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A CRITIQUE ON THE NEW PERSONAL TAX REGIME: SALARIED TAXPAYERS' PERSPECTIVE

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ABSTRACT

The Finance Act, 2020 with effect from April 1, 2021 introduced Section 115BAC in the Income Tax Act, 1961 in order to bring in simplification for the taxpayers falling under the category of individual and Hindu Undivided Family. Post the introduction of this section, taxpayers comprising in these categories have an option to choose between the existing and new personal tax regimes, subject to some conditions. The new personal tax regime will surely have an impact on the salaried taxpayers constituting a major portion of the individual taxpayer's category. Though, the new personal tax regime seems to be simple, a salaried taxpayer is required to carefully choose between the two personal tax regimes such that he / she is at an advantage. This paper makes an attempt to critically evaluate the new personal tax regime from the perspective of the salaried taxpayers, to check whether it is really that simple as it seems and to check if such taxpayer is required to pay an implicit price for this simplicity.

Keywords: *Personal Tax Regime, Salaried Taxpayer, Income Tax.*

INTRODUCTION

Albert Einstein said "The hardest thing in the world to understand is the income tax." Most of us may agree with this statement of Einstein. The income tax system in India also has become very complex over a period of time. This is due to the manifold amendments that have been made to the Income Tax Act, 1961 since its inception. These amendments have made the income tax law too massive and complicated and hence, this calls for simplification of the income tax statute. February 1, 2020, marked one of the major initiatives taken by the government to simplify the income tax structure in India.

Shrimati Nirmala Sitharaman, the Honourable Finance Minister of India, in her budget speech dated February 1, 2020, made an announcement about the introduction of the new personal tax regime. She further stated in her budget speech that this new tax regime has been introduced to offer a significant relief to individual taxpayers as the existing personal tax regime has been plagued with various exemptions and deductions that make tax compliance for the taxpayer as well as the tax administrator quite troublesome. The new personal tax regime will help the taxpayers to comply with the provisions of the income tax laws without seeking any professional guidance.

With this, the Finance Act, 2020, with effect from April 1, 2021, introduced a new personal tax regime under the provisions of Section 115BAC of the Income Tax Act, 1961. The vision of this had been laid down by Shri Arun Jaitley, the then Honourable Finance Minister of India, while presenting his budget speech dated February 28, 2015. He stated that he wished to introduce a direct tax regime that had internationally competitive income tax rates, was without exemptions and incentivised savings. This will result in more transparency and investments.

This vision of Shri Arun Jaitley finally saw the dawn with the introduction of Section 115BAC of the Income Tax Act, 1961 that deals with *Tax on Income of Individuals and Hindu Undivided Family*. Post the introduction of the new personal tax regime, it has been much talked about due to the simplicity and ease of computing the income tax that it offers the taxpayers.

METHODOLOGY

This study is qualitative in nature. The study undertaken is an analytical research and critically analyses the new personal tax regime that has been introduced by the Finance Act, 2020. The data required for conducting this study was secondary in nature and it has been majorly collected from the Income Tax Act, 1961 as amended by The Finance Act, 2020. The other significant sources of data collection were the Union Budget Speeches of the Finance Ministers from time to time.

DISCUSSION

UNDERSTANDING THE NEW PERSONAL TAX REGIME:

The new personal tax regime offers a ray of hope, due its simplicity, to the taxpayers in order to carry out their tax compliances without any troubles. The following are the conspicuous features of the new personal tax regime specially for the salaried taxpayers: -

A. *Option to choose: -*

   The new personal tax regime, as introduced under section 115BAC of the Income Tax Act, 1961, offers an option to the salaried taxpayers. It is in their hands to choose this new personal tax regime or to continue with the existing personal tax regime that they are following at present. This option has to be exercised every year by such taxpayers at the time of filing their income tax returns. Once the salaried taxpayer opts for this option, he / she will have to compute total income and tax liability as per the provisions of Section 115BAC of the Income Tax Act, 1961.

B. *Computation of total income: -*

The computation of the total income by the taxpayer opting for the new personal tax regime has to be done in accordance with Section 115BAC of the Income Tax Act, 1961 and it is different than the computation of total income done under the existing personal tax regime. The taxpayer opting for the new personal tax regime has to forego certain exemptions, deductions and even adjustment of certain losses against income. The following is the detailed list of sections of the Income Tax Act, 1961 containing exemptions, deductions and adjustment of losses that the salaried taxpayer will have to forego in computation of his / her total income under the new personal tax regime:

1. Section 10 (5) – Exemption available from Leave Travel Concession
2. Section 10 (13A) – Exemption available from House Rent Allowance
3. Section 10 (14) – Exemption available from Special allowances other than those allowed by the government
4. Section 10 (32) – Exemption available on clubbing of income of a minor child with that of a parent
5. Section 16 – Deductions from salaries
6. Section 24 (b) – Deduction of interest on borrowed capital from income from house property only in respect of property u/s 23 (2) of the Income Tax Act, 1961.
7. Section 80C – Deduction in respect of life insurance premia, deferred annuity, contributions to provident fund, subscription to certain equity shares or debentures, etc.
8. Section 80CCC – Deduction in respect of contribution to certain pension funds
9. Section 80CCD (1) and (1B) – Deduction in respect of contribution made by an individual to pension scheme of the Central Government
10. Section 80D – Deduction in respect of health insurance premia
11. Section 80DD – Deduction in respect of maintenance including medical treatment of a dependent who is a person with disability
12. Section 80DDB – Deduction in respect of medical treatment, etc.
13. Section 80E – Deduction in respect of interest on loan taken for higher education
14. Section 80EE – Deduction in respect of interest on loan taken for residential house property
15. Section 80EEA – Deduction in respect of interest on loan taken for certain house property
16. Section 80EEB – Deduction in respect of purchase of electric vehicle
17. Section 80G – Deduction in respect of donations to certain funds, charitable institutions, etc.
18. Section 80GG – Deductions in respect of rents paid
19. Section 80GGA – Deductions in respect of certain donations for scientific research or rural development

20. Section 80GGC – Deductions in respect of contributions given by any persons to political parties
21. Section 80TTA – Deductions in respect of interest on deposits in savings account
22. Section 80TTB – Deductions in respect of interest on deposits in case of senior citizens
23. Section 80U – Deduction in case of a person with disability
24. No adjustment for set-off of any loss under the head Income from House Property arising in case of self-occupied property / properties under section 24 (b) of the Income Tax Act, 1961 with any other head of income. The loss is deemed to be given full effect to and hence, no further deduction of such loss shall be permissible for any subsequent Assessment Year

Thus, the total income of the salaried taxpayer shall be computed without claiming the tax benefits available under the aforesaid provisions of the income tax act. This will definitely result in increase in the total income of the taxpayer as he / she does not get the aforesaid tax benefits.

C. *Computation of Tax Liability: -*

It is important to note here that the tax liability also shall be computed as per the tax slabs mentioned under section 115BAC of the Income Tax Act, 1961.These tax slabs are different than those as laid down by the Annual Finance Acts from time to time. Further, Section 115BAC of the Income Tax Act, 1961 overrides all the provisions of this act except Chapter XII of this act that specifies *Determination of tax in certain special cases*, meaning thereby the incomes that are taxed at special rates will continue to be taxed at such rates even under the new personal tax regime.

The tax slabs mentioned under provisions of the new personal tax regime are as under:

Total Income	**Income Tax Rate**
Upto Rs. 2.50 lakhs	Nil
Above Rs. 2.50 – 5 lakhs	5%
Above Rs. 5 – 7.50 lakhs	10%
Above Rs. 7.50 – 10 lakhs	15%
Above Rs. 10 – 12.50 lakhs	20%
Above Rs. 12.50 – 15 lakhs	25%
Above Rs. 15 lakhs	30%

The slabs mentioned here are comparatively lower than that the tax slabs applicable at present for the Assessment Year 2021-22 under the existing personal tax regime.

D. *Failure to comply: -*

In case, if a taxpayer opts for the new personal tax regime and fails to comply with the provisions of this new regime for computation of his / her total income in any previous year, he / she will have to follow the existing personal tax regime in the assessment year relevant to such previous year. Further, the option that he / she exercised also becomes invalid automatically. However, he / she is eligible to choose the new personal tax regime for the subsequent assessment years by following the provisions specified under section 115BAC of the Income Tax Act, 1961.

ANALYSIS AND OBSERVATIONS

New Personal Tax Regime: Beneficial and Simple? -

Arthur B. Laffer, the famous American Economist said:

"Citizens should be able to comply with the tax code without having to spend absurd amounts of money to do so. The fact that there is such a large compliance mark-up in our tax system indicates that the tax system has gone awry. All of these hours could have been used for something a lot more productive than just making sure our taxes are filed and paid correctly."

It can be clearly understood that no tax system must be so complicated that the compliance of the same becomes a nightmare for its taxpayers. So the introduction of the new personal tax regime by the government is obviously a much sought after move. The tax compliance further seemed to be simplified when the Honourable Finance Minister of India, Shrimati Nirmala Sitharaman, in her budget speech dated February 1, 2020, mentioned that as the income tax returns shall be pre-filled, the individual opting for the new personal tax regime would not seek any professional support for filing his / her return. This announcement was surely an icing on the cake for all the taxpayers as the tax computation as well as tax compliance was made easy and that too without seeking any professional guidance.

The simplicity, so stated, under the new personal tax regime comes with a price. The price is that the taxpayer has to forego his / her exemptions / deductions / adjustment of set-off of loss. Thus, the taxpayer is required to understand that income under the new personal tax regime will be higher due to withdrawal of certain exemptions and deductions and non-adjustment of set-off of loss but the same may to be compensated with the lower tax slabs under the new personal tax regime.

The caution that the taxpayer needs to have is actually compare his / her tax liability under both the personal tax regimes and only then arrive at a decision that gives him / her a lower tax liability. The question that arises here is: will the new personal tax regime be always beneficial to a salaried taxpayer who has been availing the tax benefits under the existing personal tax regime? The answer is certainly no. The salaried taxpayer loses almost all the exemptions on his / her allowances, deductions under the head salaries, adjustment of set-off of loss as well as the general deductions available under Chapter VI-A of the Income Tax Act, 1961 as have been enumerated above.

So every year a salaried taxpayer is required to check whether he / she is better off in the new personal tax regime with higher total income but lower income tax slabs or in the existing personal tax regime with lower total income but higher income tax slabs. Thus, the taxpayer is required to arrive at an indifference point that will make him indifferent under both the options and is required to carry out this exercise every year till the parallel system of personal tax regime exists. A taxpayer who is barely able to understand the existing tax regime will actually have to:

1. Compute total income and tax liability under the existing personal tax regime,
2. Compute the total income and tax liability under the new personal tax regime and
3. Make a decision and choose the option that will be beneficial.

This leads to doubts in my mind that whether a salaried taxpayer will be able to do his / her tax compliance without seeking professional advice or not.

Issues in Procedural Compliance Post the New Personal Tax Regime: -

The parallel continuation of existing personal tax regime may affect the very purpose of introduction of the new personal tax regime for salaried taxpayers broadly due to the following:

1. *<u>Deduction of tax at source: -</u>*

   Employer is required to deduct tax at source on employee's salary income as per the provisions of Section 192 of the Income Tax Act, 1961 and so most of the computations of exemptions and deductions are usually carried out by the employer based upon the declaration furnished by its employees under Form 12BB as per the provisions of Rule 26C of the Income Tax Rules, 1962. This form requires the employee to furnish the claims and evidence for the same so that the employer shall consider the said claims for applicable exemptions and / or deductions at the time of deduction of the tax at source.

   With the introduction of the new personal tax regime, a salaried taxpayer is required to choose between the new and existing personal tax regime at the time of filing his / her income tax return. However, the existing provisions of Section 192 of the Income Tax Act, 1961 require the employers to deduct tax at source at the average rates of income tax computed on the basis of the rates prevalent during the financial year in which the payment of salary is made, thereby the provisions of Section 192 do not mandate the employers to give an option to their employees for the personal tax regime chosen by them at the time of deduction of tax at source. Further, all the employers may not be equipped with a robust system to fulfil the computational requirement by giving options to their employees. Thus, the employer may choose to follow a universal practice for all the employees of the organisation in order to comply with its tax deduction requirement and to avoid the cumbersome process of getting a declaration from each of its employees about the personal tax regime opted by them. This can give rise to the first issue for salaried taxpayer as the tax may be deducted by the employer irrespective of the option that the employee wishes to choose.

Suppose the employer has deducted tax at source considering the existing personal tax regime while the employee wished to follow the new personal tax regime. In this case, the employee will be required to do the computation of total income and tax liability again while filing his / her income tax return based upon the option chosen by him / her.

2. *Pre-filled income tax returns: -*

The Honourable Finance Minister of India, Shrimati Nirmala Sitharaman, in her budget speech dated July 5, 2019, announced that the income tax returns will now be pre-filled with certain details of income and information will be collected from concerned sources. She further stated that this will facilitate the filing of the income tax returns as well as ensure the accuracy of the income reported and tax on it.

The second issue that may arise for the salaried taxpayer is that the income tax return will be pre-filled based upon the tax deduction at source done by the employer. So the employee who opts for the tax regime other than that followed by his / her employer at the time of deduction of tax, will have to edit the information that is already pre-filled in the income tax return. This situation may worsen further if the pre-filled income tax return is non-editable as far as the Income under the head Salaries is concerned as the income under this head and tax on it is generally fixed for the year so the system may not allow to edit the same. In this case, the salaried taxpayer is left with no option but to file income tax return as per the option followed by the employer at the time of deduction of tax.

Even if the pre-filled income tax return is editable, the salaried taxpayer has to compute the taxable income and tax liability on it again and make the necessary changes in the income tax return.

CONCLUSION

From the above discussion, it can be clearly understood that the new personal tax regime is more than it meets the eyes. A salaried taxpayer must exercise the option quite wisely as by opting for the new personal tax regime, he / she may end up saving the consultancy fees of the tax professional but he / she may end up paying more taxes in the name of simplicity. So a cost-benefit analysis is a must before opting for the new personal tax regime. Further, looking at the aforesaid discussion, there a couple of posers here:

- Will existence of parallel personal tax regimes create more confusion for the taxpayers?
- Will the taxpayers be in a position to make their decision without the help of a professional?
- Is the new personal tax regime really simple for the salaried taxpayers?
- Will the existence of parallel personal tax regimes increase the burden on employer for the compliance of tax deducted at source?
- What are the chances of getting assessment notice from the income tax department if the information in the pre-filled return is edited?

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