

F. No. 370133/5/2020-TPL
Government of India
Ministry of Finance
Department of Revenue
Central Board of Direct Taxes
(TPL Division)

Room No. 147B-II, North Block, New Delhi

Dated 13th April, 2020

Subject: Clarification regarding short deduction of TDS/TCS due to increase in rates of surcharge by Finance (No.2) Act, 2019-reg.

The Finance (No.2) Bill, 2019 was tabled in Lok Sabha on 5th July, 2019 which was passed by both the houses of Parliament and became Finance (No.2) Act, 2019 (the Act) which received assent of the President on 1st August, 2019. The Act provided for increase in the rate of surcharge as under:

S. No.	Income slab	Surcharge before the Act	Enhanced surcharge as provided by the Act
1	Less than 50 lakh rupees	Nil	Nil
2	50 lakh rupees but less than 1 crore rupees	10%	10%
3	1 crore rupees but less than 2 crore rupees	15%	15%
4	2 crore rupees but less than 5 crore rupees	15%	25%
5	5 crore rupees and above	15%	37%

2. The enhanced rates of surcharge were applicable from the 1st day of April, 2019 for previous year 2019-20 relevant to assessment year 2020-21. Thus, every person as referred to above was required to compute his tax liability after taking into account the enhanced rates of surcharge. Further, TDS/TCS under various provisions of the Income-tax Act is required to be deducted/ collected after taking into account the enhanced rate of surcharge.

3. Several cases have come to the notice of the Central Government wherein deductors/ collectors were held to be an assessee in default for short deduction of TDS/short collection of TCS in cases where final transaction was done before laying of the Finance (No.2) Bill, 2019 in the Parliament, i.e. 5th July, 2019. Since the transaction was completed before the rates of enhanced surcharge were announced and the concerned deductee/payee is required to furnish their Income-tax return for the relevant assessment year, it has been requested that in such cases, deductor or collector should not be held to be an assessee in default under section 201 of the Income-tax Act.

4. The above issue has been examined by the Board and in this regard, it is clarified a person responsible for deduction/collection of tax under any provision of the Income-tax Act will not be considered to be an assessee in default in respect of transactions where:—

- a) such transaction has been completed and entire payment has been made to the deductee/payee on or before 5th July, 2019 and there is no subsequent transaction between the deductor/collector and the deductee/payee in the financial year 2019-20 from which the shortfall of tax could have been deducted/collected by the deductor/collector;
- b) TDS has been deducted or TCS has been collected by such deductor/collector on such sum as per the rates in force as per the provisions prior to the enactment of the Act;
- c) such tax deducted or collected has been deposited in the account of Central Government by the deductor/collector on or before the due date of depositing the same;
- d) TDS/TCS statement has been furnished by such person on before the due date of filing of the said statement.

5. However, if the person fails to fulfill any of the conditions as laid down above, such a person will, with respect to short deduction/collection, not be eligible for benefit provided under this circular.

6. Further, if the deductor/collector has deducted/collected shortfall of tax after 5th of July, 2019 from the transaction(s) made subsequently after the said date, interest, if any, for delay in deduction/collection of such tax shall not be levied.

7. The above relaxation does not absolve the deductee/payee to pay proper tax including enhanced surcharge by advance tax or self-assessment tax and file return of income after paying such tax.

8. This issues with the approval of Finance Minister.


13.04.2020
(Ankit Jain)

Dy. Commissioner of Income-tax (OSD)
TPL Division

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13.04.2020

(Ankit Jain)
Dy. Commissioner of Income-tax (OSD)
TPL Division