under the head "Income from house property" can be set off only up to Rs. 2.00 lakh with the income under any other head of income in view of the amendment to section 71 of the Act vide Finance Act, 2017. Hence, loss under the head "Income from house property" in excess of Rs. 2.00 lakh is to be ignored for calculating the amount of tax deduction.

3.7 Computation of income under the head "Income from house property"

Section 192(2D) enables the person responsible for making the payment, to obtain the evidence or proof of the prescribed claims, including claim for set-off of loss. While taking into account the loss from House Property, the DDO shall ensure that the employee files the declaration referred to above and encloses therewith a computation of such loss from house property. Following details shall be obtained and kept by the employer in respect of loss claimed under the head "Income from House Property" separately for each house property:

a) Gross annual rent/value

b) Municipal Taxes paid, if any

c) Deduction claimed for interest paid, if any

d) Other deductions claimed

e) Address of the property

The DDO shall also ensure furnishing of the evidence or particulars in Form No. 12BB in respect of deduction of interest as specified in Rule 26C read with section 192 (2D).

3.7.1 Conditions for claim of deduction of interest on borrowed capital for computation of Income from House Property [section 24(b)]

Section 24(b) of the Act allows deduction from income from houses property on interest on borrowed capital as under :

i. the deduction is allowed only in case of house property which is owned and is in the occupation of the employee for his own residence. In case the house property is not occupied by the employee in view of his place of the employment being at other place, then his residence in that other place should not be in a building belonging to him.

ii. the quantum of deduction allowed as per table below:

Sl No	Purpose of borrowing capital	Date of borrowing capital	Maximum Deduction Allowable
1	Repair or renewal or reconstruction of the house	Any time	Rs. 30,000/-
2	Acquisition or construction of the house	Before 01.04.1999	Rs. 30,000/-
3	Acquisition or construction of the house	On or after 01.04.1999	Rs. 1,50,000/- (upto AY 2014-15)
			Rs. 2,00,000/- (w. e. f. AY 2015-16)
4	Aggregate deduction of Sl. 1 and Sl. 3 of the table above shall not exceed Rs.2,00,000/- from the Financial Year 2019-20.		

In case of Serial No. 3 above:

(a) The acquisition or construction of the house should be completed within 5 years from the end of the FY in which the capital was borrowed. Hence, it is necessary for the DDO to have the completion certificate of the house property against which deduction is claimed either from the builder or through self-declaration from the employee.

(b) Further any prior period interest for the FYs upto the FY in which the property was acquired or constructed (as reduced by any part of interest allowed as deduction under any other section of the Act) shall be deducted in equal installments for the

FY in question and subsequent four FYs.

(c) The employee has to furnish before the DDO a certificate from the person to whom any interest is payable on the borrowed capital specifying the amount of interest payable. In case a new loan is taken to repay the earlier loan, then the certificate should also show the details of Principal and Interest of the loan so repaid.

As discussed in para 4.7.4, section 192(2D) read with rule 26C makes it mandatory for the DDO to obtain following details/evidences in respect of Interest deductible.

(i) Interest payable or paid

(ii) Name of the lender

(iii) Address of the lender

(iv) PAN or Aadhaar number of the lender

PAN or Aadhaar number, as the case may be, of the lender being financial institution or employer, is to be provided if it is available with the employee. However, in case of other lenders, obtaining of PAN or Aadhaar number is mandatory by the DDO.

3.8 Adjustment for Excess or Shortfall of Deduction

The provisions of Section 192(3) allow the deductor to make adjustments for any excess or shortfall in Tax deduction arising out of any previous deduction or failure to deduct during the financial year.

3.9 Salary Paid in Foreign Currency

For the purposes of deduction of tax on salary payable in foreign currency, the value in rupees of such salary shall be calculated at the "**Telegraphic transfer buying rate"** of such currency as on the date on which tax is required to be deducted at source (see Rule 26 and Rule 115).

4 Persons Responsible For Deducting Tax And Their Duties

Section 204 of the Act explains the meaning of the expression "Person responsible for paying".

As per Clause (i) of section 204, in the case of payment of Salary, other than payments by the Central Government or the State Government, the "person responsible for paying" for the purpose of Section 192 means the employer himself or if the employer is a Company, the Company itself including the Principal Officer thereof.

As per Clause (iv) of section 204, in case the credit, or as the case may be, the payment of

any sum chargeable under the Act, is made by or on behalf of Central Government or State Government, the Drawing and Disbursing Officer or any other person by whatever name called, responsible for crediting, or as the case may be, paying such sum is the "person responsible for paying" for the purpose of Section 192.

As per Clause (v) of section 204, in case of a person not resident in India, the "person responsible for paying" means the person himself or any person authorised by such person or the agent of such person in India including any person treated as an agent under section 163.

4.1 Tax Deduction at Source

The concept of Tax deduction at Source (TDS) was introduced with an aim to collect tax from the source of income. As per this concept, a person (deductor) who is liable to make payment of specified nature to any other person (deductee) shall deduct tax at source and remit the same into the account of the Central Government. The deductee, from whose income, tax has been deducted at source, would be entitled to get credit of the amount so deducted on the basis of Form 26AS or TDS certificate issued by the deductor.

4.1.2 Rates for tax deduction at source

Section 192 does not specify any TDS rate. However as per section 192(1), the tax deduction shall be made at the average rate of income tax on the amount payable, computed on the basis of the rates in force for the financial year in which the payment is made, on the estimated income under the head of Salary for that financial year. The rates as per different income slabs are specified in the First Schedule to the Finance Act. In the case of payment to non-resident persons, the withholding tax rates specified under the Double Taxation Avoidance Agreements shall also be considered.

4.2 Deduction of Tax at Nil or Lower Rate

If the jurisdictional TDS officer of the employer issues a certificate of No Deduction or Lower Deduction of Tax under section 197 of the Act, in response to the application filed before him in Form No 13 by the employee, then the DDO should take into account such certificate and deduct tax on the salary payable at the rates mentioned therein. **(see Rule 28AA).** The Unique Identification Number of the certificate is required to be reported in Quarterly Statement of TDS (**Form 24Q**).

4.3 Deposit of Tax Deducted

As per section 200 of the Act, any person responsible for deducting any sum has to pay within the prescribed time, the sum so deducted to the credit of the Central Government.